

## **National Peace Accord**

To signify our common purpose to bring an end to political violence in our country and to set out the codes of conduct, procedures and mechanisms to achieve this goal

We, participants in the political process in South Africa, representing the political parties and organisations and governments indicated beneath our signatures, condemn the scourge of political violence which has afflicted our country and all such practices as have contributed to such violence in the past, and commit ourselves and the parties, organisations and governments we represent to this National Peace Accord.

The current prevalence of political violence in the country has already caused untold hardship, disruption and loss of life and property in our country. It now jeopardises the very process of peaceful political transformation and threatens to leave a legacy of insurmountable division and deep bitterness in our country. Many, probably millions, of citizens live in continuous fear as a result of the climate of violence. This dehumanising factor must be eliminated from our society.

In order to achieve some measure of stability and to consolidate the peace process, a priority shall be the introduction of reconstruction actions aimed at addressing the worst effects of political violence at a local level. This would achieve a measure of stability based on common effort thereby facilitating a base for broader socio-economic development.

Reconstruction and developmental actions of the communities as referred to above, shall be conducted within the wider context of socio-economic development.

In order to effectively eradicate intimidation and violence, mechanisms need to be created which shall on the one hand deal with the investigation of incidents and the causes of violence and intimidation and on the other hand actively combat the occurrence of violence and intimidation.

The police force, which by definition shall include the police forces of all self-governing territories, has a central role to play in terminating the violence and in preventing the future perpetration of such violence. However, the perception of the past role of the police has engendered suspicion and distrust between the police and many of the affected communities. In recognition of the need to promote more effective policing, a commitment to sound policing practices and a co-operative relationship between the police and the communities are necessary.

This Accord is intended to promote peace and prosperity in violence-stricken communities. The right of all people to live in peace and harmony will be promoted by the implementation of this Accord.

The Accord is of such a nature that every peace-loving person can support it. The Accord reflects the values of all key players in the arena of negotiation and reconciliation.

The implementation and monitoring of the Peace Accord represents a crucial phase in the process to restore peace and prosperity to all the people of South Africa.

Noting that the majority of South Africans are God-fearing citizens, we ask for His blessing, care and protection upon our Nation to fulfil the trust placed upon us to ensure freedom and security for all.

Bearing in mind the values which we hold, be these religious or humanitarian, we pledge ourselves with integrity of purpose to make this land a prosperous one where we can all live, work and play together in peace and harmony.

The signatories have agreed upon:

- a Code of Conduct for political parties and organisations to be followed by all the political parties and organisations that are signatories to this Accord;
- a Code of Conduct to be adhered to by every police official to the best of his or her ability, as well as a detailed agreement on the security forces;
- the guidelines for the reconstruction and development of the communities;
- the establishment of mechanisms to implement the provisions of this Accord.

The signatories acknowledge that the provisions of this Peace Accord are subject to existing laws, rules and procedures and budgetary constraints. New structures should not be created where appropriate existing structures can be used.

This Accord will not be construed so as to detract from the validity of bilateral agreements between any of the signatories.

We, the signatories, accordingly solemnly bind ourselves to this accord and shall ensure as far as humanly possible that all our members and supporters will comply with the provisions of this accord and will respects its underlying rights and values and we, the government signatories, undertake to pursue the objectives of this accord and seek to give effect to its provisions by way of the legislative, executive and budgeting procedures to which we have access.

## Chapter 1

### Principles

1.1 The establishment of a multi-party democracy in South Africa is our common goal. Democracy is impossible in a climate of violence, intimidation and fear. In order to ensure democratic political activity all political participants must recognise and uphold certain fundamental rights described below and the corresponding responsibilities underlying those rights.

1.2 These fundamental rights include the right of every individual to:

- freedom of conscience and belief;
- freedom of speech and expression;
- freedom of association with others;
- peaceful assembly;
- freedom of movement;
- participate freely in peaceful political activity.

1.3 The fundamental rights and responsibilities derive from established democratic principles namely:

- democratic sovereignty derives from the people, whose right it is to elect their government and hold it accountable at the polls for its conduct of their affairs;
- the citizens must therefore be informed and aware that political parties and the media must be free to impart information and opinion;
- there should be an active civil society with different interest groups freely participating therein;
- political parties and organisations, as well as political leaders and other citizens, have an obligation to refrain from incitement to violence and hatred.

1.4 The process of reconstruction and socio-economic development aimed at addressing the causes of violent conflict, must be conducted in a non-partisan manner, that is, without being controlled by any political organisation or being to the advantage of any political group at the expense of another.

1.5 Reconstruction and developmental projects must actively involve the affected communities. Through a process of inclusive negotiations involving recipients, experts and donors, the community must be able to conceive, implement and take responsibility for projects in a co-ordinated way as close to the grassroots as possible. In addition, reconstruction and development must facilitate the development of the economic and human resources of the communities concerned.

1.6 The initiatives referred to in 1.4 and 1.5 above, should in no way abrogate the right and duty of governments to continue their normal developmental activity, except that in doing so they should be sensitive to the spirit and contents of any agreement that may be reached in terms of 1.5 above.

1.7 The parties to this process commit themselves to facilitating the rapid removal of political, legislative and administrative obstacles to development and economic growth.

1.8 The implementation of a system to combat violence and intimidation will only succeed if the parties involved have a sincere commitment to reach this objective. Only then will all the people of South Africa be able to fulfil their potential and create a better future.

1.9 It is clear that violence and intimidation declines when it is investigated and when the background and reasons for it is (sic) exposed and given media attention. There is, therefore, need for an effective instrument to do just that. It is agreed that the Commission established by the Prevention of Public Violence and Intimidation Act, 1991, be used as an instrument to investigate and expose the background and reasons for violence, thereby reducing the incidence of violence and intimidation.

1.10 Since insufficient instruments exist to actively prevent violence and intimidation and regional and local levels, it is agreed that committees be appointed at regional and local levels to assist in this regard. Peace bodies are therefore to be established at both regional and local levels to be styled “Regional Dispute Resolution Committees” (RDRC) and “Local Dispute Resolution Committees” (LDRC) respectively. These bodies will be guided and co-ordinated at a national level by a National Peace Secretariat. At the local level the bodies will be assisted by Justices of the Peace.

1.11 The Preparatory Committee has played a crucial role in the process of bringing the major actors together to negotiate a Peace Accord. There is still much to be done to implement the Accord and establish the institutions of peace. To assist in this regard, a National Peace Committee shall be established.

1.12 There should be simple and expeditious procedures for the resolution of disputes regarding transgressions of the Code for Political Parties and Organisation by political parties and organisations who are signatories to the National Peace Accord. These disputes should wherever possible, be settled at grassroots level, through participation of the parties themselves; and by using the proven methods of mediation, arbitration and adjudication.

1.13 An effective and credible criminal judicial system requires the swift and just dispensation of justice. This in turn will promote the restoration of peace and prosperity to communities, freeing them of the ravages of violence and intimidation. Special attention should be given to unrest related cases by setting up Special Criminal Courts specifically for this purpose.

## Chapter 2

### Code of Conduct for political parties and organisations

The signatories to this Accord agree to the following Code of Conduct:

2.1 We recognise the essential role played by political parties and organisations as mediators in a democratic political process, permitting the expression, aggregation and reconciliation of different views and interests, and facilitating the translation of the outcome of this process into law and public policy, and respect the activities of political parties and organisations in organising their respective structures, canvassing for support, arranging and conducting public meetings, and encouraging voting.

2.2 All political parties and organisations shall actively contribute to the creation of a climate of democratic tolerance by:

- publicly and repeatedly condemning political violence and encouraging among their followers an understanding of the importance of democratic pluralism and a culture of political tolerance; and
- acting positively, also vis-à-vis all public authorities including local and traditional authorities, to support the right of all political parties and organisations to have reasonable freedom of access to their members, supporters and other persons in rural and urban areas, whether they be housed on public or private property.

2.3 No political party or organisation or any official or representative of any such party, shall:

- kill, injure, apply violence to, intimidate or threaten any other person in connection with that person's political beliefs, words, writings or actions;
- remove, disfigure, destroy, plagiarise or otherwise misrepresent any symbol or other material of any other political party or organisation;
- interfere with, obstruct or threaten any other person or group travelling to or from or intending to attend, any gathering for political purposes;
- seek to compel, by force or threat of force, any person to join any party or organisation, attend any meeting, make any contribution, resign from any post or office, boycott any occasion or commercial activity or withhold his or her labour or fail to perform a lawful obligation; or
- obstruct or interfere with any official or representative of any other political party or organisation's message to contact or address any group of people.

2.4 All political parties and organisations shall respect and give effect to the obligation to refrain from incitement to violence and hatred. In pursuit hereof no language calculated or likely to incite violence or hatred, including that directed against any political party or personality, nor any wilfully false allegation, shall be used at any political meeting, nor shall pamphlets, posters or other written material containing such language be prepared or circulated, either in the name of any party, or anonymously.

2.5 All political parties and organisations shall:

- ensure that the appropriate authorities are properly informed of the date, place, duration and where applicable, routing of each public meeting, rally, march or other event organised by the party or organisation;
- take into account local sentiment and foreseeable consequences, as well as any other meetings already arranged on the same date in close proximity to the planned event, provided that this shall not detract from the right of any political party or organisation freely to propagate its political views; and
- immediately and at all times, establish and keep current effective lines of communication between one another at national, regional and local levels, by

ensuring a reciprocal exchange of the correct names, addresses and contact numbers of key leaders at each level, and by appointing liaison personnel in each location to deal with any problems which may arise.

2.6 All political parties and organisations shall provide full assistance and co-operation to the police in the investigation of violence and the apprehension of individuals involved. The signatories to this Accord specifically undertake not to protect or harbour their members and supporters to prevent them from being subjected to the processes of justice.

## Chapter 3

### Security Forces: General provisions

#### 3.1 General Principles

3.1.1 The police shall endeavour to protect the people of South Africa from all criminal acts and shall do so in a rigorously non-partisan fashion, regardless of the political belief and affiliation, race, religion, gender or ethnic origin of the perpetrators or victims of such acts.

3.1.2 The police shall endeavour to prevent crimes and shall attempt to arrest and investigate all those reasonably suspected of committing crimes and shall take the necessary steps to facilitate the judicial process.

3.1.3 The police shall be guided by a belief that they are accountable to society in rendering their policing services and shall therefore conduct themselves so as to secure and retain the respect and approval of the public. Through such accountability and friendly, effective and prompt service, the police shall endeavour to obtain the co-operation of the public whose partnership in the task of crime control and prevention is essential.

3.1.4 The police, as law enforcement officers, shall expect a higher standard of conduct from its members in the execution of their duties than they expect from others and in pursuance hereof, supports prompt and efficient investigation and prosecution of its own members alleged to have acted unlawfully and shall commit itself to continue the proper training and retraining of its members in line with the objectives of professional policing and the principles set out in Chapters 3 and 4 of this Accord. The police in particular shall emphasise that there is no place in the police force for policing practices based on personal or racial prejudice, corruption, excessive force or any unlawful actions.

3.1.5 The police shall exercise restraint in the pursuance of their duties and shall use the minimum force that is appropriate in the circumstances.

3.1.6 Parties, organisations and individuals acknowledge that they too have a contribution to make in the process of sustaining, developing and encouraging a police force of which

all South Africans can be proud. This involves a respect for the professionalism of the police force, and assisting the police in the performance of their legitimate duties.

3.2 The police shall observe the following more detailed set of requirements:

3.2.1 The police shall endeavour to protect the people of South Africa from all criminal acts and shall do so in a rigorously non-partisan fashion, regardless of the political belief and affiliation, race, religion, gender or ethnic origin of the perpetrators or victims of such acts.

3.2.1.1 The police must always respond promptly to calls for assistance and intervention.

3.2.1.2 Where prior notification is given of possible violence, the police must take all reasonable steps to prevent such an outbreak of violence.

3.2.1.3 The police shall endeavour to disarm those persons illegally bearing dangerous weapons in any gathering or procession.

3.2.2 The police shall endeavour to prevent crimes and shall attempt to arrest and investigate all those reasonably suspected of committing crimes and shall take the necessary steps to facilitate the judicial process.

3.2.2.1 Where violent clashes occur the police shall attempt to arrest all those reasonably suspected of participating in any unlawful act. If the police are unable for any reason to arrest all suspects, efforts must be made to photograph, video or otherwise identify the suspects.

3.2.2.2 After a suspect has been arrested the police shall conduct a full, proper and expeditious investigation into the complaint, shall endeavour to submit the necessary evidence to the Attorney-General as soon as possible and shall give all the necessary co-operation in this regard.

3.2.2.3 In addition to rights arrested persons have in terms of the law, suspects arrested solely for crimes related to political violence should be informed of their rights and given the opportunity to telephone their family or a lawyer. Judges Rules shall consistently be applied by all police officials.

3.2.2.4 All criminal complaints shall be accepted at a charge office. After the complaint is accepted, the complainant shall be given a form containing the complaint number and the nature of the charge. The name and the telephone number of the investigating officer shall be made available or dispatched within seven days to the complainant.

3.2.2.5 The complainant shall, upon request, be entitled to any relevant information from the investigating officer on the progress and outcome of the investigation.

3.2.2.6 In order to investigate all crimes relating to “political violence”, which includes public violence as defined in the Prevention of Public Violence and Intimidation Act, 1991, the police shall establish a special police investigation unit on the following basis:

- i. A police investigation unit shall be established under the command of the police general (or senior police officer in the case of the self-governing territories).
- ii. This police general shall monitor, co-ordinate and supervise investigations into crimes of political violence.
- iii. A senior police officer shall be appointed in the region of each special criminal court and shall carry out his duties and functions under the command of the said police general.
- iv. It will be the responsibility of each such officer as assisted by such officials as are seconded to him or appointed on an ad hoc basis to assist him, to conduct or supervise investigations into crimes of political violence in the region of that special court.
- v. When necessary each such officer shall liaise with the prosecutor of the special court in regard to the conduct of investigations into crimes of political violence.
- vi. Each such officer may personally investigate such crimes and/or supervise investigations performed by ordinary units of the police.
- vii. The police general who commands the special investigation unit as well as each such officer shall, where possible, have sufficient personnel and resources at his disposal to enable him to effectively carry out his powers and functions.
- viii. Each such officer shall be responsible for compiling a monthly report on the progress of investigations and for referring it to the police general who commands the special investigation unit. The Standing Commission and/or the National Peace Committee may inquire on the progress of the investigations and the police general shall submit a report.
- ix. In all cases where an affidavit containing evidence is submitted to the National Peace Committee or Regional Dispute Resolution Committee to the effect that the local police in any station and/or district have acted with bias towards a political party or organisation in that district, the investigation into any incident of alleged political violence shall, on basis of the affidavit, be conducted by the special investigation unit with jurisdiction in that region or under the supervision of an officer from such unit.
- x. The National Peace Committee shall be informed of the appointment of the police general and the senior officers.
- xi. The Commissioner of Police shall have regard to recommendations of the National Peace Committee.

3.2.3 The police shall be guided by a belief that they are accountable to society in rendering their policing services and shall therefore conduct themselves so as to secure and retain the respect and approval of the public.

Accountability in this paragraph and also referred to in clause 3.1.3 above, as well as in the Police Code of conduct, entails the following:

3.2.3.1 In order to facilitate better communication with the community, the police shall, in each locality where a Local Dispute Resolution Committee exists:

i. consult regularly with:

- a. the Local Dispute Resolution Committee, or in its absence, community leaders, including representatives of signatories of this accord, and
- b. community leaders, on the efficient functioning of the police in that community and shall regularly communicate with such committee, representatives or leaders on the issues raised by them with the police.

ii. establish a liaison officer of rank not lower than a warrant officer, in each police district, to which requests for urgent assistance may be directed.

The police shall notify the LDRC of the identity of liaison officers.

3.2.3.2 In addition to the normal channels available within the Department of Law and Order, complaints against the police may also be referred to the Police Reporting Officer or, depending on the nature of such complaints, to the Standing Commission on Violence and Intimidation.

3.2.3.3 If the police feel that they are unfairly victimised or harassed by any person or body or organisation they will have the right to raise a complaint to the National Peace Committee or any other appropriate body.

3.2.4 The police shall expect a higher standard of conduct from themselves than they expect from others.

3.2.4.1 Complaints of alleged police misconduct which is of such a serious nature that it may detrimentally affect police/community relations should be referred to the Police Reporting Officer or the Commissioner of Police, for investigation by a unit of the police specifically established for this purpose, under the supervision of a designated general of the police. Where the complaint is directed to the Police Reporting Officer it should be referred by him to the Commissioner of Police for investigation by such a unit. The units will be available as far as possible in each police region.

3.2.4.2 The unit shall submit to the Police Reporting Officer, a report on the complaints submitted to it, as well as the progress and outcome of investigations into complaints. The Police Reporting Officer will have the authority to ensure that the investigation is a full and proper investigation and accordingly will be entitled to refer the report back to the unit. The Police Reporting Officer shall be appointed in the following manner:

i. The Association of Law Societies and General Council of the Bar shall recommend to the Minister of Law and Order three candidates per region for the appointment of a Regional Police Reporting Officer. If the Minister is not prepared to make an appointment from the names so received, he may refer the

recommendation back to the Association of Law Societies and the General Council of the Bar for additional three names from which he has to make an appointment.

ii. Such Police Reporting Officer may be a former prosecutor, a former member of the attorney general's staff, a lawyer in private practice, a former magistrate, or a former policeman.

3.2.4.3 The Police Reporting Officer may recommend to the Commissioner of Police the suspension or transfer of the police official under investigation until the completion of the investigation.

3.2.4.4 The Police Reporting Officer shall, on the completion of the investigation, make a recommendation to the Commissioner of Police as to the disciplinary action that should be taken against the police involved in the misconduct. The complainant shall be notified of the recommendation and the outcome of this complaint. The Police a Reporting Officer may, with the consent of the complainant, provide the National Peace Committee with the recommendations and outcome of the investigation.

3.2.4.5 All police officials in uniform should carry a legible external form of identification.

3.2.4.6 All official police vehicles shall have an identification number painted on the side, and all military vehicles acting in support of the police shall display an identification number on the side and no such number may be removed for as long as such military vehicles are used in support of the police, provided that this shall not apply to police vehicles which are required for official undercover work, not in breach of clause 3.5 related to clandestine or covert operations. It shall be an offence for a police or military vehicle to be driven on a public road without numberplates or without the numberplates allocated to such vehicle by the relevant registration authority.

3.2.5 The police shall exercise restraint in the pursuance of their duties and shall use the minimum force that is appropriate in the circumstances.

3.2.5.1 Clear guidelines shall be issued by the police for dealing with unlawful gatherings and the following aspects shall clearly be addressed in such guidelines.

i. When a confrontation between a police unit and a gathering is reasonably foreseeable, a senior police official shall where possible be in command of the unit.

ii. The police unit performing crowd control duties shall, where possible, be equipped with public address systems and someone who can address the crowd in a language the crowd will understand.

iii. Before ordering a gathering to disperse, an attempt must be made to ascertain the purpose of the gathering and to negotiate the immediate dispersal of the group.

iv. Where residents of a community or a hostel are clearly the subject of an attack, the police shall endeavour to disarm and disperse the aggressors.

v. A reasonable time must be given to the gathering to comply with the requests or instructions of the commanding officer.

vi. The commanding officer shall only authorise the use of injurious or forceful methods of crowd dispersal if he believes that the crowd constitutes a danger to the public safety or to the safety of any individual or to any valuable movable or immovable property and if he has reason to believe that less injurious methods will not succeed in dispersing the gathering. The least possible degree of force should be used in attaining the aim of policing. Unless circumstances prevent it, persuasion, advice and warnings should be used to secure co-operation, compliance with the law and the restoration of order.

vii. The police should focus on making less injurious equipment also available to police stations in order to minimise the risk of forceful actions.

### 3.3 Police Board

3.3.1 A Police Board shall be established whose composition shall comprise of both members of the public and representatives of the police in equal numbers. The chairperson is to be appointed by the Minister of Law and Order from one of the members representing the public

3.3.2 The members of the public shall be appointed by the Minister of Law and Order to the Police Board from names put forward by unanimous decision by the National Peace Committee. The Minister of Law and Order shall have the discretion to appoint further members from parties who are not represented on the National Peace Committee.

3.3.3 The function of the Police Board shall be to consider and to make recommendations to the Minister of Law and Order in regard to the policy relating to the training and efficient functioning of the police, with a view to reconcile the interests of the community with that of the police.

3.3.4 The Police Board shall be empowered to do research and call for representations from the public regarding any investigation conducted by it.

3.3.5 The Police Board shall not have a role in regard to the day to day functioning of the police.

3.3.6 The recommendations of the Police Board in regard to the above matters shall be made public, insofar as it is essential in reconciling the interests of the community with that of the police.

### 3.4 Composition of the police force

3.4.1 The relationship between, and the status of, the South African Police and the Police Forces in the Self-governing Territories in the transitional phase, can only be decided by the interested parties through negotiations.

3.4.2 Where the police Forces of any self-governing territory is alleged to be a party to the conflict, the Standing Commission shall investigate this and make appropriate recommendations.

### 3.5 Clandestine or covert operations

3.5.1 No public funds shall be used to promote the interests of any political party or political organizations and no political party or political organization shall accept any public funds to promote its interests which shall have the effect of interfering negatively in the political process.

3.5.2 The government shall not allow any operation by the security forces with the intention to undermine, promote or influence any political party or political organization at the expense of another by means of any acts, or by means of disinformation.

3.5.3 If any of the signatories to the accord has reason to believe that any operation is being conducted in breach of this clause, it may lodge a complaint with the Police Reporting Officer or the Commission as the case may be.

3.5.4 In addition to any civil/criminal liability he/she may incur, any individual member of the police who is found to have breached this clause shall be dealt with in accordance with the Police Act, Regulations and Standing Orders.

3.5.5 In addition to any civil/criminal liability he/she may incur, any individual member of the defence force who is found to have breached this clause shall be dealt with in accordance with the defence statutes and codes and the Code of Conduct for the members of the defence force.

3.5.6 In order to monitor ongoing compliance with this provision the Commission, or a person authorised by it, shall upon receipt of any request by a party, or a complaint or on information received by it, be entitled by warrant to enter and inspect any place and interrogate any security force member, and seize any record or piece of evidence.

### 3.6 Dangerous weapons

3.6.1 The parties agree that the disastrous consequences of widespread violence and the urgent requirement of peace and stability on which to build the common future make it necessary to act decisively to eliminate violence or the threat of violence from a political sphere.

3.6.2 In pursuit of this understanding the parties agree that no weapons or fire-arms may be possessed, carried or displayed by members of the general public attending any political gathering, procession or meeting.

3.6.3 All political parties and organizations shall actively discourage and seek to prevent their members and supporters from possessing, carrying or displaying weapons or fire-arms when attending any political gathering, procession or meeting.

3.6.4 The Government undertakes to issue the necessary proclamations to implement the principles of paragraph 3.6.2 after consultation with the interested parties.

### 3.7 Self Protection Units (previously called self-defence units)

3.7.1 The Law accords all individuals the right to protect themselves and their property, and to establish voluntary associations or self protection units in any neighbourhood to prevent crime and to prevent any invasion of the lawful rights of such communities. This shall include the right to bear licensed arms and to use them in legitimate and lawful self-defence.

3.7.2 The parties also agree that no party or political organization shall establish such units on the basis of party or political affiliation, such units being considered private armies.

3.7.3 No private armies shall be allowed or formed.

3.7.4 The parties also recognise that a liaison structure should operate between any community based self protection unit and the police so as to facilitate education on citizens' rights, police responsiveness and other aspects in respect of which there is a legitimate and common interest

3.7.5 The police remains responsible for the maintenance of law and order and shall not be hindered in executing their task by any self protection unit.

3.7.6 All existing structures called self-defence units shall be transformed into self protection units which shall function in accordance with the principles contained in paragraph 3.7.

### 3.8 General

3.8.1 This Accord shall, where applicable, be issued as a directive by the Commissioner of Police and if necessary, the Police Act and regulations will be amended accordingly.

3.8.2 In view of the changing policing demands of a changing South Africa the police shall continue to take steps to retrain their members on the proper functions of the police as set out in the Code and in this agreement and in particular in methods of defusing conflict through discussion.

3.8.3 This Accord shall, where applicable, be honoured by and shall in terms of paragraph 3.8.1 be binding on the police.

3.8.4 This Accord shall, where applicable, be binding on the defence force in as much as it performs any ordinary policing function.

3.8.5 Where a government of a self-governing territory becomes a signatory to this Accord, the provisions of this Accord will, *mutatis mutandis*, be applicable to such a government as well as the police force of such a government.

3.8.6 A government of a self-governing territory which is a signatory to this Accord may opt to accept the jurisdiction of the Police Board or Police Reporting Officer established in respect of the South African Police Force.

### 3.9 Code of Conduct for members of the Defence Force

A Code is in the process of being negotiated under the auspices of the National Peace Committee.

## Chapter 4

### Security Forces: Police Code of Conduct

#### Mission of the South African Police

“We undertake, impartially and with respect for the norms of the law and society, to protect the interest of the country and everyone therein against any criminal violation, through efficient service rendered in an accountable manner.”

#### Code of Conduct of the South African Police

All members of the South African Police shall commit themselves to abide by the Code of Conduct in the following terms:

As a member of the South African Police, undertake to adhere to the following Code of Conduct to the best of my abilities:

As Police Official will observe the oath of loyalty which made to the Republic of South Africa by performing the task that is required of me by law, with untiring zeal, single-mindedness and devotion to duty, realising that accept the following principles:

- In order to preserve the fundamental and constitutional rights of each individual by the use of preventive measures, or alternatively, in the event of disruption, to restore social order by the use of reactive policing.

- The authority and powers accorded to the police for the maintenance of social order, and the subsidiary objectives they adopt are dependent upon and subject to public approval, and the ability to secure and retain the respect of the public.
- The attainment and retention of public approval and respect include the co-operation of the public in the voluntary observance of the laws.
- Any offence or alleged offence by any member of the South African Police, of the common law or statutory law, including the Police Act and the regulations promulgated in accordance thereof, shall be thoroughly investigated and in the event of any violation thereof, appropriate measures shall be taken. Such an offence or alleged offence, depending on the nature thereof, may be referred to a Police Reporting Officer or the Commission established in terms of the Prevention of Violence and Intimidation Act, 1991, or to a commission that shall be specifically appointed for that purpose. All assistance and co-operation possible shall be rendered to a commission such as this, and the Police Reporting Officer and where investigations are undertaken by the police at the request of the commission or the Police Reporting Officer, a special investigation team shall be used for this purpose.
- The extent and quality of public co-operation proportionally diminishes the need for corrective measures.
- The favour and approval of the public shall be sought by:
  - enforcing the law firmly, sensitively and with constant and absolute impartiality;
  - giving effective and friendly service to each individual, regardless of the political and religious belief, race, gender or ethnic origin;
  - reacting as quickly as possible to requests for help or service; making personal sacrifices in order to save lives; and
  - encouraging police community relationships, and by promoting participation by the community.
- The least possible degree of force be used in attaining the aim of policing, and then only when persuasion, advice and warning have failed to secure co-operation, compliance with the law and the restoration of order.
- Judges' Rules shall consistently be applied by all police officials. Police officials must adhere to the executive function of policing and refrain from taking it upon themselves to perform a judicial function.
- All police officials in uniform shall wear a clearly distinguishable mark of identification.
- The integrity of policing is reflected by the degree of personal moral responsibility and professional altruism evident in the behaviour and actions of every individual member of the police.
- The stability of society, and the vitality and continuity of democratic ideals are dependent upon policing that:

- is consistently aware of the sensitive balance between individual freedom and collective security;
  - is consistently aware of the dangers inherent in illegal and informal coercive actions and methods; and
  - will never give in to the temptation to sacrifice principles by resorting to reprehensible means to secure good ends.
- The professionalisation of policing depends primarily upon intensive selection, training, planning and research.
  - The needs of the community shall be considered in the training programme of the Police, and the contribution made by communities in this regard, shall be taken into account.
  - Every member should strive and apply him/herself to individual and institutional professionalism by self-improvement and study.
  - Any offence by any member of the police, committed in the presence of a fellow member of the police, shall be dealt with by such a fellow member in accordance with the powers and duties conferred upon him or her by any act relating to such an offence. In addition such a fellow member shall forthwith notify his or her commander.

In order to maintain these principles, undertake to:

- make my personal life an example worthy to be followed by all;
- develop my own personality and also create the opportunity for others to do likewise;
- treat my subordinates as well as my seniors in a decent manner;
- fulfil my duty faithfully, despite danger, insult or threat;
- develop self-control, remain honest in thought and deed, both on and off duty;
- be an example in obeying the law of the land and the precepts of the Force;
- prevent personal feelings, prejudice, antagonism or friendships from influencing my judgement;
- receive no unlawful reward or compensation; and
- remain worthy of the trust of the public, by unselfish service, seek satisfaction in being read to serve and to dedicate myself in the service to my God and my country.

“Servamus Et Servimus - We Protect And We Serve”

## Chapter 5

### Measures to facilitate socio-economic reconstruction and development

5.1 Reconstruction and development projects must actively involve the affected communities. Through a process of inclusive negotiations involving recipients, experts

and donors, the community must be able to conceive, implement and take responsibility for projects in a co-ordinated way as close to the grassroots as possible. In addition reconstruction and development must facilitate the development of the economic and human resources of the communities concerned.

5.2 Projects at a local level require the co-operation of all members of the community irrespective of their political affiliation. The people within local communities must see local organisations working together on the ground with common purpose. Parties with constituency support in an area must commit themselves to facilitating such an approach to development projects.

5.3 Reconstruction projects must work on the ground at local level. This requires a combined effort by all political organisations and affected parties to raise the required level of capital and human resources for development. Public and private funds will have to be mobilised for this purpose.

5.4 Sustainable development implies that all individuals must be assisted and encouraged to accept responsibility for their socio-economic well-being. Each actor must define and accept his/her role and there must be an acceptance of co-responsibility for and co-determination of socio-economic development.

5.5 This development initiative should in no way abrogate the right and duty of governments to continue their normal development activity, except that in doing so they should be sensitive to the spirit and contents of any agreement that may be reached.

5.6 The parties to this process commit themselves to facilitating the rapid removal of political, legislative and administrative obstacles to development and economic growth.

5.7 The National Peace Committee and the Regional Dispute Resolution Committees will establish permanent subcommittees on socio-economic reconstruction and development.

5.8 Both the national and regional sub-committees defined above could establish advisory and consulting groups to facilitate their work.

5.9 The functions of these sub-committees would be to:

5.9.1 assist the peace structures in regard to socio-economic reconstruction and development;

5.9.2 take initiatives to implement the principles outlined above and to deal with the issues set out hereunder;

5.9.3 the combined inputs of the sub-committees participants would be to facilitate, co-ordinate and expedite reconstruction and development in terms of the principles outlined above.

5.10 The general guideline on issues to be dealt with is to move from immediate issues related to violence and the peace process toward pre-emption of violence and then toward integrating into the overall need for socio-economic development.

5.11 The sub-committees should identify areas at community level where they could begin to facilitate the co-ordination of the following issues:

- reconstruction of damaged property;
- reintegration of displaced persons into the community;
- expansion of infrastructure to assist in consolidating the peace process; and
- community involvement in the maintenance and improvement of existing community facilities and the environment.

5.12 The sub-committees should facilitate crisis assistance that will link to socio-economic development in the following areas:

- dealing with the immediate effects of violence and the resultant social effects, displaced persons problem and homelessness; and
- where infrastructure is itself a spark to violence, eg. water, electricity, transportation, schools, etc.

5.13 In addressing the above issues attention will have to be paid to:

- the equitable allocation of state resources, including state-funded development agencies (physical and financial) for both public and community-based initiatives;
- mobilisation of additional resources - both public and private;
- the cumbersome nature of governmental structures in the provision of resources and services;
- the position of the very poor and marginalised groups;
- land, its accessibility and use;
- basic housing;
- provision of basic services;
- education;
- health and welfare;
- job creation and unemployment; and
- the availability of land for housing and basic services.

5.14 The sub-committees should identify potential flash points and co-ordinate socio-economic development that will defuse tension eg. squatter settlements; squatter settlement-township interfaces; hostels; hostel-township interfaces; provision and maintenance of basic services and rural resource constraints. The sub-committees should identify areas of socio-economic development that would prevent violence.

5.15 The sub-committee would attempt to ensure that overall socio-economic development is cognisant of the need to reinforce the peace process and defuse the potential for violence.

## Chapter 6

Commission of Inquiry regarding the prevention of public violence and intimidation (“the Commission”).

6.1 It is acknowledged that the police is primarily responsible for the investigation of crime. The police is, as a result, also responsible for the investigation and bringing to book of all perpetrators of violence and intimidation.

6.2 Postmortem inquests play an important role in exposing and opening up circumstances relating to unrest and violence. Inquests with judges as presiding officers have taken place more frequently since the implementation of the Inquests Amendment Act, 1990 (Act 45 of 1990). The Inquests Amendment Act, 1991 (Act 8 of 1991) has furthermore streamlined the process and inquests can be disposed of more rapidly. Records of all inquest proceedings relating to public violence should be submitted to the Commission.

6.3 It is clear that violence and intimidation declines when it is investigated and when the background and reasons for it is (sic) exposed and given media attention. There is therefore need for an effective instrument to do just that. It is agreed that the Commission established by the Prevention of Public Violence and Intimidation Act, 1991, be used as an instrument to investigate and expose the background and reasons for violence, thereby reducing the incidence of violence and intimidation. However, in order to improve the efficacy of the Act in preventing violence it may be necessary to amend the Act, to accommodate the provisions of this Chapter. Where amendments are necessary, the National Peace Committee shall send its proposals to the Minister of Justice as soon as possible.

6.4 In terms of the Prevention of Public Violence and Intimidation Act, 1991, the Commission shall function as follows:

6.5 The Commission shall function on a permanent basis.

6.6 The Commission's objectives shall be to:

6.6.1 inquire into the phenomenon of public violence and intimidation in the Republic, the nature and causes thereof and what persons are involved therein;

6.6.2 inquire into any steps that should be taken in order to prevent public violence and intimidation;

6.6.3 make recommendations to the State President regarding:

6.6.3.1 the general policy which ought to be followed in respect of the prevention of public violence and intimidation;

6.6.3.2 steps to prevent public violence or intimidation;

6.6.3.3 any other steps it may deem necessary or expedient, including proposals for the passing of legislation, to prevent a repetition or continuation of any act or omission relating to public violence or intimidation;

6.6.3.4 the generation of income by the State to prevent public violence and intimidation as well as the compensating of persons who were prejudiced and suffered patrimonial loss thereby;

6.6.3.5 any other matter which may contribute to preventing public violence and intimidation.

6.7 It is agreed that the Commission shall be composed as follows:

6.7.1 A judge or retired judge of the Supreme Court or a senior advocate with at least 10 years experience in the enforcement of the law. This will ensure that the Commission has suitable, independent and objective leadership, fully versed in the law and fearlessly given to grant all parties an equal opportunity to state their views and give their facts. This person will be the chairman.

6.7.2 A senior advocate or a senior attorney or a senior professor of law. The incumbent will assist the chairman of the Commission, providing balance from a legal point of view. Because of his status this person will not be susceptible to influence from other parties. This person will be the vice-chairman.

6.7.3 Three other duly qualified persons.

6.8 The National Peace Committee shall submit a short list of persons to be considered for appointment.

6.9 It is acknowledged that it is desirable that the Commission should be and be seen to be independent and non-partisan.

6.10 Members of the Commission are appointed for a period of three years.

6.11 The Commission will be assisted by a secretariat to provide administrative and logistical services.

6.12 The Commission's functions will include the following:

6.12.1 to investigate the causes of violence and intimidation;

6.12.2 to recommend measures capable of containing the cycle of violence;

6.12.3 to recommend measures in order to prevent further violence;

6.12.4 to initiate research programmer for the establishment of scientific empirical data on violence; and

6.12.5 to make recommendations concerning the funding of the process of peace.

6.13 Any individual will be able to approach the Commission with a request to investigate any particular matter relevant to combating violence and intimidation. If any such individual is held in detention, the relevant authorities will facilitate the transmission of such a request to the Commission. If a request is unfounded, trivial or designed for purposes other than the prevention of violence and intimidation, the Commission may in its discretion decline to act upon the request. The Commission does not only act upon receiving a request from an individual, but may of its own accord investigate matters.

6.14 The investigation by or at the behest of the Commission shall not affect any legal processes.

6.15 Where a matter has already been dealt with as a result of the legal processes, the Commission shall not re-investigate the matter but may take cognisance of the evidence presented during such processes and the finding emanating from such proceedings. 6.16 The Commission shall be empowered to enlist the help of other institutions in its investigations. Investigations by the Police Reporting Officer referred to in this Accord shall not be affected by the Commission.

6.17 Members of the Commission and its secretariat (insofar as they may not be employed by the State) shall be remunerated by the State. The State shall provide funds for the operation of the Commission.

6.18 The Commission shall be empowered in order to conduct an investigation and insofar as it may be relevant to:

6.18.1 require any person to give evidence on the matter being investigated;

6.18.2 require any person to put any document or other evidentiary material at the disposal of the Commission;

6.18.3 order that the identity of any person mentioned in 6.18.1 and 6.18.2 shall not be revealed if that person's life or property or his family may be endangered because of his assistance to the Commission;

6.18.4 order that the relevant authority provide appropriate protection to a person mentioned in 6.18.1 and 6.18.2 if his life is endangered because of his assistance to the Commission; and

6.18.5 order that the contents of any document or other evidentiary material shall not be revealed or published if circumstances so demand.

6.19 The proceedings of the Commission shall take place in public, unless the Commission decides that circumstances demand otherwise. This is designed to ensure that the safety of witnesses can be guaranteed.

6.20 The Commission shall determine if legal representation is desirable in any particular given case.

6.21 After completion of an investigation the Commission shall compile a report on its findings and recommendations. This report will be handed to the State President who may make known for public information the facts in question and the findings of the Commission which he deems necessary in the public interest. Without derogating from the State President's discretion, the State President is requested to make such report available to *inter alia* the National Peace Committee.

6.22 Measures shall be enacted to provide for the expenses and mechanisms of the Commission.

6.23 In order to ensure that steps are taken against perpetrators of violence and intimidation, the Commission may refer any evidence constituting an offence to the relevant Attorney-General and to the Special Criminal Courts.

6.24 Anyone hampering or influencing the Commission or any of its members in the execution of their duties shall be guilty of an offence. This will ensure that the status of the Commission is established and that it does not fall prey to pressures.

6.25 The above-mentioned is reflected in the Prevention of Public Violence and Intimidation Act, 1991.

6.26 Fully aware of the fact that the composition of the proposed body will determine its relevancy and legitimacy, the Minister of Justice indicated during the Second Reading Debate of the Act that no appointments would be made without consultation and negotiations with the relevant role players. Consensus will be the key word. The group agrees that for this system to be effective, it needs to be credible.

6.27 In terms of section 4 of the Act, committees may be established to assist the Commission in the exercise of its functions. The relevant players will therefore also be able to be represented on these committees by their own members and experts. These committees will enjoy the same far-reaching powers as the Commission itself. Regional committees of the Commission should be established in each of the regions identified by

the Commission to monitor and inquire into public violence and intimidation. Local and regional security force commanders and the LDRC and RDRC members, should advise the Commission or a Sub-committee of the Commission of any advance warning of anticipated or current violence.

6.28 The parties agree that for the Commission to be effective it needs to be a credible instrument. It will furthermore only obtain credibility if it is to be constituted after the National Peace Committee has been consulted. If this condition is met, the establishment of the Commission should be given unconditional support.

6.29 In order to function properly within a legal framework, to exercise the considerable powers given and to obtain State funding, there is no alternative to making use of a statutory enactment, such as the Act. It is suggested that the Act be employed to fulfil this role, because it can be utilised immediately and does not require further statutory attention.

## Chapter 7

### National Peace Secretariat, Regional And Local Dispute Resolution Committees

7.1. It is clear from the foregoing that sufficient instruments exist to investigate violence and intimidation and to bring the perpetrators thereof to book. Insufficient instruments exist however to actively combat violence and intimidation at grassroots level. It is therefore proposed that committees be appointed at regional and local levels to assist in this regard. These committees will require national co-ordination.

7.2 In order to provide management skills, budgetary commitment and statutory empowerment and sanction, State involvement is essential.

#### 7.3 A National Peace Secretariat

7.3.1 A National Peace Secretariat shall be established, comprising at least four persons nominated by the National Peace Committee and one representative of the Department of Justice. Further members, up to a maximum of four, may also be appointed.

7.3.2 The function of the National Peace Secretariat will be to establish and co-ordinate the Regional Dispute Resolution Committees and the Local Dispute Resolution Committees.

7.3.3 The National Peace Secretariat will take decisions on a consensus basis.

7.3.4 The required financial and administrative resources of the National Peace Secretariat, and the other bodies established by it, will be provided by the Department of Justice.

#### 7.4 Regional and Local Dispute Committees

7.4.1 Peace bodies are to be established at both regional and local level, to be styled “Regional Dispute Resolution Committees” (RDRC) and “Local Dispute Resolution Committees” (LDRC) respectively.

7.4.2 Just as the Commission will gain its legitimacy from its composition, reflecting the interested and relevant organisations, the RDRCs and LDRCs will gain their legitimacy by representing the people and communities they are designed to serve.

7.4.3 The areas of jurisdiction of the RDRCs shall be decided by the National Peace Secretariat until such time as statutory provision is made.

7.4.4 RDRCs will be constituted as follows:

7.4.4.1 representatives from relevant political organisations;

7.4.4.2 representatives from relevant churches;

7.4.4.3 representatives of relevant trade unions, industry and business in the region;

7.4.4.4 representatives of relevant local and tribal authorities; and

7.4.4.5 representatives from the police and the defence force.

7.4.5 Duties of RDRCs shall include the following:

7.4.5.1 attending to any matter referred to it by the LDRC, the National Peace Secretariat or the Commission;

7.4.5.2 advising the Commission on matters causing violence and intimidation in the region;

7.4.5.3 settling disputes causing public violence or intimidation by negotiating with the parties concerned and recording the terms of such settlements;

7.4.5.4 guiding LDRCs in their duties;

7.4.5.5 monitoring current applicable peace accords and future peace agreements entered into in the relevant region and settling disputes arising from them;

7.4.5.6 informing the National Peace Secretariat of steps taken to prevent violence and intimidation in its region including breaches of Peace Agreements; and

7.4.5.7 consulting with the relevant authorities in its region to combat or prevent violence and intimidation.

7.4.6 The communities within which LDRCs are to be established should be identified by the RDRCs.

7.4.7 LDRCs will be constituted by drawing representatives reflecting the needs of the relevant community.

7.4.8 Duties of the LDRCs shall include the following:

7.4.8.1 attending to any matter referred to it by either the Commission or the RDRCs;

7.4.8.2 creating trust and reconciliation between grassroots community leadership of relevant organisations, including the police and the defence force;

7.4.8.3 co-operating with the local Justice of the Peace in combating and preventing violence and intimidation;

7.4.8.4 settling disputes causing public violence or intimidation by negotiating with the parties concerned and recording the terms of such settlements;

7.4.8.5 eliminating conditions which may harm peace accords or peaceful relations;

7.4.8.6 reporting and making recommendations to the relevant RDRCs;

7.4.8.7 to promote compliance with currently valid and future peace accords and agreements entered into in the relevant area;

7.4.8.8 to agree upon rules and conditions relating to marches, rallies and gatherings; and

7.4.8.9 liaise with local police and local magistrates on matters concerning the prevention of violence, the holding of rallies, marches and gatherings.

7.5 Justices of the Peace

7.5.1 It is proposed that additional Justices of the Peace be appointed after consultation with the relevant parties and the LDRCs. The purpose of the Justices of the Peace will essentially be to promote the peace process at grassroots level and to assist the LDRCs in their activities.

7.5.2 Duties of Justices of the Peace shall include the following:

7.5.2.1 investigating any complaint received from anyone pertaining to public violence and intimidation, except where legal processes of investigations

instituted by the South African Police, other police forces, the Commission, the RDRCs, the Police Reporting Officer or a commission of inquiry are dealing with the relevant matter;

7.5.2.2 mediating between relevant parties to a dispute by negotiation;

7.5.2.3 applying rules of natural justice when issuing an order which will be fair and just in the particular circumstances in order to restore peaceful relations;

7.5.2.4 referring facts constituting an offence to the relevant Attorney-General;

7.5.2.5 in co-operation with parties and in consultation with the LDRCs acting as the ears and eyes of LDRCs and reacting in urgent cases;

7.5.2.6 in all matters relating to public violence reporting to the LDRCs; and

7.5.2.7 to pronounce as a judgement the terms of a settlement reached at LDRCs or RDRCs, provided that the terms of such settlement are executable.

7.6 RDRCs, LDRCs and Justices of the Peace shall be empowered to:

7.6.1 request the presence of any person with knowledge of any acts of violence or intimidation to give evidence;

7.6.2 request that any person in possession of any relevant document or other evidentiary material put the same at their disposal; and

7.6.3 protect the identity and safety of anyone assisting the relevant body as contemplated in 7.6.1 and 7.6.2 by excluding the public and/or media from its proceedings or by limiting access to its documents or reports or by prohibiting the publication of the contents of any of its documents or reports.

7.7 The National Peace Secretariat shall assist RDRCs in the exercise of their duties.

7.8 RDRCs may limit the number of members of a LDRC taking into account the prevailing circumstances in the community.

7.9 RDRCs shall determine the boundaries of the area constituting the jurisdiction of LDRCs within their own areas of jurisdiction.

7.10 The National Peace Secretariat and the Commission will advise on the policy to be applied to and by the RDRCs and the LDRCs and the management of the said bodies.

7.11 Members of the RDRCs, LDRCs and Justices of the Peace not in the full-time employment of the State shall be entitled to remuneration and allowances to be paid by the State.

7.12 RDRCs and LDRCs shall appoint chairmen and vice-chairmen to represent the RDRC or LDRC concerned for a period of one year.

7.13 RDRCs and LDRCs shall furnish the National Peace Secretariat, the Commission or the relevant RDRC, as the case may be, with any information required by such bodies.

7.14 In view of the lack of effective peace promoting mechanisms at grassroots level it is urgent that these proposals be implemented as soon as possible. Because of the said urgency, it is agreed that the proposals be implemented on a voluntary basis at the outset. In order to give permanency and effectivity to the proposed structures it will have to be given statutory recognition as soon as possible. This should also ensure that the structures be funded by the State. In drafting the required legislation there should be wide consultation including with the National Peace Committee. The proposed legislation will also be published for general information and comment.

7.15 In order to ensure the proper functioning of the LDRCs, it is necessary to:

7.15.1 give them high status in their communities for their role in the peace process;

7.15.2 compensate the members of LDRCs for out-of-pocket expenses for attending meetings; and

7.15.3 train the members of the LDRCs in conciliating disputes, running meetings, negotiating skills, etc.

## Chapter 8

### National Peace Committee

#### 8.1 Composition

8.1.1 Those political parties and organisations currently represented on the Preparatory Committee shall constitute the National Peace Committee together with representatives drawn from other signatory parties where the National Peace Committee believes such inclusion will give effect to the National Peace Accord.

8.1.2 The National Peace Committee shall appoint a chairperson and vice-chairperson, who shall be drawn from the religious and business communities.

#### 8.2 Objective

The objective of the National Peace Committee is to monitor and to make recommendation on the implementation of the National Peace Accord as a whole and to ensure compliance with the Code of Conduct for Political Parties and Organisations.

### 8.3 Functions

8.3.1 The functions of the National Peace Committee shall be, inter alia, to:

- 8.3.1.1 perform those functions imposed upon it by the National Peace Accord;
- 8.3.1.2 receive and consider reports by the National Peace Secretariat and the Commission;
- 8.3.1.3 decide disputes concerning the interpretation of the Code of Conduct for Political Parties and Organisations;
- 8.3.1.4 resolve disputes concerning alleged transgression of the Code of Conduct for Political Parties and Organisations;
- 8.3.1.5 convene a meeting of the signatories in the event of an unresolved breach of the National Peace Accord; and
- 8.3.1.6 recommend legislation to give effect to the National Peace Accord.

### 8.4 Powers

8.4.1 The National Peace Committee shall have the following powers:

- 8.4.1.1 promote the aims and spirit of the National Peace Accord;
- 8.4.1.2 convene a meeting of the signatories where necessary;
- 8.4.1.3 amend the constitution of the National Peace Committee;
- 8.4.1.4 negotiate and conclude further agreements to achieve the objects of the National Peace Accord.

### 8.5 Meetings

8.5.1 The National Peace Committee shall elect a chairperson who shall not be a representative of any of the signatory parties.

8.5.2 Meetings shall take place on a regular basis at a date and time agreed to in advance.

8.5.3 Urgent meetings shall be convened by the chairperson on not less than 48 hours notice in writing to the authorised representatives;

8.5.4 The service of written notice of a meeting at the specified address of the authorised person shall constitute due notice.

8.5.5 An urgent meeting shall be called by the chairperson on a written request of one of the signatory parties to the National Peace Accord.

## 8.6 Voting

8.6.1 All decisions shall be by consensus.

8.6.2 In the event of a dispute over the interpretation of the National Peace Accord, the failure of the National Peace Committee to achieve consensus at the meeting at which the dispute is raised or at such further meetings as agreed, the dispute shall be referred to expedited arbitration in the manner set out in paragraph 9.4.

8.6.3 In the event of a breach of the National Peace Accord not being resolved by consensus at a meeting of the National Peace Committee, the chairperson of the National Peace Committee shall convene a meeting of national leadership of the signatories within 30 days of the meeting.

## Chapter 9

### Enforcing the peace agreement between the parties

9.1 There should be simple and expeditious procedures for the resolution of disputes regarding transgressions of the Code of Conduct for Political Parties and Organisations by political parties and organisations who are signatories of the National Peace Accord. These disputes should wherever possible, be settled:

9.1.1 at grassroots level;

9.1.2 through the participation of the parties themselves; and

9.1.3 by using the proven methods of mediation, arbitration and adjudication.

9.2 Disputes and complaints regarding transgression of the Code of Conduct for Political Parties and Organisations shall be referred to the National Peace Committee or a committee to whom it has referred the matter for resolution, if the parties were not able to resolve the dispute themselves.

9.3 Where the dispute cannot be resolved by the National Peace Committee or the committee to whom it has been referred to by the National Peace Committee, it shall be referred for arbitration.

9.4 The arbitrator shall be a person with legal skills, appointed by the relevant parties by consensus, failing which the arbitrator shall be appointed by the National Peace Committee within 21 days of being requested to do so in writing and failing which the Chair-person of the National Peace Committee shall appoint an arbitrator.

9.5 Subject to the above, the procedure of the arbitration shall be as follows:

9.5.1 the complaint shall be referred to the arbitrator by the complaining parties;

9.5.2 the arbitrator shall decide on a date of hearing and call upon the parties to the dispute to be present at the hearing with their witnesses;

9.5.3 the hearing shall be conducted in private;

9.5.4 the arbitrator shall make a finding on the facts and make an order on the organisation concerned to remedy the breach either by a public distancing of the organisation from the events or by steps to be taken to prevent further breaches of the Code and the time within which the order has to be implemented;

9.5.5 the arbitrator shall hold a compliance hearing once the time period has expired to determine compliance;

9.5.6 the arbitrator will then submit a report of its findings to the National Peace Committee.

9.6 The signatories agree to consult each other in the National Peace Committee on methods of ensuring that the Code of Conduct for Political Parties and Organisations is enforceable on all such bodies, including the possibility of statutory enforcement.

## Chapter 10

### Special Criminal Courts

10.1 An effective and credible criminal judicial system requires the swift but just dispensation of justice. This in turn will promote the restoration of peace and prosperity to communities, freeing them of the ravages of violence and intimidation. Special attention should be given to unrest related cases, cases of public violence and cases involving intimidation by setting up Special Criminal Courts specifically for the purpose.

10.2 It is agreed that the Department of Justice, in co-operation with local legal practitioners of the Law Societies and the Bar, should establish project committees to advise the Department of Justice on the administration of the proposed Special Criminal Courts.

10.3 These Special Criminal Courts will not deal with ordinary day-to-day crime. Its function will be to deal with unrest related cases. As a result, cases being heard in these courts will be disposed of swiftly and effectively without delay. Cognisance is taken of the initiative to establish mobile courts in certain areas to bring justice closer to the people. The initiative is supported.

10.4 Special Criminal Courts should be located in areas where its services are most urgently needed. This implies that cases can be heard more expeditiously than ordinary criminal courts would be able to. This ensures that perpetrators of violence and intimidation will not unnecessarily be let out on bail enabling them to become re-involved in violence and intimidation. This also ensures that those who are maliciously accused of being violent can have their names cleared sooner than is the case at present.

10.5 The Criminal Law Amendment Act of 1991 provides a mechanism for a programme of witness protection. It is based on the voluntary co-operation of the person threatened by others and can also protect his family members. It is agreed that these provisions be actively utilised in areas affected by unrest.

10.6 For unrest, Political violence and intimidation related offences to be effectively combated, criminals should be prosecuted as effectively as possible and at the earliest instance.

10.7 It is acknowledged that for Special Criminal Courts to be effective, special procedural and evidential rules should apply. The parties therefore commit themselves to promoting procedural and evidential rules that will facilitate the expeditious and effective hearing of criminal cases.

Signed by more than forty organisations on 14 September 1991.