



Volume **SIX** • Section **FIVE** • Chapter **FOUR**

**Findings and  
Recommendations**

**HOLDING THE INKATHA  
FREEDOM PARTY  
ACCOUNTABLE**

# Holding the Inkatha Freedom Party Accountable

1. In its Final Report, the Truth and Reconciliation Commission (the Commission) made findings against the Inkatha Freedom Party (IFP) and associated structures and institutions. In particular, it found against the IFP that:

*The IFP was responsible for the commission of gross violations of human rights in the former Transvaal, Natal and KwaZulu, against persons who were perceived to be leaders, members or supporters of the UDF, the ANC or its alliance partners such violations formed part of a systematic pattern of abuse which entailed deliberate planning on the part of the organisation.*

2. The Commission based this finding on, *inter alia*:
  - a speeches by the IFP president and senior party officials that had the effect of inciting supporters of the IFP to commit acts of violence;
  - b the arming of IFP supporters in contravention of existing legislation;
  - c mass attacks by IFP supporters on communities and leaders of the United Democratic Front (UDF) and/or the African National Congress (ANC);
  - d collusion with the South African government's security forces to commit violations; in particular, a pact with the South African Defence Force (SADF) to create a paramilitary force for the organisation with the intention of causing death and injury to UDF/ANC members;
  - e the establishment of a hit squad within the KwaZulu Police and the Special Constable structure of the SAP with the intention of causing death or injury to UDF/ANC supporters;
  - f training large numbers of IFP supporters, under the auspices of the Self-Protection Project, with the objective of preventing the holding of elections in April 1994 by violent means;
  - g conspiring with right-wing organisations and former members of the government's security forces to commit acts that resulted in loss of life or injury, and
  - h creating a climate of impunity by expressly or implicitly condoning gross human rights violations and other unlawful acts committed by members of the IFP.

3. The Commission made further findings against several groups aligned to the IFP:

### **Caprivi trainees**

4. The Commission found that, in 1986, the SADF conspired with Inkatha to provide the latter with a covert, offensive paramilitary unit ('hit squad') to be deployed illegally against persons and organisations perceived to be opposed to or enemies of both the South African government and Inkatha. The SADF provided training, financial and logistical management and behind-the-scenes supervision of the trainees who were trained by the Special Forces unit of the SADF on the Caprivi Strip.
5. The Commission found that this illegal deployment of the Caprivi trainees led to gross violations of human rights, including killing and attempted killing, for which it found former President PW Botha, General Magnus Malan and Dr MG Buthelezi accountable.

### **KwaZulu Police**

6. The Commission found that the KwaZulu Police (KZP), in the period 1986 to 1994, acted in a biased and partial manner and overwhelmingly in furtherance of the interests of Inkatha, and later the IFP, in that:
  - a through acts of commission, it worked openly with Inkatha, and through acts of omission, it failed to protect or serve non-IFP supporters;
  - b it was responsible for large numbers of politically motivated gross human rights violations (killings, attempted killings, incitement and conspiracy to kill, severe ill-treatment, abduction, torture and arson), the victims of which were almost exclusively non-IFP members;
  - c it neglected to observe basic investigative procedures;
  - d it deliberately tampered with evidence;
  - e it ensured that KZP and IFP suspects in political violence matters were concealed, often for lengthy periods, in KZP and SADF camps;
  - f it issued false police certificates and identity documents to members of the IFP who were involved in political violence, in order to prevent their arrest and convictions and to facilitate their continued criminal activities; and

g it took part in killings and purported to investigate the very matters in which its members had been involved as perpetrators.

7. In conclusion, the Commission found that, although there were honourable exceptions in that some members of the KZP did carry out their duties in an unbiased and lawful manner, the KZP generally was characterised by incompetence, brutality and political bias in favour of the IFP, all of which contributed to the widespread commission of gross human rights during the period under review.

### **Special Constables**

8. The Commission found that the Special Constables were deliberately established and trained to assist Inkatha against the latter's political enemies, and that Special Constables, acting alone and in concert with Riot Unit 8 of the SAP, regularly committed serious unlawful acts in order to support and assist Inkatha in the period prior to and during the so-called 'seven-day war'.

### **Esikhawini hit squad**

9. The Commission found that, in 1990, senior members of the IFP conspired with senior members of the KZP to establish a hit squad in Esikhawini Township near Empangeni, Natal, to be deployed illegally against people perceived to be opposed to the IFP. The hit squad consisted of Caprivi trainees and members of the KZP. Its members took instructions from senior members of the IFP and of the KZP to eliminate political activists affiliated to the ANC and the Congress of South African Trade Unions (COSATU), as well as members of the SAP who were seen not to be supportive of the IFP.

### **Self-protection unit members**

10. The Commission found that IFP self-protection unit (SPU) project, although officially placed within the ambit of the Peace Accord and containing an element of self-protection, was also intended to furnish the IFP with the military capacity to prevent by force the central government and the Transitional Executive Council (TEC) from holding elections which did not accommodate the IFP's desires for self-determination. Such armed resistance entailed the risk of unlawful death and injuries to persons.

## RESPONSE TO THE COMMISSION'S FINDINGS

11. The IFP criticised the Commission's report and, in the parliamentary debate on the report held on 25 February 1999, Mr MA Mncwango of the IFP said of the Commission that it:

*has remained stuck in the mind-set of the total onslaught against the IFP that is the legacy of yesterday's politics. Its final report is a clumsily crafted anecdotal mythology through which it has sought to give credibility to yesterday's liberation propaganda ... The final report of the TRC will be consigned to the dustbin of history .<sup>67</sup>*

12. He suggested that the work of the Commission had been negatively affected by its bilateral origins as a political accommodation between the ANC and NP and consequently was 'clueless' in its analysis of 'black-on-black conflict', unlike its work in regard to the white/black conflict.

13. With regard to findings made against Dr MG Buthelezi, he said that the Commission's main source of information came from the 'twisted' confessions of people seeking amnesty who had told the Commission what it wanted to hear. He noted with regard to the Caprivi and Esikhawini hit squad operatives:

*This distortion clearly happened in the testimony of discredited witnesses and self-confessed killers such as Daluxolu Mandlanduna Luthuli, Romeo Mbambo and Andries Nosenga, who are changing their versions of the facts of their crimes until they concocted lies to implicate Minister Buthelezi in their activities (interjections). In due course, all these were proved to be lies.*

14. In respect of the findings made against Dr Buthelezi as President of the IFP and former leader of the KwaZulu Government, Mncwango said that:

*While the TRC found no evidence of wrongdoing, or a specific violation of human rights by Dr Buthelezi, it seeks to hold him accountable for the generic violation of human rights. This is legally obscene and morally repugnant. .... One is politically accountable when certain actions may be the consequence of the policies adopted by a leader. But Minister Buthelezi never adopted any policy other than non-violent passive resistance and the echoing demand for all-inclusive negotiations, which in the final analysis were exactly what caused the demise of apartheid and led to the birth of the new South Africa.*

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<sup>67</sup> Hansard, 25 February 1999, p. 77.

15. Mr Mncwango is not correct in his assertion that ‘the TRC found no evidence of wrongdoing, or a specific violation of human rights by Dr Buthelezi ...’. The Commission did in fact make findings against Dr Buthelezi himself. The Commission found that Dr Buthelezi knew that the Caprivi trainees were to be illegally deployed in an offensive manner against people perceived to be anti-Inkatha and was aware that such armed resistance would entail the risk of unlawful death and injury. He was held accountable for killings and attempted killings. The Commission also found that, with regard to the SPUs and the establishment of the Mlaba Camp in the 1993/4 pre-election period, one of the aims of the training was to furnish Inkatha with the military capacity forcibly to prevent the holding of elections, and that Dr Buthelezi was aware that such armed resistance would entail the risk of unlawful death and injury. The Commission found that the SPU project constituted a conspiracy to commit gross human rights violations, for which, *inter alia*, Dr Buthelezi was held accountable.
  
16. In coming to its findings on Dr Buthelezi’s involvement in the Caprivi trainee exercise, the Commission had regard to very substantial quantities of former State Security Council memoranda and documents, which recorded the progress of the training project in significant detail. These documents, the authenticity of which was never challenged, established that senior SADF officers (Lt. Colonel van Niekerk and Colonel van den Berg) met with Dr Buthelezi on 31st October 1989. This was after the SADF had withdrawn from the Caprivi project. Van Tonder summarised this meeting in a report to a superior officer (Vice Admiral Putter) as follows:

*The Chief Minister expressed his concern over the situation in Mpumalanga and the fact that he was losing the ‘armed struggle’. He referred to the ‘cell’ idea for offensive action, which did not get off the ground.*
  
17. At the same meeting Dr Buthelezi expressed concern that he was:

*losing the armed struggle and in that regard emphasized that ‘offensive steps’ were still a necessity; meaning the deployment of ‘hit squads’.*
  
18. Van Tonder was specifically subpoenaed by the Commission to comment on this report, and he confirmed his recollection of the meeting. He records Mr MZ Khumalo as saying that, at the very least, Dr Buthelezi still required ‘cells’ capable of taking out undesirable members.

19. Mr Mncwango went so far as to accuse one of the Commissioners, namely the Revd Dr Khoza Mgojo, as having been 'personally involved in supplying arms used in the seven-day war to the fighting units in Richmond'. According to Mr Mncwango, the late Mr Sifiso Nkabinde said in an affidavit that Dr Mgojo had 'used the Federal Theological Seminary (Fedsem) in Imbali as a stock facility for the weapons and he personally handed out these weapons'. To date, no evidence has been tendered to the Commission or to any other structure to support this claim in any way.

## **REVIEW PROCEEDINGS BROUGHT BY MINISTER BUTHELEZI AND THE IFP**

20. Some two years after the publication of the Interim Report presented to the President on 29 October 1998, Minister Mangosuthu Buthelezi and the IFP sought to review and set aside certain findings made by the Commission. They did so essentially on the basis that the findings in question were defamatory of Dr Buthelezi and the IFP. They also complained of certain procedural irregularities.
21. Originally the applicants sought an order recalling the Report and expunging the findings to which they took offence. Although that relief was abandoned, they sought an order compelling the Commission to publish in its final Report a statement setting out certain 'errata' and requiring the Commission to forward the errata to all parties to whom the Report has been distributed where this was practically possible.
22. Dr Buthelezi and the IFP (the Applicants) complained that some thirty-seven findings contained in the Commission's Report – which implicated them in gross human rights violations, criminality and conspiracy – could not have been based on factual and objective information. The Applicants also contended that the Commission had failed to comply with fair procedures and did not afford them a proper and appropriate opportunity to make representations to it in respect of evidence in its possession and the findings it intended to make. The Applicants complained that the findings unjustifiably infringed their entitlement to a good name and reputation and have impaired their right to dignity and political activity free of unwarranted attack. They complained that the findings in question represented a failure by the Commission, its commissioners and employees to apply their minds to the evidence, as there was no rational connection between the factual evidence and the findings made.

23. The Commission contended that the findings were justifiable and that there had been no procedural unfairness. The Commission also contended that there had been an unreasonable delay in launching the application and that no satisfactory explanation for the delay of two years had been furnished. A delay of this magnitude was especially serious in regard to the nature of the mandate of the Commission and its limited lifespan.
24. It was apparent from the Applicants' founding papers that their primary concern was the finding by the Commission that they were implicated in the establishment of a covert offensive para-military unit (also referred to as a 'hit squad') that was deployed against the political enemies of the Applicants. Indeed this was the only finding which was prominently attacked in their legal papers. The Commission contended that the findings in question were proper and, in the light of the oral and authenticated documentary evidence and information on hand, beyond question.
25. The Commission refused to change these critical findings. It was, however, amenable to negotiation on the adjustment of certain lesser findings in order to facilitate settlement and the issue of its Codicil.
26. The case was settled out of court only a few days before the matter was set down for hearing on 29 January 2003. The Commission agreed to the adjustment of certain lesser findings, such as those relating to the activities of certain gangs and the compilation of statistics derived from victim statements. With regard to these findings the Commission replaced findings against the IFP to read as findings against 'members and/or supporters of the IFP'. The Commission has also adjusted similar findings in relation to the ANC and other role players.
27. The bulk of the complaints advanced by the IFP and Minister Buthelezi were rejected by the Commission. Its findings concerning Minister Buthelezi's accountability in his representative capacity as the President of the IFP, the Chief Minister of KwaZulu and the only serving Minister of Police in the KwaZulu Police also remained undisturbed. The Commission was satisfied that there was overwhelming evidence to support these and other key findings concerning the IFP and Minister Buthelezi.
28. As part of the settlement, the Commission agreed to publish an appendix in which the IFP and Minister Buthelezi explained why they disagreed with the core findings of against them.<sup>68</sup> (...p680)

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<sup>68</sup> See appendices to this chapter, below.