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Independent Board of Inquiry

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REPORT OF THE INDEPENDENT BOARD OF INQUIRY FOR THE PERIOD SEPTEMBER 1992.

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I. INTRODUCTION

It is just over a year since the National Peace Accord (NPA) was signed. The NPA was meant to curtail politically inspired violence, yet over 3 000 people have lost their lives in the first nine months of this year, nearly a 1 000 deaths up on the 2 365 politically motivated deaths recorded in 1990.

Although the NPA has made some progress, namely the setting up of local and regional dispute resolution committees which have had their successes in the prevention, containing and the uncovering of violence in South Africa (SA). The failures of the NPA, seem to far outweigh the successes. Failures include:

* The promised South African Defence Force (SADF) code of conduct originally scheduled to be included in the version of the NPA signed by political parties on September 14 last year, has yet to be finalised.

* The appointment of special Justices of the Peace, who would investigate and mediate violence has not materialised,

* The setting up of special criminal courts which would dispense instant justice in relation to acts of violence has yet to be instituted,

* The government, has failed on a number of occasions to implement recommendations made by the Goldstone Commission

* The war-talk which all parties indulge in, despite written undertakings to work towards the promotion of peace.

The violence which has already cost 3 000 lives this year, shows no sign of abating, the massacre of 28 unarmed marchers in Ciskei, is a case in point. The "Board" has produced a special report on this incident. The massacre in Ciskei was the subject of two Commissions of Inquiry this month.

The 36-page report by Justice Goldstone lambasted the Ciskei troop for firing indiscriminately for a prolonged time on the unarmed crowd and recommended that Ciskei's Attorney-General investigate charges against "any person responsible for death and injury". It found the actions of Ronnie Kasrils and

others who led the marchers through the gap in the stadium fence towards Bisho in violation of the court order were the immediate cause of the shooting. It recommended that the ANC publicly censure Kasrils and others who had led the marchers into the danger of death and injury.

The report stressed that the criticisms which could be made against the organisers of the demonstration and the decision to lead the protesters through the fence could not in any way be used to justify or excuse the conduct of the Ciskei Defence Force (CDF) soldiers.

Ciskei's inquiry into the shootings by Chief Justice Pickard reported that "a large amount of the blame for what occurred on this fateful day should be laid at the door of the leadership of the African National Congress (ANC)".

Unlike Goldstone, the Pickard report said that some Ciskei soldiers might have been justified in firing at the demonstrators. He said those Ciskei soldiers in the path of the group of demonstrators led by Ronnie Kasrils "may against the background of the whole situation, well have been justified in firing some shots from that position.

"However, the conclusion is inescapable that the shooting on the southern and eastern sides of the stadium (furthest away from the breakaway group of demonstrators) should never have occurred and that matters got entirely out of hand and that soldiers over-reacted considerably."

Violence has also flared in Natal and the far East Rand township of Ratanda. September, has also seen the arrival of several United Nations (UN) monitors. Their presence in the strife torn townships is yet to be felt. Despite their intervention in Ratanda, Heidelberg, following an attack on a bus ferrying factory workers, violence in the area continues, with residents taking to the streets.

II. STATE INSTITUTIONS

i. South African Police (SAP)

The government confirmed this month that it was "dismissing" 13 of its generals, but failed to get rid of key officers with the most notorious reputations (Weekly Mail 04/09/92). It first appeared that the purge was a direct

response by President De Klerk to a confidential report on the force drawn up for his government by the British academic, Dr. Peter Waddington. However, most of the SAP generals who have left the force were up for retirement anyway. This was confirmed by the SAP public relations commanding officer, Major-General Leon Mellet who said any reference to the generals' "sacking" were totally incorrect.

In a four-page document, Dr. Waddington recommended a phased purge of the more incompetent and controversial staff officers, suggesting they should be dismissed as part of the negotiations process "like redundant ballistic missiles".

The violence engulfing the country has also led to an unprecedented number of policemen being killed. So far this year 161 policemen have lost their lives. The number of policemen killed this year is already 16 more than last year, which saw 145 policemen die violently. The last three months according to the SAP have been particularly shocking with 21 killed in June, 28 killed in July and 24 killed in August. The number of policemen killed each year has been steadily rising since 1990, when 107 policemen lost their lives.

ii. Carletonville

The 13 policemen suspended from duty in July/August last year following an internal investigation by members of a special police investigation unit under the then head Major General Ronnie van der Westhuizen are back on duty, despite the fact that several cases of assault are still pending against them.

Constables James Moremi and "Fente" Rampete were found by an inquest magistrate in Carletonville to be criminally responsible for the fatal shooting of Richard "Pictureman" Dodo. The docket has gone to the Attorney-General for decision. Constable Rampete is currently facing murder charges in the Potchefstroom Supreme Court following the fatal shooting of Ikageng teenager Bonki Nyokong. Rampete is also under investigation in five assault cases. Despite this, he is still on active duty.

An inquest is currently being heard in the Oberholzer Magistrate's court into the death in detention of Eugene Mbulawa in July 1990. Mbulawa (15) died after a fatal blow to the head. Four key witnesses, detained with Mbulawa are dead. All four were allegedly shot by members of the SAP. They are: Themba Golotile, Michael Dlamini, Richard "Pictureman" Dodo and William Makajae. A fifth witness, Lord Page is missing. His mother told the inquest magistrate that she had not seen or heard from her son since late July 1990.

Other witnesses detained at the same time as Mbulawa claim they heard him screaming but could not say what caused the screams. The inquest was postponed to 28 October 1992.

Residents in Khutsong continue to complain of alleged assaults by members of the SAP in the area and several charges have been laid at Khutsong police station.

III. THE GOLDSTONE COMMISSION

i. General

Nearly a year has passed since the Goldstone Commission concerning the Prevention of Public Violence and Intimidation was set up. So far, four inquiries have been completed: namely the inquiry into the violence in Thokoza on the East Rand chaired by Mr. Solly Sithole - the report is expected soon; the role of the Vaal Triangle safe houses in violence chaired by Advocate Rob Wise - the final report is being drawn up; the role of mass action in violence chaired by Justice Goldstone assisted by a panel of nine international experts - this report has been finalised and the results published; the fourth completed inquiry is the fatal shooting of 12 Inkatha Freedom Party (IFP) members in Bomela - this report is currently being drawn up. Current inquiries include: -

- * Mooi River violence - chaired by Professor Van Zyl,
- * Hostels - chaired by Mr. Bob Nugent,
- * Role of the SADF trained KwaZulu men in the violence - chaired By Mr. Justice Goldstone,
- * Train violence - chaired by Gert Steyn,
- * Boipatong massacre - chaired by Mr. Justice Goldstone and
- * Western Cape taxi "wars" - chaired by Mr. Niël Rossouw.

ii. The Goldstone Investigation Units

Judge Goldstone announced this month, the establishment of five investigation units to monitor and investigate violence country-wide. The five units comprise of 26 members in total. Nine attorneys, two advocates, 12 policemen and 3 SADF members. Among the policemen appointed is Major Frank Dutton whose startling revelations in the Trust Feeds massacre catapulted him into the public eye as a policeman of

integrity, he is joined by Detective Sergeant Z Sibisi who he worked with on the Trust Feeds investigation.

These units will not conduct investigation without the prior approval of a member of the Commission and reports of all investigations will be submitted to the Commission. The units are also not allowed to make public statements.

IV. NATAL

A new and ominous pattern is emerging in Natal's killing fields. Men masquerading as soldiers or policemen are killing people with ruthless efficiency. The latest victims, eight IFP members were shot and burnt to death when a bakkie in which they were travelling was ambushed by unknown gunmen near Umgababa on the South Coast. The attackers, according to the survivors, wore SADF uniforms.

The Umgababa ambush came barely a week after 12 people, were murdered at Ensangweni near Port Shepstone. They were all IFP members, 10 of whom were waiting for transport to a meeting.

Again the killers reportedly wore SADF uniforms. The latter has been investigated by the Goldstone Commission and a report is expected soon. In a sinister turn, a member of the SADF's predominantly Zulu speaking 121 Battalion has been arrested in connection with the murder of IFP leader Fana Nzimande, his wife and four children in August.

The Nzimande family was reportedly lined up against a wall and gunned down by men wearing what appeared to be brown SADF uniforms at a kraal near Richmond. An SADF spokesman confirmed that rifleman Khubane of 121 Battalion which is stationed at Matubutuba had been arrested.

Violence in Natal has hit new heights with 195 people dead in August, the highest monthly death toll in the province since 1990. Port Shepstone and the northern Natal areas are worst hit.

ii. Assassinations:

Key leaders in both the IFP and the ANC have been assassinated over the past two months and there seems to be no respite in sight.

Seven of the victims who were seated at the back of the bakkie died after the bakkie was set alight. The attackers struck at about 07h15 and fired at least 50 rounds of AK-47 rifle and 9mm pistol bullets. It appeared that those at the back of the bakkie were shot dead before being set alight.

Five people were wounded but survived the attack. Only the driver escaped relatively unscathed. A heavy army presence has been brought into the area. The ANC/IFP conflict in the Umgababa area has been relatively low key recently although it was a flash point of violence last year. A peace meeting between the IFP's Frank Mdlalose and the ANC's Jacob Zuma at the time defused the conflict with only sporadic clashes reported since then.

iv. Mooi River

A former Mooi River police station commander, Lieutenant George Nichas pleaded not guilty to two charges of murder when he appeared in the Pietermaritzburg Supreme Court earlier this month. In his plea he did not deny that he was present when Jotham Mchunu and Sibusiso Madela were killed in Bruntville in 1990 but indicated that if the court found

him responsible for the deaths, he would plead that he was indemnified in terms of the State of Emergency provisions because he acted in good faith as a police officer. Alternatively, he would plead he acted in self-defence in order to protect the lives of other police officers, to protect property and in order to protect law and order.

Lieutenant Nichas is also charged with the attempted murder of Lucky Madlala, Mabutho Laca and other people unknown to the State as well as charges under the Arms and Ammunition Act for illegally firing a firearm and handling a shotgun under the influence of alcohol. The charges arise from an incident when Lt. Nichas and other police officers went to Bruntville in April 1990 in a casspir after receiving a report of unrest. They saw a group of toyi-toying protesters and Lt. Nichas shot at Mchunu with a shotgun. After the shooting Nichas instructed the driver to continue and left Mchunu lying in the street. It is also alleged that Lt. Nichas and others went to Bruntville after hearing that a group of toyi-toying people had blockaded a road. After dispersing the crowd by shooting at them with a 9mm pistol, Lt. Nichas allegedly shot and killed Madela who was walking past.

The trial is continuing, thus far the court has heard from Mooi River Warrant Officer Arthur Joseph that Lt. Nicholas had slurred his words on the evening of the shooting.

V. TRAIN VIOLENCE.

Despite stepped-up security measures on trains, attacks continue. Police believe the attackers are well informed criminals who make a careful study of the patrol and search patterns of the security forces.

Meanwhile, as attempts to stem the killings go on, the sealing of coaches is emerging as one of the major contributing factors to the death toll, as trapped commuters have only windows as escape routes.

It would seem that train attackers have found a new way to get around the prohibition against the carrying of dangerous weapons by sharpening the steel ends of their umbrellas. Police claim that officers on duty at Braamfontein realised that the end points of umbrellas appeared sharpened. They did not intervene, however because umbrellas are legal things to carry. Colonel Tienie Halgryn of the Soweto SAP said that

between Braamfontein and New Canada the group with umbrellas started attacking people on the train. When the police intercepted the train at New Canada the attackers jumped off the train and boarded another one which was going in the opposite direction. Between Mlamlankunzi and Orlando stations they attacked again. This time they killed an unidentified man and injured seven others.

On a more positive note, the police, the ANC, Cosatu, Cast, SACP and the SA Rail and Commuter Corporation representatives agreed to meet in early October to plan a strategy to end train violence. Cosatu spokesperson Amos Masondo said ANC-aligned organisations believed police were not dealing with the problems adequately. He said the number of police deployed on trains and at stations had tripled to 1 201 since May, but only five people have been arrested for violence against commuters.

VI. REEF VIOLENCE.

Violence continues to govern the lives of people living in the Reef townships. Recent flashpoints, include the Heidelberg township Ratanda and tensions are again simmering in other East Rand townships namely, Thokoza and Vosloorus. ANC deputy-general secretary Bavumile Vilakazi was seriously injured when he was attacked in Zone 7, Sebokeng. The Vaal township is fast becoming a no-go area.

Sporadic outbreaks of violence between inmates of the Madala Hostel in Alexandra and residents continue. At least 10 people have lost their lives in Alexandra this month. Much of the violence in the Reef townships has been overshadowed by the Bisho massacre. However, what many analysts have termed a low intensity war continues.

i. Ratanda

One man was killed and 33 people injured, two seriously in a grenade attack on a bus carrying Ratanda residents to Heidelberg on Wednesday September 30. The latest attack comes in the wake of a similar attack on Thursday September 23 where victims claim they were about 2 kilometres from Ratanda

when a man at the roadside threw a grenade at them and one of his two companions then fired shots at the moving bus.

The above is the latest of a long string of attacks on the Ratanda community. Prior to late July 1992, Ratanda seems to have been a relatively 'peaceful' community. That is to say, a community not torn apart by internal conflicts and disputes.

On July 22 1992, a strike by members of the Food and Allied Workers Union (FAWU) began at Escort Meat processing factory and at the R and R Tobacco Manufactures.

The United Workers Union of South Africa (UWUSA), an IFP supporting union also organising in these factories, took a decision not to participate in the strike. It would appear that UWUSA provided these factories with scab labour and it is alleged that the scab labour was recruited from Thokoza Hostel number 1. These hostel inmates are suspected to be the same people involved in attacks against residents living near the hostel in Thokoza.

UWUSA apparently began housing the scab labourers in the hostel. On the July 24, FAWU residents in the hostel were told to leave as they were no longer welcome in the hostel and were told that should they return they would be killed. Property of some FAWU residents was destroyed. Following UWUSA's successful take-over of the hostel, IFP and UWUSA members began to exercise their control over an area adjacent to the hostel. This area is an informal settlement called 'Mandela Squatter Camp'.

These efforts to gain control have included murder, assault, abduction, intimidation, damage to property and extortion of money. Towards the end July, three people living in the Mandela Squatter Camp were allegedly killed by hostel residents.

In early August, a funeral was held for the three people. Mourners attending the funeral came under attack from hostel residents. Four people died in this attack. According to residents this attack took place in sight of a combined SADF, SAP patrol. During the month of August tensions in the area surrounding the hostels began to rise. Hostel occupants began extorting money from Mandela Squatter Camp residents to pay

for the burial of an IFP member who had been killed in a landmine explosion.

Attempts by the community to get protection from the local SAP have failed. In the last week of September, United Nations observers intervened in attempt to solve the conflict after the members of the SAP allegedly used tear-gas and rubber bullet on protesters gathered in the streets to demand the removal of hostel inmates involved in violence. Tensions in the community are at boiling point and much of the anger is aimed at members of the SAP who residents claim are siding with the IFP in this conflict.

ii. Vaal

Sebokeng:

Bavumile Vilakazi a well known ANC PWV regional executive member was gunned down in Zone 7 Sebokeng on Thursday September 17. His car was also burnt. Rumours abound as to the reasons behind the attack. It is alleged that Vilakazi was mistaken for a member the SAP. However, many local residents have expressed scepticism. Vilakazi is a well

known activist in Sebokeng and it is highly unlikely that he would be mistaken for a policeman.

He is currently undergoing treatment in a Johannesburg clinic. A few weeks prior to his shooting he was followed by strange people. He provided the "Board" with the registration number of the car he suspected was following him. However, the plate proved to be false.

Boipatong

Seventy KwaMadala Hostel residents appeared in the Vanderbiljpark Magistrate's Court in late September in connection with the Boipatong massacre on June 17, 1992 which left 42 people dead. The men were not asked to plead. Defense counsel AS Burger twice applied for bail for the accused but was turned down following argument from the State that it would be unwise to grant the suspects bail because the accused would be unsafe given the tensions between the IFP and the ANC. Another reason advanced by the State was that the accused might skip bail as most of them have given Kwa-Zulu addresses. Burger argued that the world would laugh at the country's legal system for allowing the release of

convicted political prisoners, while refusing bail for the accused who had not been convicted or charged with the Boipatong massacre. The case was postponed to October 26 1992.

In a related matter police say they have launched a nationwide manhunt for seventeen men wanted in connection with the Boipatong massacre. The seventeen 'vanished' from the hostel shortly after they were questioned by the police about the massacre. The suspects were amongst the group of seventy-five men who were held and later released during the raid at the hostel. Photographs of the suspects were taken by the police before they were released pending further investigations. These suspects allegedly gave wrong names and addresses during their interrogation.

The attempt to close KwaMadala hostel by Monday September 21 has failed to materialise. Despite an agreement being reached between National Union of Metal Workers of South Africa (NUMSA) and ISCOR on July 14 1992. The failure of the closure stems from the fact that NUMSA is still talking to its members at KwaMasiza in order to facilitate the move.

iii. Swanieville

September, has also seen the start in the Supreme Court of the trial of eight men on 28 counts of murder following the Swanieville camp massacre on May 12 1991. Charges against one of the accused were withdrawn because a witness in the case against him has disappeared. The trial is expected to be a lengthy one as the state intends calling 235 witnesses. (For information on actual attack see May 1991 report.)

Defence counsel in the case told the court that he would lead evidence to show that the police had taken part in the attack and then blamed nearby hostel dwellers. Mr. AS Burger told Justice C Botha and two assessors that he had a witness who would say about 80-100 people, including the police, had taken part in the attack and not 800-1000 hostel dwellers as police had testified before the court.

The Case continues.

iv. Alexandra

The Goldstone Commission is currently holding an inquiry into the taxi "wars" in Alexandra following a request from the township's peace committee.

The inquiry will focus on establishing the nature and cause of the violence and intimidation, whether it aims at the achievement of any political goal, what persons are involved and what steps should be taken to curb or prevent it.

Leaders of the two warring Alexandra taxi associations appearing before the committee differed in their submissions on alleged police involvement in fuelling the feud.

The hearing continues.

v. East Rand

Gunmen shot and killed six passengers, including a six-month-old baby, on Monday September 21 near Springs. It is believed the attack was related to a taxi feud between the Springs Taxi Association and the Spring Long Distance Taxi Association. It is alleged that the dead and injured people

were travelling in a Springs Taxi Association minibus and persons travelling in a rival taxi opened fire with AK-47 rifles.

VII. CONCLUSION

On a more positive note, we hope that the latest initiative to get all the signatories of the NPA together in October to re-dedicate themselves to the aims and principles of the accord will prove successful.

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