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SPOTLIGHT ON DISINFORMATION  
ABOUT VIOLENCE IN SOUTH AFRICA

by

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INTRODUCTION

The manner in which political violence in South Africa is being reported is assuming critical importance. In the volatile situation which exists in the country, reports on the violence play a crucial role in either defusing tensions or exacerbating confrontation.

The purpose of this study is to analyse reports recently published by three important organisations: Amnesty International, the International Commission of Jurists and the South African-based Human Rights Commission.

The reports of these organisations have been selected for analysis because of the very serious nature of the allegations they have made, and because the international influence of these bodies tends to give their findings wide-ranging credibility. This makes it all the more important to gauge the accuracy of their reports.

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#### HIGHLIGHTS OF THIS REPORT

##### Number of Deaths to Date

By the end of July nearly 1790 people had died in 1992 in political violence in South Africa. The total number of fatalities since the outbreak of political violence in September 1984 is now almost 13 690, 60% of them since the beginning of 1990.

##### Trends in the Violence

The South African Institute of Race Relations (the Institute) has examined 2 030 incidents of violence which occurred country-wide during 1991, and in doing so has divided the year into three equal periods, to help identify trends in the violence. One clear trend is the increasing use of firearms. In the first period, from January to April 1991, firearms were used in 28% of incidents. In the second period, from May to August 1991, the use of firearms increased to 32% of instances. In the final period, from September to December 1991, there was a further increase in the use of firearms, these weapons being used in 47% of incidents. On average, firearms were used during the year in 36% of incidents.

Next in frequency of use are explosives and incendiary devices, including petrol bombs, hand grenades and limpet mines. These were used in 22% of incidents from January to April 1991, and in 28% of cases from May to August 1991. From September to December 1991, their use declined to 16% of cases. On average, these weapons were used in 22% of incidents.

During the same periods the use of sharp pointed weapons (including traditional weapons, sharpened sticks, axes and pangas) showed a steady decline. Thus, these weapons were used in 18% of incidents in the first period, in 14% of cases in the second and in 11% of instances in the third. On average, these weapons were used during the year in 14% of incidents.

The use of traditional and other sharp pointed weapons is often associated with the Inkatha Freedom Party (IFP), while the use of firearms, explosives and incendiary devices are commonly attributed to the African National Congress (ANC). Caution is required in this regard, for ANC supporters have been known to march carrying spears and similar weapons, while IFP supporters have been known to use firearms. Automatic association of any particular political organisation with any particular category of weapon should therefore be avoided.

The Institute has also analysed the extent to which aggressors or agents of attack could be identified. On a basis which avoided reliance on untested allegation or speculation as to probabilities, the Institute found it impossible to identify the agent of attack in 87% of incidents.

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Reports continue to abound which place the primary blame for violence on a sinister third force, on the IFP, or on the security forces of the state. Collusion between these alleged agents of violence is also frequently reported.

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#### Findings of the Goldstone Commission

It is thus worthwhile placing on record the findings of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) into the causes of violence, as identified in its second interim report to the state president. The commission, in making this report, acknowledges that its information may be incomplete, in part because of possible failure of persons or organisations to place relevant data before it. Subject to this caveat, the commission identifies the causes of violence as many and complicated and as comprising, in historical sequence, the following:.

- o the economic, social and political imbalances among the people of South Africa, resulting from centuries of racial discrimination and over 40 years of apartheid policies;
- o the use of the police force and army by successive white governments as instruments of oppression, precluding the development of community orientated, security forces;
- o the unexpected and sudden legalising of political organisations, against a background of conflict between the IFP and the ANC and long-held perceptions, among the IFP, white South Africans and the security forces, of these organisations as being the enemy;
- o the climate of political intolerance, especially in the black community, coupled with the fact that economic deterioration has frustrated expectations aroused by the unbanning of political parties;
- o escalating criminal activity, coupled with the inability of the inadequately manned and motivated police force to counter this;
- o the presence of single-sex hostels and/or squatter camps, which has enabled political groups to set up concentrations of support and arms caches for use in township violence;
- o the conduct of both ANC and IFP members and supporters who have been guilty of many incidents of violence, while each side has been over-hasty in blaming the other and the top leadership of both has been tardy in taking effective steps to discipline their membership; and
- o a history of state complicity in criminal undercover activities which has exacerbated the perception of the government as being actively

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responsible for violence, a perception which has been further fuelled by the government's failure to ensure effective and adequate punishment for criminal elements within the security forces.<sup>b</sup>

In a press release on 27 May 1992 on violence in six of the most strife-torn areas in the country (three in Natal and three in the Transvaal), the Goldstone commission identified the political battle between the ANC and the IFP as the primary cause of violence. Both sides resort to violence and intimidation in their attempt to gain control over geographic areas, Mr Justice Richard Goldstone said.<sup>c</sup> Judge Goldstone emphasised, moreover, that only the IFP and the ANC have the power effectively to curb the violence and intimidation being perpetrated by their respective supporters.<sup>d</sup>

In its second interim report, the Goldstone commission cemented on persistent allegations of third force involvement in violence. It found that the phrase is used with no consistent meaning but that it frequently denotes a sinister and secret organisation or group that commits acts of violence in furtherance of some nefarious political aim. The commission made it clear that it had received no evidence of such a sinister and secret organisation at work.<sup>e</sup>

The commission also noted that the term third force, has been used by the ANC to describe the alleged activities of 32 Battalion, the CCB, the squads and the police, ie identifiable groups or organisations.<sup>f</sup> As regards allegations of third force activity on the part of such organisations, the commission made no express finding of guilt. It did, however, as earlier noted, point out that the security forces have long been used as instruments of oppression, that there has been state complicity in undercover, criminal, activity, and that there are well-documented instances of criminal conduct on the part of individual members of the South African Police and the KwaZulu Police.<sup>h</sup> These findings fall far short, however, of establishing sustained and centrally planned third force, activity on the part of the security forces or other government agencies.

Against this background, it is instructive to review recent reports on violence in South Africa emanating from the three organisations mentioned. The reports to be reviewed are Amnesty International's recent publication South Africa, State of Fear, the second report of the International Commission of Jurists entitled Agenda for Peace, and the Human Rights Commission's recent Special Briefing on Massacre: as well as its Area Repression Report for April 1992.

The reports of these organisations have been selected for analysis because of the very serious nature of the allegations they have made. Thus, for example, the HRC in its Special Briefing on Massacre: concludes that the killings it documents have a design and purpose behind them that places them alongside the gas chambers of Nazi Germany in sheer cold-blooded cynicism and brutality.<sup>i</sup>

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#### Examples of One-Sided Reporting

Analysis of the content of these reports shows, in brief, the following:

##### o The Bruntville killings

In dealing with the killing of some 19 people in Bruntville in Natal in ' December 1991, the reports of both Amnesty International (Amnesty) and the International Commission of Jurists (ICJ) ignore key findings of the Goldstone commission regarding police collusion in the violence. They further distort the commissions findings in relation to dangerous weapons by stressing only its recommendation that spears should not be carried in public, while ignoring its further caution that ways must be found of reassuring Inkatha Freedom Party (IFP) supporters who feared for their safety because of concealed weapons carried by African National Congress (ANC) supporters.

##### o The Sebokeng lmassacresT

The Human Rights Commissionis Special Briefing on Massacres contains a number of significant errors. These are particularly evident as regards two lmassacresi in Sebokeng (a large township in the Vaal Triangle) in September 1990. Thus, for instance, the HRC asserts that 11 people were killed by the South African Defence Force (SADF). According to the findings of a judicial inquest into the Sebokeng deaths conducted by Mr Justice E Stafford, four people were killed by the SADF. It follows that this lmassacrel does not satisfy the HRCls own definition of an incident involving the deaths of ten or more people. In addition, the HRC reports that there was collusion between white men and IFP supporters in the first of the massacres. This ignores the express finding to the contrary by J udge Stafford, who was satisfied that the only evidence given to this effect was perjured.

##### o The Crossroads massacre

The HRC, in its AprilArea Repression Report, attributes the Crossroads (east Rand) massacre - in which 23 sleeping supporters of the IFP (including a woman and two children) were killed by Xhosa-speaking men, allegedly from an ANC squatter camp - to tvigilante-related actioni or VRA. It defines such action as attacks by (or in defence against) surrogate forces of the state, in the form of lvigilanteT private armies formed by homeland administrations or black local authorities. Deaths thus laid at the door of the state are said by the HRC to include the deaths of these 23 IFP supporters. This categorisation is an extraordinary one. It can be reached only by adopting a definition of VRA so broad that both victims and perpetrators can effectively be tarred with the same brush.

By way of illustration, if IFP supporters had killed 23 sleeping ANC supporters, this would have been labelled as VRA, on the basis that the

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IFP supporters were part of a vigilante group established by the KwaZulu administration and intent on destabilising township communities.

But when 23 sleeping IFP supporters are killed (allegedly by ANC supporters), this is also labelled as VRA, on the basis - presumably - that it was a pre-emptive (or retaliatory) attack against imminent (or previous) attack by the IFP supporters.

In short, if the IFP is the aggressor, the action is described as VRA. If the IFP is the victim, the action is also described as VRA.

This methodology explains how the HRC is able to attribute blame for 86% of deaths in violence to surrogate state forces and effectively to exonerate the ANC and its allies from any liability.

o The two Richmond massacres

The HRC, in compiling its Special Briefing on Massacres notes one massacre of ANC supporters in Richmond in Natal in June 1991.

However, it entirely ignores the massacre earlier in 1991 (acknowledged by the ICJ) of 29 IFP supporters in Richmond. These IFP supporters were killed by ANC supporters who had unearthed an arms cache and dug themselves into defensive positions in a nearby forest. According to the ICJ, the ANC comrades responsible for these deaths went on a killing spree which can only be described as vengeful and excessive in the extreme. The HRC entirely omits this incident from its report on massacres.

o Labour issues in Bophuthatswana

Amnesty's report wrongly states that the National Union of Mineworkers (NUM) is not permitted to operate in Bophuthatswana.

It also accuses the management of a platinum mine of clamping down on worker activists to...undermine the new-found solidarity among the workforce. According to the management of the mine, Amnesty made no attempt to ascertain its version of the events reported. According to management, ANC marshalls had taken virtual control of the mine, decreeing when production should begin and end, and were committing numerous common law crimes (including murder, assault and arson) in their attempts to increase recruitment to the NUM. It was this, management claims, which necessitated its intervention to restore law and order.

All three organisations - Amnesty, the ICJ and the HRC - use methodology which involves the suppression of information which does not fit their theses, the elevation of untested allegation to fact and a consistent disregard for the principle of audi alteram partem (hear the other side). This methodology is used, moreover, to convict certain actors and organisations of serious crimes, including genocide. No court of law would use such methods to convict even a minor offender.

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#### The Effect of These Reports

At best the reports in question are one-sided and simplistic, at worst they amount to disinformation - deliberate attempts to mislead. Not only has the Goldstone commission reported that the causes of conflict are many and complicated, but it has also stated that the situation is not helped by allegations that are calculated to exacerbate the climate of violence.' The position is confused, the evidence incomplete, the allegations often unfounded. Often it is impossible to assign innocence or guilt in a specific instance of violence. The effect of this kind of accusation, moreover, is to raise the ire of those falsely accused, to rouse a sense of righteous indignation among those exonerated from blame - albeit without adequate reason - and to set the scene, in short, for heightened confrontation.

Against this background the reports of these three organisations now merit in-depth analysis.



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OVERVIEW OF THE REPORTS OF AMNESTY AND THE ICJ

The accuracy of these reports is best analysed in terms of certain common themes, before turning to specific evaluation of the content of each report. These common themes include:

- o the treatment of events at Bruntville, Natal, on 3 and 4 December 1991;
- o the approach adopted to the issue of dangerous weapons; and
- o the disregard evinced for the rules of evidence and the safeguards of due legal process. (The organisations responsible for these reports are not courts of law and may contend that they are not bound by rules of evidence and procedure. This, of course, is true. Nevertheless, these organisations purport to make findings of liability for violence in a volatile political situation in which it is well known that inaccurate reports of violence in themselves frequently result in an escalation of violence. It follows that these organisations have an overarching responsibility to be circumspect, to hear and report both sides to conflict and to guard against accepting at face value allegations which have not been tested in any way.)

'Treatment of Events at Bruntville, Natal, in December 1991

Mooi River is situated in Natal, some 70km north-west of Pietermaritzburg. It is a small town serving a farming community. On the south-western side of the town is Bruntville, a black township established in 1938 and accommodating between 10 000 and 14 000 people.

The only significant employer in the area is Mooi River Textiles. This company employs some 1 200 workers, of whom about 750 live in a hostel in Bruntville, housing some 1 000 men?

On 3 and 4 December 1991 some 19 African National Congress (ANC) supporters were killed in an outbreak of violence in Bruntville. According to the ANC, the attack was a premeditated and unprovoked attack on the residents of Bruntville, perpetrated by IFP-supporting occupants of the hostel. According to the Inkatha Freedom Party (IFP), the attack must be seen in the context of conflict between the two organisations going back as far as November 1990. It was then, according to the IFP, that the ANC-supporting Bruntville Civic began a coercive recruitment campaign in the township. This was resisted by hostel dwellers who refused to join the civic or contribute money to it. Hostel dwellers then came under attack by members of the civic, igniting the spiral of violence which led to the killings of 3 and 4 December 1991. According to the IFP, these killings were sparked by ANC attacks on the hostel: two during 3 December and another in the early hours of 4 December.

At the request of the ANC, the Commission of Inquiry into the Prevention

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of Public Violence and Intimidation, under the chairmanship of Mr Justice R J Goldstone (the Goldstone commission) initiated an investigation into the events of 3 and 4 December.

The commission found it undisputed that an IFP supporter, Mr N J Mbatha, had been fatally shot on 3 December 1991, and that IFP supporters from the hostel - armed with assegais, sticks and knobkerries - had launched their first attack later that day, and their second attack early the following morning. The first attack left four people dead and the second some 15. The commission was informed by the ANC-orientated Bruntville Peace Committee of some 60 earlier attacks or incidents of intimidation by the hostel dwellers upon the township residents. It was also informed, by the KwaZulu administration, of some 59 alleged violent incidents by ANC supporters against IFP supporters. The commission was unable to investigate all these incidents and hence refrained from commenting on the history preceding the events of 3 and 4 December.<sup>5</sup>

Numerous allegations of police collusion with the hostel dwellers during the attack were made by the Bruntville Peace Committee. The commission accordingly spent considerable time investigating and reporting on the role of the South African Police (SAP) in Bruntville at the relevant time. It is this factor which gives the incidents at Bruntville a particular significance. Bruntville is one of the few instances to date in which the Goldstone commission has investigated and reported on the role of the police, against the background of specific allegations of collusion between the SAP and the IFP in the killing of ANC supporters.

It is interesting thus to note not only the conclusions reached by the commission, but also the way in which its report has been handled by Amnesty International and the International Commission of Jurists (ICJ).

#### FINDINGS OF THE GOLDSTONE COMMISSION

The commission recommended, as regards the police, that:

- o the policy regarding the carrying of dangerous weapons in public should be determined and made public as a matter of urgency;
- o the police should confiscate spears and sticks carried for non-cultural purposes but should also provide adequate protection to hostel dwellers going to and from work;
- o a suitable senior police officer should be appointed at Mooi River as a matter of urgency and clear lines of command established;
- o the (police) practice of conducting raids without warrants, in plain clothes and in a forfeited vehicle bearing false number plates should be prohibited forthwith;

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o procedures should be implemented for the more efficient gathering of evidence, even in riot situations, so that criminal conduct would result in efficient prosecution; and

o urgent and effective steps should be taken to educate and explain to all members (of the police) the absolute necessity for unbiased policing.

In addition, the commission stated that it had received evidence adjudged to be reliable that strongly suggested a bias on the part of the South African Police in favour of the IFP.<sup>6</sup>

The commission also found, however, that:

o the evidence led before it did not establish any prima facie unlawful conduct on the part of any police officer save in regard to the improper use of a...vehicle with false number plates;<sup>7</sup> and that

o the evidence in no way suggests that the security forces are to blame for the violence at Mooi River. The blame for that falls squarely on those who were participants in attack and counter-attack, irrespective of which party they support.<sup>3</sup>

The commission criticised both the ANC and the IFP for disseminating unverified information and rumours, pointing out that inaccurate reports of violence in themselves frequently result in an escalation of violence.<sup>9</sup> It also noted that the press has a special duty to report the facts accurately and responsibly and that newspapers had been guilty of inaccurate and careless reporting, even in regard to the inquiry itself.<sup>10</sup>

Against this background it is instructive to note the content of the Amnesty and ICJ reports concerning Bruntville.

### THE AMNESTY HANDLING OF THE BRUNTVILLE INCIDENT

Unlike the commission - which had refrained from making uninformed judgements on the attacks and counter-attacks preceding the events of 3 and 4 December - the Amnesty report sketches the background to the December attacks in an entirely one-sided manner.

The origin of violence is traced back to November 1990, when Inkatha and its trade union wing Ubusa (United Workers, Union of South Africa) began a recruitment drive.<sup>11</sup> The report ignores the IFP view that conflict began when the Bruntville civic started its recruitment, and hostel dwellers refused to join the civic or pay dues to it.

According to Amnesty, the recruitment practices (used by Ubusa) were highly coercive and often accompanied by violence. By June 1991, for example, Inkatha supporters living in the hostels had begun carrying weapons to work and on to the factory grounds.<sup>12</sup> No mention is made of IFP allegations that the homes of IFP supporters in the township were

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attacked in May 1991, that on 6 June 1991, a group of heavily armed comrades attacked IFP members returning from a meeting...with numerous fire-arms and that this attack marked an intensification of the conflict as the ANC reportedly imported weapons and cadres into the area.<sup>3</sup> In addition, the IFP claims that, from June onwards, IFP supporters were frequently attacked on their way to or from the Mooitex factory." If this is indeed the case, it would explain why IFP supporters felt the need to carry weapons to work.

The Amnesty report details a number of attacks made on ANC supporters in the township, but makes no reference whatsoever to attacks on IFP supporters. According to the IFP, there were numerous petrol bomb attacks on the homes of IFP supporters in the township, IFP supporters were ambushed and shot by ANC members armed with AK-47s, and an IFP member was found necklaced outside the municipal dump.<sup>15</sup>

Unlike the Goldstone commission - which refrains from making uninformed judgements regarding the prior history of attack and counter-attack between ANC and IFP supporters - Amnesty cites only the ANC's version of events, ignores the IFP's allegations and effectively condemns the IFP as the sole aggressor. In doing so, it not only ignores the rules of evidence and the Goldstone commission's care to avoid unsubstantiated judgements, but also flies in the face of the warning, clearly stated in the commission's report, that inaccurate reports of violence in themselves frequently result in an escalation of violence.<sup>16</sup>

In relation to the police, the Amnesty report reproduces every criticism of the SAP made by the Goldstone commission.

However, the Amnesty report makes no mention whatsoever of two key findings of the commission. These two findings are, as already noted, that there was no evidence:

0 of unlawful conduct on the part of the police (except as regards the vehicle with false number plates); or

o of the security forces being to blame for the violence at Mooi River.

Given the seriousness of the allegations of police collusion with the IFP, this omission is highly significant. It could not have been accidental, and suggests a deliberate decision on the part of Amnesty to suppress findings which are inconsistent with its condemnation of the police.

Moreover, not only does the Amnesty report omit these key findings, but it also repeats unsubstantiated allegations against the police as if they were proven fact. (For further details in this regard, see the sub-section below, entitled Disregard for the Rules of Evidence and of Legal Procedure.)

The Amnesty report also ignores allegations by the IFP which, if true, would give the lie to any collusion between Inkatha and the security forces.

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Thus, the IFP asserts that the police in Bruntville failed to honour their commitment to protect IFP supporters walking to and from work." More seriously, the IFP also asserts that members of the 3SAI Battalion of the SADF (a unit comprising coloured people) acted in collusion with ANC supporters in harassing and attacking supporters of the IFP. Thus, for example, the IFP alleges that on 18 September 1991, the hostel was attacked, that spent R4 cartridges were found near the scene of the attack, and that the attack was in fact carried out by members of the 3SAI Battalion of the SADF."a

Allegations of this kind are ignored entirely by Amnesty.

#### THE ICJ HANDLING OF THE BRUNTVILLE INCIDENT

The Bruntville incident is also canvassed at some length by the ICJ in its Agenda for Peace report.

The ICJ is more even-handed than Amnesty in its treatment of the events preceding the IFP attacks on 3 and 4 December 1991, in that - like the commission - it refrains from making a judgement on the history of attack and counter-attack, or from citing only the ANC version of the violence. It is, however, misleading in referring to the death of Mr N J Mbatha, an IFP supporter, failing to point out that his shooting preceded the IFP attacks"? This is a crucial omission, for the IFP's position is that the killings by its supporters were in retaliation for attacks earlier launched on the hostel, in which Mr Mbatha was killed and various other IFP supporters were seriously injured.

The ICJ report cites in full the statement by the Goldstone commission that it had received evidence of bias on the part of the SAP towards the IFP. It also cites the commission's criticism of the police for raiding houses without search warrants, in plain clothes, and using a forfeited vehicle with false number plates.

It cites in full - and in italics - all the commissions recommendations with regard to the police.

However, no mention is made in the section, headed "The Goldstone Commission's Report on Mooi River", of the findings of the commission that there was no evidence of unlawful conduct on the part of the police (except in relation to the forfeited vehicle), or of the security forces being to blame for the violence at Mooi River. These findings should have been given at least an equal prominence in the ICJ's report as the commissions criticisms of the police.

The only reference made to either of these findings - and this in a subsequent section - is that the regional commissioner of police in Natal had drawn the ICJ's attention to the commission's finding that the evidence led did not establish unlawful conduct on the part of any police officer save in regard to the forfeited vehicle. 20

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Unlike the ICJ's other references to the Goldstone commission's remarks about the police, this finding is not italicised. On the contrary, it is mentioned only in passing and is effectively dismissed as a self-serving statement by the police.

In short, both Amnesty and the ICJ deliberately distort the Goldstone commission's findings in relation to the police. Criticism of the police is faithfully reproduced. Key statements exonerating the police from wrongdoing and from responsibility for the Bruntville violence are ignored.

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'Il'eatment of the Weapons Issue

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Both the Amnesty report and the ICJ report give prominence to the statements of the Goldstone commission, in its Bruntville report, regarding the carrying of spears and sticks in public by supporters of the IFP.

According to Amnesty, the Goldstone commission report urged the authorities to clarify the situation regarding the laws on dangerous weapons. The commissioners found it unacceptable that men could freely walk the streets, and indeed had attended the hearings, carrying spears, without the police confiscating their weapons and preferring charges against them.

The ICJ report cites essentially the same finding regarding the carrying of spears.<sup>22</sup>

The implication - from the Amnesty and ICJ reports - is that the Goldstone commission focused only on the carrying of spears and sticks in public and saw the IFP and the police - for failing to disarm the IFP - as the major culprits in relation to dangerous weapons. The Goldstone report makes it clear, however, that the commissioners were aware of IFP supporters, fears of being attacked, and believed these should also be addressed. Thus, while indeed urging that the carrying of dangerous weapons in public should be banned, the commission went on to state: At the same time the police must obviously provide adequate protection, for example to workers walking between Bruntville and the Mooi River Textiles Factory.<sup>23</sup>

In a further report stemming from the December killings (compiled following subsequent investigation) the Goldstone commission again emphasised that dangerous weapons should not continue to be flaunted in public. However, it also stressed that ways should be found to allay the fears of those who fear attack from parties bearing concealed weapons.<sup>1M</sup>

Both Amnesty and the ICJ thus place a one-sided emphasis on the Goldstone commission's condemnation of the public carrying of spears

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and sticks. They reproduce those passages of the commissions report which denounce the carrying of spears. They suppress further passages in the report which suggest that fear of attack may underlie the carrying of spears, and which urge that this fear also be addressed.

Both Amnesty and the ICJ, moreover, create the impression that such spears and sticks are the only dangerous weapons to be taken into account.

Neither the Amnesty nor the ICJ report makes any mention of the arms caches kept hidden by the ANC and its armed wing, Umkhonto we Sizwe (Umkhonto). In terms of the Pretoria Minute of 6 August 1990, the ANC has suspended armed action, but it has consistently refused either to disband Umkhonto or to surrender its weapons.

In relation to events at Bruntville prior to December 1991, the IFP has alleged that its supporters were frequently attacked with AK-47s.

(Examples are said to include attacks by ANC supporters armed with AK-47s on 24 and 26 July 1991, in which the IFP reports that one of its supporters was killed instantly and another was fatally wounded.<sup>25</sup> The IFP also asserts that ANC arms and cadres were brought into the Bruntville area in June 1991 and that this served significantly to intensify the conflict?)

The IFP has warned that, if Umkhonto is not disbanded, it may have no choice but to establish its own military wing to protect its members.<sup>27</sup> There is increasing concern in IFP ranks that the ANC is using Umkhonto cadres and hidden arms caches to conduct attacks on IFP members and supporters with a professional precision.<sup>28</sup> Already, in consequence, the IFP has resolved to encourage the establishment, by members of communities in strife-torn areas, of self-protection units.<sup>29</sup> (These are not formally to be linked to the IFP in an attempt to avoid the prohibition on private armies and self-defence units contained in the National Peace Accord of September 1991.)

These developments underscore the danger that the ANC's retention of Umkhonto and of secret arms caches may lead to the formation of other private armies, of other self-protection units.

It is noteworthy, accordingly, that the Amnesty report makes no mention of Umkhonto, its arms, or its likely consequences in terms of escalating violence.

As regards the ICJ report, this acknowledges in passing the existence of hidden ANC arms caches, but makes no criticism of these. This acknowledgement emerges from its description of certain events at Richmond in Natal.

Richmond is a country town on the road from Pietermaritzburg to the Transkei. It is bordered, inter alia, by two black townships, Magoda and

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Endaleni. According to the ICJ, an Inkatha impi, attacked Magoda in January 1991, killing four people and causing thousands to flee. The ICJ alleges that ANC youths who subsequently returned to Endaleni were also attacked. The report states that these youths then unearthed an arms cache and dug into defensive positions in the surrounding forest.<sup>30</sup> The report further acknowledges that 29 Inkatha supporters were then killed in what became a rout, and that some of the ANC comrades went on a killing spree which can only be described as vengeful and excessive in the extreme.<sup>31</sup>

Having taken cognisance of the use of hidden arms to kill IFP supporters - and of ANC excesses in this regard - the ICJ makes no attempt to criticise the ANC's refusal to hand in its arms, or to call on the organisation to surrender them. Criticism is instead exclusively reserved for the IFP, for its failure to stop the carrying of sticks and spears, and on the SAP, for its failure to disarm the IFP.

Both the Amnesty and ICJ reports entirely ignore the IFP's view that it is unfair that the ANC retain its hidden weapons, while the IFP is constantly criticised for the carrying of spears and sticks. The IFP further believes that it is part of ANC strategy to heighten public concern around the IFP's cultural weapons, so as to distract attention from the sophisticated arms it continues to keep in hiding.

Research shows, moreover, that firearms and petrol bombs are used more often in attacks than spears and sticks. The South African Institute of Race Relations has made a careful analysis of the weapons used in attacks between 1 January and 31 December 1991. This analysis divided the year into three equal periods of four months each, in order to identify trends in violence. The analysis revealed that, during the first period (January to April) firearms were used in 27,9% of incidents. In the second period (May to August) the use of firearms in incidents of violence increased to 31,9%. In the last period (September to December) there was a further increase in the use of firearms to 46,7% of incidents.<sup>32</sup>

Second in frequency of use were petrol bombs, hand grenades and limpet mines. During the first four months of 1991 these were used in 22,2% of incidents. From May to August 1991, the use of these weapons increased to 27,6%. In the last four months of year there was a decline in their use to 16% of cases.<sup>33</sup>

Overall, firearms and incendiary weapons were used significantly more often than spears and other sharp pointed instruments. The use of sharp pointed weapons (including traditional weapons, sharpened sticks, axes and pangas) showed a steady decline throughout the year. These weapons were used in 17,6% of incidents during the first period, 13,7% in the second period and 11% in the third period."

These findings regarding the types of weapons most commonly used in violence are reflected in the following table:



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Weapons used in attacks between

1 January and 31 December 1991

Jan to May to Sept to

A pnl August December

Firearmsa 27,9% 31,9% 46,7%

Explosives and incendiary  
devicesb 22,2% 27,6% 16,0%

Knives, pangas and sharp

objectsc 7,6% 13,7% 11,0%

Assaultsd 5,0% 2,6% ' 5,0%

Necklaces and other

burnings 3,5 % 2,1% 0,7%

Other 27,3% 22,1% 20,6%

a AK-47s, shotguns, rifles, pistols, but mostly unspecified firearms

b Petrol-bombs, hand grenades, limpet and land mines, arson and unspecified

c Traditional weapons, axes, pangas, knives, garden forks, screwdrivers, iron pipes,  
sticks and unspecified

d Common assaults, assaults with knobkerries, and people thrown off trains

It is evident, moreover, that illegal arms abound in the country. In the first  
six months of 1992, in the course of normal investigations, the police  
recovered over 1 100 rifles, nearly 2 000 handguns and six arms caches.

Offers of reward by the police for information regarding firearms has led  
to the recovery of a further 630 firearms and of two further arms caches.

A large number of illegal firearms remain, however, in circulation.<sup>35</sup>

Amnesty and the ICJ are of course correct to point to the dangers of  
carrying spears and sticks in public. Their concern with dangerous weapons  
is, however, one-sided.

In short, both Amnesty and the ICJ repeat the Goldstone commission's  
strictures regarding the public carrying of spears and sticks, but ignore the  
need expressed by the commission to allay the concerns of those who may  
fear attack with concealed weapons. Amnesty and the ICJ also ignore the  
existence of ANC arms caches and the fact that firearms and such weapons  
as petrol bombs and hand grenades play a major role in the violence.

Disregard for the Rules of Evidence and of Legal Procedure

According to the rules of evidence, newspaper and other reports are  
admissible in a court of law only if the author is available to testify as to  
the truth of the report. In addition, unless such evidence is given on oath  
and is subject to cross-examination, it is accorded diminished weight. The  
same principles apply to the accounts of eyewitnesses. Moreover, although  
affidavits are by definition sworn statements - made under oath - they  
must also be tested through cross-examination before they can be  
accorded full weight.

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According to the rules of legal procedure, both parties to a dispute must, *inter alia*, be accorded equal opportunity to put their points of view. This principle at stake is sometimes summed up in the Latin maxim *audi alteram partem*. In literal translation, this means hear the other side. Amnesty and the ICJ are not, of course, courts of law. They nevertheless make unequivocal judgements regarding culpability for violence in South Africa. Given the volatility of the situation, it is important that they exercise responsibility in making their assessments. This means it is important that they honour the rules of evidence and procedure, so as to present as fair and unbiased a judgement as possible.

It is evident from their reports, however, that both organisations consistently disregard both the rules of evidence and the *audi alteram partem* principle. Untested allegations are repeated as if they were fully substantiated. Little effort is made to canvass the other side of the story. On occasion, evidence which would seem to refute the allegation made is ignored.

#### EXAMPLES FROM THE AMNESTY REPORT

In the context of the Natal violence, Amnesty states that:

White policemen...were seen apparently consulting with Inkatha leaders while an attack was under way, or, on another occasion, joining up with a large convoy of trucks ferrying attackers after which shooting reportedly intensified. Other eyewitnesses described seeing members of the South African Police handing over ammunition and guns from police vehicles to armed Inkatha supporters. Many witnesses also described seeing police vehicles escorting or even leading attacking forces from one target to another.

This passage is typical of many others. The reference to eyewitnesses creates an impression of veracity. The cumulative effect of presenting one such eyewitness report after another - without ever pointing out that the allegations are untested and may be untrue, and without ever canvassing the other side of the story - is to create a clear perception in the mind of the reader of the culpability of the police and the IFP. The consistency of this method of presentation suggests, moreover, that the use of selectively chosen eyewitness reports is deliberate, and is intended to improve the guilt of these organisations through the overwhelming weight of the evidence put forward.

Moreover, the mere fact that allegations against the police are made very often is itself no proof of their accuracy. Frequency of repetition may be evidence of the truth of content. But it may also be evidence of a campaign to discredit and undermine the police. Objectivity requires that both possibilities be noted.

In short, it is incumbent on the organisation to point out that the allegations it cites are untested and unsubstantiated, and may be entirely untrue.

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Two recent examples underscore the need for caution in this regard. The first stems from the Bruntville incident of December 1991. An ANC witness alleged before the Goldstone commission that, shortly before the second attack, he had seen IFP leaders from outside the area arrive at the hostel and that they had been followed by a ibus- like vehicle towed by a mechanical horse. On the strength of this, the ANC alleged that IFP supporters were brought in from outside to participate in the attack on the township. 36 The Goldstone commission investigated the allegation and found it to be unsubstantiated. It concluded that IFP supporters - contrary to persistent allegation - had not been bused into Bruntville to take part in the attack.<sup>31</sup>

The second example stems from the assassination of Chief Maphumulo, a prominent ANC-affiliated leader in Natal. Prior to a judicial inquest into his death, it was widely alleged that a police hit squad had been responsible for his death. The presiding judge in the inquest proceedings found this allegation entirely unsubstantiated. He also noted with concern the unnecessary distress the unqualified repetition of these accusations had caused to those ultimately exonerated from blame.<sup>38</sup>

Both instances illustrate the reality that allegations frequently repeated are not necessarily true. Amnesty ignores this reality, making no attempt to caution that allegations may be false. In addition, the organisation has also on occasion ignored judicial findings which would seem to give the lie to eyewitness accounts.

Thus for example - again in the context of the Bruntville incident - the Amnesty report records that, on the evening of 3 December, Inkatha supporters armed with assegais, sticks and knobkerries, left the hostel and began to clash with residents. The report continues: 'Eyewitnesses saw police and military vehicles in the vicinity, but the security forces did not attempt to stop the fighting.'<sup>9</sup>

The implication is that the security forces ignored their clear duty to intervene because they sided with the IFP. Amnesty makes no attempt to point out that this allegation may be false. This is particularly serious in the light of the Goldstone commission's finding (also ignored by Amnesty) that there was no prima facie evidence of unlawful conduct by the police in relation to the violence. Even with a finding at its disposal which would seem to contradict the eyewitness report, Amnesty makes no attempt to point out that the eyewitness account is not necessarily true.

In addition, no attempt is made by Amnesty to comply with the audi alteram partem principle and to reflect the police version of events.

### EXAMPLES FROM THE ICJ REPORT

The ICJ records that, on its visit to Bruntville, it met the leaders of the local ANC branch, who took the commissioners to a local beerhall. The report states:

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The owner told us that on the Saturday a week earlier, the riot police had called at his premises and had asked to see his licence. He was busy but had produced his licence. The police, who were white, searched some of the customers. Their vehicle was parked in the road. As the police were returning to their vehicle, one of the officers raised his rifle, fired at one of the customers who was about six yards away and killed him. We questioned three people who witnessed the killing. We are satisfied that it took place and that there was no possible excuse for the police officers conduct. The Trust Feed killings were in 1988. In March 1992 white police officers are still killing people in a random and cold blooded way."

The commissioners may have questioned the eyewitnesses, but this is no substitute for evidence given on oath and subject to cross-examination. It is also clear that the commissioners made no attempt to ask the police for their account of what had happened. They nevertheless have no hesitation in concluding not only that the shooting did indeed occur but also that there was no justification for it. Most judges would hesitate to come to such categorical conclusions on the basis of such limited evidence.

The further conclusion drawn by the commissioners on the basis of these eyewitness accounts is startling. The reference to the Trust Feed case implies that the beerhall incident was similar to the Trust Feed murders, which itself is not proven in any way. (In April 1992, five policemen were found guilty of having murdered 11 people participating in a funeral vigil at Trust Feed near Greytown in the Natal midlands on 3 December 1988. It appeared that the mourners had been killed by the police in the mistaken belief that they were members of the UDF, and in order to disrupt a UDF-affiliated residents association and assist Inkatha in gaining control of the areas")

The report then jumps to the further conclusion that white police officers are still killing people in a random and cold blooded way. This accusation may be true, but neither the beerhall incident nor the Trust Feed case provide clear evidence of such a policy. It is irresponsible, accordingly, to make this kind of deduction.

Similar disregard for the rules of evidence and procedure is evident in the ICJ's handling of attacks on the Uganda squatter camp at Umiazi, a township on the outskirts of Durban, in March 1992. Again, the report records an eyewitness account of the attack, said to involve about 200 men, some in the greenish uniforms of the KwaZulu Police, who were shooting all the time and carrying long guns.

The report states that one of the commissioners questioned the eyewitness and that the commissioners were satisfied he was telling the truth.<sup>3</sup> On the basis of this account and a number of affidavits submitted to the commissioners by the Legal Resources Centre in Durban, the ICJ concludes that the misconduct of the KwaZulu Police has become (even) more blatant.<sup>4</sup> Based on this finding, it recommends that the KwaZulu

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Police and the South African Police in Natal be placed under a unified command!5

Yet again, the ICJ report fails to point out that eyewitness accounts and affidavits have little evidential value unless tested through proper cross-examination. In addition, no attempt is made by the commission to canvass or record the standpoint of the KwaZulu Police. (It is also interesting to note that the ICJ,s recommendation that the KwaZulu Police effectively be disbanded is in keeping with ANC demands in this regard.)

Against the background of these three common themes, it is instructive to analyse the Amnesty and ICJ reports in further detail. Thereafter, two reports of the South Africanebased Human Rights Commission will briefly be reviewed.

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The Amnesty Report

In this section, examples of text found in the Amnesty International report will be reproduced, followed by a commentary.

Text

During these two years (January 1990 to March 1992) of intense violence, the victims have come from across the political spectrum. The overwhelming majority of them, however, have been members or perceived sympathisers of the African National Congress (ANC) and formerly banned organisations, members of trade unions and human rights and peace groups, as well as people of unknown affiliation who died during attacks on commuter trains.

Comment

If objective criteria are used, it is difficult to know on what basis Amnesty comes to this conclusion. The South African Institute of Race Relations analysed 2 030 incidents of violence which occurred countrywide from 1 January to 31 December 1991. Strict criteria for the identification of victims, aggressors, and conflict groups were used, avoiding speculation and subjective analysis. (Had the Institute chosen to speculate on the identities of unidentified attackers and victims in areas where recent history would make such speculation feasible, there would no doubt have been higher percentages of internecine political violence. Thus, for example, an attack by unidentified people on an unidentified dwelling in the Port Shepstone area of Natal could have been presumed to have taken place in the context of the conflict between the ANC and the Inkatha Freedom Party (IFP). Nevertheless, to ensure accuracy in its report, the Institute did not attempt to identify attacks, victims or conflict groups without supporting evidence.)

Based on this approach, the Institute was unable to identify the victims or targets of attack in 32,7% of incidents. Aggressors could not be identified in 87% of cases.

Text

"The overwhelming message received by Amnesty International's representatives in the townships and squatter camps was one of enormous frustration, anger and fear... The residents saw the police as indifferent and unresponsive when they went to them for assistance. They felt helpless - that they had nowhere to go when they heard shooting during the night or when armed thugs turned up outside their homes. They saw the police, as of old, as hostile and biased. They viewed with bitterness and cynicism the failure of the police to catch killers or act against mobs of heavily armed men moving about the streets with impunity. They compared the rarity

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with which police searched and seized weapons from the black migrant workers hostels, which in many areas had been taken over by IFP supporters, with the vigour, indeed brutality, with which the same police raided the homes of ANC supporters, especially where they were suspected of being members of self-defence units or the armed wing of the ANC. The anger at this lack of even-handedness by the police was compounded by the occasions when residents saw the police as actively colluding with their attackers.

Amnesty International's representatives were moved by the patience and courage of many community leaders who, despite highly provocative circumstances, were resisting the temptation to retaliate with violence. Instead, they were working through dispute resolution committees, which were gradually being set up under the terms of the September 1991 National Peace Accord... Despite government pronouncements on the need for neutral policing, township residents feared and distrusted the police. They saw police conduct as a major force perpetuating the violence.

#### Comment

There are a number of relevant factors in this context which the Amnesty report omits. In particular, sustained attacks on the police by people in the townships are entirely ignored.

These attacks appear to have their origin in the ANC/South African Communist Party (SACP) strategy, adopted in 1984, of people's war. The overall aim of this strategy was to make apartheid unworkable and South Africa ungovernable. A particularly important element was to weaken all the organs of government, but especially the police.

The ANC targeted the police for elimination, in broadcasts emanating from Radio Freedom in the 1980s. Thus, for example, in 1985 the ANC urged the people to begin to identify collaborators and enemy agents and deal with them... Informers, policemen, special branch police... living and working among our people must be eliminated. Also in 1985, Radio Freedom urged that the soldiers and police who are roaming the streets of our residential areas must be gradually turned into targets... Let us intensify the elimination of all collaborators from our nation. Later that year another Radio Freedom broadcast stated that the police and soldiers must be killed even when they are at their homes, and irrespective of whether they are in uniform or not.<sup>50</sup>

The ANC claims that the campaign of earlier years has ended? However, even if it is no longer official ANC strategy to eliminate the police, it must also be recognised that the calls by the ANC for attacks on the police contributed to a spirit of anarchy - especially among the youth - which will not easily be overcome.

The police, moreover, question whether the campaign has indeed ended,

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citing the high number of physical attacks to which they have been subjected in recent years. In 1990 there were some 6 000 attacks on the police, more than 1 600 of these with petrol bombs or firearms? More recently, on a single day in a single township, there were 136 attacks on the police, about half of these being attacks with guns or petrol bombs. (This was on 1 April 1992, in Alexandra on the outskirts of J ohannesburg.)<sup>53</sup> In 1990 some 70 members of the police force were killed in unrest-related incidents and over 600 were injured. In 1991, 137 policemen were killed. In the first seven months of 1992 over 120 policemen have already been killed. Ambushes of the police have recently also become more common, especially in the Pretoria/Witwatersrand/Vereeniging (PWV) and Natal regions, and commonly involve attacks with AK-47 rifles and hand grenades<sup>54</sup> (In 1992, in a new development, the armed wing of the Pan-Africanist Congress (PAC) has claimed responsibility for a number of these attacks. Thus, for example, on 18 J anuary 1992 it was reported that eight policemen had already been killed during 1992 and that the armed wing of the PAC had claimed responsibility for a isbate of ambushesi on the police?)

No mention is made in the Amnesty report of these killings of the police. The report indicates, in addition, that the police are indifferent and unresponsive when residents go to them for assistance, leaving residents feeling ihelpless<sup>55</sup>. No mention is made of the reality that many residents are too scared to go to the police for help, not because they fear police indifference but because they have been told by street committees not to do so, and are afraid that their houses will be burnt down should they disobey this instruction?<sup>56</sup>

Text

The second half of 1991 was a period of intensified struggle between the management iof Impala Platinum, a company owning a number of platinum mines in Bophuthatswanal and the black workforce over issues of pay, working conditions and the right to organise within the workplace. Following a series of strikes in mid 1991, workers made significant gains, winning higher wages, the right to be represented by an elected workersi committee assisted by NUM INational Union of Mineworkers<sup>57</sup> representatives, and other concessions from the management. But from October 1991 onwards the mine management clamped down on worker activists in an apparent effort to regain lost ground and undermine the new-found solidarity among the workforce. Trade union activists were harassed and dismissed from their jobs, or beaten, detained and tortured. In addition, some 30 mineworkers were killed between August and December 1991 in clashes at the mines between mineworkers and armed men, some apparently brought in from outside the mines. Further deaths were reported in March 1992 when armed men, some from outside the mines, attacked mineworkers on mine premises allegedly with the active involvement of mine security personnelfs<sup>58</sup>



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### Comment

There are major discrepancies between this account of events and that of Impalais management, particularly as regards events from October 1991 onwards. According to Impala, it lclamped down at that time not to lundermine the new-found solidarity among the workforce but to regain control of the mine and prevent the further occurrence of common law crimes including murder, assault and arson.

According to Impala, by October 1991 it had received clear evidence that self-appointed marshalls wearing AN C insignia had taken virtual control of the mines, decreeing when production would begin and end, controlling access to hostels and setting up roadblocks on mine property. There was also evidence that a battle to increase the membership of the NUM had ensued, leading to numerous instances of assault and intimidation by the ANC marshalls. Impala management intervened to restore law and order and prevent the commission of further common law crimes.

Bophuthatswana police were called in and arrested a number of the marshalls.

Impala confirms that some 30 mineworkers were killed between August and December 1991, but submits that all but two were killed in fighting between supporters and opponents of the NUM. (One of these two mineworkers was killed by a Bophuthatswana soldier. The other was shot by a mine security guard, who was under attack by 30 men in the corridor of a building which the men had set alight.)

According to Impala, the conflict in March 1992 began after a speech in Bophuthatswana by the new general secretary of the NUM, who is reported to have launched a scathing attack on the Bophuthatswana administration. This is believed to have incensed the authorities as well as having led to increased pressure on miners to join the NUM. Miners from Lesotho lwho were fed up and wanted to get on with the jobl clashed with NUM members in a local shebeen near, but not on, mine property. Seven people were killed the following day and a further six bodies were found after renewed fighting some days later. (According to the N UM, the death toll was at least 15.)

According to Impala, the March deaths resulted from fighting between miners in support of, or opposed to, the NUM. No armed men were brought in from outside to attack mineworkers on mine premises, and there was no active involvementl by mine security personnel in the deaths. On the contrary, mine security personnel did all they could to stop the fighting.

Amnesty effectively pronounces the management of the mine guilty of assault, torture, and even homicide. In so doing it ignores the rules of evidence and the audi alteram partem principle, for Impala states that no attempt was made by Amnesty to contact its managers and ask them for their views. This is a significant omission. The minels

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The ICJ Report

management should not have been found guilty of promoting the death of mineworkers without providing them the opportunity to tell their side of the story.

The Amnesty report makes no mention either of the views of the Bophuthatswana administration regarding the conflict at Impala Platinum. Spokesmen for the Bophuthatswana authorities believe that the NUM has deliberately exploited every possible source of friction at Impala mines to keep the conflict on the boil. The administration emphasises, moreover, that Cosatu and the NUM - which originally painted the conflict as an industrial dispute - now acknowledge its political motivation. The aim, Bophuthatswana believes, is not to improve working conditions for miners but rather to increase pressure on the administration and help promote the strategy of iungovernability to which the Mass Democratic Movement (MDM) is committed.

Text

tBophuthatswana's laws prohibit South African-based unions such as the ANC-aligned National Union of Mineworkers (NUM) from operating in the iihomeland"? 5"

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Legislation to this effect has been passed, but not yet promulgated, by Bophuthatswana. The law which remains in force at present is the Industrial Conciliation Act of 1984. This enables trade unions like the NUM to operate in Bophuthatswana provided they comply with the requirements of the act. These requirements include the need to have offices in Bophuthatswana and a Bophuthatswana citizen as secretary.

In December 1991 Impala urged the NUM to legalise its status in Bophuthatswana by complying with the terms of the act. On 7 December 1991 the NUM formally applied to the Bophuthatswana government for permission to operate in the territory, and this was granted. The NUM subsequently explained this about-face from its earlier refusal to comply with the Bophuthatswana act as a tactical shift in response to practical problemsiu

It is therefore incorrect to state that the NUM is prohibited from operating in Bophuthatswana.

Text

11 ohm Hall, the national chairman of the Peace Accord, told us that one of the most pressing problems is to build a new system of local government

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28

untainted by apartheid. He explained that old local government structures are discredited and have broken down, so that there is no one there to receive and spend the money which big business could make available!59

Comment

It is of course true that the black local authority (BLA) system has broken down in many parts of the country. The International Commission of Jurists (ICJ) fails to mention, however, that the breakdown was not accidental but deliberate.

There was a groundswell of anger among township residents against BLAs from their introduction in 1983, mainly because the BLA system was seen as a wholly inadequate substitute for parliamentary representation.

There is substantial evidence that initial anger against the BLA system was deliberately inflated by the ANC as part of its strategy, adopted in 1984, to make South Africa ungovernable. In 1990, moreover, the campaign to bring about the final collapse of black local government was stepped up, despite moves towards national negotiations and despite the government's interim plans to negotiate a new, nonracial system of local government. The campaign against BLAs included widespread rent boycotts and protest marches calling for the resignation of councillors, together with threats frequently made at public meetings and protest rallies that collaborators would face the wrath of the people. These calls unleashed situations of individual and mob violence in which increasing numbers of councillors and their families were killed.

Black councillors were attacked 111 times from January to July 1990, and 84 times from August to February 1991. In the period January 1990 to June 1991, sixteen councillors were killed. Altogether, 358 councillors resigned between August 1990 and February 1991, 85% stating that they had been intimidated into doing so.60

The implication from the statement cited by the ICJ, moreover, is that business would invest in township development if credible local authorities were in place. This might be so, but the reality at present - ignored by the ICJ - is that many businessmen are reluctant to invest in township housing in the face of violence, instability and threatened bond boycotts, all of which derive in significant measure from the campaign to bring about the collapse of BLAs and make the townships ungovernable.

Also true - though not mentioned by the ICJ - is that the campaign against BLAs has severely retarded planned upgrading of the townships by the government. Rent and service-charge boycotts - which are still ongoing - have swallowed up millions of rands originally intended by the government to be used for improving township conditions.

These realities are all ignored by the ICJ.

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Text

On the 24th March we visited Alexandra, where the area round the Hostel M1 is already known as uBeirutl'. The Alexandra Civic Organisation introduced us to some victims of the violence. A woman called Nana told us that the violence started on 8th March 1991 and had never stopped. Inkatha men came out of the hostel shooting people. There is so much robbery. They want money from us and everyone who lives near the hostel has to buy an Inkatha membership card. The government and the police don't do anything for us"3 50'

Comment

On 7 March - the day before the Inkatha attack referred to - IFP supporters taking part in a funeral procession were shot at from a squatter camp in a predominantly ANC area.

The allegation by Nana - repeated without qualification by the ICJ - that violence began again in Alexandra with an Inkatha attack on 8 March, overlooks the shootings of the previous day and the possibility that it was this that sparked off the renewed upsurge of violence between ANC and IFP supporters in the township.

Text

On 27th March 1992 the Goldstone commission investigated a press statement put out by Inkatha at the beginning of that week. The statement had been made at...Codesa by Frank Mdlalose, the national chairman of Inkatha. The message was that the ANC had moved tens of thousands of guns into the Transvaal to wage war against Inkatha. Hostels were going to be destroyed and Zulus would be killed over Easter. Commanders of Umkhonto we Sizwe, the ANC's military wing, were going to unleash havoc in Soweto.

One of the Goldstone commission's great strengths is that it can move with amazing speed. The commission, in the interests of peace, asked the press to hold the story as it was going to ask Inkatha to substantiate its claims on Friday. Inkatha failed to do so. There was no truth in the allegations. The source of the story turned out to be two cleaning ladies and a man from Rustenburg. The names of these three shadowy characters are still unknown. The press report was pure rumour, yet the story was given the authority of the party's national chairman and of Musa Myeni, the Transvaal Inkatha leader, neither of whom had bothered to check their sources. The behaviour of the Inkatha leadership was at best completely irresponsible. It is very worrying. The Goldstone commission will not always be able to defuse such situationsf61

Comment

The IFP is not the only organisation to have made unfounded accusations

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- disproved on investigation by the Goldstone commission - but this reality is ignored by the ICJ.

Thus, on 27 February 1992, an attorney acting for the ANC informed the Goldstone commission that an informer had identified a farm in the Heidelberg area (near Johannesburg) where he and other men were allegedly being trained as members of a hit squad. The informer also alleged that he, as well as the other trainees, were involved in the train murders in the Witwatersrand area. The attorney told the commission that neither he nor the ANC had reason to doubt the accuracy of the information, but that they had no means of verifying it.

Early in the morning of 29 February 1992, the farm was raided by the police (who were given no prior knowledge of their destination), accompanied by members of the commission. The farm was located but the information proved to be false. The informer led the team to two other farms in the same area, but the information again proved to be false.

The commission issued a report on the incident in which it stressed its resolve and capacity to enquire into public violence. It also warned against the danger of relying upon unchecked reports concerning public violence and intimidation.<sup>62</sup>

No mention is made by the ICJ of these events.

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The causes of violence are many and varied. Unemployment in excess of 40%; the absence of social security; massive urbanisation; the squalid conditions in which many are forced to live; the hostel system; the fact that the traditional forces of law and order have never had credibility in the black community because the police were largely entrusted with enforcing arbitrary apartheid laws which had no moral content; the loss of influence of traditional leaders in churches, in communities and the family; the collapse of education for blacks; political competition and opportunism; and the presence of gangs of well armed, well organised people who kill indiscriminately.<sup>fsa</sup>

Comment

Many of the factors identified in this list do indeed play an important part in violence. The ICJ makes no mention, however, of the ANC strategy of promoting ungovernability through mass mobilisation, and the role this has played in fostering violence. Its omission from what purports to be a list of the many and varied causes of violence suggests wilful blindness on the part of the ICJ and confirms the one-sidedness of its approach.

In September 1984 the ANC declared that we (ie black South Africans) must be impossible to control. Anyone participating in community councils, homelands, the tricameral parliament and the police were

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enemies of the people. Weapons were to be captured by laying ambushes for policemen, the petrol bombing of whom was approved in a statement broadcast in January 1985.<sup>65</sup>

In May 1985 Mr Thabo Mbeki urged on Radio Freedom that the enemy had to be attacked on all fronts, and underground units spread to every factory, mine and farm, every school and every village.<sup>66</sup> Later that month Mr Oliver Tambo broadcast a call upon our people in the bantustans to isolate and destroy the Pretoria puppets.<sup>67</sup> A statement in August 1985 said that the leadership of Inkatha had placed itself in the camp of the enemy, because Inkatha had broken up and suppressed a school boycott in 1981/82.

A Radio Freedom broadcast in December 1986 urged that the masses should fight in every way possible using Molotov cocktails, spears, sticks, petrol bombs and small arms seized from whites. The broadcast urged that other forms of struggle should also be used: "We are talking about rent strikes, we are talking about bus boycotts, we are talking about the overthrow of the township council of the puppets and the creation of people's organ of power, people's courts and so on. All these various elements of the struggle help to make up the total aggregate of a people's war."<sup>68</sup>

There is evidence, moreover, that the people's war continues.

In July 1989 the SACP held its seventh congress in Cuba and adopted a new programme of action entitled The Path to Power. This advocates mass insurrection as the path to people's power. To this end, it proposes the building up of nationwide popular ferment, resistance, all levels of organisation and the presence of people's combat formations.<sup>69</sup> This, in combination with worsening economic conditions and divisions within the ranks of the power bloc, is envisaged as setting the scene for the seizure of power. The SACP recognises, moreover, the need to increase the momentum towards insurrection by promoting a combination of mass upsurge, in which working class action at the point of production will play a key role, mass defiance, escalating revolutionary combat activity, intensified international pressure, a situation of ungovernability, a deteriorating economy and growing demoralisation and division...within the power bloc.<sup>70</sup> The party further resolves to pay particular attention to the development of factory, urban and rural based combat groups, popularising insurrectionary methods among the masses and winning over elements from the enemy's armed forces.<sup>71</sup>

At the same time, the SACP recognises that guerrilla warfare has proved largely unsuccessful and could be jettisoned in favour of mass action leading to mass insurrection. "Armed struggle, it concludes, should not cease, but should rather be redefined. In this regard, escalating and militant mass action is seen as providing the key, with Umkhonto cadres operating underground, assisting in the formation of combat units and popularising the skills of armed combat."<sup>72</sup>

#-.-\_\_

The mass action envisaged by the SACP is all-encompassing: sometimes peaceful, sometimes violent. At one moment the masses can be taking part in a placard demonstration or attending a mass rally; at another they could be erecting barricades and digging trenches to trap and tight enemy vehicles entering the townships, or dismissed workers can be destroying factory machinery or burning crops, or the people can be physically attacking the enemy's agents and collaborators<sup>73</sup>

The primary duty of the party is to ensure that militancy should grow from day to day, from campaign to campaign, in ever widening terrain, until it has reached a point and a scale where confrontation becomes a point of no return, and general insurrection breaks out." '

A particularly vital component in the overall strategy is the development of self-defence units (SDUs). The underlying thinking is that SDUs should combine with the masses in revolt and, led by the vanguard SACP, ... must develop the capacity to seize power." Once mass action is transformed into a general uprising, hidden arms caches are to be unearthed and SDUs are to be activated, together with Umkhonto cadres, to direct the masses as to what to attack and when.<sup>78</sup>

At the same time, negotiations with the government are not ruled out. They are seen, however, primarily as setting the seal on gains already won by the masses on the battlefield. Negotiations mirror in words the struggle taking place on the ground. They do not win our freedom but codify the victories we have already won on the ground<sup>77</sup>

How far have these strategies been implemented? It is noteworthy that the ANC, in terms of the Pretoria Minute of 6 August 1990, suspended armed struggle - in the form of guerrilla warfare, which it had already acknowledged to be ineffective - but made it clear that it would continue with mass action. It has also steadfastly refused to disband Umkhonto or to surrender its hidden arms caches.

The ANC, SACP and Congress of South African Trade Unions (Cosatu) have recently launched a programme of rolling, mass action, stated by many key leaders to be intended to bring about the downfall of the present government. Thus, for example, at the funeral for victims of the Boipatong massacre in June 1992, Mr Chris Hani, a prominent Umkhonto and SACP leader, stressed that mass action would involve a fight to the finish...until we defeat De Klerk." Mr Nelson Mandela, president of the ANC, has since stated that mass action does not have an insurrectionary purpose." The MDM alliance is not, however, a monolithic entity and there are many within it who would seem to continue to adhere to this strategy.

Self-defence units are, moreover, being established in an increasing number of townships. Umkhonto cadres are currently playing an important role in this regard, and members of such units are being trained to raise barricades and to attack with rudimentary weapons such as petrol bombs and cross-bows as well as sophisticated firearms<sup>79</sup> According to the

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SAP, the formation of self-defence units is continuing apace, notwithstanding the provisions of the National Peace Accord, in which the ANC agreed that any existing self-defence units would be transformed into self-protection units, operating in liaison with the police, and that no new self-defence units would be established.

Quite apart from its insurrectionary goals, mass action in itself has led to confrontation. The ANC has acknowledged that mass action is commonly accompanied by intimidation. The organisation stresses that it does not countenance this and does its best to prevent its occurrence.<sup>82</sup> A broadcast by Mr Tambo from Lusaka in May 1985, however, emphasises that mass action can only succeed if all take part in mass campaigns, and urges that any non-participation must be corrected.

A black journalist, moreover, is adamant that intimidation plays a very big part in mass campaigns: 'People know that if they go to work in the face of a call for a stayaway, they will be attacked. Hence, even if they resent the action called for, they comply.'

Typically what has happened in the past is that activists set up roadblocks, picket lines, and other barricades to maximise support for a stayaway or consumer boycott. Frequently people who do not wish to join in the required mass action are attacked. (Recent examples include three sisters burnt to death in their township house for refusing to join a hospital strike, and the people in the Vaal triangle townships who have been sjambokked by youths for disobeying a stayaway call.)<sup>85</sup>

Opinion surveys confirm the high percentage of black people in metropolitan areas who have been coerced into participating in consumer boycotts, stayaways and rent boycotts. These surveys also show a strong correlation between coercion and political affiliation. Thus, those who support the IFP or the Azanian People's Organisation (Azapo) have been subject to intimidation far more often than supporters of the ANC and its allies. Surveys indicate that between three and four out of every five supporters of the IFP or Azapo have been intimidated into participating in mass action, compared to one in every five supporters of the ANC/SACP/Cosatu alliance.

If these survey findings from the representative sample canvassed are extrapolated to the total black metropolitan population, it can be assumed that some 1.75m metropolitan blacks experienced coercion or intimidation in the context of mass action during 1990/91.<sup>37</sup>

There is evidence, moreover, that coercion to participate in mass campaigns can readily spark a violent counter-reaction. This is demonstrated, inter alia, by events during the two-day stayaway in November 1991, called by Cosatu in protest against the introduction of value added tax (VAT). Miners reporting for work at the President Steyn gold mine in the Orange Free State in the face of the voluntary stayaway call were attacked. The miners retaliated and 86 people died in the clashes.



which ensued. The Goldstone commission investigated the deaths and was satisfied that the initial violence which led to further clashes arose because of the decision taken by a number of militant militants to ensure that the stayaway call was observed.<sup>83</sup>

There is also evidence that the strategy of ungovernability has been used by the ANC to justify the most coercive of all practices, the necklace murder. During the 1980s at least, the necklace was the ANC's approved instrument against collaborators. More than 520 people have died by this method, which is currently once again on the increase.

The ANC now publicly repudiates the necklace, but this has not always been the case. In 1986 the ANC's mouthpiece Sechaba said of necklacing that it was a weapon of the masses themselves to cleanse the townships from the very disruptive and even lethal activities of the puppets and collaborators.<sup>84</sup> In 1986 the London Sunday Times reported that the then general secretary of the ANC, Mr Alfred Nzo, had told a reporter of the newspaper in Lusaka that collaborators with the enemy must be eliminated. The paper went on: Asked if this included necklacing, Nzo nodded emphatically. 'Whatever the people decide to use to eliminate those enemy elements is their decision. If they decide to use necklacing, we support it.'<sup>85</sup>

(It is not only collaborators, moreover, who have been executed by the necklace method. Activists fully committed to the struggle - but supportive of Black Consciousness organisations - have also been killed in this way. A spokesman for the one such organisation, Azapo, recalls that ANC leaders extolled the virtues of the necklace in the 1980s, and that the organisation has since found it difficult to de-programme... comrades brought up on a staple diet of political intolerance, and a preparedness to go to barbaric extents to settle political differences.<sup>86</sup>)

Azapo recommends that the continuation of necklacing can be countered only by the repeated expression of utter revulsion at its barbarity.<sup>87</sup> It is unfortunate, accordingly, that the ICJ makes no mention of the necklace at all.)

The ANC's strategy of ungovernability with its ultimate goal of mass insurrection is, moreover, a matter of public knowledge. So too is the continued formation of self-defence units, the ANC's refusal to disband Umkhonto or surrender its arms caches, the intimidation which commonly has accompanied mass action, and the violent backlash which this has often provoked. It is noteworthy, therefore, that the ICJ - in listing the causes of violence - should completely have omitted one of the most significant.

Text

:We are also satisfied that the amount of violence caused by the ANC has increased since we were last here. In the absence of any effective enforcement of the laws, and any action by Buthelezi to curb his support-

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### Two HRC Reports

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ers, this is perhaps inevitable. We discussed the escalation in the violence with Mr Harry Gwala, the chairman of the ANC in the Natal Midlands, who said. 1We are not having angels on one side and no angels on the other (sic). People hit back too, they carry the war to those who started it. If people are angry, they will kill anyone. The acts are acts of desperation399 mm

This is virtually the only reference in the report to violence on the part of the ANC. The increase in AN C violence is effectively blamed on the police and on Chief Buthelezi. In addition, the assertions by Mr Gwala are taken at face value. No attempt is made to point out that it is by no means proven that it was the IFP that started the war with the ANC, or that there might be another point of view. AN C violence is, moreover, implicitly condoned as acts of desperation. No reference is made to any part the ANC might have played in heightening conflict with the IFP through, inter alia, its strategy of ungovernability and its condemnation of Chief Buthelezi as an enemy of the people.

In short, the ICJ ignores the fact that the issue of culpability as between the AN C and IFP is hotly contested. Instead, it reflects only the AN C viewpoint, ignores the allegations made by the IFP, and effectively condemns the IFP through a one-sided reliance on accusation elevated to fact.

A more balanced view would have recognised that there is major culpability on both sides. For example, it would have been relevant to point out that the IFP has admitted involvement in massacres and that KwaZulu police have been convicted of murder, but that IFP members have been the targets of assassination campaigns, which have continued unabated since the signing of the National PeaceAccord in September 1991."

The Human Rights Commission (HRC) was established in 1988 and regularly produces an Area Repression Report as well as a Human Rights Update. Special reports on topical issues are also produced at intervals. For present purposes, analysis will focus on the HRC's recent Special Briefing on Massacres, as well as a typical HRC report - the Area Repression Report for April 1992.

#### ANALYSIS OF THE CONTENT OF THE HRC'S SPECIAL BRIEFING ON MASSACRES

##### Text

"The Boipatong massacre of 17 June has prompted the Human Rights Commission (HRC) to look into its records of major massacres that have occurred with sickening frequency since July 1990. That month was the month during which Inkatha announced its formation of a nationally based

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political party, the Inkatha Freedom Party (IFP), a decision with far-reaching consequences in extending the five-year-old war in Natal beyond its borders, particularly to the PWV area<sup>95</sup>

Comment

By implication, the IFP is blamed for the spread of the Natal violence to the PWV area.

No mention is made by the HRC of the ANC campaign against Chief Buthelezi and KwaZulu which was launched in June 1990. The ANC called a national stayaway on 2 July in support of demands that KwaZulu be dissolved and the KwaZulu police disbanded. This demand was to be buttressed by a national campaign of protest marches around the country on 7 July.

The Pan-Africanist Congress (PAC) and the National Council of Trade Unions (Nactu) specifically counselled the ANC against the launch of this campaign, warning that it would unleash further violence. The vice president of the United Democratic Front (UDF) in Natal, Mr Archie Gumede, also warned against the campaign.<sup>96</sup>

In the words of a leading political correspondent:

in was very counterproductive. It was directed specifically against KwaZulu, while the ANC had fraternal relations with Holomisa (the military ruler of the Transkei). Hence it was seen as anti-Zulu as well as anti-Inkatha. No matter how the ANC tried to sell it as an anti-bantustan initiative, the fact that it was directed at only one whilst there were specific links with others made its disavowal suspect.

This campaign is clearly linked with the subsequent violence on the Reef. Inkatha was preparing to re-establish its presence in the Transvaal... The ANC campaign threw the gauntlet down against it. It also generated such hostility against Inkatha that it became inevitable that violence would flare once Inkatha tried to raise its flag. It added to the culture of non-tolerance.

The violence in the Transvaal started on 22 July (1990) at the IIFPI rally in Sebokeng. Even ANC supporters admit that when Inkatha members arrived, they were stoned. They then retaliated<sup>97</sup>

About 20 people were killed in the aftermath of the rally. Press reports give mixed accounts of events. Some -- particularly The Daily Mail and New Nation -- allege that the IFP had planned to send an impi to Sebokeng on 22 July to avenge earlier arson attacks on the homes of IFP supporters. (These attacks had taken place on 2 July, the date of the national stayaway intended by the ANC to isolate KwaZulu and Chief Buthelezi.) These reports, accordingly, hold the IFP primarily responsible for the violence

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which erupted, and charge the police with secondary responsibility, for colluding with the IFP.<sup>mi</sup>

Other reports state that the rally was called by the IFP in sympathy with the victims of arson attacks, but in a spirit of reconciliation. A convoy of buses bringing Inkatha supporters into Sebokeng was, however, stoned with half bricks, and windows were smashed. The home of an Inkatha supporter was petrol-bombed. At about 2.30pm AN C supporters began taunting those attending the rally. Police escorted the IFP supporters back to their hostels through a gauntlet of petrol bombs and stones hurled by suspected ANC supporters.<sup>89</sup> At the hostels, more alleged ANC supporters were waiting, reportedly to ambush the Inkatha members. Police attempted to disperse these men with teargas and rubber bullets. A spear was thrown at the police and struck a policeman in the chest, fatally injuring him.<sup>J0</sup> At about 9pm, the situation seemed quiet and police withdrew. Shortly afterwards, fighting began between AN C and IFP supporters. A number of IFP supporters were thereafter evicted from hostels in Sebokeng.

Speaking in Sebokeng the following week, Mr Nelson Mandela (then deputy president of the ANC) praised the Sebokeng community for forming iself-defence units<sup>si</sup> against the IFP and endorsed ithe community's resolution to ban Inkatha members from the Vaal Triangle<sup>ei</sup>. He is also reported to have said, in a clear reference to the IFP, itthose black people who think they can come to power on the corpses of the black people are making a serious mistake<sup>ei</sup>.<sup>lm</sup> The IFP condemned these remarks as inflammatory.<sup>102</sup>

No mention is made by the HRC of any of these events.

In addition, it should also be remembered that Inkatha had had a significant membership and an established presence on the Reef for many years prior to July 1990. It was not as if - as the HRC implies - Inkathais transformation into a political party marked an attempt by it to penetrate virgin territory in the PWV.

## Text

Who were the pemetrators?

In most cases, media and other reports on massacres refer to allegations or deductions about the identity or source of the attackers, sometimes corroborated by legal evidence. On this basis it has been possible to make assessments as to the identity of the alleged attackers. An analysis of the lists yields the following: '

- o IFP (members, supporters, elements) were responsible for 34 massacres (69%).

- o Security Forces (South African Police, South African Defence Force, KwaZulu Police) were directly responsible for four massacres (8%).

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0 Township residents and ANC supporters had a responsibility in six massacres (12%).

o N o clue as to the identity of the attackers was available in ten massacres.

0 There was shared responsibility in eight massacres, either in the case of two parties openly attacking together, or in the case of opposing parties being equally responsiblefm

Comment

The HRC entirely ignores the rules of evidence in making its assessments.

It acknowledges that its findings are based primarily on allegations and deductions. Allegations, in themselves, do not constitute proof.

Deductions can properly be made only on the basis of allegations which have been tested and substantiated.

The HRC states further that these allegations have sometimes been corroborated by illegal evidencei. No court would accept allegations which have not been so corroborated as the basis for findings of liability for trivial offences, let alone anything as serious as a massacre. The HRC does not indicate, moreover, how many allegations have indeed been so icorroboratedi Nor does the HRC explain the stature of the illegal evidencei it cites. An affidavit, for example, may constitute illegal evidencei, but it has little value as testimony unless it has been tested through thorough cross-examination.

As already indicated, research by the South African Institute of Race Relations shows that - if speculation is avoided - it is very difficult to identify attackers.

Text

i77le issue of collusion

Repeated and persistent reports have emerged, both in Natal since the mid-1980s and in the PWV since July 1990, of collusion between the Security Forces (SAP, SADF, KZP, etc) and vigilante groupings, primarily elements within Inkatha. Allegations of Security Force complicity in massacres appear frequently in reports from eyewitnesses.

In the attached lists (of massacresl, such allegations have been made in the case of 19 massacres which is a frequency difficult to ignore.

Furthermore, allegations of the presence of unspecified or unidentified whites in support of vigilante massacres appears in eight cases. Again such reports are so persistent that they cannot be discounted?"

Comment

As earlier noted, allegations do not constitute proof. They may also be

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false. Moreover, there are two possible reasons for the frequent repetition of certain types of allegations. Either there is indeed substance in them, or they reflect a deliberate effort to produce a particular impression.

Mr J ohn Vorster and Mr P W Botha thus repeatedly claimed that resistance to apartheid rule stemmed mainly from a tcommunist conspiracyi. The frequency of repetition of this allegation did not of course prove its truth, but it did help to establish this view among many white people.

Analysis of the list of major massacres compiled by the HRC

As it is difficult to fit all the categories of information referred 'to on these lists into a standard page of text, the events referred to by the HRC will be described in sentence form, using the actual wording of the HRC whenever possible.

### Text

On 4 September 1990, at Sebokeng, 19 hostel residents were killed.

The alleged attackers were tIFP vigilantesi, there was talleged collusioni between whites and the IFP, and lthe attack was aimed at hostel take over.

### Comment

There are three major inaccuracies in the HRCis account of this massacre, as evident from the report of the judicial inquest into these deaths conducted by Mr Justice Stafford and concluded in March 1991.

The HRCis account is inaccurate in the following respects:

o the HRC states that 19 people were killed. The total, according to Judge Stafford, was 38;

o the HRC states that the alleged attackers were IFP vigilantes. There is evidence that the attack was mounted by supporters of the IFP, but no evidence that these supporters were vigilantes. On the contrary, they were men who had previously been evicted from the hostel and were aggrieved by this. In the words of Judge Stafford:

tlnkatha supporters had been removed from, chased away from, frightened away from, had left their hostel dwellings, whatever you like, and were living in tents with charitable aid, and other residences, including one belonging to the KwaZulu government. There were two parties and this was where it all started: the Inkatha supporters, evicted from the hostels and aggrieved thereby, and the mainly AN C supporters who lived in Sebokeng and those that still remained in the hostels?05

o the HRC states that there was talleged collusion between whites and

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the IFPL. In doing so, it totally ignores the finding of Judge Stafford to the contrary:

1...Certain of the affidavits referred to a sinister white third force. I believe it was given publicity and referred to in press reports that this force was possibly or probably involved in the pillaging. The suggestions were that this force was a white vigilante force and that they were part of one of the sides in this confrontation. As I understood it they, this sinister white force, ostensibly supported Inkatha and/or, at the very least, were acting as catalysts in the relationship between the ANC and Inkatha supporters, thereby exacerbating the violence between the two groups. The evidence in this inquest established that this allegation or suggestion was devoid of substance and the only witness who seriously attempted to state that a white man, part of a vigilante force, shot his brother, retracted it and committed perjury<sup>106</sup>

Text

As regards the second massacre at Sebokeng on 4 September 1990, the HRC states that 11 hostel residents were killed. The alleged attackers were the SADF, who opened fire on negotiators<sup>1</sup>.

Comment

This account is inaccurate in the following key respects:

0 the HRC states that 11 people were killed by the SADF. Judge Stafford found the total killed to be four. He also expressed the hope that this finding would lay to rest the rumours and press reports that 11 people were shot dead by the army.<sup>107</sup> Instead, the HRC repeats the rumour of 11 dead as if it were fact;

0 the HRC states that the army opened fire on negotiators<sup>1</sup>. This ignores the circumstances of the shooting, as established by Judge Stafford.

According to Judge Stafford, the SADF had been called in to assist the SAP, who were endeavouring to arrest and remove from the hostel some 137 Inkatha supporters accused by a 5 000-strong crowd outside the hostel of being the perpetrators of the earlier killings. In the words of Judge Stafford:

137 red head-banded Inkatha supporters were finally trapped inside hostel 3, block E. The crowd which grew to 5 000 people was baying for their blood. They, the crowd, firmly believed that the 137 supporters of Inkatha, inter alia or solely, were responsible for the dead and fatally wounded scattered all around the hostels<sup>fm</sup>

The SADF was called in after some hours to help the police remove and arrest and disarm the 137 members of Inkatha in order to avoid a bloodbath and to carry out their duties<sup>109</sup> The information given to the

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SADF commanding officer was that the police were cornered in hostel 3 with Inkatha members. Shortly after the army contingent arrived at the hostel, Rifleman J Booysen fired the first shot and killed one person within the crowd. A further 160 or so rounds were fired within the next 20 seconds. No order to fire was given. Judge Stafford found that Mr Booysen, aged 22 and of limited education, may have panicked at the sight of the huge, noisy and hostile crowd. He also found his behaviour and that of the other SADF members who had fired without orders to be inexcusable. The inquest judgment is thus strongly critical of the conduct of the SADF. There is no suggestion, however, that the army opened fire on negotiators, as stated by the HRC. '

### Text

On 3 December 1991, at Bruntville, 18 ANC supporters were killed. The alleged attackers were the IFP, there was alleged collusion between the IFP and SAP, and the attack was in retaliation for a protest against cultural weapons.

### Comment

No reference is made by the HRC to the fact that the Goldstone commission, following its investigations into these killings, concluded that there was no prima facie evidence of unlawful conduct on the part of the SAP in relation to the violence, and that the security forces are not to blame for the violence.<sup>2</sup> Both these findings would seem to give the lie to collusion between the police and the IFP in the attacks of 3 and 4 December 1991. According to the HRC, the attack was launched in retaliation for an earlier protest against cultural weapons. It ignores the statement by the IFP that its leadership in Bruntville had taken a decision to halt the carrying of spears on 22 November 1991, after inter alia receiving an undertaking from the SAP that members of the United Workers, Union of South Africa (Uwusa) would be escorted to and from work by the police. According to the IFP; this suspension was acknowledged by the SAP and Mr Wessel Nel MP (Democratic Party). The IFP further states that despite this voluntary suspension of the carrying of spears, the ANC held a demonstration march against the carrying of spears<sup>3</sup> and that this again raised tension in the township.

According to the IFP, however, the killings were sparked not by the demonstration but by repeated attacks on the hostel. The HRC makes no mention of these attacks, nor of the IFP supporter undisputedly shot dead prior to the first attack. Instead, the HRC selects one incident in the history of conflict between the ANC and IFP at Bruntville, and holds the IFP guilty in relation to this massacre without making any attempt to canvass its version of events.

As regards the overall content of the HRC's List of Major Massacres, it is



interesting to note at least one known massacre which the HRC omits. The ICJ acknowledges in its Agenda for Peace report that 29 Inkatha supporters were killed in 1991 at Richmond in Natal, by ANC-supporting youths who had unearthed an arms cache and dug into defensive positions in the surrounding forest?" No mention is made of this by the HRC.

In addition, in the three cases in which the HRC acknowledges that IFP supporters have been the victims of massacres, the HRC applies the rules of evidence and concludes that the attackers are unknown. Where ANC supporters are alleged to be the victims, no such constraint applies. Against the background of this analysis, the conclusion to the HRC's report is worth quoting in full:

Major massacres over the last two years have been happening at the rate of two a month. There can be little doubt that there is a design and purpose behind most of them that places them alongside the gas chambers of Nazi Germany in sheer cold-blooded cynicism and brutality. The horrifying trail of massacre after massacre fully confirms the correctness of the declaration of the international community that the apartheid system is a crime against humanity?<sup>115</sup>

Comment

On the basis of unproved allegation, unsubstantiated deduction, deliberate omission, uncertain legal evidence and - as in the case of the Sebokeng massacres of 4 September 1990, clear error - the HRC convicts the IFP and the SAP of genocide. Even the Nuremberg accused were given the opportunity for cross-examination and the case against them had to be proved in accordance with accepted principles of due process. The HRC has no hesitation, however, in using - to convict organisations of genocide - a body of evidence and a methodology which no court would consider sufficient to convict anyone of even a minor offence.

ANALYSIS OF THE CONTENT OF THE HRC'S AREA REPRESSION REPORT, APRIL 1992 '

The HRC's monthly Area Repression Reports are very quickly produced and invariably blame most violence on the IFP and the security forces. The aim of the HRC's Area Repression Reports is to monitor repression exercised by the apartheid state and its supporters against the victims/opponents of apartheid.<sup>5</sup> Incidents are classified in terms of six possible categories:

- 0 security force actions (including actions by the police and the SADF);
- 0 vigilante related actions (VRA);
- 0 hit squad actions (HS);

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0 right wing actions;

0 actions where categorisation is uncertain; and

0 other political action (OPA).

There is no category at all for actions emanating from Umkhonto we Sizwe or any other part of the ANC alliance. This is in keeping with the narrow focus of the report on state and state-related repression, but the result is to provide a skewed overview of violence in the country.

The Vigilante related actibn' (VRA) categorisation

In the April Area Repression Report, 86% of deaths are attributed to vigilante related action or VRA.mThis makes it important to understand the HRCis definition of VRA and the way in which this definition is applied. This is best explained in the context of the Crossroads massacre.

On 3 April 1992, in the Crossroads informal settlement near Katlehong on the east Rand, some 23 people were killed, at least 17 were injured and more than 30 shacks were razed in a surprise attack. The attack was allegedly perpetrated by a group of about 30 Xhosa-speaking men. The attack came at about 11pm and the victims - mostly sleeping - were caught unawares. The attackers came armed with guns, petrol bombs, pangas and spears and some of the victims died in their burning homes.

The area has been an IFP stronghold for some time and the victims were IFP supporters. Among those killed were a woman and two children.

Witnesses reported that the attackers came from the direction of the Holornisa Camp. The ANC disputed this, reporting that the attackers had got off a train near Crossroads at 10pm and launched the attack at 10.45pm." '3

In its Area Repression Report for April 1992, this massacre is categorised as ivigilante related action' or VRA.

In defining VRA, the HRC states that ivigilante groups are reactionary forces that arose out of the attempts of homeland administrations and black local authorities to defend their vested interests against their rejection by the communities in which they are located. Such tiprivate armies" concentrate their attacks on community structures that press for the dismantling of these apartheid organs, but of late have considerably widened their scope to destabilise township communities at large. In reporting on vigilante-related actions, the HRC includes not only attacks by vigilante groupings, but also retaliatory or pre-emptive measures taken  
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by the affected community in a vigilante-initiated situation .

There are a number of difficulties associated with this definition, and these are described in due course. For present purposes, it should be noted that the VRA category primarily denotes attack by (or in defence against)

surrogate forces of the state, in the form of vigilante private armies formed by homeland administrations and black local authorities.

No less than 86% of deaths in the month of April are thus blamed on surrogate state forces, which are considered effectively to blame not only for their own actions but also for any pre-emptive or retaliatory attacks which may be launched against them.

Deaths thus laid at the door of the state are said by the HRC to include the deaths of 23 IFP supporters massacred in their sleep by unknown men allegedly from an ANC squatter camp. This categorisation is an extraordinary one. It can be reached only by adopting a definition of VRA so broad that both victims and perpetrators can effectively be tarred with the same brush.

By way of illustration, if IFP supporters had killed 23 sleeping ANC supporters, this would have been labelled as VRA, on the basis that the IFP supporters were part of a vigilante group established by the KwaZulu homeland and intent on destabilising township communities.

But when 23 sleeping IFP supporters are killed (allegedly by ANC supporters), this is also labelled as VRA, on the basis - presumably - that it was a pre-emptive (or retaliatory) attack against imminent (or previous) attack by the IFP supporters.

In short, if the IFP is the aggressor, the action is described as VRA. If the IFP is the victim, the action is also described as VRA.

On this basis, the HRC is able to attribute 86% of deaths in violence to surrogate state forces and effectively to exonerate the ANC and its allies from any blame.

There are also a number of other problems in the definition of VRA:

- o the 'rejection' of black local authorities (BLAs) and homeland administrations has not been spontaneous, as the HRC implies. It has been an integral part of the ANC/SACP strategy of ungovernability. It has also, as noted above, led to frequent acts of violence against black local councillors and those involved in homeland administrations;
- o there is no clear evidence that either homeland administrations or BLAs under threat from ANC destabilisation have established vigilante forces, either to defend their vested interests or for any other purpose. (Police assistants, given limited training, have been introduced to help protect BLA councillors);
- o there is no clear evidence that such vigilante forces, if established at all, have been seeking to destabilise township communities at large;
- o these putative vigilante groups are labelled as private armies and are,

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by implication, condemned as such. No mention is made, however, of the MOS private army, Umkhonto we Sizwe;

o the HRC indicates that communities are pressing for the dismantling of BLAs and some homeland authorities. No mention is made of the fact that campaigns against these institutions commonly involve violence and intimidation and go far beyond a democratic pressing for their removal.

Finally, as regards the application of this extraordinary definition to the Crossroads massacre, the HRC assumes that the people murdered - who included a woman and two children - were part of a vigilante iprivate arrnyl against which pre-emptive or retaliatory action was needed. There is, however, no evidence of this.

Against this brief analysis of the categorisation adopted by the HRC, it remains to examine further examples of how this categorisation is implemented in practice.

Epical examples of the VRA categorisation

Text

'Alexandra VRA 1 April 92

A sister at the Alex Clinic reported that five people had been treated for gunshot wounds during midnight and 6:303m, that gunfire was heard all night and that burning barricades could also be seen. By the end of the day the clinic reported treating a total of 54 people, 43 for gunshot wounds and 11 for other injuries)120

Comment

This is categorised as VRA, or vigilante related action. The facts do not, however, provide clear evidence of either vigilante attack or retaliatory action by residents. There is insufficient evidence, in short, to support this categorisation.

According to the police, moreover, there was a tmini civil warl between supporters of the ANC and IFP in Alexandra on 1 April.121 These deaths should thus perhaps have been categorised in terms of conflict between the ANC and IFP, rather than as VRA.

Text

Miatandra VRA 9/1de 92

Police reported finding the body of a man with head wounds. The body was found just after midnightifz

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Comment

This is also categorised as VRA. No evidence is available, however, as to the identity of the man, the identity of his attackers, or the circumstances of his death. There are many possible explanations for his death. (For example, he might have been attacked by robbers, or he may have been involved in a dispute over a woman.) The evidence is not enough to substantiate any one explanation nor to support the categorisation of this incident as VRA.

Text

34alexandra VRA IOApriI 92

The police reported that Mr Wiseman Hlongwane was injured when he was stabbed and set alight, allegedly by ANC supporters. Mr Hlongwane managed to escape to the Madala Hostel and was taken to hospital. The incident occurred on the corner of Selbourne and Ruth Streetsfm

Comment

This, too, is categorised as VRA. Since the attack was reportedly carried out by ANC supporters, this could only be categorised as VRA if Mr Hlongwane was a vigilante and the ANC supporters were taken pre-emptive or retaliatory action prior to, or following, attack by him. There is no evidence, however, of any of this. At least as likely an explanation is that Mr Hlongwane was a member of the IFP and that AN C supporters attacked him in the course of the mini civil wart then in progress in the township. There is clearly insufficient evidence to support a finding of VRA.

Text

24lcm" dra VRA 15 A priI 92

Fourteen shacks belonging to Inkatha members were burnt down in ttBeirutli (an area taken over by Inkatha), between 6 and 6:30am. No injuries were reported. The police alleged that the shacks caught alight when 7 AN C members threw a petrol bomb at one of the shacks. The ANC denied that its members were responsible and said that 11 shacks were destroyed when fighting broke out between IFP supporters at about 6am3m

Comment

This is also categorised as VRA. If the attacks were indeed by ANC supporters, they could only be categorised as VRA if the IFP members were part of a vigilante group and the ANC supporters were engaged in a pre-emptive or retaliatory attack on them. There is, however, no evidence of this. The AN C does not allege this in its denial of responsibility. Instead, the ANC states that the burnings were the result of in-fighting between

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IFP supporters. It is hard to see how this fits even the very broad definition of VRA adopted by the HRC.

Again, in short, there is insufficient evidence to support the categorisation of this incident as VRA.

Text

(East Rand VRA 3 April 92

A man, who had been shot and thrown off a train, was found between Wadeville and Katlehong stations at about 5:50pm. The victim had head and neck injuries.<sup>125</sup>

Comment

This (and other) train murders are also categorised as VRA, presumably on the basis that they are intended to destabilise the community at large. There is no evidence, however, that this is invariably their purpose, or that it is the private armies deployed by the homeland administrations or the BLAs which are responsible for train attacks. On the contrary, it seems that at least on some occasions, train murders reflect ongoing conflict between the ANC and IFP. According to Dr Christopher de Kock of the Human Sciences Research Council, the ANC sometimes holds political meetings in certain train carriages. If an outsider, strays into such a carriage by mistake, he is likely to be attacked - particularly if he is Zulu-speaking.<sup>126</sup>

In the incident cited by the HRC, moreover, there is no evidence available to determine the circumstances in which the man was killed. There is insufficient evidence, accordingly, to support the categorisation of VRA.

Text

'Vaal-Sebokeng VRA 29Apr'1 92

Police found the body of a man in the veld near Zone 14. The victim had been stabbed and a tyre was placed around him and set alight.<sup>127</sup>

Comment

This too is categorised as VRA. Again, however, there is no evidence of the identity of the victim, the identity of his attacker(s), or the circumstances of his death. There is insufficient evidence, in short, on which to ascribe this death to VRA.

These examples are typical of many others in the April Area Repression Report. They illustrate the extent to which the methodology used by the HRC does not stand up to scrutiny. There is insufficient evidence, in all

these instances, to justify their categorisation as VRA. It follows that the HRC has no sound basis for its conclusion that 86% of deaths during April should be attributed to action by, or in defence against, surrogate forces of the state.

The other political action categorisation

The HRC's category of other political action (OPA) also merits consideration. CPA is not defined by the HRC. In practice, however, it is used to categorise attacks on the police and on BLAs.

These attacks - which have resulted in a significant number of deaths - are relegated to a residual category of other action. The HRC gives great prominence to any action by the security forces, particularly where this results in death or injury. But the fact that policemen are being attacked, injured and killed in increasing numbers is barely mentioned by the organisation. The deaths of policemen cannot be completely ignored by the HRC, but these are mentioned in passing, as part of a catch-all category which does not merit definition.

Again the methodology of the HRC reveals its bias. If attacks by the security forces are to be given prominence, attacks on those same forces should be given equal weight. There is a clear public interest in recording the activities of the security forces. But there is equal public interest in recording attacks on the security forces, especially when these have reached the levels now current. (Thus, for example, over 120 policemen have been killed in the first seven months of 1992.) Attacks on the security forces should not, accordingly, be effectively concealed under the catch-all category of other political action, least of all when such attacks would seem to have their origin in the ANC strategy of people's war and in the calls broadcast by the organisation in the 1980s calling for the elimination of the police. (These calls by the ANC have previously been described.) In these broadcasts, the police were described, inter alia, as murderers and angels of death who should be made to pay for their crimes.<sup>12a</sup>

Even though no particular attack on black councillors or the police should be blamed on the ANC without proof beyond reasonable doubt, the existence of a strategy to eliminate the police merits mention in this context, even if the ANC now says the strategy no longer exists. Also relevant to mention are claims by the Azanian Peoples Liberation Army (APLA), the armed wing of the PAC, that it is involved in the assassination of policemen.

The following is an example of a death categorised as OPA'.

Text

rVaal-Shzupcville OPA I A pn'l 92

An assistant police constable, Abel Rampitsang (30), was killed and his

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brother, Mr Justice Mathomana (23), seriously injured when gunmen armed with AK-47 rifles attacked their parent's home at about 1am. The two were allegedly woken by noises outside and were shot when they went to investigatefW

Comment

This is coyly termed iother political action, instead of clearly being identified as an attack on a policeman.

The hit squadi categorisation

According to the HRC, hit squads (HS) iare composed of faceless professional hitrnen whose objective is to assassinate identified political figures and/or to cripple anti-apartheid organisations. It is suspected that the majority of hit squads are based within state structures.129

The implication - confirmed in practice - is that the HRC focuses only on the assassination of individuals aligned to the ANC and its allies.

Assassinations of IFP leaders, officials, members and supporters are almost always ignored by the HRC. Thus, for example, in a summary of assassinations in the nineties - based on its Area Repression Reports - the HRC lists a total of 119 people assassinated. Only two IFP officials are mentioned in this list. According to the IFP, however, more than 180 of its officials have been assassinated since 1988.130

The HRC is thus one-sided in its focus on assassinations. Its methodology is also suspect in that it attributes deaths to hit squad activity without sufficient evidence of this.

Text

Volzanncsbmg HS ?April 92

Mr Molathlegi Thlale, a central committee member of Azapo has reportedly been missing since 12 March, after he attended a meeting in Johannesburg. Azapo's head office has since received two threatening phone calls, in which the caller warns Azapo that it is being watched and that its leadership must be on your guard. Mr Thlale lives in Kagiso and is employed in the legal department of the National Council of Trade Unions (Nactu).im

Comment

This is categorised as a hit squad action. There is no clear evidence, however, that a hit squad was responsible for Mr Thlale's disappearance. There are other possible explanations for his having gone missing. (Thus, for example, he could have been attacked by robbers and his body left in the veld, where it has remained undiscovered or unidentified.) The alleged threatening phone calls subsequent to his disappearance in no way



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substantiate hit squad activity. There is insufficient evidence on which his disappearance can be attributed to HS activity.

The danger of making unsubstantiated allegations regarding hit squad involvement has, moreover, graphically been illustrated by the death of Chief Maphumulo, a former leader of the ANC-aligned Congress of Traditional Leaders of South Africa (Contralesa). Chief Maphumulo was shot outside his home, near Pietermaritzburg in Natal, on 25 February 1991. The HRC in its Area Repression Report for February 1991 categorised his death as HS (having involved hit squad activity). Allegations that policemen were members of a hit squad which attacked and killed Chief Maphumulo were widely reported in the press.

In a judicial inquest into Chief Maphumulo's death, Mr Justice Page and two assessors found these allegations to be false. The judgment emphasised that no reliance could be placed on the confessions said to substantiate the accusations. (The judge also noted the great distress the false allegations had caused to the men concerned and said that he hoped the media would give their vindication equal prominence.)

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#### THE SIGNIFICANCE OF DISINFORMATION

Time and space do not permit full analysis of each and every allegation raised by Amnesty, the ICJ and the HRC. The examination of these reports conducted thus far shows, however, a disturbing level of disinformation. All the reports are highly selective in their focus. All ignore the rules of evidence and the principle of audi alteram partem. All seek to elevate allegation to the level of fact.

The reports of Amnesty and the ICJ in particular are being used by the ANC to buttress its accusations against the government and to strengthen its demands for international intervention. Thus, Mr Mandela, addressing the Security Council of the United Nations on 14 July 1992, devoted most of his speech to detailing the findings, of Amnesty, the ICJ and certain other organisations.<sup>133</sup>

These findings were used by Mr Mandela to substantiate his accusation that the government has been guilty of a cold-blooded strategy of state terror?" in order to impose its will on the negotiations. Based on this assessment, Mr Mandela requested the United Nations to send a special envoy to South Africa to investigate the violence and, thereafter, to provide continuous monitoring to help restore peace.

The United Nations subsequently resolved to send a special envoy to South Africa, in the person of Mr Cyrus Vance. Following Mr Vance's visit and report-back, an observer team is to be sent by the United Nations to monitor events and to buttress the peace-keeping structures established under the National Peace Accord.<sup>135</sup>

These UN monitors may serve a useful purpose if they remain unbiased. The reports of Amnesty, the ICJ and the HRC show, however, how easy it is for monitoring agencies to suppress important information and to present a one-sided view of events.

Merited, well-founded criticism must of course be noted, whether against the government, the SAP, the IFP, the ANC or any other organisation. Proven criminal conduct must of course be revealed. But allegations which are unsubstantiated must be treated with the greatest caution. Every effort must be made to canvass all sides of the story, instead of only one party's version of events. Organisations and individuals must no longer be effectively convicted of serious crimes on the basis of flimsy evidence and suspect methodology. Reports of judicial findings - whether in inquest proceedings or commission reports - must be reflected fully, not selectively. It must always be remembered that the causes of violence are many and complicated,<sup>136</sup> and that deliberate distortion and disinformation do not aid the search for truth nor the striving for solutions. Due account must also be taken of the warning sounded by Judge Goldstone that inaccurate reports of violence frequently result in an escalation of violence.<sup>137</sup>

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In these volatile times, in relation to these sensitive issues, organisations or individuals purporting to monitor the violence must take cognisance of their overarching responsibility. Their duty is to retain an open mind, to exercise care and caution in their assessments, to give all sides of every story, to refrain from unsubstantiated judgement. In short, they must make every effort to ensure that they do not fan the flames of violence yet further through distortion and disinformation.

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SUMMARY: THE COMMON THREAD

There is a common thread running through the reports of all three organisations. All focus on the carrying of traditional weapons in public. All accuse the Inkatha Freedom Party (IFP) of being the principal perpetrator of political violence in South Africa. All accuse the South African security forces of colluding with the IFP in attacking the African National Congress (ANC) and its allies. All charge the South African government with ultimate responsibility for the rising number of dead and injured.

There is also a common denominator in what the reports of these organisations omit. All three organisations ignore:

- o the ANC strategy of fostering ungovernability through mass action;
- o the intimidation and coercion which the ANC acknowledges commonly accompanies mass action; 135

- o the ANC's refusal to disband Umkhonto we Sizwe (Umkhonto) or to surrender its secret arms caches;

- o the ANC's refusal to desist from the establishment of township self-defence units, contrary to the provisions of the National Peace Accord;

- o the frequent incidence of attacks on members of the South African Police (SAP), which have resulted in the deaths of more than 120 policemen in the first seven months of 1992; and

- o the high number of IFP officials and members - now totalling over 1 000 - who have been killed in recent years."49

In omitting these realities, these organisations not only distort the causes of violence, but also set the stage for increased confrontation and undermine attempts to generate lasting solutions to conflict.

Reports which are seen to be one-sided can easily fan the flames of violence. Those who believe that they are constantly and unjustifiably accused of fomenting the violence may feel that there is little point in continuing to participate in peace efforts, or may have difficulty in restraining supporters who feel outraged.

In some instances, the reports of these three organisations correctly record and criticise crimes committed by members of the IFP or SAP. Such criticism is fully justified. However, the reports then go on to use guilt by association to tarnish entire organisations and to develop a conspiratorial "I'hird Forcei theory, despite the absence of substantiating evidence.

The effect is to create a wholly one-sided view of violence in South Africa, effectively convicting one side on the basis of hearsay elevated to fact, while exonerating the other.

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