

**REPORT NUMBER FOUR OF THE TECHNICAL COMMITTEE ON
VIOLENCE:
2 JUNE 1993**

EXECUTIVE SUMMARY

This Committee has addressed the resolution of the Negotiating Council adopted on 28 May 1993 instructing the Technical Committee to report to the next meeting of the Negotiating Council on the conditions that should be created to eliminate violence in accordance with the resolution on the "Declaration of Intent on the Negotiating Process" adopted by the Negotiating Council on 7 May 1993. The Committee has taken into account the submissions received together with the inputs made by the Committee members themselves.

The Committee has decided to recommend to the Negotiating Council proposals in the following areas which would contribute to the elimination of violence.

1. National Peace Accord
2. Armed Formations
3. Mass Action
4. An Election
5. A Peace Corps/Youth Services Corps
6. Socio-Economic Reconstruction and Development
7. Criminal Violence

The submission concludes with thirteen proposals which the Negotiating Council should adopt to eliminate violence. These proposals should be read in conjunction with the views and proposals of the previous reports.

**REPORT NUMBER FOUR OF THE TECHNICAL COMMITTEE ON
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1. This report is submitted to the Negotiating Council in terms of the resolution of the Negotiating Council adopted on 28 May 1993 instructing the Technical Committee to report to the next meeting of the Negotiating Council on the conditions that should be created to eliminate violence in accordance with the resolution on the "Declaration of Intent on the Negotiating Process" adopted by the Negotiating Council on 7 May 1993. The Committee is of the view that this report complements previous reports of the Committee and should be read in conjunction with them.

2. The Committee received additional submissions from the ANC, IFP and SA Government in terms of the resolution of 28 May 1993. Having considered these submissions, together with proposals made by Committee members themselves, the Committee recommends to the Negotiating Council a set of seven conditions which should be created. These conditions relate to:
 - 2.1 The National Peace Accord
 - 2.2 Armed Formations
 - 2.3 Mass Action
 - 2.4 An Election
 - 2.5 A Peace Corps
 - 2.6 Socio-Economic Reconstruction and Development
 - 2.7 Criminal Violence

3. This report concludes with thirteen proposals which the Negotiating Council should adopt to eliminate violence.

4. **THE NATIONAL PEACE ACCORD**
 - 4.1 **Introduction**

The Committee believes that the primary set of conditions which should be created to eliminate violence relate to the structures and implementation of the National Peace Accord, which has been created as the primary mechanism to combat violence. The efficacy of the Peace Accord and its structures must be addressed and these must be made more effective.

The Committee has isolated three issues related to the Peace Accord and proposes as follows:

4.2 Strengthening the Peace Accord

4.2.1 The Accord needs to be amended to make it more effective. All relevant constituencies to whom decisions of Peace Committees will apply should be meaningfully represented in the structures of the Accord.

4.2.2 Chapter 9 of the Accord should be re-drafted to provide for more effective enforcement mechanisms so as to ensure that Parties to the Accord abide by their commitments. A sub-committee of the National Peace Committee has been established to finalise proposals in this regard. This sub-committee is due to meet on Saturday 5 June 1993 and the Committee recommends to the Negotiating Council to urge it to finalise its proposals as quickly as possible. Detailed proposals have been submitted to the sub-committee by political parties and by the Technical Committee on Violence. These include proposed steps which an arbitrator may order to be taken in terms of clause 9.5.4 of the Accord if a Party is found to have breached the Accord. The proposals include:

4.2.2.1 Ordering the organisation to publicly repudiate the breach/breachor;

4.2.2.2 Ordering the organisation to apologise to those adversely affected by the breach;

4.2.2.3 Ordering the organisation to suspend those guilty of the breach for a specified period of time;

4.2.2.4 Ordering the organisation to expel persons responsible for serious or repeated breaches;

4.2.2.5 Prohibiting persons guilty of breaches from appearing on public platforms of the organisation concerned for a specified period of time;

4.2.2.6 Any other appropriate order.

4.3 Meeting of Signatories

- 4.3.1 The signatories to the Peace Accord should meet as a matter of urgency to reconfirm their commitment to the Peace Accord and to approve the amendments to the Peace Accord proposed by the National Peace Committee.

4.4 Non-Signatories

- 4.4.1 A number of parties/administrations/organisations in the MPNP have still not signed the National Peace Accord. The Committee recommends to the Negotiating Council to take a decision that these parties/ administrations/ organisations should sign the Peace Accord and abide by it as a matter of urgency. If these parties refuse to sign and commit themselves to the Accord, serious questions will arise regarding their commitment to the MPNP and to the holding of free, fair and peaceful elections. Those parties who have not signed the Peace Accord should bear in mind that they will not be able to avail themselves of the voluntary adjudication procedures which the Accord provides for and the only avenue for dealing with transgressions of the Code of Conduct by members of these organisations will then be statutory and compulsory sanctions imposed by the Independent Electoral Commission or the Criminal Courts. Those parties which have nevertheless failed to sign the Peace Accord should be invited to the meeting of signatories to explain their positions. (A view expressed by one member of the Committee, but not supported by the other members, was that parties who do not sign the Accord should withdraw from the MPNP).

5. ARMED FORMATIONS

- 5.1 The Committee believes that all proposals regarding armed formations in the country should be considered in the light of a single, overriding objective: To establish impartial, accountable, effective and legitimate security forces for a democratic South Africa. The Committee proposes to the Negotiating Council that the parties to the MPNP adopt a series of

phased confidence-building measures within a common framework in order to achieve this objective. The framework should be agreed to in terms of the Declaration of Intent on the Negotiating Process adopted on 7 May, 1993.

5.2 The Committee further proposes that steps be taken in three broad phases:

5.2.1 The immediate period

All parties/administrations/organisations with arms or armed formations must establish proper control over these, conduct an audit of all existing weapons and personnel and establish mechanisms for bringing all weapons and personnel under the supervision of a joint multi-party agency. All parties and organisations should simultaneously take every possible step to ensure that their members and supporters do not use weapons for any unlawful purposes.

5.2.2 Phase Two

There should be a joint multi-party agency to formulate policy and oversee all armed formations. The agency will need to make a distinction between statutory and non-statutory armies on the one hand and police forces on the other hand. This distinction is consistent with the Committee's view that policing functions should be clearly distinguished from military functions, and with proposals made to the Committee that various armies play no role in the election process, unlike the various police forces which will be required to fulfil ongoing law and order functions. The multi-party agency must ensure effective supervision, including clear identification of personnel, weapons and locations and the circumstances and manner in which any armed formation or members of any armed formation may be deployed in peace-keeping functions. The agency should also give consideration to assisting any personnel who wish to leave an armed formation with constructive programmes for their integration into society.

5.2.3 Phase Three

In the third phase it will be the responsibility of an elected Government constituted on an agreed basis in terms of the Declaration of Intent adopted on 7 May 1993 to integrate, disband and rationalise the various armed formations and introduce comprehensive measures for the integration of their personnel into a democratic society, so as to achieve the objective of impartial, accountable, legitimate and effective security forces for South Africa.

- 5.3 The precise mechanisms required to implement this framework should be determined by the Technical Committee on the TEC and its Sub-Councils, in terms of the mandate of that Technical Committee.
- 5.4 Those weapons which do not fall under the control of any armed formation or for which no armed formation is responsible, or which are used contrary to the agreements outlined in this framework, should be dealt with in terms of the ordinary criminal process.
- 5.5 The Committee proposes the establishment of an independent peacekeeping force with a multi-party composition to function as the primary peacekeeping force for the election. Its functions thereafter should be determined by the elected Government in consultation with relevant parties. The force should be specially trained, should be constituted in such a way as to have legitimacy across the political spectrum and should fall under the control of either the Independent Electoral Commission or under multi-party executive control.

6. MASS ACTION

- 6.1 The Committee supports the recommendations of the Goldstone Commission that the right to demonstrate is fundamental to the democratic process and cannot be taken away. Two views have been expressed in the Committee regarding the appropriateness of mass action in the present climate:

- 6.1.1 One view is that mass action leads to violence and a moratorium should therefore be placed on it;

6.1.2 Another view is that an absolute moratorium on public demonstrations and other forms of mass action would be counter-productive, as it may increase political pressure and frustration.

6.2 The Committee recommends to the Negotiating Council that if and when any party to the MPNP holds a demonstration, protest or any other form of mass action, it should ensure that:

6.2.1 It has given priority to the need to promote peace;

6.2.2 The action will avoid deliberate provocation of opponents and damage to property;

6.2.3 The structures of the Peace Accord are kept fully informed and are utilised to maximum effect;

6.2.4 Good faith negotiations occur with all relevant parties and the security forces regarding the proposed action;

6.2.5 All agreements reached regarding the proposed action will be binding and that it will comply with them;

6.2.6 The provisions of the Goldstone Bill regarding gatherings will be complied with once agreement has been reached on amendments to it and it has been passed as proposed in the Third Report of this Technical Committee;

6.2.7 Sufficient marshalls will be provided to ensure that the action is peaceful and disciplined. In this regard the Committee supports the proposals made by the Peace Committee that there should be one marshall for every 50 demonstrators;

6.2.8 All reasonable steps have been taken to make sure that no weapons are carried with unlawful intent;

6.2.9 In making its decision as to whether the demonstration or any other mass action should be embarked upon, each party should also give due cognisance to the political

climate prevailing at the time and the appropriateness of the proposed action;

- 6.2.10 Parties must plan the route of any demonstration so as to provide for a specific place where it is to start, the route which is to be followed and a place where the march should end and where marchers should disperse.

7. AN ELECTION

- 7.1 The thrust of this whole report is to identify the conditions to eliminate violence which will allow the Declaration of Intent to be achieved and enable the electorate, the leaders and candidates of political parties to conduct their election campaigns and other political activities freely, without being intimidated or obstructed and without fear of being killed. The Committee recommends that every party to the MPNP adopts these principles immediately and without reservation.
- 7.2 The Declaration of Intent refers specifically to the need to determine a date for an election and to hold an election. The Committee believes that an election is the most important moment in the democratic process and its role in eliminating the conditions causing violence cannot be over-estimated.

8. PEACE CORPS/YOUTH SERVICES CORPS

There is an urgent need to constructively channel the energies and anger of the youth, particularly the unemployed and marginalised youth, during the transition and thereafter. The Committee proposes that all parties/organisations/administrations submit their views on the desirability of the establishment of a Peace Corps/ Youth Services Corps as a matter of urgency. It further recommends that the Technical Committee on Violence should be mandated to prepare a detailed proposal within a specified period of time regarding the establishment of such a Corps, with due regard to the experiences of other countries and the need to ensure full participation by both young men and women.

9. SOCIO-ECONOMIC RECONSTRUCTION AND DEVELOPMENT

Priority should be given to the socio-economic reconstruction and development of South Africa in order to address the material disparities which have contributed to violence. Special attention should be paid to development programmes in communities most affected by violence. Those involved in community development should be sensitive to the possibility of violent resistance to such development from within the community and should devise suitable ways to deal with this possibility. All parties should actively promote support for such programmes and ensure that the contractors are not in any way hampered in the execution thereof. Furthermore, the Committee recommends that, in addition to the achievement of sufficient consensus on the process of transition to democracy, including the setting of an election date and the establishment of agreed multi-party structures to level the playing field for elections, as stipulated in the Declaration of Intent, all sanctions, financial and economic restrictions should be lifted and every effort should be made to achieve a positive and sustainable economic growth rate.

10. CRIMINAL VIOLENCE

The Committee believes that the increase in criminal violence in recent years is perhaps the issue which is of the greatest concern to ordinary people. The Committee has proposed a phased approach within a common framework to the issue of armed formations which is intended, *inter alia*, to remove unlicensed firearms from society and to improve the legitimacy and effectiveness of policing. The Committee has also proposed that every effort be made to achieve economic growth so as to create new jobs.

11. CONCRETE PROPOSALS

- 11.1 The National Peace Committee should finalise proposed amendments to the Peace Accord as a matter of urgency so as to strengthen the Accord and increase its effectiveness;
- 11.2 The signatories to the Peace Accord should meet as a matter of urgency to reaffirm their commitment to the Accord and to approve the proposed amendments to it;

- 11.3 Non-signatories should sign the Peace Accord immediately;
- 11.4 Appropriate compulsory sanctions should be developed by the Technical Committee on the Independent Electoral Commission for dealing with parties/administrations/organisations which transgress the Code of Conduct for Political Parties, but refuse to sign the Peace Accord;
- 11.5 Any party organising a public demonstration or any other form of mass action must comply with the guidelines set out in this submission;
- 11.6 The National Peace Committee should submit proposed amendments to the Regulation of Gatherings Bill as a matter of urgency;
- 11.7 A series of phased confidence-building measures should be adopted leading to the creation of impartial, legitimate and effective security forces. A distinction should be drawn between statutory and non-statutory armies on the one hand and police forces on the other hand. The Technical Committee on the TEC and its Sub-Councils should propose the precise mechanisms to be adopted;
- 11.8 Parties between whom conflicts exist, which have contributed to violence, should, in addition to participating in the MPNP, meet bi-laterally to seek joint solutions to the conflicts between them;
- 11.9 An independent peacekeeping force with a multi-party composition should be established and placed under the control of the Independent Electoral Commission or under multi-party executive control;
- 11.10 Every party to the MPNP must commit itself without reservation to the holding of a free and fair election and to do everything possible to ensure that the electorate and the leaders and candidates of political parties are able to conduct their election campaigns and other political activities freely without being intimidated or obstructed and without fear of being killed;

- 11.11 An election date should be set and an election should be held in terms of the framework set out in the Declaration of Intent;
- 11.12 The Technical Committee on Violence should prepare detailed proposals on the desirability, financing, establishment and composition of a Peace/Youth Services Corps;
- 11.13 In addition to the achievement of sufficient consensus on the process of transition to democracy and the taking of steps to implement this agreement, it is essential that sanctions, trade and financial restrictions be lifted.

DISSENTING VIEW
(By one member)
ARMED FORMATIONS

1. The existence of armed formations belonging to political parties or organisations has no justification in the country during this period of multi-party negotiations to bring about a peaceful constitutional transition for a new and extended democracy for South Africa. However, and whilst recognising the historical reality that such armed formations had in fact been established, it is recommended:
 - 1.1 That any such existing armed formation of such parties and/or organisations should be phased out in terms of a phased approach dealing with, for example, the pre-TEC stage, the TEC stage and the stage after the election of a transitional government;
 - 1.2 As the whole matter of armed formations is clearly related to the question of the establishment of the TEC, its functions and powers, this matter be referred to the Technical Committee on the TEC for further consideration;
 - 1.3 As the availability of particularly unlicensed automatic assault rifles have contributed to a large extent to the increasing number of people being killed with such weapons, political parties and organisations and members of such organisations who possess unlicensed firearms in their capacity as members of such organisations should immediately place such weapons under credible impartial control;
 - 1.4 That all such parties and organisations should immediately cease recruiting for and training of recruits for such formations;
 - 1.5 That any person found in possession of an unlicensed firearm should be dealt with in terms of the provision of the relevant law and that all parties/organisations should make a clear statement that such persons shall not be eligible for any indemnity.