

THE BLACK SASH



NATAL COASTAL REGION

REPRESSION MONITORING GROUP

FINAL REPORT

MARCH 1992

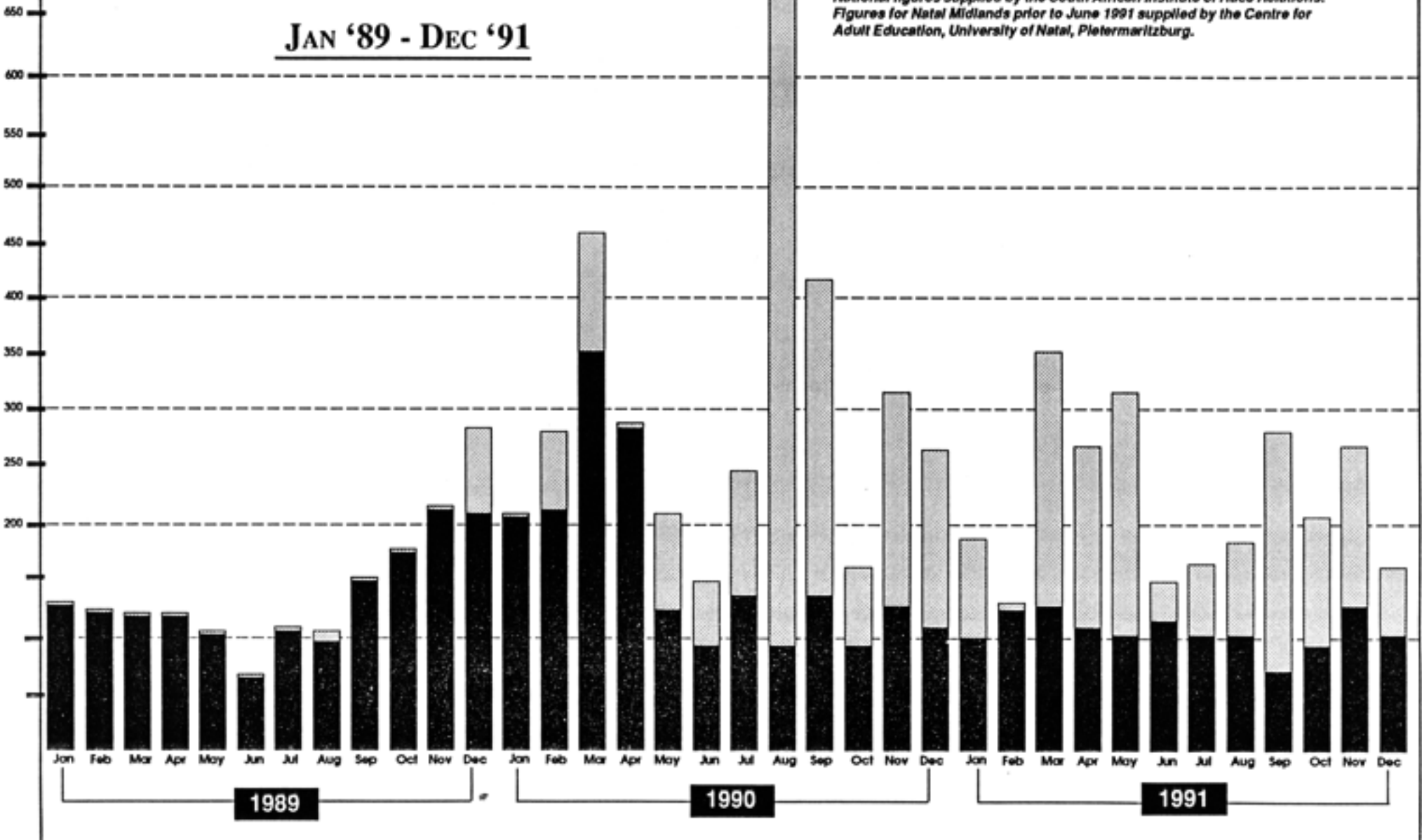
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DEATHS DUE TO POLITICAL VIOLENCE

JAN '89 - DEC '91

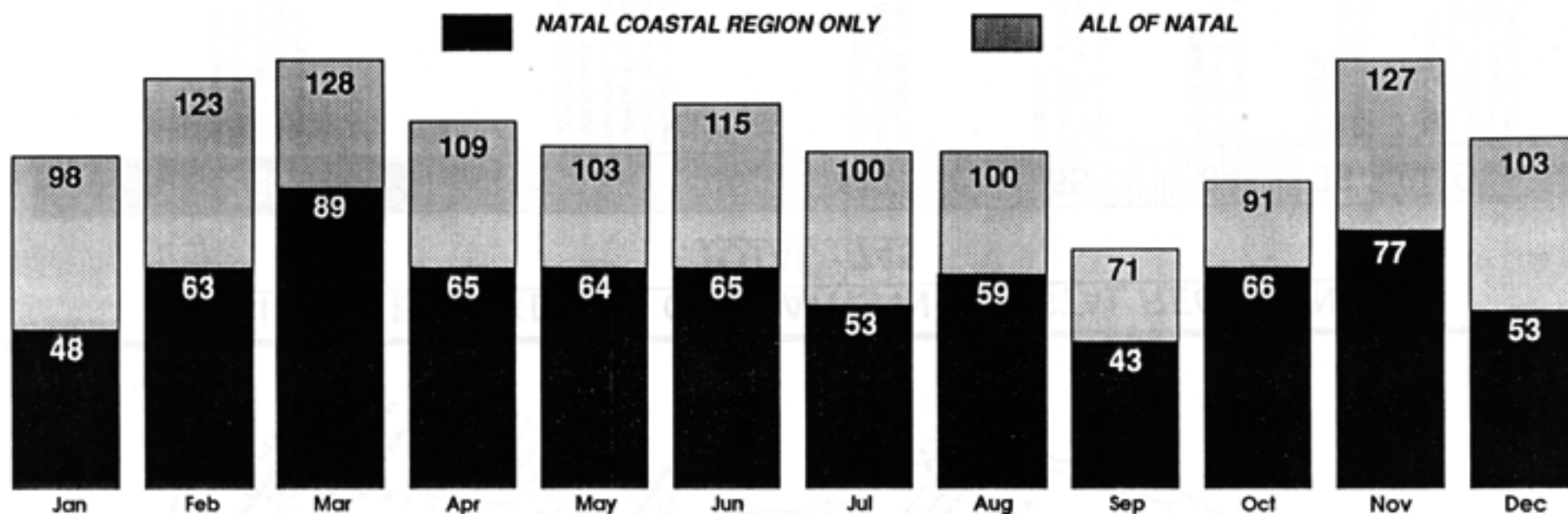
NATAL ONLY
 SOUTH AFRICA AND HOMELANDS

*National figures supplied by the South African Institute of Race Relations.
 Figures for Natal Midlands prior to June 1991 supplied by the Centre for
 Adult Education, University of Natal, Pietermaritzburg.*



DEATHS : JANUARY - DECEMBER 1991

TOTAL : 1256



OVERVIEW

Since 1986 an estimated 11 000 people have died in political violence throughout South Africa. Nearly 5000 people have been killed in Natal alone in the last three years.

The adjacent graph shows a peak in Natal and national death tolls in 1990. These dropped about 30% in 1991. In both years, deaths in Natal constituted about half of all deaths recorded nationally.

These are shocking figures.

Yet they alone are a gross underestimation of the devastation. They tell nothing of the thousands of people whose homes and possessions have been deliberately burnt down. They do not speak of breadwinners who, if not killed, have been permanently injured. Others have been forced to leave their jobs to protect their homes. Families dependent on food, shelter, school fees and health care have been left destitute.

The figures do not reflect the severe and irreparable schooling disruptions.

They are silent on the devastating psychological effects for the scores of witnesses to repeated brutal and horrific crimes. The war has torn families apart, as youths have left home to relieve their parents of ongoing political intimidation.

Again, it is misleading to draw conclusions solely from death tolls. Areas that appear 'calm' are often subject to severe intimidation. Other areas may appear quiet only because most people have fled their homes.

The following report attempts to make some sense of the numbers by highlighting certain pervasive elements of the ongoing war and the scattered attempts at peace. It is based primarily upon evidence reported fortnightly in the Black Sash Repression Monitoring Group Bulletins.

This is the final report published by the Black Sash Repression Monitoring Group. Further enquiries regarding political violence in the area can be directed to the Human Rights Commission.

NOTE: Figures have been adjusted and may not correspond exactly with monthly totals previously printed. Current adjustments were made due to information received subsequent to printing of the fortnightly bulletins.

REGIONAL TRENDS

I. The first six months of 1991 saw a shift in the violence from the more densely populated urban townships to the rural and semi-rural areas.

Monitors attributed this to several factors:

- 1) political territory from the urban townships and informal areas had to a large extent been won or lost by early 1991;
- 2) ANC recruitment in rural areas began more vigorously than in 1990, and was met by an IFP campaign to consolidate support through traditional authorities;
- 3) activities of some notorious gangs destabilising Durban townships - such as the 'A' team and the amaSinyora - were slightly curbed.

II. Although the unrest continued to plague rural and semi-rural areas during the second half of 1991, clashes flared up in many of the informal areas around Durban. These included Dalmeny's Farm, Malukazi, and the Uganda, Zamani and Ekuthuleni areas of Umhlati. In the Umbumbulu semi-rural reserve south of Durban, intimidation and attacks became more frequent and brutal. Most incidents were not reported and thus hidden from the public; only the recurrence of large-scale massacres brought a focus to the area towards the end of the year. There have been three common features of the recent flashpoints, particularly around the Durban area.

- 1) The first feature is the involvement of key individuals in the violence. These figures include local chiefs and indunas, local councillors, KwaZulu MPs and well-known warlords. These individuals are well-known instigators of violence, yet consistently evade arrest or prosecution. In many cases, they receive special protection by the KZP.
- 2) The role of the KZP as perpetrators of violence - either through direct action or negligent inaction - continues to be a consistent feature in affected areas. Reports of an overt bias in favour of Inkatha are consistently reported. Informal areas with ANC-aligned residents' structures have fallen under heavy attack, leading some to speculate about collusion between KwaZulu local officials, who repeatedly espoused anti-squatter policies, and KZP direct action.
- 3) In certain areas along the coastal area, the SAP Riot Unit has become increasingly reliable in providing immediate assistance to residents - particularly in KwaZulu areas. Unfortunately, this assistance does not extend to investigating cases. However, IFP supporters in

these areas have levelled many allegations of bias, illegal searches and brutal assaults against the SAP.

III. A third trend noted throughout 1991 was an increase in targeted, professionally executed attacks against key individuals in otherwise stable areas. Both ANC and IFP leaders are under attack.

- 1) IFP-supporting targets include local chiefs and indunas, local councillors, KwaZulu MPs and well-known warlords.
- 2) ANC-supporting targets included local branch officials or members of COSATU or other progressive structures.

A dramatic increase was noted in well-planned assassinations using high-powered weaponry. Allegations of the involvement of police, soldiers or armed white men were made in many cases.

Of particular concern was the seeming correlation between investigations and victims of assassination. In several cases, as investigations began to look into cases of political unrest, people with key information were executed. IV. In some areas, unrest subsided due to the arrest of police members, local officials and KwaZulu MPs who had been provocative elements in their areas.

A record number of police members are currently facing murder charges.

Out-of-court settlements against the KwaZulu police for unlawful shootings now total nearly R85 000 from incidents since 1990.

However, many well-known criminal elements continue to destabilise areas unchecked. For example, amaSinyora members, KZP constable Siphwe Mvuyane and Lindelani leader T Shabalala allegedly continue to engage in intimidation. Attempts by monitors and lawyers to ensure their arrest and prosecution have proved fruitless.

	1990	1991	Increase/decrease
Port Shepstone	157	285	+ 43%
Richmond	50	129	+ 158%
Pinetown	139	59	- 58%
KwaMashu-Inanda	249	85	- 65%

Deaths in 1991: 60% in Coastal area, 40% in Midlands. 50% of deaths in Coastal area occurred in upper and lower south coast.

THE WAR CONTINUES . . .

The most obvious statement to be made about the Natal war is that it continues unabated. The reasons are found in the legacy of apartheid, and the Natal situation must be understood in the context of South Africa's political, economic and cultural history. The following analysis highlights a number of key AGGRAVATING FACTORS that encourage the violence to escalate and continue.

The role of direct state-sponsored destabilisation - through the formation and funding of political front organisations, vigilante gangs who spark and escalate violence, and professional hit squads - has directly fuelled the ongoing violence. This has been a main focus throughout the years of Black Sash bulletins, and has recently been widely exposed in the press. Its omission in this analysis in no way discounts its role as a key perpetrator - and perpetuator - of the Natal unrest.

The refusal of the state and its allies to take measures to alleviate the violence, by addressing the problems outlined below are seen by many as a complementary strategy to its continued outright destabilisation.

The question arises: who stands to gain by a perpetuation of the status quo through the continued political unrest?

SECURITY FORCES

The lack of any trusting or cooperative relationship between the security forces and communities is grounded in the painful history of apartheid's imposition on South Africa. Because the security forces are entrusted with the task of enforcing apartheid, they have personified the apartheid enemy. Rather than being the servers and protectors of the black community, they

have been its immediate suppressors. This relationship cannot change overnight.

The continued criminal acts, politically and racially biased actions, brutal assaults and illegal searches carried out by the security forces on a weekly basis further entrench a lack of trust and confidence in the police. Illegal searches, improper identity parades and allegations of collusion with assassins further sour relations.

The lack of any cooperative or trusting relationship between the security forces and the community makes both effective policing and successful investigations impossible. Police officers are frequently under attack while carrying out investigations. Even for a well-intentioned police officer, the obstacles faced during the course of investigations are often insurmountable.

The poor working relationship breeds failed investigations, which in turn further undermines confidence in the police. When complainants and witnesses are afraid to come forward, cases are not investigated and often never even reported. Those that do may be subsequently harassed, if not killed.

Breaking out of this self-perpetuating cycle requires both skill and will. Police need more professional, politically neutral training. They need less militaristic approaches to conflict, along with better protection for themselves. Most importantly they need to change their attitudes towards policing. They need to become accessible, accountable and responsible to the community, and act in a respectful, non-racist manner.

A lack of coordination between different security forces operating in the same area also creates tensions. In some cases, there are KwaZulu police members, SAP Riot Unit patrols and an SADF camp all in one area, yet with no strategy or plan of action aimed at the best protection of the area.

This confuses residents, and damages any trust they may have developed towards one force or another. Residents are unsure whom to go to with information and whom to ask for an escort. SADF members - although not playing an investigative role - often interrogate residents. A breach of faith with one of the forces can damage relations with the others unintentionally, as the community can hold them each responsible for the actions of the others.

KWAZULU POLICE

Communities administered by KwaZulu encounter the same problems as described above, but taken to the extreme. In most areas where they operate, the community has no confidence that their role is one of professional policing or protectors and upholders of justice.

The KwaZulu police have a notorious reputation in all of the areas in which they operate for their overt criminal activities and blatant bias in favour of Inkatha.

In the most comprehensive report on the KwaZulu Police to date, the Legal Resources Centre and the Human Rights Commission termed the KwaZulu Police a 'barrier to achieving a lasting peace' in Natal.

The report documents 116 incidents of unilateral criminal action such as shooting or arson, in which 60 people died, and a further 52 incidents involving KZP collusion with vigilantes, resulting in 44 deaths. Since 1987 at least 14 interdicts have been brought against the KZP.

However, repeated campaigns to focus upon the KZP as a primary aggravating factor of the Natal violence, and to call for their incorporation into one command structure have fallen on deaf ears.

KWAZULU - NATAL JURISDICTION

During the many waves of violent clashes in Malukazi, the Isipingo SAP members have been surprisingly cooperative in picking up the pieces. In response to a series of attacks and arsons last year, the Station Commander allowed hundreds of refugees to seek shelter from the fighting on the premises of the police station - and even arranged bread and tea in the morning. Yet when requested to police the area, accompany residents to recover possessions from their burnt out homes, or arrest perpetrators of the violence identified to them by refugees, the SAP remained steadfast in their refusal. 'Sorry, that's a KwaZulu area. That's not our jurisdiction.'

The above scenario is commonplace all along the scattered boundaries between KwaZulu and Natal.

KwaZulu is not an 'independent homeland' like the TBVC states, and remains legally part of South Africa. Thus South Africa has a legal responsibility to protect its citizens who are residing in the KwaZulu bantustan. This responsibility is stated in the National States Constitution Act No 21 of 1971, read with section 3 of the Police Act 7 of 1958. The KwaZulu police are not

an independent autonomous body, as its Commissioner is appointed by the Minister of Law and Order of South Africa and its budget - like that of the rest of the KwaZulu Government - is supplied direct from Pretoria.

The policy of insisting on different policing forces in 'South Africa' and 'KwaZulu' has left KwaZulu residents open to the criminality and direct harassment of the KZP. Although the SAP Riot Unit are able to respond to calls for emergency protection and assistance, their presence is never an extended one. If they are present at the scene of the crime, they are able to arrest suspects, yet must later turn them over to the KZP to follow through the investigation.

Only upon invitation by the KZP can the SAP assist in investigations. This remains the policy regardless of the extent of alleged KZP participation in the case at hand. As monitors, Black Sash has pursued extensive channels in order to sidestep this obstacle to effective investigations. All attempts have been in vain.

The refusal of the South African government to take responsibility for the KwaZulu areas has directly led to an escalation of violence as people have taken the law into their own hands. They have lashed out at people perceived to be the main perpetrators of violence, and have violently rejected the presence of the KZP in their areas.

The horrendous behaviour of the KZP, and the refusal of the South African government to take responsibility for it, continues today. The most recent action taken by the South African government in regards to the KZP was to propose extra-territorial powers in carrying out its duties. This decision represents a clear denial to address one of the most persistent and serious perpetuating factors of violence in Natal.

THE JUSTICE SYSTEM

If the security forces lack the trust and confidence of the community, the justice system has lost it completely. The number of prosecutions related to the thousands of political murders over the years amount to an estimated less than fifty. This type of legal response is clearly no deterrent for future perpetrators.

The major problem is that the success of the courts hinges upon the success of the police. Unlike in other countries, South African state prosecutors have no independent investigatory powers. Given the lack of a trusting

and cooperative relationship between the community and the police, this investigation is often impossible.

In the event that the local police fail to locate witnesses and create a case, there are no other channels to pursue. If the police can find no suspects, the case remains 'under investigation', perhaps even for years on end. When the case is passed on to the state prosecutor or Attorney General, correspondence requesting further information can delay the case for months, if not years. This delay is taken by the community as a sign that the courts have not responded to their crisis.

Suspects out on bail that continue to intimidate a community force the community to conclude collusion between the police and suspect. If a case does get to court, more obstacles can prevent a conviction. Because many attacks occur at night, the positive identification of an attacker - often months later in the unfamiliar environment of a court room - becomes unreliable.

When people feel that justice has not been done violence often erupts. Well-known perpetrators who are not charged or not prosecuted frequently become targets for attack once they return to the community. Witnesses who testified against an accused are also at risk.

Communities have responded to the lack of judicial recourse by setting up their own "people's courts". These have been responsible and fair in some communities, while notoriously brutal, undemocratic and excessive in many other areas.

Nonetheless, 1991 saw an improvement in the number of cases brought to court - particularly involving KwaZulu authorities, police members and others who had been perpetrators of violence known to communities for many years. The conviction of KwaZulu Minister Samuel Jamile and the Trust Feeds trial are cases in point. Yet it must be noted that those successes are the result of the tireless work of just a handful of policemen.

DANGEROUS 'TRADITIONAL' WEAPONS

The issue of dangerous weapons was taken to its most absurd form in the Bruntville-Mool River area. In November and December last year, as clashes between hostel dwellers and residents became a daily occurrence, hostel dwellers walked around or waited at shops carrying spears - with the tips wrapped in plastic bags.

Why the plastic bags? Giving testimony at the Goldstone Commission, Sergeant Stuart E Jones of the Pietermaritzburg Riot Unit, who was in Bruntville at the time of the massacre of 19 people, was asked why the SAP had not confiscated spears, knobkerries, sticks and other weapons shortly after the first attack was launched by hostel dwellers on December 3. Jones responded by saying it was difficult to define what constituted a dangerous weapon.

'It depends who's going to use it and how,' he said. 'If the spear end is covered, like with a plastic bag, you can see that the person is not intent on using it.'

The carrying and use of so-called cultural or traditional weapons - often in full view of the police - has been a poignant feature of the Natal violence. This issue was taken up vigorously by the Legal Resources Centre in Natal, who arrived at the point of threatening to seek an order from the Supreme Court on behalf of affected communities which would compel the SAP and KZP to enforce the relevant laws banning weapons.

The response by the KZP was to repeal all of the laws in question in their entirety on November 20 1990. This was approved by State President De Klerk, who had himself loosened the weapons laws two months earlier by amending the Natal Code of Zulu Law.

The government response throughout last year was a series of interim measures designed to ban some weapons in government - defined 'unrest areas'. The issue finally gained legal clarification in December of last year, when the Durban Supreme Court ruled that De Klerk's amendment to the Natal Code - which allowed for the carrying of weapons for 'traditional' purposes - was 'void for vagueness'.

The Peace Accord did not address the issue adequately, nor has a recent government prohibiting the carrying of dangerous weapons to political gatherings. So-called cultural gatherings are excluded from the prohibition. As it is not specific what constitutes a cultural gathering, the same loopholes exist to allow the IFP to label meetings with de facto political objectives as cultural, due to the presence of the King or a chief.

The failure of the security forces to disarm people is seen as a sign of political bias and collusion. This is frequently the case during IFP gatherings attended by large groups - often bussed in from outside areas - armed with dangerous weapons. Although this has been a well-known precursor to violence in past years, the police have yet to adopt a preventive strategy.

THE MEDIA

The press has been consistently racist, politically biased, and unprofessional in its coverage of the violence in Natal. The commercial media still applies white values in deciding what is news, thus devaluing incidents that take place in black areas concerning black people. Violence affecting whites receives political, social, economic and emotional coverage aimed at the reader's sympathy; in contrast, violence affecting blacks is covered in a dry, official, dehumanised manner. The death of a white is followed by pictures of their loved ones in mourning; rarely is an attempt made to uncover the number of or names of surviving family of black victims.

Individual reporters and photographers can be praised for making attempts at sporadic intervals. However, they remain bound by internal constraints preventing more balanced news coverage from being printed. Most editors and sub-editors are white men, and in all the commercial papers the minority of the staff is black. Staff members who do not speak Zulu are not encouraged to learn, thus severely limiting the insight that can be gained during on-site reporting.

This media negligence and skewed news coverage misinforms readers. It leads them to believe that violence is affecting whites and police members as equally as blacks, which is not the case.

FEW REPRESENTATIVE COMMUNITY STRUCTURES

Throughout South Africa's brutal history of repression, attempts to build grassroots, democratically representative structures have been repeatedly and thoroughly crushed. A two-pronged strategy has been used.

Leaders of civic committees, youth groups, women's organisations, trade unions, legal groupings and cultural circles have been systematically silenced through outright executions or consistent harassment and intimidation.

Simultaneously, the State has imposed its own system of local authority upon communities. Despite its overwhelming rejection by communities, many local officials have been granted power and resources to use as means of maintaining their authority. These local authorities, although enjoying no legitimacy as community representatives, have often maintained their undemocratic positions through violent vigilante groups or their control over community resources.

Many initiatives to establish community-based civic structures or political groupings have been met with intimidation and outright violence. This is more extreme in KwaZulu areas, where the IFP has been able to use schools, pension payouts and other KwaZulu administered points as recruiting grounds. It appears that IFP-aligned MPs, local councillors and mayors and traditional authorities have used their state-appointed positions to stamp out political opposition.

The role of the KZP in achieving this has been highlighted. Free political expression has been more limited in KwaZulu-Natal than almost anywhere else in South Africa.

Intimidation and death threats have forced people to take part in attacks. The coercion of men and boys to attend nightly 'camps' still occurs in many areas. Others consistently pay dues to a political party simply to avoid eviction.

Resources for fostering people's political understanding are scarce. Venues are still inaccessible to the ANC in some areas of Natal due to resistance by traditional authorities. Permission for marches or protests are often denied. Where people are unable to express themselves freely and democratically, people have resorted to other - often more violent - avenues.

The widespread intimidation that pervades Natal is an unseen yet critical element of the ongoing violence. It has sown the seeds of political misunderstanding and intolerance as chances for sincere political education have been unable to occur. Even in areas where there is an apparent calm, people remain denied of their basic freedoms of choice and expression due to the intense intimidation that prevails.

THE RESPONSIBILITY OF THE STATE

None of these aggravating factors are recent developments. Countless memoranda and delegations of political leaders and human rights workers have suggested ways that the State could rectify many of these issues.

That the State has most often responded to pressure by enabling these factors to escalate demonstrates its lack of will to improve the climate of violence.

WHY NO PEACE??

Most of Natal's peace initiatives have ended up as failures. They have not brought about a decline in the number of deaths, and they have not eliminated or resolved the underlying causes of the unrest. The following is a look at some lessons that have been learned through the process of the many failed attempts, and few limited successes.

The following looks at elements of the structure, implementation and economic support of various peace initiatives.

STRUCTURE

1. PEACE COMMITTEES SHOULD ATTEMPT TO BE AS BROADLY AND SINCERELY REPRESENTATIVE OF THE COMMUNITY AS POSSIBLE.

The process of electing community representatives to serve on a peace committee is crucial for its success. Lasting decisions can only be taken by representatives who have an ongoing and accountable relationship to the constituency they represent.

- *This is especially challenging in communities whose civics have been crushed by the political unrest. It is also a factor concerning the role of traditional authorities as community representatives, as this may not always be the case.*

When more groups are involved, more channels exist to ensure that all parties abide by the agreement. Unlike in bi-lateral agreements, there is less risk of a political stalemate between the two major parties, as issues discussed will concern a larger cross-section of the community.

- *The January 29, 1991 Mandela-Buthlezi peace initiative was a failed bi-lateral agreement. No mechanisms were agreed upon to ensure that both parties abided by the agreement. No third or fourth parties were included to ensure that the talks continued and progressed. The failure to include a representative from the traditional authorities meant that many chiefs did not feel bound by the accord.*

2. THE PROCESS MUST BE INITIATED, CONVENED AND CHAIRED BY A NEUTRAL BODY ACCEPTABLE TO ALL INVOLVED. There is no formula to determine the most suitable convener for an area. Busi-

ness leaders, church ministers and local authorities all operate with greatly varying degrees of political bias throughout Natal. Although it is important that all of these actors become part of the process, they may not be trusted as a 'neutral' party. A shortage of such 'neutral' people further exacerbates the problem. Because communities in Natal have become so polarised, there is frequently no individual or organisation based in the community that has not been at least alleged to have shown bias towards one of the political parties.

3. IF AN OUTSIDE PARTY TAKES THE INITIATIVE TO CONVENE THE FIRST ROUND OF PEACE TALKS, THAT PARTY MUST ENSURE THAT IT MAINTAINS AN ONGOING PRESENCE. This was a problem in several areas in Natal prior to the September 14 Peace Accord.

One-day 'peace conferences' or poorly planned out attempts to gather all of the parties together without ensuring responsible and accountable channels for follow up can create false expectations. It is hoped that the permanent structure of the Regional Dispute Resolution Committee (RDRC) as a convening body for the establishment of LDRCs will alleviate this problem.

IMPLEMENTATION

1. PARTIES, AND THEIR CONSTITUENCIES, NEED SOME REASON TO BELIEVE THAT THE PROCESS WILL WORK. They must trust that the other parties involved have the will and capacity to implement the peace.

Confidence-building measures such as test cases need to occur early on - even prior to the initial meeting - to prove each party's commitment to peace.

- *This is especially relevant in KwaZulu areas, where ANC communities have no confidence in the KZP. Both the ANC and KZP sit on the Umlazi LDRC, while serious allegations of KZP attacks on ANC members continue. If no confidence-building measures are taken to restore minimal trust in the police - perhaps with the intervention of the SAP - the LDRC risks being ineffective.*

2. EARLY ON, PARTIES MUST AGREE ON A BALANCE BETWEEN APPORTIONING BLAME FOR PAST WRONGS AND BUILDING

MECHANISMS FOR BUILDING PEACE. Each committee will find its own balance, through consultation and negotiations. Some peace committees have insisted that a starting point be the arrest of past perpetrators or the disciplining of the security forces; others have agreed to 'let bygones be bygones' and look to the future.

- *The Lower Umfolozi Peace Accord in Northern Natal was never fully effective due to its rejection by local traditional authorities. One reason they stated for rejecting the Accord was their demand for an apology by the local ANC for having called a meeting on Shaka's Day.*

3. AGREEMENTS SHOULD NOT BE VAGUE - PARTICULARLY CONCERNING KNOWN CONTROVERSIAL ISSUES. Agreements on principle can often do more damage by serving as loopholes or leading to false expectations and a loss of trust in the peace process.

- *The carrying of dangerous weapons remains a case in point. The National Peace Accord does not deal with the issue specifically enough; the definition of a "political" versus "cultural" gathering and the definition of a "dangerous weapon" are unclear. These omissions have allowed for the use of dangerous weapons under cultural auspices to be used for killing since the signing of the Accord.*

4. REGULAR AND THOROUGH REPORTBACKS NEED TO BE MADE TO THE CONSTITUENCES OF EACH OF THE PARTIES. Steps must be taken to avoid the finalisation of an agreement that has not been discussed with the constituencies of the parties. If the implementation process is clearly explained to the constituencies, the accord has a greater chance of success.

- *The attacks in Umgababa immediately following the January 29 Peace meeting last year exemplified the importance of ensuring ongoing reportbacks.*

5. THE ACCORD SHOULD STIPULATE A SPECIFIC METHOD OF POLICE REPORTBACKS AND FOLLOW-UP PROCEDURES FOR CASES UNDER INVESTIGATION. This must then be filtered back to the community.

- *Because the 'police reporting officer' has not yet been set up although stipulated in the Peace Accord, there are no ways of ensuring police*

accountability. In areas where allegations of security force involvement in the violence are rife, local peace initiatives will achieve limited success until such channels are opened. This will inform communities of the progress of cases, and slowly work towards building confidence in the police forces.

6. LOCAL PEACE COMMITTEES NEED A DIRECT CHANNEL TO LEGAL RECOURSE. If evidence is heard by a peace committee, there must be immediate steps taken to redress the claims, ensure that suspects are arrested, and finalise the incident quickly.

- *The Umlazi LDRC has heard evidence about a series of attacks near the Unit 17 hostels in recent weeks. Because there are as yet no justices of the peace attached to the LDRCs, as stipulated in the Peace Accord, the LDRC has no legal authority to take a decision on the incidents. That residents have been asked to supply information repeatedly and have not seen any arrests or changes in behavior by the different parties has weakened the community's trust for the process. Because there is no witness protection, such residents have also put themselves at risk. Already there have been attempts to highlight issues through channels outside of the LDRC, such as the application for an interdict to restrain the KZP.*

ECONOMIC SUPPORT

1. THE AGREEMENT SHOULD INCLUDE WAYS OF ENSURING THE LONG-TERM STABILITY OF THE COMMUNITY. A cease-fire does not bring about stability. A peace rally does not restore jobs, repair schools, or rebuild burnt down homes. Often, the very political issues themselves require solutions that entail economic replanning or development. The success of a peace accord may hinge upon the context of the regional and national economy and the availability of resources for socio-economic development.

- *Another precondition of the ANC in Bruntville is the removal of the hostels. If, for instance, a compromise is reached to upgrade the hostels, economic resources would be critical.*
- *The Mpumalanga peace accord has held successfully, partly due to economic support to rebuild the infrastructure of the community.*

2. THE SAFE RETURN OF ALL DISPLACED PEOPLE TO THEIR HOMES SHOULD BE ADDRESSED IN THE EARLY STAGES OF THE PEACE TALKS.

Instability will continue so long as people are still not able to return home.

- *Over the last year, the Port Shepstone area has attempted many initiatives at peace. During this time, there have been from 300 to 1000 people displaced from their homes. Each time residents thought that the peace was in place and attempted to return home, there were further outbreaks of violence. Long-term displacees also lead to instability by putting strains on their host environment.*
- *The violence that erupted in Njobokazi, near Mpumalanga, faced the same issues. Each time people attempted to return home after peace talks, they were attacked and fled the area again. In addition to instability caused by the large displacee group, their failed attempts to return have created an angry reaction amongst some of the youth, who have lost hope in the peace process.*

UPDATE ON THE PEACE ACCORD

A Regional Dispute Resolution Committee (RDRC) has been formed in Natal. Only one LDRC meets regularly - that one being in Umlazi. An LDRC has been formed in Stanger, but discussions were reportedly called off after the IFP withdrew indefinitely. Initiatives are underway to establish LDRCs in the following areas:

Richmond, Mooi River, Port Shepstone, Pinetown, Ozwathini, Tongaat, Umbumbulu, Bulwer, Estcourt, Newcastle, Mpumalanga, Empangeni, Ixopo, Greytown, Ncwadi, Table Mountain and Imbali.

As a handful of communities experiment with local peace structures, the rest of Natal is watching. If the first initiatives fail, others will lose confidence in the process and seek other means to redress their grievances. The success of these pilot initiatives is thus of vital importance.

While it is true that so far the Peace Accord has had a minimal effect, its total effectiveness can only be judged once all of the agreed upon components are in place. Some of these components are:

- **'Police reporting officers'**. Without this structure, there is no specifically-designed channel to forward complaints against the police. At present, allegations of police involvement are being sent through the normal SAP and KZP channels of investigation, which have a proven record of bias and failure.

- **A 'Police Board'**. This would comprise police and non-police members, and make recommendations to the Minister of Law and Order regarding more effective training of and functioning of the police. This is key to initiating community involvement in policing.

- **'Special criminal courts'**. These aim to ensure that cases of perpetrators of violence will be handled quickly, and that such perpetrators will not be negligently let out on bail. The provision also notes that for these courts to be effective, special procedural and evidential rules should apply, which would be developed by the signatories of the Accord.

- **Witness protection**. Investigations will remain at a standstill so long as witnesses fear coming forward with vital eyewitness information. All parties continue to call for 'the facts', yet those who provide such information are still at risk.

- **Justices of the Peace attached to LDRCs**. As mentioned earlier, there is a need for a legal decision-maker to be called in to resolve disputes that arise in the LDRC. None of the participants themselves have the training or capacity to take legal action. A justice of the peace could play a mediation role, investigate complaints, and refer cases to the Attorney General.

- **The establishment of self-protection units**. Agreements have not been worked out between communities and the police to enable residents to organise and protect themselves. It remains a controversial and tension-filled issue. Protection units are operating in some areas, yet at present there is no agreed upon regional structure as to how these should best operate.

- **Administrative and financial support by the State**. The Accord stipulates that RDRC and LDRC members receive an allowance from the State, that their costs in attending meetings be covered, and that they be given training in running meetings, negotiating skills, etc. This has not happened, and LDRC and RDRC members have been covering their own expenses and remaining in need of crucial dispute resolution skills.

DRIEFONTEIN: A community led into violence

The events that occurred in Driefontein last year reveal how a community, determined to seek peaceful solutions to a campaign of violence waged by a small criminal gang exploiting political labels, eventually was drawn into the cycle of violence.

CONTEXT

Driefontein is a small community nestled on 30 acres of land, dotted with banana and avocado trees, between round green hills of sugar cane, just inland from Tongaat. It has been home to a small community of farm workers for local cane plantations and other labourers from the Tongaat area.

Driefontein is neither an ANC or IFP stronghold; neither have launched branches in the community. Members from both parties lived together peacefully, working alongside each other on the civic committee. When the unrest first began, transport had recently been organised by the civic committee. Plans for a community creche were underway.

The following chronology was recorded by Black Sash through its involvement in monitoring the conflict in Driefontein.

The attacks begin

Early April: Attacks begin, carried out by a gang of five people from nearby Imona. Pasha Khuzwayo is named by the community the leader, assisted by his brother Musa. One person shot and injured. Schoolchildren sjambokked on way home to Driefontein. Two Driefontein residents assaulted for refusing to join Inkatha. Seven youths abducted from Driefontein, taken to Imona, then forced to assist in attacks on Driefontein. Several homes attacked. Pasha insists that he is recruiting for the IFP. He uses several houses as bases in Driefontein from which to launch attacks and store weapons.

The community responds

Mid April: Delegation of residents, led by civic committee member and Inkatha member Mr Moses Sishi, speak with Umhlali Police station commander. He is told that the conflict is not a political one, that both ANC and IFP members live in Driefontein, and that the identities and whereabouts of the attackers are well known. Protection via police patrols and the arrest of the perpetrators is requested urgently.

Station commander agrees.

Community decides to call a meeting and invite representatives from the ANC and IFP. Hope is that both will reject violent forced recruitment and explain peaceful policies of their organisation.

Community forms self-defence groups to patrol the areas at night, in light of failure of police to provide consistent presence. Several attacks by Pasha's gang are turned back. Schooling is disrupted as children fear using transport. Others sleep all day after patrolling all night.

Unrest monitors work with community

Mid April: Unrest monitors from IDASA Community Conflict Management Service and Black Sash - who have been monitoring situation from early April - continue to work with community. They meet on several occasions with police from Umhlali. Several promises made to protect area and arrest Pasha and his gang.

Police provocation

Police arrive after an assault and find group of residents discussing the problem of the unrest. They order the group to disperse. When the group insists that they are not safe if they scatter, the police advise the residents to burn down the homes of those who are assisting the gang. The residents reject the idea.

That night, four homes belonging to residents seen as harboring the gang are attacked and burnt.

Tensions rise as unrest escalates

Late April: Unrest escalates. No one arrested. No consistent all-night police or SADF patrols. Two people murdered, 6 people abducted, 5 people assaulted, and at least 8 homes seriously damaged in attacks. Tensions rising within the community. Resident Alfred Ngema continues to meet regularly with the police to secure assistance, which is not forthcoming. He ferries many residents to the police to lay charges, but no apparent investigations are launched. Ngema begins to be perceived as colluding with the police, and perhaps Inkatha.

One youth murdered by youths of Driefontein after suspected of being a police informer.

Police negligence and criminality

Delegations to the police continue by community members along with unrest monitors. The problem is clearly explained; the location of the gang and their firearms are known. No arrests and no improvement in patrols.

Ngema makes another plea to the station commander for help in arresting Pasha and his gang. The station commander allegedly tells Ngema to bring Pasha to the police. Ngema refuses. Station commander allegedly tells Ngema to find and kill Pasha, and then telephone the station commander to fetch the corpse. He allegedly gives Ngema his home and work telephone numbers.

Police arrive at Ngema's home and accuse him of being the trouble-maker. They threaten him. This is the first of three such visits.

Monitors meet SAP Flying Squad in area. When asked what steps have been taken to recover the abducted youths, they reply that they have gone to Imona, spoken to Pasha, and asked the youths if they wanted to return. The youths allegedly said they wanted to stay. After brief discussion with monitors, the Flying Squad members agree that the youths were probably too intimidated to go with the police in Pasha's presence.

Monitors link up Flying Squad members with a recent escapee from the abducted group. He agrees to go with the police to Pasha's place to secure the release of the rest. Monitors are told the next day that the escapee was dropped off down the road and the Flying Squad did not proceed to Imona.

The same day, mothers of several of the abducted youth go to Imona themselves. They each pay Pasha R20 for the release of their sons.

IFP asked to denounce Pasha's "recruitment drive"

A delegation of Driefontein residents meet with an IFP organiser in Stanger to request that he publicly deny that Pasha's violent recruitment tactics are IFP-sponsored. IFP organiser allegedly agrees.

Friday April 26: Pasha appears in court and is released 'accidentally' by the magistrate, the police tell monitors. Ngema and Sishi make a special request to the police that they ensure that he attends the community meeting.

April 27: Umhlali police members arrive in Driefontein and visit homes known to sell beer. They reportedly abduct several youths and confiscate several cases of beer. They return with the youths and the beer to the station and have a braai. They later give the youths fines for possession of alcohol before sending them back to Driefontein.

MEETING MISSES ITS GOAL

April 28: Community meeting. Although police are requested to ensure Pasha's presence, he does not attend. KwaZulu MP Mr Mfayela, representing the IFP, makes no reference to Pasha and his criminal activities

in the name of Inkatha. Mfayela leaves immediately after speaking. The ANC speakers discuss the recent peace Accord. Ngema chairs the meeting and is later criticised for giving the IFP a more prominent role in the meeting than the ANC speakers. Community is generally dissatisfied with meeting.

Tensions rise

Early May: Attacks continue. Six homes attacked and damaged. One person stabbed to death at the Tongaat bus rank, where Pasha is allegedly intimidating Driefontein residents. Many residents fear leaving their area and are unable to report to work.

Nightly patrols continue by youths in the area. Ngema organises a separate patrol - comprised of older Inkatha-supporting men from Driefontein. Ngema tell monitors that he fears that if only youths - who are mostly ANC supporters - patrol the area, then Driefontein will be seen as an ANC stronghold and risk being attacked. The organiser of the youths suspects Ngema has been bribed by Inkatha, and feels betrayed by Ngema. Even the wearing of political t-shirts in the area becomes a controversial issue. The two groups clash.

Monitors initiate legal action

Mid-May: Monitors meet with Umhlali CID officer and find that 13 unrest-related dockets have been opened. No cases have been solved.

Monitors arrange to transport all Driefontein residents who had laid a charge, attempted to lay a charge, or felt affected in any way by the ongoing unrest in the area. A legal team of University of Natal law students takes almost 100 statements. These are later compiled into a memorandum.

The statements described 49 incidents: 17 cases of damage to property, 15 cases of abduction, 6 of assault, 4 of murder and 6 of attempted murder. Pasha was implicated 19 times in the affidavits; his brother Musa was implicated 15 times.

The memo is handed to the Regional Commander of the Riot Investigation Unit. Thirty-five case dockets are opened. Within two weeks 14 people are arrested. Monitors ensure that Pasha and Musa and one other are denied bail.

An urgent memo is drafted calling for an investigation into the conduct of the Umhlali police. The memo highlights the police's failure to protect the community from more than 40 unrest-related incidents and for failing to properly investigate cases by turning people away, not taking statements, or failing to follow through investigations. The memo also

cites police incitement to violence, the negligent release of Pasha the first time he was arrested, death threats against Ngema, and criminal behaviour. An investigation is promptly taken up.

Peace in area as investigations underway

Peace in Driefontein. Residents cooperate with the Riot Investigation Unit officer. Residents tell monitors that the denial of bail for Pasha and Musa has allowed for peace. Residents report no further problems with the Umhlali police.

Seventeen case dockets - less than half of the original number opened - make it to court. The first cases are heard in August.

Of 15 cases of abduction described in affidavits to monitors four cases come to court. All later withdrawn on request of complainant. Although several parents of abductees paid Pasha for the release of their children, and several abductees escaped, all made further statements that they had gone to Pasha voluntarily. There had been apparent intimidation.

Of 17 cases of damage to property initially reported, only 6 come to court. Four later withdrawn, and of the remaining two the suspects are acquitted. Several obstacles to positively identifying the attackers are noted:

- attacks occurred at night;
- many victims fled or hid once they heard the attackers;
- several complainants had received prior death threats from the gang, and were not staying at home at the time of the attack.

In a few cases, problem is rectified out of court between complainant and suspect. In one instance, the owner of a home that was attacked for allegedly harbouring the gang later apologised to the community, and withdrew the charges. He has since repaired his home and lives peacefully in Driefontein.

In several cases, including one of attempted murder, the lack of a second corroborating witness led to the suspects' acquittal.

Of six murders, five cases come to court. Two inquests are held in September and November. In December, suspects are acquitted of the murder of the youth suspected to be an informer. Two cases still awaiting trial.

The first inquest revealed that the deceased and his family had been directly threatened with death by Pasha and his gang shortly prior to the

murder. From that date on they did not sleep at home. When the deceased remained at home one evening, he was found dead the next morning. Inquest result: death by persons unknown.

The second inquest included statements from witnesses who saw Pasha and his gang shouting and running towards their house, armed with dangerous weapons. Shortly afterwards, the victim was heard screaming, according to the statements. No one directly witnessed the murder. Inquest result: cause of death indeterminable.

Bail granted, problems start again

Late January, 1992: Pasha and Musa and third accused are released on bail. Many Driefontein residents tell monitors that they assume they have been acquitted on all charges. Pasha is seen on a bus at the Tongaat bus rank, carrying a gun, saying he is looking for 'comrades' from Driefontein.

Mid-February: Monitors make request to Riot Unit Investigating officer to ensure that Pasha is denied bail, or given bail restrictions, until the remaining murder cases are complete. Reports of harassment by Pasha are given to the investigating officer. Officer says reports are too vague and Pasha remains out on bail.

Report from investigation into the misconduct and negligence of the Umhlali police finds the police blameless.

CONCLUSION

Several points can be drawn from the above chronology.

- 1. Negligent and irresponsible policing allowed the initial clashes to escalate.** Prompt arrests and prosecutions could have minimised the violence. Police instigation of the community to use violence as a solution further fuelled the conflict. Their overt criminal behaviour undermined the community's confidence that the police were prepared to help.
- 2. Political labels - though initially denied as a cause of the problem - later became a real element of the conflict.** Had the IFP leadership publicly denounced Pasha's tactics as IFP-approved, this perhaps could have been avoided.
- 3. The result of the internal police investigation only confirms the need to implement police accountability structures as set out in the Peace Accord.** The police have again proved that they cannot be relied upon to take disciplinary action against themselves.

IN MEMORY OF MR JAMES KHANYILE

For the last two years, Mr Khanyile's face at the doorway of the Black Sash Advice Office and Repression Monitoring Group has been a common sight. His expectant look signalled that there was another problem, that it was serious, and that he hoped we could help.

Whether it was long delays in receiving pensions, an unfair dismissal, or a case of police assault, Mr Khanyile was the man that many people turned to in Mpumalanga for a pathway to help. In many cases, Mr Khanyile would transport the people in his car to offices where they could seek help; on several occasions he purchased food for the weary residents; he sat patiently with them - often acting as a translator when statements were necessary.

Most surprising was his outspokenness. When he knew the police were involved in attacking a community, he said so - often before residents were willing to come forward with their own accounts. Although he had heard countless horrific reports of unrest and violence, his heart still went out to each new victim.

On December 22, 1991, Mr Khanyile was sitting outside his home in the late afternoon, chatting with a neighbour. Inside, his wife had finished preparing supper, and told their daughter to tell her father that supper was ready. When the child went outside, she saw a balaclava-clad man firing four bullets into her father. Mr Khanyile died instantly. His assassin turned away, walked briskly to the road, and, joined by four others, walked away. Neighbours came out of their houses and watched the masked armed men walk away. They were afraid to follow, afraid that they would be the next victim.

An investigation is underway. Statements have been taken by an investigating officer at the KwaZulu Police station at Mpumalanga. But as of today, no one can identify the assassin, and no one has been arrested.

People continue to stream to Mr Khanyile's home in Mpumalanga, hoping to find some recourse for their problems. They are met with the tragedy of his loss, and return home to look for other pathways to assistance.

Mr Khanyile's death is a tragedy - one of too many for this small province. We at the Black Sash pay tribute to his courage and send our sympathy to his family.

4. Progress was made in investigating cases only when police from outside the area took on the cases. Several steps were taken to instill confidence in the new police team. Clearly the prompt arrest of known perpetrators was the major factor in gaining the trust and cooperation of the people of Driefontein.
 5. The denial of bail to Pasha and two others was the turning point. This became a symbol to the community that the police and courts were sincere in their attempts to bring peace to Driefontein.
 6. Despite this improved trust in the Riot Investigation Unit, many obstacles prevented the successful investigation of cases. Intimidation by people aligned with the gang - if not police themselves - clearly played a role.
 7. Despite some successful investigations, further obstacles blocked convictions. The uncertainty and fear that Pasha would be released in the end intimidated several into changing their minds shortly before their cases were due to appear. TO DATE THERE HAS NOT BEEN ONE CONVICTION.
 8. Where a politically diverse yet united community existed, the seeds of division have been planted. Tensions between Ngema and the youths in the community have grown. Several youths have recently alleged that Ngema intimidated youths attempting to hold a meeting. Last year Ngema reported that the youths were bringing in ANC members from other areas to intimidate IFP members in Driefontein. The once active civic committee is now defunct. The prospect of calling a meeting calls up a look of speculation on most faces in Driefontein.
- The inaccessible and irresponsible nature of the legal channels of recourse proved a destabilising element in attempts at peace. As such channels continue to appear unresponsive to community conflicts - people will resort to other channels of resolution.*
- As the cause of unrest has not yet been rooted out, Driefontein remains threatened with another eruption of violence. Most Driefontein residents are unaware that Pasha is still facing two murder charges, and assume he has been "freed".*
- Inquests may rule that deaths are "indeterminable"; the community will draw its own conclusions. People often respond more quickly to popular belief than to decisions taken by magistrates in courtrooms. Attempting to resolve conflicts through legal channels in Driefontein, and in many communities, has proved to be inaccessible, irresponsible, intimidating, life-threatening, and unsuccessful.*