

£SOUTH AFRICA

@Securing the Peace

Issues of justice

and accountability in the wake

of the Bophuthatswana uprising

After a protracted and tumultuous week of conflict and political brinkmanship, during which possibly as many as 100 people died and hundreds were wounded, residents of the former "homeland" of Bophuthatswana finally won the right to participate in the South African elections. The events of the week of 7 March 1994 have been widely publicized, in particular the dramatic incursion into the territory of white rightwing forces, the revolt of sections of the "homeland" security forces against President Lucas Mangope's rule, the extrajudicial execution of two wounded *Afrikaner Weerstandsbeweging* (Afrikaner Resistance Movement) (AWB) members, the extensive looting and destruction of government and other property, and the eventual deployment of South African Defence Force (SADF) troops late on 11 March after what to the frightened "homeland" residents seemed like an interminable delay.

Less well known are the circumstances of the deaths of dozens of black civilians at the hands of white paramilitaries, the Bophuthatswana Police and the Internal Stability Unit (ISU) of the South African Police (SAP). In Amnesty International's view many of those who died were victims of politically-motivated extrajudicial executions or the unjustified use of lethal force by state security personnel or deliberate and arbitrary killings by rightwing paramilitaries. Human rights monitors, who have interviewed witnesses and the injured, have confirmed the names of 27 people who were shot dead in the area of Bophuthatswana's capital, Mmabatho, its twin city, Mafikeng, and the surrounding villages, and the names of 27 others who were killed in the Odi and Moretele regions north of Pretoria. Amnesty International has also been informed that there are 31 others who apparently died during incidents of looting in the Odi and Moretele regions, but whose identities have still not been confirmed. These 85 deaths do not include fatalities which occurred in areas further away from the epicentres of the anti-"homeland" protests. Included amongst those who died were 18-year-old Gift Kgosinewang Molalwe, who was killed when the Bophuthatswana Police dispersed a peaceful gathering of school students on 11 March in Maropeng village near Kuruman; 52-year-old Anna Nakedi, who was shot dead by armed white men travelling in vans through Montshiwa township near Mmabatho on 11 March; and 13 people shot dead by the ISU between 11 and 13 March in Mabopane north of Pretoria.

The South African government, the Transitional Executive Council (TEC) and the newly-appointed Administrators of the territory of the former "homeland" must seize the opportunity provided by the changes in political control since 11 March to ensure that

THE FORMER BOPHUTHATSWANA TERRITORIES

these and other deaths are swiftly and fully investigated. By so doing, the transitional authorities will help instill in the security forces a new sense of accountability to local residents for their actions and a willingness to act within the law. At the same time fair, publicly visible and effective investigations will help reduce lingering fears amongst residents, especially those living in the more remote rural areas, who have been long subjected to a criminal justice system intended to cover up abuses rather than ensuring that perpetrators are brought to justice.

In the process of restoring order to the Bophuthatswana territory and establishing a climate conducive to the holding of free and fair elections, the authorities need urgently also to begin the task of training the local security forces in methods of public order policing consistent with internationally recognized standards regarding the use of force and firearms, and in the proper methods of treatment of all persons taken into custody. This training ought to be conducted with the advice and assistance of international policing experts, including members of the intergovernmental organizations' observer missions currently in South Africa.¹ In addition Amnesty International believes that the authorities must ensure that residents have access to effective, adequately resourced and independent investigation bodies, with the power to receive complaints against members of the different security forces, to initiate investigations and recommend prosecutions where appropriate. In addition they should suspend from duty all senior military and police officials associated with the abuses of the past regime and those implicated in extrajudicial executions or in colluding in deliberate and arbitrary killings committed by the rightwing paramilitaries.

The Bophuthatswana Police

During the height of the turmoil in Bophuthatswana, several hundred police officers openly revolted against the "homeland" government, declaring on 10 March that they supported the demands of other citizens for free political activity, including the right to participate in the forthcoming elections. In addition to their concerns about lack of equality in pay, training and other aspects of their employment, the dissident police officers demanded that "no-one be subjected to cruel, inhuman, degrading or humiliating treatment and that the Police Force should not be used for this purpose." They rejected the police being used as a tool of any political party, including the ruling Christian Democratic Party led by President Lucas Mangope.

The police officers' public rejection of their longstanding role as instruments of repression was enthusiastically welcomed by the "homeland" residents who had joined the

¹ they include the observer missions of the United Nations, the Commonwealth, the Organization of African Unity and the European Union.

public protests on the streets of Mmabatho and Mafikeng. From 7 March, as the strikes and protests by civil servants, health workers, students and others had gathered pace in the "homeland" capital and in other towns and villages, the police had become increasingly violent in their efforts to suppress the protests. President Mangope on 7 March had reportedly openly instructed the police to assault any civil servants who refused to return to work or anyone involved in public political activities and to disrupt any "voter education" activities. Among other incidents, the police beat and tear-gassed a crowd of striking civil servants and deliberately targeted the Mafikeng office of the human rights organization Lawyers for Human Rights for two separate tear-gas attacks on the same day. Over the next two days the police continued to tear-gas and indiscriminately assault anyone found on the streets of the capital. By Wednesday 9 March the police were using live ammunition against demonstrators.

There were reports of detentions also, with the police obstructing - sometimes with threats of violence - lawyers' efforts to gain access to detainees. In Borakalalo, north of Zeerust, for instance, 15 people were arrested by police who broke up a voter education meeting in a private home on the night of 9 March. The police used tear-gas and assaulted the detainees with *sjamboks* (whips), batons and booted feet. At Welbedacht police station the police denied visitors access to the detainees, who were released about 16 hours later bearing bruises and other injuries from the assault. In another case, the police arrested Joseph Seabelo, a resident of Setlagole, southwest of Mafikeng, on 7 March and interrogated him about the voter education workshops he had been organizing in the local area. He was released after a number of hours. The following morning about 20 police officers arrived at his home and took him away to the local police station, after allegedly telling other occupants of the house that they had instructions "from above" and intended to kill him. The police, allegedly in full view of the station commander, beat Joseph Seabelo with sticks and gun butts for some three hours and left him in the station in a state of collapse. In the evening a police officer, who had not participated in the assault on the detainee, took him to his home. He was admitted to Vryburg hospital for emergency treatment.

Despite the revolt of several hundred police officers on 10 March, violations continued to occur in the Mafikeng-Mmabatho area and in other districts of Bophuthatswana, indicating serious divisions within the police force and a lack of any effective command and control. Among other cases, 15-year-old Piet Vilakazi from Bodibe village southeast of Mafikeng was shot dead by police in an armoured vehicle on 10 March. The boy, who was reportedly playing on the street at the time of the shooting, was found with bullet wounds to the legs, hands and back. On the evening of the same day 39-year-old Digwamaje Morwa was shot dead, after she and her travelling companion were ordered out of their vehicle by police on a road near a police training college. The driver managed to escape. The body of Digwamaje Morwa was found the next day with bullet wounds on her face and back. In Tlhabane, near Rustenburg, the police shot and seriously wounded 18-year-old Jonas Montshwe in front of his parents on the morning of 13 March. Johanna

Chauke, from Mamelodi township, was shot by the police as she disembarked from a taxi in Temba on 11 March. The taxi driver was shot several times by the police when he attempted to go to her assistance.

In Taung, on 10 March 42-year-old Julia Maine was walking back to her home in Pudimoe when she encountered a large group of ANC Youth League members returning from a meeting. The Bophuthatswana police arrived to disperse the crowd. They confronted Julia Maine, who is pregnant, accused her of being an ANC member and assaulted her with the butt of a gun and batons. As a consequence of the assault, she required treatment in hospital and there are fears that the health of her unborn child has been jeopardized. There were also reports of assaults occurring at Temba police station in Moretele district, following arrests conducted over the weekend of 12 March. The detainees, who included 17-year-old David Mapanga, were assaulted with canes and rifle butts.

Despite these numerous violations against "homeland" residents, the incident which dominated media coverage of events in Bophuthatswana was the extrajudicial execution of two AWB members by a Bophuthatswana police officer on 11 March. As vehicles carrying AWB members retreated from Mmabatho under escort of the Bophuthatswana Defence Force, soldiers opened fire on the AWB convoy, reportedly because the AWB members were shooting at unarmed black civilians along the road. The three occupants of the last AWB vehicle in the convoy were injured in the exchange of fire, which occurred outside the police barracks. One man, Sarel Fourie, was gunned down by soldiers as he emerged from the car. The military vehicles then moved off. The other two men, Fanie Uys and Alwyn Wolfaardt, appeared to surrender to police force members milling about. One of them asked for medical help. A colonel from the Bophuthatswana Defence Force returned to the scene, spoke to the wounded men, then radioed for an ambulance, and left again. During the next minutes, according to the accounts of journalists who were present, a police officer stepped forward and deliberately shot first one man in the chest and then the other in the head and back, killing both of them.

On 14 March the then Bophuthatswana Defence Force chief Major-General Jack Turner was reported as saying that a full-scale investigation had been launched to identify the killers of the three AWB members. Without question those responsible for the extrajudicial executions of these men committed human rights violations, as well as demonstrating the longstanding problems of the lack of discipline and training on the part of the Bophuthatswana Police. However a proper investigation has to be manifestly independent and certainly not conducted under the authority of any official who may have colluded or is perceived to have colluded in the unlawful killings carried out by the rightwing paramilitaries themselves. The authorities now responsible for the former "homeland" territory must urgently establish a fully independent investigation not only into the deaths of the AWB members, but into all other extrajudicial executions, unlawful killings and assaults against those taken into custody by the Bophuthatswana Police during this period. Those suspected

of having committed human rights violations should be suspended from duty pending the outcome of the investigation. The perpetrators of these abuses should be brought to justice and promptly and fairly tried.

The Internal Stability Unit of the South African Police

On the evening of 10 March members of the SAP Internal Stability Unit (ISU) appeared in the GaRankuwa area. It is not clear under whose authority they were operating in Bophuthatswana territory at this stage prior to the South African government and TEC decision to deploy the South African Defence Force. The ISU apparently came with an instruction to suppress any disturbances, in particular the looting of government and business property. By 14 March the presence of ISU members had been reported in other parts of the territory, including Mafikeng and Mmabatho.

Their methods of suppressing public disorder amounted, in some areas at least, to a shoot-to-kill policy. In Mabopane the ISU arrived on 11 March and intervened to stop widespread looting, in particular of Mabopane's main shopping complex. The buildings went up in flames on 12 March. According to one report, the following morning residents found the bodies of four people, three of whom bore gunshot wounds, in the damaged buildings. By early in the week of 14 March when the ISU withdrew from the area, the local police had apparently begun investigations into the deaths of 13 people. Even residents who strongly condemned the looting believed that the ISU had been deliberately shooting at people who posed no serious threat to human lives. They contrasted this conduct with that of the South African Defence Force (SADF) soldiers who tended to fire teargas and warning shots over people's heads. Some 198 people from the GaRankuwa and Mabopane areas required treatment in hospital for their injuries as a result of shootings by the ISU, white vigilantes and, to a lesser extent, by the Bophuthatswana Police between the night of 10 March and the evening of 12 March. At least one of the 198 injured persons died from their injuries in hospital. In addition to the deaths and injuries noted above, local human rights monitors have informed Amnesty International that there are 31 bodies, some badly burned, in a number of mortuaries which are still unidentified and that police are reluctant to cooperate with efforts to identify them.

Amnesty International has received reports of several fatal shootings by ISU members in Temba. In one case, on 11 March, the police stopped a car and pointed their weapons at the three occupants. Frightened by the guns the three men tried to run away. The police allegedly shot dead one of the men and seriously wounded the other two, all of whom were apparently left where they fell. On the same day, Thomas Leketo died after being shot in the chest by the ISU when they entered a looted shop in Temba. He was unarmed at the time. Local residents have asked why these heavily-armed policemen did not secure the building and then arrest Thomas Leketo and others in the shop, and hand them over to the local police to investigate any suspected offenses.

The ISU were also accused of assaulting people when arresting them or searching their houses allegedly for stolen property. For instance, 14-year-old William Kgwatlha and his uncle, Joseph Mabitsela, were arrested by the ISU when they were driving through the Babelegi industrial area in Temba at about midday on one of the days of turmoil between 10 and 13 March. They were assaulted by the police inside their armoured vehicle, before being taken to Temba police station. They were released from custody uncharged on 15 March.

Although late on 11 March the South African Minister of Law and Order, Hervis Kriel, declared 52 magisterial districts "unrest areas", equipping the security forces within those districts with emergency powers, Bophuthatswana territory, where the incidents described above took place, was not covered by the 11 March declaration.² It remains unclear, consequently, at whose request and under what authority the ISU units were operating in Bophuthatswana, particularly with respect to those units deployed prior to the deployment of the South African Defence Force late on Friday 11 March. The South African Minister of Law and Order, however, is by law responsible for the actions of police force members and should be called to account for them in an independent inquiry into the shootings which took place in GaRankuwa, Mabopane and Temba. The investigators should determine the nature of the weapons used by the ISU units involved in suppressing the disturbances, and whether or not sufficient warnings were given before the police opened fire. The scope of the inquiry should also include an investigation into the allegations of assaults by ISU members against residents in these areas and in the Mmabatho-Mafikeng area. There is an urgent need to repeal remaining provisions in South African law which, as the Commonwealth Observer Mission noted in its May 1993 report, permit the security forces to justify the use of deadly force in circumstances where property alone is being threatened and not human lives. Finally, the conduct of the ISU highlights the repeatedly noted and urgent need for the retraining of the ISU in methods of public order policing consistent with internationally recognized standards regarding the use of force and firearms, as well as in the proper methods of treatment of all persons taken into custody. This training ought to be conducted with the advice and assistance of international policing experts, including members of the intergovernmental organizations' observer missions.

Rightwing Paramilitaries

² According to his reported statement, the Minister had imposed emergency rule "to contain and combat any possible overflow of unrest from the homeland during the crisis". After protests from African National Congress president, Nelson Mandela, about the Minister's apparent failure to consult with President De Klerk, the Independent Electoral Commission and the TEC, as well as the ANC, the Minister lifted the local state of emergency restrictions at midnight on 13 March.

On the night of 10 March several thousand armed supporters of the *Afrikaner Volksfront* (Afrikaner People's Front) (AVF), including members of the AWB, entered Bophuthatswana territory and occupied the airbase outside Mmabatho. They were there at the behest of Lucas Mangope's government, the leadership of the Bophuthatswana Defence Force and the AVF leader, General Constand Viljoen, who had issued a rallying call to the AVF forces that day through the rightwing radio station, Radio Pretoria. Several days later Constand Viljoen and others responsible for their presence publicly and disingenuously washed their hands of any responsibility for the AWB presence. The sojourn of these rightwing irregulars in the Mmabatho-Mafikeng area was short and tragic. Before they were all driven out, initially by rebellious elements of the Bophuthatswana security forces and finally by the South African Defence Force late on 11 March, they had killed many unarmed black civilians and lost three of their own members.

Although the main part of the white rightwing forces arrived in Bophuthatswana during the night of 10 March, Amnesty International had received reports on the morning of 10 March of shootings by armed whites. In one incident four residents of Mogogwe village near Mafikeng were shot and injured by unidentified white men in a moving vehicle. According to eye-witnesses the men shot indiscriminately as the car moved through the village. Among the victims, Gladys Mokgoro was shot in her hip while she was inside her house, and Jacob Mabona was shot in the left side of his jaw, with the blast destroying his tongue. In Mafikeng and Mmabatho during the day of 10 March white men armed with rifles were moving about in "highrider vans" with shotguns and rifles, shooting indiscriminately. As a member of the staff of Lawyers' for Human Rights' Mafikeng office described it, the atmosphere was so frightening that they switched off the office lights to avoid being shot at through the windows. By early evening some residents, including human rights monitors, fled their homes with their families out of fear for their lives.

The atmosphere of terror had increased by the following morning as a consequence of the effective, if ultimately temporary, occupation of the streets of Mafikeng-Mmabatho by the rightwing forces and the declaration of the area as a "Volkstaat" (Afrikaner people's state). Observers from the Commonwealth, United Nations and the Organization of African Unity's missions accompanied a number of people, including human rights monitors, to the South African Embassy in Mmabatho where they sought refuge from the shooting. During the course of 11 March armed khaki-clad white men moving about in their vehicles were responsible for a number of unprovoked, deliberate and arbitrary killings of black civilians, including Montshiwa township residents 32-year-old Matshidiso Leinane, who was shot in front of her home, and a youth, Joseph Oarabile Mokgosana, who was killed when walking away from the township with his brother. Fifty-two-year-old Anna Nakedi, whose arthritis prevented her from running away from two vans carrying armed white men, was shot and killed while attempting to hide from them behind a tree.

Journalists also fell prey to the violence of these rightwing forces. Among other incidents, two foreign correspondents, John Battersby of the Christian Science Monitor and Paul Taylor of The Washington Post, were attacked on three consecutive occasions after attempting to speak to the men encamped at the airbase at about noon on 11 March. On the first occasion, after they had parked their car, a couple of armed men came over to them and, within seconds of John Battersby and Paul Taylor identifying themselves as journalists, they were subjected to what they described as an "unhinged attack" by these men. They managed to escape without getting badly injured and drove about a kilometre down the road, before pulling over to observe the airbase. Unfortunately they were spotted by their attackers, who jumped out of their truck with guns drawn and pummelled the journalists' car with rifle butts, pulled John Battersby out of the car by his hair and beat his head against the ground, and beat both men with fists and boots, before lobbing a 10 kilogram gas canister at the car windscreen. On the third occasion their attackers forced their vehicle off the road. Other journalists reported being subjected to threats of violence and having their equipment seized at gunpoint.

There were reports of attacks by armed white men in other parts of Bophuthatswana during this period. In the GaRankuwa area, white members of Counterforce Security Company, a private security firm guarding industrial sites, shot dead 21-year-old law student Lucas Buti Moremong on 11 March. He had just returned the previous day from the University of the North to visit his family in GaRankuwa when he was killed. Local residents claim that the Counterforce Security Company guards who shot Lucas Buti Moremong have been seen in AWB uniforms at other times. In another case, Johannes Maswanganyi, from Ramotse village near Hammanskraal, was shot by an unidentified white man as he left work in the Babelegi industrial area in Temba on 11 March. The attacker, who was travelling in a red Nissan bakkie (pick-up truck) with a woman passenger, fired shots at Johannes Maswanganyi as he got out of his car to give a lift to a group of men. The bullets hit him in the abdomen and the right side of his chest. The attacker drove off. As a result of this unprovoked attack, Johannes Maswanganyi underwent surgery and required lengthy hospital care. Residents of the village of Majaneng, near Temba, reported that white men in khaki uniforms disrupted their attempts to march to Temba on 10 March by firing teargas and shooting at them. The same men returned on 13 March, causing people to hide in their homes out of fear. There were reports of gunshot injuries, but Amnesty International does not have details regarding the identities of the villagers injured.

The question of who should be held responsible for the shootings and assaults carried out by armed whites needs urgently to be resolved in any independent investigation into the deaths and injuries which resulted. As stated at the outset of this section, the majority of rightwing forces were present in the territory at the behest of men who then held state power in Bophuthatswana and the AVF leader, General Constand Viljoen. At the very least they should be held indirectly responsible for the actions of the rightwing forces, notwithstanding their later attempt to deny responsibility by claiming that Eugene Terre'Blanche's AWB

forces had not been invited and were an "undisciplined rabble". Not all of the shootings attributed to armed whites could have emanated from the forces gathered near Mmabatho and Mafikeng. However a proper investigation would need to determine if the men who participated in attacks in the Odi and Moretele districts had been encouraged by the permissive atmosphere created by General Viljoen's 10 March mobilization call, as well as possibly by the conduct of the ISU, as some local human rights monitors believe. Those found to be responsible for killing or injuring unarmed civilians and journalists should be brought to justice and promptly and fairly tried. More generally there is an urgent need for the South African government, in consultation with the TEC, to ban the public display of weapons by private citizens and the training of private armies.

Conclusion and Recommendations

Since 16 March the two men appointed as Joint Administrators of Bophuthatswana territory by the South African government, in consultation with the Transitional Executive Council (TEC), have exercised their powers under the terms of Decree No.1 of 1994. The decree suspends most of the provisions of the Republic of Bophuthatswana Constitution, provides the Joint Administrators with the power to amend or repeal existing laws and, in consultation with the South African Government and the TEC, make laws by decree. Decree No. 1 makes the Independent Electoral Commission Act (No. 150 of 1993) and the other laws governing the transition³ applicable to the territory. The Joint Administrators are charged with responsibility for, among other functions, "re-establishing good government...ensuring the maintenance of peace and order in Bophuthatswana...[and] taking such steps as are necessary to promote free political activity and to facilitate the holding of free and fair elections...". The Joint Administrators exercise their powers under the supervision of the South African State President, acting in consultation with the TEC.

As a result of the upheavals and the changes in political authority and control in Bophuthatswana, the Independent Electoral Commission has finally been able to take steps to establish a presence and begin its preparatory work for the elections in the territory. In addition the intergovernmental organizations' observer missions have also begun to establish operations in the former "homeland". The continued deployment of South African Defence Force troops, particularly in view of the lack of complaints from the local population regarding their conduct, is contributing to the creation of an environment conducive to the holding of free and fair elections. In addition, Amnesty International urges the Joint Administrators to ensure the repeal of any remaining Bophuthatswana laws which are inconsistent with free political activity and which equip the security forces with draconian

³ the Transitional Executive Council Act (151 of 1993), the Independent Broadcasting Authority Act (153 of 1993), and the Electoral Act (202 of 1993)

powers. It is important, also, both for the pre-election period and for the post-elections era, that there are no delays in addressing the need for proper and effective training of the former "homeland's" security forces. As noted above and in Amnesty International's previous report on Bophuthatswana⁴, this retraining should take place with the advice and assistance of international policing experts, including members of the intergovernmental organizations' observer missions. This retraining should occur in conjunction with the launch of a full, independent investigation into the involvement of the security forces in acts of torture, extrajudicial executions and unlawful killings resulting from the unjustified use of lethal force against unarmed demonstrators. Amnesty International believes that a lasting peace has to be built on the basis of full accountability of the security forces for their actions and some measure of justice for the victims of these violations.

⁴ South Africa: Hostages to a Rightwing Agenda - Human rights violations against Bophuthatswana residents on the eve of the South African elections (AFR 53/10/94), which was published on 7 March 1994.