

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

THIRD INTERIM REPORT

GOLDSTONE REPORT; GK - 16

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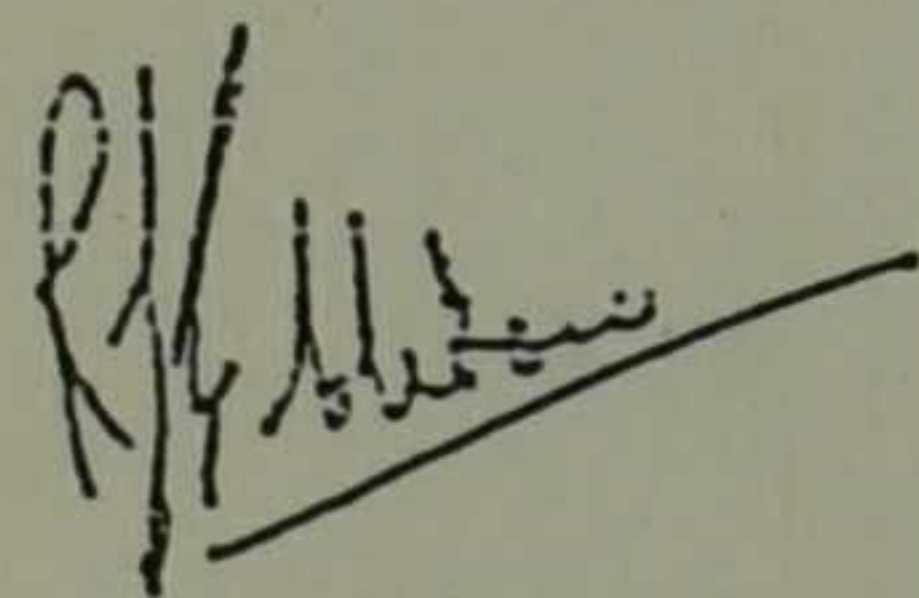
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GK-16

The State President

1. INTRODUCTION

THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC
VIOLENCE AND INTIMIDATION HAS THE HONOUR TO PRESENT THE THIRD
INTERIM REPORT



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CHAIRMAN OF THE COMMISSION

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THIRD INTERIM REPORT

1. INTRODUCTION

1.1 Since the Commission's Second Interim Report dated 29 April 1992 the following committee reports have been submitted to the State President and published:

1.1.1 Interim report on the conduct of members of 32 Battalion at Phola Park on 8 April 1992, dated 10 June 1992.

1.1.2 Interim report on the violence in the taxi industry in the Western Cape, dated 10 June 1992.

1.1.3 Second interim report on the violence in the taxi industry in the Midrand area, especially in Ivory Park, dated 2 July 1992.

1.1.4 Interim report of the committee appointed to inquire into train violence, dated 6 July 1992.

1.1.5 Interim report on the violence in hostels, dated 21 September 1992.

1.1.6 Report on the Bisho incident on 7 September 1992, dated 29 September 1992.

1.1.7 Report on the planning or instigation of acts of violence by members of the South African Police in the Vaal area, dated 27 October 1992.

1.1.8 Report on the inquiry conducted by the committee of inquiry into the violence at Thokoza, dated 17 November 1992.

1.1.9 Third interim report on the violence in the taxi and minibus industry in the township of Alexandra and the minibus routes leading from Alexandra, dated 4 December 1992.

1.1.10 Report on an investigation by the Commission's Natal Investigation Team into allegations of the presence of Renamo soldiers in KwaZulu:

1.2 The role which unlawful activities and malpractices by members of the South African Defence Force has played in relation to recent and current violence and intimidation still remains to be determined and it would be premature and inappropriate to comment thereon at this time.

1.3 Whatever that role, it remains clear that a primary trigger

of current violence and intimidation remains the rivalry between, and the fight for territory and the control thereof by, the Inkatha Freedom Party and the African National Congress.

1.4 As previously reported, other contributory causes continue to be:

1.4.1 Socio-economic factors.

1.4.2 Suspicion and negative perceptions of the security forces by large numbers of South Africans, both Black and White.

1.5 A further cause of the violence is the availability of sophisticated weapons and explosive devices.

1.6 The issues raised in paragraphs 1.3, 1.4 and 1.5 will be considered in greater detail below.

2. POLITICAL RIVALRY BETWEEN THE ANC AND THE IFP

2.1 In the Commission's Second Interim Report it was stated that:

"Both organizations have been over-hasty in accusing the other of being the cause of such conduct. Each has been tardy, especially at the level of top leadership, in taki

adequate and effective steps to stop the violence by imposing discipline and accountability among its membership."

Unfortunately, the Commission can report no improvement in this field. Indeed, in Natal/KwaZulu the position has, if anything, deteriorated.

2.2 The Commission has recently held a preliminary hearing on the violence that is at present racking Natal/KwaZulu. The results of that hearing are referred to below. However, the Commission would refer at this point to the evidence it heard from Mrs Priscilla McKay, on behalf of Pinetown Child Welfare. The Commission was impressed by her plea for education of the youth of South Africa on the question of political tolerance. This may well be the time for the mass of peace-loving and peace-yearning South Africans to come together and to demand "leadership for peace". National organisations such as Child Welfare might consider embarking upon a mass education drive for tolerance and actively engage the political leaders of South Africa, at all levels, in such a programme. The political organisations have failed to do so successfully and the thrust could well now come from non-political bodies. It would be difficult for the political leaders to ignore such an initiative. Public funding therefor should be sought and so too, the support of the international community.

3. SOCIO-ECONOMIC FACTORS

3.1 These lie outside the terms of reference of the Commission

However, it is obvious that the longer a political settlement in South Africa is delayed, the worse our economy will become and these major causes of violence will escalate.

4. WEAPONS AND EXPLOSIVE DEVICES

4.1 On 10 and 11 December 1992 the Commission held a preliminary inquiry into the illegal importation into and the possession, distribution and use of weapons and explosive devices in the Republic. The parties that were represented and that made submissions were the SADF, the SAP, the ANC, the KwaZulu Government and the IFP. With the support of all of these organisations the Commission, has, with the approval of the Minister of Justice, established a committee, to inquire into ways and means of curbing those activities that are aggravating the violence in South Africa.

4.2 It is expected that the committee will be able to report back to the Commission in the near future, even if only in an interim report.

5. VIOLENCE IN NATAL/KWAZULU

5.1 In the light of the continuing high level of violence in Natal/KwaZulu the Commission held a preliminary hearing in Durban from 30 November 1992 to 4 December 1992 and on 14 December 1992

5.2 The following parties presented submissions to the Commission:

- 5.2.1 Practical Ministries
- 5.2.2 National Party
- 5.2.3 Independent Law Enforcement Facilitation Office
- 5.2.4 Mr G McKintosh
- 5.2.5 South African Foundation for Conciliation
- 5.2.6 Port Shepstone Local Dispute Resolution Committee
- 5.2.7 The Rev John Aitchison
- 5.2.8 Mrs M de Haas
- 5.2.9 National Co-ordinating Committee for Repatriation
of South African Exiles
- 5.2.10 KwaZulu Government
- 5.2.11 Legal Resources Centre [Durban]
- 5.2.12 South African Defence Force
- 5.2.13 South African Democratic Teachers Union
- 5.2.14 South African Police
- 5.2.15 Democratic Party
- 5.2.16 Association for Rural Advancement
- 5.2.17 African National Congress
- 5.2.18 Mrs McKay [Child Welfare Society]
- 5.2.19 Inkatha Freedom Party
- 5.2.20 Mr Conroy
- 5.2.21 KwaZulu Police
- 5.2.22 Cosatu

5.3 The submissions related to the causes of the violence in Natal/KwaZulu and ways and means of curbing it.

5.4 Representations by the National Co-ordinating Committee for the Return of South African Exiles alleged harassment of returned political exiles by members of the South African Police and the KwaZulu Police. The Commission's Natal Investigation Team has been requested to inquire into the allegations.

5.5 A number of parties requested the Commission to inquire into the many incidents of violence that have taken place. To accede to all these requests would be practically impossible and would not add significantly to the Commission's understanding of the causes of public violence and intimidation in the areas in question. It is not the Commission's function to investigate incidents of public violence where the cause thereof is known. That is the function of the police. However, the Commission has established a committee, with the necessary concurrence of the Minister of Justice, in order to ascertain whether there are any incidents of violence other than political rivalry between the IFP and ANC. The committee will hear evidence and submissions in preliminary inquiries to be held at Port Shepstone, Empangeni, the Nqutu area and any other place in Natal/KwaZulu that it may determine. The members of the committee are Mr M Wallis, SC, of the Durban Bar, who will be the chairman, Mr A Geyser, a Pietermaritzburg attorney, and Mr R Zondo, a Durban attorney. The Committee will hold its first public hearing on 11 January 1993. The venue will be announced shortly. Any party wishing to make submissions is

requested to give written details to the Secretary of the Commission at Private Bag X858, Pretoria, 0001, on or before 5 January 1993.

5.6 Having given due consideration to the submissions made to it in Durban, the Commission is of the firm view that if the violence in Natal/KwaZulu is to be curbed it is necessary that there be agreement by the parties concerned on the following issues:

5.6.1 Free political activity in all areas

5.6.1.1 Complaints were made by both the ANC and the IFP that there were "no-go" areas in which the one party or the other was unable to carry on political activity. If elections or referenda are to be held in South Africa, or as suggested by the IFP in Natal/KwaZulu, it is obviously a precondition that the parties contesting such an election or participating in such a referendum must be free to carry on political activity. Such activity must include the holding of meetings and peaceful demonstrations. A public commitment by the KwaZulu Government, the KwaZulu Police, the IFP and the ANC to allow such free political activity is therefore essential.

5.6.1.2 In order to carry on such political activity it further necessary for proper notice, where appro

priate, to be given to existing authorities. If any group is free to conduct public meetings or other activities without such notice, chaos and probably further violence would be the consequence. it is necessary therefore, particularly in KwaZulu, that agreement be reached even if only on an interim basis, for adequate notice to be given in good time of all public political activity. Such notice could be given to the local magistrate, who would consult with the local authority concerned and, where appropriate, tribal authority. The terms of the notice should be detailed and should be given in good time.

5.6.2 The role of tribal chiefs (amakhosi)

There should be an undertaking by all parties to give due recognition to the role of tribal chiefs (amakhosi) and to pay due respect to them. Their role should be defined and made a matter of public record.

5.6.3 The investigation by the Police of political deaths and injuries

5.6.3.1 Both the ANC and the IFP complained about the inability of or failure by the SAP and the KZP to apprehend and successfully charge the perpetrators

of serious political crimes. On the other hand the SAP and the KZP complained about the lack of community co-operation when they seek to investigate such crimes.

5.6.3.2 In this area the Commission believes that international police observers could be of substantial assistance to both the SAP and the KZP. Their presence, and involvement for example in selected police stations, would go a long way towards lessening the fears of many that they would not receive fair and serious attention and adequate response to complaints.

5.6.3.3 Without the full co-operation of the communities in which they operate the police cannot be expected to perform adequately or successfully.

5.6.3.4 In this area, too, an adequate, well-known and trusted witness protection programme would encourage witnesses to report information to the police.

5.6.3.5 Many parties expressed their concern at the frequency and ease with which bail is granted to persons arrested on charges relating to serious cases of public violence and intimidation. This phenomenon heightens fears of further violence and acts as a form of intimidation that prevents wit

nesses from furnishing information to the police. This, in turn, reflects badly upon the ability of the police to successfully bring to justice the perpetrators of such violence. More attention should be given by the appropriate authorities to the effect of the release of such persons in already traumatised and fear-ridden communities.

5.6.4 The withdrawal of G3 rifles

5.6.4.1 The Commission was informed by the KZP that many months ago it was decided that the G3 rifles that had been issued to tribal authorities in KwaZulu would be withdrawn. This question has become a matter of intense debate and objection by the ANC. According to the KZP evidence, the delay in completing the withdrawal of these firearms is due to the slow delivery of substitute, less lethal weapons.

5.6.4.2 The Commission recommends that this matter, on which there is no longer a difference of opinion, should be expedited, if necessary with the assistance of the Government.

5.6.5 The cessation of political attacks in breach of National Peace Accord

5.6.5.1 Leaders of both the ANC and the IFP continues to attack each other and each other's parties in terms that clearly constitute breaches of the National Peace Accord. The absence of an appropriate sanction for such breaches has often been raised. Consideration should be given to agreement on the withholding of permission to address public meetings for a given time as a legally enforceable penalty for clear breaches of this kind.

5.6.6 The cessation of attacks on all existing authorities

5.6.6.1 While the present negotiations proceed with regard to the nature of a future constitution for South Africa, all political parties should desist from making inflammatory and confrontational political attacks on authorities that are at present constituted. An agreement to do so would materially assist in defusing tensions and reducing the potential for violence in many areas of Natal/KwaZulu.

5.6.6.2 For the same reason there should be a suspension of any further transfers of land or police stations to the KwaZulu Government. To proceed at the present time would, in the opinion of the Commission, seriously aggravate the violence.

5.6.7 Affiliation to a political party and public rights or privileges

5.6.7.1 Complaints were made to the Commission that in certain areas of KwaZulu affiliation to the IFP is regarded as a precondition for public rights or privileges, such as attendance at a Government school. The Commission has not investigated these charges and passes no judgement in respect of them. However, whether justified or not, a clear statement of policy by the KwaZulu Government and the IFP on these topics would assist in putting an end to the perception if not the fact of discrimination.

5.7 The Commission believes that if agreement could be reached between the appropriate parties on these matters, tensions and the ensuing violence could be materially reduced. The Commission is aware that these matters are at present receiving the attention of the Natal Regional Dispute Resolution Committee and, if called upon to do so, the Commission would be happy to assist or co-operate in any way that is considered appropriate. In particular it would give sympathetic consideration to holding an appropriate inquiry into any of these matters.

6. THE MINIBUS INDUSTRY

6.1 Since the last interim report of 29 April 1992 committees

have inquired into the causes of violence in the minibus industry at Midrand and Alexandra, and interim reports have been issued. The inquiry in Cape Town has not yet been completed. Preliminary investigations were instituted at Pietersburg and Groblersdal, and these are to be continued.

6.2 At all these centres immense tension spilling over into violence was encountered by the committees as a result of intense commercial competition in an overcrowded market. Taxi operators in general lack business skills and training. This in turn results in an inability on their part to understand and cope with the economic forces so generated. To leave the situation to be controlled by market forces alone will only serve to aggravate it. Evidence adduced repeatedly indicated a need for certainty that cannot be provided except by the regulation of the industry. The Commission and the committee therefore welcome the initiative of the Peace Secretariat in calling a conference on the taxi industry.

6.3 There are also other factors (which need not be detailed here) which contribute to violence and uncertainty and which lead people to take the law into their own hands. This spreading lawlessness is cause for grave concern. Law enforcement agencies such as traffic police, road transportation inspectors and the South African Police, need to plan procedures for joint effective law enforcement to counter this trend.

7. THE BOIPATONG INQUIRY

This inquiry has been completed save for the question of the tapes recorded in the Vereeniging Command office of the Internal Stability Unit. Since the unsatisfactory conclusion of the investigation by experts of the British Government, both the SAP and the ANC have requested reports from other experts. These will take some months to be completed and, in the interim, it is not possible to bring out any report on the causes of the massacre.

8. FENCING OF HOSTELS

8.1 Since the Record of Understanding concluded between the Government and the ANC, the Commission has, as provided for that agreement, received regular reports from the Departments of Housing and of Law and Order with regard for the current situation at certain hostels.

8.2 Pending the result of further negotiations between the parties concerned the Commission's committee on hostels has suspended its investigations.

8.3 The Commission has requested the Human Sciences Research Council to conduct an in-depth survey with regard to hostels. The Department of Housing has agreed to pay for the research and the results are expected to be available in the second half of January 1993.

9. DANGEROUS WEAPONS

9.1 Following upon the above-mentioned Record of Understanding the Commission was consulted by the Deputy Minister of Law and Order on the terms of a prohibition on the carrying and display of all dangerous weapons on public occasions. These consultations were held at the end of September and beginning of October 1992. Since then the Commission has not received any further communication in this matter.

9.2 The Commission again expresses its concern that the flouting of the law with regard to the carrying and displaying of dangerous weapons by the IFP and its top leadership in Johannesburg and Durban some months ago has met with no action from the authorities concerned.

10. CONCLUSION

10.1 The Commission is of the view that little significant advantage is to be gained by it multiplying its inquiries into specific incidents of violence. The time has come for broader inquiries such as those in relation to -

10.1.1 the unlawful importation, distribution, possession and use of firearms and explosive devices;

10.1.2 the alleged activities of the security forces,

private armies and security firms in relation to public violence and intimidation;

10.1.3 the taxi industry in relation to public violence and intimidation; and

10.1.4 the continuing train violence.

10.2 The Commission would like to stress, however, that all its efforts will come to nought if all the appropriate political players in South Africa do not themselves practice, exhibit and encourage in their supporters a culture of true tolerance and respect for opposing parties and policies.

10.3 The Commission would like to thank the many organisations and persons, both inside and outside South Africa, for the willing assistance they have given to the Commission. In this regard it would be inappropriate to single out any particular body or person. However, the Commission's needs with regard to staff, material and facilities are met by the Government. No important request in that regard from the Commission has been refused. For that the Commission would like to express publicly its appreciation to the Minister of Justice, Mr H J Coetsee, and to the appropriate members of his Department.