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JUSTICE DENIED: POLITICAL VIOLENCE IN
KWAZULU-NATAL AFTER 1994

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ABSTRACT

To unravel post-apartheid political violence in KwaZulu-Natal, South Africa, three case studies are presented: the Shobashobane massacre (1995); the Richmond killings (which reached their height in 1997–98); and the Nongoma assassinations (1999–2000). Detailed consideration of the activities of paramilitary forces, the security forces, and the criminal justice system reveals that post-apartheid political violence is systemically related to the dynamics of the ‘unofficial’ war between Inkatha and the African National Congress. In this context, it is argued that a failure to confront this war — in terms of asserting political authority or through the Truth and Reconciliation Commission — has worked to drive political violence and to push it into new forms, with lethal effect.

POLITICAL VIOLENCE IN THE PROVINCE OF KWAZULU-NATAL (KZN), South Africa, has, according to some sources, taken as many as 20,000 lives since 1984, especially since September 1987, when open warfare broke out in the Pietermaritzburg region with a series of territorial battles between Inkatha and the United Democratic Front (UDF).¹ In these battles, Inkatha received support from the apartheid state’s security forces, whilst the UDF found succour in its relationship with the African National Congress (ANC) and its armed wing Umkhonto we Sizwe (MK). More than half the number of fatalities occurred after 1990: that is, after the National Party had lifted the ban on the liberation movements, and committed itself to negotiated political change, and after the ANC had suspended its armed struggle. The three-month period preceding the first democratic elections in April 1994 was especially tense, with around 1,000 people killed. Since 1994, 2,000 people have been killed in political violence in KZN.²

In the post-apartheid era, KwaZulu-Natal has been marked by a divided system of political authority, with — reflecting electoral support —

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1. *Truth and Reconciliation Commission of South Africa Report* [hereafter TRC Report], Volumes 1–5, CD-ROM version (Jutastat, Cape Town, June 1999), Vol. 3, Chap. 3.

2. SAIRR, *South Africa Survey 2000/2001* (South African Institute of Race Relations [SAIRR], Johannesburg, 2002), p. 89.

provincial power vested in favour of the Inkatha Freedom Party (IFP) and national power with the ANC.³ A top-level peace process was instituted, and by mid-1996 political leaders declared the political conflict over. Inkatha, led by Mangosuthu Buthelezi, has moved away from an ethnically couched confrontational style towards a more inclusive politics, and 'The ANC's view was that instead of conflict, there should be co-operation and reconciliation'.⁴ Following the results of the 1999 general election, a coalition government involving both the IFP and ANC was formed at provincial level and it might well be assumed that the issues that divided Inkatha and the ANC are now settled. Certainly, this is the public image presented.

In line with these developments, the popular view, adopted by many commentators, the media, and politicians, is that since 1994 there has been a significant downturn in the level of political violence in KZN, with violence now erupting only at random unconnected 'flashpoints,' such as Shobashobane on the South Coast, Richmond in the Midlands, and Nongoma in the north of the province (see Map), where it is primarily explained in terms of either a 'third force,' 'faction fighting,' 'criminality,' or any combination thereof. All too often the causes of this violence are seen to lie in multiple factors that are more often than not simply listed and not analyzed as an integrated matrix of factors. As a result, typical is Hein Marais' assessment that: 'It is impossible to determine exactly what . . . is at play in KwaZulu-Natal.'⁵ As this article will show, conflict cases do not, however, signify isolated incidents, nor do they defy sociological understanding.

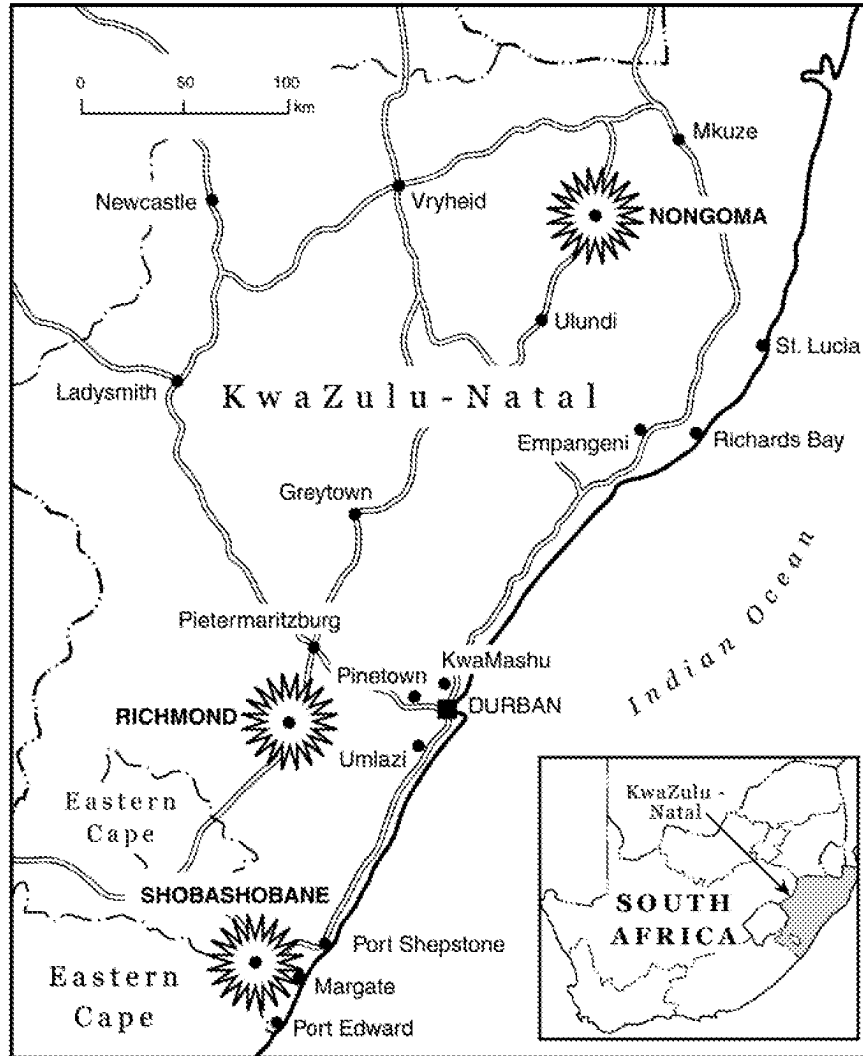
It is, in fact, necessary to move away from the mainstream perspective of viewing continuing violence as constituting a series of separate events and cases — a flashpoint here, a flashpoint there — with multiple causes that have to be dealt with in turn, with a law and order response as each occurs. Rather, the violence has to be understood in terms of a matrix of integrated issues that are rooted in what is a systemic problem (underlying all events and cases), in which the forces of law and order are implicated.

By focusing on high-profile case studies of post-apartheid political violence in KwaZulu-Natal, it will be shown that at a deeper level of analysis there is a common pattern in their underlying dynamics and outcomes that starkly reveals the nature of the problem: that post-apartheid political violence has been systematically overdetermined, and fuelled, by a failure to confront past wartime divisions and their legacy. Cases of violence can

3. In the April 1994 election Inkatha won 50 percent of the provincial ballot in KZN and the ANC 32 percent.

4. Interview with Willis Mchunu, ANC Provincial Executive Committee, Durban, 20 May 2000.

5. Hein Marais, 'The shattered mould — patterns of violence in the post-apartheid era', unpublished CASE (Community Agency for Social Enquiry) paper, undated.



Map 1. Key political violence 'flashpoints' in KwaZulu-Natal, post-1994.

be directly traced back to, and are contaminated by, and interconnected through, the 'unofficial' war between Inkatha and the ANC. In fact, the spiral of the war between Inkatha and the ANC has spawned complex networks of complicity that stretch from the lowest forms of organized crime to the highest echelons of the state. It is this matrix that has to be fully unraveled and confronted.

Three detailed and high-profile case studies drawing on interviews, sworn testimony, and Truth and Reconciliation Commission (TRC) documentation, are considered in turn: those of the Shobashobane massacre; the Richmond killings; and the Nongoma assassinations. The case studies draw out the dynamics of political violence with respect to the role of para-military forces (former insurgents and covert state agents), the security forces (police and military), and the criminal justice system (investigations and prosecutions).

The Shobashobane massacre

The massacre of 19 ANC supporters by a large group of Inkatha attackers at Shobashobane on 25 December 1995 attracted widespread international headlines, and was popularly labelled as the 'Christmas Day massacre'. One of the worst mass murders in the region, the scene of the massacre was visited by both the Deputy President, Thabo Mbeki, and the Minister of Defence, Joe Modise.

Shobashobane, a rural area of around 7 square kilometres, is on the KwaZulu-Natal lower South Coast, some 200km south of Durban (see Map). The South Coast region has shown, in recent years, evenly matched levels of support for the IFP and the ANC, with relatively homogenous but sharply divided IFP and ANC zones. Shobashobane itself is an ANC-dominated ward surrounded by seven wards with IFP support, with its nearest boundary being some 3 km from the nearest police station at Izingolweni. The terrain is very hilly, rugged and often steeply inclined, and the ground is densely covered with long grass, thick undergrowth, thorn bushes, and trees. Situated on the periphery of the former KwaZulu government's sphere of influence, this is an area of long and well-established settlement.⁶

The Shobashobane massacre was by no means the first massacre in the area. The broader region had been locked into a vicious round of attacks and counter-attacks for well over a decade. In the five years preceding the Shobashobane massacre there were, in fact, over 50 massacres on the South Coast.⁷ This conflict can be traced to the rise of the ANC-aligned United Democratic Front in the 1980s and this movement's political assault, primarily through radical youth, on the legitimacy of conservative chiefly authority and 'traditional' political structures (including the Zulu monarchy), which in turn sought to retain hegemony through Inkatha and the creation of self-protection units (SPUs).

On the South Coast, over time, this conflict became increasingly militarized,

6. Nicholas Claude, 'Shobashobane in context', *KwaZulu-Natal Briefing* 7 (1997), pp. 1–5.

7. Anthony Minnaar, 'Violence and conflict on the KwaZulu-Natal lower South Coast (1990–1995)'. Paper (Research Centre, National Standards & Management Services, South African Police Services, Pretoria, 1996), p. 9.

with both sides becoming heavily armed — AK-47 rifles supplied to ANC comrades, and standard issue G3 rifles given to IFP-supporting chiefs. The contest was, in the apartheid (and transition) years, always loaded in favour of the chiefs and Inkatha. In the Izingolweni area, in the early 1990s, many ANC youth who formed and became active in self-defence units (SDUs) were pushed out of the region, being forced to flee north to Durban. In the post-apartheid era, around a hundred displaced ANC youth decided to return (although only around half this number were originally from the area), and implemented a strengthened SDU structure in the Shobashobane ward under the leadership of Kipha Nyawose. Tension with local IFP supporters led by Sipho Ngcobo reached new heights, precipitating a series of provocative events — mainly centred around illegal road blocks and the Izingolweni shopping complex — that would culminate in the Christmas Day massacre. For, underlying the Shobashobane massacre, was the conflict between the local and popular IFP and ANC militia forces, sustained by broader underground IFP hit-squad and MK paramilitary networks.

What happened in Shobashobane on Christmas Day 1995, a day that left 19 people, ANC supporters, dead? There is little doubt that the attack was planned with military precision, with the retributive aim of purging the area once and for all of Kipha Nyawose and the active SDU under his command, and simultaneously chasing the whole ANC supporting community out of the area. *Izinduna* (headmen) in conjunction with the IFP's Izingolweni chairperson, Sipho Ngcobo, and a number of IFP hit-squad operatives secretly planned the attack. James Zulu, a hit-squad commander, has been strongly suspected of involvement.

An Inkatha hit squad had earlier been set up at Izingolweni, under the direct instruction of very senior IFP people in Ulundi.⁸ And certainly James Zulu, a convicted felon who 'mysteriously' gained early release after security police intervention, was well placed to help mastermind any attack. Zulu, who served as a regional chair of the IFP, was engaged in many covert activities, and had 'an extremely close working relationship with the Port Shepstone police'.⁹

Certainly, no attack would have occurred without the backing of the chiefs (*inkosi*), and on Christmas Eve they called on their followers to gather the next morning to implement a well-orchestrated military manoeuvre. Mobilized just before dawn, at around 8 o'clock on Christmas morning, a Sunday, this large group of Inkatha supporters under the leadership of paramilitary structures mounted, from the south, a full-scale offensive on

8. TRC Amnesty Hearing, 8 March 1999, Pinetown Magistrate's Court, Caprivi Trainees — Argument, <www.doj.gov.za/trc/1999/990308PTN/990308pn.htm>.

9. NIM [Network of Independent Monitors] — Port Shepstone, 'Focus on the Murder and Robbery/Unrest and Violent Crime Investigation Unit — Port Shepstone'. Confidential paper, 30 September 1995.

the ANC ward. The attack group numbered well over 600 people, and was spearheaded by a select group of men armed with automatic rifles and other firearms, followed by a large group of warriors (*impi*) covered in muti (*umuthi*) and armed with 'traditional weapons'. As people fled from the attack force in the direction of the Izingolweni police station, they found their paths blocked by 'stopper' groups. Of the some 240 people living in Shobashobane, 19 were killed — fewer than might have been predicted, given that the lead group was armed with automatic G3, R5, and AK-47 rifles. Amongst the dead were 6 women and a baby. The prime target, ANC leader Kipha Nyawose, was shot dead and his body, as were many other bodies, severely mutilated: 'his stomach was slit open and his genitals completely severed, to be used for muti'.¹⁰ Twenty-one other ANC supporters were injured. Around 90 huts were set alight.

Clearly, given the scale of the attack and the number of deaths, questions must be asked about the policing of Izingolweni. The security forces maintain that they did their best to maintain law and order in the region, and to bring the community together. Local policing, however, did little to mitigate the simmering political tensions. The security forces — the South African Police Service (SAPS) stationed at Izingolweni, Unit 19 of Public Order Policing (POP), POP Unit 18 based in Port Shepstone with authority for public order policing in Izingolweni at the time of the massacre, and the South African National Defence Force (SANDF) assigned to the area for special duties over the summer holiday period — are not blameless.

Most damning — and to many people most sinister — is the fact that the security forces had plenty of advance warning of the massacre, yet took no action to forestall it. Detective Sergeant Nxumalo, stationed at Izingolweni police station, made the following statement:

Towards the end of November or the beginning of December 1995 I was driving along a small dirt road in a rural part of our police patrol area . . . Whilst driving past a certain kraal a woman whom I know well ran out to the road and stopped me . . . Our conversation was completely confidential . . .

From the 15 December 1995 the workers in Durban would be closing down their factories and would be coming home on holiday, the IFP from Durban were planning to kill all the ANC MaQabane [comrades] in the Shobashobane area and completely wipe them off from the area. Mandela would come to pick up all the bodies . . .

I know this woman and have a longstanding association with her. I know her to be a very reliable and trustworthy person. (France Dumisani Nxumalo statement under oath, 11 January 1996)

On 4 December, Inspector De Bruin, stationed at Izingolweni, passed on Sergeant Nxumalo's information to his superiors in Port Shepstone, where

10. Bushie Engelbrecht (and Micel Schnehage), *A Christmas to Remember* (Maskew Miller Longman, Cape Town, 1999), p. 51.

it was supported by other sources, and on 19 December De Bruin attended a Joint Intelligence Committee (JIC) meeting where:

Sen. Supt Moodley handed in an information note from NIA [National Intelligence Agency] regarding some threats made by Inkosi [Themba] Mavundla [of Izingolweni] that the ANC supporters must be driven out of the area before 1995–12–26. (Hendrik Jacobus De Bruin further statement under oath, 23 January 1996)

The report from the National Intelligence Agency clearly pointed to the likelihood of overt conflict in Shobashobane: an attack will be launched ‘after 19951215 [15 December 1995] when factories are closed and migrant workers have returned to their homes at Izingolweni’.¹¹ So, in light of information received and despite the fact that the Izingolweni district was categorized as a high-risk area, why did the massacre occur? Is not the failure to act evidence of police complicity?

Superintendent Cromhout, the commander of POP Unit 18, pointed out, however, that he was not made aware of the NIA information and that it was not taken into account in planning deployments for the Christmas weekend.¹² Major Mdlulwa of the SANDF, with 118 personnel under his command, stated: ‘I was not shown or told of any intelligence reports regarding an expected attack on the residents of Shobashobane.’¹³ Moreover, the Izingolweni police station commander, Captain Van Vollenhoven, maintained that at no time prior to the attack was he aware of the NIA report.¹⁴

Nonetheless, the situation would not have been nearly so bad if a POP Unit 19 base established some 10 km from the centre of the Shobashobane community on 26 June 1995 (following a number of serious attacks in the area) had not been completely removed just weeks before the massacre. The events were as follows.

Local political conflict in the month preceding the Shobashobane massacre revolved around the fact that ANC supporters found that they could no longer freely shop in Izingolweni without being subjected to harassment by IFP supporters, and the ANC, therefore, demanded police protection. On 29 November 1995, however, when a group of around 50 ANC supporters were escorted to the shopping centre, they ‘did not go shopping, but started distributing ANC election pamphlets. The IFP supporters were outraged and started throwing stones at the ANC members and at the policemen. The policemen [from Unit 19] . . . had to fire rubber

11. ‘Planned attack by IFP members at Shobashobane Ward at Izingolweni on the lower South Coast of KZN’, National Intelligence Agency, confidential report, dated 14 December 1995.

12. Jeff Colyn Cromhout statement under oath, 4 April 1996.

13. Sydney Maweth Mdlulwa statement under oath, 29 January 1996.

14. Shaun Martin Van Vollenhoven statement under oath, 3 April 1996.

bullets and birdshot at the IFP supporters, injuring a few of them.¹⁵ Predictably, the IFP demanded that Unit 19 be removed from the area.

Politically compromised, Unit 19 with its 34 personnel was removed unilaterally on 15 December 1995 by national command — without, it would seem, giving full consideration to the security situation on the ground. Certainly, Captain Van Vollenhoven was never formally consulted on this move: 'It is my respectful submission that had the base remained . . . this major blood bath could also have been prevented . . . Deployed patrols . . . could have witnessed the mobilization of an *impi* and raised the alarm.'¹⁶

At the time of the attack the resources on hand for the security forces were nowhere near adequate to deal with what unfolded. For, even despite the limited resources allocated to patrolling duties on Christmas Day, not one security force member was in the vicinity and it took four hours for police to establish a firm presence on the ground. There should have been three patrols in the area that Sunday morning: in fact there were none. Those on duty at the Izingolweni police station lacked the resources to respond adequately to events. Inspector De Bruin, who was on police station premises at the time of the attack, stated: 'During the attack, I had four detectives with me, but I could not move into the area, as we were not enough. It would have been extremely dangerous for us to move into the area.'¹⁷

What emerges from the sequence of events are a number of disturbing and unsatisfactorily resolved issues. The functioning of the various intra-security force lines of communication left much to be desired, at all levels of command — national, regional, and area. More disturbing, though, are allegations of direct police and army involvement in the massacre. Some media reports claimed that the police and army colluded in the massacre and, indeed, the National Police Commissioner George Fivaz admitted that some policemen were identified as suspects in the massacre.¹⁸

Shortly after attending the funeral for victims of the massacre, Thabo Mbeki (then Deputy President) moved that a special police investigative unit, the Special Investigation Team headed by Harold ('Bushie') Engelbrecht, probe the killings. Engelbrecht's investigation confronted a number of problems; in particular, many witnesses were simply too afraid to make statements and most IFP people refused to have anything to do with what was seen as an ANC-appointed and ANC-backed investigation. Those witnesses who did come forward required added protection; for the first time in South Africa, a witness protection programme was introduced — for

15. *Ibid.*

16. *Ibid.*

17. Hendrik Jacobus De Bruin statement under oath, 31 December 1995.

18. Eddie Koch and Mehlo Mvelase, 'Police accused over Christmas Day massacre', 12 January 1996, *Mail and Guardian* online archive <www.mg.co.za>.

almost 30 witnesses. Most indicative of the difficulties is Engelbrecht's own acknowledgement that: 'We only entered the Shobashobane area in groups of between eight and 12, even to take just one statement, and we only traveled in armoured vehicles.'¹⁹ Engelbrecht faced a number of death threats, including a murder conspiracy — plotted, so he was informed, by James Zulu.

After establishing some breakthroughs in other massacre cases, Engelbrecht's unit did make a number of arrests, but it was hard going. The IFP was far from happy with the intervention of the Special Investigative Team. Generally, from Inkatha's point of view, as public order policing, intelligence agencies, and investigative task units are controlled at central government level, their impartiality is open to question, and especially so when decisions are made unilaterally in response to IFP activities. Not surprisingly, the IFP insists that in KZN policing is primarily a provincial matter. As IFP secretary-general Ziba Jiyane has stated:

We are not saying the central government should not be involved in security matters in KwaZulu-Natal. But Schedule Six of the Constitution says policing is also a provincial issue and as long as it [national intervention] is done in a unilateral way this is invariably a partisan approach.²⁰

There is, then, a major conflict between the central and provincial government over who will control the way KwaZulu-Natal is policed.²¹ This conflict is one in which the real loser is neither one side nor the other, but justice itself. As the political divide underlying violence on the ground is replicated in the very system which is called upon to address it, focus falls on securing the greatest protection and political capital for one's own side.

Such dynamics of political bias were clearly present in the Shobashobane massacre, not only in terms of the status of Engelbrecht's unit, but also on the ground, where the local police — themselves members of the community — could hardly maintain a position of impartiality. For, as Engelbrecht notes: 'If they were apolitical they ran the risk of either being ousted from the area or killed.'²² Indeed, at least seven policemen, including three police sergeants from the Izingolweni police station, were implicated in the attack, through assisting in the planning and leading of the attack, and in providing arms or ammunition. Four policemen were eventually arrested, none of whom were subsequently convicted.

19. Engelbrecht, *A Christmas to Remember*, pp. 66–7.

20. Jiyane quoted in Koch and Mvelase, 'Police accused'.

21. Also see Alexander Johnston, 'Politics and violence in KwaZulu-Natal', in William Gutteridge and J. E. Spence (eds), *Violence in Southern Africa* (Frank Cass, London, 1997) pp. 78–107.

22. Engelbrecht, *A Christmas to Remember*, p. 88.

Following further intensive investigative work, 96 warrants were issued for the arrest of those suspected of involvement in the massacre. On 18 April 1996, to effect arrests, Engelbrecht launched a night-time operation in Izingolweni, 'Operation Shobashobane'. This was a major operation involving around 150 personnel, including 'the Task Force, the Dog Unit, the Video Unit, and other components of the police service from the various provinces'.²³ The operation consisted of a convoy of hunting teams accompanied by heavily disguised informers (wearing balaclavas, sunglasses, and gumboots), who relied on the element of surprise in a dragnet of homes in the Shoba valley. Towards the end of what was proving to be a successful operation, and as daylight was approaching, the convey ran into an ambush of some 30 attackers:

As the front of the convoy turned a corner, they were confronted with a metre-high barricade of rocks, spanning the entire road . . . The convoy was entirely surrounded by the ambush, and the attack started simultaneously from all directions . . . In total, about 400 rounds of ammunition were discharged during the exchange.²⁴

Nonetheless, many suspects were apprehended, including Sipho Ngcobo, and some ten months later, on 2 February 1997, the Shobashobane trial commenced at the Durban High Court. It was to last for two months. A number of suspects had their murder charges withdrawn before the case came to court, others — to the dismay of many — were released on bail, and at trial 18 accused (expediently mirroring the massacre death toll, which was first put at 18), including a 14-year-old youth, faced 18 counts of murder and nine counts of attempted murder. They all pleaded 'not guilty'. The presiding judge in the Shobashobane trial, Justice Hilary Squires, was concerned to ensure that the trial did not become excessively politicized, but it could hardly be otherwise. Throughout the trial there was a visible and vocal IFP presence outside the courtroom.

Over 50 witnesses, including 25 survivors, were called to testify about the massacre. Thirteen of the accused were found guilty of murder (five of whom were found guilty on the basis of common purpose), and six of attempted murder. Five of the accused were acquitted for insufficient evidence, including the one policeman brought to trial.²⁵ On appeal, IFP leader Sipho Ngcobo's conviction and sentence were overturned in December 1997, as was the case for four other IFP members. They were released as their alibi defences had not — in the opinion of the appeal judges — been disproved beyond a reasonable doubt.²⁶

23. *Ibid.*, p. 93.

24. *Ibid.*, pp. 102–3.

25. SAIRR, *South African Survey 1996/97* (South African Institute of Race Relations [SAIRR], Johannesburg, 1998), p. 602.

26. Ingrid Oellermann, 'Massacre five win appeals', *The Mercury*, 23 December 1998.

The idea that justice was done, and that the trial judgment serves to challenge a culture of impunity, seems hollow, given the fact that only 18 people were brought to trial. What of the very many others involved in the attack and the fact that, of these, many were acquitted? Moreover, after the Shobashobane trial, the South Coast was not quiet. In the Port Shepstone area a number of political leaders, who had taken on an aura of being almost untouchable, were murdered. They were taken out one by one, in what appears as a series of deadly IFP-ANC reprisal killings.

James Zulu, who was never convicted for his role in the Shobashobane massacre, was the first leader to be assassinated in this round of killings. On 13 April 1998, one year after the Shobashobane trial, Zulu was shot dead from point-blank range at the Port Shepstone taxi rank. At the time of his death, Zulu was the most important IFP figure in the region, and more than 4,000 mourners turned up for his memorial service.

The view that the massacre was grounded in IFP-ANC hostilities, as was interpreted by Justice Squires, has been strongly disputed by both the main protagonists. The Inkatha senior leadership claims that the massacre was not led or sanctioned by the IFP but was the result of the 'excessive action' of 'misguided individuals' who lacked any political allegiance; the ANC maintains that all SDUs were disbanded following the April 1994 election, and that the massacre was primarily the work of 'third force' operatives — pro-apartheid police and security force members working closely with IFP members — intent on destabilizing the ANC government. At the funeral for victims of the massacre, Thabo Mbeki openly blamed the 'third force' for the killings,²⁷ and at one stage Bheki Cele, the KZN Safety and Security Portfolio Committee chairperson, openly accused the police of being responsible for the murders.²⁸

The failure of the police to take adequate action, despite being forewarned, along with allegations that certain policemen were complicit in the attack, did lead the ANC-led government, in February 1998, to appoint a commission of inquiry under Durban Advocate Marumo Moerane — which has held its hearings, but is yet to issue its report. In any event, the Commission is not empowered to take any legal steps. Consequently, it now appears very unlikely that there will be any further convictions for the Shobashobane massacre.

The Richmond killings

The case of Richmond would defy the imagination of the most creative of fiction writers. At the heart of the conflict has been the rise of the highly

27. SAIRR, *South African Survey 1996/97*, p. 603.

28. Engelbrecht, *A Christmas to Remember*, p. 60.

trained, armed, and organized Richmond Self-Defence Unit in the context of the war against Inkatha, and its subsequent relationship to the ANC in the post-apartheid era, as well as its changing — and corrupt — relationship with local security service personnel. Richmond is a town that has seen scores of people killed since 1994, a town that has seen its police station closed down, and a town to which hundreds of SANDF soldiers have had to be sent.

The small country town of Richmond, in the KwaZulu-Natal Midlands, is some 35 km from Pietermaritzburg on the way to the Transkei (see Map), and serves a farming and forestry community. Richmond's large townships, home to over 70,000 people in semi-formal and informal settlements, have been bitterly divided: Inkatha and ANC territorial battles were waged from 1988 onwards in the form of Inkatha chiefly authority versus ANC youth comrades — in which units on both sides increasingly received paramilitary training. In 1991, at the height of the conflict, over 140 people were killed. Although prior to 1994 townships fell under KwaZulu administration and were controlled by traditional leaders, it has generally been the case that the informal rural areas of Mkhobeni and Patheni have been under Inkatha control, whilst the better-off semi-urban Magoda and Ndaleneni areas have been under ANC control — despite being subject to sustained Inkatha attacks and being the scene of intense security force crack-downs against residents.²⁹

At first, with the support of the apartheid state and elements of the far right, Inkatha had the upper hand in the Richmond war, but over time the pendulum swung towards the ANC. With the rise of well-trained SDUs and the support of MK units, Inkatha was ousted from Magoda and Ndaleneni in the early 1990s — but not before both sides sustained heavy casualties in attacks and counter-attacks, and Magoda was reduced to a wasteland. Inkatha retained control of Patheni, but some 60 percent of residents decided to flee the area. At the height of the Richmond war some 20,000 'refugees crowded into Richmond, living in tents, makeshift shelters and on the streets'.³⁰ The ANC, through local strongman Sifiso Nkabinde (from Magoda), won control of much of the area by about 1993.

The rise of the Richmond SDU was a crucial factor in these events, and was responsible for many deadly operations against Inkatha, including hit-squad attacks in which SDU members dressed in South African Police (SAP) or South African Defence Force (SADF) camouflage uniforms. The actions of the Richmond SDU sparked Inkatha to seek a stronger paramilitary capacity in the region, through promoting and training self-protection units armed with G3 rifles and skilled in the use of mortars and

29. Haydn Osborn, 'The Richmond war: a struggle for supremacy', *Indicator SA* 9, 1 (1991), pp. 46–9.

30. *Ibid.*, p. 47.

bombs. Over a thousand men were trained in the Richmond area, aided and abetted by the police.

By 1994, however, with the advent of the new democratic state, the Richmond war seemed to have played itself out. In mid-1994, IFP and ANC peace meetings and rallies were held, enabling the return of people who had been displaced by violence. And in July 1994 the local police, through Captain Johan Meeding, entered into a special agreement with Nkabinde whereby SDU members would openly assist in the policing of ANC-controlled townships that had been all but 'no-go' areas. Nkabinde put it thus: 'We do this fully understanding that we are now dealing with police working under an ANC-led government. If they fail in their duties to catch criminals it will mean the ANC government has failed.'³¹ Community power in Richmond came into ANC hands with Nkabinde becoming Mayor of Richmond in 1995. Peace, it seemed, was returning to Richmond: Andrew Ragavaloo, who succeeded Nkabinde as mayor, was of the view that '1994, 1995, and 1996 were peaceful years in Richmond'.³²

Political violence in Richmond, however, was far from over. Much was yet to come although, this time, it could no longer be explained in terms of the earlier Inkatha versus ANC dynamic, but more in terms of an intra-ANC power struggle in which a new political party, the United Democratic Movement (UDM), became embroiled. It fast became a very one-sided conflict; the vast majority of victims, a hundred or more, have been ANC supporters.³³ The ANC, as with the Shobashobane massacre, viewed this round of killings as being due to a 'third force'. The root causes of the conflict can, however, be clearly traced to the Inkatha-ANC war and, in particular, to the earlier activities of the Richmond SDU.

There is no question that the Richmond SDU was 'one of the most powerful structures of its kind in the Natal Midlands'.³⁴ It was a key 'part of a logistical network which operated from Gauteng to the Transkei',³⁵ a shadowy network in which weapons formed the main currency. The Richmond SDU predates the early 1990s and was the first to be formed in the Midlands.

The Richmond SDU was established by local ANC Youth League leader Mzwandile Mbongwa, Sifiso Nkabinde, and Natal Midlands ANC leader Harry Gwala, and came to include some highly dangerous men who were

31. Nkabinde quoted in Lakela Kaunda, 'Police, SDUs join to fight Richmond crime', *Natal Witness*, 13 July 1994.

32. Interview with Andrew Ragavaloo, ANC Mayor of Richmond from July 1996.

33. *Richmond: Role of the Security Forces*, a report commissioned by the Network of Independent Monitors and the Human Rights Committee, 1999.

34. *Ibid.*, p. 11.

35. TRC Investigative Report, 'Case study: Richmond SDU, KwaZulu-Natal Midlands', internal TRC report, unpublished.

responsible for over 150 killings between them.³⁶ Around 50 SDU members have been implicated in hit-squad activity, including Bob Ndlovu from Magoda who was the first commander of the Richmond SDU. Richmond was divided into ten areas, with each area having six official SDU members and a number of undercover members (or reservists). An SDU intelligence wing was also created. SDU members received training either from MK outside South Africa, from the Transkei Defence Force in the Transkei, or locally from SDU commanders. In total there were around 120 SDU members in Richmond.³⁷

Throughout the early 1990s there were deadly struggles over access to funds, weapons, and training between Nkabinde's favoured Magoda area unit and other less favoured Richmond area units — none more so than with the killing of Mzwandile Mbongwa and others, allegedly by SDU members from Magoda (on the questionable grounds that the targets were police informers).³⁸ Mbongwa stood in open opposition to Nkabinde's leadership style and had sought to mount an inquiry into SDU problems. Nkabinde's position within regional ANC power structures, notably his close relationship working under Harry Gwala, assured his local pre-eminence.

Over time Nkabinde established a firm grip on SDU activity in the Midlands region. It has been alleged that Nkabinde accessed many weapons from the former Transkei bantustan and had at his disposal in Richmond an arms cache consisting of 164 AK-47 rifles, 3 landmines, and 11 RPG missiles.³⁹ Following its investigation into Richmond SDU structures, the TRC Report concluded that:

Sifiso Nkabinde was . . . responsible for the distribution of arms and ammunition to SDUs in the Richmond area, such arms included automatic firearms, pistols and hand grenades. The Commission finds that such weapons continued to be distributed even after the ANC announced the suspension of the armed struggle in 1990 . . . The Commission finds that the ANC consistently failed to reproach, discipline or expel Nkabinde from its ranks, and thereby encouraged a climate of impunity within which he continued to operate.⁴⁰

In fact, Nkabinde's activities did not meet with the approval of many senior members of the movement. And in 1993, the ANC sought to block further weapon dealings involving Nkabinde, precipitating a serious fracturing of the ANC in Richmond. Nkabinde continued to acquire and deal

36. *Ibid.* Gwala, who died in 1995, was widely thought to have created and led some of the region's most effective hit squads.

37. *Ibid.*

38. *TRC Report*, Vol. 3, Chap. 3, Section 369.

39. This compares with the 273 AK-47s that the ANC handed the SANDF in the integration process; *TRC Investigative Report*, 'Case study'.

40. *TRC Report*, Vol. 3, Chap. 3, Section 380.

in weapons, maintained a tight grip on the weaponry under his control, retained the loyalty of many SDU members in Magoda, and broke with the ANC, moving his allegiance to the United Democratic Movement in 1998. Not without coincidence, the UDM was launched and led by the former Transkei military leader Bantu Holomisa, who had earlier supplied Nkabinde with weapons and training facilities for SDU members, and who, as an ANC deputy minister, was forced, in controversial circumstances, to quit the ruling party. Magoda became a UDM stronghold while Ndeleni remained loyal to the ANC.

Self-defence units were meant to have been disbanded after the April 1994 election; the Richmond SDU, however, remained operative. Some SDU members became integrated into the security forces or engaged in other security-related activities, including assignment as personal bodyguards, but, as events transpired, continued their clandestine paramilitary activities under this cover. Hit-squad activity continued and the SDU increasingly became a criminalized structure; Nkabinde was not averse to controlling taxi routes or trading in weaponry for financial gain.⁴¹

After 1994, the ANC increasingly lost patience with Nkabinde; most importantly, his radicalism was becoming a threat to the interests of the ANC political elite. Having trained and armed the Richmond SDU, the ANC lost control over the actions of Nkabinde and his SDU members. Nkabinde was increasingly coming into conflict with a number of senior ANC leaders, at times simply ignoring or disobeying instructions. Thus, in April 1997 the ANC expelled Nkabinde on the grounds that he was a police informer who had been recruited by the Pietermaritzburg SAP Security Branch in 1988, under the false name 'Derrick Nene' — agent number SR4252.⁴²

Whilst there are substantial grounds to believe this claim, it remains open to question. The false name of 'Nene' was only registered in 1992 and at least one security branch member has maintained that Nkabinde did not work for them; no reports written by agent number SR4252 have been made public, nor indeed has the ANC report on the matter. It could also have been the case that Nkabinde was a double agent, pursuing deep undercover work for the ANC.

Nkabinde fought a hard and dirty war to retain his hold on power. His expulsion from the ANC marked the beginning of a two-year reign of terror in the Richmond area in which orchestrated hit-squad activity was to claim more than 120 deaths. Within three weeks of Nkabinde's expulsion, nine of the eleven serving ANC Richmond councillors had resigned from the Transitional Local Council (TLC). This left just two ANC and two

41. TRC Investigative Report, 'Case study'.

42. TRC Report, Vol. 3, Chap. 3, Section 365.

independent councillors on the TLC. Nkabinde is reputed to have said: 'I told councillors what to do [i.e., resign]. I expect them to do it.'⁴³ ANC Deputy Mayor, Rodney van der Byl, who refused to resign and remained on the council, received death threats and was assassinated in the driveway to his house on 8 May 1997. Ten weeks later, on 22 July 1997, the day following local government by-elections, two newly elected Richmond ANC councillors and three other ANC members were assassinated: 'The men were allegedly taken outside a house at about 9pm and shot behind their ears with an AK-47, R4 and R5 automatic rifles'.⁴⁴

Not surprisingly, in such a climate of fear, few people were keen to seek political office, and by-elections had to be postponed. Then, in July 1998, eight people, including the ANC Deputy Mayor Percy Thompson, were gunned down at a tavern in the centre of Richmond, and six others were injured. Former SDU member, Mbongeleni Mtolo, was charged with these murders. Mtolo had been integrated into the SAPS VIP protection unit in 1995, only to go absent without leave in 1997 to become Nkabinde's body-guard. It was not hard for people to see that Nkabinde was behind the Richmond killings:

My father [Rodney van der Byl] had found out that Nkabinde was behind the murder of Mzwandile [Mbongwa]. He only found out about the true Nkabinde after Nkabinde was thrown out of the ANC. Before that they were close. Nkabinde would come to my father to ask him to help write speeches and other things. (Interview with Clinton van der Byl)

I came to realize that Sifiso Nkabinde was behind the killings. I was so scared. We had given him all our powers. The self-defence unit members were all under his wing. Of the original Richmond ANC branch, four founder members have survived. (Interview with Bernard Mncwabe, treasurer of the ANC in Richmond)

This was, though, a war that the forces of law and order seemed unable to confront. It was not until five months after his expulsion from the ANC that Nkabinde was arrested and subsequently brought to court. In fact, police bias, police corruption, and bad police management aggravated the entire situation in Richmond. The complaints against the Richmond police were many: warning political leaders of police raids; exposing police informers to political leaders; passing on intelligence reports; missing dockets; and breaching due process. Moreover, there was a certain degree of direct and indirect police complicity in the killings. As was the case in Izingolweni, local police were supplying arms and giving or selling ammunition to the paramilitary forces.

The track record of the local police and prosecution service is far from impressive. Richmond Crime Investigation Division, which investigated

43. *Richmond: Role of the Security Forces*, p. 47.

44. Engelbrecht, *A Christmas to Remember*, p. 144.

political violence in Richmond until late 1994, had a consistently miserable conviction rate. Of 200 murder cases in the period 1992–94, only eight convictions were secured. In light of this, in 1995, the Minister of Safety and Security, Sidney Mufumadi (ANC), instructed the Investigative Task Unit (ITU) to probe politically motivated killings and SDU activity in Richmond.

The ITU's actions, however, did little to quell the violence, and actually precipitated further killings. In October and November 1995, the ITU arrested several SDU members — upsetting the working relationship that Nkabinde had established with the local police in the process. In protest, Nkabinde and his followers demanded, through a march on the police station, the release of those arrested, and then proceeded to make Richmond a 'no-go' area for the ITU. Against this background, on 17 March 1996, three policemen from Mountain Rise in Pietermaritzburg, mistaken for ITU members, were fatally ambushed in Magoda.

The failure of the ITU to make significant headway led to its being superseded by the National Investigative Task Unit (Midlands) (NITU) in mid-1996. The NITU fared little better; it was subjected to increasing controversy over the composition of the investigating team and the irregular activities of some NITU members. The NITU seemed unable to make significant progress and bring any convictions. In particular, its work was seriously dented by the assassination in April 1996 of Nto Zuma, a former SDU member turned state witness. Predictably, this had a strong deterrent effect on other actual and potential state witnesses. It was no surprise, then, when yet another investigation team was appointed in mid-1997 in the wake of the assassination of Rodney van der Byl. Under instructions from national level, Bushie Engelbrecht was put in charge of investigations.

There is no doubt that the problems facing detective work in Richmond were daunting: intimidation, lack of witness co-operation, and the difficulty of providing adequate security for state witnesses.⁴⁵ During the ITU and NITU investigations seven witnesses were killed. And in one case, involving Bob Ndlovu, the entire family of a state witness were killed, even though they had left Richmond.

Engelbrecht became responsible for the main investigation into Nkabinde, and he managed, by effectively distancing his team from previous units, to build up what seemed a convincing case against Nkabinde — at one stage placing as many as 25 people on the witness protection programme. A number of SDU members, including Mtolo, became prepared to incriminate Nkabinde and willing to testify. By late August 1997, Engelbrecht decided that there was enough evidence to arrest Nkabinde, Bob

45. 'Richmond: hit-squads continue their reign of terror', *KwaZulu-Natal Briefing* 12 (1998), p. 7.

Ndlovu, and several others. The operation to arrest Nkabinde and some of his accomplices, 'Operation Peacemaker', was launched at 3 o'clock on the morning of 16 September 1997:

The operation involved the Midlands police, the Special Investigation Team, the Task Force, Forensics, the Bomb Squad, the Dog Unit, a media liaison officer and a legal representative. From the Defence Force side it included Group 9 from Pietermaritzburg, B Company of 9 South African Infantry Battalion and members of 8 SAI Battalion Special company. The South African Air Force assisted with one BK117 and one Oryx helicopter. More than 500 security force members were deployed in the massive operation.⁴⁶

As a result, Nkabinde was indeed arrested, and charged with 16 counts of murder and two of incitement to murder. Three days later Bob Ndlovu was arrested and charged with 14 counts of murder, finally breaking an astounding pattern of 73 failed arrest attempts. It was expected that peace would return to Richmond; it did not. It was hoped that the arms caches would be uncovered; they remain hidden to this day.

In March 1998, Ndlovu was given three life sentences in connection with the killing of the three policemen from Mountain Rise. Nkabinde's trial began amid heavy security precautions in the Pietermaritzburg High Court on 9 February 1998. Engelbrecht had spent over a year building a case against Nkabinde; it was demolished in the courtroom as state witnesses crumbled in the dock. During the trial the conduct of the investigation increasingly came into question over irregularities in witness statement-taking, the handling of witnesses, and for failing to secure full permission to tap prison telephones used by Nkabinde in his legal consultations. Judge Combrinck was singularly unimpressed with the state's case, found Nkabinde 'the single most untouched witness in these proceedings', and concluded that the state had tampered with the facts.⁴⁷ Engelbrecht, however, had at one stage, he believed, persuaded two leading SDU members, who admitted to having been involved in the Richmond killings, to turn state's evidence. Just prior to trial they dramatically reneged on, and even denied, their commitment to appear as state witnesses. Engelbrecht has written that: 'A source told us after the trial that they feared for their families' lives . . . There is no doubt in my mind that if the two men had testified, Nkabinde would have been convicted on at least some of the charges.'⁴⁸

Nkabinde, having spent over seven months in prison, was acquitted on 30 April 1998. A few weeks later he was elected to the position of UDM national secretary. Following Nkabinde's release the violence continued

46. Engelbrecht, *A Christmas to Remember*, p. 167.

47. Crombrinck quoted in Engelbrecht, *A Christmas to Remember*, p. 216.

48. Engelbrecht, *A Christmas to Remember*, pp. 188–9.

with a vengeance, and by the end of July 1998 50 more ANC and UDM members had been killed. Another investigative team was appointed — the Violence Investigation Unit — to probe the new round of killings, and the Richmond area saw more than 800 police and soldiers deployed to maintain law and order. What followed next, on 13 August 1998, was a highly exceptional move that made national headlines: the Richmond police station was closed down. The extent of police bias and misconduct was such that all 58 police officers were transferred out of Richmond. Local policing fell to a National Intervention Unit comprising police from outside Richmond, reinforced by a number of SANDF units.

On 23 January 1999 events finally caught up with Sifiso Nkabinde; he was shot dead by three attackers who fired 80 rounds while he was in his car outside a Richmond supermarket. The killings did not stop there. Later that day, eleven ANC supporters were murdered in what seems a revenge attack. In the course of this action one of the alleged attackers was shot dead by the SANDF who had arrived at the scene. The identity of the dead man? Mbongeleni Mtolo, who at the time was out on bail for the Richmond tavern killings.

The newly formed and well resourced KZN Scorpion Unit, under Chris MacAdam, was commissioned — by the national director of public prosecutions — to investigate the murder of Nkabinde and follow up other cases of political violence in the Richmond area. As with earlier investigative units, the Scorpions met their share of controversy: MacAdam, in particular, attracted much criticism for bungled investigations, including his poor handling of the Richmond tavern massacre case, notably by releasing Mtolo on bail. Nonetheless, as a result of the Scorpions' work, a total of seven men were convicted for the assassination of Nkabinde, all of whom were connected to Richmond SDUs.

Those arrested for the murder of Nkabinde had strong links to the ANC in Richmond; they included both the bodyguard and the driver of Richmond ANC Mayor Ragavaloo. A third person arrested was Bruce Mhlongo, who turned state's evidence and became a key figure in the Nkabinde murder case. Sensationally, Mhlongo maintained that he had been paid R200,000 to recruit and direct the hit team that took out Nkabinde. And it appears that Mhlongo was connected to post-apartheid state intelligence services — the National Intelligence Agency.⁴⁹

Generally, excepting the high-profile Nkabinde murder case, there have been few successful prosecutions of those responsible for the Richmond killings. The contribution of the local police and all four nationally assigned investigation units was woeful. There was clearly a reluctance to address the

49. Paul Kirk and Jaspreet Kindra, 'Nkabinde's killer was an NIA agent', 24 March 2000, <www.mg.co.za>.

Richmond situation. Police management strategy was not up to the demands of the situation. Politically speaking, every party had more to lose than gain by probing the killings. In early 1997 the Safety and Security Portfolio Sub-Committee on Richmond — after assessing a detailed SANDF intelligence report which linked leading politicians in KZN to hit-squad activity in Richmond — recommended that an independent judicial commission of inquiry be established by the provincial legislature. No commission was ever appointed. The ANC rejected the idea; the IFP feared that any inquiry would implicate senior IFP politicians in violence in the region.⁵⁰

There is little indication that police investigators will continue to probe past Richmond killings. The families of well over a hundred victims have been denied justice. The failure to unravel the full web of intrigue and complicity in the Richmond killings, and to grant justice to the victims, as well as the failure to unearth hidden arms caches, means that this region is far from stable.

The Nongoma assassinations

The most recent case, which is that of the Nongoma assassinations, illustrates that even in areas of hegemonic IFP control political violence can continue to spiral out of control. Nongoma, in northern KwaZulu-Natal, is solid Inkatha territory. Since 1999, political violence in Nongoma has made national headlines on several occasions, with more than 20 people — IFP and ANC officials — being targeted and killed by former paramilitary forces. The ANC has argued: 'There is a situation of complete lawlessness in Nongoma', whilst the IFP has argued that Nongoma has the potential of being another Richmond.⁵¹ Unlike Richmond, however, the main tensions have been between IFP local leaders, with the names of a small number of individuals recurring constantly.

The busy market town of Nongoma is perched on an escarpment about 50 km north of Ulundi, the former capital of KwaZulu (see Map), and, significantly, the district serves as the seat of the Zulu royal house. The Nongoma district has an unemployment rate of 70 percent and most households are below the poverty line. The 1994 election results for Nongoma showed that the ANC received only 2 percent of the vote. In fact,

50. Ann Eveleth, 'Fresh fears for Zulu peace', 14 March 1997, <www.mg.co.za>.

51. Senzo Mchunu (ANC) quoted in Paddy Harper, 'A criminal's paradise', *Independent on Saturday*, 10 June 2000; interview with Albert Mncwango, local IFP leader and MP, Nongoma, 6 June 2000.

Nongoma has effectively been a 'no-go' area for the ANC,⁵² and in the 1994 national and 1996 local elections the ANC thought it too dangerous to actively campaign there.

The result was that Nongoma experienced very little IFP-ANC political conflict: there simply was not any political space for opponents of the IFP. Any conflict that occurred in the area was interpreted in terms of faction fighting: 'Nongoma is famous for faction fights' (interview with Superintendent Msinga, head of the Violence Investigation Unit in Durban). This situation was to change dramatically when, in April 1999, the ANC launched a local branch and started recruiting in the area in preparation for the upcoming June 1999 general election — a move that was integral to a deadly series of political assassinations. Not without coincidence, the ANC initiative was also taken at a time when the loyalty to Inkatha of the Zulu king, Goodwill Zwelithini, was increasingly being called into question.

The key figure in the conflict in the area has been IFP leader, and one time mayor of the town, Joseph 'J.B.' Sikhonde. Sikhonde did much to enforce IFP hegemony, and became a powerful figure in Nongoma by establishing a ruthless grip on the local taxi industry as well as various other businesses in the town.

In the mid-1990s, there was bitter and open conflict between competing taxi organizations over access to routes, sometimes resulting in shoot-outs in broad daylight in the town. Ownership of these taxi organizations was closely interlinked with prominent political leaders in the area, and at first had little to do with IFP-ANC divisions. Initially what happened was that — reflecting the competing territorial politics of chiefly authority in the region — the Nongoma Taxi Association split in two, between factions led by Mangisi Buthelezi and Mnkhalanka Zungu.

Over time the taxi dispute was fed by, and impacted on, other community grievances, such as land disputes and stock theft. As many guns found their way into the taxi industry, given the flourishing illegal trade in arms that was tied to the IFP-ANC war, a spiral of attacks and revenge killings — in which taxi passengers became the main victims — ensued.⁵³

In the taxi war for Nongoma the group led by Buthelezi gained the upper hand, forcing Zungu's group out of town. Buthelezi's ascendancy was gained through the assistance of local IFP youth leader Israel 'Commando' Ngcobo and paramilitary trained personnel. Buthelezi, however, found his rule short-lived, falling out with his henchmen and becoming tainted by increasing ANC sympathies. Buthelezi was forced out of Nongoma, leaving

52. Makhosini Nkosi, 'No-go Nongoma', 14 May 1999, <www.mg.co.za>.

53. Nicholas Claude, 'Nongoma: a taxi war in the king's domain', *KwaZulu-Natal Briefing* 10 (1998), pp. 14–15.

the ground to Sikhonde who, in league with Ngcobo, became a powerful figure in the town. As a confidential police report made clear:

The taxi industry, the resources it represented in a poor community and the violence associated with the local 'taxi-war,' changed the nature of the town's power structure. This increasingly came to be dominated by a limited number of individuals, most notably Sikhonde, who operated in Mafia style syndicates.⁵⁴

It is alleged — and intelligence reports support the allegations — that Sikhonde came to have under his control a hit squad comprising IFP members who had been trained for this role before 1994 and who had earlier played a part (on both sides) in the taxi violence, a hit squad that was used for his own personal political advantage to eliminate people and to extort protection money from local businesses. Assisting Sikhonde in his hit-squad activities were, it is alleged, Langa Ntshangase and some policemen stationed in Nongoma. In 1996, Ntshangase, an IFP member and serving member of the SAPS stationed at the Ulundi VIP Protection Unit, became a councillor — and later chief executive officer — on the Nongoma Transitional Local Council. It is alleged that Sikhonde and Ntshangase abused their position in the community to defraud development projects in the area.

Together Sikhonde, Ngcobo, and Ntshangase effectively controlled Nongoma, merging IFP political interests with personal gain. It was a relationship that did not last long. Both Ngcobo and Ntshangase subsequently fell out with Sikhonde. The reason for the split cannot be clearly tied to political ideology (although it did come to take party political form), and is best understood in terms of access to, and control of, local resources. As one police officer acknowledged:

It is about money and control . . . If one looks at the key people from both parties who are involved in conflict they were all initially part of Inkatha but because of tension and power struggles within the party some left and joined the ANC.⁵⁵

Discussing the split between Sikhonde and Ntshangase, local IFP leader and MP Albert Mncwango stated: 'The conflict got worse and worse between them . . . they both made it clear to me that the conflict would only be settled through the barrel of the gun.'⁵⁶ Sikhonde had the upper hand: his high political office in Inkatha, his investment in the taxi industry, and

54. Monitoring Report, 'Crime and policing in Nongoma, Ulundi Area, KwaZulu-Natal', Confidential, Monitoring and Analysis Unit, Secretariat for Safety and Security, September 1999.

55. Interview with police officer in Nongoma who asked to remain anonymous.

56. Interview with Albert Mncwango, 6 June 2000.

his close relationship with the local and Ulundi Area police all weighed in his favour.

To enhance their leverage both Ngcobo and Ntshangase decided, in March 1999, to defect from the IFP to the ANC. This was the time at which the ANC moved to establish a formal presence in Nongoma, and Ntshangase became deputy chairperson of the ANC branch in the area, proceeding to expose Sikhonde's illegal activities.

As these new IFP-ANC political fault-lines took shape the result was — for a number of people — fatal. Before long both Ngcobo and Sikhonde would be dead and Ntshangase arrested. Ntshangase became involved in a shoot-out with Sikhonde, in which neither party was hit, and both opened cases of attempted murder against the other. Then on the morning of 10 April 1999, Ngcobo was shot dead in the centre of Nongoma, just moments after the ANC had distributed pamphlets critical of the local government. Two days later, persons unknown set Ntshangase's home alight. Ntshangase fled Nongoma, and started operating out of Empangeni.

Subsequently, on 5 June 2000, Sikhonde was assassinated by a hit squad, in broad daylight, whilst driving in his car with his bodyguard, on the way to Prince Ndabuko High School.

The ambush spot itself was well chosen: Sikhonde's car was caught in a deadly cross-fire as it negotiated a hairpin bend in a gravel road, literally on the side of the mountain, by a team of between four and six shooters using AK-47 rifles.⁵⁷

At the time of the attack Sikhonde was out on bail for a murder charge; three weeks earlier he had been arrested for the murder of Ngcobo.

The IFP, including Mncwango, immediately accused the ANC of masterminding the hit,⁵⁸ and following a number of arrests, a group of some 500 IFP supporters, armed with 'traditional weapons', marched on the Nongoma Magistrate's Court, demanding that they be allowed to deal with those held for the murder of Sikhonde. IFP leader Mangosuthu Buthelezi and other senior IFP officials attended Sikhonde's funeral, and some 300 police and SANDF members were deployed to maintain law and order. Nonetheless, just hours after the funeral, a series of attacks on people and their homes was launched, which forced at least 50 people to seek refuge at the police station, and led to the assassination of the chairperson of the local community policing forum.

This series of events precipitated serious local conflict between the IFP and ANC. In the days and weeks following the Sikhonde killing, a number of both IFP and ANC politicians were assassinated. A *City Press* headline

57. Harper, 'A criminal's paradise'.

58. Sibani Mngadi, 'Trying to control a town's anger', *The Natal Witness*, 2 July 2000.

for 18 June 2000 declared 'Nongoma on the boil'.⁵⁹ Such developments placed the broader peace between the two parties in jeopardy. For, on the ground, the level of debate was vitriolic, with the ANC being accused of having compiled a hit list of IFP leaders in the area and using a hit squad against IFP councillors. At the top of the alleged hit list were the names of Joseph Sikhonde and Albert Mncwango.⁶⁰ Likewise, the ANC accused Inkatha of having a hit list of eleven ANC members to be eliminated in the area, with the name of 'Commando' Ngcobo at the top of this alleged list. Both parties, however, denied any knowledge of compiling hit lists.

Nonetheless, the IFP believed that the attacks on its local leadership were being orchestrated by SDU operatives working out of Empangeni, using weapons that were coming into the region from Mozambique along supply lines first established by MK. The ANC had good reason to believe that a hit squad comprising well-trained Inkatha paramilitaries from Nongoma district was operative. The assassination of Prince Cyril Zulu, a senior member of the royal family and chairperson of the ANC-affiliated KZN Hostel Residents Association — whose name was also on the alleged hit list of ANC members to be eliminated — was linked to this hit squad, on the allegation that Sikhonde, along with several senior-level provincial politicians, paid for the hit.

In the space of just over a year, at least seven Inkatha leaders and six ANC leaders were assassinated. To try and defuse the Nongoma situation a provincial-level peace meeting, chaired by ANC provincial leader S'bu Ndebele and senior IFP legislator Celani Mthetwa, was held in Ulundi. At provincial level, both sides recognized the gravity of the situation and 'restrained themselves from accusing each other of responsibility'; the killings were attributed 'to possible third-force activity'.⁶¹

It is clear that Nongoma police were unable to guarantee the peace in the area. Not surprisingly, the regional ANC branch called for the closure of the Nongoma police station and the appointment of a special investigation unit.⁶² To the ANC the local police have been part of the problem, especially given the police's dismal track record in investigating cases of political violence against ANC members. Gloria Zulu, the wife of Prince Cyril Zulu, was of the view that 'many murders of ANC supporters have been successfully covered up here'.⁶³ According to Bheki Cele: 'The basic

59. Zakhele Shiba, 'Nongoma on the boil', *City Press*, 18 June 2000.

60. Urgent Media Alert. 'IFP publishes hit list on which its members appear', 7 June 2000.

61. Jaspreet Kindra, 'Zuma rescues ANC-IFP coalition', 18 August 2000, <www.mg.co.za>.

62. Subject: [ANCLIST] ANC Press Statement, 'ANC calls for investigation of hit list allegations at Nongoma', issued by African National Congress KwaZulu-Natal.

63. Interview with Gloria Zulu, Lamontville, July 2000.

problem with the Nongoma police, is that it is a political unit favouring the IFP'.⁶⁴

Undoubtedly there have been serious problems with the quality of police service delivery in the Nongoma district. It is partly a question of resources: the police station is in poor physical condition and has a total strength of 112 members to serve a community of around 1.8 million people. The detective capacity at the station is dismal, with a detective service of 25 police. In January 2000, the SAPS National Inspectorate undertook a thorough investigation of Nongoma police station. The 43-page confidential report makes disturbing reading. The inspection found, amongst other things, that according to the station's control register, 38 case dockets 'still on hand' were 'in the hands' of deceased officers.⁶⁵

The problems are also partly reflective of the fact that most of the police stationed at Nongoma are members of the former KwaZulu Police (KZP), some of whom underwent paramilitary training in the early 1990s and were integrated into the new police service post-1994 (despite their lack of formal police training).⁶⁶ Most police, themselves from the Nongoma district, have continued to act as if they were still in the KwaZulu Police — when Inkatha political interests overtly dictated the form and content of policing.⁶⁷ As one Ulundi detective stated: 'When a person who is not popular because of his politics here is killed, there is an unspoken instruction that the members should not take the matter very seriously.'⁶⁸ Provincial crime intelligence reports do reveal that operational information was being leaked to Sikhonde.

The shortcomings of the local police led to outside intervention in the form of investigations into allegations of police complicity in political violence, a probe by investigators from Pretoria into the activities of the area commissioner, increased covert criminal intelligence gathering, and the deployment of an additional 300 SAPS and SANDF forces in the area. Such moves have not been without controversy themselves — coming under attack for being perceived as too pro-ANC. Outside investigative units have even been accused of involvement in the violence. According to IFP leader Mncwango: 'They themselves are more like political activists than police . . . the imported units have to be pulled out because they are

64. Sworn statement of Bhekokwakhe Cele (ANC spokesperson for Safety and Security in KZN), Durban, 21 December 1999.

65. South African Police Service, 'Inspection by the National Inspectorate: Nongoma Police Station, Area Ulundi: KwaZulu Natal Province: 2000-01-25 to 2000-01-26', Confidential, 2000.

66. Monitoring Report, 'Crime and policing in Nongoma'.

67. See Report, *Obstacle to Peace: The role of the KwaZulu police in the Natal conflict* (Legal Resources Centre and Human Rights Commission, Durban, June 1992).

68. Interview with Ulundi detective. This detective had serious fears for both his personal safety and career if his identity were given.

part of the conflict themselves, they are in fact themselves perpetrators of violence'.⁶⁹

The investigation into the Sikhonde assassination was, as could be expected, given high priority by the police, and outside units were brought in to handle the case. The Sikhonde investigation and court case were to prove as sensational as those cases concerning the Richmond killings. A total of six men — all ANC members — were arrested in connection with the assassination, including Langa Ntshangase. At the trial in July 2001, in the Mtubatuba Circuit Court, witnesses openly implicated Ntshangase in the attack. And one key state witness, Clifford Nkuna (a former apartheid security branch informer) offered a quite incredible sworn statement.

Nkuna sought to implicate King Zwelithini, S'bu Ndebele and Bheki Cele, in the attack. Ndebele sought to block Nkuna's testimony on the grounds that it would undermine the KZN peace process, and that he as a leading figure in this process could not afford to be seen as conspiring in the murder of any IFP member. It would, however, have been a dangerous move to allow a politician to prevent a state witness from testifying, and Nkuna was allowed to appear in court. Nkuna claimed that the hit was set up in May 2000, that Cele provided the money for the hit, that Ndebele had provided ten cellphones to help co-ordinate the attack, and that King Zwelithini had complained that 'the hit men were taking too long'.⁷⁰ The defence swiftly demolished Nkuna's testimony; the judge described it as 'fantastical', and it was totally discredited. Not surprisingly, questions have since been asked as to why Nkuna's statement was taken seriously by the Director of Public Prosecutions. It would seem that the judicial process was tainted by broader political motives.⁷¹

At the end of the case, all six accused were acquitted, but not before Nkuna claimed he had avoided an assassination attempt by persons unknown.⁷² At the end of the day, in Nongoma, as in Shobashobane and Richmond, for whom has justice been done? In all three cases one is left with the impression that, if the rule of law had dealt swiftly with James Zulu, Sifiso Nkabinde, and Joseph Sikhonde, many lives would have been saved. The sense of justice denied runs through the Shobashobane, Richmond, and Nongoma cases. In these places a culture of impunity and a lust for revenge have outweighed the rule of law.

69. Interview with Albert Mncwango, 6 June 2000.

70. Chris Jenkins, Ingrid Oellermann and Veven Bisetty, 'Witness points finger at Zulu king, ANC men', *The Star*, and published by *Independent Online* <www.iol.co.za> on 10 July 2001.

71. Eric Ndiyane, 'Court rejects evidence of Sikhonde witness', *Daily News*, <www.iol.co.za> on 31 July 2001.

72. The ANC blamed a 'third force' for the attack; Sapa [South African Press Association], '“Third force” blamed for attack on witness', <www.iol.co.za> on 17 July 2001.

The political violence matrix

Taking the three case studies together allows us to see some common patterns to post-1994 political violence in KZN. These patterns, when fully grasped, have a systemic form. In each case there is an integrated matrix of problems — relating to paramilitary units, security forces, and the criminal justice system — that conspire to deny people's basic right to safety, security, and justice. The problems are clearly rooted in the endemic violence of the old apartheid order, but they also flow from the lack of understanding and resolve of the new democratic order.

The common threads in the three conflict cases are clear: paramilitary forces from both sides have continued to drive violence; the police and the military are still directly and indirectly implicated in the violence; outside investigative units find it hard to make significant headway; and successful prosecutions have been hard to come by. Moreover, the capacity of the legal system to deliver justice has been weak. In all three cases local strongmen who have been implicated in political violence end up being assassinated, rather than being dealt with by the rule of law. Why is this?

The core issue in understanding the matrix of political violence in KZN after 1994 is that of the increasing militarization of the province from the mid-1980s onwards. For the clearest common denominator and primary proximate cause of violence, in the three case studies, has been the paramilitary forces spawned by Inkatha and the ANC. The key fact here is that for many years Inkatha and the ANC were at war: a war that, over time, increasingly assumed paramilitary form — involving armed wings (trained Inkatha paramilitaries and MK) and people's militia (SPUs and SDUs). And what is of great relevance is understanding how these forces were incorporated into the new order as both Inkatha and the ANC moved from war to peace.

In the apartheid years KwaZulu-Natal was a region that saw coherent action between the apartheid state and Inkatha in a joint attempt to undermine and destabilize the ANC. In early 1986, Buthelezi was informed that the ANC were planning his assassination, and he moved later in the year to establish a paramilitary defence unit for defensive work and pre-emptive strikes — in effect an armed wing to fight the ANC.⁷³ In conjunction with the SADF, 'Operation Marion' was launched, whereby Inkatha would be given a 'strike capacity which it did not have'.⁷⁴ To this end, 206 Inkatha members were trained in the Caprivi Strip in 1986. The Caprivi trainees received six months training by the Special Operations component of Military Intelligence and Special Forces. About 30 trainees were groomed

73. Howard Varney, 'The role of the former state in political violence. Operation Marion: a case study', unpublished paper, 1997.

74. TRC, Inquiry in terms of Section 29, held at Durban, Walter Sidney Felgate.

for full-time offensive operations. And on returning from the Caprivi, the trainees were active in many guises — most notoriously in hit-squad activity under the cover of KZP police stations, an activity that continued well past 1990.⁷⁵

The activities of Inkatha hit squads — often working in collaboration with senior Inkatha politicians and clearly sanctioned by the SAP and SADF up until 1990 — were lethal: to identify people for assassination, and to subject areas of ANC support to general terror. Military operations were decentralized and targets would be determined by the need of IFP leadership on the ground.⁷⁶ Once the state formally committed itself to elite pacting and ended covert operations against the ANC in late 1992,⁷⁷ Inkatha was sustained in its clandestine activities by renegade elements which continued to provide weaponry to hit-squad members.⁷⁸

The IFP's paramilitary force capacity was bolstered in the transition years with the rise of SPUs. It is estimated that, during late 1993 and early 1994, training was provided for as many as 8,000 SPU members, principally at Mlaba camp, under the command of IFP MP Philip Powell. At Mlaba, recruits received six weeks of intensive training in both offensive and defensive techniques, to enable Inkatha to maintain power. Powell, covertly attached to the intelligence wing of the Security Branch, had links with Vlakplaas commander Eugene de Kock who helped supply Inkatha with several tonnes of weapons, including rocket launchers and hand grenades.⁷⁹

For their part, many ANC and MK leaders did not view 1990 as the termination of the armed struggle, but just its suspension. Since the mid-1980s the ANC had targeted Inkatha and in particular its leadership, and as the transition unfolded covert military operations continued with added secrecy. According to Nelson Mandela, Harry Gwala, for one, 'did not see any contradiction between negotiations and the need to build the forces of liberation'.⁸⁰

There is little doubt that the ANC's paramilitary capacity was strengthened in the 1990s by the emergence of SDUs as community-based armed

75. *Second Interim Report of the Transitional Executive Council Investigation Task Group into the matter of Hit Squads in the KwaZulu Police*, (Transitional Executive Council, Pretoria, 29 March 1994).

76. Truth and Reconciliation Commission, Amnesty Hearing, 7 April 1998, Durban: Dalaqolo W. Luthuli, <www.doj.gov.za/trc/amntrans/durban5/dbn1.htm>.

77. See Rupert Taylor and Mark Shaw, 'The dying days of apartheid', in David R. Howarth and Aletta J. Norval (eds), *South Africa in Transition* (Macmillan, Basingstoke, 1998), pp. 13–30.

78. Eugene de Kock, *A Long Night's Damage: Working for the apartheid state* (Contra Press, Johannesburg, 1998).

79. TRC, Inquiry in terms of Section 29, held at Durban on 16 July 1997, Major-General Jacobus Büchner. In 1996 De Kock was found guilty of 89 charges, including six of murder; *S v Eugene de Kock*.

80. Speech by President Nelson Mandela at the funeral of Harry Themba Gwala, 1 July 1995, <www.anc.org.za/ancdocs/history/mandela/1995/sp950701.htm>.

formations. Many self-defence unit members became regarded as part of the MK structure: SDUs were structured along military lines, supplied with arms from Central Ordnance Division, and given training by MK personnel.⁸¹ The ANC maintains: 'We do not have records of MK's role in SDUs, since they were not headquarter controlled structures'.⁸² Substantial evidence exists, however, to show that MK continued to supply weapons to SDUs right up until the 1994 election. Notably, in KwaZulu-Natal some MK people remained underground and the distribution of weaponry from Mozambique, Swaziland, and the Transkei to ANC structures continued after 1990.⁸³ The former head of ANC special operations, Aboobaker Ismail, has stated that:

SDUs were assisted by MK cadres but the military headquarters deliberately took a decision that they would not get directly involved in the SDUs but that certain members of headquarters and members of MK were told: 'Do what you have to do amongst the communities'.⁸⁴

Clearly, the Inkatha-ANC war did not become magically resolved with the demise of apartheid and the rise of a democratic state. Paramilitary structures remained operational and armed into the transition (1990-94), and in some cases beyond. The truth is that the lines of division between the old and the new are by no means clear-cut. In particular, what is evident is that apartheid-era 'third force' elements remained active, that trained Inkatha paramilitaries and MK continued to exercise a lethal effect on the region, and that SPUs and SDUs, lacking official sanction, continued to operate after 1994. All three case studies show the influence of these dynamics, dynamics that, left unchecked, created havoc in the post-apartheid era. The result has been new forms of conflict, extending beyond the Inkatha-ANC divide to encapsulate intra-Inkatha and intra-ANC disputes as well as organized crime networks.

Nowhere are such developments more apparent than in the way in which SPUs and SDUs were sponsored and then increasingly disowned. After 1994, the SPUs and SDUs did not easily disappear, and both the IFP and the ANC faced growing dissension from their SPUs and SDUs over the way they were being demobilized, and were confronted with the growing criminalization of these structures.

81. TRC Investigative Report, 'Accumulation and distribution of weapons to the African National Congress (ANC)', internal TRC report, unpublished.

82. Deputy President Thabo Mbeki, appearing before the Truth and Reconciliation Commission: transcript of the African National Congress party political recall in Cape Town, 12-13 May 1997, <www.doj.gov.za/trc/special/party2/anc2.htm>.

83. See, for instance, TRC Amnesty Committee, Riaz Salooje applicant (AM 7158/97), <www.doj.gov.za/trc/decisions/1997/971020Saloojee.htm>.

84. Amnesty Hearing/Aboobaker Ismail. TRC, Amnesty Hearings, 6 May 1998, Johannesburg, <www.doj.gov.za/trc/amntrans/pta7/ismail1.htm>.

The politics of the transition dictated that most of the 4,000 KwaZulu Police be incorporated into the SAPS (under the 1995 Police Act) and, more importantly, that the large militia in KZN — SPUs and SDUs — be reined in; as IFP leader Frank Mdlalose stated: ‘There is no place for the SDUs now and they must go. They have been very harmful and have destroyed many lives.’⁸⁵ Reining in the SPUs and SDUs was no easy task, and a common line taken by the political leadership, on both sides, was simply to disown them. The whole demobilization process was far from smooth: the way in which, and the extent to which, paramilitary forces were incorporated into the new security forces was not satisfactory.

By 1994 there were as many as 10,000 SPU and SDU members in KZN. Of these, some 2,000 SPU members were incorporated into the SANDF, despite the fact that they ‘never qualified in terms of the statutes because when Buthelezi was approached about their inclusion he said that the IFP did not have any paramilitary forces’.⁸⁶ An additional 1,000 SPU members ended up in the police, after special-constable training. Many former soldiers from MK, who had received formal professional training, were integrated into the SANDF, but far fewer SDU members were accepted.

The level of training of SDU compared to MK and army standards was very low. It was a different type of training and different type of people used and trained as SDUs, they were not proper soldiers and they did not have the same discipline.⁸⁷

Most SDU members were taken into the SANDF by virtue of the fact that MK numbers were not as high as had been declared in negotiations, and in this way several thousand SDU members were claimed as MK members. A number of SDU members were also integrated into the SAPS.

Thousands of SPU and SDU members were not incorporated and were left out in the cold. Of these, some found employment with security companies; others continued to operate, but now in a new form with fractured lines of command, and with the line between political and criminal violence becoming increasingly blurred. To make matters even worse, there was insufficient compensation offered to ex-combatants: the money that was made available to assist the SPUs and SDUs was stolen, and there were no voluntary demobilization packages for SPU members. Moreover, weapons were very difficult to retrieve in the integration process and many weapons were simply not handed in.⁸⁸

85. Mdlalose quoted in Antoinette Louw, ‘Conflicting views’, *Indicator SA* 11, 3 (1994), p. 11.

86. Interview with Philip Powell, 29 October 1999.

87. Interview with senior MK ex-combatant who is now an official in the Ministry of Defence, 22 October 1999.

88. See Siphwe Nyanda (former MK commander) quoted in TRC Investigative Report, ‘Accumulation and distribution of weapons’.

The mix of around 5,000 ex-combatants disillusioned with the integration process, confronted with a lack of employment opportunities, but with ready access to a supply of arms and ammunition, has proved lethal: many townships in KZN have experienced increasing lawlessness and a rise in organized crime. In both Richmond and Nongoma it was clearly the case that SDU and SPU members became increasingly involved in criminal activities.

Against this background it is not surprising to find that the cases of Shobashobane, Richmond, and Nongoma do not come close to representing the full extent of the post-1994 political violence in KZN. For example, intra-IFP conflict in Lindelani (north of Durban) involving a paramilitary presence has led to over 30 murders since 1998 — in conditions which one commentator has described as being ‘even murkier’ than Richmond.⁸⁹ In Umlazi, intra-ANC hostel conflict involving ex-combatants has led to more than 70 killings since 1996 — with no arrests.⁹⁰ And conflict between ex-combatants from SDUs and MK in KwaMashu has seen over eight dead.⁹¹ The situation at the KwaMashu police station has been as bad as that found at the Nongoma police station. A 1999 confidential report discovered that: ‘More than 200 criminal cases were assigned to detectives who were either dead or dismissed from the force . . . Nearly half of the 355 guns allocated to the station were inexplicably missing, and some were linked to local crimes.’⁹²

Across the province, the impact of Inkatha–ANC conflict on policing has been debilitating, effectively defining out the possibility for impartial and objective work. There has been a failure to rise above the politics of the violence. As was shown in all the case studies, a number of local police officers have been unable or unwilling to pursue effective investigations, and some have been involved in illegal activities, whether the destruction or distortion of evidence, or, most seriously, the supply of weapons.⁹³ Problems encountered surrounding basic detective work (collecting evidence, handling witnesses and suspects, statement-taking, docket compilation) do, to some extent, reflect incompetence but can be more readily traced to biased political influence and interference in police duties. In KZN the problem of bias is virtually a closed circle, because attempts to redress the IFP bias of provincial policing through national interventions, such as

89. Marais, ‘The shattered mould.’

90. Interview with two members of the Glebe Hostel Association and the local councillor at Glebe Hostel, 4 July 2000.

91. Enoch Mthembu, ‘Old soldiers at war with young cadres’, 13 June 1997, <www.mg.co.za>.

92. Rachel L. Swarns, ‘South Africa in an uphill fight against crime’, *The New York Times*, 15 May 2000, <www.nytimes.com> archive.

93. Also see Network of Independent Monitors [NIM], ‘Policing crisis in KwaZulu-Natal’, document submitted to the Ministry of Safety and Security in May 1996.

setting up special investigation units or deploying SANDF troops, carries with it a charge of ANC bias and, as was seen in the Shobashobane and Nongoma cases, many Inkatha supporters refuse to co-operate with investigative task units.

Against this background, and in such a climate, it is hardly surprising that the criminal justice system has found it hard to secure the prosecution of those implicated in political violence. In many ways the archetypal case with respect to ineffective prosecutions in the post-apartheid era was laid down in late 1995, in *S v Msani* — the Malan trial. This high-profile attempt to implicate 18 senior apartheid state military and police intelligence officers, including General Magnus Malan (a former Minister of Defence) and M. Z. Khumalo (Buthelezi's personal secretary), in a conspiracy to propagate acts of murder and mayhem through the pre-1990 offensive actions of the Caprivi trainees, was a dramatic failure. Even though some trainees had been instructed in 'house penetration, planning and execution of ambushes, raids, [and] sniper activity', and had undisputedly carried out attacks after liaison with military intelligence and SAP security branch,⁹⁴ the presiding judge, Jan Hugo, concluded that the 'offensive' nature of the Caprivi training was ambiguous and the accused were acquitted in October 1996.

In Kwazulu-Natal there has been no determined or integrated attempt to promote smooth demilitarization, unbiased policing, and effective prosecutions. Blocking the way forward has been the weight of wartime divisions and the way in which this relates to how political power has passed into the hands of the two main protagonists — Inkatha and the ANC. For, with KZN now being governed through a divided system of (IFP) provincial and (ANC) national authority, and with both sides claiming, and having, the right to deploy security forces and set up investigations and commissions, the rule of law has remained politically contaminated.⁹⁵ In fact, the way in which Inkatha-ANC differences feed through into the authority structures tasked with resolving political violence has come to drive ineluctably a political pragmatism that rests more on a politics of denial than on the pursuit of justice.

The politics of denial

The militarization of KwaZulu-Natal, the fact of Inkatha and the ANC being at war, and the effects of this war have been masked by a politics of denial, as this is a war that no one wants to admit or recognize. Political leaders have been quick to deny that they were ever formally at war

94. Howard Varney, 'The Caprivi Trainees', submission to the Truth and Reconciliation Commission, 4 August 1997, Durban. Also see Varney, 'The role of the former state'.

95. Alexander Johnston, 'Amnesty, truth and reconciliation: the solution or part of the problem?', *KwaZulu-Natal Briefing* 7 (1997), pp. 6-10.

(certainly so after 1994) or that they were responsible for violent actions on the ground. Both Inkatha and the ANC have been concerned about projecting a public face of being committed to non-violence and peace, despite the fact that some political leaders do not have 'clean hands'; all three case studies have revealed that senior political figures have been implicated in political violence.

It might have been expected that the Truth and Reconciliation Commission would have unravelled such issues, but the TRC failed to advance understanding significantly. It did not probe the question of the war between Inkatha and the ANC in KZN with sufficient vigour. The TRC Report does offer a chronological narrative of events in KZN (in Volume 3, Chapter 3), but lacks any sociological analysis as to the systemic nature of the violence in this province. In general, as Richard Wilson has observed, the TRC offers 'no integrated explanation of the (personal, ideological and structural) reasons for the violence, nor how it was structured or organized'.⁹⁶ Added to this, the TRC was soft on the issue of impunity,⁹⁷ whereas what was more appropriately required, as the case studies suggest, was a hard stance on prosecutions.

Mahmood Mamdani has criticized the TRC for not taking into account the past effects of the full panoply of apartheid laws, of embracing 'the legal fetishism of apartheid' in as much as the Commission 'considered as a gross violation only that which was a gross violation under the laws of apartheid'.⁹⁸ But there is more to it than this. For, as the case studies reveal, the patterns of the past are not over — to be reckoned with in some neutral public space. The TRC's cut-off date of May 1994 does not neatly mark the passing of the violation of human rights rooted in the social dynamics of the old order. In fact, the TRC's emphasis on reconciliation and the individual experiences of perpetrators (state agents) and victims (political activists) deflected focus from what have, in this article, been stressed as central concerns: the systemic nature of political violence in KZN and the need for effective prosecutions. It is not only that the grievances and violence generated under apartheid have not been taken into account, but also that their systemic consequences for the present have barely been grasped.

Regardless of how the TRC sought to frame the question of political violence, there can be little dispute that the Commission's picture of

96. Richard A. Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the post-apartheid state* (Cambridge University Press, Cambridge, 2001).

97. The TRC sought to 'determine truth without legal process'. See Frederik van Zyl Slabbert, *Tough Choices: Reflections of an Afrikaner African* (Tafelberg, Cape Town, 2000), pp. 140–1.

98. Mahmood Mamdani, 'A diminished truth', in Wilmot James and Linda van der Vijver (eds), *After the TRC: Reflections on truth and reconciliation in South Africa* (David Philip, Cape Town, 2000), pp. 58–61.

KwaZulu-Natal has been far from complete — not least because Inkatha decided not to co-operate with the whole TRC process. TRC Chairperson, Archbishop Desmond Tutu, has admitted that the failure to get the IFP to participate fully was a 'shortcoming'.⁹⁹ Very few Inkatha victims of violence presented accounts to the TRC; thus thousands of violations were not reported. The TRC could have taken the decision to subpoena leading Inkatha members, but chose not to do so. Even if Inkatha leaders had been subpoenaed, it is more than likely that they would have refused to co-operate. Tellingly, TRC Deputy-Chairperson Alex Boraine cautioned against subpoenaing Buthelezi, on the grounds that 'Violence was still very much part of the problem in KwaZulu-Natal during this period'.¹⁰⁰

Consequently, the wartime and paramilitary activities of Inkatha — especially after 1990 — escaped detailed scrutiny. And the IFP's non-co-operation also worked to foreclose much probing of the ANC in this regard. In the TRC hearings, the ANC provided very little information on its attitude and strategy to the IFP, or on the role of MK command in KwaZulu-Natal. TRC investigative reports into MK and SDU activity in KZN, apart from the report on Richmond, were insubstantial, and have not been placed in the public domain. In general, the TRC's understanding of covert operations from any quarter in the post-1990 period was weak,¹⁰¹ not least because of the mass destruction of official security records. In addition, the TRC's investigative unit had little capacity to inquire into such issues.¹⁰² Whilst a number of Amnesty Committee hearings have provided insight into the activities of SPU and SDU members, this has been since the publication of the TRC Report and the termination of the investigative process.

Thus, political leaders have been able to maintain the fiction that the Inkatha-ANC war was a war that never was. Political leaders continue to deny responsibility for thousands of acts of political violence in KZN, they continue to deny any chain of command that would link them to covert military action, and seemingly incontrovertible cases are blamed on undisciplined or renegade elements. Culpability has, as in the case of Eugene de Kock, been confined to the foot soldiers. Thus, former State President F.W. de Klerk has stated: 'I reject without qualification that my government was ever behind the violence'.¹⁰³ IFP leader Mangosuthu Buthelezi has never acknowledged the existence of an armed wing of Inkatha, and has declared 'I can say now, as always, that my hands and my conscience are

99. Desmond Tutu, *No Future without Forgiveness* (Rider, London, 1999), p. 186.

100. Alex Boraine, *A Country Unmasked* (Oxford University Press, Cape Town, 2000), p. 152.

101. Wilson, *The Politics of Truth and Reconciliation*, Chapter 3.

102. Piers Pigou, 'False promises and wasted opportunities? Inside South Africa's Truth and Reconciliation Commission', in Deborah Posel and Graeme Simpson (eds), *Commissioning the Past: Understanding South Africa's Truth and Reconciliation Commission* (Witwatersrand University Press, Johannesburg, 2002), pp. 37-65.

103. F.W. de Klerk, *The Last Trek: A new beginning* (Macmillan, Basingstoke, 1998), p. 202.

clean'.¹⁰⁴ And President Thabo Mbeki has maintained that 'at no stage did the leadership of the ANC take a decision or give instructions to conduct an armed struggle against the IFP'.¹⁰⁵

Those on the ground, however, had no doubt that the chain of responsibility went right to the top. A member of an IFP hit squad operating in northern KZN, who was responsible for the death of a number of ANC people and spent a number of years in prison, stated that 'because of what I knew about senior people's involvement in hit squads I always feared for my safety'.¹⁰⁶ Crucially, as 'super spy' Craig Williamson acknowledged before the TRC, within the apartheid state 'The operational procedures were designed by people who knew the law, in order to circumvent proof of legal responsibility for the deed by the upper echelon'.¹⁰⁷ And certainly Caprivi trainees were encouraged to lie, as Dalaqolo Luthuli, the 'overall commander' of the Caprivi trainees, stated: 'It was clearly indicated that we should tell all sorts of lies so that nobody should know the truth as to what was happening'.¹⁰⁸ This, perhaps, best points towards why the TRC made little headway in explaining or probing the paramilitary dynamics of the war.

Instead of coming clean and dealing with the past, too many political leaders deny and suppress the truth. In all three case studies Inkatha and the ANC deflected blame from themselves by distancing or detaching themselves from any implied chain of command, by blaming renegade and 'third-force' activities, or by claiming that the violence 'is not political'. In the case of Shobashobane the IFP sought to detach itself from any chain of command; in the case of Richmond the ANC did likewise; and in the case of Nongoma the IFP projected the position that 'there is no real political conflict, it is all faction fighting'.¹⁰⁹

In explaining the Richmond killings, for example, former President Nelson Mandela stated that there was a shadowy force at work, 'a highly coordinated network of people deployed in state organs . . . driven by the desperate attempt to arrest the democratic transformation of our country and turn back the clock of history'.¹¹⁰ It makes little sociological sense, though, to reduce an understanding of political violence to a conspiracy

104. Buthelezi quoted in Sipho Khumalo, 'Buthelezi peace call: no alternative to reconciliation, says IFP leader', *Daily News*, 3 July 2000.

105. Mbeki, ANC party political recall.

106. Confidential interview with IFP hit-squad member, November 2000.

107. Memorandum by Craig M. Williamson, 'Aspects of state counter-revolutionary warfare principles and strategy: Republic of South Africa in the 1980s', presented to the TRC, Cape Town, 9 October 1997, Section 5.8.

108. TRC Amnesty Hearing, Attack on Flagstaff Police Station, 7 April 1998, Durban, <www.doj.gov.za/trc/amntrans/durban5/dbn1.htm>.

109. Interview with Albert Mncwango, 6 June 2000.

110. Suzanne Daley, 'Fears of shadowy force return to South Africa', *New York Times*, 11 August 1997, <www.nytimes.com>.

theory involving just those old guard remnants of the apartheid era who may have remained active within the security forces. Certainly, simply to describe Nkabinde, as Mbeki has done, as 'a great militant fighter against the IFP on the instruction of the Special Branch', is to stretch the bounds of credibility.¹¹¹

In all cases, a better understanding of the systemic causes of political violence and a stronger level of political will would have led to many lives being saved. A basic human right is that people must be able to live their lives without undue threat or the likelihood of violent death or injury: in KZN the post-apartheid state has patently failed to protect its citizens. Justice has been denied.

Conclusion

The result of the politics of denial is that the systemic nature of political violence in KwaZulu-Natal has not been addressed. Consequently, hundreds of lives have been lost in the post-1994 era in this region. Moreover, the upshot of the politics of denial is that there are thousands of young ex-combatants whose past role has not been sufficiently acknowledged, and whose future has been blocked.¹¹²

Events in Shobashobane, Richmond, and Nongoma show how a spiral of political revenge and retribution can set in when the security forces and the criminal justice system are politicized and the state is too soft in acting against a culture of impunity. In KwaZulu-Natal, if fear of future prosecution or punishment were made real, the cycle of revenge and retribution would be checked. For this to happen, it is necessary, first and foremost, to break free from the politics of denial propagated by those in power and to establish firmly the rule of law. Justice must be seen to be done. In this regard, the IFP's and ANC's talk of a post-TRC 'general amnesty' for KwaZulu-Natal, and the view of the former Chair of the Human Rights Commission, Barney Pityana, that now, after the TRC, there should be no more prosecutions for the past as it would only 'open a can of worms', are perverse.¹¹³

111. Mbeki, ANC party political recall.

112. As yet neither Inkatha nor the ANC have developed programmes to deal effectively with the demobilization of armed combatants.

113. John Battersby, 'Call to stop apartheid prosecutions', *Cape Argus*, 24 July 1999 <www.iol.co.za>