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### "TRADITIONAL" DICTATORSHIP

#### One Party State in KwaZulu Homeland Threatens Transition to Democracy

"We have only ever sought to establish a true non-racial, non-sexist, open democracy in the Natal region in which all people would be free before the law and the constitution."

Address by Chief Buthelezi to the 18th annual Inkatha Freedom Party general conference in Ulundi, July 17, 1993.

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## Summary

This report examines the human rights record of the government of the KwaZulu homeland in Natal province of South Africa. KwaZulu is the political base of Chief Mangosuthu Gatsha Buthelezi, chief minister in the homeland and president of the Inkatha Freedom Party, a rival to the African National Congress (ANC) for black political support. It is therefore a testing ground for Chief Buthelezi's frequent claims during the current period of political transition in South Africa that he is the legitimate spokesman for the seven million strong "Zulu nation," both as a democratically elected leader and as a member of the Zulu royal family, with roots reaching directly back to the precolonial Zulu kingdom.

The situation within KwaZulu does not support Chief Buthelezi's claim that he is a democrat. KwaZulu is a one-party state, in which the institutions of Inkatha and the institutions of the homeland administration are virtually indistinguishable. Only Inkatha has freedom to organize within the homeland, and freedom of expression, assembly, and association for other groups are routinely denied. The chieftainship system, inherited from colonial times, is widely abused, to ensure that chiefs opposed to Inkatha or Buthelezi are removed, and that support for Inkatha is enforced. The KwaZulu police, a separate police force for the homeland, fail to offer equal protection to individuals or groups believed to support the ANC, engage in acts of random or politically directed violence, and are widely perceived to be the armed wing of Inkatha.

The report concludes that the lack of political freedom within KwaZulu is itself an obstacle to the possibility of finding a solution to the political violence that has reduced many areas of Natal to war zones. Moreover, unless urgent action is taken to ensure reasonably free political activity in the Natal region, the multiparty elections in South Africa due to take place on April 27, 1994 will be significantly compromised.

## Background

KwaZulu is one of the ten "homelands," or "bantustans," set up by the South African government as part of the structure of "grand apartheid," the political program developed by the National Party government of South Africa and implemented over its years in power following its first election victory in 1948. It is scattered in several pieces throughout Natal province, on South Africa's Indian Ocean coast, and is the homeland created for Zulu-speaking South Africans.

Under apartheid as originally conceived, all black South Africans would lose their South African citizenship and become instead citizens of theoretically independent states within South Africa's borders. Although all substantial ethnic groups of purely African origin in South Africa were eventually allocated to a particular homeland, the system was never entirely realized. Many Africans continued to live — legally or illegally — in areas officially designated for whites only; moreover, only four of the homelands (Transkei, Bophuthatswana, Venda and Ciskei; "the TBVC states") ever became nominally independent. The remaining six, including KwaZulu, are known as "self-governing



territories" and do not have sovereign status within South African law, though they do have a large measure of legislative and executive autonomy. In practice, there has been little difference for their inhabitants between the nominally independent TBVC states and the "self-governing territories," of which KwaZulu is one. Although the South African government repealed in 1991 the major legislation implementing apartheid within South Africa outside the homelands, the statutes setting up the homelands remain in force.

The reincorporation of the homelands has been one of the most contentious points at the multilateral negotiations for a transition to majority rule which began in 1990. The South African government has argued that the reincorporation of the "independent" homelands requires the consent of the governments concerned, because it treats them as sovereign states. In the case of the self-governing territories, the South African government passed legislation in 1993 which makes provision for the jurisdiction granted to the six "non-independent" homelands to be revoked. Nevertheless, this power is to be exercised only "with the consent or at the request of the government of the self-governing territory concerned."<sup>1</sup>

KwaZulu has its roots in "Zululand," the "Native Reserve" established by the British for the Zulus in Natal from the mid-19th century onwards. In Natal, as elsewhere in South Africa, the practice of segregation for South Africans of African descent established by the British was refined by the National Party government after its victory in the 1948 election. Legislation in 1951 abolished residual representative institutions for Africans, and created a system of government through "Bantu Authorities." The Bantu Homeland Citizenship Act of 1970 provided that every African in South Africa would become a citizen of one of the bantu territorial authority areas; and, in 1971, the Bantu Homelands Constitution Act (now known as the Self-Governing Territories Constitution Act) established legislative assemblies to replace territorial authorities. Tribal and Regional Authorities were established in KwaZulu, after significant controversy, from 1959. In 1970, a Territorial Authority for the Zulus was set up, and in 1972 it was converted into the KwaZulu Legislative Assembly. In 1977, the homeland was granted additional powers of self-government by South Africa.

The population of KwaZulu is estimated at 5.2 million, of whom all but a small minority are Zulus, making KwaZulu by far the most populous of the homelands.<sup>2</sup> Like all the homelands in South Africa, KwaZulu is desperately poor, and depends on subsidies from South African taxpayers to survive. Many thousands of its residents were forcibly removed from other areas of South Africa, and more than a third of the population is landless. Up to two million Zulu-speakers live elsewhere in South Africa, principally in Natal outside the homeland boundaries and in the Pretoria-Witwatersrand-Vereeniging (PWV) area of the Transvaal, where many are migrant workers. Although the government of the "self-governing territory" of KwaZulu claims to represent the whole "Zulu nation," deriving its rhetoric from the Zulu kingdom that existed in Natal

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<sup>1</sup> The Revocation and Assignment of Powers of Self-Governing Territories Act 107/1993.

<sup>2</sup> South African Institute of Race Relations (SAIRR), *Race Relations Survey 1991/92*, pp.1-2.



at the time of South Africa's colonization, it is only with the creation of the KwaZulu homeland that all those speaking the Zulu language have become, even nominally, members of a single political entity. There were and remain important differences between Zulu speakers, even between those actually resident within KwaZulu.

### **Addition of Land to KwaZulu<sup>3</sup>**

In August 1992, it was reported that the South African government was planning to give control of an additional 1.2 million hectares of land to the self-governing territories of KwaZulu, QwaQwa and Lebowa. Further land would also be offered to KaNgwane, KwaNdebele and Gazankulu. According to the government's own analysis, more than half of this land is already developed and occupied on a permanent basis. Approximately 600,000 hectares of the land was designated for transfer to KwaZulu. The government refused to release details of the exact location of the land affected, which was only publicized after research at the Deeds Office by the Association for Rural Advancement (AFRA), a non-governmental organization involved in development and land issues. The areas affected are spread throughout Natal, and include communities that previously fought incorporation into the homeland. There was an immediate outcry at the transfer proposals from a wide variety of organizations, including the ANC, as well as human rights and development groups.<sup>4</sup>

The land to be transferred was previously held by the South African Development Trust (SADT), a body established by the Development Trust and Land Act of 1936 to hold land which was intended for eventual incorporation into the homelands. Following the repeal of the Development Trust and Land Act by the Abolition of Racially-Based Land Measures Act of 1991, the SADT was abolished on April 1, 1992. The land it held was transferred to the Ministry of Regional and Land Affairs (formerly the Department of Development Aid), which is responsible for the self-governing territories, and it is this land that is now being transferred to homeland control. Although the details of the transfer remain obscure, it was stated by Deputy Minister of Land Affairs Johan Scheepers that the land to be transferred would remain part of South Africa, subject to South African legislation, but that "the rendering of services on the land concerned will be a joint venture."<sup>5</sup> It has not been made clear what exactly this joint administration

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<sup>3</sup> Information for this section is derived from G.M. Budlender, Submission to the Goldstone Commission, dated October 14, 1992, and from materials supplied by the Association For Rural Advancement (AFRA).

<sup>4</sup> A joint press release condemning the government's proposal was released by AFRA, the Black Sash, the Centre for Adult Education of the University of Natal, Pietermaritzburg, Five Freedoms Forum, Human Rights Commission, Lawyers for Human Rights, Legal Resources Centre, Natal Midlands Rural Development Network Executive, Pietermaritzburg Association for Christian Social Action, and the South African Catholic Bishops Conference.

<sup>5</sup> Joint press releases by Deputy Minister Scheepers and Dr. T.K. Mopeli, Chief Minister of QwaQwa, and by Deputy Minister Scheepers and Mr. N.M. Ramodike, Chief Minister of Lebowa, October 1992.



will entail,<sup>6</sup> but in previous cases where land has remained technically part of South Africa but administration has been by a homeland, there has been no practical difference from complete transfer of ownership.

In its 1991 White Paper on Land Reform, the government of South Africa acknowledged that there was no basis for further incorporation of land into the homelands. During multilateral negotiations in 1992 it was also agreed by all parties, including the governments of the self-governing territories, that there should be a moratorium on further transfers of land. However, the government has described the new transfers as "in accordance with the principles and guidelines contained in the Government's White Paper on Land Reform,"<sup>7</sup> on the grounds that full ownership was not being transferred to the homelands. The transfer of administrative control was a compromise agreed because the government had "come under increasing pressure from the six territories to fulfil the old promises of land transfer."<sup>8</sup>

While the governments of Lebowa and QwaQwa agreed to the transfer of joint administrative control under the scheme proposed by the government, the KwaZulu government argued that full sovereignty over the land should be transferred to it. In an interview with AFRA, Minister of the Interior of the KwaZulu Government, Stephen Sithebe, stated that "the land was part of the promises made to us and must come back to us."<sup>9</sup> *Ilanga*, the Inkatha newspaper, portrayed any opposition to the transfer of additional land to the homeland as an attack on Zulu identity and nationhood. It attacked AFRA, one of the many groups condemning the proposals, as an "agency with a long history of bitter hostility to the KwaZulu government" which was "trying to get control of the Zulu people by destroying their unity."<sup>10</sup>

In the past, the transfer of land to the homelands has led to some of the bitterest conflict of the apartheid years. Examples include the incorporation of the area of Moutse into the homeland of KwaNdebele in 1986, of the village of Peilton into Ciskei in 1988, and of the villages of Braklaagte and Leeufontein into Bophuthatswana in 1988. Each of these transfers led to prolonged and serious violence in the communities concerned. In Natal, campaigns to avoid incorporation have in the past also led to violence: given the context of conflict in the province today, and the KwaZulu government's view of opposition to the proposals, it is extremely likely that further

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<sup>6</sup> In an interview with Africa Watch on February 26, 1993, Deputy Director General of the Department of Regional and Land Affairs, Dr. H.J. Smith, conceded that the arrangement was "vague," and said that it "reflected the state of thinking at the time."

<sup>7</sup> Joint press releases by Deputy Minister Scheepers and Dr. T.K. Mopeli, Chief Minister of QwaQwa, and by Deputy Minister Scheepers and Mr. N.M. Ramodike, Chief Minister of Lebowa, October 1992.

<sup>8</sup> Edyth Bulbring, "Crisis talks loom on 'Bantustan' land deal," *Sunday Times* (Johannesburg) August 20, 1992.

<sup>9</sup> AFRA Newsletter, October 1992.

<sup>10</sup> *Ilanga*, September 17 to 19, 1992.



attempts to transfer land could lead to further violence. In its third interim report on political violence, of December 21, 1992, the Goldstone Commission concluded that "there should be a suspension of any further transfers of land ... to the KwaZulu government. To proceed at the present time would, in the opinion of the Commission, seriously aggravate the violence."

Nevertheless, on February 1, 1993, Deputy Minister of Land Affairs Johan Scheepers said that the government would not put a moratorium on the land transfers. In June 1993, two acts<sup>11</sup> were signed into law empowering the State President to give effect to agreements for the joint administration of land outside the self-governing territories. In August 1993, South Africa and KwaZulu announced that a compromise had been struck on the land allocated to KwaZulu. The transfers would go ahead, although KwaZulu would not obtain full sovereignty, South Africa retaining the right to control policing and education, and other services being jointly administered. Two highly sensitive areas, Clermont (a township outside Durban that previously fought a long battle against incorporation) and Edendale (an area near Pietermaritzburg that has been a center of bitter violence), would be excluded from the transaction. No land has yet been transferred under this agreement.<sup>12</sup>

### **Proposals for a Federal State of Kwa-Natal**

On December 1, 1992, the KwaZulu Legislative Assembly adopted a "Constitution for the State of KwaZulu/Natal." The draft Constitution was stated by Chief Minister Buthelezi to be "a first step in a process which will establish the state of KwaZulu/Natal as a member state of the federal republic of South Africa."<sup>13</sup> He proposed a referendum in Natal to approve the constitution, after which "it is intended that ... the new constitution will stand in force, regardless of the direction taken by the constitutional process of South Africa."<sup>14</sup> The draft constitution contains a bill of rights which, in addition to the usual provisions, contains clauses guaranteeing "the right to free economic activity and enterprise," protection for private property, and the prohibition of state control of economic enterprises or of services "unless so authorised by a law demonstrating a public need and the inadequacy of the private sector to satisfy such a need."

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<sup>11</sup> The Regulation of Joint Executive Action Regarding Certain Land Act 109/1993 and the Joint Administration of Certain Matters Act 99/1993.

<sup>12</sup> "Government reaches agreement with KwaZulu on areas of land," South African Press Association (SAPA), August 23, 1993.

<sup>13</sup> Press Statement issued by the Office of the President of the Inkatha Freedom Party, December 1, 1992.

<sup>14</sup> Quoted in John Carlin, "Buthelezi says he may break away from SA," *The Independent* (London), December 2, 1992.



The new draft constitution is the latest in a series of steps taken by Chief Buthelezi over more than a decade aimed at the creation of a federal unit in Natal. During the 1980s, two initiatives in which Buthelezi was involved, the Buthelezi Commission and the KwaZulu/Natal "indaba" or conference (which gathered together representatives of business and local government), resulted in the drafting of regional constitutions proposing a federal South Africa, with Natal/KwaZulu as one of the constituent states.<sup>15</sup>

The December 1992 constitution was explicitly stated by Chief Buthelezi to be aimed at preventing the "degeneration" of the political process into bilateral negotiations between the ANC and the South African government.<sup>16</sup> State President de Klerk expressed his concern at the "confrontational approach" adopted by Chief Buthelezi, which "could bring about a further escalation of violence."<sup>17</sup> The constitutional proposals for KwaZulu form part of a wider strategy in which Chief Buthelezi has increasingly aligned Inkatha with other right-wing groups opposing all or some aspects of agreements reached, either multilaterally or between the ANC and the government, for the transition to majority rule.

In July 1992, a "Concerned South Africans Group" (Cosag) was formed, between the leaders of KwaZulu, Bophuthatswana, Ciskei, the Inkatha Freedom Party, and two white right-wing parties, the Conservative Party and the Afrikaanse Volksunie. Cosag opposes the reincorporation of the "independent" homelands and supports a federal system for South Africa in which the central government would have minimal power to influence local conditions. Members of Cosag, including the KwaZulu government, refused to agree to the date of April 27, 1994 for elections to a constituent assembly and walked out of the multiparty negotiations for a transition to democracy in South Africa, after the date was agreed in July 1993. Chief Buthelezi opposed the date on the grounds that a new constitution should be finalized before elections were held; that is, by a body in which the KwaZulu government and the Inkatha Freedom Party would have disproportionate influence compared to their popular support. The IFP later stated that it would not return to negotiations unless, amongst other preconditions, the form of a future South African state was agreed in advance, with provision for "shared sovereignty" between regional legislatures and central government.<sup>18</sup> Chief Buthelezi threatened

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<sup>15</sup> See further, Paul Forsyth and Gerhard Maré "Natal in the New South Africa," *South African Review 6: From Red Friday to Codesa* Capetown: Ravan Press, 1992.

<sup>16</sup> SAPA, December 2, 1992.

<sup>17</sup> "Statement by the State President, Mr. F.W. de Klerk, Concerning the Recent Constitutional Initiative of the kwaZulu Government," SAPA, December 2, 1992.

<sup>18</sup> David Greybe, "Inkatha document sets conditions for agreeing to two-phase transition process," SAPA, July 19, 1993.



to boycott elections, although other members of the IFP negotiating team indicated that Inkatha would contest the elections on whatever terms they were held.<sup>19</sup>

### **Inkatha**

Central to the politics of KwaZulu, and of national importance in South Africa, is the ruling party in the homeland, the Inkatha Freedom Party (the IFP, or, simply, Inkatha). Led by Chief Buthelezi, it is the only homeland-based political party to have achieved recognition as a participant in the ongoing negotiations for a transition to majority rule in South Africa. Its support base is drawn almost exclusively from residents of KwaZulu, where the machinery of the homeland is used to ensure membership figures are kept high.

The first organization known as Inkatha was founded in the 1920s by King Solomon ka Dinizulu, the uncle of Chief Gatsha Buthelezi. It was a cultural movement ("inkatha" is the name of a sacred coil symbolizing the unity of the people, as well as of the traditional Zulu headband) designed to preserve Zulu traditions and heritage, and to mobilize support for the king in a time of increasing social and economic dislocation within Zululand (as KwaZulu was then known). The organization collapsed within a few years, due to corruption in the collection of its dues. In 1959, an attempt by Buthelezi to revive the organization failed, but in 1975 it was successfully refounded as "Inkatha YaKwaZulu."

The new constitution of Inkatha, which remained — at least nominally — a cultural organization rather than a political party, stated that the objectives of the organization would be to "promote and encourage the development of the people of KwaZulu, spiritually, economically, educationally and politically," and that, to this end, Inkatha would cooperate with "all progressive African and other nationalist movements and political parties which work for the complete eradication of all forms of colonialism, neocolonialism, racialism, imperialism, and discrimination." Despite this statement of support for the aims of the black liberation movement as a whole, references to the "nation" were stated to refer to the KwaZulu bantustan, and membership of the higher executive officers within the organization was restricted to KwaZulu citizens. The constitution was amended in 1979 to delete most references to KwaZulu and to the Zulu language and people, but the organization maintained a Zulu ethnic identity and its identification as the ruling party in the KwaZulu bantustan.

Throughout the 1980s, until the unbanning of the ANC in February 1990, Inkatha remained the sole mass organization that the South African government recognized as a representative of the opinions of black South Africans. Although its program included some of the demands of the liberation movement in South Africa, Inkatha opposed

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<sup>19</sup> John Carlin, "Buthelezi threatens to boycott SA's first democratic elections," *The Independent*, August 23, 1993; Brendan Boyle, "Inkatha gears up for election despite boycott talk," Reuters, August 22, 1993.



concrete actions in support of those demands, including the armed struggle and the use of sanctions. Buthelezi made repeated public statements supporting the use of non-violent means to obtain change in South Africa. In 1986, Inkatha launched a pro-business union, the United Workers Union of South Africa (UWUSA). UWUSA opposed sanctions, in contrast to the ANC-aligned federation established the previous year, the Congress of South African Trade Unions (COSATU). Buthelezi received privileged treatment from the government-controlled broadcast media, and was allowed to hold meetings during the state of emergency in force from 1985 to 1990 at times when no other black party could do so.

Conflict between Inkatha and the United Democratic Front (UDF), a coalition of anti-apartheid organizations formed in 1983, became increasingly heated, especially in Natal where serious political violence developed from about 1985. With the unbanning of the ANC and other anti-apartheid organizations in February 1990, Inkatha was no longer the sole legal mass black party in South Africa, and needed to adopt a strategy to compete with the legalized liberation movements. In March 1990, Chief Buthelezi announced the adoption of an *Inkatha Declaration*, which was presented as Inkatha's "starting position" in any negotiations, and as an alternative to the ANC's *Harare Declaration* of 1989. In December 1990, at a special conference held in Ulundi, Inkatha finally transformed itself from a "cultural organization" into a full-fledged political party, the Inkatha Freedom Party.

In March 1991, Inkatha's national chairman, Dr. Frank Mdlalose, stated that at the last count in July 1990, Inkatha had a membership of 1.8 million. Another Inkatha official claimed that 47,000 whites had joined the party in the Johannesburg area alone.<sup>20</sup> In an interview with Africa Watch on January 27, 1993, Gavin Woods, Executive Director of the Inkatha Institute, stated that the membership of Inkatha was approximately two million, although this figure encompassed everyone who had ever once taken out membership, including those who had not renewed their subscription; figures for paid up members were not available. Although the majority of members lived in Natal or KwaZulu, Woods said that he "would not be surprised" if up to 30 percent lived elsewhere in South Africa; again, audited figures were not available. In recent months, a handful of white members of parliament have joined Inkatha, including Jurie Mentz, National Party MP for Vryheid, and Mike Tarr, Democratic Party MP for Pietermaritzburg. National opinion polls indicate growing support for Inkatha amongst the white electorate, but that it would gain less than 10%, in many polls less than 5%, of the total vote in multiracial elections, and less than 50% of the vote even within KwaZulu.

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<sup>20</sup> SAIRR, *Race Relations Survey 1991/92*, p.32.



## South African Government Covert Support for Inkatha<sup>21</sup>

In July 1991 longstanding suspicions were finally confirmed, when it was proved that the South African government was making covert payments to Inkatha through the security branch of the South African Police (SAP). In the "Inkathagate" revelations, as they came to be known, the Johannesburg *Weekly Mail* published information from secret memoranda showing that the police had funded Inkatha meetings in November 1989 and March 1990. The government claimed that the money was paid as part of its anti-sanctions campaign, and that all funding had ceased in March 1990. However, as the scandal developed, the government was forced to admit payments to other conservative groups both inside and outside South Africa, including the Inkatha union UWUSA (described by one internal police document as "a project under the control of the South African police"). In November 1991, the *Weekly Mail* published fresh evidence that the security police had funded another rally in January 1991.

Although it was not proved that either de Klerk or Buthelezi had personally known of the covert funding, it was officially confirmed that the payments and their source had been known to Minister for Foreign Affairs "Pik" Botha, Minister of Law and Order Adriaan Vlok, and to Buthelezi's personal assistant Melchizedec Zakhele Khumalo. Khumalo resigned, and Vlok was demoted; both Pik Botha and Major Louis Botha, the security policeman at the center of the scandal, remained in their positions. In March 1993, the *Weekly Mail* reported that Louis Botha had been promoted to Lieutenant-Colonel and was heading the SAP community relations branch in the Eastern Cape, and that Khumalo had been reinstated to membership of Inkatha.

During 1991 and 1992 South African army links to Inkatha, again rumored for many years, were also confirmed. In the course of the debate over the Inkathagate revelations the South African government admitted that the South African Defense Force (SADF) had — as reported by the *Weekly Mail* in September 1990 — trained a group of Inkatha members in guerrilla warfare in the Caprivi Strip in Namibia. In a series of reports published at around the same time, a senior ex-Military Intelligence (MI) officer, Martin Dolinchev, said that MI had been involved in providing support for Inkatha right from its revival in 1974; former MI operative Nico Basson claimed that the SADF was still supplying Inkatha with weapons smuggled from Mozambique;<sup>22</sup> and

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<sup>21</sup> Information from this section is derived in particular from *Weekly Mail* reports in its editions of: September 21-27, 1990; July 19-25, 1991; August 2-8, 1991; August 9-15, 1991; December 13-18, 1991; January 10-16, 1992; January 17-23, 1992; February 7-13, 1992; March 6-12, 1992; April 16-23, 1992; August 21-27, 1992; and September 18-24, 1992.

<sup>22</sup> In November 1992, this allegation was repeated by Bruce Anderson, a senior member of Inkatha deported to Britain by South Africa in July, who stated to newspapers that he had been involved with MI officers in arms smuggling from Mozambique to Inkatha.



evidence was published that the SADF and Inkatha had trained and armed the notorious Durban "AmaSinyora" gang and taken part in other violent incidents.<sup>23</sup>

In late 1991 and early 1992, the *Weekly Mail* published further details of MI front organizations, known as Creed Consultants and Adult Education Consultants, used to give Inkatha money and training. Amongst other activities, a camp had been established at Mkhuze, in northern Natal, where the trainees had been based, before being absorbed into the KwaZulu Police. The articles were based on information supplied by a former Inkatha official, Mbongeni Khumalo. The Goldstone Commission of Inquiry,<sup>24</sup> charged with identifying causes of political violence, investigated the *Weekly Mail's* allegations during 1992. Both the Commander in Chief of the SADF, General "Kat" Liebenberg, and Commissioner of the KwaZulu Police, "Jac" Buchner, denied any knowledge of the SADF's involvement in the training of Inkatha cadres. The Commission concluded that, while the SADF did train IFP members for offensive operations, the trainees did not constitute a hit squad. However, in August 1993, a KwaZulu Police constable gave evidence to the Commission in the course of a later inquiry that he was trained in Caprivi by the SADF to kill non-Inkatha members.<sup>25</sup>

#### **Forced recruitment to Inkatha through KwaZulu government structures**

As the ruling party in KwaZulu, Inkatha is tied to the bantustan administrative structure at several levels: the National Council of Inkatha, its policy making body, incorporates the KwaZulu Legislative Assembly (KLA); the General Conference, formed of Inkatha branch representatives, decides on the candidates for the KwaZulu elections; and the president of Inkatha has to qualify as the head of the KwaZulu government.<sup>26</sup>

Moreover, there is substantial overlap in personnel between the homeland government and Inkatha, even where this is not required by the governing documents of either body. It is often difficult to draw any distinction between the two institutional structures. In 1983, Clarissa Fourie, the Professional Officer at the Inkatha Institute, admitted that: "Inkatha can only survive through government resources. Inkatha lives on the KwaZulu government. It supplies a base, a platform for Inkatha to operate in a deprived community. It cannot survive on membership fees alone."<sup>27</sup>

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<sup>23</sup> Vasantha Angamuthu, "Chilling Report of Amasinyora's reign," *The Daily News* (Durban) July 23, 1991.

<sup>24</sup> The Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, headed by Mr. Justice Richard Goldstone, appointed by the government in accordance with the terms of the September 1991 National Peace Accord.

<sup>25</sup> This testimony is discussed further below, in the section concerning covert activities by the KZP.

<sup>26</sup> It is provided that the head of Inkatha has to qualify as the head of any government that the movement is entitled to form, which could only be in KwaZulu.

<sup>27</sup> Quoted in Mzala, *Gatsha Buthelezi: Chief with a Double Agenda* London and New Jersey: Zed Books, 1988, p.133, from an interview carried out by Colleen McCaul for an unpublished BA (Hons) dissertation "Towards an Understanding of Inkatha," University of the Witwatersrand, 1983.



The machinery of the homeland is used to generate "support" for Inkatha and to prevent other political organizations from operating. Within KwaZulu, open support for any political party other than Inkatha, above all for organizations aligned with the ANC, leads to discrimination, if not persecution, by the government. The financial resources of the homeland are also used to the benefit of the party, a particularly problematic situation in the period leading up to the first multiracial elections in South Africa, currently scheduled for April 27, 1994.<sup>28</sup>

Government servants in particular are expected to be loyal to Inkatha. In 1986 seven doctors were dismissed by KwaZulu government hospitals. The doctors, who had studied medicine with the assistance of KwaZulu government scholarships, had refused as students to sign a pledge that they would not "criticize or denigrate" the KwaZulu government or its chief minister. Following their refusal their scholarships had been withdrawn, and only reinstated after legal action. Chief Buthelezi stated that the pledge was a tactic "in the struggle for liberation" and that the KwaZulu government was "expecting every KwaZulu civil servant, including every teacher, nurse and doctor, to declare that they will stand with us in the struggle for liberation."<sup>29</sup> Prospective employees with the KwaZulu government have to complete a form in which they are asked to specify which, if any, political organizations or unions they belong to, and to explain their "personal views on communism."<sup>30</sup>

Teachers in KwaZulu have also been required to sign a pledge "to be loyal and respectful and to revere at all times His Majesty the King, the Head of the KwaZulu Government, the Honourable Chief Minister, the Members of the Cabinet and of the Legislative Assembly, and all persons in authority under the umbrella of the KwaZulu Government Service," and to undertake "never in word or deed, directly or by implication, to vilify, denigrate or in any way speak in contempt of the Inkatha Liberation Movement and its leadership at various levels in and outside KwaZulu schools, in public and in private."<sup>31</sup> In 1979 "inkatha" was introduced as a compulsory subject to be taught for one hour a week in all KwaZulu schools, a program described by Buthelezi as the equivalent of civics lessons in other jurisdictions. Although "inkatha"

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<sup>28</sup> For example, the *Weekly Mail* reported in August 1993 that at least R.240,000 (\$80,000) had been spent by the KwaZulu government on transportation, advertisements, and legal costs relating to IFP rallies and other affairs; Farouk Chothia, "IFP fights its battles with tax money," *Weekly Mail*, August 6-12, 1993.

<sup>29</sup> Khaba Mkhize, "Dismissed doctors outcry," *The Echo* (Durban), April 3, 1986; Phinda Kuzwayo, "Doctors dismissed in political purge," *Sunday Tribune* (Durban), April 6, 1986; Sibusiso Mngadi, "Public outcry at Natal doctors' sackings," *City Press* (Johannesburg), April 6, 1986; Phinda Kuzwayo, "System you oppose can't hire you, black doctor told" *Sunday Tribune* August 3, 1986.

<sup>30</sup> Carmel Rickard, "KwaZulu puts applicants on the line," *Sunday Times* (Johannesburg), May 30, 1993. A senior staff member of the chief minister's office confirmed to the reporter that the form was current and stated that it was "a security clearance that had to be completed by all applicants."

<sup>31</sup> Text of "KwaZulu Government Service Department of Education and Culture Service Pledge" in the possession of Africa Watch.



was officially dropped from the curriculum in the late 1980s, teachers are still required to organize schoolchildren as supporters for Inkatha rallies, and less overt indoctrination continues.<sup>32</sup>

At a meeting of more than 300 teachers from the KwaZulu township of Umlazi in October 1989, KLA MP Winnington Sabelo was reported to have "reminded" the teachers that "by virtue of your employment as KwaZulu government servants you are all members of Inkatha," and to have threatened them with loss of their jobs if they did not become full Inkatha members. The KwaZulu government denied that the teachers were threatened in this way, but accepted that members of the KLA "invited" teachers to become Inkatha members so that they could organize Inkatha Youth Brigades, since the KwaZulu Department of Education and Culture "encouraged the establishment of IYBs in its schools."<sup>33</sup> In August 1992, teachers who belonged to the South African Democratic Teachers Association (SADTU) appealed to the Natal/KwaZulu Regional Dispute Resolution Committee to resolve disputes with KwaZulu officials, alleging the continuing use of obligatory pledges of allegiance to the KwaZulu government.<sup>34</sup> SADTU is not recognized by the KwaZulu government, because the homeland's Education Act prohibits trade unions in the field of education.

Chief Buthelezi has always been stridently opposed to any sort of school boycott or other youth activism aimed at opposing the apartheid system or the KwaZulu homeland itself. Students taking part in boycotts have been attacked following statements by KwaZulu government officials condemning their actions. The most notorious of these attacks occurred during the early 1980s, when students protesting Inkatha activities at the University of Zululand<sup>35</sup> found themselves in conflict with Buthelezi. In October 1983, the campus was invaded by men armed with the traditional Zulu weapons of war. Student hostels were attacked, and four students killed, including one of those who had played a leading role in disrupting an earlier speech by KwaZulu cabinet minister Oscar Dhlomo. In May and June 1993, there were again disturbances at the University of Zululand campus, following the appointment of a new rector, Professor Charles Dlamini. Students protested the appointment, alleging that it had been undemocratically decided,

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<sup>32</sup> Gerhard Maré and Georgina Hamilton, *An Appetite for Power: Buthelezi's Inkatha and the Politics of Loyal Resistance* Johannesburg: Ravan Press, 1987, pp.182-189, discusses the KwaZulu education system. At one time a one rand compulsory membership fee for Inkatha was also added to school fees for each pupil enrolled in KwaZulu schools.

<sup>33</sup> "Join Inkatha or lose your jobs, teachers told," *Natal Witness* (Durban), October 2, 1989; Christelle de Jager, "KwaZulu denies teachers were told to join Inkatha or lose jobs," *Natal Witness*, October 5, 1989; Sithembiso Sangweni, "Teachers forced to join Inkatha," *The New African* (Durban), October 7, 1989.

<sup>34</sup> Area Repression Report of the Human Rights Commission, an independent non-governmental organization based in Johannesburg, August 1992.

<sup>35</sup> The University of Zululand, although located in KwaZulu, falls under the Department of Education of the South African government. The homeland government does not therefore have direct control over its administration, although it has attempted to influence appointments and policy.



against the recommendations of the coordinating committee of the university council. In early June, police used teargas to disperse students demonstrating on the campus. In August, the president of the Student Representative Council, Khulekani Mhlongo (who was also the deputy secretary general of the regional ANC branch), was found dead in his car a few hundred yards from the main entrance of the university.

The extreme poverty of KwaZulu, where the sole means of support for many families may be remittances home from a migrant laborer or entitlement to a government pension, means that the unbiased and efficient administration of government services is of crucial importance. However, to obtain services such as education, drought relief, or pension payments, proof of support for Inkatha may be necessary. Individuals resident or working in KwaZulu confirmed to Africa Watch that, although the overt demanding of Inkatha membership cards at pension collection points had ceased, following widespread publicity of this practice, less obvious means of manipulating the system were common. A non-aligned non-governmental organization working in KwaZulu reported to Africa Watch in April 1993 that it had more than 500 cases on its books of individuals who had not been receiving from the KwaZulu government pensions to which they were entitled. In a large number of those cases, potential claimants had been told by their chief or headman that they could not claim a pension if they were not Inkatha members.

Forced recruitment by the ANC, including within the borders of Natal, is also a significant problem. Certain townships and rural areas are divided into ANC areas and Inkatha areas, and residents must support, or at least appear to support, the party in control of their area. An Inkatha supporter in an ANC area would be in as much danger as an ANC supporter in an Inkatha area. Africa Watch condemns forced recruitment and intimidation of this type wherever it occurs. The point of the description contained in this section is to indicate the degree to which forced recruitment by Inkatha is channeled through the structures of the KwaZulu government.

At a meeting of the Natal/KwaZulu Regional Dispute Resolution Committee in January 1993, attended by more than 80 senior political leaders, representatives of the National Party, the ANC, the IFP, the DP, the National Peace Accord, and others were unanimous that steps should be taken to make forced political patronage and forced party membership a criminal offense.

### **The KwaZulu Constitution**

KwaZulu's constitution was promulgated in 1972, after approval by the South African government according to the procedures set up by the Self-Governing Territories Constitution Act of 1971. It provides for a parliamentary government, headed by a constitutional monarch. The appearance is therefore of a democratic system after the model of the United Kingdom. In practice, however, the KwaZulu government is far from democratic.



## The KwaZulu Legislative Assembly

Even on paper, the KwaZulu Legislative Assembly (KLA) is not a representative institution. Under the KwaZulu Constitution Proclamation of 1972 less than half its membership is theoretically chosen through open elections. The Zulu king, or paramount chief, is automatically a member, and also nominates a personal representative from the royal family (who may not hold cabinet office); up to three members may also be nominated by the Chief Minister. Seventy-four MPs are chiefs: three chosen from each of KwaZulu's twenty-four regional authorities, and one each from two tribal authorities with direct representation. Finally, sixty-five MPs are elected by the voters of KwaZulu. Only citizens in possession of citizenship certificates who have registered to vote are entitled to vote for these elected members.<sup>36</sup>

The KLA's initial membership was taken over from the Zulu Territorial Authority, which had been established in 1970 and was itself largely formed of chiefs and traditional councilors. Under the constitution of KwaZulu, the colonial structures for regulating chieftainship are still in place, and chiefs are appointed to their positions by the KwaZulu government: any chief who is a member of the KLA and attempts to oppose the government line may be dismissed from his position. This system is described in detail in the section on the chieftainship system below. The elected members of the KLA have hardly more independence. Elections did not take place in KwaZulu until 1978, and were held again in 1983 and 1989. All seats were won by Inkatha in all three polls; however, this does not imply solid support for the party within KwaZulu. In 1978, there were 23 candidates opposing those put forward by Inkatha; many of them were intimidated during the period before the election. Voter turnout was 38% of registered voters; however, only between 26% and 50% (the difference resulting from different official claims) of eligible voters were registered. These figures may be explained by the fact that there was and is considerable resistance to taking out citizenship in the bantustan; moreover, between 50% and 60% of the economically active population eligible for citizenship works outside the homeland. One study concluded that only about six percent of the eligible Zulu population cast a vote. In 1983 there were only four opponents to the Inkatha slate; in 1989 only three of the 26 constituencies were contested and only 12,000 votes were cast, out of three million potential voters of whom 780,000 were registered.<sup>37</sup>

### A Traditional Prime Minister?

A notable feature of the 1972 constitution was the fact that it downgraded the Zulu king to a largely ceremonial role, requiring him to "hold himself aloof from party politics and sectionalism," and vesting executive power in the Prime Minister. It would have been natural, given the historical structures of government both in the pre-colonial

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<sup>36</sup> KwaZulu Constitution Proclamation, No.R.70, 1972, sections 1, 2 and 4.

<sup>37</sup> Maré and Hamilton, *An Appetite for Power*, pp.85-88; *The Echo* (Durban), December 8, 1988; *Natal Witness* (Durban), February 21, 1989; SAIRR *Race Relations Survey 1983*, p.347.



kingdom and then in Natal's native reserves, for the king or "paramount chief," currently King Goodwill Zwelethini, to have executive powers. In the other homelands this was the pattern that was followed. However, Buthelezi fought hard for this tradition to be overturned, against the wishes of members of the royal family, and held that the role of Prime Minister belonged to his family by Zulu tradition.<sup>38</sup> However, Buthelezi is in fact the only member of his family to have held anything equivalent to his position in relation to the Zulu king. Moreover, his chieftainship of the Buthelezi tribe is itself due to the South African government, which has the power (since delegated to the homeland governments) to appoint any individual as a chief, regardless of inheritance, and supported Buthelezi's claim over that of his elder brother.

### Chiefs

Local government in rural KwaZulu is carried out through a system of chiefs, tribal and regional authorities that is based on the structures originally devised by the British Secretary for Native Affairs, Theophilus Shepstone, in the mid-nineteenth century. Although the framework of this system had its basis in a conception of Zulu customary law, it was designed as a form of indirect rule that would co-opt the institutions of chieftainship to the purposes of the colonial state. The 1891 Natal Code stipulated that the Governor of the Colony, as "Supreme Chief," could appoint chiefs and remove them, and that the chief "in charge of a tribe or section of a tribe is a minor deputy of the Supreme Chief."<sup>39</sup> After the Union of South Africa was created in 1910, policies for the control of the African population were centrally formulated. Frequent legislation modified the role of the chiefs; most importantly, the Native Administration Act of 1927 (later renamed the Black Administration Act), the Black Authorities Act of 1951 and their amendments. The powers and title of Supreme Chief were inherited by the Governor-General; and, in 1961, by the State President of the new Republic of South Africa. In this way, the government was able to create an extension of its own structures within the "native" areas, but in a manner which concealed the nature of control. Although power to remove their chiefs was taken out of the hands of the people, the system of hereditary succession was allowed to operate where it did not challenge white rule.

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<sup>38</sup> There has always been tension between Chief Buthelezi and the Zulu royal family, at least partly based on Buthelezi's insistence on an executive prime minister. Buthelezi's title to the chieftainship was challenged by his older brother Mceleli, who brought two successive actions in the Supreme Court which were dismissed on legal technicalities. Although Buthelezi was designated acting chief in 1953, after two years as a clerk in the Native Affairs Department in Durban, it was only in 1957 that his title was confirmed. For further details of Buthelezi's efforts to secure South African government support for his chieftainship and of conflict between Buthelezi and the king, see: Mzala, *Chief with a Double Agenda*, pp.60-74 & 102-114; see also, Maré and Hamilton, *An Appetite for Power* pp.35-41.

<sup>39</sup> Quoted in Maré & Hamilton, *An Appetite for Power*, p.88.



The structures now encoded in the KwaZulu AmaKhosi and Iziphakanyiswa<sup>40</sup> Act of 1990 (the Amakhosi Act) are essentially those established by the Native Administration Act. The executive authority of each tribe is vested in its chief (inkosi), acting on the advice of his tribal council, subject to the "recognised customs or usages of his tribe." In return each chief receives a salary from the homeland government. "Tribal authorities" with general administrative duties are constituted to assist the chief. Tribes are grouped together under "regional authorities," made up themselves of chiefs and headmen, whose functions are "to advise the government in regard to all matters affecting the general interests of persons" within their jurisdiction, and to administer education, hospitals and other infrastructure. The regional authorities exist to enforce government policy, and do not have any independent status.

Power in this system is concentrated in the hands of the Chief Minister of KwaZulu (who has been Chief Buthelezi since the homeland was established). The Chief Minister is empowered, "after consultation with the cabinet," but subject to no other control, to establish or dissolve tribal and regional authorities, and to appoint "any person" as a chief or to dismiss a chief, regardless of the position under tribal custom. Chiefs are specifically instructed that they may not be connected with "any organisation whose aims are the unconstitutional overthrow of the Government." If a chief who is also an MP ceases to be a chief, his seat in the parliament is automatically deemed to be vacated;<sup>41</sup> if a chief dies, his heir "shall" be the person appointed by the minister, irrespective of any custom to the contrary. Furthermore, belying the idea that the system of tribal government is based on an ethnic or cultural reality, the minister may unilaterally constitute new tribes, divide and amalgamate tribes or redefine the boundaries of tribal land; a person is deemed to be a member of the tribe within whose area he or she permanently resides, whatever his or her ethnic origin.<sup>42</sup>

Reinforcing this law, the KwaZulu government also has the power to order "any tribe, portion of a tribe, community of Black persons or any group of Black persons or any Black person ... or any other person who is a citizen of KwaZulu" to move from any place to any other place and not to return.<sup>43</sup> This power, originally part of the South African Black Administration Act of 1927, was the legal basis for the forced removals of black South Africans from their homes throughout the years of official apartheid. It was repealed by South Africa in 1986, but reenacted by the KLA in 1989 (with effect from March 1987), giving Chief Buthelezi the powers previously held by the State President of the South African republic. Furthermore, the KwaZulu version of the

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<sup>40</sup> The "chiefs" and "headmen" act.

<sup>41</sup> KwaZulu Constitution Proclamation, 1972, section 7(d).

<sup>42</sup> KwaZulu AmaKhosi and Iziphakanyiswa Act 1990, sections 2, 3, 5, 12, 16 & 23.

<sup>43</sup> KwaZulu Black Administration Amendment Act, 1988. It is notable that the act retains the racist terminology of the original South African legislation.



legislation abolished even those insufficient safeguards contained in the South African law, by requiring consultation only with the cabinet rather than the KLA.<sup>44</sup>

Chief Buthelezi has used the powers of the Amakhosi Act extensively, to depose chiefs perceived to be in opposition to Ulundi and replace them with more amenable deputies, or to create tribes and tribal authorities to suit the purposes of the KwaZulu government. Some of these cases have been taken to court: for example, in July 1992, fourteen indunas (tribal councilors, or "headmen") from Babanango, an area bordering the Nqutu magisterial district of north-western Natal, initiated court proceedings in the Durban Supreme Court against the Chief Minister of the KwaZulu government and others, in an effort to prevent the constitution of four new tribes and tribal authorities, and the import of three "foreigners," with no pre-existing connection of any sort to the area, as chiefs. The land involved was traditionally under the direct authority of the Zulu king, but for over a decade there have been attempts to introduce new chiefs into the area, first by the South African government, and now by the KwaZulu government. At no point have the communities who would fall under the new chiefs been consulted, despite an express provision in the Amakhosi Act for consultation to take place. The case remains in court.<sup>45</sup>

In particular, Buthelezi has persecuted chiefs belonging to the Congress of Traditional Leaders of South Africa (Contralesa). Contralesa was formed in September 1987, by chiefs who were part of the fierce struggle to resist the granting of "independence" to KwaNdebele, the homeland for the Ndebele people, and the incorporation of the Moutse area into the homeland. The aims of the organization include opposition to the homeland system and the restoration of full citizenship to all South Africans; but also the restoration of credibility to traditional leaders, often identified with the bantustans and seen as instruments of apartheid rule. The ANC, with its largely urban membership, has traditionally been suspicious of customary forms of government and has paid very little attention to rural South Africa; the establishment of Contralesa was an attempt to rescue the chiefs from oblivion under a future ANC government. Contralesa is thus a threat to the existing homeland leaderships, and most especially to the government of KwaZulu, which makes the most serious claim to be based on tradition. Contralesa, though it has important differences from the ANC, is generally regarded to be ANC-aligned.

In September 1989, Chief Buthelezi addressed a meeting of Zulu chiefs and described Contralesa as a "spear" stabbed "into the very heart of Zulu history;" he urged the chiefs to "thrust Contralesa to the mercy of the vagrant forces which leave carrion

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<sup>44</sup> M.G. Cowling, "Forced Removals in KwaZulu — From Bad to Worse," *Cases and Comments, South African Journal on Human Rights*, 1990(2).

<sup>45</sup> Information derived from the affidavit of Simon Mathole Mnguni, in the case of Mnguni and others against Chief Minister, KwaZulu Government and others. Although the king, who was made the chairman of the fourth newly-constituted tribal authority, was not originally a party to the litigation, he was joined as a defendant following a court order. The king has let it be known that he supports the case of the indunas challenging the decision to divide the land and introduce new chiefs.



in their wake."<sup>46</sup> He was speaking in the Table Mountain area near Pietermaritzburg, in the context of a dispute with Chief Mhlabunzima Maphumulo of Maqongqo, the recently-chosen president of Contralesa. In April 1989, Maphumulo had been condemned by Buthelezi, and accused of attempting to "prostitute the offices of chiefs," for petitioning the South African government to establish a judicial commission of inquiry into the causes of violence in Pietermaritzburg townships.<sup>47</sup> In October, Maphumulo stated that the peace process should be initiated with or without the cooperation of Inkatha. King Zwelethini, supposedly above party politics, demanded that Maphumulo resign from Contralesa; Maphumulo refused, stating that "Contralesa was not formed to threaten the unity of the Zulu chiefs."<sup>48</sup>

On February 25, 1991, following months of harassment, Chief Maphumulo paid the price for his controversial role. He was shot outside his home in central Pietermaritzburg, just one month after a peace accord had been signed in Natal between Inkatha and the ANC. The responsibility for his murder was never satisfactorily established despite the setting up of a commission of inquiry to look into the assassination. Several witnesses to the inquiry gave evidence as to the involvement of the Security Branch of the SAP, but in March 1992 the inquest concluded that the murder was committed by "persons unknown."

The chieftaincy system, as legislated by the colonial government, does not only give dictatorial power to the government in Ulundi, but also to individual chiefs. The Amakhosi Act provides, apparently innocuously, that a chief "shall enjoy the status, rights and privileges and be subject to the obligations and duties conferred or imposed upon his office by the recognised customs or usages of his tribe." However, this status includes entitlement "in the due fulfillment of his functions, to the loyalty, respect, support and obedience of every resident of the area for which he has been appointed." In many areas, the subjects of a chief must approach a chief on their knees to be able to address him. Amongst other things, the chief has the duty to maintain law and order; has powers of arrest, search and seizure; must disperse any unauthorized assembly; and must ensure compliance with all laws and orders of a "competent authority." Chiefs may be (and usually are) given authority to determine civil claims or try criminal charges arising out of Zulu law and custom, though there may be an appeal to the regular system of magistrates courts. Almost as an afterthought, it is laid down that a chief should "generally seek to promote the interest of his tribe ... and initiate measures for the advancement of his people."<sup>49</sup>

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<sup>46</sup> *The Guardian* (London), September 29, 1989.

<sup>47</sup> *Natal Witness* April 11, 1989.

<sup>48</sup> *Weekly Mail* October 6, 1989; see also, Catharine Payze "The Elimination of Political Opponents: The Maphumulo Assassination" in Anthony Minnaar (ed), *Patterns of Violence: Case Studies of Conflict in Natal*, Pretoria: Human Sciences Research Council, 1992, pp.247-258.

<sup>49</sup> KwaZulu AmaKhosi and Iziphakanyiswa Act 1990, sections 5, 7, 8, 14, 18, 28 & 31.



The KwaZulu government itself has acknowledged the absolute obedience that is expected to be paid to the chiefs, but justifies the autocratic nature of the system in terms of the length of time the system has been in operation as a sign that it enjoys popular approval:

The present structures of the Zulu society are essentially the same as they were prior to 1879 [the date of the final defeat of the Zulu kingdom]. These include, inter alia, the role of the father as paterfamilias, the tribal hierarchy consisting of Headmen, Indunas, and tribal councilors.

The implication of these structures are that the chiefs expect adherence to tribal values and customs within their areas of jurisdiction. Implicit in these traditions and customs is the principal [*sic*] of "Hlonipha" which requires respect for the tribal leadership, the tribal elders and office bearers. This principle extends to all activities including the holding of public meetings within the area of the Chief. Any behaviour which militates against the authority of the Chief is perceived to be contrary to the principle of "Hlonipha". An example of this would be a demand to hold a meeting within a Chief's area without his prior approval.

Allegations that this system lacks popular legitimacy are devoid of all substance as the system has evolved over many years. For example if a chief resists a meeting being held in his area, it is not only the chief but the community that imposes its will via the chief as its traditionally elected [*sic*] leaders.<sup>50</sup>

It is true that historically, despite — or because of — the dictatorial powers in their hands, there has been little challenge to the authority of the chiefs within KwaZulu, and respect for traditional forms of government, however bastardized, has been the norm. However, this does not imply that the actual system under which traditional leaders operate still enjoys (if it ever did) popular legitimacy, nor that those who would prefer a different system should be prevented from expressing their views. In recent years chiefs have increasingly been challenged by members of their community who are no longer prepared to accept their absolute powers. In the words of the Legal Resources Centre:

[There is] a new generation of rural residents who perceive the system of chieftainship as arbitrary and anachronistic. Among this group are youth organizations, rural civic organizations, educated and professional people such as teachers, nurses etc, and unionized industrial workers, who retain strong links with their rural homes. The interests of these groups, even though they are diverse and are not coordinated in their opposition, clash

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<sup>50</sup> Submissions to the Goldstone Commission on behalf of the KwaZulu government, statement by Dr. B.Ngubane, pp.2-3. As stated above, it is not the case that the residents of an area have any role in appointing or dismissing a chief which might be described as an "election."



directly with the patriarchal, undemocratic and heavy handed authority of the chiefs, their councils and headmen.<sup>51</sup>

It is clear that in many areas of KwaZulu, especially where the hereditary system has not been disturbed, traditional leaders continue to enjoy the respect and deference of their subjects. Chiefs themselves have legitimate interests to protect. It is not possible or desirable, certainly in the short term, to think of abolishing the chieftainship system outright. However, there is an obvious need for reform. A system of government which originally had a considerable measure of democratic control, the chiefs depending for their position on the consent of the governed, has been — over the last century — twisted into a method of exercising almost total control over a population.

The response of the KwaZulu government to the challenge represented by those who are no longer happy with this method of government has been not to address their complaints and reform the system, but instead to denounce their demand for change as an attack on the fundamentals of Zulu culture and tradition. Buthelezi has described proposals for an interim administration for the Natal/KwaZulu region during the transitional period to a new government as "aimed at the total emasculation of the Zulu people's administration," warning that "any attempt ... to destroy the existence of the KwaZulu government and to dismantle KwaZulu ... would be a prescription for civil war."<sup>52</sup>

Most controversial of the measures taken in defence of the system has been the arming of chiefs with G3 automatic assault rifles. These rifles are supposedly<sup>53</sup> issued under the authority of section 45 of the South African Arms and Ammunition Act, which exempts from the provisions of the act any person acting under the authority of a permit issued by the Minister of Law and Order (of South Africa). Senior members of the SAP expressed the view in private conversations with the Legal Resources Centre that the majority of those holding such weapons would not otherwise qualify for firearms licenses. Furthermore, the weapons were often entrusted to very young bodyguards by the tribal authorities. In essence, the weapons were being used to create a private army. Although the Goldstone Commission reported in its Third Interim Report, of December 21, 1992, that the KwaZulu government had decided that the G3 rifles would be withdrawn, they were to be replaced with substitute "less lethal" weapons.<sup>54</sup>

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<sup>51</sup> Legal Resources Centre (Durban), Submissions and Recommendations to the Goldstone Commission, December 1, 1992.

<sup>52</sup> Address by Chief Buthelezi to the 18th annual IFP general conference in Ulundi on July 17, 1993.

<sup>53</sup> The Legal Resources Centre (Durban) argued to the Goldstone Commission that this section did not in fact give the KwaZulu government the authority to issue the rifles.

<sup>54</sup> The proposed substitute weapons in any event include 9mm handguns and pump action shotguns. Shot guns are probably the most lethal of all firearms used, since great accuracy is not required in order to hit a target. Furthermore, no ballistic examinations can be carried out on shotgun pellets, which means that the person carrying out the crime has a much better chance of escaping detection.



In an interview with Africa Watch on January 26, 1993, Major Frank Dutton of the Goldstone Commission expressed the view that any arming of the chiefs was "problematic," in particular because it seemed that only selected chiefs, those regarded as supporters of Inkatha, had been armed. If the justification for the issue of weapons was that traditional leaders had been subject to attack, all chiefs should logically be given the same means to defend themselves. In August 1993, Major Dutton confirmed that there was no evidence that G3 rifles had in fact been taken out of the hands of private individuals.<sup>55</sup>

## Nqutu

Just outside the small town of Nqutu in north-western KwaZulu, lives Chief Elphas Molefe, one of the chiefs dismissed from office by Buthelezi. Chief Molefe is the hereditary leader of a Sotho-speaking group allowed to settle in Natal by the British, in return for its loyalty at the time of the defeat of the Zulu kingdom in 1879. Although there are also Zulu-speakers among the 55,000 people living in the area that falls under Chief Molefe's control, much of the local population does not, linguistically speaking, belong to KwaZulu, the "Zulu homeland." Chief Molefe resisted incorporation into the KwaZulu homeland, arguing that his Sotho subjects should not be subject to Zulu rule. However, relations with Ulundi were not strained until the death of Chief Molefe's son, a member of the United Democratic Front (the UDF was the coalition of anti-apartheid groups that led the resistance to the state of emergency in South Africa in the late 1980s, until the unbanning of the ANC), at the hands of the KwaZulu Police. No charges ever resulted from this crime. Shortly after the shooting, Chief Molefe joined Contralesa.

In August 1989 Chief Molefe was amongst a group of Contralesa members, including the late Chief Maphumulo, which traveled to Lusaka, Zambia, to meet with the executive of the ANC in exile. On his return to Nqutu, he was informed by the Nqutu magistrate that he had been suspended from his duties by Chief Buthelezi. A case was filed in the Durban Supreme Court, though it has not yet been heard. Further difficulties followed: for example, meetings held by Molefe in the tribal hall were disrupted by Inkatha members who said that, even if it was a tribal meeting, Molefe was a member of the ANC-supporting Contralesa, and only Inkatha members could use the hall. Finally, in June 1992, Molefe was dismissed by Buthelezi as chief, under the terms of the AmaKhosi Act, and his authority to decide civil and criminal cases was withdrawn. No reasons for the dismissal were given, despite repeated requests.

Chief Molefe's people have continued to be penalized for their opposition to Chief Buthelezi's government. In September 1992, the ANC organized a march on Bisho, the capital of Ciskei, to protest the rule of Brigadier Oupa Gqozo and demand

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<sup>55</sup> Major Dutton also stated that a G3 was one of the weapons used in the attack which resulted in the death of Reggie Hadebe, Deputy Chairman of the ANC Natal Midlands region, on October 27, 1992, and that the Goldstone Commission would be looking into this incident.



the restoration of South African citizenship.<sup>56</sup> The march ended in the massacre of 28 demonstrators by the Ciskeian security forces. Undeterred, the ANC announced its intention of matching the march on Bisho with a similar march on Ulundi to demand free political activity in KwaZulu. Chief Buthelezi responded by likening the ANC's march to the colonization of South Africa: "At no time since the conquest of KwaZulu ... has there been a greater threat against us as Zulus."<sup>57</sup> He stated that "Any ANC supporters used for this march will be embarking on what may amount to a suicide mission."<sup>58</sup> Soon after, the call went out from the KwaZulu government that all the young men of KwaZulu should be sent by their indunas for training as amabutho (warriors) to resist the "invasion" of MK<sup>59</sup> and ANC cadres. Those indunas who did not send the young men would be fined for their non-cooperation. The march was later called off by the ANC, after appeals from many groups to avoid provocation to violence.

In Nqutu district a meeting of the indunas was called at the magistrate's court by the MP and chair of the local Inkatha branch, named Makoba. Makoba said that the ANC march was designed to destroy the Zulu kingdom, and that the warriors would be trained to defend Ulundi from the ANC and MK. Gideon Zulu, a member of the royal family with a senior position in the KwaZulu cabinet, attended the meeting. One of those present described his behavior:

While he was brandishing his spear, he said that they would be going round Nqutu district looking for traitors, and that we should not forget that traitors are killed and that they did so at Isandhlwana<sup>60</sup> and at many other battles.

Many of the indunas who had been under the jurisdiction of Chief Molefe failed to comply with the call to arms. Shortly afterwards, local residents were called by a local Inkatha leader to a meeting at which they were threatened with punishment for their failure to send young men for training, and instructed to join a march to the tribal hall, where another meeting would be held a few days later. As a consequence of this meeting, a delegation was sent to the magistrate in Nqutu. In place of the magistrate, the delegation met with Makoba, who has an office in the magistrate's building. Makoba said that he did not know of any march or meeting, that he had not sanctioned it, and that he would give instructions that it should not take place. Nevertheless, the meeting

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<sup>56</sup> Abuses of human rights by the government of Brigadier Gqozo are examined in *Ciskei 10 Years On: Human Rights and the Fiction of Independence* News From Africa Watch, December 20, 1991.

<sup>57</sup> Patrick Laurence, "Buthelezi rallies troops for war," *The Guardian* September 25, 1992.

<sup>58</sup> Anton Ferreira, "Zulu chiefs warn of civil war danger," Reuters, September 26, 1992.

<sup>59</sup> The popularly used abbreviation for Umkhonto we Sizwe ("Spear of the Nation"), the armed wing of the ANC.

<sup>60</sup> The battle of Isandhlwana of 1879, at which the British were humiliatingly defeated by the Zulu army.



was held. At the meeting seven indunas were fined one cow each for failing to send the young men for training, "in place of the lives that would have been lost."

A few weeks later, on the night of November 8, a group of armed men attacked several homesteads within Chief Molefe's jurisdiction. At least three people were killed, including Chief Molefe's senior induna, and several huts were burnt to the ground. A police van arrived on the scene while the attackers were still in the vicinity, in response to a telephone call from a nearby house. However, although the police station had been informed that there was a large number of attackers, they came in insufficient force, made no attempt to follow the raiders as they left, and returned to the police station after an exchange of fire. About half an hour later, they returned in larger numbers, but again made no attempt to track the intruders. Shortly after the attack took place, the station commander was heard to instruct his officers not to take any immediate action, because the incident was a "political issue."

So far as Africa Watch is aware, the only arrests made in connection with the incident were of the younger son of one of those who died, who was kept in detention without charge from November 9 to November 30; and of an inyanga (witchdoctor) named Mothonfi, from another area. A claim for wrongful arrest is pending in the case of the boy who was detained.

On December 10, 1992, Meshack Motlaung, one of the chief's oldest advisers and chair of the local paralegal committee of the Community Law Centre, was assassinated. The KwaZulu Police stated that they believed that Motlaung had been killed in connection with a problem of stock theft, but did not produce any evidence to confirm their statement. Associates of Motlaung were threatened during the period after his death. No arrests have been made in connection with the killing.

### **Townships**

Although the majority of KwaZulu is rural, it includes within its boundaries — contrary to the usual pattern of homeland planning — the sprawling townships surrounding Durban, the capital of Natal and one of South Africa's largest urban conglomerations. The chieftaincy system does not operate in most of the townships, which are instead governed by township councils, similar to those nominally operating in townships within South Africa. Although the basic framework of these councils is less autocratic than the "traditional" government of the rural areas, it is still problematic. In the first place, township councilors may be "designated" by the KwaZulu government, although elected councilors must be in a majority of two at all times. Secondly, since the time that elected local governments were introduced for the townships in 1988, most anti-apartheid organizations have boycotted the elections as a matter of principle: elsewhere in South Africa this led to the virtual collapse of local government structures; in Natal and KwaZulu it has meant that township councils are controlled by Inkatha.

A particular problem in areas falling under township administration has been the question of access to community facilities, especially halls and stadiums, by non-Inkatha



groups. Under the "Regulations for the Administration and Control of Townships in Black Areas,"<sup>61</sup> anybody wanting to hold a meeting in any hall or meeting place provided for the use of occupiers of the township must apply to the township superintendent in writing for permission, stating the nature and purpose of the meeting as well as the subject to be discussed. Any meeting shall be, "if the circumstances warrant it," under the supervision of the police, "who shall have absolute power to control such meeting and whose instructions and directions shall be obeyed." Moreover, if any subject matter is discussed other than the one authorized, or if the meeting becomes unruly "from any cause whatsoever," the police may order the chair to adjourn the meeting.

Although the regulations also provide that no meeting may be prohibited "unless reasonable grounds exist for believing that the holding thereof may provoke or tend to a breach of the peace," in practice these conditions are a great obstacle to the organization of political parties. In many of the townships surrounding Durban and throughout KwaZulu, repeated requests by the ANC, COSATU, or local residents' associations to hold meetings in community halls have been and are still refused, often with no reasons supplied. At the same time, Inkatha-affiliated groups have used the meeting places repeatedly.

In Madadeni, the township for Newcastle in the hinterland of northern Natal, the Newcastle Residents' Association applied seven times between December 1990 and August 1991 for permission to use the community hall. All of these requests were denied, despite an undertaking that permission would be granted, made by the township superintendent to the residents' association at a meeting on March 6, 1991. Other groups denied permission to meet in the hall were the ANC, the ANC Youth League, the Congress of South African Students (COSAS), the Food and Allied Workers Union (FAWU) and the South African Commercial Catering and Allied Workers Union (SACCAWU). During the same period organizations that used the hall included the IFP, the Inkatha Youth Brigade, the Inkatha Women's Brigade, the KwaZulu Nursing Association, the Young Women's Christian Association, the National Council of Trade Unions (NACTU) and the Pan African Congress (PAC).<sup>62</sup> An application to the Natal Supreme Court was finally made by the residents' association to obtain permission to hold a meeting.<sup>63</sup>

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<sup>61</sup> Proclamation No. R.293, 1962, made under the Black Administration Act of 1927. The regulations originally applied to all black townships, but in 1989 they were repealed with respect to South African townships outside the homelands. Chapter 6 regulates the holding of meetings.

<sup>62</sup> COSAS, FAWU, and SACCAWU are all affiliated to the Congress of South African Trade Unions (COSATU), part of the "tripartite alliance" with the ANC and the South African Communist Party (SACP). NACTU is unaffiliated to any political party, but is regarded as being sympathetic to the PAC.

<sup>63</sup> Affidavit of Mandla Cele in *Newcastle Residents' Association v. The Superintendent, Madadeni Township and others* Case No.2816/91, Natal Division of the Supreme Court.



Many townships and squatter camps are without community halls or any adequate facilities for the holding of meetings. This lack, due to decades of neglect by the governments of South Africa and KwaZulu, itself contributes to the problems and tensions surrounding political organization. Often the local school is the only potential location for a meeting; however, to hold a meeting in a school requires the permission of the KwaZulu Department of Education and Culture. The Department routinely refuses such permission, on the grounds that it is "entrusted with a responsibility to ensure that its physical facilities are used for programmes which are supportive of education,"<sup>64</sup> and that use of school buildings for political meetings would be contrary to this responsibility.

### Esikhawini

Africa Watch visited the township of Esikhawini, near Empangeni on the north coast of Natal. In Esikhawini permission to hold a meeting was repeatedly denied to the ANC and its affiliates from October 1990 until March 1993. During this period, Inkatha was given permission to hold its own rallies, to which large numbers of supporters were brought by bus from other parts of Natal. Policing of these rallies by the KZP and SAP has been ineffective, despite repeated pleas from local residents and organizers, as well as independent human rights organizations and violence monitors.<sup>65</sup>

The sole occasion on which the ANC was given permission to hold a rally in the township, during the two year period leading up to March 1993, was the result of a court order. On November 7, 1991 the ANC applied to the township manager of Esikhawini to hold a meeting on November 24, 1991. By November 15, the request had not been approved, and an urgent application to the Supreme Court was undertaken. The township council was ordered to allow the use of the Esikhawini stadium. However, an Inkatha rally was subsequently approved by the township authorities to take place at the stadium on the same day in the morning. The ANC meeting was scheduled to begin at 2 P.M., and both Inkatha and the KZP were requested to ensure that the stadium would be cleared by that time. Large numbers of Inkatha supporters, bused into the township from rural areas, continued to occupy the stadium until the evening, effectively preventing the ANC from holding its own rally. Moreover, the simultaneous presence of large numbers of supporters from the rival parties predictably led to violent incidents, as groups of armed men at the Inkatha rally periodically left the stadium to confront

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<sup>64</sup> Letter dated September 30, 1992, from the Minister of Education and Culture to the Madinoga branch of the ANC in Umlazi township.

<sup>65</sup> Information relating to the holding of meetings in Esikhawini was supplied by Mary de Haas, an independent violence monitor based at the University of Natal in Durban; and by Willies Mchunu, resident of Esikhawini and Chair of the Esikhawini branch of the ANC, in an interview on January 25, 1993 and subsequent telephone conversations. Further interviews were carried out in the township on February 19, 1993. See also, *Obstacle to Peace: the Role of the KwaZulu Police in the Natal Conflict*, published by the Legal Resources Centre (Durban) and Human Rights Commission (Durban) in June 1992, pp.152-156; and Steven Collins "Things Fall Apart: The Culture of Violence Becomes Entrenched," in *Patterns of Violence*, pp.95-103.



bystanders. Four people were killed, many more injured and a number of houses burnt. The KZP and SAP did little to prevent or stem this violence: according to Steven Collins of the Institute for a Democratic Alternative for South Africa (IDASA), who was present on the day, "the deaths could easily have been avoided had the security forces done the work that the community and the National Peace Accord expect[ed] of them."<sup>66</sup>

On February 16, 1992, Inkatha held another rally in the Esikhawini stadium, bringing supporters from all over Natal. Although a variety of monitoring and human rights groups expressed extreme concern at the likelihood of violence to the KZP and SAP as well as the SADF, and urged the adoption of tight security measures, no attempt was made to disarm the Inkatha supporters arriving by bus, to prevent groups of armed men from leaving the stadium where the rally was taking place, nor to stop attacks on the township's hostels, known to be ANC strongholds. Only when residents of one hostel returned fire, and Inkatha and the KZP were forced to withdraw, did the SAP and SADF intervene. Hostel-dwellers were forced out of their rooms, and 226 were arrested and charged with offenses including public violence and illegal possession of arms. The home of Willies Mchunu, Regional Chair of the National Union of Metalworkers of South Africa (NUMSA), was completely destroyed, in full view of the SAP and SADF. At least sixteen people were killed.<sup>67</sup>

The ANC applied again to hold a meeting on February 23, 1992. Permission was granted by the township manager, but then withdrawn only a few days before the meeting was due to be held; on February 21, the local magistrate banned the rally. A Supreme Court application was launched, leading the magistrate to agree to hear the arguments of the ANC. After doing so, the ban was reimposed, but extended to cover all meetings scheduled for February 23. Despite this blanket ban on meetings, Inkatha held a rally at the community hall in the township, after which several hundred armed Inkatha supporters marched on one of the hostels. Eleven people were injured in the resulting confrontation, and three were killed nearby the hall, after their car was stopped by the KZP.

In March 1992 the local ANC branch was informed that its request to use the township stadium for meetings on March 21, May 1 and June 16, days of special significance for the anti-apartheid movement,<sup>68</sup> could not be granted, because Inkatha had booked the stadium for every weekend day over the following months. No Inkatha rallies in fact took place on the dates requested.

The attitude of the township authorities to the holding of meetings has improved somewhat during 1993. In March 1993, the ANC was finally given permission to hold

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<sup>66</sup> Steven Collins, quoting his own letter to the National Peace Secretariat, in "Things Fall Apart," p.104.

<sup>67</sup> Interview with Willies Mchunu, January 25, 1993; Roy Ainslie "The North Coast: Natal's Silent Rural War," in *Patterns of Violence*, pp.117-120; HRC Area Repression Report, February 1992.

<sup>68</sup> Sharpeville Day, Labor Day and Soweto Day, respectively.



a meeting on March 21, Sharpeville Day. Following the meeting, the ANC Esikhawini branch commented that "We have no reported incident of harassment and intimidation of anyone by the KwaZulu Police in the township on this day," and commended the KZP for its behavior.<sup>69</sup> However, a request dated February 26, 1993, for permission to hold a meeting in the township on June 16, was only approved on June 14, too late for the meeting to go ahead. Requests to hold meetings in township facilities on June 27 and August 8, in order to discuss relations with the KZP, were granted.

### **The Kwazulu Police<sup>70</sup>**

The KwaZulu Police (KZP) were set up, in accordance with the Self-Governing States Constitution Act 1971, by the KwaZulu Police Act 1980, which was passed by the KLA and entered into force, following approval by the State President, on February 27, 1981. The powers and functions of the KZP within KwaZulu are the same as those of the South African Police (SAP) in the Republic of South Africa as a whole. The police force initially fell under the control of the KwaZulu Department of Justice, but a separate ministry was later established: Chief Buthelezi has since that time been the Minister of Police for KwaZulu. A Commissioner of Police, who runs the force on a day-to-day basis, is appointed by the Pretoria government, and the police force is funded by the South African Department of Regional and Land Affairs (formerly the Department of Development Aid).

From May 1989 to December 1992, the Commission of the KZP was Major-General J.H. ("Jac") Buchner, a former officer in the SAP security branch. Buchner was described by former police captain Dirk Coetzee (who later testified about SAP covert activities to the Harms Commission of Inquiry into the operation of hit squads in South Africa) as "one of South Africa's top security policemen," who had "established himself as a brilliant and ruthless opponent of the ANC — as interrogator, state witness, logistics expert and planner of raids on neighbouring states."<sup>71</sup> Amongst other things, Buchner had been responsible for the recruitment and training of "askaris," or former ANC guerrillas captured and induced to work for the South African security forces. In December 1992 Buchner was replaced by Major-General Roy During. A retired SAP officer, During has a more orthodox background than Buchner, having spent most of his career serving in the special unit responsible for the security of the State President and visiting dignitaries, finishing as police commissioner for the Western Cape. However, he also served for a time as head of a counterinsurgency and unrest unit.<sup>72</sup>

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<sup>69</sup> Letter from the ANC Esikhawini branch chair to the KZP Station Commander in Esikhawini, March 26, 1993.

<sup>70</sup> See generally, *Obstacle to Peace*, cited above, for a comprehensive analysis of the KZP.

<sup>71</sup> Quoted in *Obstacle to Peace* p.79.

<sup>72</sup> *New Nation* (Johannesburg), February 19-25, 1993.



KZP strength has expanded from its original 400 members to a membership today of more than 4,000 (assisted by nearly 700 reservists), operating out of 21 police stations. In 1990 Commissioner of Police Buchner stated that the ratio of police to the population of KwaZulu was 0.6 per 1,000 (compared to a rate of 4 per 1,000 in the United Kingdom), and that his long term aim was to establish a membership of at least 10,000. However, in February 1993 the current commissioner, Major-General During, stated that the force was not expanding, and that recruitment was only to make up for deaths and retirement "because of financial constraints."<sup>73</sup> One of the problems facing the KZP is certainly that it is understaffed in relation to the population and area that it is expected to patrol, as is the case for the police force in South Africa generally.

The transfer of responsibilities from the SAP to the KZP is subject to the conditions determined by the South African Minister of Law and Order. Since the creation of the KZP twenty-four police stations have been transferred to KZP control,<sup>74</sup> but some districts within KwaZulu are still administered by the SAP, who remain responsible for all policing functions. These districts include the townships and squatter camps surrounding Pietermaritzburg and some of the townships surrounding Durban and along the coast.

According to the KwaZulu government, "The KZP are responsible for all normal policing functions and duties within those areas of KwaZulu transferred by the Minister of Law and Order to the exclusion of the SAP, with the exception of matters relating to the maintenance of the internal security of the Republic." In addition, the Internal Stability Unit of the SAP may be called on by the Commissioner of the KZP for assistance in "areas where unrest is prevalent."<sup>75</sup> The SAP also claims that it has no jurisdiction to operate within KwaZulu without the agreement of the KZP, on the grounds that it is "a legally constituted police force ... tasked by law with the investigation of crime in its area ... the South African Police will not attempt to usurp or take over these functions."<sup>76</sup> Requests from residents or violence monitors for SAP action within areas policed by the KZP are usually rejected. This is particularly problematic when KZP members are implicated in an offense and residents are not prepared to give statements to the very police force that they wish to charge with abusive behavior. It does not appear that this is likely to change: in February 1993, the new Commissioner of the KwaZulu Police, Major-General During, stated "We are an autonomous statutory body, so we cannot have other organisations interfering with our internal affairs."<sup>77</sup>

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<sup>73</sup> Interview in the *New Nation* February 19-25, 1993.

<sup>74</sup> Submissions to the Goldstone Commission on behalf of the KwaZulu Government and Police, November 1992, p.6.

<sup>75</sup> Ibid., p.7.

<sup>76</sup> Letter from the Regional Commissioners of the SAP to the Durban Legal Resources Centre, November 6, 1990.

<sup>77</sup> *New Nation*, February 19-25, 1993.



Furthermore, despite the South African government's claims that it wishes to see the homelands dissolved and the jurisdiction of the homelands authorities removed, the KZP — as well as other homeland police forces — is acquiring new powers. During 1991, the KwaZulu government published for general information the KwaZulu Police Amendment Act, originally enacted in 1989. This act purported to amend the KwaZulu Police Act 1980, to make provision for the KwaZulu Minister of Police to enter into agreements with South Africa and with other self-governing territories for the undertaking of "cross-border" police operations. Arguably, the act is outside the powers of the KwaZulu Legislative Assembly and therefore invalid.<sup>78</sup> In 1992 the South African government also enacted legislation to provide for bilateral agreements between Pretoria and homeland governments for cross-border operations. The amendment overruled a case in which the Appellate division of the Supreme Court ruled that members of the KwaNdebele police who detained three people in Johannesburg were acting outside their powers.<sup>79</sup> If the South African government enters into an agreement with KwaZulu under this legislation, the KZP will have the full powers of the SAP in South Africa, including the power to arrest individuals who are not "citizens" of KwaZulu.

The denial of SAP jurisdiction in KwaZulu, coupled with the legislation enabling the South African government effectively to extend KZP jurisdiction to the whole of South Africa, is extremely disturbing. Unwelcome in the context of central negotiations which are presumed to be aiming at the dissolution of the homelands, the failure of the South African government to accept responsibility for law and order throughout South Africa has also been argued by the Legal Resources Centre of Durban to be illegal under South African law. Under the Self-Governing Territories Constitution Act of 1971, read in conjunction with the Police Act of 1958, the powers of the SAP extend throughout South Africa, with the exception only of the "independent" TBVC states. The South African government is under South African law at least co-responsible for the maintenance of law and order in the "self-governing" homelands, including KwaZulu, and may not abdicate that responsibility. Moreover, it can set all the conditions for the control, organization and establishment of police forces in the self-governing territories; powers which it used to set up the KZP in the first place.

### **KZP Bias**

The official policy of the KZP, stated in 1990 by the Public Relations officer of the force, is that members of the KZP "may not belong to any political party."<sup>80</sup> The fact that the KZP are seldom in conflict with Inkatha is explained by the fact that

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<sup>78</sup> R.J. Purshotam, "Will the KwaZulu Police Force Soon Acquire Extra-territorial Jurisdiction?" *South African Journal on Human Rights* Vol.7 No.2, 1991.

<sup>79</sup> *Minister of Law and Order, KwaNdebele v. Mathebe* 1990(1) SA 114 (A).

<sup>80</sup> Colonel Lindelihle Khanyile, quoted in the *Natal Witness* December 11, 1990.



Inkatha "recognises the KZP as a legitimate police force and accepts their authority without question, whilst the same cannot be said for the ANC."<sup>81</sup>

However, the current Deputy Commissioner of Police, Major-General Sipho M. Mathe, served at one time in the Inkatha Central Committee;<sup>82</sup> there is also evidence that some police officers are members. In 1989, a Supreme Court judge ordered Buthelezi to investigate alleged recruitment of members of the KwaZulu police into Inkatha.<sup>83</sup> Moreover, public statements by KZP officials have not always been circumspect. In 1990, Major-General Jac Buchner, while still Commissioner of Police, stated that: "We [the KZP] support the lawful authorities. To the extent that Inkatha is part of the government I suppose you could say we support Inkatha."<sup>84</sup> Questioned the following year on allegations of KZP bias towards Inkatha, he agreed that "That must be true to a certain extent."<sup>85</sup> At a graduation parade for police trainees in 1990, Chief Buthelezi, who is the KwaZulu Minister of Police as well as President of Inkatha, stated that:

Every KwaZulu policeman should remember that it is the ANC's announced policy to kill every black policeman. ... Now we are battered, but now in our travail and under the attack on us, we are developing an Inkatha resolve that we will not only survive but we will emerge stronger than ever before to play an ever increasingly important role in the politics of South Africa.<sup>86</sup>

In November 1992, KZP Colonel Moses Khanyile, speaking officially on behalf of the force, acknowledged that "the police do not enjoy the confidence of the community any more."<sup>87</sup>

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<sup>81</sup> Submissions on behalf of the KwaZulu Government and Police to the Goldstone Commission, November 1992, p.16.

<sup>82</sup> It was stated in the Submissions on behalf of the KwaZulu Government and Police to the Goldstone Commission (p.15) that Major-General Mathe resigned from his position on the Central Committee of Inkatha when it was officially launched as a political and not "cultural" organization at the end of 1990.

<sup>83</sup> Carmel Rickard, "Judge wants probe into 'Inkatha' cops," *Natal Witness*, September 27, 1989.

<sup>84</sup> *Daily News* May 17, 1990.

<sup>85</sup> *Daily News* July 6, 1991.

<sup>86</sup> Speech at the Police Training College, Ulundi, June 28, 1990; quoted in *Obstacle to Peace*, p.32.

<sup>87</sup> Quoted in *The Sowetan* November 12, 1992



## Police misconduct<sup>88</sup>

In June 1992, the Durban branches of the Legal Resources Centre (LRC) and the Human Rights Commission (HRC) published a report entitled *Obstacle to Peace: the Role of the KwaZulu Police in the Natal Conflict*. In the report, which was an update of an edition published in November 1991, the HRC and LRC used court records, affidavits, witness statements and other documents to describe numerous abuses by the KZP which contributed to the conflict in Natal. Among the abuses documented were the following:

- o Murder and assault of persons perceived to be political opponents of Inkatha;
- o Abduction of ANC-aligned or non-Inkatha activists;
- o Participation or collusion with vigilante groups in the intimidation and attack of individuals accused of not supporting Inkatha;
- o Failure to intervene to prevent attacks by Inkatha members carried out in the presence of the KZP;
- o Maltreatment and torture of detainees;
- o Firebombing of homes;
- o Disruption of funerals, memorial services and meetings of non-Inkatha groups;
- o Contravention of court orders forbidding harassment of individuals or communities;
- o Supply of weapons to notorious gang members;
- o Failure to render medical assistance to critically injured persons;
- o Failure to respond to calls for assistance or to investigate incidents involving Inkatha supporters;
- o Action outside the boundaries of KwaZulu and failure to cooperate with the SAP;
- o Failure to keep proper records, to admit that detainees or bodies are being held, or to cooperate with lawyers seeking to represent clients in accordance with the terms of the law.

There was no official response from the KwaZulu government or police to these allegations, other than in the submissions made on their behalf to the Goldstone Commission's inquiry into violence in Natal, one year after the report was originally published. In only six incidents mentioned in the *Obstacle to Peace* report did the submissions offer information of material developments that had not been covered (two of the six related to payments of damages by the KZP to complainants on the grounds

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<sup>88</sup> Misconduct by the KZP is more systematically covered in Africa Watch's reports *The Killings in South Africa: The role of the security forces and the response of the state* (January 1991); and *Half-Hearted Reform: The Official Response to the Rising Tide of Violence* (May 1993).



that complaints had been substantiated). In most cases the submissions merely denied allegations, or stated that records were lacking or cases pending.<sup>89</sup>

A study of violent incidents between January and June 1991, carried out by the Centre for Social and Development Studies of Natal University and the Human Sciences Research Council, a government-funded think tank based in Pretoria, reported that the KZP played an aggravating and negative role in 55 percent of the events at which members of the force were present.<sup>90</sup> The KwaZulu government countered allegations of this type in its submissions to the Goldstone Commission, by stating that there were complaints against the KZP in only 5 percent of the communities in which it was the police force. However, human rights organizations attributed this to the reluctance of those subject to mistreatment to complain to the same police force whose members mistreated them, and to the lack of independent lawyers to assist potential plaintiffs.

### **Policing in Esikhawini**

Allegations of police misconduct have been particularly serious in the township of Esikhawini, near Empangeni on the north coast of Natal. During 1992 the Human Rights Commission reported over ninety deaths in the relatively small township, in more than fifty violent incidents, many of the worst taking place during and after the holding of Inkatha meetings in the township stadium (see above). Esikhawini is policed by the KZP, and is the base for a KZP unit established in August 1992 with the task of investigating "unrest-related crime";<sup>91</sup> the SADF and the Internal Stability Unit (ISU) of the SAP have also been present at some rallies and demonstrations held in the township. Policing of rallies has been heavily criticized by independent monitors present when they took place, but negligence and misconduct by the KZP is not confined to the policing of mass rallies. Speaking to Africa Watch on January 27, 1993, Gavin Woods, Executive Director of the Inkatha Institute, stated that he had not heard specific refutations of the ANC's allegations and that the ANC might therefore perhaps be given "the benefit of the doubt" regarding allegations of police misbehavior in Esikhawini.

The township of Esikhawini lives in a state of fear. Political violence in the township, dating back two years, reached crisis proportions in August 1992, when at least 31 people lost their lives, and has continued since then. Many of the most serious attacks have taken place despite warnings given to the police by independent violence monitors and by the ANC: during August 1992, both the SAP and the KZP failed to take appropriate action in response to repeated warnings that attacks were imminent. On no occasion since the violence began has the KZP effectively investigated an incident of violence and brought the culprits to justice, despite the fact that residents are often well aware of the identities of those who have attacked them. For example, three youths

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<sup>89</sup> Supplementary submissions by the LRC to the Goldstone Commission of Inquiry into Violence in Natal, pp.1-2.

<sup>90</sup> "Monitoring Conflict in Natal," *SA Indicator* Vol.9, No.1, Natal University, Durban.

<sup>91</sup> Submissions on behalf of the KwaZulu Government and Police to the Goldstone Commission, p.8.



admitted to hospital under false names and suspected of involvement in an attack on the house of a trade unionist, Bheki Ntuli, on August 29, 1992, were arrested only after the intervention of the Goldstone Commission, and charged with murder and attempted murder. They were released on bail, and were implicated in several subsequent violent incidents. On January 17, 1993, they were again arrested, and again released on bail.<sup>92</sup>

The violence in Esikhawini cannot of course be attributed solely to the actions of the KZP. The situation in the township has developed into a cycle of violence in which both Inkatha and the ANC have been victims, and the KZP itself has become a target. During 1992, the Human Rights Commission reported the deaths of four KZP officers in the township; during the first eight months of 1993 six policemen died. Attacks on houses associated with the KZP or Inkatha are also reported, though they do not approach the number of attacks reported on ANC households. There has also been conflict on some occasions between Inkatha members and KZP officers.

Residents of the township described to Africa Watch<sup>93</sup> the danger of venturing outside after dark, and the self-preservation strategies they adopted to avoid armed attacks, including sleeping on the floor or (in a household in one of the outlying areas) in the woods nearby. Often, this fear was attributed to the actions of the KZP, either as a perpetrator of violence itself or as a colluder with other forces. KZP officers have been observed carrying out attacks on ANC households or individuals, accompanying armed groups of Inkatha supporters or "warlords," and taking part in random violence with no discernable political content. Although supporters or officials of the ANC and its affiliates have been subject to the greatest harassment, attacks are often apparently without motive. The following two accounts are among those given to Africa Watch by eye witnesses to violent attacks in which the KZP had been involved.

In the very early hours of December 3, 1992, five members of the Gabela family were killed and seven others were injured in an attack on a house in J section of the township, a known Inkatha-supporting area. Africa Watch spoke to a member of the family who survived because she had moved out of the family home into the nearby hostel.

On December 2, in the morning I heard that Mr. Mbuyazi and his son Lucky<sup>94</sup> had told my younger sister that they were coming to kill us because we are an ANC family. When I spoke to my younger sister I told

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<sup>92</sup> On March 30, 1993, one of the youths, Nhlakanipho Mathenjwa, died in police custody. He had been arrested two days earlier for the murder of a KZP constable who had reportedly complained at the activities of Mathenjwa's gang in the township.

<sup>93</sup> In interviews conducted on February 19, 1993; this information was confirmed by other human rights monitors who have worked in the township.

<sup>94</sup> Mr. Mbuyazi is a township councillor, Inkatha officer and reservist in the KZP; Lucky Mbuyazi was one of the youths released on bail following his arrest in connection with the attack on the house of Bheki Ntuli.



her that they should phone my brother who is also a ZP [KwaZulu policeman], but stationed in another town. On that same night I heard gunshots like thunder at one in the morning, and I looked through the window of the hostel room where I was staying and realized that they were attacking my family. First I heard guns, and then a bomb exploding, and then another bomb blast with guns. Then a blue van arrived and parked at the gate of the house where there was the shooting. It was a police van. The van left and immediately the attack on the house started again. Then two other police vans came to the house and I heard the van doors banging.

At about five in the morning I started trying to find out what had happened and I stopped a police casspir [armored truck] and they asked me if I was a member of the ANC and told me I must go to the police station to tell what had happened. They gave me the names of those who had been killed: they were my mother, three of my sisters and my little brother. My father was wounded but still alive in hospital. On the same day I went to see my father, and he told me that they had been attacked by Mbuyazi and the KZP. He died afterwards. ...

Some time after the shooting the KZP came to the hostel, but they didn't show any interest in finding out who had done the shooting, but only questioned what women were doing in the hostel. While they were there they damaged some things, and one of the ZPs called Themba assaulted me with a rifle butt. That was in January of this year.

Another woman described an attack on her house on December 31, 1992, in which two of her daughters were killed, and her two year old son injured. She believed that the attack had taken place because one of her daughters had been involved with a KwaZulu policeman and had broken off the relationship. The policeman had been indiscreet about his activities, and the mother believed that he was scared that his girlfriend might now talk.

On the night of 31 December 1992 at about 10:30 P.M. two ZPs came to my house. Before they came two ZP vehicles waited outside the house and called me while I was visiting my neighbor. On my arrival they said they were coming to pay a credit, since I have a shebeen [bar] where the ZPs come. The one who came to pay me was ZP Thulani Zulu, the other was Praise God Skosana, who said he was not able to pay because he didn't have money at that time. Zulu gave me R.25 and I gave them some beers to drink. ... They left and I went back to my neighbor's.

... While we were sitting outside in the yard of my neighbor a well-known Inkatha boy, Mandwengu, appeared carrying a rifle openly. Since we know his brutality we discussed that he was carrying a rifle commonly used by the ZP and we felt in danger, so we took shelter inside the house. ... As we entered we heard gunfire and not just the sound of one rifle but many.



After two minutes I phoned home to check the situation, and one of my daughters told me that the house was under attack. After that I looked through the window of the dining room at my neighbor's, and I saw Skosana, the ZP who was at my house before, wearing the ZP camouflage uniform. He was standing shooting in the direction of my house.

After the firing stopped, I went home and found that one of my daughters, Stula, was lying down bleeding and I realized that a bullet had come through the window because there was broken glass on her face. The bullet had come from the other side of her head and penetrated through and her arm was also completely damaged - there was flesh and bone marrow on the wall. I went to the dining room to ask about the others and they told me that one of my other daughters was missing as well as my two year old boy.

They told me that my daughter was called outside by the policeman Skosana. She had tried to open the door, and Skosana had pointed the gun at her and killed her. On opening the dining room door to check the situation I found the girl lying down already dead. The two year old boy was hiding with the body of the dead girl. On hearing my voice he screamed and asked for help, because he was hurt. I took him to the bathroom and tried to wash him. I didn't realize at first that he was injured because I thought the blood was from my daughter, but later I saw that he was also injured. The Inkatha boy Mandwengu had killed this daughter.

We phoned the police right then, and they promised that a police van was on the way, but it didn't come. We phoned six times before they came, and it was after midnight. On their arrival they never approached us to enquire what had happened, but they just picked up the empty cartridges around the house. After picking them up they stood around the dead body of my daughter and asked where is the other one, and I showed them the room. Before they entered the room one of them, Zulu, who was there before, asked the whereabouts of Skosana and kept on insisting and asking his whereabouts and ultimately asked what was going on with the shooting. They were supposed to be on duty together and were there together before. ...

Next morning they came and asked me to give a statement. I told them that I did not want to talk to them because one of their men Skosana was the one who killed my daughter as well as another Inkatha boy who was well known killer. The police said it was very difficult to take a statement because the case involved a member of the force, but they would instruct others to come because they were fearing for their lives. Others came and I told them what happened. They came three times but on all these occasions they never wrote my statements down. Nothing has happened since then, there has been no investigation. We have been forced to leave



our house, so we are staying at the hostel because we have been threatened.

On January 18, 1993, a vigil for the sisters killed in this attack was held in the township. The location for the vigil was moved because of the lack of security force protection (despite requests to the SAP to provide it), but men arrived at the house where it was originally scheduled: finding it empty, they attacked a house nearby, and assaulted members of that household, one of whom was admitted to hospital.

Since Africa Watch's visit to Esikhawini in February 1993, the violence has continued. According to the Human Rights Commission, which monitors violence in Natal and elsewhere, 29 people died in the township in the first seven months of 1993. A further nine were killed during the first three weeks of August. Amongst the dead were six KZP officers, seven ANC members (including two local executive members, and two killed by the KZP), and one Inkatha member (who died in police custody). The political affiliations of the other dead are not known.

The Inkatha member, Nhlakanipho Mathenjwa, was a well-known gang leader and one of those released on bail following the attack on the house of Bkeki Ntuli in August 1992. He had been implicated in several violent incidents in the township since his release. On March 28 1993, he was arrested in connection with the murder of KZP constable B.T. Mnqayi, who was reported to have complained at the activities of Mathenjwa's gang in the township. On March 30, he died in police custody.

In July 1993, the Goldstone Commission heard evidence in connection with an incident on June 20, in which a KZP officer, Sergeant Dumisane Solomon Dlamini, was shot dead. It was alleged that KZP constable Gcina Mkhize, with several other KZP members, was the leader of a group that shot Dlamini in his house in the J2 section of the township, having earlier killed four witnesses to an attack by the same group on an ANC house nearby. Sergeant Dlamini was reported to have approached an Inkatha leader in the area, Abraham Mbuyaze, to complain that KZP behavior was losing Inkatha support, and had made a statement to the Goldstone Commission concerning the activities of the KZP. On August 2, 1993, following a meeting in Ulundi between the Police Reporting Officer for Natal<sup>95</sup> and members of the KZP, and a march on August 1 by members of the ANC Youth League to the police station in the township, Mkhize and another KZP officer were transferred to duties outside the township. Both were subsequently charged with murder and suspended from duty.

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<sup>95</sup> Under the terms of the National Peace Accord of September 1991, a Police Reporting Officer should be appointed for each region, to investigate serious complaints against the police. Advocate Neville Melville of Durban was appointed in February 1993 to be Police Reporting Officer for Natal. He spoke with Africa Watch on August 17, 1993.

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## Accountability

The vast majority of alleged crimes involving the KZP are never fully investigated; many of them are not even reported. Furthermore, in some of the cases that have reached the courts, the KZP has been shown to have attempted to cover up its own misconduct or incompetence. According to evidence assessed by the LRC, "it is quite likely that the use of cover-ups in cases where the KZP is being investigated is widespread."<sup>96</sup>

In May 1992, a magistrate conducting an inquest into the death of Thulani Chester Cele, described one such case. Cele was shot in Umlazi township by KZP officers on November 12, 1990 and subsequently died in police custody. The magistrate found that a "patently false entry" had been made in the record book at the police station; that "changing entries on police documents is not an unusual practice at Umlazi Police Station;" that the policemen involved "did not want to bring any culprit to justice, but they wanted to solve the problem [of dealing with a severely wounded man] on their own;" and that "there was a certain motive to prevent Chester from receiving medical treatment, because they wanted him not to reveal certain things." He stated that therefore the court had "no alternative but to recommend to the Attorney-General to prefer murder charges against [the four KZP officers involved] ... [and] that charges of defeating the course of justice should also be preferred against [three of them] for making false statements intending to deflect a police investigation and for laying a false charge...."<sup>97</sup>

## Covert Activities

The KZP has been alleged to be closely linked to hit squad activity in KwaZulu. Successive affidavits reported in the press, have described covert activities by the intelligence wing of the KZP, the Bureau for Special Investigation, often in concert with SADF Military Intelligence. These activities have included the support of Inkatha-linked gangs, assassinations of ANC supporters, and training of paramilitary units. Although Chief Buthelezi refused to allow a general investigation of the role of the KZP in the Natal conflict, the Goldstone Commission has undertaken an examination of six violent incidents in which the KZP was alleged to be involved (and is also conducting an investigation into SADF covert activities in general). If it finds that the allegations of covert activities are justified, then a more thorough investigation may be undertaken.

In July 1993, KZP constable Gcina Mkhize, stationed in Esikhawini township and since charged with murder in connection with the June 20 incident described above, in which five people died, testified to the Commission that he had been among the Inkatha

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<sup>96</sup> *Obstacle to Peace*, p.64.

<sup>97</sup> Finding of the magistrate's court for the district of KwaZulu held at Umlazi, in inquest No.151/92, dated May 21, 1992.



members trained by the SADF in the Caprivi strip in 1986. He stated that he had returned to Natal in 1987, and had been instructed to kill non-Inkatha supporters in the H1 and H2 sections of the township. According to Mkhize, a senior member of Inkatha in Esikhawini, Abraham Mbuyaze, had also discussed with the KwaZulu Minister of Justice, Reverend C.J. Mthethwa, the possibility that the SAP might be called to investigate an incident in which Mkhize had been found in possession of an AK-47 rifle. Mthethwa had told Mbuyaze that, if necessary, he would contact the SAP in Empangeni and try to have any charges withdrawn.<sup>98</sup>

### Political Violence in Natal

Political violence has become the most serious immediate problem facing South Africa. Since 1985, conflict between competing political groups has escalated, claiming at least 15,000 lives. Much of Natal province, both inside and outside the borders of the KwaZulu homeland, is gripped by what is in effect a low-intensity civil war between Inkatha and the ANC. Both sides of this war have committed atrocities in support of their cause, for which they should be held accountable. Nevertheless, the conflict is not simply a battle between rival political factions, nor the revival of atavistic tribal instincts. Inkatha's position as the ruling party of KwaZulu, with access to government resources (funded by South African taxpayers), means that it has enormous advantages in its competition with the ANC. Moreover, the homeland's lack of tolerance for dissent from the Inkatha line, as described in this report, make it hardly surprising that its institutions and employees have become targets for attack, nor that opposing parties have adopted violence as a method of political expression.

In certain respects, the homeland government has openly failed to take action against violence. Most obviously, Chief Buthelezi has fiercely promoted an ideology in which the "Zulu nation" is described as the inheritor of a warrior tradition that forms part of its essential identity. In this context, he has repeatedly defended the carrying of so-called "traditional" weapons, such as assegais (spears), knobkerries (club-like sticks) or pangas (machetes) by Inkatha supporters, claiming that the prohibition of such practices would be "cultural castration" designed "to destroy the Zulu ethnic identity and awareness."<sup>99</sup> Although, as Buthelezi points out, many of those dying in Natal are killed by distinctly untraditional automatic rifles, "traditional" weapons have nevertheless been responsible for many fatalities.

In November 1990, despite great current concern over the carrying of such weapons, the KwaZulu Legislative Assembly repealed three sections of the Natal Code

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<sup>98</sup> "New evidence on Caprivi hit-squads," *Weekly Mail*, August 6-12, 1993; further information supplied by Mary de Haas, of the University of Natal, by Major Frank Dutton of the Goldstone Commission, and by the Human Rights Commission.

<sup>99</sup> "The Record of Understanding Signed by Mr. F.W. de Klerk and Dr. Nelson Mandela: An Inkatha Freedom Party Assessment," address by Chief Buthelezi in Mmabatho, Bophuthatswana, September 29, 1992.



of Zulu Law that outlawed the carrying of any "assegai, swordstick, battle axe, stick shod with iron, staff or sharp-pointed stick or any other dangerous weapon."<sup>100</sup> This prohibition had been in place since the Natal Code of 1891, when Natal was a province of the British empire. Its removal was paralleled by similar moves by the South African government to ease such restrictions. Following a Record of Understanding between the ANC and the government in September 1992, the government agreed to prohibit the carrying of traditional weapons in South Africa outside the homelands, and to provide a mechanism for parties to apply to court for permission to hold bona fide cultural meetings. The agreement has not been implemented in law, and the carrying of cultural weapons remains legal both in KwaZulu and in South Africa proper.<sup>101</sup>

The KwaZulu government and Inkatha have also failed to take any action against their own members when they have been accused or convicted of involvement in violent incidents. Certain MPs or Inkatha officials have acquired a reputation as "warlords," but no action has been taken to investigate their activities by the KwaZulu government, despite extensive evidence of criminal activity. Amongst the most notorious of these officials are David Ntombela, MP for Vulindlela near Pietermaritzburg; Abdul Awetha, an Inkatha town councillor for Imbali, near Pietermaritzburg; Winnington Sabelo, MP for Umlazi, near Durban, until his assassination in February 1992; and Thomas Shabalala, MP for Lindelani, a squatter camp on the outskirts of Durban.<sup>102</sup> When there have been prosecutions of such individuals, they have been carried out by the South African Police (SAP) and not by the KZP. None has resigned or been suspended from duty when charges have been laid, or, in at least one case, even following conviction, pending an appeal.<sup>103</sup>

One of the questions of most concern in urban areas of Natal has been the proliferation of private security firms, often set up by ex-policemen who can make more

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<sup>100</sup> Section 117(3)(a) of the KLA Act on the Code of Zulu Law, Number 16 of 1985. The amendments deleting this provision were contained in Act 13 of 1990, G.N. 603 of 1990.

<sup>101</sup> The question of traditional weapons is dealt with in more detail in the Africa Watch report *Half-Hearted Reform: The official response to the rising tide of violence*, of May 1993.

<sup>102</sup> The phenomenon of warlordism is examined in detail in A. de V. Minnaar, *Mafia Warlords or Political Entrepreneurs? Warlordism in Natal* Pretoria: Human Sciences Research Council, December 1991.

<sup>103</sup> Due at least in part to a lack of witnesses prepared to risk their lives by testifying, convictions are difficult to obtain. Senior members of Inkatha who have been convicted for violent offenses include Samuel Jamile, formerly deputy minister of the interior for KwaZulu and an Inkatha Central Committee member, who was convicted in June 1991 of murdering a tenant and sentenced to life imprisonment; Madodeni Wilbert Biyase, a member of the KLA and Inkatha Central Committee member convicted of five murders and three attempted murders in the Natal Midlands in March 1990; and Psychology Ndlovu, a KLA member convicted of culpable homicide in July 1991 but not suspended as an MP on the grounds that an appeal had been lodged. Jamile and Biyase were released from prison in May 1993 as "political prisoners" under the Further Indemnity Act. At Jamile's trial the judge had found that there was no connection between the murder in question and ongoing political violence between Inkatha and the United Democratic Front. Ndlovu's conviction was overturned on appeal.



money outside state employment. The South African government regulates the operation of security firms through the Security Officers Board, appointed under the Security Officers Act. Under this system, all private security firms and their employees are required to be registered. Employees of security firms may not have criminal records. These regulations do not apply in KwaZulu, and firms may therefore establish their offices within the homeland and avoid virtually all controls over their operation. Even if a firm is registered in South Africa, it may employ unregistered guards in KwaZulu.<sup>104</sup>

### U.S. Policy

Connections between Chief Buthelezi and the United States government have existed for many years.<sup>105</sup> During the Nixon presidency Buthelezi met with President Nixon himself and also with Secretary of State Kissinger. In 1977, he received a surprise invitation to speak with President Carter, "to advise him on human rights,"<sup>106</sup> following a speaking tour of the U.S. However, it was during the Reagan administration of 1980 to 1988, that Buthelezi became the favored representative of black South African opinion to the White House. Buthelezi's commitment to capitalism and public opposition to the armed struggle enabled the anti-communist U.S. administration to present him as the "moderate" black South African leader, by contrast with the Communist Party-allied ANC. In particular, the opposition of Buthelezi and Inkatha to the use of sanctions against South Africa was used to legitimize the policy of "constructive engagement," involving "dialogue" with rather than pressure on the white minority government. Buthelezi had high-profile meetings with President Reagan on several occasions.

From mid-1985, the policy of constructive engagement became more than ever discredited by the South African government's declaration of a state of emergency and massive crackdown on black opposition. In June 1986 the administration announced that it would seek to establish contacts with other black leaders, including Oliver Tambo, the head of the ANC. However, when Tambo finally met with U.S. government officials, in January 1987, he was not received by Reagan himself, as Buthelezi had been, but by Secretary of State George Shultz.<sup>107</sup>

The Reagan government's policies on South Africa were also advanced through the American Federation of Labor/Council of Industrial Organizations (AFL-CIO), the

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<sup>104</sup> Information supplied by Legal Resources Centre (Durban); see also, Philippa Garson and Sara Blecher, "Security industry booms in Natal," *Weekly Mail*, February 5 to 11, 1992.

<sup>105</sup> Buthelezi visited America for the first time in 1963, and in 1965 he was unable to take up a U.S. government leadership grant because the South African government had confiscated his passport.

<sup>106</sup> Caroline Clark, "U.S. picks Buthelezi," *Sunday Tribune* (Durban), March 17, 1977.

<sup>107</sup> Sanford J. Ungar, "South Africa's Black Leaders: A Matter of Shifting Alliances," *Los Angeles Times*, February 1, 1987.



American labor federation, whose foreign programs are largely funded by the U.S. government through the National Endowment for Democracy (NED) and the Agency for International Development (USAID). In October 1982, the AFL-CIO awarded Buthelezi its George Meany Human Rights Award jointly with Dr. Neil Aggett, a trade unionist who had died in detention. Assistant Secretary of State Chester Crocker confirmed that the government had initiated training programs for South African trade unionists through the AFL-CIO.<sup>108</sup> Reporting to the U.S. government in 1985, the AALC praised Buthelezi as "an active opponent of both disinvestment and the ANC." In 1986, only weeks after its launch, UWUSA approached the AFL-CIO for "large-scale assistance," and it received a share of the substantial sums (\$875,000 in 1985) paid out to union causes in South Africa by the AALC.<sup>109</sup>

The relationship between Chief Buthelezi and the U.S. administration became less close as Reagan was succeeded by Bush, although Buthelezi did meet with President Bush in 1990 and 1991; Bush chose the 1991 meeting as the occasion to announce that he would lift sanctions as soon as possible. (Nelson Mandela was also received by President Bush in 1990, during his first, high-profile tour of the U.S.) Following the unbanning of the ANC in 1990, the administration supported a Congressional appropriation of \$10 million, to be administered through the NED, to help build democratic institutions in South Africa. The NED originally announced that Inkatha's Action Group for Democracy would receive \$1 million of this appropriation (and the ANC \$3.72 million), but opposition from conservatives in Congress blocked the release of the money unless more was allocated to Inkatha. The amount to be allocated to Inkatha was eventually increased to \$2.5 million (with the ANC receiving \$4.5 million).<sup>110</sup>

Buthelezi's welcome in America has become more muted. In June 1992, a five-state tour did not include a meeting with the White House, and Assistant Secretary of State for African Affairs Herman Cohen expressed official concern at reports linking Inkatha members to such violent incidents as the Boipatong massacre. In September 1992, the U.S. issued a statement "regretting" the position that Buthelezi had taken in rejecting an accord between the ANC and the government for the resumption of

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<sup>108</sup> Speech at Kansas University, December 1983, quoted in Maré and Hamilton *An Appetite for Power*, p.129; as early as 1973, AFL-CIO International Affairs Director Irving-Brown stated that "we are ready [to train trade unionists] if KwaZulu is ready," SAIRR *Race Relations Survey 1973*, p.272.

<sup>109</sup> For further background on UWUSA and its U.S. links, see Maré and Hamilton, *An Appetite for Power*, pp.126-133; Mzala, *Chief with a Double Agenda*, pp.165-187.

<sup>110</sup> Simon Barber, "How the U.S. intends promoting democracy," Johannesburg *Business Day*, September 19, 1990; Don Oberdorfer, "U.S. to give \$2.5 million to Zulu-based Political Group," *The Washington Post*, August 4, 1991; confirmed with the director of the U.S. South Africa Leadership Exchange Program, through which the money was administered, in August 1993. In June 1991, while in London following his visit of that year to the U.S., Buthelezi surprised journalists by announcing that he had met with "the head of the Central Intelligence Agency" while he was in Washington. Within weeks of Buthelezi's comment, Martin Dolinchev, an ex-South African military intelligence (MI) officer, claimed that Edward Fogitt, the CIA station chief in Durban in the early 1970s, had been involved in MI plans to provide support for Inkatha and had met regularly with Buthelezi.



negotiations. The Clinton administration has continued this trend away from support for Chief Buthelezi, although the new Assistant Secretary of State for African Affairs, George Moose, met with Buthelezi during a visit to South Africa in June 1993. The U.S. government expressed its regret at the departure of Inkatha and the Cosag group from multiparty talks in July 1993 and urged Chief Buthelezi to return to the negotiating table. In August 1993, Chief Buthelezi accused the U.S. of interfering in South Africa's affairs and of supporting the ANC, because of its official statements supporting the negotiation process.

### **Other international links**

Chief Buthelezi and Inkatha have been supported by conservative governments in western Europe as well as the U.S., particularly the British government under Prime Ministers Margaret Thatcher and John Major and the German government under Chancellor Helmut Kohl. Throughout the 1980s, Buthelezi enjoyed privileged access to politicians anxious to find a black voice in South Africa that opposed sanctions. As recently as May 1993, Chief Buthelezi visited London, and had high level meetings with the British government, including Prime Minister Major and Foreign Minister Douglas Hurd, giving him equal recognition with Nelson Mandela, who visited a few days later. The Prince of Wales was also amongst Buthelezi's hosts. The British Ambassador to South Africa came to London for Buthelezi's visit, thus failing to attend the funeral in South Africa of Oliver Tambo, former president of the ANC.

In March 1993, a senior Inkatha official confirmed for the first time that Inkatha members received military training in Israel during the 1980s. The Israeli labor federation, Histadrut, openly established links with UWUSA, the Inkatha union, in 1985, and UWUSA members traveled to Israel for training. Chief Buthelezi has visited Israel on several occasions, but any military or other link had previously been denied.<sup>111</sup>

Inkatha has also been amongst the most important beneficiaries of the financial support of private right wing organizations and individuals. These include British millionaire John Aspinall, Australian businessman Kerry Packer, and Americans such as Morton Blackwell, head of the Virginia-based Leadership Institute, and Albert Blaustein, of Rutgers Law School. The Leadership Institute has provided political training to Inkatha members, while Blaustein, a long-time associate of Buthelezi, was involved in the drafting of the KwaZulu/Natal constitution published in December 1992. An associate of Blaustein, Mario Ambrosini, remained in South Africa as an adviser to Buthelezi during the negotiations. Other American right wing organizations connected with Inkatha include the Jefferson Education Foundation, the International Freedom Foundation, and the right wing think tank the Heritage Foundation. There appear also

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<sup>111</sup> Arthur Gavshon, "Inkatha Confirms Israeli Training," *The Weekly Mail*, March 19-25, 1993; "Israel Accused of Training Inkatha," *Israeli Foreign Affairs*, May 1990.



to be links between Inkatha and the extreme right wing World Preservatist Movement (formerly the World Apartheid Movement).<sup>112</sup>

### **Conclusion**

Chief Buthelezi frequently claims that he is the most democratic of South Africa's black leaders, basing his assertion on a commitment to federalism and devolution of power from central government. The situation within the homeland of KwaZulu, where he is chief minister, belies this claim. The institutions of the homeland government are virtually identical with the institutions of the Inkatha Freedom Party, and only Inkatha is allowed to organize freely within KwaZulu jurisdiction, often with the assistance of the resources of the homeland administration (paid for by the South African taxpayer). Freedom of expression, assembly, and association — all endorsed by the draft constitution for KwaZulu/Natal proposed by the KwaZulu Legislative Assembly — are not respected. The KwaZulu Police are allowed to operate with an almost complete lack of accountability for their actions, and are routinely guilty of incompetence, bias and even criminal activities; behavior which is not justified by the undoubted limitations of resources, manpower and training that affect policing in the homeland.

In these circumstances, the continuing existence of the KwaZulu homeland is itself one of the principal obstacles to free political activity in the Natal region. As such, it is also an obstacle to the negotiation of a settlement to the political violence which has reduced many areas of Natal to war zones. Unless steps are taken to ensure that all parties, including both the ANC and the PAC, are allowed to organize within the area that is now KwaZulu, the forthcoming multiracial elections cannot be free and fair.

### **Recommendations**

#### **To the South African Government**

- o Establish, in consultation with the other parties to the negotiations for a transition to majority rule in South Africa, interim authorities for the administration of KwaZulu and the other homelands, pending elections to a constituent assembly and the determination of a final constitution for South Africa.

Such an interim authority in KwaZulu should:

- o Begin the process of reincorporation of KwaZulu into South Africa, by bringing schools, hospitals, pension administration and other KwaZulu

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<sup>112</sup> In July 1993, it was revealed that Victor Kheswa, the "Vaal monster" wanted in connection with a series of murders in the townships near Johannesburg, was a member both of Inkatha and of the WPM. The revelations came following Kheswa's death in police custody, fueling speculation of a cover up of right wing involvement in township violence.



government services under South African government control, as quickly as reasonably possible without disrupting those services;

- o Establish guidelines for the regulation of political meetings which provide for all parties to have reasonable access to public facilities, and ensure that the guidelines are respected by all local authorities, whether chiefs or township managers;
- o Investigate all cases in which individuals are found to have been intimidated, threatened or attacked on account of their political beliefs or attempts to organize, and ensure that those who are found to be responsible are brought to justice;
- o Bring the KZP and SAP in Natal under unified command, and ensure that the unified police force adheres to the standards agreed under the National Peace Accord of September 1991;
- o Establish a civilian body with the duty to investigate allegations of wrongdoing by the KZP (and the SAP where applicable), suspend officers whose conduct is being investigated, and discipline or prosecute officers according to the results of such investigations.
- o Authorize the investigation by SAP officers of matters within KZP jurisdiction where there is evidence that the KZP is not conducting a proper investigation, or where members of the KZP are themselves alleged to be involved in the matter under investigation.
- o Repeal the Police Amendment Act of 1992, which allows the South African government to make bilateral agreements for "cross-border" police operations with the KwaZulu and other homeland governments.
- o Freeze all proposed transfers of land to KwaZulu, and reverse the transfers to the other self-governing territories carried out earlier this year.
- o Set up, in cooperation with as many interested organizations as reasonably possible, a commission of inquiry (for example, under the South African Law Commission) to examine the role of traditional leaders in South Africa, in preparation for a consideration of this question by the constituent assembly to be elected in April 1994.

#### **To the KwaZulu Government**

- o Issue instructions to township managers and chiefs under KwaZulu jurisdiction that all reasonable requests to hold meetings in KwaZulu government-owned facilities should be allowed, whatever the affiliation of the party or organization making the request.



- o Carry out public investigations of all cases in which individuals or communities within KwaZulu perceived to be aligned to groups opposed to Inkatha have been the targets of political violence, and ensure that those who are responsible are punished as appropriate.
- o Issue clear and unequivocal instructions to all members of the KwaZulu Police that, in accordance with the National Peace Accord of September 1991, bias against any group will not be tolerated and that abuses of human rights by members of the police will be punished.
- o Ensure that adequate police protection is afforded by the KZP to all groups and individuals, regardless of political persuasion.
- o Cooperate fully with the Goldstone Commission of Inquiry in its investigations into the behavior of the KwaZulu Police and investigate independently all allegations of abuses by the KZP.
- o Suspend from duty all members of the KZP reasonably suspected of committing abuses, pending full investigation or prosecution.

#### **To the United States Government**

- o Maintain all remaining sanctions against South Africa at least until a constituent assembly has been elected on the basis of elections regarded by independent observers to have been free and fair.
- o Put pressure on the South African government to ensure that interim authorities are established for the administration of KwaZulu and the other homelands, with responsibility for ensuring that the multiparty elections to be held in 1994 are free and fair.

\* \* \*

*This report was written by Bronwen Manby, Orville Schell Fellow with Africa Watch, and edited by Abdullahi An-Na'im, Executive Director of Africa Watch. Invaluable assistance was provided by the Legal Resources Centre (Durban), the Pietermaritzburg Association for Christian and Social Awareness, Mary de Haas of the University of Natal, and many other individuals living and working in KwaZulu.*

*Africa Watch is a non-governmental organization created in May 1988 to monitor human rights practices in Africa and to promote respect for internationally recognized standards. Its chair is William Carmichael; its vice chair is Alice Brown. The executive director is Abdullahi An-Na'im; Janet Fleischman and Karen Sorensen are Research Associates; Alex Vines and Abdelsalam Hassan are consultants; Bronwen Manby is Orville Schell Fellow; Kim Mazyck and Urmi Shah are Associates.*

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