

NEW FRONTIERS

The KwaZulu/Natal Debates



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The KwaZulu/Natal Debates



Research Editors
Karin Roberts and Graham Howe

October 1987
An Indicator SA Issue Focus



Indicator Project South Africa
Centre for Applied Social Sciences
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KwaZulu Natal



Indaba

P.O. Box 252 Durban 4011 Republic of South Africa Telephone (031) 911-5946

Dear Sir

28 February 1986

KWAZULU/NATAL INDABA

We have pleasure in inviting your organisation to appoint a representative to participate in the forthcoming KwaZulu/Natal Indaba.

The main aim of the Indaba is to reach consensus (or as near consensus as possible) regarding the formulation of proposals to be put to the Central Government regarding the creation of a single legislative body to govern the combined area of Natal and KwaZulu. (This does not imply the separation of the combined area from the rest of South Africa and it refers only to second-tier government.)

Please send us the name, address and telephone number of your representative as soon as possible, but by March 10, 1986 at the latest. In the meantime, we will communicate with the person to whom this invitation has been sent unless you advise us otherwise.

The appointment of such a single representative does not preclude your organisation from bringing advisors to the Indaba. Advisors will not have the right to vote (if voting should prove necessary), and the consent of the Indaba Chairman for the advisor to address the Indaba would be necessary. The maximum number of your advisors will be limited to 5 (five). It will be within the power of your organisation to appoint an alternate representative and alternate advisors in the event of your representative or advisors not being able to attend a particular session.

The first session of the Indaba will be held in the Durban City Hall on Monday, March 17, 1986 at 10 am. In view of the short period of notice, it is appreciated that organisations may have difficulty formally nominating delegates by this date, and therefore, applications for an extension of time in which to do so may be made telephonically or otherwise to the address specified and will be given full consideration.

The Chairman of the Indaba will be the Honourable S Miller who was appointed a Judge in the Natal Provincial Division of the Supreme Court in 1962. He was appointed to the Appellate Division of the Supreme Court in 1976. Mr Miller, who has lived in Durban since 1962, retired from the Bench in January this year.*

In order to facilitate the organising of the Indaba, a Joint Organising Committee consisting of four representatives each from Natal and KwaZulu has been appointed. This committee will, however, be solely concerned with administrative details such as arranging venues, secretarial services, press facilities, hotel bookings, catering arrangements, etc. It will not be concerned with political issues.

We look forward to your participation, your contribution and your goodwill.

We attach, for your information, a full list of the organisations that have been sent invitations to appoint representatives to attend the Indaba.

Yours sincerely

Frank Martin
MR FRANK MARTIN
Representing
THE NATAL PROVINCIAL COUNCIL

Oscar Dhlomo
DR OSCAR DHLOMO
Representing
THE KWAZULU GOVERNMENT

'Everything depends upon the spirit with which we start the performance of our task. Failure is certain if we start with a feeling of distrust and suspicion of each other and with the sole desire to secure as many advantages as we can for our respective Colonies. Success is certain if we give each other our fullest confidence and act upon the principles that while not neglectful of the interests of those who sent us here, we are for the time being, representatives of the whole of South Africa.'

from the opening address of Lord de Villiers, GJ at the 1906 South African Convention, Durban

IPSA footnote:
Mr Miller declined the invitation to chair the Indaba and Professor Desmond Clarence, former University of Natal Principal was subsequently appointed Chairman.

Participation

The call to establish a provincial legislature for KwaZulu/Natal has re-opened an important debate on the value of regional and federal forms of government in the broader quest for a South African solution. The enactment of an advisory joint executive authority for the two polities already represents a significant shift away from the strictures of 'grand' territorial apartheid. The linkage of the provincial and KwaZulu administrations could lead, in turn, to further second-tier reforms through broadening black enfranchisement, decentralising state power and incorporating homelands into multiracial frameworks in other regions.

Preceding actual reforms, however, negotiation and participation are the essential prerequisites for a transformation of existing political institutions. Measured against these criteria of legitimacy, are current initiatives in KwaZulu/Natal advancing or retarding the process of democratisation in South Africa? Contributors to this Indicator SA Issue Focus present differing evaluations, as they compare, firstly, the 'ideal' procedures of negotiation with those adopted by the Indaba; secondly, the left-wing and right-wing policy alternatives with the Indaba proposals; and thirdly, identify available resources and assess the economic viability of achieving intergroup parity in government expenditure.

Emphasis in the first part of this special report on the region's political development falls on the necessity for broadly-based participation and a negotiated settlement. Prominent industrialist, Chris Saunders, argues that the diverse communities in KwaZulu/Natal are likely to support the Indaba proposals as the product of negotiation by their representatives and as a model of non-racial decision making. The devolution of power to regional level will afford minority groups more protection than is possible under a unitary system, while facilitating optimal political participation by a black majority.

Veteran local politician, Peter Mansfield, concurs that the Indaba produced a unique, home-grown constitutional model through a process that should be emulated in other regions. From an insider's vantage point, the deliberations were an elaborate learning sequence about negotiation skills, characterised by delegates getting to know, understand and trust one another across traditional divides.

From a contrary position, researcher Gerhard Mare outlines the objections of the major left-wing groups who declined invitations to participate. They perceived the Indaba to be part of a process already in motion, with a preselected list of invitees, an unclear agenda, prior agreement on federal principles, with the actual deliberations being held behind closed doors. Mare concludes that an inequitable distribution of power and resources can be changed only by the politics of the working class, a national populism that stands opposed to the regional alliance of Inkatha, capital and centrist parties.

The most recent official response to the proposals has come from Minister of Constitutional Development, Chris Heunis, who has stated that the government is not opposed in principle to a provincial legislature for KwaZulu/Natal. In a fourth contribution focusing on the background to the Indaba, Indicator SA researcher Karin Roberts documents regional initiatives over the last decade, government policy and legislative responses. With these precedents, from the Natal Consultative Committee of the 1970s to the new Joint Executive Authority, the region emerges as South Africa's laboratory of successful political experiment and metamorphosis.

INDABA INSIDERS, OBSERVERS & OUTSIDERS

Delegates with full participatory status

(These organisations were allowed one vote each, one delegate with voting and signing powers, and up to five advisors.)

Afrikaanse Handelsinstituut
Black Allied Workers' Union
Borough of Pinetown
Durban City Council
Durban Metropolitan Chamber of Commerce
Durbanse Afrikaanse Sakekamer
Federasie van Afrikaanse Kultuurverenigings
Inkatha
Inyanda Chamber of Commerce
Islamic Council
Junior Rapportryerbeweging
KwaZulu Cane Growers' Association
KwaZulu Government
KwaZulu Local Government Association
Labour Party
Metropolitan Commission
Natal Agricultural Union
Natal Association of Local Affairs Committees
Natal Chamber of Industries
National Council of African Women
National People's Party
New Republic Party
Pietermaritzburg Chamber of Commerce
Pietermaritzburg City Council
Progressive Federal Party
Reform Party
Regional Development Advisory Committee
SA Hindu Maha Sabha
Solidarity
South African Sugar Association
Women's Bureau of South Africa

Delegates with observer status

(These organisations were allowed speaking but no voting or signing powers.)

Catholic Women's League
Natal Law Society
Natal Municipal Association
National Party (Natal)

Delegates who changed status during the Indaba

Borough of Pinetown adopted participant status
Natal Law Society adopted observer status
Natal Municipal Association adopted observer status
Natal Provincial Council adopted observer status
People's Congress Party
Trade Union Council of South Africa withdrew

Delegates who signed in abstention

Natal Agricultural Union
Regional Development Advisory Committee

The Minority Report signatories

Afrikaanse Handelsinstituut
Federasie van Afrikaanse Kultuurverenigings
Junior Rapportryerbeweging

Groups which declined or did not formally respond to invitations

African National Congress
Azanian People's Organisation
Congress of South African Trade Unions
Conservative Party
Council of Unions of South Africa
Herstigte Nasionale Party
Natal Indian Congress
Pan African Congress
United Democratic Front

A REGIONAL COMMUNITY OF INTERESTS

By **Dr Chris Sounders,**
Chairman of the Tongaat-Huieff Group

There is a catchy rallying cry that has been used for more than a generation to encourage waverers to become involved in political campaigns around the world — 'if you are not part of the solution, you are part of the problem'. It has been used in various contexts in South Africa and, indeed, I think it should be applied — with a small but important amendment — to the KwaZulu/Natal Indaba. Unfortunately there is an arrogance in the slogan, for its user clearly implies that the solution is obvious and requires no debate, let alone negotiation. South African politics have been bedevilled by far too much arrogant sloganeering and too little genuinely open debate. The politics of negotiation is still in its infancy.

So let me rather say that, 'if you are not looking for the solution, you are part of the problem'. Those involved in the Indaba provide an outstanding example of people looking for a solution to their problem. Of course the participants came to the Indaba with many different problems and with different priorities. The invitation they had received had invited them to discuss '... the formulation of proposals to be put to the central government regarding the establishment of a single legislature to govern the combined territories (of Natal and KwaZulu) at second-tier level. (This does not imply the separation of the combined territory from the rest of South Africa.)'

Objective

From the very outset it was clear that the objective was limited. The Indaba could not, as a specifically regional forum, presume to take on all political, social or economic problems that are to be found even within the confines of this region, let alone across the length and breadth of the national landscape. Some of these are by their nature

peculiarly local problems which the involvement of outsiders would merely exacerbate, while the resolution of national problems will clearly require the involvement of all significant actors on that, much larger, stage.

The Indaba strove to find agreement on a constitutional framework, within which political solutions may be found to the kinds of problems delegates felt the people of this region particularly have in common with one another — and not necessarily with South Africans in other parts of the country. A catalogue of such 'problem areas' would correspond closely to the schedule of powers proposed by the Indaba for the second-tier government in the region (see box: p34).

While no one would wish to minimise the importance to all South Africans of national issues such as defence, security, foreign policy and taxation, the matters the Indaba suggests should be dealt with by the new legislature include those which most intimately affect ordinary people in their daily lives (e.g. education, health services, local government). It is all the more important that democratic political control over such matters be exercised at the lowest possible level.

Thus the search for solutions to common problems in KwaZulu/Natal emphasises the importance of devolution of power, in part because of the national political climate in which it has been conducted. Since Mr P W Botha became Prime Minister, South Africans have heard a good deal about decentralisation, deregulation and devolution of power. Yet during the last eight years the tentacles of Pretoria's control have tightened, and the bureaucracy grown more cumbersome, complex and less efficient.

Decentralisation and devolution of power are the central themes running through the Indaba proposals (see diagrams: pp22-24). This stems from a

strong desire on the part of the people of the region, manifested in several antecedent initiatives, to regain control over their own destiny. It is a preference prompted by the fact that central government often appears to be out of sympathy with the mood and the real needs of the people of KwaZulu/Natal.

Origins

The antecedent initiatives go back over fully ten years. During the Indaba co-convenor Mr Frank Martin dug out of his files a cartoon from *The Natal Mercury*, showing him as the driver of a rather strange racing car with the four wheels marked black, white, Indian and coloured on which was painted the words 'Natal Indaba'. Martin is saying, 'say when, John' to the then Prime Minister, B J Vorster, who was depicted as the starter of the race which was to begin much later. The cartoon was dated August 1977.

All the initiatives leading up to the Indaba have had one fundamental thing in common — a recognition of the indivisibility of the region. It is a simple fact that this region is a single economic and socio-political entity. There is no way that people in Natal could ever isolate themselves from events in KwaZulu, or vice versa. This was first appreciated in the economic sphere. It was economist Professor Jan Lombard who, in 1980, put his mind to developing a coherent approach to the management of the region when commissioned by the Sugar Association to study alternatives to consolidation of land into KwaZulu.

The Buthelezi Commission that followed hard on Lombard's heels cast its net more widely and investigated many other (particularly social) aspects of the region's profile, covering education, demography, health services, etc. By 1982 the obvious had been demonstrated and accepted; that if, for example, cholera or rabies broke out in KwaZulu, Natal would be affected as well. Despite the freeze that set in after the rejection by central government of the Buthelezi Commission Report (1982) an awareness of interdependence continued to develop. This was in part because of the region's experience of the most severe droughts and floods in succession in living memory — in part due to the mounting levels of unemployment that threatened the fabric of society on both sides of the 'boundary fence', and in part because of the role of concerned and prominent citizens representing a wide spectrum of opinion in KwaZulu/Natal. Many of this group had been intimately connected with the Buthelezi Commission and continued to meet on a regular basis, gradually expanding the debate on KwaZulu/Natal to a wide range of business, social and community interests.

Over time it became abundantly clear that attempts to control society by group and ethnic division would inevitably lead to conflict — it is simply not practical to reserve large, densely populated areas for designated groups in the

KwaZulu/Natal region. The inevitable consequence, that on the one hand there are 'white' and 'brown' areas which are wealthy, advanced and portray the comfortable standards of Western civilisation, while on the other hand there are adjacent areas, which are poor, backward and reflect the deprivation of Third World countries. Racial compartmentalisation of rich and poor can only lead to conflict, and conflict ultimately leads to chaos and communism.

Eventually, a political thaw set in after politicians from both administrations had been brought together to consider the long-term future of the region under the auspices of the Province's Town and Regional Planning Committee. Convinced that their futures were 'inextricably intertwined', the two governments, representing KwaZulu and the Province of Natal, agreed to set up joint committees of politicians and civil servants in 1984 to examine all avenues for permanent co-operation. Within a short space of time a number of areas of rationalisation of activity and expenditure had been identified which promised to yield significant potential savings.

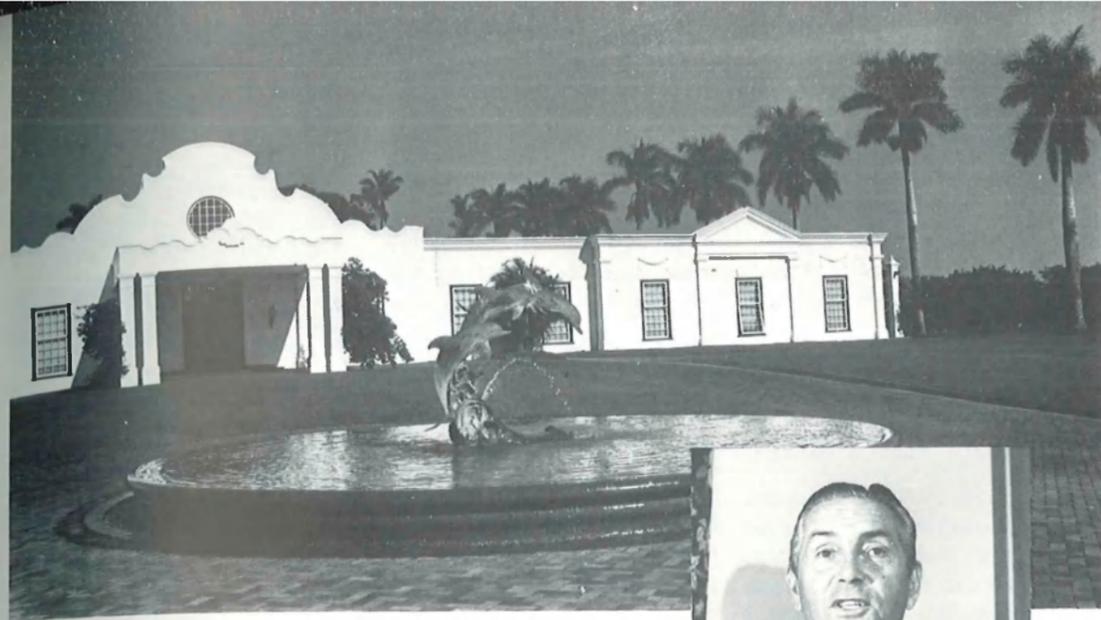
So satisfactory was the experience of the two committees that they proposed the formalisation of the co-operation through a joint executive authority. A Bill to introduce the proposals was prepared and handed to the Minister of Constitutional Development and Planning in March 1986. (It was passed as Act No 80 of 1986, establishing the KwaZulu/Natal JEA on 7 August 1987.) By this time a new urgency had arisen. The government had already announced its intention to scrap the provincial councils; and it was appreciated that this would seriously damage the political legitimacy of the joint executive authority, since one half of this would no longer be accountable to any popularly elected legislature.

Thus it was decided to press ahead with discussions about a single legislature. Mr Frank Martin, representing the elected Natal Provincial Council and the Administrator, Mr Radclyffe Cadman, volunteered the information to Mr Heunis that the KwaZulu/Natal Indaba would be convened jointly by the two governments to meet for the first time on 3 April 1986.

Appeal

The greatest appeal of the proposals which were eventually agreed to by the Indaba on 28 November 1986 must surely derive from the fact that they were negotiated. It is particularly satisfying that the process of negotiation succeeded admirably in marrying the two great competing demands of our constitutional politics. On the one hand there is the demand for full participation in the political processes on the basis of equal rights; on the other hand there is the demand of minority groups for the protection of certain rights and interests, and for 'effective' participation in the system.

In other words the Indaba's appeal lies in the



Chairman Chris Saunders at Tongaat-Hulett Group headquarters on Amanzimnyama hill, Tongaat, overlooking the green sea of sugarcane on Natal's North Coast.



fact that it has come up with a model of non-racial power sharing. Minorities are effectively protected and have ample opportunity to participate meaningfully, but legitimate group rights are recognised such as language, religious and cultural rights which are not based on race classification. The protection of such rights is universally acceptable as distinct from the maintenance of unwarranted racial privileges.

These proposals are really above the mundane level of party politics. In the nature of things no political party could get its own way in the Indaba; there were in any case eight political parties that signed the proposals, while some 20 out of the 28 signatories represented local government, business, labour, cultural, religious and women's organisations which have no direct involvement in party politics. Although they represent far more than a party political programme, there are certain themes or currents running through the proposals to which all signatories clearly subscribe. These are:

- We are all South Africans.
- We all have to share a common society.
- Rights must come before race.

In addition, the proposals will appeal to many people because they usher in a new 'consensual' style of government — although most people will probably find it rather strange and may become impatient with it at first. There can be no doubt that if we wish to avoid the excesses that we fear may flow from a simple 'one-man-one-vote, winner-takes-all' system in a Westminster style unitary state, then we had better cultivate the skills of negotiation and the virtue of patience.

Fortunately, South Africa's constitution already accommodates such a large number of second-tier authorities with such a wide variety of powers that the Indaba proposals present no real problem from a constitutional point of view. The authority proposed would have somewhat wider powers than the old provincial councils and rather fewer than the national states (the TBVC areas). Furthermore, the funding of most of the budget requirements of all second-tier government in South Africa takes place in exactly the same way, by

transfers from the central treasury. The amounts required to fund the salaries of teachers in the respective education departments, for instance, are determined by a simple formula based on the qualifications and experience of teachers, irrespective of race. All that the new Province of Natal will require in order to function effectively is the assurance that it will receive its pro rata share of the national budget set aside for the functions for which Natal has taken over responsibility.

There can be no doubt that all of South Africa's more privileged citizens are going to have to get used to the idea of receiving less from the state in free services in future. If anything, Natalians should be better off under the Indaba dispensation than their fellow South Africans, simply because the proposals will lead to the elimination of a huge amount of bureaucratic duplication in the provision of services such as education and health. Other provinces will not be spared the attendant wastage of public funds until the 'own affairs' system is totally dismantled, along with the other homelands.

Significance

The Indaba should not, however, be seen as an exercise with potential usefulness limited to one region. It is a pioneering experiment in precisely the direction our politics need to take if real democracy is to be developed in the rest of South Africa through the devolution of power to negotiated regional and local government.

Devolution should be recognised as a way of accommodating natural diversity. As such, it may help to remove a major stumbling block to political and constitutional change in South Africa — the fear that minorities have of being dominated by the black majority in our present centralised unitary system. The key to protecting the

legitimate interests of groups, particularly those who identify themselves as minorities, lies essentially in a combination of small and devolved government. However, the institutions of government must be open to all and responsible to an electorate comprising all adult citizens of sound mind. Half-baked notions of a paternalistically motivated kind of limited democracy will not wash with the disenfranchised, nor solve the problem of bad and inefficient government. The issue is not so much who should govern as how much government we need.

Government's power to interfere in the individual's private life must be limited; the right to decide what is good for a particular community and the power to administer those decisions must be left to those most likely to be affected by them. Democratic elections for a representative government are absolutely necessary, but are not sufficient to guarantee good government. Real democracy must involve as much participation by the citizen as possible, not simply the occasional visit to a ballot box to return an MP to Parliament.

The larger significance of the Indaba proposals is that they appear to hold out the prospect of breaking the logjam of contemporary South African politics. The Indaba has proved that real negotiation does work and can deliver results. If implemented, the example will give enormous encouragement to others, particularly in the black community, to take the politics of negotiation seriously and give such initiatives a chance in other parts of the country too. The obverse side of the coin is ominous. If other black leaders perceive that they are likely to be rewarded for 'sticking their necks out' with nothing more than a slap in the face, they will be less inclined to tread the road of negotiation. The stature of Chief Buthelezi and the popularity of his Inkatha movement could also not be expected to emerge unscathed from a snub of the Indaba proposals.

Viewed from the other side of the political fence, the Indaba has been criticised for being no more than a vehicle for promoting Chief Buthelezi onto the national political stage. In the same breath, these critics conclude that it would amount to the reinforcement of homeland leadership. The critics cannot have it both ways. Their criticism reveals a fundamental misunderstanding of both the Indaba and the political strategy adopted by Buthelezi since assuming the office of Chief Minister of KwaZulu. He has made no secret of the fact that he sees the KwaZulu government as a ready-made platform which must be used to advance the cause of black liberation, rather than as an end in itself.

The real difference between him and his radical critics boils down to one of strategy rather than goal. It so happens that many other South Africans in this region share a similar concern and approach. To that extent a broadly based regional initiative such as the Indaba may be said to coincide with Buthelezi's strategy, but it is entirely

fortuitous. At the end of the day the Chief Minister will have to pass a broader test of popularity among all the people of the region, when those who claim to be more representative of the people will have a golden opportunity to prove it.

Endorsement

It is strange that many of the Indaba's critics focus not on the substance, but the form. They allege that such a *regional* initiative is out of place while apartheid still dominates the whole country. Worse, they allege that it is divisive in the struggle to rid South Africa of racial domination.

On the contrary, the net effect of the Indaba proposals would be to place those matters that affect people most directly under the control of a non-racial regional government — the first to be established in South Africa — thereby greatly reducing the sway of racial domination in the KwaZulu/Natal region. The proposals would undoubtedly contribute to the dismantling of apartheid structures, as the KwaZulu government would in fact be the first 'homeland' to put itself into voluntary liquidation, as it were. Far from being divisive, the initiative has achieved unparalleled unity across racial dividing lines and among representatives of a broad cross-section of religious, cultural, economic and political interest groups. There is also every reason to expect that this will be reflected in a convincing endorsement of the Indaba proposals in a referendum.

The prospect for national (or first-tier) negotiations in South Africa do not look particularly good at present. There is a striking absence of functioning negotiations towards a new national constitution that satisfies both universal human values and the particular demands of powerful cultural and interest groups. In this vacuum, it seems infinitely preferable to allow those who have marshalled the courage to make a start on the road to a new non-racial South Africa to run their affairs within KwaZulu/Natal, under a set of arrangements which meet the needs of the people of that region. If we succeed and provide an example which others choose to follow or seek to emulate, then surely the cause of non-racial democracy will have been doubly served.

Ultimately, of course, no constitution alone can protect people from their fellow countrymen. Only the trust that is founded on goodwill and mutual respect can achieve real security. But a start must be made by establishing a sound constitutional basis for good government. The citizens of the region will now be asked to give the Indaba proposals their approval — and the central government will be called upon to respond to the will of the people. One hopes that all will have the wisdom in these times of turmoil to recognise that there are no certainties or risk-free solutions available, but that negotiation offers the best prospect of lasting peace. ﷻ

BUILDING CONSENSUS

The Eight-Month Negotiations

By **Peter Mansfield, Indaba
Director of Communications**

The KwaZulu/Natal Indaba held its first meeting in the Durban City Hall on 3 April 1986. Approximately 200 delegates, advisors and observers came to that meeting with varying emotions of hope, excitement, pessimism and apprehension.

The participants also brought with them their differing life experiences and political attitudes. In many instances, due to South Africa's polarised and segmented reality, they had few common experiences or attitudes. Great gulfs divided them.

The culmination of the negotiations was reached almost eight months later on 28 November 1986, by which time the participants had shared a common, unforgettable experience. Almost all had developed new understandings and attitudes which made agreement and compromise possible.

Learning Sequence

Invitations to attend the Indaba were sent out on 28 February by Dr Oscar Dhlomo (representing KwaZulu) and the late Mr Frank Martin (representing the Provincial Council) to a very wide cross-section of organisations active in Natal. The invitations spelled out explicitly the purpose of the Indaba (see document: p4). Most organisations accepted. On the right the Conservative Party and Herstigte Nasionale Party declined. On the left the ANC, UDF, Cosatu and the NIC (Natal Indian Congress) did likewise on the grounds that the Indaba was divisive of the liberation struggle. For obviously different reasons the National Party compromised by sending a delegation of observers.

A few organisations applied for and were granted participant status during the course of the



The Indaba constitutional committee examined many models and hybrid structures — from left to right, members D van Wyk, L Schlemmer, P Mansfield, D Grice (chairman), I Bawa, W Ramsden. Other members included P Gastrow, I G Rautenbach, D Kriek, A duP Louw and M Wiechers.

INDABA IN BRIEF

1986 NEGOTIATIONS

3 April

First meeting of the KwaZulu/Natal Indaba. Professor Clarence is appointed chairman, with a discretion to close debates on issues and call for votes.

4 April

Six points of departure adopted. Indaba meets twice weekly for following eight months, until majority consensus is reached on major issues.

18 April

Minority Rights Committee (and subsequently Constitution Committee) appointed.

24 April

Joint committee of specialists — representatives of the KwaZulu government and the Natal Provincial Administration — appointed to investigate functions to be exercised by a joint KwaZulu/Natal legislature.

25 April

Indaba passes resolution that the region should be called the Province of Natal.

15 May

Establishment of Agenda and Education Committees.

13 June

Establishment of Local Government, Economic and Promotion Committees (later renamed Image Management Committee).

10 July

Indaba adopts Bill of Rights.

28 November

Indaba adopts constitutional proposals.

December

Within 48 hours of public release the proposals draw a negative reaction from the National Party leader in Natal, Stoffel Botha.

1987 RESPONSES

6 January

Minority Report produced by three of the Indaba participants: Federasie van Afrikaanse Kultuurverenigings, Junior Rapportryerbeweging and Afrikaanse Handelsinstituut.

13 January

Indaba executive delegation submits proposals to the Minister of Constitutional Development and Planning, Chris Heunis.

20 January

Proposals submitted to the Administrator of Natal, Radclyffe Cadman.

21 January

Indaba offices opened in Durban to promote the proposals among the people of Natal. An information campaign begins with adverts, house meetings, public addresses, a publicity video, etc.

23 January

Proposals submitted to the Chief Minister of KwaZulu, Mangosuthu Buthelezi.

May

Indaba releases the Education Committee's findings.

June

Indaba chairman discusses proposals with Administrator of Natal and his Executive Committee.

KwaZulu Legislative Assembly accepts Indaba proposals in principle.

July

General conference of Inkatha unanimously endorses the proposals and refers them to branch level.

7 August

The KwaZulu/Natal Joint Executive Authority, with advisory and administrative powers, is established by government.

11 September

Mr Heunis announces in parliament that he is not opposed in principle to a joint provincial legislature for KwaZulu/Natal.

POINTS OF DEPARTURE

1 The Indaba accepts that the KwaZulu/Natal region is a single unit and that its second tier government should reflect this reality in its political structure.

2 This Indaba, aware of the economic and strategic interdependence between the KwaZulu/Natal region and the rest of South Africa, and aware of the patriotism of its people to its fatherland, South Africa, has no desire to be sovereignly independent of South Africa.

3 All people of the region should have the right to full political participation and effective representation.

4 This Indaba accepts the democratic principles of freedom, equality, justice, the Rule of Law and access to the law. Legislation based on racial discrimination must be abolished.

5 Society in Natal/KwaZulu must be founded upon a free economic system and the provision of equal opportunities for all people. Provision must also be made for the rights of individuals and groups.

6 Legislative and administrative power should be devolved as much as possible.

(Reproduced verbatim from Indaba document)

Indaba. A few changed status or dropped out. Twenty-eight out of the 34 delegates entitled to vote voted in favour of the final proposals.

Those organisations that accepted the invitations (see list: *op. cit.*) could, with few exceptions, be described as representing the broad middle-ground among all races in the province. They all wanted change through peaceful rather than violent means. They wanted economic growth. They wanted the rights of minorities to be protected, or at least accepted this principle. They wanted or accepted that the combined region of KwaZulu and Natal should have a single, non-racial, democratic provincial government in which all adults could vote and all parties participate.

Despite sharing or accepting these common goals a great deal divided the Indaba participants. Not least of the dividing factors was that most delegates did not know, understand, or trust one another. As a result most participants found the early meetings of the Indaba in 1986 intensely frustrating. Many, if not most, believed that they had 'the solution', if only people would listen! Statements of attitude or position were a dime a dozen. Real dialogue was a very rare commodity.

Yet, in retrospect, progress was being made, not in the conference hall but in the informal discussions during tea and lunch breaks. People were getting to *know* one another, followed by a period of getting to *understand* one another's points of view. The next period, the development of mutual *trust*, was the platform on which real negotiations could take place, compromises made and, finally, agreement reached.

This learning sequence tells a great deal about the Indaba's unique achievement. It also tells us a fearful amount about how far South Africa is from negotiating solutions to its overall problems. Many of the inevitable participants in such an exercise have not even met one another, let alone taken the first vital step of getting to know one another.

Important Ingredients

The heroes of the Indaba were all those delegates and advisors who managed to get to know, understand and trust one another. This may sound a rather mundane activity but in reality, in the rapidly polarising cauldron of South African politics, this was no mean achievement.

Also noteworthy was the courage of Chief Buthelezi and the then Provincial Executive Committee (Exco) — Frank Martin, Fred Clarke, Dering Stainbank and Ray Haslam — in encouraging the establishment of the Indaba. Chief Buthelezi knew and accepted that success would eliminate KwaZulu from the South African map. The Exco members sensed that they would be punished when the new non-elected Exco was appointed by central government during the course of the Indaba.

No account of the success of the Indaba should omit credit due to the key role played by Dr

Dhlomo, leader of the KwaZulu delegation to the Indaba. When he spoke, which was not often, one could hear a pin drop. He never sought to impose his will or threaten others with the demands of the black majority in the region. But he was, without doubt, the man who played the role of catalyst, enabling others to sense, look for and finally find their way to compromise and agreement.

Any Indaba delegate or advisor will confirm how much the standpoints and attitudes of participants changed during the course of the Indaba. That they did so was, in my view, a complete vindication of the Indaba's decision to hold its sessions in private. It is inconceivable that participants could have changed their positions that much if they had to do so while publicly posturing on behalf of their organisations simultaneously.

All delegations that signed the proposals (and at least one that did not sign) made considerable compromises. No single delegation 'won'. African delegates made great compromises. So too did white, Indian, and coloured delegates. The claim that the Indaba was 'hijacked' by the Progressive Federal Party or any other group is a load of nonsense. In reality all of the delegates were hijacked by *the Indaba process*. As the Indaba proceeded, most delegates became more committed to finding agreement than in pursuing the particular sectional aims of the organisation they represented.

Indicative Votes

Clearly, a gathering of 34 separate delegations and approximately 150 advisors cannot possibly examine dozens of constitutional proposals or models in detail. The Indaba resorted to appointing a number of expert committees to sift proposals, examine alternatives, and make recommendations to the main Indaba. These were:

- the constitutional committee
- the education committee
- the economics committee
- the local government committee.

The most active and controversial of these was the constitutional committee. In practice this committee produced an almost endless stream of proposals for consideration by the Indaba as a whole. The first proposals, which involved 'bumping-up' or exaggerating the representation of minority political parties, was shot down in flames. A 'propose — shoot down' relationship became a feature of the interaction between the constitutional committee and the Indaba. It sounds rather destructive but this procedure served an important purpose, drawing out the feelings of delegates on a wide range of constitutional proposals and challenging them to argue alternatives.

One difficulty with this process was that it led to exaggerated weight being given to the views of those who loudly and vehemently opposed particular recommendations. Late in the Indaba this was overcome by taking *indicative* (non-binding)

votes to determine how many delegations could 'live with' different recommendations. In retrospect, it would have been wiser to use this technique from the outset. It made it easier to determine where majority opinion lay, and at the same time focused attention on the particular concerns or objections of dissenting delegations.

The constitutional committee considered a myriad of constitutional models and options. Particular attention was paid to 'consociation' (bringing differing groups into the process of government) and 'cantons' (devolving maximum power to the lowest possible level). The final proposals reflect this. The Westminster 'winner-takes-all' system was discarded. Proportional representation, now almost universally accepted in democracies, is deeply entrenched in the Indaba constitution.

A two-chamber system was repeatedly discarded but it was difficult to get away from the reality of how many countries have used this model to accommodate divisions within their own societies. Probably the most important breakthrough occurred when it was realised that the two-chamber system (see diagram: p22) was the only way to satisfy the competing demands for the recognition of the rights of the majority (in the first chamber) and rights of minorities (in the second chamber).

The system of the self-identification of voters into groups was inspired by the Mauritian system of candidate self-identification. Further, the standing committee system is one of the few successful elements of South Africa's tricameral parliament (see diagram: p24).

But despite drawing from the experiences of other nations, the Indaba inevitably created a unique, home-grown KwaZulu/Natal constitutional product. The proposals do not pretend to solve the problems of other regions or of South Africa as a whole. They do, however, provide a vital window of opportunity on how to achieve non-racial government.

Near the End

During the last few weeks of the Indaba in late 1986 there was a tangible tension in the air. A couple of months before, the Indaba had almost reached the critical choice between success and failure. But it had shied away from facing the choice, receding into the doldrums for a while.

Now, however, the choices were more clearcut. Either the Indaba would reach a conclusion soon or break up, probably never to regather. The few who wanted failure sensed this as keenly as the many who were determined to succeed.

Last obstacles were raised. One delegation even argued that the Indaba should go back to the beginning. Another delegate repeatedly side-tracked the Indaba with attacks on the chairman. Others, with increasing irritation at what many regarded as delaying tactics sponsored from the outside, demanded that a vote be taken on the

'final package'.

Late adjustments to wording were made to satisfy the needs of wavering delegations. Finally votes were taken on 28 November 1986. Even the most optimistic supporters were stunned by the degree of consensus indicated by the outcome — 82 percent voted yes, 12 percent voted no and six percent abstained. Negotiation and compromise had won at the end of the day.

There are those who suggest that the Indaba conclusions were rushed. They display little understanding of the process of negotiation and how agreements are reached. They fail to notice that the negotiations took eight months. They fail to notice the thousands of man hours contributed by approximately 200 delegates, advisors and committee members. They have also forgotten the amount of final consensus building that went on in committee rooms during the last two weeks, the period in which agreements were reached with almost every hesitant delegation.

The best analogy to describe the process of success in negotiation is to compare it to a rugby or soccer match. The match, like negotiation, takes a long time. But the winning try takes place in an instant. Success or the collapse of negotiation, when it comes, occurs quickly.

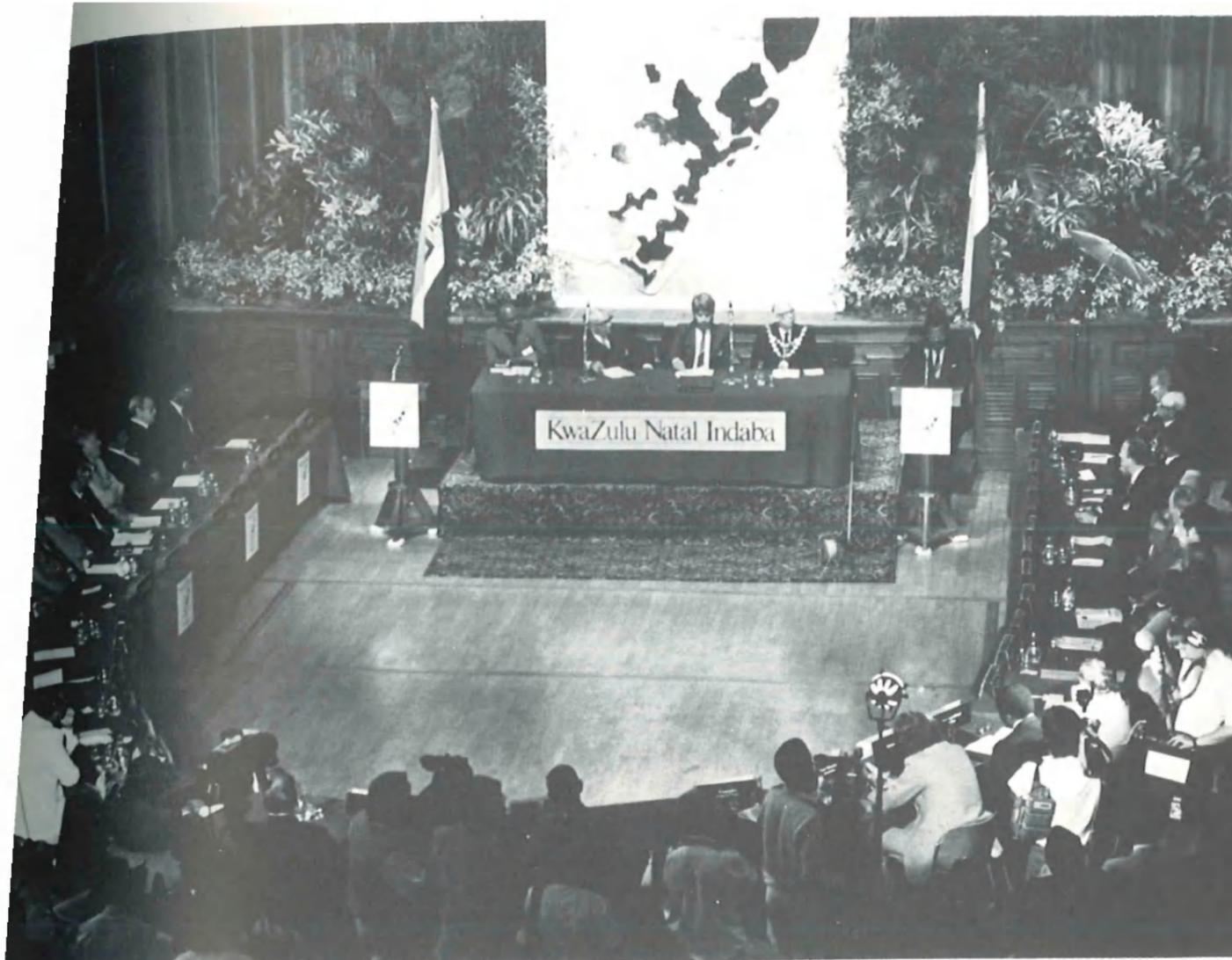
The Next Phase

The Indaba plan was published as soon as it had been agreed on. The Indaba has been actively publicising its findings. It has asked the central government to hold a referendum on the proposals later this year. In the event of a refusal of this request, the Indaba has indicated that it will find other means of testing public opinion.

The Indaba is confident that it can prove majority support for the proposals among the people of KwaZulu and Natal. If it can do so it believes the Indaba plan should be introduced. It will not push for implementation if public support is not forthcoming. In short, the Indaba believes 'the people' must decide. It is willing to have the opinions of the various population groups counted separately as well as together, in order to underline the breadth as well as depth of support.

The proposals will neither introduce black majority rule nor perpetuate apartheid. They introduce power sharing and ensure that a minority cannot rule. They will also ensure that a majority party, be it Inkatha, the United Democratic Front, or a new party or alliance yet to be formed, cannot ride roughshod over the reasonable rights and demands of minority groupings.

It is a plan that invites all political groupings to participate in KwaZulu/Natal elections to prove their support and share power. In the interests of the region and its people the Indaba should not be judged by who attended, or who voted yes or no to the proposals. It should be judged on whether it is a reasonable plan which, if introduced, would enable KwaZulu/Natal and, by example, the rest of



South Africa, to move forward.

It is easy to claim that there are more effective and acceptable means of power sharing. But would the critics who make such statements be willing to stand up and say precisely how they would achieve this? And could such alternatives gain the support of a broad cross-section of the African, Indian, white and coloured communities in the region? The eight-month Indaba experience and subsequent five months of listening to reactions to the Indaba proposals strongly suggests that an alternative and broadly acceptable constitutional package simply does not exist. **PPA**

Chief Minister of KwaZulu Mangosuthu Buthelezi addresses the Indaba inaugural session in the Durban City Hall on 3 April 1986. Seated on the podium are Reverend Dlodla, Desmond Clarence (chairman), John Kane-Berman (vice-chairman) and former Durban mayor, Stan Lange.

EMERGENCE OF THE

By IPSA Researcher Karin Roberts

Initiative/Legislation	Powers/Terms of reference
<p>THE KWAZULU/NATAL JOINT EXECUTIVE AUTHORITY (JEA) The Joint Executive Authority for KwaZulu and Natal Act No 80 of 1986 provides for an institutional framework to facilitate the 'joint and co-ordinated exercise of powers and performance of functions by the provincial government of Natal and the government of KwaZulu'. The statute is the outcome of an approach made to government in March 1986 by representatives of the former Natal Provincial Council (NPC) and the KwaZulu government, but creates a precedent for the establishment of similar bodies in other regions also.</p> <p>The act stipulates the procedure for the Administrator of Natal and the Chief Minister of KwaZulu to follow in drawing up proposals for the future JEA, and then submitting these to the State President for approval. Accordingly, a proclamation issued by the President on 7 August 1987 deals, inter alia, with the appointment, qualifications, period of office of JEA members, election of the chairman, convening of the body, required quorum and methods of dispute settlement.</p>	<ul style="list-style-type: none"> ● Provides for the co-ordination of functions, with the powers of the new JEA restricted to those now enjoyed by the province's appointed Executive Committee (Exco) and the KwaZulu government. The State President may fully transfer administration of a law to the JEA (Act 80/1986: 57), excluding the power to regulations or enact subordinate legislation. ● It will be competent to administer a law on behalf of the provincial and KwaZulu administrations, but the State President can stipulate conditions under which such power(s) will revert to the original functionary. ● It has no decision-making powers concerning the enforcement of a particular law or regulation and will merely make recommendations to the Chief Minister and the Administrator. ● Standing committees may be appointed to deal with matters delegated by the JEA, or advisory committees consisting of 'experts' in a particular field.
<p>NATAL'S NEW EXECUTIVE COMMITTEE (Exco) Four years after the government announced its intention to reform second-tier political structures, the Provincial Government Bill was presented to parliament. Tabled in July 1986, the draft legislation was the culmination of discussions between the Provincial Administrators, provincial council members and the Minister of Constitutional Development and Planning, Chris Heunis. It resulted in the abolition of provincial government, as it had existed since 1910, and subsequent replacement by an appointed executive consisting of an administrator and other members of an executive committee. White, coloured, Indian and African officials became eligible for appointment by the State President to the new Exco.</p>	<ul style="list-style-type: none"> ● To administer some of those provincial matters (especially 'general affairs') formerly under the authority of the NPC, and possibly to oversee the new Regional Services Councils. Decision making by Exco to be based on consensus. ● Acting in consultation with Exco, the Administrator can make rules to regulate proceedings; amend/repeal/substitute any provision of an ordinance applicable to the province; regulate any matter assigned to Exco by parliament, or declared to be of provincial or regional nature by the State President; delegate any power, duty or function to Exco member(s). Delegation of functions by Exco to local authorities is also permitted. ● The Administrator's powers are subject to Section 64 of the Constitution Act No 110 of 1983 — he can issue a proclamation in the provincial gazette only after it has been approved by a joint parliamentary committee in respect of some matters. The State President may at any time dismiss the Administrator or any Exco member.
<p>THE ULUNDI 'ACCORD' The KwaZulu cabinet and the NPC's Executive Committee (Exco) held a landmark meeting at Ulundi on 7 November 1984. Chief Buthelezi stressed the economic inseparability of the region and the need for increased co-operation, while giving renewed support to the findings of the Buthelezi Commission. The outcome was an accord which established two groups:</p> <ul style="list-style-type: none"> ● the KwaZulu/Natal Strategic Policy Group (SPG), consisting of all members of the KwaZulu cabinet and the NPC Exco; ● the KwaZulu/Natal Work Group, consisting of senior officials of the two administrations, responsible to the SPG. 	<ul style="list-style-type: none"> ● The Strategic Policy Group was to decide on priorities and funding, act as a forum where matters of common concern could be discussed, receive recommendations from and provide direction to the Working Group, and implement accepted recommendations. ● The Working Group was to examine matters of common concern (such as health, squatting, education and unemployment), advise the SPG on means of alleviating problems in these areas and monitor those proposals implemented by the SPG.
<p>BUTHELEZI COMMISSION (BC) Established by the KwaZulu Legislative Assembly in a resolution of 29 May 1980, the Commission attracted political parties from the centre, business groups and a range of experts in various fields. Participants included the Progressive Federal Party, New Republic Party, Reform Party of South Africa, Inkatha, South African Indian Council, Natal Chamber of Industries, Durban Chamber of Commerce, The Urban Foundation, Natal Law Society and academics. The plenary session was held in October 1980 and a number of specialist working groups were appointed in the fields of constitutional and political planning, economic development, planning and administration, education, social services and health.</p>	<ul style="list-style-type: none"> ● To investigate and assess the degree of interdependence of KwaZulu and Natal. ● To make recommendations on viable constitutional and political structures, and the necessary socio-economic planning to accompany these constitutional developments. ● To make recommendations on the provision of improved social services, amenities, education and training facilities, housing and residential needs; especially to rationalise and expand these services in the two areas.
<p>LOMBARD PLAN (LP) Sponsored by the South African Sugar Association, this pioneering investigation into 'Alternatives to the Consolidation of KwaZulu' under the direction of economist Professor Jan Lombard from the University of Pretoria was published in 1980.</p>	<p>To examine and present viable alternatives to government plans for land consolidation and homeland-style independence for KwaZulu, taking into account the needs of the KwaZulu/Natal region as a whole.</p>
<p>NATAL CONSULTATIVE COMMITTEE (NCC) Established by the provincial council, the NCC met for the first time on 3 September 1975. It consisted of the Administrator and Exco members from the province; the Executive Councillor of Community Affairs and the Councillor for Forestry and Agriculture from the KwaZulu administration; senior Natal members of the former Coloured Persons Representative Council, and the chairmen of the Indian and Coloured Associations of Local Affairs Committees.</p>	<p>To provide a forum at which NPC representatives could consult and exchange ideas with other NCC members on matters entrusted to the provincial administration, but which were considered to be relevant to all the race groups.</p>

NATAL OPTION

Recommendations/Outcome	Responses
<p>The rules governing the JEA were gazetted on 7 August 1987 and the State President issued a proclamation declaring these rules to be binding. The JEA is to consist of ten members, five from the KwaZulu cabinet and five from the new Exco, who will hold office on the new body for five years. (The Administrator and Chief Minister are not eligible for membership.)</p> <p>The JEA is to hold not less than six ordinary meetings annually, at venues still to be decided on.</p> <p>In the event of disputes between members of the JEA, the Administrator and Chief Minister will resolve any referred issue 'by agreement'. The two administrators still have to negotiate what functions are to be given to the JEA. The present Administrator, Radclyffe Cadman, has given the following examples — construction, roads, libraries, conservation and joint purchasing such as pharmaceuticals (The Daily News 8/8/87).</p>	<p>The government accepted the JEA in principle while the Indaba was underway but President Botha stressed later that deliberations concerning a joint legislative body were a 'completely different matter' (Cape Times 19/4/86). While there is official support for the JEA as an example of 'co-operation and common sense' on an executive and administrative level, the government does not seem prepared to decentralise legislative or constitutional powers.</p> <p>The provincial Exco, an equal partner in the JEA, is no longer elected and its members hold office at the discretion of the State President (see below), thereby losing the (limited) public accountability the white-elected NPC enjoyed. In short, regional legislative power has shifted to parliament, while decision makers at the second-tier level are now the president's hand-picked men.</p>
<p>The bill, although opposed by all opposition parties in the House of Assembly, went through the second reading in unamended form on 20 June 1986. The Provincial Government Act No 69 of 1986 was promulgated on 27 June 1986, abolishing the NPC and replacing its elected Exco by a nominated provincial Exco during the course of the Indaba deliberations. In response to the loss of official status of Natal's provincial councillors and to ensure the continued presence of NPC delegates, the Indaba invited these participants to retain membership in their personal capacities. According to Chief Buthelezi, the replacement of experienced Exco members by government nominees threatened the creation of a JEA.</p>	<p>Most significantly, the original legislative powers of second-tier government have been removed. Although the new Exco may contain African members, it is, in regard to proclamations, accountable to a joint committee of the tricameral parliament which does not accommodate African representation. During parliamentary debate of this legislation in 1986, the PFP questioned how the province's loss of power could be reconciled with the Indaba deliberations over a single legislative authority at second-tier level for the combined area of KwaZulu/Natal.</p>
<p>Since its first meeting on 14 August 1985, the Strategic Policy Group has co-operated on practical issues and discussed tentative working procedures for the future JEA.</p> <p>The Working Group held its first meeting in May 1985, and decided to undertake a joint strategic overview of the region. Liaison at this level has ranged from roads, libraries, hospitals and health planning, to conservation and shark prevention measures.</p>	<p>The Accord represented, for the first time, a joint white/black initiative and a step ultimately towards a common budget, pooled personnel and an umbrella administration for KwaZulu/Natal. The two groups were severely restricted due to lack of statutory recognition and remained, essentially, voluntary associations.</p>
<p>In March 1982 the commission presented a weighty two-volume report based on an exhaustive investigation into conditions in the region. From the basic premise that the homeland policy was untenable, the report assessed various constitutional options, namely Westminster-style democracy, separate development, political parallelism (such as the tricameral system), and federalism. The consociational model was deemed the most viable because it not only 'acknowledges the right of every group to be involved in the governmental process' and introduces a universal franchise, but also ensures minority group protection and representation in the executive branch of government (Buthelezi Commission Volume 1: p12).</p>	<p>The report enjoyed a mixed reception. Rejection by the NP was based on the commission's 'unacceptable' advocacy of a single political unit for the region according to Minister Owen Horwood, then NP leader in Natal. The proposals were also rejected by the NRP, which led to a souring of co-operation between the KwaZulu government and the NPC. Chief Buthelezi regarded the rejections as 'unbridled racism and sanctimonious white supremacy' (The Natal Mercury 24/5/84).</p>
<p>The report stressed the necessity for 'co-ordination and co-operation' rather than further fragmentation of KwaZulu and Natal. For this 'culturally heterogeneous region', it recommended political reforms and safeguards such as a Bill of Rights, judicial review and a rigid constitution, notions which would emerge again at the Indaba six years later.</p>	<p>The NP rejected the report as being 'out of touch with reality'. Yet many of the interest groups who were to participate in the Buthelezi Commission believed that the plan was not far-reaching enough.</p>
<p>It met 20 times over an eight-year period, and held its last meeting in September 1983. The committee's efforts were scuppered by the refusal of the NRP, who nominated the NPC, to endorse the Buthelezi Commission's proposal for a joint legislative authority for the region.</p>	<p>Essentially a white political initiative, it lacked statutory recognition and as such was limited in what it could achieve practically. Nevertheless, NCC participants viewed it as a very important first step towards practical co-operation between the two administrations. The value of the initiative lay in facilitating personal contacts and an exchange of ideas and information on matters relating to hospitals, roads, local government and recreation.</p>

LAST CHANCE, LIMITED OPTION, OR NO GO?

By Gerhard Mare, Research Fellow,
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The process that has become known as the KwaZulu/Natal Indaba has been written off as of no consequence by some critics. Others have labelled it, inaccurately, as a continuation of apartheid. On the contrary, the Indaba has already fundamentally changed political and economic alignments in the region, and can certainly not be described as apartheid in a different guise.

However, the Indaba is not the unique event proponents claim either — in any respect it is surpassed by the national document that predates it by 31 years, the Freedom Charter (see p39).

While the Indaba should be rejected as a regional intervention by certain minority class interests at this point in South Africa's history, it should be taken seriously for the issues it raises and the effects achieved (and intended) by the participants.

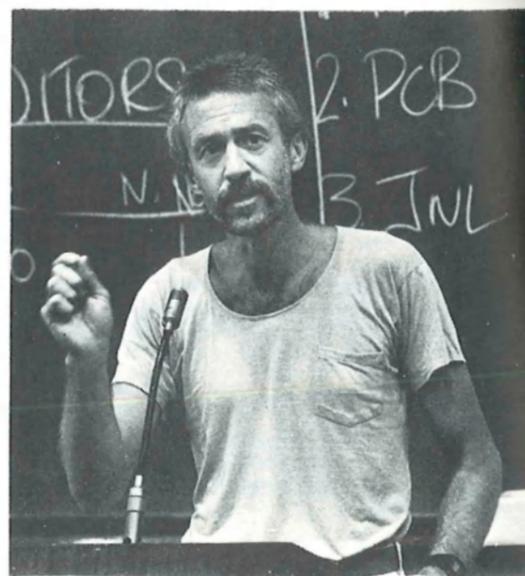
Alliance Politics

The Indaba hopefully opens for debate issues of regionalism/federalism and democratic decentralisation; of proportional representation as a democratic alternative to other systems of representation; of cultural and 'minority' rights; of a Bill of Rights; and of land redistribution, to name but a few.

The Indaba has also, among other things, achieved a realignment of the political centre in the region. It has brought Inkatha and the tricameral parties — excluding the far right — into a practical, political and ideological alliance. The strength of such an alliance, based as it is in some cases on the same opportunist politics as the ill-fated South African Black Alliance under Chief Buthelezi, will obviously vary over time. Furthermore, the

Indaba has brought capital in Natal into the formal political arena, albeit only to safeguard the conservative centre.

There are critical shortcomings and pitfalls to be considered and answered by proponents and future supporters of the Indaba. These issues qualify and even negate the hyperbolic claims made by participants and those employed to 'sell' this regional process. Further, the Indaba's achievements are not only exaggerated and often misrepresented, but, in their present form and with the existing partners, simply dangerous to democratic social change in the country as a whole. The proposals are at best a short-term, regionally specific alteration of the terms of the crisis in the country, with long-term ramifications for change if implemented by the interests now dominant within



the Indaba.

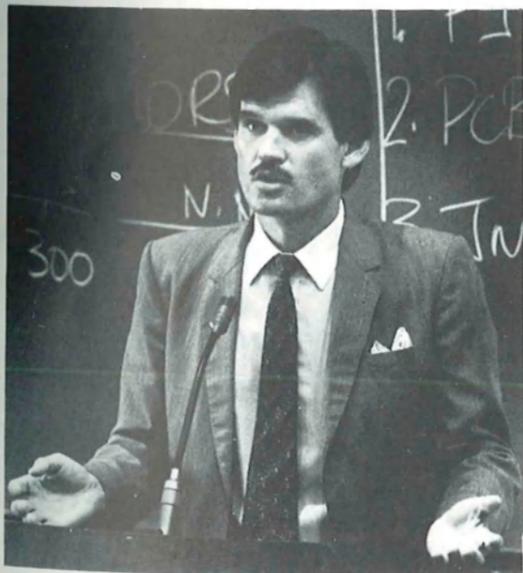
The Process

Two statements made by central figures in the negotiations capture several objections to the Indaba process that focus on both the lead-up to and the eight months of deliberations:

- 'Unfortunately the public has not had the opportunity to argue through all the alternatives in the way Indaba delegates have. So they will simply have to rely on the word of their representatives in the Indaba that what emerges from it as a final proposal is really the best, if not the only, acceptable option that is available' (Dirk Kemp of the Indaba Support Group, November 1986).
- 'If a regional convention ... includes the ANC, UDF or the NIC, we won't get anywhere. But if it means getting together with the people who really count, it will be another matter.' (Frank Martin, co-convenor of the Indaba, in late 1985).

The participation of groups to the left of the organisers was neither desired, nor probably seriously expected — journalist Riaan de Villiers (1987) refers to one participant who admitted that such non-participation was probably a blessing in disguise. The invitation was turned down by all seven such left groups (and by the two far-right white political parties). These included:

- the ANC, banned in South Africa and engaged in a war with the State and its regional organs, of which the provincial and the bantustan administrations are part;
- the Congress of SA Trade Unions (Cosatu), formed a few months before the Indaba got off the ground and slated from its inception by Chief Buthelezi as a front for the exiled SA Congress of Trade Unions and the ANC;
- the UDF, a national front committed to national change. As is the case with all the left-wing



groups who refused participation, the UDF is locked in frequent violent conflict with Inkatha and, similarly, has been linked to the ANC by Inkatha leaders.

It is obvious, even from these brief descriptions, that it would have been naive to expect the uncritical participation of these groups, especially in a process in which they had had no prior involvement. Their non-participation was virtually assured by the undemocratic form of the deliberations. The organisers of the Indaba announced prior to the deadline set for a response that there was to be neither public scrutiny of the process, nor a stated agenda. Meeting behind closed doors meant that normal democratic processes involving mandates, information, reports and accountability could not function. These processes are the essence of trade union principles at least, if not all organisations claiming a democratic mode of operation.

Even if these left and far-right groups had participated, they would not have been able to affect the direction of the Indaba. It was stated that if matters came to a vote, which had not been the intention but which did finally happen, a two-thirds majority was necessary to approve the Indaba outcome. With the invitation list composed as it had been, and with a single vote given to every delegation, whether it was to be the 1,3m members claimed by Inkatha or the miniscule (Indian) Reform Party, the majority political and economic position would have gone through. This, of course, does not matter if one agrees with what is in effect a built-in majority, but it matters a great deal if one has to consider committing members to the Indaba process.

With the preselection of invitees, ostensibly by the organisers, the Natal Provincial Council and the KwaZulu government, it was assured that the representatives of hundreds of thousands (if not millions) of South Africans would not be able to ensure their mandated decisions against the motley collection of parties and non-parliamentary religious, local government and other interest groups that have been credited in the commercial media with representing the political middle ground and all responsible Natalians and South Africans. On what basis could groups such as the Pinetown Municipality, the Hindu Maha Sabha or the Women's Bureau be given a say and an equal voice with the ANC or the UDF on the political future of South Africa?

Prior Agreement

Despite claims to the contrary there was a clear agenda, indirectly ensured through the selection of invitees. For instance, some 13 of the Indaba invitees had already directly signed or indirectly supported the Buthelezi Commission Report that six years earlier had set out to achieve in many ways just what the Indaba was aiming for. Co-convenor Dr Dhlomo admitted from the outset that the Indaba might take only three or four months, as so much

Researcher Gerhard Mare and Indaba official Dirk Kemp (right) at the University of Natal in one of the many public exchanges between Indaba critics and supporters.

had already been done by the Buthelezi Commission.

Secondly, after only three meetings, the Indaba accepted the 'free enterprise system', or capitalism, as one of its principles of prior agreement. This is hardly surprising considering its composition, but it is inconceivable that future conventions will be able to avoid proper debate of the kind of economic system that is to apply in South Africa. This lacuna indicates how far the Indaba was removed from one of the central issues in South and Southern Africa today.

Furthermore, the Indaba started with an acceptance of regionalism/federalism, whereas this should surely be the result of prior national debate. The State has oppressed the people of South Africa through promoting fragmentation in racial, ethnic, political, administrative and spatial terms. Little wonder, then, that so many of the groups who refused participation stressed their prior commitment (not necessarily exclusive commitment) to national political change. Can a fragment prescribe to the whole?

Lastly, the most fundamental criticism that can be levelled at the Indaba participants concerns the oblivion displayed in public about the state of emergency declared while it was in progress and the violence that has been a constant feature of Natal politics throughout this period. This involves at least two of the central participants (Inkatha and the KwaZulu government) as victims, perpetrators, or both. When challenged on a public platform in February 1987 on this latter point, one white delegate, co-convenor Frank Martin, said that he had no knowledge of such violence!

The process so far casts serious doubt on the Indaba's commitment to a free and open referendum on the proposals — nationally or even regionally. Delegates agreed, along with the constitution they signed, to submit 'the Indaba constitutional proposals ... to the people of Natal for approval by way of popular vote' (KwaZulu/Natal Indaba Constitutional Proposals and Memoranda, 1987: M1). That commitment has already been repudiated or watered down repeatedly, especially with the suggestion that an 'opinion poll' or 'attitude survey' would actually be a more accurate reflection of what the people of the region want.

But then it is still not clear who signed the constitutional proposals — was it a number of individuals in their personal capacities (as Chief Buthelezi said on receiving the proposals), or was it signed by organisational delegates representing their members (as Indaba director Dawid van Wyk claims)?

Ethnicity

Hansen, in a study of ethnicity as a political phenomenon in Uganda, describes it as the 'articulation of cultural distinctiveness in situations of political conflict or competition' (1977: p33). He draws attention to the manipulation of ethnic

identification by an educated 'elite' in order to strengthen local or regional bases and thus gain bargaining strength in relation to other groups. The same process of politicisation of ethnicity has been discussed in many different contexts.

A similar process is at work in Natal. It is clear from the following selected examples that ethnic or cultural identification has been equated with the political leadership in power in the KwaZulu bantustan:

- 'You now belong to the KwaZulu police force and I want you to infuse into our Police Force the sterling character and the great courage which has made the Zulu nation one of the great nations of the world ... (O)ur unity as a nation has never in fact been destroyed.'

(Chief Buthelezi at the KwaZulu Police passing out parade, 21 January 1987).

- 'My people, when I say to you today that we cannot tolerate intimidation; when I command you to rout out those among you who undermine our national unity as a Zulu people; when I say to you enough is enough, we will not tolerate any further inroads into our dignity by the ANC Mission in Exile, by the UDF or by Cosatu.'

(King Goodwill Zwelethini, address to the Zulu nation, Nongoma, 16 June 1986).

A continuing weakness in the Inkatha leadership's national political aspirations has been its regional, and hence (considering the relatively culturally homogenous composition of Natal's African population) ethnically specific base (Kane-Berman 1982: p155; Schlemmer 1980: p115). Inkatha has never lost the mark of its birth in 1975 as an exclusively 'Zulu' movement based within a bantustan. Yet Chief Buthelezi has also been consistent in demanding a national role and claiming national support, albeit on dubious grounds at times. It is on these grounds that he wants inclusion in deliberations on the future of South Africa — not as a bantustan leader.

More recently, Inkatha's thrust has been paralleled, at least in local addresses, by an increasingly aggressive statement of politicised ethnicity. That line is not new, but the intensity is. Previously it had been used primarily as defensive justification for regional political involvement, but a national thrust remains essential to Buthelezi's aspirations. The Indaba proposals would present the possibility of legitimacy in the eyes of his supporters, as well as national and international backers, to arrive in parliament under his 'own' steam as prime minister of Natal. Buthelezi has turned down firmly the option of being just another bantustan leader in President P W Botha's National Statutory Council. The political costs in terms of lost credibility would be too high.

Although not apartheid, the kind of fragmentation envisaged by the Indaba where ethnicity continues to be given spatial, political and administrative form, is extremely dangerous in South Africa. It is of some concern that the Indaba constitution has been

remarkably silent on the regional monarchy's place in the new Natal. At the same time some involvement of chiefs (in a council of chiefs) and the tribal authorities (as local authorities) has been written into the proposed constitution. Ethnicity and race are also the foundation, even if partly voluntary, of the second chamber with its 'background groups' (see diagram: p24).

This kind of fragmentation was rejected by the 'founding fathers' of the ANC in 1912 and is still rejected in 1987. It will have to be sensitively and self-consciously depoliticised and severed from the arena of competition for resources, privilege, power and rights in future transformation. At the same time cultural variety could be given the status of enriching life in post-apartheid South Africa as was the practice in the Mozambican revolution. In Natal it will probably have to be the politics of the working class that erases the divisions of the past — or else a national, rather than an ethnic, populism ('the people' rather than 'the Zulu nation').

Regional Solutions

The struggle in South Africa is not only against white minority rule and, for an increasing number of people, against capitalism. It is also against the fragmentation that is the essence of apartheid and a central part of the legacy that it will leave. It has been generally accepted by the participants in and supporters of the Indaba that the administrative and spatial divisions in the province are nonsensical, costly and militate against existing economic interdependence and integration.

The Joint Executive Authority (JEA), approved by the central state for the region, will eliminate much duplication and rationalise planning. The establishment of the JEA was 'stage two' in the process in which the Indaba, with its legislative aims, is 'stage three'. Earlier the Buthelezi Commission had recommended similar rationalisation at an administrative level. It is clear, therefore, that the Indaba seeks to undo some of the divisions of apartheid in the region. However, this initiative propagates a further division at an inappropriate historical moment.

The federal option, starting with one unit (Natal) of a future federal South Africa, has been enthusiastically promoted by capital operating in the region. Early in 1986 a Natal business group visiting London glowingly presented 'the movement towards a "regional democratic" dispensation for Natal — potentially the most exciting development at present — a model for a new federal structure in the country'. The argument is that 'real reform' in the region should be rewarded through the lifting of sanctions and renewed investment and aid — at least to the region.

But why then only in Natal? Why at the regional level first, or there only, when it would so clearly benefit the same interests to reverse the process of national isolation and sanctions? The answer at

one level is simple — it is only here that capital has been able to find a 'moderate' African leader, supporting and willing to defend capitalism by force, and strongly pitched against nearly every extra-parliamentary group in South Africa. This role has been appreciatively noted by such powerful figures as Anglo American's Gavin Relly, Arthur Hammond-Tooke of the FCI, Jan van der Horst of the Old Mutual and, regionally, by Tony Ardington of the SA Cane Growers' Association and Bruce Forssman of the Durban Metropolitan Chamber of Commerce. Ardington has called on Natalians to 'act quickly to ensure that the asset (Buthelezi) and the opportunity were not lost'.

Two concluding comments need to be made. The first concerns the presentation of the Indaba as a model. From this first federal unit a federally divided South Africa is ultimately envisaged. For more than a decade Chief Buthelezi has presented federation as a 'compromise' that he is willing to make.

The second comment concerns the perception that in many ways Natal is 'unique' or 'distinctive' (Beall et al 1986). What does this do to the idea of replicability? It is hard to imagine another region of similar size, a possible federal state, where an 'Indaba' type process would get even as far as this one. An ethnically and politically isolated Natal would strengthen the elements that made journalist Michael Massing (1987) refer to the 'Savimbi option':

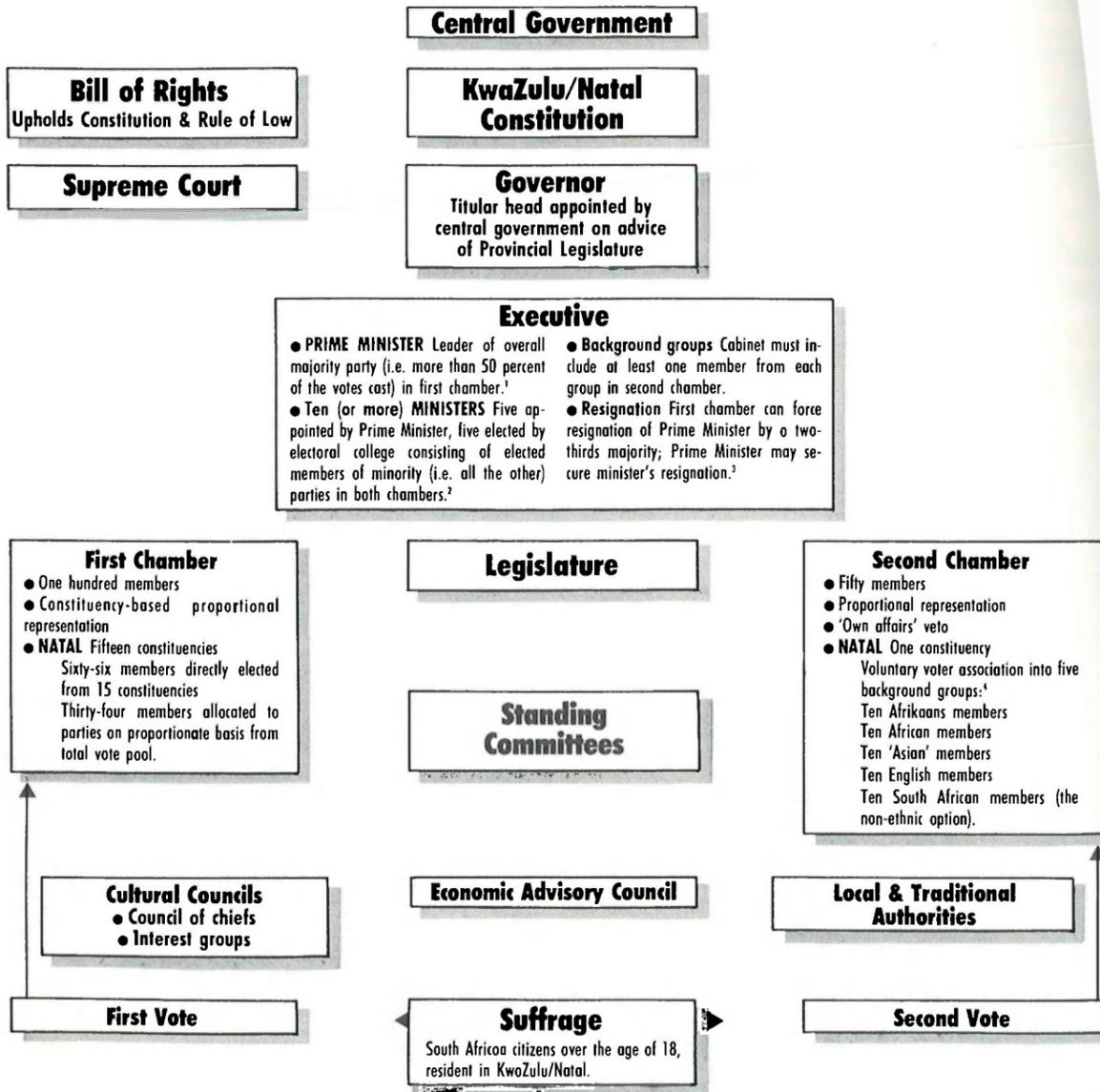
'Savimbi has a secure regional base, powerful ethnic support, and strong backing from the West. Viewing Inkatha up close, I was struck by its growing similarities to Unita. As one Buthelezi adviser told me: "Over the long run, there's only one central black political process in South Africa — the conflict between the ANC and Inkatha".'

This 'option' has to be avoided at all costs. It does not help when all critics of the Indaba are labelled as 'political extremists' (as one Indaba advert has done), an 'all-or-nothing brigade' (Natal Mercury editorial), or as 'those organisations (which) do not want to see the people of Natal living together in peace and prosperity' (Daily News editorial). If the Indaba supporters want to gain a measure of credibility they will have to ensure free and open debate of the issues they have raised (after all, they have managed to remain remarkably exempt from the effects of the state of emergency). They will also have to demand the right for all to canvass and organise opposition as well as support for the Indaba, and do more than pay lip service to the 'popular vote' to which they are 'constitutionally committed'. JPA

Sources:

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REGIONAL SELF-GOVERNMENT



¹ If no party has an overall majority, then the Prime Minister is elected by the first chamber.

² If there is no overall majority party in the first chamber, then all ministers are elected by both chambers.

³ In the event of the death, resignation or permanent incapacity of the Prime Minister, a successor will be appointed by some procedure. If the new Prime Minister does not assume office within 30 days, the legislature will be dissolved by the Governor who will then call a general election within 14 days.

⁴ A voter's choice of background group may be questioned by an electoral officer on election day (excludes South African option). The voter may still vote in the group of his or her choice in spite of the electoral officer's ruling, but the vote will be sealed in a marked envelope.

Marked votes are not counted with 'regular' votes and there will be a separate announcement of the number of 'marked' or challenged votes. The vote can become regular and be counted if the voter pursues the objection within a prescribed period of time and the objection is upheld by a court. 'Regularised challenged votes' may result in another candidate being elected.

On composition of other legislative inputs (e.g. cultural councils), see separate diagram: p24.

Proposals

Constitutional change and the resolution of political conflict make up a nexus that engages a host of interest groups concerned with national or regional solutions. The South African conflict undoubtedly requires constitutional engineering and two broad options have emerged from age-old debates, namely a unitary state with maximum concentration of power or a federal framework with a devolution of authority. The Indaba model prefers a territorial division of power and the constitutional division of spheres of competence. Although specifically designed for the KwaZulu/Natal region, the proposals are of national significance and are evaluated in this Indicator SA Issue Focus within the broader context.

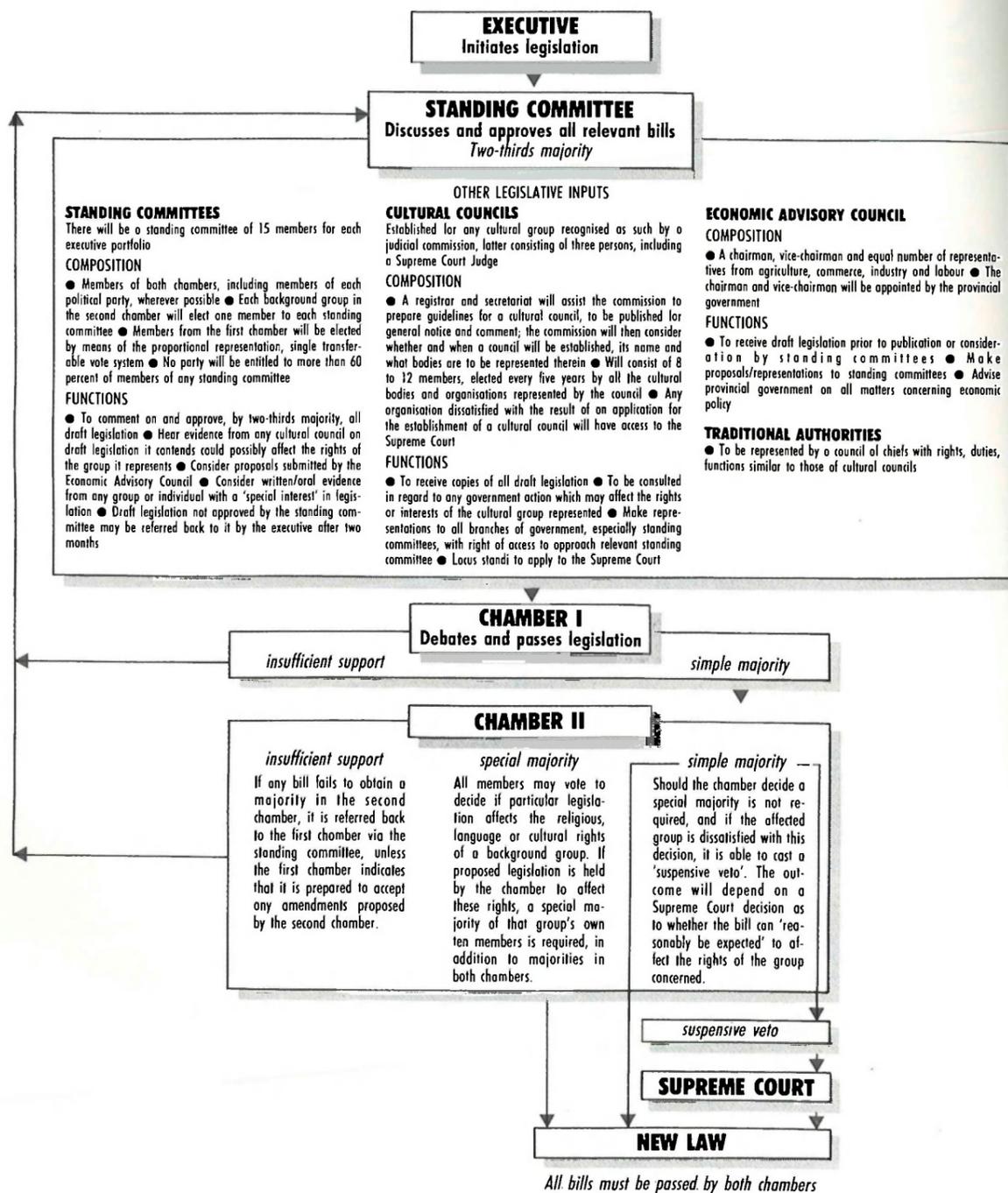
Widely publicised, the Indaba Bill of Rights protects individual and group rights, while containing procedural safeguards also. Firstly, constitutional expert Marinus Wiechers praises the adoption of a universal set of principles which reassert a common law heritage that has been undermined by apartheid legislation. The document is invaluable as it is the product of negotiation, prescribes a rule of law, and provides the very framework within which the constitutional deliberations could be conducted and the proposals tested. Wiechers believes that notions of constitutionalism such as the separation of powers, a responsible executive, a popularly elected legislature and a measure of judicial scrutiny make the main Indaba proposals both functional and politically viable.

Secondly, law professor Laurence Boulle argues that the Indaba's immediate adoption of basic (ideological) points of departure pre-empted consideration of the extensive debates being conducted by extra-parliamentary groups on alternative socio-economic systems. The Indaba model shows specific policy preferences — a regional division of power, which contrasts sharply with popular demands for a national democratic solution; administrative continuity instead of constitutional legitimacy; and ethnic group rights over majority rule. The omnipotent state security system will remain intact and cannot be reconciled with the individual liberties enshrined in the Bill of Rights. Boulle warns that the proposals would be imposed on fundamental and unresolved national conflicts, such as the state of emergency.

Lastly, Indaba director Dawid van Wyk proposes that the homeland structure, though distorted in practice, contains sound federal principles onto which the proposals could be grafted. The Indaba model requires a similar degree of self-government and horizontal division of legislative powers, without requiring independence or secession. Van Wyk concludes that successful implementation will be facilitated by the fact that the areas of authority desired for KwaZulu/Natal have been traditionally administered as second-tier matters that directly affect the region's populace.

In this part of our special report, Indicator SA also presents three diagrams that demonstrate the inner workings of the Indaba's complex constitutional system. Voting procedures, the bicameral structure, the executive, the passage of legislation with interest group inputs and vetoes, and the areas of competence are all illustrated. Included, too, are the Indaba Bill of Rights and the Freedom Charter as comparable documents.

A NEW LEGISLATURE



A CODE OF CONSTITUTIONAL CONDUCT

By Prof Marinus Wiechers,
Department of Constitutional and
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Ideas for constitution making have become very much part of South African politics. All political parties, including government itself, agree that we will ultimately need a new constitution to accommodate the aspirations of all citizens. At a multitude of seminars, conferences and meetings, from Cape Town to Dakar, the shortcomings of our present system are hotly debated. Towards the end of these discussions, one question invariably arises: 'It is all very well, these explanations of the necessity for a new constitution, but what are the practical proposals?'

The Indaba entailed an in-depth discussion of constitutional models and proposals. In fact, there were very few, if any, of the many constitutional suggestions currently debated in our country which were not at one stage or another raised in the Indaba and seriously considered by its constitutional committee. Qualified franchise, systems of indirect election, overloading (or 'bumping-up' of the legislature and executive, and many other proposals were intensely debated. Particular consideration was given to proposals for instituting 'cantonal' government, which would have meant the creation of various mini-regions in the province, each with its own autonomous government, and a central government constituted along federal lines. However, for many practical and strongly felt ideological reasons these latter proposals were not acceptable.

To say that the Indaba and its constitutional committee did not consider enough possibilities of interest group protection and constitution making for a deeply segmented society, is simply not true. Often the constitutional committee took it upon itself to generate options and choices to lay before the Indaba. The sense of urgency which

permeated the work and discussions of the Indaba did not, at any time, lead it or its constitutional committee to neglect, or worse, simply reject any proposals seriously made by participants or members of the various committees.

Time Honoured Principles

Of all the Indaba proposals, the Bill of Rights (see document: pp28/29) is perhaps the least original but, at the same time, the most significant. The provisions of the Bill of Rights concerning the recognition of human dignity, the protection of individual rights and freedoms, and the prescription of state authority are neither new nor a discovery made by the Indaba. They are simply the time honoured principles of Western democracies which, over the centuries, have found a place in such great constitutional documents as Magna Carta, the American Bill of Rights, the Universal Declaration of Human Rights and the European Convention of Human Rights.

By and large these principles were also part of our own common law heritage before they were twisted, abolished and even perverted by a system of racial control and domination. In the Indaba Bill of Rights for instance:

- Clause 8 is of particular importance as it recognises ethnic, religious, linguistic, cultural and educational rights, containing in essence the principles embodied in UN covenants and international conventions of the protection of minorities.
- Clause 14 restricts the scope of rights and freedoms in accordance with the dictates of a free and democratic society, corresponding to similar clauses in modern Bills of Rights.
- Clause 15 grants powers of judicial review and



Mangosuthu Buthezi with Durban's former mayor, Stan Lange, at the historic opening of the KwaZulu/Natal Indaba. Over the next eight months 40 participant groups negotiated a model for regional self-government.

is a necessary outcome of the prescriptive, normative nature of a Bill of Rights.

The Indaba gave special attention to the possibility of creating a specific jurisdiction in the form of a special constitutional court to hear and decide on the constitutionality of laws and other governmental measures. After fruitful discussion, bearing in mind the excellent record of the Natal Provincial Division in matters of civil liberties (even under the present system of discriminatory and often oppressive laws), it was decided to reaffirm confidence and trust in Natal's Supreme Courts. The rationale was not only to apply and give effect to the principles of the Bill of Rights, but also to give judicial guidance through the period of adaptation and reform which will follow the introduction of this declaration of fundamental rights and freedoms.

What made the adoption of the Bill of Rights by the Indaba so important was the fact that each and every clause was discussed and debated repeatedly and at length by the delegates. In so doing, a very clear understanding of the contents and implications of these clauses was achieved.

Yardstick for Proposals

Indaba debate on the scope of the Bill of Rights' provisions indicated very clearly the ambit and parameters of the ensuing constitutional proposals. For instance, a constitutional model along the lines of racially defined group areas and local governments would have been incompatible with the Bill's non-discrimination and free ownership clauses. A Bill of Rights does not simply contain a

description of a given state of affairs — it is much more in the nature of a normative instrument, embodying basic democratic values and prescribing definite actions and behaviour. The adoption of the Bill was therefore not only an act of faith concerning the future legal order of the province, but also the application of a yardstick against which the concrete constitutional proposals had to be assessed.

Once the Bill of Rights provided the ideological, democratic framework for the constitutional model, discussions centred around the place of local authorities, the composition and functions of the central legislature, and the role and structuring of the executive. The outcome of these deliberations is a single two-chamber legislature, with a first chamber of 100 members elected proportionally on a one-man-one-vote basis for the whole province, and a second chamber of 50 members elected by voluntarily formed background groups (see diagram: p22). The executive consists of leaders elected by both chambers, which means the inclusion of leaders of the five background groups represented in the second chamber (namely African, Afrikaans, English, Indian, and the alternative 'South African' category).

The relationship between the executive and the legislature is very much that of the classical Westminster model which requires, and is indeed based upon, an ongoing support by the majorities in the two chambers (see diagram: p24). The head of the province is constitutionally bound to the wishes of his executive which, in turn, must act in conformity with wishes of the two chambers. Maximum devolution of power and functions to the local authorities is seen as a matter for constitutional entrenchment.

Much debate in the Indaba centred on the question of protecting minority interest groups. Finally it was realised that minority protection which is not racially tainted but flows from voluntary association, is achieved as a result of a whole array of constitutional safeguards and mechanisms. By providing for the protection of the family as society's natural group and assuring individual freedom of association, a sound foundation for group protection has been laid. Voluntary association assures free formation of political parties, background groups and the envisaged cultural councils, as well as the establishment of local authorities.

By constitutionalising these voluntary formations, in the sense of giving them an active role in the distribution and in the exercise of public authority, the Indaba constitutional proposals create a whole network of group protections. This approach makes a fundamental break with current government dogma, which relies solely on the principle of control and domination by one racial group in order to effect a semblance of group harmony and regulation of conflict. An analysis of the objections of those white delegates who rejected the Indaba proposals reveals the same,

irreconcilable bias of retaining an entrenched position of ultimate, overall veto for one racial group, i.e. the whites. However, the most salient lesson to be learned from the Indaba proposals is precisely the fact that such reservation of white control in the name of group protection will not carry the support of a majority of participants in any kind of representative constitutional discussion on South Africa's future. This is perhaps the most important contribution of the Indaba, namely a clear, unambiguous indication that group protection in an overall constitutional dispensation for South Africa must be sought on a basis of free, voluntary association.

Other Innovative Aspects

The proposals mean home rule for the province, to be achieved by the central legislature passing a constitution for an enlarged Province of Natal. This constitution will achieve the status of supreme law within the province, which could only be amended by the provincial legislature in terms of an entrenched procedure which the constitution itself provides. In this respect, the inclusion of special proposals for constitutional amendment and review, as well as the possibilities of popular ratification through general or group referendums is one of the most innovative aspects of the Indaba proposals.

Delegates to the Indaba have repeatedly said that their proposals represent a compromise and that none of them would have opted for these proposals as a first choice. Statements such as these could have provided some critics with ammunition to aver that the proposals are in fact not to the liking of those who supported them and that they could therefore be discarded. In essence, however, such an admission means that the Indaba accepts the necessity of constitutional review and amendment which must come from greater political harmony and co-operation.

A constitution cannot be a static embodiment of powers and functions — it must be a living organic document. Far from admitting an unwanted second-best choice, in its acceptance of a compromise the Indaba recognised the need for future growth and adaptation of a constitution's political machinery. For instance, it could in future be proved that the present proposals regarding the composition and voting procedures of standing committees are too rigid and need more flexibility. Such a need for change will be sustained by a more relaxed political life which only the constitutional compromise, once it has been introduced, can bring about.

Participatory Democracy

The major question about the Indaba proposals is, of course, whether they can work once implemented. From a purely technical point of view, the proposals are eminently workable. There is nothing in the proposals which is — constitutionally speaking — so strange, unrealistic or foreign that it cannot be put

into operation. The proposals embody the time honoured principles of the separation of powers, a responsible executive, a popularly elected legislature, and an independent judiciary with powers of review.

Proposals for a second chamber composed of representatives of voluntary groups and for cultural councils which are to operate as watchdog bodies are concrete mechanisms for group protection and not the unrealistic flights of constitutional fantasy.

There is also absolutely nothing in our present Constitutional Law which would prevent the passing of a constitution for Natal on the lines proposed by the Indaba, and the establishment of home rule for the province by the central legislature and government. Indeed, the newly empowered Joint Executive Authority for KwaZulu/Natal could represent an initial step in this direction.

What is even more important, though, is whether the Indaba proposals are politically viable. Obviously they become impractical and unworkable if radical political forces which possess actual power within and outside of the province — whether legal or illegal — render them unworkable. On the other hand, if these proposals are supported by moderates and introduced by a central government which is amenable to the voice of reason, they have every chance of establishing that kind of constitutional workshop in which a participatory democracy with free political life could flourish.

The proposals allow for, and indeed invite, spontaneous party political life which will transcend racial fears and prejudices, and inspire economic growth based upon political goodwill and co-operation. To conclude, all the vital elements for political success are contained in the proposals:

- a Bill of Rights which corresponds to similar founding instruments in all Western democracies;
- a core electoral system which is based on universal suffrage and equality;
- well-recognised consociational elements flowing from free association;
- the safeguarding of segmental interests in the form of cultural, linguistic and religious rights; and
- proportionality of representation.

It is often said that in order to assure group protection and cement the deep rifts in our society, a South African constitution would have to be unique. The Indaba Bill of Rights and constitutional proposals, once implemented, will become part of the total South African dispensation and prove the contrary. In other words, once the clear choice for a participatory democracy has been made, the actual mechanisms of achieving such a goal can be found. What is needed is a spirit of conciliation and a dedicated search for those constitutional devices which, in other democratic systems, have instilled political vitality and growth. By adopting these well-recognised devices and procedures, the Indaba has dramatically aligned itself to the great democratic traditions of the West. 

THE BILL OF RIGHTS

Adopted by the KwaZulu/Natal Indaba 10 July 1986

GUARANTEES

to everyone the equal protection of the law, without regard to race, colour, ethnic origin, political opinion or economic status and, in particular,

ENSHRINES

the right to life and liberty, the right to own and occupy property anywhere, the principle of administrative justice, the right of public education, ethnic, linguistic and cultural rights

WILL BE

part of the constitution of the new Province of Natal, binding on provincial and local government in Natal, enforced by the Supreme Court of South Africa.

1. Human dignity and equality before the law

(1) All human beings are born free and equal in dignity and rights.

(2) Everyone is equal before the law, and shall be entitled to equal protection of the law, without any distinction on the basis of race, colour, language, sex, religion, ethnic or social origin, property, birth, political or other opinion, or economic or other status.

2. Right to life

(1) Everyone's right to life shall be protected by law, and no one may be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

(2) Deprivation of life shall not constitute a contravention of this article when it results from the use of such force as is absolutely necessary and justified in the circumstances —

- (i) in defence of any person against unlawful violence;
- (ii) to effect a lawful arrest in order to prevent the escape of a person lawfully detained for a serious offence;
- (iii) in action lawfully taken for the purposes of quelling a riot or insurrection.

3. Punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

4. Right of liberty

(1) No one shall be held in slavery or servitude.

(2) No one shall be required to perform forced or compulsory labour. Provided that this does not include —

- (a) any normal work required to be done in the ordinary course of detention under the provisions of subsection (3) or during conditional release from such detention;
- (b) any service of a military character in terms of a law requiring citizens to undergo military training;
- (c) any service exacted in case of emergency or calamity threatening the existence or well-being of the Province;
- (d) any work or service which forms part of normal civic obligations imposed by law.

(3) Everyone has the right to liberty and security of person and no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law which does not deny his basic rights to physical and mental health and integrity —

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-

compliance with the lawful order of a court;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before a competent legal authority on reasonable grounds of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the lawful detention of a person for the prevention of the spreading of infectious diseases, of a person of unsound mind, an alcoholic or a drug addict;

(e) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the Province or of a person against whom action is being taken with a view to deportation or extradition.

(4) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(5) Everyone arrested or detained in accordance with the provisions of subsection (3)(c) shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial, which may be conditioned by guarantees to appear for trial.

(6) In the determination of his civil rights and obligations or of any criminal charge against him, everyone shall be entitled to a fair and public hearing within a reasonable time by an independent and impartial court established by law; judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where the publicity would prejudice the interests of justice.

(7) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

(8) Everyone charged with a criminal offence shall have the right —

(a) to be informed promptly, in a language of his choice which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it at no cost to himself when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in the court, or if he so requests.

(9) Everyone who is deprived of his liberty by arrest or detention shall be informed promptly in a language of his choice which he understands, and in detail, the reasons for his arrest and detention, and shall be entitled to take proceedings by which the lawfulness of his detention is decided speedily by a court, and to be released if the detention is not lawful: provided that if he has not sufficient means to pay for legal assistance, he will be given it at no cost to himself.

- (10) Everyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
- (11) No one who is tried for a criminal offence shall be compelled to give evidence at the trial.
- (12) No one who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for the offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.
- (13) No one shall be found guilty of any penal offence on account of any act or omission which did not constitute a penal offence at the time when it was committed.

5. Right to administrative justice

- (1) All administrative tribunals, public authorities and officials shall follow rules of fundamental fairness in coming to their decisions and they shall, unless inappropriate, be required to furnish reasons for such decisions.
- (2) Delegated legislation shall be drafted with a reasonable allowance for public comment and participation.
- (3) Everyone who has suffered damage as a result of unlawful action by public authorities shall have an enforceable right to compensation.

6. Right to privacy and protection of the family

- (1) No one shall be subjected to arbitrary interference with his privacy, family, home or communications, nor to attacks upon his honour and reputation.
- (2) The widest possible protection and assistance shall be accorded to the family, which is the natural and fundamental group in society, and the care and upbringing of children are recognised as a natural right of, and a duty primarily incumbent on, the parents.

7. Right of property

- (1) Everyone has the right to lawfully own and occupy property anywhere in the Province.
- (2) No one is to be deprived of his property without due process of law, and expropriation may only be authorised in terms of a law if it is for the public benefit and if equitable and fair compensation is promptly paid.
- (3) Land and natural resources shall not be expropriated except for the common good and in accordance with laws providing for equitable compensation.

8. Ethnic, religious, linguistic, cultural and educational rights

- (1) A person belonging to an ethnic, religious or linguistic group shall not be denied the right to enjoy his own culture, to profess and practise his own religion or to use his own language.
- (2) Everyone shall have the right freely to participate in the cultural life of the Province, to enjoy the arts, to share in scientific advancement and its benefits, and to the free and full development of his personality.
- (3) In all proceedings involving customary law followed by persons in the Province, such law may be applied except insofar as the court finds that it has fallen into disuse or is contrary to the principles of natural justice and morality.
- (4) Every person shall have the same right to public education in an institution that will cater for his interests, aptitudes and abilities and the Province shall make provision for this right without discrimination: provided that, notwithstanding the provisions of section 1(2), it may, in providing facilities, distinguish between persons on grounds of language or sex.

9. Freedom of movement

Everyone lawfully present in the Province, shall be entitled to freedom of movement and residence within the borders of the Province.

10. Freedom of thought, conscience and religion

- (1) Everyone shall be entitled to freedom of thought, conscience and religion and to change his religion or belief, to manifest his religion or belief in worship, teaching, practice and observance, whether alone or in community with others, in public or in private.

- (2) No one shall be compelled against his religious convictions to render military service involving the use of arms but shall be required to perform national service as required by law in lieu thereof.

11. Freedom of opinion and expression

- (1) Everyone shall be entitled to freedom of opinion and expression, which includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas.
- (2) Any advocacy of national, racial or religious hatred and aggression between groups that constitutes incitement or discrimination, hostility, violence or political animosity is prohibited.

12. Freedom of association

- (1) Everyone shall be entitled to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests, and no one may be compelled to belong to an association.
- (2) Everyone shall be free to form or to join political parties in order to participate in periodic and free elections, which shall be held by secret ballot or by equivalent free voting procedures.

13. Freedom of work and freedom of contract

- (1) Everyone shall be entitled to equal work opportunities and to free choice of employment.
- (2) Everyone with legal capacity shall have freedom to contract and to conclude agreements with others in the voluntary exercise of his rights and freedoms and generally for the promotion of his interests.

14. Restrictions of rights and freedoms

- (1) The rights and freedoms recognised, under the provisions of this Bill of Rights may be restricted by a law of the Provincial legislature which has general application, for reasons which are necessary in a free and democratic society in the interests of public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the rights, freedoms and reputation of others, for maintaining the authority and impartiality of the judiciary and for the social, moral and economic well-being of the inhabitants of the Province.
- (2) Everyone's exercise of his rights and freedoms shall be subject to such limitations as are legally determined for the purpose of securing due recognition and respect for the rights and freedoms of others; and groups which by reason of their aims and the behaviour of their adherents, seek to impair or abolish the free democratic order or to endanger the security of the Province, are prohibited.
- (3) A fundamental right and freedom protected in this Bill of Rights may not be abolished or in its essence be encroached upon by a law of the Province.

15. Enforcement of rights and freedoms

- (1) The rights and freedoms protected in this Bill of Rights are binding on the legislature, the executive, the judiciary and all government institutions in the Province insofar as they fall within the purview of and flow from the powers and functions devolved on the Province and any person may forthwith apply to the Supreme Court or to other competent authorities provided for in the constitution by appropriate proceedings or by petition to enforce these rights and freedoms.
- (2) The Supreme Court shall have the power to make all such orders as may be necessary and appropriate to secure to the applicant the enjoyment of any of the rights conferred by the provisions of this Bill of Rights: Provided that if at the commencement of this constitution there are laws in existence in the Province which fall within the purview of the powers and functions bestowed on the Province and which are inconsistent with this Bill of Rights, such laws may, after the lapse of one year after the commencement of this constitution and on application to the Supreme Court be declared void to the extent of such inconsistency.

Unabridged reproduction of the document issued by the Indaba.

ADVANCE, RETREAT — FATAL PROCEDURAL FLAWS

**Prof Laurence Boule,
Department of Public Law,
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The Indaba did not produce a comprehensive constitutional model, but a majority report that endorsed a set of constitutional proposals.

In some matters the proposals are incomplete or uncertain. Thus no indication is given as to how the provincial governor, who would have an important role regarding the scope and validation of legislation, would be elected, held accountable, or removed from office. There is no reference to the composition of the judiciary and the appointment of judges — a major shortcoming in view of the direct constitutional role which the courts would be expected to play. Some of the functions to fall within the province's jurisdiction are vague — one can only speculate on what is meant by 'aspects of labour' and 'police matters'. Until these and other matters have been clarified there will be a tentative element in any commentary on the constitutional proposals.

Framework of Government

The main institutions of government envisaged by the majority Indaba report are as follows:

- A bicameral legislature comprising a first chamber of 100 members — 66 chosen in 15 constituencies through a system of proportional representation, and the remaining 34 allocated to the parties on a proportional basis.
- A second chamber of 50 members elected on an 'ethnic' group basis. The five categories would be the African, Afrikaans, 'Asian', English and South African background groups. The last category is for voters not wishing to be classified in one of the other groups. Each group would have ten seats.
- Standing legislative committees of 15 members for each executive portfolio. Each party would be represented on every committee, with no single

party being entitled to more than 60 percent of the members.

- A cabinet consisting of a prime minister (the leader of the majority party in the first house), five members of his party, and a further five members chosen by an electoral college drawn from the non-majority parties in both chambers. There would be at least one minister from each of the background groups. The first chamber could remove the prime minister from office by a two-thirds majority, and the prime minister could secure the resignation of an individual minister.
- The provincial Supreme Court would be able to test all legislative and executive acts against an entrenched Bill of Rights, and would have other supervisory constitutional functions.
- Cultural councils would be established for any cultural group recognised as such by a judicial commission. The legislative committees would be required to consult with the councils, which would be able to veto legislation concerning language, culture and religion (see diagram: p24). A council of chiefs would have a similar status to the councils, and there also would be an advisory economic council.
- The constitution would be *rigid*, requiring a two-thirds majority in both chambers for its amendment. Amendments affecting language, religious or cultural rights would also require the support of the relevant background group in the second chamber. A permanent committee would review the constitution, with a view to its possible revision.

Reformist Features

On their own terms the constitutional proposals show some striking advances on the models propagated

by state institutions in recent years. Most obviously they would confer the franchise on every adult in the region, regardless of race, colour or gender. Under a system of 'one person, two votes' each inhabitant would acquire a vote for both houses. The electoral system, moreover, would avoid the 'fancy franchise' arrangements which characterised the decolonisation period in Africa, and were considered, but rejected, by the Indaba. These were A and B rolls, multiple votes, educational and property qualifications, and so on. The proposed system of proportional representation operating through multimember constituencies would, in a system of free election, produce a representative first chamber, with the overwhelming majority of seats being held by black representatives.

Other principles of modern constitutionalism are also evident. In particular the entrenched Bill of Rights (see document: pp28/29) and judicial review would, in the South African context of executive dominance and lawlessness, constitute a significant attempt to check and balance the exercise of state power. The Bill is modelled partly on the European Convention of Human Rights and upholds the freedoms of association, movement, liberty and property. At face value it is incompatible with the Group Areas Act, the Separate Amenities Act, and much of the Internal Security Act; it might also involve the invalidation of some legislative and executive practices of the provincial and homeland authorities. If viewed from the perspective of past constitutional developments and the State's tentative future plans (involving the National Statutory Council and black city states), the proposals appear strongly reformist in nature.

The Indaba has also laid claim to an important process-value. The constitutional proposals were the product of deliberations among a number of participants and they embodied several compromises and trade-offs. For a notoriously uncritical local media the proposals went further and epitomised qualities of goodwill, negotiation, rational discourse and peaceful change. With these ascribed attributes to their credit the proposals seemed to demand immunity from opposition, or even criticism.

Ultimately, however, the Indaba proposals cannot be analysed on their own terms only. It is important to embed them in the social reality from which they emerged and in which they might operate. In this perspective it is evident that:

- there was a political agenda behind the Indaba initiative;
- the proposals would be imposed on a series of unresolved fundamental issues;
- the proposals entail a range of social choices, and a denial of certain political alternatives.

Preferred Policy Choices

The proposals in the majority Indaba report embody, in brief outline, the following seven policy choices:



Law professor Laurence Boule discusses constitutional aspects of the Indaba with Indicator SA researcher Karin Roberts.

(1) They prefer the regional division of state authority to a system of national unity.

In advocating a federal rather than a unitary state, the proposals are at odds with the historic demand of the Freedom Charter (see document: p39) and the contemporary policies of many political groupings — the UDF, ANC, PAC, NIC, Azapo and the major trade union groups. There is also a subtle inconsistency in this position. Advocates of the inseparability of Natal and KwaZulu as a political unit tend to overlook the equally important inseparability of the region from the rest of the country. A maximum devolution of power might appear to be an attractive option but most of the social and economic problems of South Africa will require massive social engineering on a similar scale to that used to create them. These macro-problems could not be resolved through the creation of special status regions, but will require remedial attention at the highest level of government.

(2) The proposals prefer administrative continuity to constitutional legitimacy.

The Indaba was initiated by the provincial and homeland branches of the State and had strong representation from local government; inevitably it has attempted to rationalise existing political and administrative arrangements (including the Joint Executive Authority for the region), which are the product of South Africa's disputed constitutional history. Furthermore, all existing laws would be inherited by the new government (see box: p34), albeit potentially subject to the Bill of Rights after one year.

The emphasis on administrative stability is also shown in the retention of 'traditional authorities' (e.g. tribal authorities) as part of the local government system. For many decades 'traditional

authorities' have been controlled and manipulated by central government, and they have also become the building blocks of the homeland system. Evolutionary developments out of these various institutions are not guaranteed to attract popular legitimacy.

(3) The proposals prefer elite accommodation to participatory democracy.

This preference began with the Indaba itself. Many participants represented very small interest groups (as the minority report observed), there was an overlapping of several (mainly economic) interests, and many delegations had no clear political position. There was also no mandate system, no publicity, and no constituency report-back. Thus despite the much vaunted presence of 34 organisations, the Indaba was largely a specialist, elitist deal. The proposals operate with a pluralist model of the state and a very dated notion of constitutional government, which overlooks the fact that most policy making has long since shifted from parliaments to executive bureaucracies and forms of corporatist organisation.

The Indaba Support Group has proclaimed that the proposals provide for 'effective political participation by all the people of the region', but the actual mechanisms allow only for periodic participation in elections for the legislative assemblies. There is virtually no reference to the many comparative institutions which can be used to make public power at its real site of exercise more representative, responsive and accountable. The only exception is in relation to delegated legislation — Section 5 of the Bill of Rights provides that there shall be 'reasonable allowance' for public comment and participation in the drafting of regulations and rules. The constitution committee of the Indaba did propose an additional provision in Clause 5, to allow for public access to official information and to require meetings of administrative bodies to be open to the public, but this was ultimately rejected. To comment briefly, without guaranteed access to information there could not be 'effective political participation by all' in government.

(4) The proposals prefer group rights to majority rule, despite the universal franchise and proportional electoral system.

This preference is reflected in the composition and role of the second chamber, the approval of which would be required for all legislation. About 20 percent of the provincial population (the combined English, Afrikaans and 'Asian' groups) would control 60 percent of the votes in this chamber, thereby creating an extreme minority veto. Furthermore a bill affecting language, cultural or other rights of a particular group could be vetoed by that group alone, or suspended while awaiting a judicial determination on whether legislation was of that type. It is probable that not only the cultural or linguistic rights of the groups, but their material rights as well, could be protected by the veto.

Constitutional amendments could be vetoed absolutely by a third of the representatives in this chamber, e.g. by the combined English and Afrikaans groups. This means, inter alia, that the composition of the second chamber would be permanent and there would be no scope for the South African group to expand beyond its allotted 20 percent. One might have expected that when one of the 'background groups' dropped below, say, ten percent of the regional population strength, it would forgo its representation in the second chamber. However, such an arrangement was not entertained because white Afrikaners at present constitute only about 2,5 percent of the total population, as was indicated in the Lombard Report (1980). This is fewer than the number of Xhosa- or Tamil-speaking inhabitants, and only marginally greater than the number of Hindi speakers in the province.

The emphasis on 'minority protection', a theme to which the Indaba continually returned, is reminiscent of the Turnhalle constitution and it is significant that Indaba delegates visited the Democratic Turnhalle Alliance in Namibia. The cultural councils would also attempt to give precedence to group rights. However, here it is ironic to note that the minority report was drafted by the Federasie van Afrikaanse Kultuurverenigings (FAK), Junior Rapportryers and Afrikaanse Handelsinstituut (AHI), for whom group rights were a normative constitutional requirement, yet the councils were dismissed in their report as 'superfluous'.

(5) The proposals prefer the limitation of government to its empowerment.

This preference flows from the previous one. Constitutions can both enable and restrain, they can confer power and limit its exercise. The Indaba proposals tend towards the latter. The greater the limitations on state power the weaker the government will be, and the weaker it is the more difficult it will be to address social and economic problems. In the context of massive inequalities of wealth and resources, this power equation has profound implications. Expressed differently, the proposals prefer private power to public power; this is apparent in the strong emphasis on private property, and the need for compensation for expropriation.

The Bill of Rights was promulgated long before the main law-making procedures had been finalised, which reveals a naive understanding of the interconnection between the two institutions in state policy making. The implications of these choices are that the provincial authorities would be hard pressed to address many of the major issues in the region such as unemployment, the use and distribution of land, redistribution of resources, and conservation of the environment. For those who depend on the State and its benefits, this would not be an attractive prospect.

(6) The proposals prefer free enterprise to a



Security forces surround Durban's Ecumenical Centre during the first state of emergency, July 1985. Indaba critics maintain that the sustained clampdown prevents open debate of the proposals and a fair referendum.

planned economy and welfare statism.

This issue was pre-empted by the basic points of departure (see box: p12) agreed to on the very first day of the deliberations, which resulted in the non-consideration of the extensive debates on forms of economic organisation for South Africa being conducted by trade unions, political think tanks, progressive organisations, academics and some business interests. Even its own economic committee reported only after the constitutional proposals had been finalised! At the Indaba rudimentary notions of the free market and private enterprise prevailed; the existing economic structure, but with fewer state constraints, was preferred, and a federal arrangement was seen as its best guarantee of survival.

There were even enquiries from business interests as to whether the free enterprise system could be constitutionally entrenched. A manifestation of this obsession is the freedom of contract clause in the Bill of Rights, which is couched in terms deriving from distant notions of classical economic liberalism that are now avoided by the courts in their development of the common law of contract. This is not to overlook the Indaba's economic equalisation policy. Yet the survey appointed by the Durban Metropolitan Chamber of Commerce concluded that the high level of taxation required by this policy would actually drive both investment capital and skills to other parts of South Africa, in direct contradiction of the proclaimed advantages of a KwaZulu/Natal settlement.

(7) The proposals prefer state security to individual liberty.

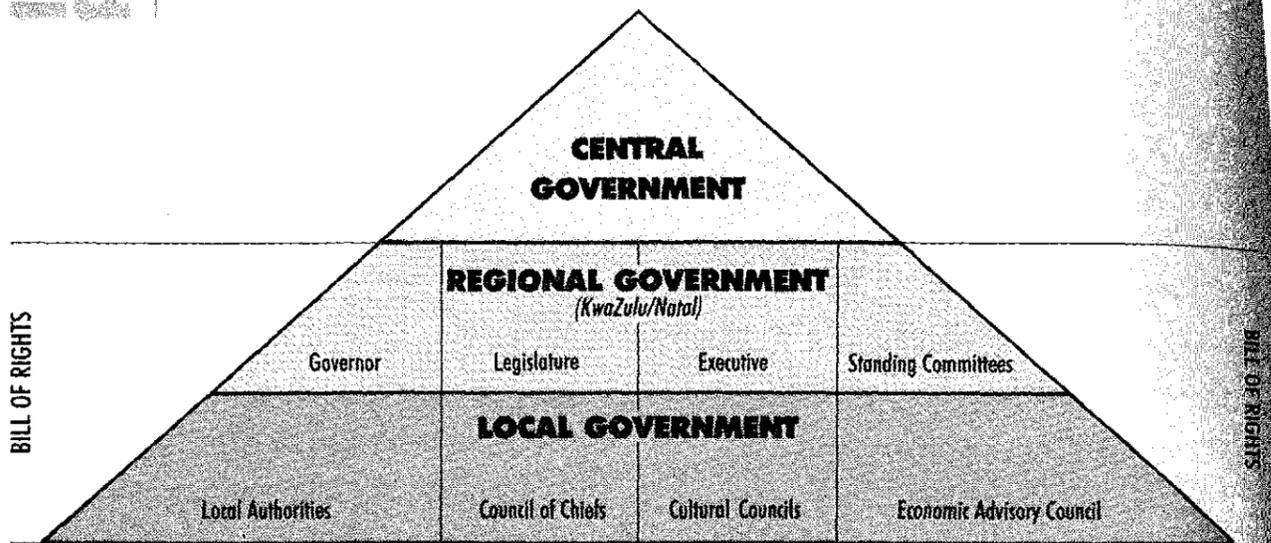
For obvious reasons the Bill of Rights would apply only to legislative and executive action flowing from the powers given to the province. Authority for the defence, police and national intelligence portfolios, among others, would remain with Pretoria. The implications of this arrangement are that the vast authoritarian powers exercised by the coercive arms of the State would remain unaffected by the new constitution. Nor would it have any effect on the national security management system, which at present constitutes a shadow bureaucracy at all tiers of government and is allegedly influential in many issues of social and economic policy.

Authoritarian security powers are irreconcilable with full political rights, and the Bill of Rights promises far more than it could deliver in this regard. It is also probable that even if the central state did allow a KwaZulu/Natal system of government it would not accede to the extensive devolution of authority requested by the Indaba. But the more powers Pretoria retained, the more pervasive its policy-making and financial controls would be; this would both restrict the reach of the Bill of Rights and lessen the province's scope for progressive action.

Implementation

While the Indaba and its participants are entitled to prefer and propagate these seven major policy options, they should not be built into the constitutional framework if they are a source of opposition and divisiveness. The probabilities are that they would have this effect, which leads on to an issue of great importance.

SPHERES OF AUTHORITY



Matters residing with central government

PRIMARY AREAS Foreign Affairs ● Defence Force ● Police Force ● Intelligence Service ● Home Affairs ● SATS ● Posts and Telecommunications ● Mineral and Energy Affairs ● Inland Revenue ● Registrar of companies and financial institutions ● Labour, union and arbitration matters ● Prisons ● Auditor-General ● Customs and Excise ● Trading/licensing in respect of mines, professions, arms, ammunition ● Macro-water affairs and oil pollution of sea

SECONDARY AREAS Archives ● Libraries ● Monuments and art galleries ● Weather bureau

Matters residing with the provincial legislature

ADMINISTRATION Public Service Commission: personnel administration, workstudy, training and bursaries ● Manpower ● Planning, construction, maintenance, administration of official properties and accommodation ● Control, licensing of intoxicating liquor ● Registration, control of domestic animals ● Radio and television licensing ● Gambling

AGRICULTURE Agricultural economic advisory service ● Agricultural produce control ● Veterinary services ● Financial assistance to farmers

CULTURE AND RECREATION Establishment, development, maintenance, control of museums and art galleries ● School and public library services ● Development, administration, control of educational, cultural, recreational, amateur sport and fitness programmes for schools ● Sunday observance

ECOLOGY AND CONSERVATION Establishment, administration of nature reserves and facilities ● Administration, control of forestry areas and marine affairs ● Regulation, control of shark measures, pollution, noxious weeds and vermin ● All physical and land use planning ● Land survey and mapping

EDUCATION Provision of pre-primary, primary and secondary education ● Tertiary education will be under control of Natal legislature until such time as it is placed under a single department in the rest of South Africa

FINANCE Office of the Auditor ● Planning, establishment, financing of industrial trading, finance and other business undertakings; excluding mining, professions, trading in arms and ammunition ● Control, licensing of business undertakings

GOVERNMENT Regulation, control of the establishment and functioning of all local, regional government and tribal authorities, including constitution and appointment of chiefs

HEALTH SERVICES Establishment, management, control of hospitals, clinics and other health and supporting institutions

HOUSING Establishment, administration, control of housing schemes

SECURITY Police matters ● Natal regional force ● Civil defence ● Security services ● Prohibition or counteraction of furtherance of the objectives of undesirable organisations and persons

SOCIAL SERVICES Legal advice, language and printing services ● Computer bureau ● Regulation, control of cemeteries and crematoria ● Social welfare services; including child welfare, social pension/benefit schemes, school medical services

TRANSPORT AND ROADS Planning, construction, maintenance of roads, bridges, other road structures and outspans, pons and toll roads ● Road carrier transportation matters and inspections ● Vehicle, driver licensing administration and control

The Indaba has launched an extensive publicity campaign to sell its proposals to local inhabitants, while disingenuously arguing that they should not become a political football. There are analogies here with both the Turnhalle constitution and the tricameral parliament. There is even talk of an Inbaba political alliance being formed to promote the constitution and to compete for control after its implementation. This is, however, precisely to reduce the constitution to the level of any other political or social policy. A constitution should not be the *object* of sectional political competition — it should provide the broadly accepted *framework* for such competition. An agreement of legitimacy is an absolute precondition for such acceptance. Without this any implementation of the proposals would be premature.

A more specific problem concerns supervision and policing during an implementation stage. Those who initiated the Indaba will, understandably, wish to control the new provincial government and will therefore be sectional protagonists in any referendum or plebiscite, and in the first election. Not only are they allowed to operate lawfully but, through the homeland and provincial authorities, they already have some powers of coercion at their disposal. Opponents of the Indaba, by contrast, have been drastically affected by the state's curtailment of political liberties through detentions, bannings, and restrictions on assembly, meetings and information. In this context organising, canvassing and voting could hardly be free and fair.

If central government did accede to the Indaba proposals it would do so only because their benefits appeared to outweigh the costs. It would thus also not be an impartial party in the implementation stage. The government's relative bias has already been evident in its non-interference with the Indaba despite the drastic political implications of the state of emergency. The organisation, control and supervision of an implementation phase would therefore be of crucial importance.

The transition problems would extend beyond the first election. If a government came to power in terms of a constitution which was a cause of division (and before basic policy issues had been resolved), it would be tempted to resort to the 'in the interests of public safety' provision of the Bill of Rights, which allows for the restriction by law of any of the enumerated rights. Furthermore, the constitution would prohibit the existence of groups 'endangering the security of the province'. Whatever the apparent neutrality of these phrases, they could have a sinister implication in a system which had failed to constitutionalise the most important political forces. Their abuse in the context of South African legislation needs little verification.

The Casspir Factor

One of the main benefits of the Indaba is that it

shows how the South African constitutional system could be deracialised. At this level it debunks many of the Heunisquean constitutional contortions of recent years. It has shifted the constitutional debate beyond the issue of universal adult franchise — a precondition for a constitutional settlement. The rest remains to be negotiated. However, the crises of the South African system are too deep-seated to be resolved by changing the political actors without carefully revamping the economic stage and social props.

The real lesson of the tricameral parliament is both simple and profound. It is that a constitution cannot be a vehicle for sectional political interests, it cannot be imposed unilaterally and coercively, and it cannot be allowed to become an object of opposition and rejection. In each respect it will be discredited, avoided, and finally discarded. The Indaba is a more impressive achievement than the 1983 constitution, insofar as it has involved a greater degree of consultation and incorporated a larger black constituency. But, despite the 'extreme left, extreme right' rhetoric, it secured only the participation of a limited range on the political spectrum, from the conservative NRP on one side to the progressive Inkatha or PFP on the other. It could not even secure the agreement of all the parties involved in parliamentary politics, and made no inroads at all into the extra-system opposition.

This is too shallow a foundation for a constitutional construction, perhaps even shallower than the government's National Statutory Council, an already discredited body, will provide. It also raises questions about the PFP/NRP alliance's attitude to the Indaba, which reportedly involved a cooling-off on its *principles* but an espousal of its *processes*. For the PFP this is a paradoxical position as the Indaba failed to meet most of that party's own preconditions for a constitutional convention. History may show that the Indaba produced some important matters of substance, but that its process, except at an abstract level, was fatally flawed. With these flaws a regional constitutional settlement will not engender loyalty, channel political energies, or remove troops from the townships. This is the 'Casspir factor' of South Africa's contemporary predicament.

Unfortunately there are severe limitations on the extent to which regional initiatives can succeed in the context of national crises in the economy, in constitutional politics, and in the social system. As the minority report suggests, future exercises of this nature should be organised in such a way that the primary responsibility for negotiating and devising a constitutional model is that of political organisations. In a legitimised national constitutional system such models could be used to allow for the devolution of authority to regional authorities, in that order. If the sequence is reversed, then the paradigmatic problem of 'too little too late' could be replaced by one of 'too much too soon'.

IPA

THE NEW OUTPOST

By Prof Dawid van Wyk,
Director, KwaZulu/Natal Indaba

The question crops up, not infrequently, whether the proposals adopted by the KwaZulu/Natal Indaba will fit into the present system of government in South Africa. The Indaba opted for a system of free association and a non-racial form of government, where everybody over the age of 18 can cast a vote and be elected to public office, where statutorily imposed group areas will be removed at the earliest opportunity, and where race classification will be done away with in matters under the jurisdiction of the province. By the proverbial stroke of a pen, the Indaba drew a line through 'apartheid' in whatever sense that concept may still be used. By doing so, however, the Indaba set itself up against the rest of South Africa. Or did it?

The question can be answered in a formal, constitutional sense, in an administrative context, and in a broader, more political sense.

The Constitutional Reply

From a constitutional point of view, the integration of the Indaba proposals will not create severe problems. Nevertheless, to suggest that there will be no problems whatsoever would be misleading. The sheer complexity of the present South African constitutional structure prevents an easy fusion.

In Cape Town the tricameral parliament, as the sovereign legislature, operates on the basis of classified 'own' and 'general' affairs. In principle this means four sets of laws can be made — one on general affairs, and one each by the houses for whites, coloureds and Indians respectively. Matters affecting Africans are technically speaking general affairs, dealt with by the three houses of parliament together.

In addition, a substantial layer of regional governments for Africans have been created in South Africa. On the negative side, these regional institutions were persistently based on the principles of 'separate development', in particular on the philosophy that black communities eventually would opt for independence and self-determination outside the tattered borders of 'white', 'coloured' and 'Indian' South Africa. On the positive side, these regional institutions laid the constitutional foundations for a future decentralised and federal South Africa.

It is onto these 'foundations' that the Indaba proposals can be grafted. From the outset, it should

be emphasised that an incorporation of the proposals in terms of this system is not only feasible but highly workable. The issue will be obscured by supporters of the ideology behind the 'homelands' system, who argue that the Indaba has elevated itself from second tier to first tier by suggesting that the constitutional structure used by the homelands should be employed in the case of the new Natal as well. These criticisms are based on the *perceived* notions that the homelands are on the way to separate statehood — while they are, in real constitutional terms, nothing more than regional authorities — or that Natal will no longer be a province in the true sense of the word.

Other opponents of the Indaba proposals may argue that the employment of the constitutional structures used for the homelands shows the Indaba up for what it is, namely part of the apartheid structure. This is devoid of all truth. It will be a very sad day if a sound constitutional mechanism is summarily rejected merely because it has been abused for doubtful political ideologies. It would amount to saying that federalism is a bad thing because a number of communist countries have federal constitutions! (That is, if you do not like communism!)

What is the Real Position?

Firstly, the homelands or national states, as they are officially known, are governed on the basis of an act of parliament that provides for a high degree of self-government without imposing independence. KwaZulu/Natal does not want to become 'independent' in the style of the TBVC states, but it does want a substantial degree of self-government.

Secondly, unlike the tricameral system, the division of legislative powers between central government and the homeland governments is not vertical, but horizontal, as in any proper federal system. For instance, a homeland has exclusive jurisdiction over local government within its area; in the tricameral system part of local government is a general affair, part of it is a separate white, coloured or Indian own affair respectively.

Thirdly, the way in which powers are divided between central government and the homelands enables the latter to make laws on matters within their jurisdiction without state interference. It should be pointed out that parliament has not officially divested itself of the power to interfere.

However, where the executive has interfered in landmark cases, the homeland government concerned has simply taken a conflict of authority to court if 'negotiation' has not resolved the issue.

These existing mechanisms demonstrate that without becoming a homeland, the new Natal can be grafted onto the operative structure for regional government in South Africa. This structure, incidentally, is much better than the other system of 'regional' government in South Africa, namely the current provincial system, which is supposed to give expression to the desire to share and devolve power to lower tiers of government. One does not have to go beyond the totally unrepresentative nature of this system to prove that it can do very little to give expression to the need for coherent, representative and non-racial government in Natal.

Legislative Provisions

In terms of the Indaba proposals, Natal will have legislative and executive powers over a number of listed matters (see box: p34). These areas will all be of special relevance to the people of the region. It should be emphasised that there is no desire to perform the functions of central government, however.

Matters falling outside the legislative powers of the Natal legislature will be for the account of parliament in Cape Town. Over the listed regional areas Natal will have exclusive jurisdiction to arrange and legislate its own affairs, except for the extent to which co-ordination and co-operation with central and other government institutions are necessary for smooth and efficient government in the province.

The same type of transitional procedure for existing laws will be used as in the homelands. All laws will continue to operate in the region until they are repealed or amended by the competent legislature. For instance, when the constitution for the new Natal comes into operation, the Group Areas Act will continue to be in force in Natal. In order to repeal or amend the Act in Natal, the first question to be decided will be, who is the competent authority to repeal the Act? Would it be parliament in Cape Town or the Natal legislature?

The Natal constitution will have to be consulted to determine the competent authority. It is foreseen that in terms of the constitution, 'all physical and land use planning' will fall within the powers of the Natal legislature. In other words, the Natal legislature will be fully empowered to repeal the Group Areas Act.

In terms of its constitution, the Natal legislature will have the power to amend any law, including laws of parliament, dealing with the matters within its sphere of competence. Legislation such as the Defence Act of 1957, on the other hand, will not be subject to amendment by the Natal legislature because the defence portfolio will expressly be reserved for the central parliament.

What happens in the case of uncertainty or

conflict? All areas of authority not expressly listed in the Natal constitution will vest in the central government. If it is uncertain whether a matter is actually included or excluded, the courts will have to decide. Even in laws, ambiguity and uncertainty occur! In this respect, the new Natal would be in the privileged position, once again, to reap from the experience of the homelands. Quite a handsome body of case law has already been built up by the South African courts on the interpretation of the powers granted to those regional authorities.

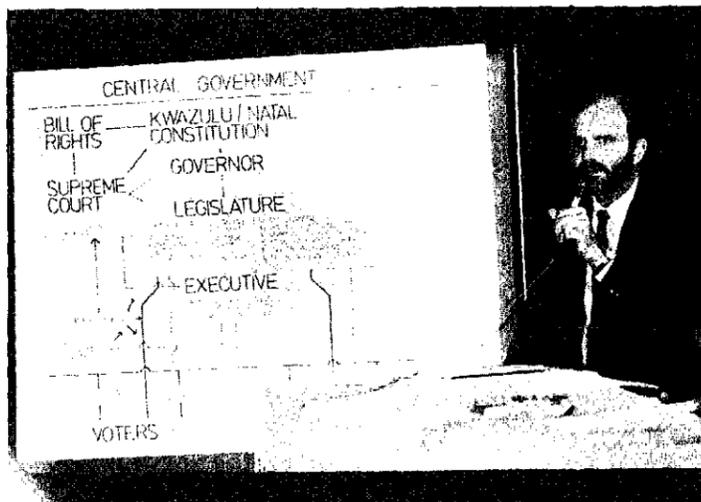
The point cannot be emphasised strongly enough, though, that the application of the constitutional principles governing the relationship between the central government and the 'self-governing' homelands (excluding the TBVC states) will not turn Natal into a 'homeland'. It is a great pity that such sound principles were employed to establish a quasi-federal system based on race. Maybe the Indaba can set the record straight by showing that the principles are better suited for a non-racial system of regional self-government. In fact, implementation of the Indaba proposals would mean the end of the KwaZulu 'national state'!

The Administrative Reply

Some people, reluctant to see the Indaba proposals implemented, will argue that it is very difficult, if not impossible, to disentangle the complicated web of government that spreads over South Africa at the moment:

- What happens to Natal representatives in parliament (in three chambers!)?
- How can a smooth integration of two settled administrations in the region, the Natal Provincial Administration (NPA) and the KwaZulu government, be effected?
- How can the own affairs of local government and education be taken away from the (central) own affairs departments, moulded into a single department of local government and a single department of education in Natal, yet leave the

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Professor of
Constitutional
Law Dawid van Wyk
seconded to the
Indaba, lectures in
the campaign to
inform the people of
Natal about the
regional option.



Proposals

own and general affairs system intact in the rest of South Africa?

To respond to these questions, what is happening in Natal now is only the forerunner of what will have to happen in the rest of South Africa. In other words, own and general affairs predicated on racial groups will have to go eventually. All this would not affect Natal's representation in central government. It may change shape and form, but it is needed and must be maintained. After all, even when the old provincial system was still in place, Natal regularly elected members to parliament in Cape Town as well!

There has been a marked tendency towards centralisation in South Africa, especially since the introduction of the tricameral system. This has resulted in an ever more powerful government in Pretoria and a significant weakening of representative government at lower levels. Since the Department of Constitutional Development and Planning became involved in local government, at the expense of the elected provincial councils, the democratic process at third-tier level has come to a standstill. For instance, local government elections keep on being postponed.

The successful integration of a decentralised representative Natal system into surrounding institutions of government will need careful planning, which will hold out a challenge to the administrative abilities of the South African public service. At the end of the day, however, these will be the first steps in reconstructing South Africa's political and administrative structures on a non-racial basis.

A small committee of experts, representative of the KwaZulu administration and the NPA, have performed an invaluable task in suggesting what

functions can be best handled by the new Natal, and which ones should be left to central government. A quick survey of the final list suggested by the Indaba in its proposals (see box: p34), shows that all the functions requested for the new Natal are typical second-tier matters. On both the legislative and the administrative level, these areas should rather be dealt with closer to the people affected.

The Political Reply

Finally, can the 'racial' South African system be compatible with a non-racial Natal system? The answer is yes and no. Yes, because the Natal Bill of Rights (see document: pp28/29) will apply only to the territory of KwaZulu/Natal, and only in respect of matters falling within the jurisdiction of the region's legislature. For instance, the Group Areas Act will have to be repealed in Natal if land use planning is to be part of the powers enjoyed by the new legislature.

Nothing prevents the same Act from continuing to exist in the rest of South Africa, however. This very constitutional truth, leads to the 'no' part of the answer. Nevertheless, a dispensation that is essentially non-racial will put pressure on the racial system of government in the rest of South Africa. The pressure is on anyway; sooner or later the ultimate vestige of apartheid, namely separate politics, will have to go.

The KwaZulu/Natal Indaba has shown beyond any doubt that a negotiated settlement in South Africa leaves no room for segregated politics — especially not if the government's declared policy of one country, one citizenship and one constitution is accepted.

Natal has set the pace with the Indaba. The example of the new Natal can lead to a new South Africa. *TPA*

THE FREEDOM CHARTER

Adopted at the Congress of the People on 26 June 1955; subsequently adopted by the United Democratic Front on 20 August 1987

Preamble

We, the people of South Africa, declare for all our country and the world to know:

That South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of the people;

That our people have been robbed of their birthright to land, liberty and peace by a form of government founded on injustice and inequality;

That our country will never be prosperous or free until all our people live in brotherhood, enjoying equal rights and opportunities; That only a democratic state, based on the will of the people, can secure to all their birthright without distinction of colour, race, sex or belief; And therefore, we the people of South Africa, black and white, together equals, countrymen and brothers adopt this FREEDOM CHARTER. And we pledge ourselves to strive together, sparing nothing of our strength and courage, until the democratic changes here set out have been won.

The People Shall Govern!

Every man and woman shall have the right to vote for and stand as a candidate for all bodies which make laws;
All the people shall be entitled to take part in the administration of the country;
The rights of the people shall be the same regardless of race, colour or sex;
All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government.

All National Groups Shall Have Equal Rights!

There shall be equal status in the bodies of state, in the courts and in the schools for all national groups and races;
All national groups shall be protected by law against insults to their race and national pride;
All people shall have equal rights to use their own language and to develop their own folk culture and customs;
The preaching and practice of national, race or colour discrimination and contempt shall be a punishable crime;
All apartheid laws and practices shall be set aside.

The People Shall Share in The Country's Wealth!

The national wealth of our country, the heritage of all South Africans, shall be restored to the people;
The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole;
All other industries and trades shall be controlled to assist the well-being of the people;
All people shall have equal rights to trade where they choose, to manufacture and to enter all trades, crafts and professions.

The Land Shall Be Shared Among Those Who Work It!

Restriction of land ownership on a racial basis shall be ended, and all the land redivided amongst those who work it, to banish famine and land hunger;
The state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers;
Freedom of movement shall be guaranteed to all who work on the land;
All shall have the right to occupy land wherever they choose;
People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.

All Shall Be Equal Before The Law!

No one shall be imprisoned, deported or restricted without fair trial;
No one shall be condemned by the order of any Government official;
The courts shall be representative of all the people;
Imprisonment shall be only for serious crimes against the people, and shall aim at re-education, not vengeance;
The police force and army shall be open to all on an equal basis and shall be the helpers and protectors of the people;
All laws which discriminate on the grounds of race, colour or belief shall be repealed.

All Shall Enjoy Human Rights!

The law shall guarantee to all their right to speak, to organise, to meet together, to publish, to preach, to worship and to educate their children;
The privacy of the house from police raids shall be protected by law;
All shall be free to travel without restriction from countryside to town, from province to province, and from South Africa abroad;
Pass laws, permits and all other laws restricting these freedoms shall be abolished.

There Shall Be Work And Security!

All who work shall be free to form trade unions, to elect their officers and to make wage agreements with their employers;
The state shall recognise the right and duty of all to work, and to draw full unemployment benefits;
Men and women of all races shall receive equal pay for equal work;
There shall be a forty-hour working week, a national minimum wage, paid annual leave and sick leave for all workers, and maternity leave on full pay for all working mothers;
Miners, domestic workers, farm workers and civil servants shall have the same rights as all others who work;
Child labour, compound labour, the tot system and contract labour shall be abolished.

The Doors Of Learning & Culture Shall Be Opened!

The government shall discover, develop and encourage national talent for the enhancement of our cultural life;
All the cultural treasures of mankind shall be open to all, by free exchange of books, ideas and contact with other lands;
The aim of education shall be to teach the youth to love their people and their culture, to honour human brotherhood, liberty and peace;
Education shall be free, compulsory, universal and equal for all children;
Higher education and technical training shall be opened to all by means of state allowances and scholarships awarded on the basis of merit;
Adult illiteracy shall be ended by a mass state education plan;
Teachers shall have all the rights of other citizens;
The colour bar in cultural life, in sport and in education shall be abolished.

There Shall Be Houses, Security & Comfort!

All people shall have the right to live where they choose, to be decently housed, and to bring up their families in comfort and security;
Unused housing space to be made available to the people;
Rent and prices shall be lowered, food plentiful and no one shall go hungry;
A preventive health scheme shall be run by the state;
Free medical care and hospitalisation shall be provided for all, with special care for mothers and young children;
Slums shall be demolished and new suburbs built where all shall have transport, roads, lighting, playing fields, creches and social centres;
The aged, the orphans, the disabled and the sick shall be cared for by the state;
Rest, leisure and recreation shall be the right of all;
Fenced locations and ghettos shall be abolished and laws which break up families shall be repealed.

There Shall Be Peace And Friendship!

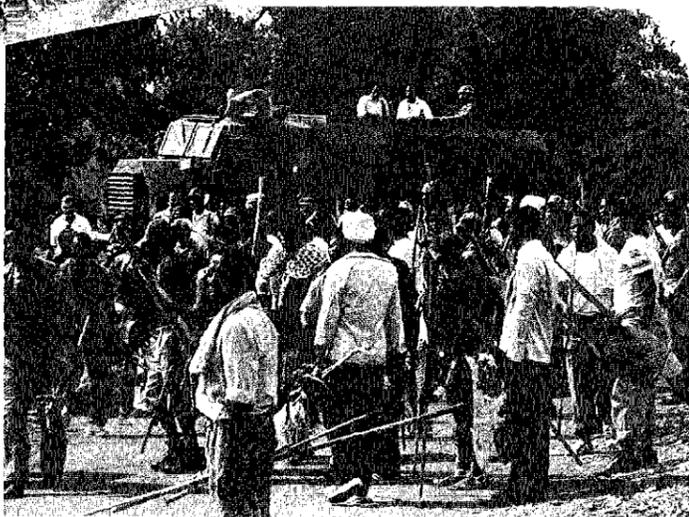
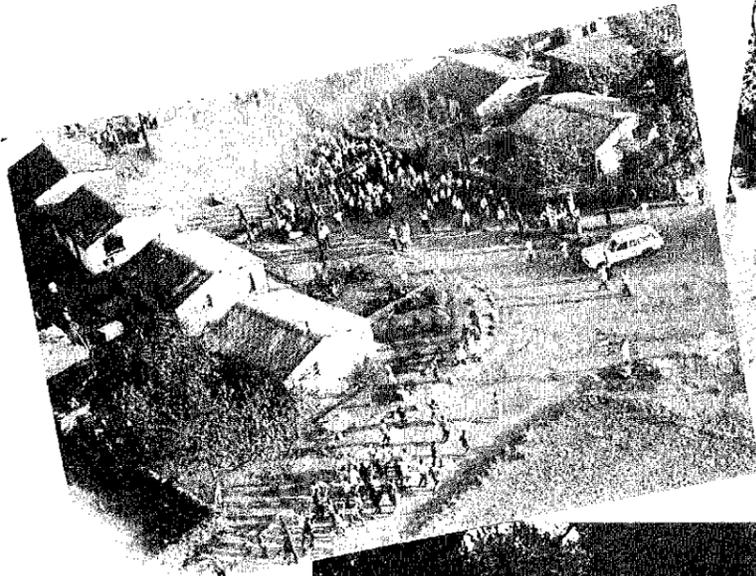
South Africa shall be a fully independent state, which respects the rights and sovereignty of all nations;
South Africa shall strive to maintain world peace and the settlement of all international disputes by negotiation, not war;
Peace and friendship amongst all our people shall be secured by upholding the equal rights, opportunities and status of all;
The people of the protectorates Basutoland, Bechuanaland and Swaziland shall be free to decide for themselves their own future;
The right of all the peoples of Africa to independence and self-government shall be recognised, and shall be the basis of close co-operation.

Let all who love their people and their country now say, as we say here: 'These freedoms we will fight for, side by side, throughout our lives, until we have won our liberty.'

(Unabridged reproduction of Congress Alliance document)



The polarised nature of Natal politics. A regional solution will be hard pressed to accommodate these diverse interests often locked in violent conflict. In clockwise order: a white landowner guards his smallholding at Umtlopi; the funeral procession of 13 victims, including eight children killed by unknown assassins in an attack on a UDF youth organiser's home — KwaMakhuta, South Coast, 21 January 1987; a familiar township scene in Natal's unrest of security forces and the Amabutha; other vigilantes converge on dissidents who have set an 'opposition' house alight in Umlazi, August 1985.



Politics

Part III

The real Rubicon of South African politics is that historical gulf between parliamentary and extra-institutional groups which is seldom crossed. Many reform initiatives have foundered or have been severely undermined by the resilient legacy of 'non-collaboration'—the black nationalist strategy of non-participation in political institutions created by the state or derived from existing forms of government. Similarly, co-operative projects involving the KwaZulu and Natal authorities over the last decade have co-opted other parties in the political centre, but predictably failed to attract the participation of left-wing opposition groups.

While Inkatha has utilised a homeland platform to promote the interests of KwaZulu, its declared strategy has been to obstruct 'independence' plans through active engagement with central government. Writing for *Indicator SA* on the politics of participation, secretary-general Oscar Dhlomo reiterates Inkatha's call for the reunification of KwaZulu/Natal and measures the Indaba proposals against the movement's founding manifesto. He points out that although the ANC and UDF exercised a democratic right in excluding their representatives from the Indaba, these groups have failed to negotiate or produce an alternative constitutional treatise.

A second contribution debate comes from Johan Steenkamp, a signatory to the Indaba minority report. Steenkamp also measures the proposals against a prior set of principles, but instead of endorsement as ratified by Inkatha and the KwaZulu Legislative Assembly, he rejects the Indaba model in terms of the National Party's insistence on group security and self-determination. The newly elected Nationalist MP sets out to demonstrate numerically how certain configurations of power within the proposed bicameral legislature and cabinet could lead to majority dominance and minority impotence.

On the other side of the ideological spectrum, veteran activist Mewa Ramgobin contrasts regional political solutions with the Congress movement's thrust for a non-racial unitary democracy. He interprets initiatives in KwaZulu/Natal as a manoeuvre to pre-empt the negotiation of opposition demands encapsulated in the Freedom Charter, and to further promote the ethnic balkanisation of South Africa. Ramgobin predicts that a series of trade-offs between government, business and Indaba leaders over second- and third-tier reforms will launch the regional services councils and the proposed provincial legislature.

The raging debate over whether to pursue regional or national solutions in an attempt to begin resolving the country's conflict is analogous to the proverbial chicken-and-egg debate. In this part of our special report *Indicator SA* presents a cross-section of party responses to the Indaba and attitudes on the regional/national linkage, from the right-wing anti-Indaba alliance to the exiled African National Congress. In showing the enormous breadth of South Africa's ideological spectrum, the overview locates the centrist consensus reached by the Indaba coalition in the context of an apparent irreconcilability of demands to the left and right.

THE 'INDABAS' & 'OUTSIDERS'

**By Dr Oscar Dhlomo,
Secretary-General of
Inkatha, KwaZulu's Chief
Negotiator at the Indaba and
Co-convenor**



When the KwaZulu/Natal Indaba was convened on 3 April 1986, we insisted that all black political and labour groups should be invited to participate. The convenors were concerned that the possible negative reaction of some of these groups towards the Indaba should not merely be assumed, and that they should be allowed to exercise their democratic right to exclude themselves from the Indaba if they chose to.

Some black groups availed themselves of the opportunity to know more about what was intended by the Indaba, even before it met. Yet others decided, in line with the predictable tenets of black political disunity, that where Inkatha and the KwaZulu government were involved they could not also be involved.

In some quarters the Indaba convenors were accused of being opportunistic in inviting the external mission of the ANC to attend. These critics argued that the movement was banned in South Africa and could therefore never participate in the

Indaba even it chose to. This accusation appeared to us to be as naive as it was contradictory.

Inkatha believes that the banning of the ANC should never be used as an excuse to exclude that movement from the major constitutional debates currently taking place in South Africa. Those who believe the opposite are playing into the hands of the very same government which banned the ANC in the first place. Moreover, the Indaba convenors had planned that the ANC could either appoint a spokesperson or consultant to represent its viewpoint, or it could be afforded an opportunity to present its evidence or memorandums to the Indaba outside South Africa. Our invitation to the ANC was never intended to be a political gimmick as claimed by some political detractors.

The views of other black organisations which refused to participate ranged from accusations that Inkatha was 'seeking political credibility' by inviting them (Azapo), to claims that Inkatha was 'seeking to divide the forces involved in the

liberation struggle' (UDF). We have yet to see either an alternative constitutional blueprint or a reasoned, rhetoric-free ideological treatise from these organisations countering the Indaba proposals.

Participation Politics

It is Inkatha's avowed strategy to destroy the homelands policy, not only by simply refusing to endorse independence for KwaZulu, but also by seeing to it that KwaZulu and Natal are reintegrated as one geopolitical region. The Indaba proposals meet this expectation. The government of KwaZulu as constituted in terms of the Black States Constitution Act of 1971 would disappear in terms of these proposals. A reintegrated KwaZulu/Natal would be a non-racial region of South Africa where there would be genuine power sharing among all the inhabitants.

The KwaZulu Legislative Assembly thoroughly debated the Indaba proposals during a session in the first half of 1987. It adopted a motion proposed by Winnington Sabelo, the member for Umlazi, calling for the acceptance 'in principle' of the proposals.

A special committee of 11 Inkatha leaders, representing all sections of the movement from the youth to women's brigades, compiled a report on the proposals. Inkatha then formally discussed the committee's report separately at its annual general conference on 4/5 July 1987 at Ulundi. Much discussion focused on the necessity for cultural background groups, since a second chamber of this nature is not in line with general Inkatha policy. Nevertheless, over 4 000 delegates and a further 6 000 members unanimously accepted a motion introduced by Inkosi Mangosuthu Buthelezi to endorse the proposals and place them before all Inkatha branches for further debate.

One consideration influencing Inkatha's thinking on the composition of a second chamber is the movement's Statement of Belief (1987). The equivalent of the Freedom Charter, Inkatha's own manifesto recognises the possible existence of cultural groups but goes on to declare that culture belongs to all people and that no impediments should be placed on any individual who wants to move from one cultural milieu to the other. The existence of the South African background group in the second chamber, with its obvious emphasis on freedom of association, would seem to meet this policy directive.

During the course of time the South African background group could become 'over-subscribed', when more people would place greater emphasis on ideological identity rather than on cultural identity. When this happens, the need for the second chamber would fall away and everybody would vote for members of the first chamber. The emphasis on cultural background groups appears to be more progressive and more flexible than the Freedom Charter's emphasis on 'national groups', which plays into the hands of

present government policy.

Criteria for Change

All Inkatha's policies are geared towards improving the quality of life of black people in South Africa. Inkatha is therefore making a close study of the economic policies proposed by the Indaba for the future KwaZulu/Natal region. We want to be assured that a new constitutional dispensation in KwaZulu/Natal will visibly and positively affect the lives of deprived communities. We look for a clear programme to eliminate poverty and deprivation among the people of the region. The Indaba proposals appear to provide a reasonable and effective plan to redress past disparities in the delivery of social services and the creation and distribution of wealth.

Inkatha's unwavering belief in the politics of negotiation and peaceful change necessitated that the movement should be involved in the Indaba. This strategy is based on the belief that the key to the peaceful resolution of our political problems does not lie with the National Party on the right or the revolutionary activists on the left. It lies somewhere between these two extreme positions.

On the one hand, the National Party wants to 'reform' while maintaining apartheid or what is euphemistically called 'group identity'. The central government's alleged willingness to negotiate is conditional upon such negotiations taking place within the parameters of apartheid, with the end product being the perpetuation of white supremacy. On the other hand, revolutionary activists want to overthrow apartheid by violent means, and then attend to negotiations about the transfer of power to the 'majority'. None of these two extreme positions is possible in South Africa without the precondition of a devastating race war — after which there would be no real victors.

To have a chance of winning widespread support in South Africa, a political solution will have to recognise the legitimate rights of the majority to exercise political power commensurate with their numerical strength. Simultaneously, it will have to reassure minority groups possibly for a specified period of time that the political power of the majority shall not be exercised at the expense of minority, religious and linguistic rights. The Indaba proposals, together with the Bill of Rights, attempt to realise both of these difficult objectives.

Positive Involvement

Inkatha is proud of the fact that, unlike other black organisations, it has not been satisfied with the role of simply opposing the status quo without proposing alternative political solutions. For the last six years Inkatha has maintained the political and ideological lead in this regard. In the early 1980s there was the Buthelezi Commission, then in 1986 there was the KwaZulu/Natal Indaba. Indeed, no other black organisation in South Africa is more



The Indaba executive organisers (from left to right): co-convenor Oscar Dhlomo, chairman Desmond Clarence and co-convenor, the late Frank Martin.

KwaZulu Natal Indaba

involved in the current constitutional debate than Inkatha.

In dealing with the proposals, it now becomes important to ensure that the Indaba's political and ideological momentum is not lost. Inkatha's role in the constitutional debate should continue to influence significantly white politics where real political power is concentrated. As a result of the Indaba two significant events have already taken place in white politics:

- Firstly, the Indaba shaped an alliance that has opened up the possibility of a broader, longer-term political realignment to the left of the National Party. The two opposition parties to the left of government, namely the Progressive Federal Party and the New Republic Party, were politically reconciled at the negotiating table in the Indaba. (The New Republic Party agreed to relax its concept of rigid and enforced group political participation in favour of freedom of association.)

Although the PFP/NRP election alliance was of a temporary nature, it demonstrated in practice the kind of alliance that will dedicate itself to the politics of negotiation and peaceful change — leading to the advent of a non-racial, democratic state of South

Africa.

- Secondly, the Indaba also precipitated a split from the left flank of the National Party. We have got used to warnings of a possible right-wing threat to the National Party, but there is now a far more dangerous and embarrassing threat from the left wing of that party. This threat is represented by the new breed of 'Independents', such as Dennis Worrall, Wynand Malan, and many other former National Party members who have chosen to risk their political careers in order to promote the ideals of the Indaba.

Inkatha regards these developments as a vindication of its strategy of total involvement in the South African constitutional debate. We do not take seriously false accusations from anti-Indaba academics and critics alleging that Inkatha has been manipulated by white capital in Natal, whose main perceived concern is to safeguard free enterprise by, inter alia, promoting Chief Buthelezi and Inkatha. Inkatha believes that the Indaba proposals represent a genuine attempt to address the complex constitutional issues facing us in this region.

IPA

MINORITY ROLE

by Dr Johan Steenkamp,
Federasie van Afrikaanse
Kultuurverenigings (FAK),
Indaba Minority Report signatory &
newly elected NP Member of Parliament

It is common knowledge that the status quo in South African politics does not represent a lasting solution to the political aspirations of all its variety of peoples. Three options appear to be open to South Africans — white domination with black co-optation, black domination with white co-optation, or power sharing within structures that recognise the right to proper self-determination of the various population groups.

The majority of 'non-blacks' (whites, coloureds and Indians) are well aware that the first option offers no lasting solution to the country's political problems. Similarly, a realisation has dawned in black communities that the second alternative is not a viable or peaceful proposition, either. This is evident from the Declaration of Intent by Chief Buthelezi, wherein he declares categorically that 'we need to share power in such a way that no one group can dictate to any other group how to express its own self-determination'.

These sentiments accord well with the dictates of the UN Charter, namely that, 'All people shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.' Furthermore, 'people shall have the unquestionable and inalienable right to self-determination'.

Self-Determination

Participation and input in the Indaba by Afrikaner business and cultural organisations took place on the principles of group self-determination and the vision of equal power sharing implied by the KwaZulu leadership.

The Afrikaner insistence on group rights resulted in accusations of racism. (Such is the belief in and the need for stereotypes.) Fortunately their bona fides in this regard were later accepted by most Indaba participants. This in itself is a breakthrough!

The Group Areas and Population Registration Acts also came under fire in the deliberations. These institutions were seen, and perhaps used, to maintain white vested interests while neglecting the

interests of other groups. It is, therefore, imperative that these acts should actively promote the interests of all. Already, other minority groups appear to realise that they too can benefit from legislative recognition of ethnic diversity in our society.

The Indaba contributed to a developing spirit of mutual understanding between Indians and coloureds on the one hand, and Afrikaners on the other. This has occurred in spite of political differences that may still exist. Also, one discovered an understanding of Afrikaner sentiments of self-determination among the Zulu community, who have similar perceptions of their status as a population group. Consequently, bilateral negotiations between top Zulu politicians and Afrikaners resulted at the Indaba.

The end product was a power-sharing model based on consensus between voluntary groups; without group domination. Although this model was later rejected by the Indaba in favour of a majoritarian winner-takes-all system, these bilateral negotiations illustrated that the option of sharing power, as equals, can be realised between intelligent and reasonable people.

The implicit assumption that the political parties present would not endeavour to exploit the Indaba for party-political, and even personal gain, proved naive. Furthermore, the fact that the chair, secretariat and the constitutional committee were completely dominated by individuals sympathetic to PFP policy, should be recognised as a major shortcoming. It resulted in mistrust and accusations of behind-the-scenes manipulation.

Critique

The Indaba concept, i.e. negotiations aimed at a mutually acceptable constitutional dispensation, presents no problem. From the first day all participants agreed that negotiations between all population groups are desirable. Therefore, to try to 'sell' the concept at this stage is like trying to sell an odour after the fruit has already been enjoyed!

It is the detail of the proposals and their

Johan Steenkamp (left) on the NP campaign trail, May 1987. As the FAK delegate, he did not endorse the Indaba model and claims its minority safeguards are inadequate.



implications that merit scrutiny. It was the particulars after all — not the concept — that took eight months to formulate.

- *The Bill of Rights*

Clause 7(1) of the Bill scraps the Group Areas Act and thus the concept of own residential areas for different communities in our multi-ethnic society. This presents a ham-handed approach to the very sensitive issues of group security and self-determination. However, the Indaba constitution recognises the existence of the land tenure system, and hence communal property ownership in KwaZulu. The Indaba dared not undo KwaZulu's version of group areas!

Clause 15(1/2) of the Bill implies that all government institutions in the region, including existing municipal authorities should be transformed into multiracial ones within one year. This would seriously jeopardise administration at third-tier level throughout the province. Hence the refusal of the Natal Municipal Association (NMA) to endorse the Bill of Rights — their subsequent withdrawal from the Indaba was quite understandable.

- *Educational Reform*

All educational institutions, including universities and technikons, are to fall under the envisaged

provincial government. Clause 8(4), read in conjunction with 15(1/2), implies that all educational institutions (including state subsidised, private schools) shall be fully integrated. If implemented, this will have an adverse affect on the self-determination of 'non-blacks' in the education of their children.

The proposal that full fiscal parity should be achieved in education within one year has disastrous implications. Fiscal parity can be achieved, according to the Indaba economics committee, only by averaging out financial resources. This would imply decreases of 75 percent, 66 percent and 50 percent in expenditure on white, Indian and coloured education, respectively.

To achieve manpower parity between all Natal schools, the Indaba educational committee concludes that, 'One of the major areas for further work is to move many hundreds of qualified teachers from those schools where they currently work to deprived areas.' Hence the committee envisages 'an orientation period in which the teacher can be confronted with the realities of schools different from those with which they are familiar'.

Exorbitant fees are a well-known screening device in private schools. This can easily be construed, perhaps not without justification, as economic discrimination against blacks in particular. These schools will also fall foul of Clause 1(2) of the Bill of Rights, which forbids economic and racial discrimination; they may forfeit their subsidies, as 'bastions of white privilege'.

The principle of educational parity for all is generally accepted and the government is adamant about implementing it in a responsible way.

However, one does not rectify what is wrong by wrecking what has already been achieved. In short, if they were ever implemented, the Indaba proposals would cause widespread educational disruption.

- *Deficiencies of Legislature*

The ethnic composition of the KwaZulu/Natal region is 80 percent black, ten percent Indian, eight percent white and two percent coloured people. This dominant ethnic factor will ensure that minorities in Natal will be subjected to domination under the Indaba's majoritarian methods. For instance:

- *The Prime Minister and his five cabinet ministers* already constitute a majority in the cabinet; the 11 member cabinet consists of five other members elected proportionally by the minority parties in both houses. In the case of a strong black opposition party with 49 percent black support, its voting power is twice that of all other ethnic minorities combined. Black political representatives can, therefore, dominate the appointment of the latter five ministers also.

The stipulation that each background group in the second chamber must have an associated member in the cabinet is hardly meaningful; a 'non-black' cabinet member who may have been appointed by the majority party (Inkatha) might not have the

support of his or her party/group.

The first chamber, with 100 seats elected on a one-man-one-vote basis, will be predominantly black.

The second chamber, where blacks have the voting power not only to fill their own group but the so-called 'South African group' as well, could well provide blacks with 20 out of 50 seats.

In view of the above, blacks are in a position to muster (without any alliance) ten out of the 15 members of any standing committee. In other words, legislation can be passed by black representatives alone in the first chamber and in the standing committees. Only in the second chamber will they have to rely on the support of five of the 30 individuals representing the Afrikaans, English and Indian groups.

• If money bills fail to pass a chamber or the relevant standing committee, they can be passed by a special committee chaired by the Prime Minister. This committee is composed proportionally from both houses on a 50/50 basis. It is possible that blacks could contribute 12 out of the 20 members on this committee, and thus control all financial legislation.

• Lastly, constitutional change can be effected by a two-thirds majority in both chambers. For instance, an alliance between blacks and Afrikaners in the second chamber could achieve this without the consent of the other groups involved. By contrast, the present South African constitution cannot be changed without the consent of all groups involved!

The Indaba constitution is indeed a very unpretentious effort to accommodate the quest for relevance of self-respecting minority groups in Natal. In fact it represents a drastic erosion of the existing self-determination of the white, Indian and coloured groups. The only way these 'non-black' groups can be of any relevance is under conditions of maximal dissension in black ranks — in which case they may hope to be sought after as partners.

The Indaba proposals represent an unequal division of power, with minorities being given the booby prize of representation in a second chamber. The aim of the division of the legislature into two chambers was aptly (albeit unintentionally) summarised by Chief Buthelezi, 'The only reason to avoid power sharing and to talk about dividing power is because you want to give one party more power and another party less power.'

Economic Considerations

The prevalent economic constraints of the region played no role in the adoption of the Indaba constitutional proposals. The economics committee submitted its findings only after approval of the constitution.

A Senbank/University of Pretoria report (October 1986), compiled for the Durban Metropolitan Chamber of Commerce, sounded a warning that expectations which cannot be met practically are being created in an irresponsible

manner. The socio-economic implications of the Indaba proposals are far-reaching. On the one hand, they will result in a drain of trained manpower and managerial expertise and, on the other hand, an influx of unqualified manpower attracted by the promised Nirvana will take place. The resulting imbalance will subject the existing socio-economic order to unbearable tensions, with the real danger of the total collapse of the freemarket regional economy.

Conclusion

The Indaba exercise served to impress upon all participants the complexities of the political challenges facing South Africa. It produced a grinding recognition of the enormity of the problems which a responsible government must address. The importance of group rights cropped up soon during the deliberations and remained the most important factor to the very end. The following incidents illustrate this dilemma:

- Following an FAK proposal that the second chamber should be scrapped as it does little to address the need for group self-determination, the PFP-dominated constitutional committee warned that such a step would wreck the Indaba. It is indeed ironic that those who do not really believe in group rights were instrumental in the symbolic retention of these inadequate measures.
- In the final reports the (Indian) Solidarity Party expressed strong reservations on the composition of the second chamber. They felt that Indians were underrepresented.
- The (coloured) People's Congress Party walked out of the Indaba to protest the fact that coloured people are accorded no special representation in the second chamber. They submitted their own minority report later.

It ultimately became clear that negotiations regarding future political dispensations have to be conducted between reasoned, influential politicians. They should not actively involve novices like cultural or religious organisations, or political has-beens. In the latter case, the end product is bound to be of passing relevance.

Perhaps it was this shortcoming that prompted the periodical, *Die Suid-Afrikaan*, to observe that, 'The Indaba was an alliance between a few capitalistically orientated elite interest groups — Buthelezi, the sugar interests, the NRP and PFP, abetted by academics from the Transvaal ... It sat in isolation and enjoyed little public credibility. Ultimately the Indaba simply doesn't have sufficient legitimacy.'

In the final analysis the Indaba proposals are a manifestation of the second option spelled out at the outset — black domination, with white co-optation. **TDJA**

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MAKING ENDS MEET ...

A Spectrum of Indaba Responses

IPSA Research

CRITICS TO THE LEFT

United Democratic Front (UDF)

● 'The pursuit of local/regional options for second-tier government as proposed by the Indaba is directly in line with the Afrikaner Weerstandsbeweging's demand for a "Boerestaat". Furthermore, the Indaba proposals are a negation of the (UDF's) broad principles of non-racialism, democracy and a unitary state.'
Press statement, City Press 7/12/86.

● 'South Africa is indivisible ... measures to work out a separate solution for KwaZulu and Natal will serve to undermine the unity of our people. Meaningful change can only come about when apartheid is dismantled, political prisoners released, exiled leaders return, and the ANC and other organisations are unbanned.'
UDF response to the Indaba convenors' invitation, cited in The Sunday Tribune 30/3/86.

UDF Affiliates

● 'The Indaba proposals emerged amid a new wave of economic and political crisis in this country. The forces behind the Indaba, like the Natal Chamber of Commerce, the Natal Chamber of Industries, the Natal Provincial Administration and the sugar barons, have never supported the struggles of the people. They are clearly not interested in meeting the demands of the people.'

George Sewpershad, president of the Natal Indian Congress, writing in 'Indaba', Leadership special issue, April 1987.

● 'The Indaba is a reformist measure to give credit to unpopular people like Chief Buthelezi.'
Billy Ramokgopa, president of the SA National Students Congress (Sansco — formerly the Azanian Students Organisation), The Star 9/12/86.

● 'The Indaba is elitist and undemocratic.'
National Union of South African Students (Nusas), The Daily News 2/12/86.

Congress of SA Trade Unions (Cosatu)

'The advantage of the Indaba for capital is that it has been negotiated with Inkatha's support. Inkatha is presented as a legitimate black organisation. There is some truth in this. However, it does not represent all blacks in Natal and certainly does not do so nationally. More dangerous, however, is the role of the media who do their best to improve the credibility of Inkatha. In doing so they are hiding the truth. The truth is that Inkatha has the same problems as any bantustan government ... there is considerable opposition to such governments and violence is being used to repress such opposition. However, the ruling class reasons that if the proposals can be pushed through in Natal, it offers to capital and the state a possible solution nationally.'
'Political Economy — South Africa in Crisis,' COSATU publication, July 1987.

African National Congress (ANC)

The ANC has rejected the Indaba proposals as being identical to government structures such as the regional service councils and the new provincial council system (Tambo January 1987). The movement believes that all of these political initiatives are sham reforms designed to facilitate the perpetuation of the apartheid state, in the context of a deepening national crisis.

Writing after the Dakar meeting with Afrikaner intellectuals, politicians and clergy in July 1987, Palko Jordan, head of the ANC research department, reiterated the 'steadfast stand of the ANC against the illusion of power in the bantustan structures, and its opposition to the ethnic chauvinism of Buthelezi'.

(The Weekly Mail 17-23/7/87).

CRITICS TO THE RIGHT

The National Party

● '... The government has not rejected the Indaba as such. In fact the Indaba is the right sort of process which should be taking place in South Africa. We have problems with some of the outcomes of this particular exercise but even there the final word has not been spoken. The government has not formally got all the proposals on the table and there is still a process up ahead.'

Dr Stoffel van der Merwe, Deputy Minister of Constitutional Development and Planning, speaking in Durban, July 1987.

● 'Any new constitution should be democratic, enabling everyone to participate in the process of government, and structures that were agreed to should make provision for equal power sharing without any one group dominating another. The National Party of Natal is convinced that the model which the Indaba has now agreed to by majority vote does not comply with these principles, and that it (the NP) therefore cannot identify with this model. Although it was attempted in this model to accommodate the so-called minority rights, the result clearly amounts to a one-man, one-vote majority system in which mechanisms are created for the protection of only the cultural interests of groups.'

Stoffel Botha, Minister of Home Affairs and NP leader in Natal, Eastern Province Herald 1/12/86.

● 'The proposals do not make provision for effective power sharing and do not offer sufficient guarantees to groups against domination ... I want to put it unequivocally that, apart from the merits of the contents, the Indaba process represents an important exercise in the development of consensus.'

Chris Heunis, Minister of Constitutional Development and Planning, Eastern Province

PARTICIPANTS

Herald 4/12/87.

The National Party categorically rejects efforts by the PFP/NRP alliance, or rather its desire, to categorise the electorate into 'pro' and 'anti' Indaba groups, based simply on whether one unconditionally supports the future of Natal/KwaZulu. We firmly believe that negotiations must continue. Keep the Indaba out of the land of political opportunists.'

NP election pamphlet, 'It's your Indaba', April 1987.

The Indaba proposals were also an exercise to bring into effect a joint executive body for Natal. I want to say immediately that in principle I am not opposed to a legislative body at provincial level.'

Chris Heunis in a speech to parliament, *The Daily News* 14/9/87.

The Anti-Indaba Alliance

The Campaign for White Natal wishes to inform you that:

- (1) Your so-called Indaba is not recognised by us.
- (2) You have no right to negotiate or discuss our future.
- (3) The independence of the whites in their own territory is not negotiable.
- (4) The whites have an inalienable historical, judicial and moral right to be and live in Natal.
- (5) We are prepared to bring the ultimate sacrifice to secure our existence and to bequeath the land that we live on to our future generations ...'

Extract from a note of protest handed to the Indaba by Aksie Blank Natal, South Africa First Campaign, Civic Action League (CAL) and Patriotic Forum, cited in *The Natal Mercury* 16/5/86.

Indaba Chairman

'The success of the Joint Executive Authority may well depend on progress being made towards the implementation of the Indaba proposals ... both the NPA and the KwaZulu government are represented with equal status and will jointly administer certain services across the entire region. The proposed JEA and Indaba proposals are on a continuum, one progressing from the other ... I believe the Indaba proposals — or something very like them — will eventually form the basis of government in KwaZulu/Natal and I hope similar regional agreements elsewhere will help defuse the overall potential for conflict.'

Professor Desmond Clarence, *The Daily News* 11/8/87.

Indaba Co-convenor

'Obviously Mr (Stoffel) Botha did not read the document (Indaba Proposals). I think Mr Botha is naive in his thinking that there are going to be many other Indabas ... if the NP continues to adopt such an attitude it is quite possible that this is the last Indaba not only for Natal but for the whole country.'

Dr Oscar Dhlomo, KwaZulu Minister of Education and Culture, *Eastern Province Herald* 2/12/86.

Indaba Support Group

'It is no good for Mr (Stoffel) Botha to complain that they (the proposals) do not accord with government policy. Even if he had been a full participant rather than an observer, it would be very strange if they did. The process of negotiation is, after all, one of give and take — and there has been plenty of that from all sides in the KwaZulu/Natal Indaba.'

Dirk Kemp, Chairman of the Indaba Support Group, *The Daily News* 2/12/86.

Progressive Federal Party

'It is no good commending the Indaba exercise and then criticising the proposals because they do not comply with the Nationalist apartheid policy of rigid race groupings. Apartheid is the problem in South Africa, not the solution ... the Nationalists have shown they cannot be trusted with the Indaba, as they have shown with their entirely destructive tactics in the election campaign.'

Ray Swart, PFP leader in Natal, *The Daily News* 23/4/87.

US REACTIONS

● 'Controversial in South Africa, as any imaginative compromise might be ... the Indaba has shown that South Africans are capable of difficult mutual accommodation to advance the cause of racial justice and representative government, when they are challenged to do so.'

George P. Schultz, US Secretary of State, *The Washington Post* 1/1/87.

● 'A rather interesting proposal ... which establishes a precedent of one man, one vote, while providing other assurances that the rights of minorities would be respected.'

Michael Armacost, US Department, *The Washington Post* 1/1/87.

ON GEOPOLITICAL MANOEUVRES

By Mewa Ramgobin,
Executive Member of the Natal Indian Congress

Since the late 1970s several commissions have been set up by the government to look into possible solutions to the multifaceted problems faced by the South African State. The Wiehahn and Riekert Commissions looked into labour matters, De Lange into education, Schlebusch into constitutional matters, and Rabie into justice, etc. All were in response to the severe crises the State and its allies have encountered over the last 15 years, and the commissions' findings are well known by now.

In the same period the South African Sugar Association, independently of the State, commissioned economist Dr Jan Lombard to look into a possible Natal 'solution' — to save land and profits for themselves. Then, in 1980, after strain between the ANC and Inkatha surfaced, the Buthelezi Commission came into being. This was represented as a black initiative for the region, but the State refused to consider the 'blueprint' at the time.

By 1983 the UDF had emerged as a people's front against the tricameral system and the 'Koornhof Bills'. Simultaneously, a confrontationist posture developed between Inkatha and the UDF; since 1979 the ANC has been under constant attack by Inkatha. Inkatha made overtures to the UDF for a working relationship, but the UDF leadership refused. Popular resistance surfaced under the UDF's banner, and the non-racial mobilisation of people for a united South Africa was unprecedented. The State squirmed in discomfort, and so did Inkatha, which works within the system.

While the UDF demonstrated that resistance, change and development occur in union with the people and not simply for the people, the leadership

of Inkatha, commerce, industry and the NRP-led Natal Provincial Administration (NPA) behaved otherwise. KwaZulu was thrust down the throats of the majority of Natalians in the same way other bantustans had been imposed on South Africa's political landscape. The majority of South Africans were not first consulted, nor have they been won to 'the cause' of territorial separation on ethnic or regional lines.

The Backdrop

Inkatha was founded after the establishment of KwaZulu which is part of the system of apartheid and division; whereas the UDF was founded to oppose and resist this system with the slogan 'apartheid divides, the UDF unites'. Inkatha is the mass base for KwaZulu; whereas the UDF is the point of national unity for all the mass-based organisations that subscribe to the ideals of the Freedom Charter — one country, one people, one nation. In short, the UDF has come to represent the confluence of ideals espoused by the Congress movement, and reasserted its national hegemony in opposition politics.

Against the preceding backdrop the KwaZulu/Natal Indaba was born. The beginnings and process of deliberations have been characterised by:

- no consultation whatsoever with the people of South Africa as to whether there should, or can, be a regional solution to the national problem of apartheid;
- no consultation as to whether the people of Natal desired the Indaba or not;
- definite consultation and collusion between commerce and industry in Natal on the one hand, and the KwaZulu government on the other;

definite connivance by the owners of monopoly capital to promote Chief Buthelezi and entrench him in an impregnable position, thus preventing the distribution of resources on the basis of the Freedom Charter;

an orchestrated plan to destabilise popular resistance and unity in the region, which must, in turn, lead to the destabilisation of national unity and resistance;

the impending threat of the release of Nelson Mandela and other political prisoners to lead the oppressed peoples of the land into a common front — the Indaba 'alliance' could enable the government to force a statemanship-like deal by the Mandela/Tambo leadership with Buthelezi.

Inkatha is of obvious strategic importance for the State and capital. It has been the best thrust against sanctions and disinvestment, against a united trade union movement (cf Uwusa vs Cosatu), and against student rebellion in the region; and, lastly, the best thrust against the UDF and the ANC.

It is strange that the government has not latched gleefully onto the Indaba exercise. With this kind of political base, the Indaba could serve its purpose of destabilising the entire country while entrenching ideological differences among black people. But perhaps the government has a tactical problem — it cannot be 'seen' to be readily agreeable to the proposals. In the known ways of politics, it has to delay, play hard to get, provide Inkatha with the space to pressurise, demonstrate its muscle and above all, protect the initiative. Then, at the end of the day, the government will give in, agree to the proposals and say to the world that

pressure from this 'black initiative' was overwhelming; in keeping with government reform policies, these demands had to be acceded to.

In essence the State will be acceding to nothing new. The Indaba will have succeeded in creating just another administrative unit — complete with Group Areas, Population Registration, the SADF presence in the townships and emergency regulations. Unlike the other administrative units, this bantustan will comprise whites, Zulus, Indians, and a handful of coloured people.

The Proposals

The strength of the Indaba Bill of Rights (see document: pp28/29) will be dependent on the powers given to the Province. This in itself is contradictory — there can be no regional Bill of Rights which is in conflict with the very laws of central government that enable such a provincially based 'constitution'.

The colonial system provides an appropriate analogy. Because colonies, in essence, were bureaucratic administrative units for economic exploitation, they could not pass any law that was repugnant to an existing law in the mother country. Furthermore, although the second item of the Indaba Bill of Rights provides for 'freedom of opinion and expression', Inkatha has already, through the KwaZulu government, made it compulsory for 'civil servants' to sign a pledge of non-critical allegiance to the KwaZulu administration.

Should there be human rights for all South Africans, protected by law, or should there be



Mewa Ramgobin intervenes in the violent clash between Indian and African residents that razed the historic Gandhi settlement during the Durban riots, August 1985.

minority rights? While the former forges and facilitates the growth of a common nation, the latter must tend to emphasise group differences; in the case of Natal along racial and language lines. What does it mean when the hegemonic position of Inkatha supporters (in terms of numbers) are entrenched in the first chamber?

The proposed three tiers of government enshrine the status quo in several ways:

- Ethnicity is entrenched because representation in the second chamber will be based on race classification. The Indaba goes one step further than this and divides the white community into English and Afrikaans 'background groups' (see diagram: p22).
- The Population Registration Act, one of the strongest pillars of apartheid, is reinforced — 'a voter in a second chamber election must belong to the group whose candidate he intends voting for'.
- Tribal and traditional authorities, whose major power base is their control of land usage, are entrenched. Successive South African governments have sought to retribalise black people to divide and weaken the united forces of opposition, e.g. through the bantustans.

The scholar Cordell Hull (International Conciliation, No 382: pp390/391) warned in 1942 that 'one of the greatest of all obstacles which have in the past impeded human progress and afforded breeding ground for dictators has been extreme nationalism'. The Indaba proposals facilitate the growth and development of an aggressive ethnic nationalism. In the words of Chief Buthelezi, 'Those who try to disrupt us must be served with notice today that when the spirit of the Zulu people is spat upon, when our right to exist is denied ... we will return with a total Zulu anger and repulse those who do these things to us.'

The Indaba proposals provide an opportunity for Inkatha to further coalesce into a 'movement' strong enough to control the course of political events in the region, while expanding its geographic area and administrative machinery. KwaZulu/Natal lacks cultural homogeneity, however; an active consciousness of nationality is not possible, simply

because it has no objective criterion. The region possesses no exclusive, identifiable culture. Although people separated by ethnic division do and can develop an inclusive nationalism, KwaZulu/Natal does not come anywhere near this model.

In contrast, the continued pursuit of *national* statehood is an absolute necessity in South Africa. At the Congress of the People three decades ago the majority of South Africans demonstrated, democratically, their consciousness of a non-ethnic nationality.

The Alternative

Any government, no matter how presumptuous, cannot cease to be an organ of the community; it has to be the political agency of the people. Does the Indaba fulfil these needs, even on a regional basis? The answer is no! Yet the media and vested interests in Natal insistently support this initiative.

What South Africa should be looking for instead are the means to effect the birth and growth of national democracy. The Indaba proposals do appear to be sometimes underlined with democratic sentiments, but the constitutional instruments lead to the assertion of Inkatha's hegemony. The only realistic alternative is to restore the intelligible logic of democratic government by adopting the Freedom Charter as the *modus operandi* of the South African polity.

South Africa, with or without bantustans, is a single economic unit. No political fragmentation can destroy this reality. Moreover, no political, administrative or functional arrangement can exist in isolation from the economic whole. For instance, both Natal and KwaZulu are almost wholly dependent on State (central) revenue. In the Indaba proposals it is tacitly accepted that KwaZulu/Natal will continue to be the spending authority, while central government will continue to be the taxing authority.

An illustration of these unequal relationships is necessary for those who are either ambivalent or susceptible to orchestrated propaganda. In the 1985/86 fiscal year Natal generated an amount of R132,5m (taxation and receipts) and received an



The Pietermaritzburg treason trial of UDF leaders ended after the last charges were withdrawn against Saawa, officials Kikine, Gqweta and Ncgoba in June 1986.

amount of R795,1m from the central government (subsidy and capital grants). In the same period KwaZulu had a total expenditure of R845m, and received the amount of R571,2m from the central government.

KwaZulu's enthusiasm for creating a single administrative unit is thus understandable. Chief Buthelezi knows that while the territory he administers 'holds' 60 percent of the total population in the region, it produces only five percent of Natal's gross product; migrant labour to industrial Natal produce more than 70 percent of KwaZulu's income.

In other words, the Indaba merely seeks to place blacks in executive authority, which only white politicians and administrators have hitherto enjoyed over the whole region. The above economic reality — in essence the dependence on central funding — undermines the grandiose perception of KwaZulu/Natal seceding as a geopolitical whole. Since it cannot secede, it must remain as an administrative unit, which fundamentally will be no different from a bantustan (albeit non-racial).

The Rationale

Why, at the present historical juncture, are the Indaba proposals being thrust on South Africans?

The Indaba was spearheaded by a dying NPA and an economically non-viable KwaZulu authority, in cahoots with commerce, industry and agriculture. The combined KwaZulu/Natal presence seeks to militate against the reassertion of the ANC which seeks, inter alia, to achieve:

- one country for all South Africans;
- one government for all South Africans;
- one economic system for all South Africans;
- one Bill of Rights, as distinct from a Bill of 'Group' Rights.

In contemporary South Africa the ANC has once again become a household idea that threatens the continued existence of the very foundations of racist South Africa. It has sharpened its thrust through the intensification of a guerilla war (whether one approves of the resort to violence or not), and consolidated the isolation of the South African regime by encouraging disinvestment, sanctions and boycotts. In short, the ANC has not only caught the imagination of the vast majority of black people, but also the attention of the State itself, big business, white and black theologians, white students, white academics, artists and politicians, from Lusaka to Dakar.

The Indaba's major backers acknowledge that apartheid is a national problem, yet they have sought what they call a regional 'solution'. The UDF rejected the tricameral parliament; it would have done so even if there were a fourth chamber for non-bantustan Africans. The offerings of the Indaba are even less generous than those of the tricameral parliament. Consequently it does not seem worthwhile even to ask the people of KwaZulu/Natal to engage in a referendum 'to decide' the future of the region (according to these

proposals).

How can the true feelings and choices of the people be articulated when the state of emergency represses legitimate mobilisation and opposition, and with the security force and vigilante presence in the townships? In the present climate in the region the UDF simply will not be allowed to organise opposition to Inkatha in KwaZulu. Furthermore, Indian South Africans in Natal are still not allowed free expression and organisation, with Buthelezi constantly reminding them of the 1949 Natal riots.

Conclusion

Most of the world maintains that there can be no resolution to South Africa's problems without the direct participation of the ANC in the processes of resolution. Maximum participation of all South Africans in representative negotiations will require:

- unbanning the ANC, and guaranteeing its leaders and supporters the unfettered opportunity to demonstrate their will;
- releasing all imprisoned leaders and detainees, to enable them to exercise their influence on the future of South Africa;
- creating a political climate which will facilitate the democratic process.

In short, the political establishment must first create an environment of free choice before it questions the refusal of the progressive movement to participate in what is a fait accompli, whether this concerns the tricameral, Indaba or regional service council (RSC) initiatives.

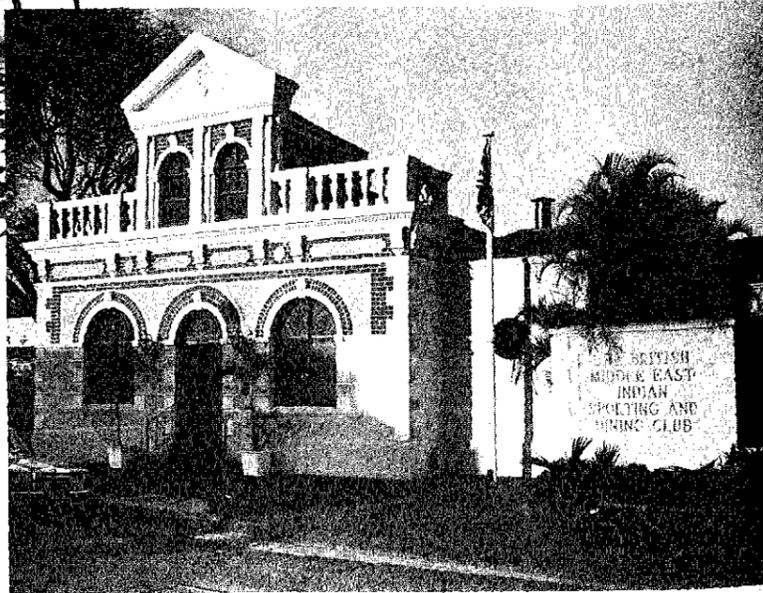
The broad, mass-based democratic movement recognises that:

- Before long there will be some adjustments to the RSCs to accommodate both big business and Inkatha.
- RSCs are part and parcel of the overwhelming manipulation by the government to shift the onus from itself to the local level, thereby forcing local communities to engage local authorities in their demands and pursuits for a better life.
- No matter what the apparent extent of resistance to the RSCs by Inkatha, NPA and big business — if the principle of the Indaba is accepted by the government, the former interest groups will accept the RSCs in a trade-off;
- The Joint Executive Authority (JEA) for this region already facilitates the Indaba proposals, and is seen to do so by both the Indaba organisers and government.

The KwaZulu/Natal exercise (Indaba, JEA cum RSCs) will become a major destabilising factor in the national thrust for a non-racial, democratic South Africa. The management of reform through manipulation of regional geopolitics is best understood by one commentator's interpretation of the Indaba as the 'seat of counter-revolution'. To conclude, at this historical juncture the statemanship of the mass-based movement will have to engage in strategic opposition to pursue the national democratic alternative. *UJALA*



Natal's colonial past. The province's loyalty to the British crown and its call for a federal constitution at the time of union has left a distinct cultural and political legacy. In clockwise order: a shoeshine attendant proudly displays the Edwardian crest on his customers' chair; Natalian memorabilia on sale in Durban's new Warwick complex; the Victorian facade of a century-old Durban restaurant — inside, the head waiter reclines before opening time.



Praxis

Over the last decade widespread black demands for a redress of socio-economic inequalities and for non-racial institutions have mobilised around educational issues especially. The national distribution of resources and the provision of social services, whether in the areas of education, housing, health or welfare, differ markedly between black and white in South Africa. These disparities are replicated in the KwaZulu/Natal region where a pecking order of opportunity and provision is found vis-a-vis the white, Indian and African communities respectively. Would a local option beyond the parameters of apartheid achieve a more equitable distribution of public finance?

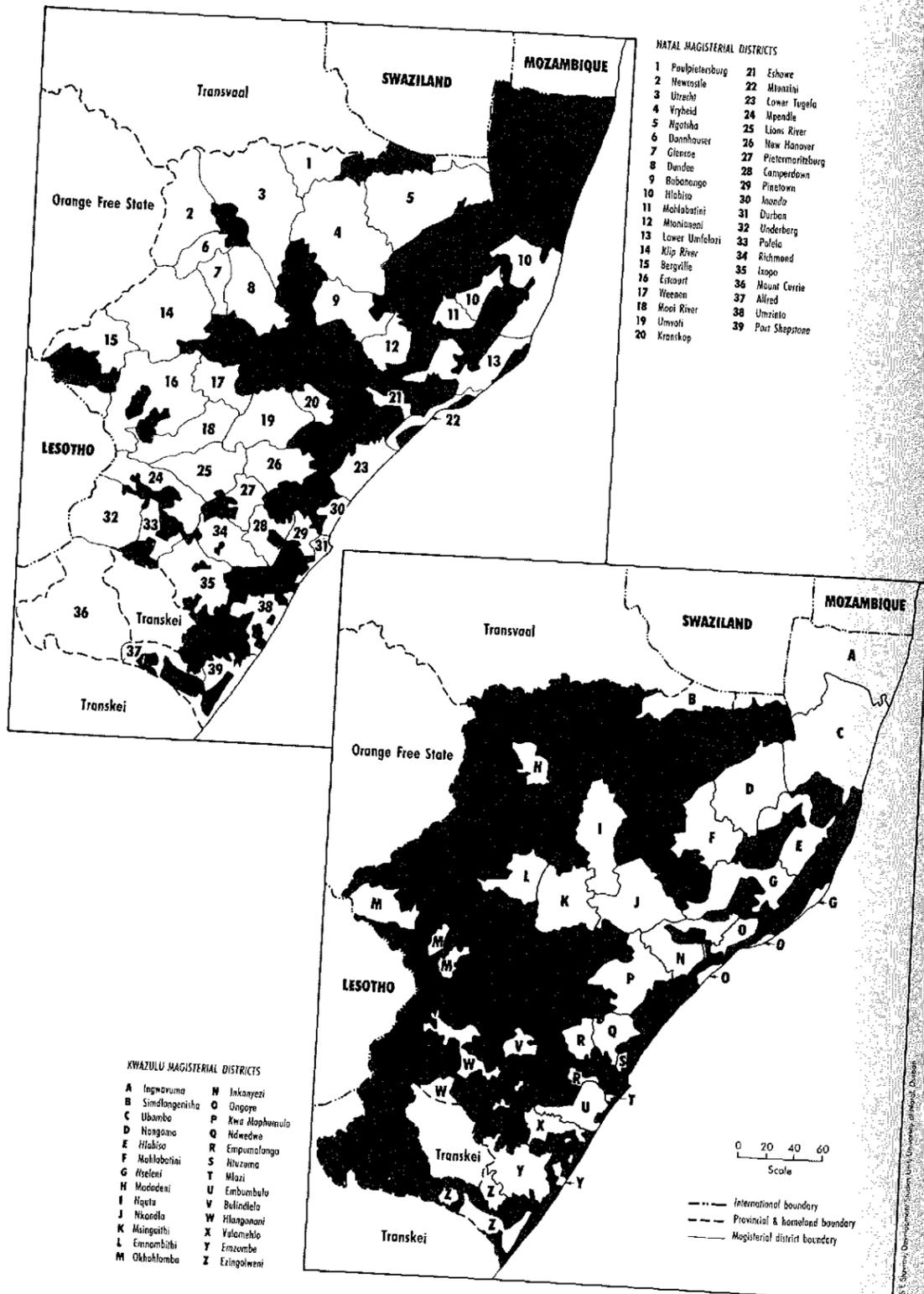
The fourth part of this Indicator SA Issue Focus evaluates the fiscal and practical implications of various proposals for achieving parity in educational expenditure within an integrated regional framework. The logic of the economic interdependence of KwaZulu and Natal has nurtured a conviction among many political and business interest groups that the two areas should be politically reunified. Artificially separated by apartheid policy and practice, the wasteful duplication of administration and services has retarded the region's economic development. Accordingly, data presented in the following pages projects the costs and benefits of equalising education and health provision in KwaZulu/Natal by either 1995 or the year 2000.

Firstly, leading educationist Ken Hartshorne stresses that the country's education crisis requires a national solution, but concedes that the Indaba proposals are an important stepping stone towards a post-apartheid society. The Indaba's education report recommends the creation of a single education department for the region, among other egalitarian measures. However, Hartshorne warns that other Indaba principles will reinforce the same cultural, linguistic and racial divisions in education that have generated mass protest from black communities. Furthermore, the transformation of education in South Africa is likely to be a negotiated process rather than follow a predetermined programme.

Secondly, economics professor George Trotter discusses the highly complex relationship between improved education provision, economic growth and income redistribution. Attempts to equalise educational expenditure must be in tandem with specific developmental needs and fiscal limitations. Although the current government budget aims at a substantial redistribution from white to black education, the attainment of educational parity is a more complex task requiring substantially increased expenditure and new sources of revenue. Nevertheless, Trotter concludes that a single education department for the region will rationalise services, increase efficiency and produce considerable savings.

Lastly, political scientist Robert Cameron examines the Cape Town City Council's investigation of a local option for the Western Cape, inspired by initiatives in KwaZulu/Natal. Building on the legacy of the Cape liberal tradition, alternative arrangements to segregated 'own affairs', centralised administration and the new regional services councils have been sought, but the council has come up against major obstacles. Launching negotiations with extra-parliamentary organisations who oppose regional interventions in the pursuit of a national solution, has proven extremely difficult, especially under a national state of emergency.

THE INTERDEPENDENCE JIGSAW: Natal & KwaZulu Magisterial Districts



NATAL'S BLACKBOARD JUNGLE

By Dr Ken Hartshorne,
leading educationist &
former member of the De
Lange Commission

To be fair and objective in commentary on the report produced by the Indaba education committee one has to see it for what it is. The report is not a blueprint for solving the national education crisis, but one part of a process of political negotiation carried out within the confines of the Indaba exercise as a whole. It is not free-standing or an ideal statement on educational philosophy, policy and action; it has rather set out, in the spirit of the Indaba, to reach some form of political accommodation in the field of education.

In broad terms the committee responsible for the report represents the same major interests that are the strengths behind the Indaba, namely KwaZulu, the white provincial power base and the private sector. To the extent, therefore, that other major interests — trade unions and the populist education movement represented by the National Education Crisis Committee (NECC) — were not involved as part of the 'educational accommodation' reached at the Indaba, there must be questions pertaining to its level of acceptance.

Can this attempt be seen as part of the process towards a post-apartheid education that will be democratic, non-racial, anti-racist, equitable, unitary and serve a common purpose for all South Africans; or will it prove to have been a stumbling block — a hindrance in this process?

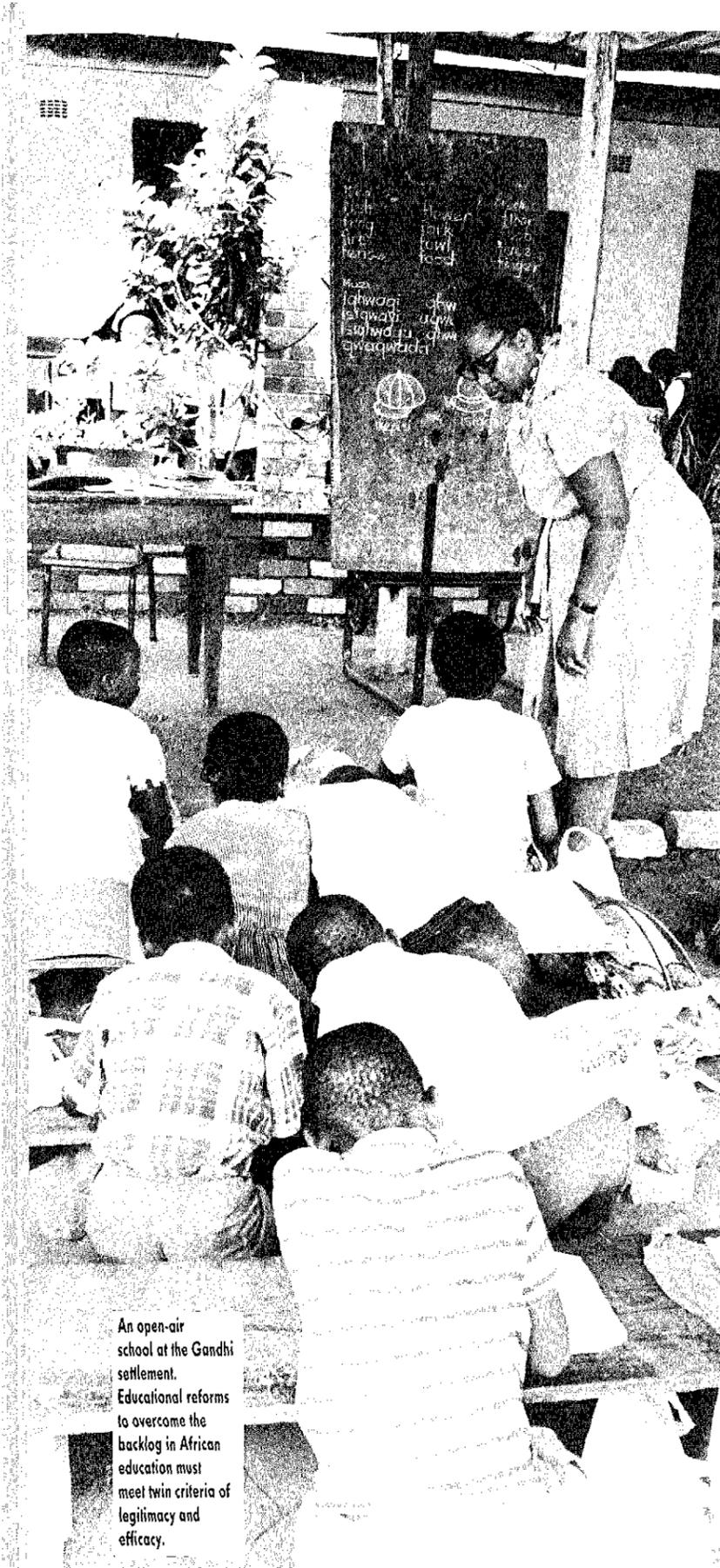
This is not to query either the integrity of those responsible for the education report, nor their understanding of the risky venture they have engaged in. Their awareness of these issues is very clear and their claims modest. In the words of their chairman, Tony Ardington, '(it) is a first attempt at planning moves towards the creation of a common system of education under a single department' (1987: p66).

The basic issues the education committee was wrestling with are those common to the general education debate in South Africa at present:

- What is changed now must be consistent with some view of the future, but views differ widely on the nature of change. The future has to be negotiated and post-apartheid education therefore becomes a process rather than a predetermined programme. Successful negotiation moves forward at the highest level of the most widely supported agreement and is very different from a 'consensus' determined by the lowest common denominator of an entrenched minority.
- Change must be brought about rapidly enough to meet the demands and aspirations of those whose educational opportunities have been artificially and systematically restricted. At the same time, those who have been favoured in the past must be persuaded to surrender privilege and share opportunity.
- How is this to be achieved with resources that are limited because of the very nature of the divided society we live in, the costs of 'security' and the effects on the economy of the politics that have been followed?

The terms of reference of the Indaba education committee were to consider the relationship between the proposed constitution and education in the province. Their brief made particular reference to the general philosophy and objectives of education, the management of public education and the question of private schools (1986: p1).

The committee was clearly influenced by the earlier work of the De Lange investigation into education in 1981, particularly its 11 principles for the provision of education, taken up in the government White Paper of 1983 and the



An open-air school at the Gandhi settlement. Educational reforms to overcome the backlog in African education must meet twin criteria of legitimacy and efficacy.

Praxis

education legislation of 1984. However, there are interesting differences of emphasis. Whereas the first De Lange principle is concerned with 'equal opportunities for education, including equal standards in education for every inhabitant, irrespective of race, colour, creed or sex' (1981, p14); the first Indaba principle has to do with 'the provision of openended, non-racial, public education in a common system which respects and protects the language and cultural rights of all its inhabitants ...' (op cit: p6).

This concern with 'diversity' in the province, as distinct from the De Lange historical corrective of giving 'positive recognition to what is common', is a strong theme which runs through the Indaba principles — the 'preservation of cultural identity', rights of parents to 'religious, cultural and philosophical convictions', and 'rights of the cultural groups and each school community'. The education committee followed the lead of Clause 8(1) of the Indaba Bill of Rights (see document: pp28/29), namely that 'a person belonging to an ethnic, religious or linguistic group shall not be denied the right to enjoy his own culture, to profess and practise his own religion or to use his own language'.

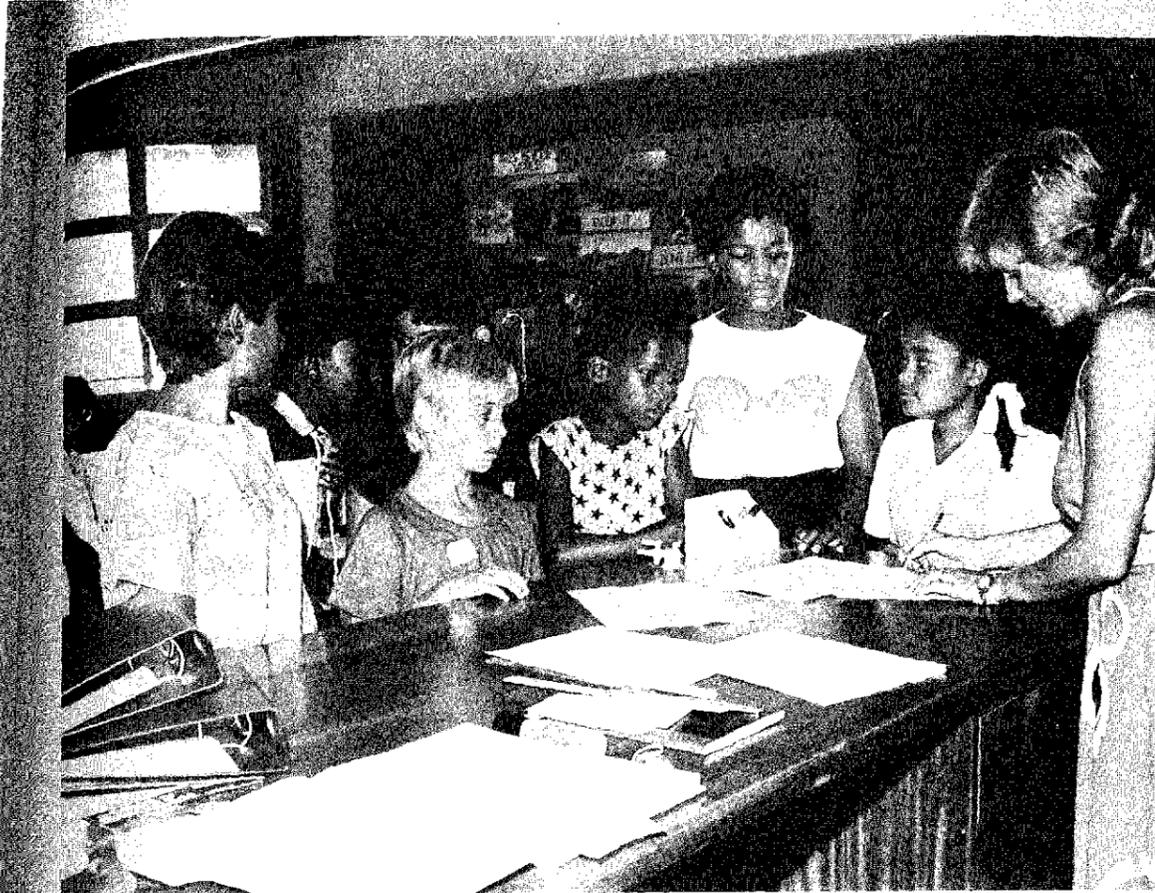
In its concern with the diversity of cultures and the preservation of 'cultural rights', the report clearly responds to one set of realities in the province. The committee's caution in not arousing strong emotional reactions around the issue of educational change is understandable. But it must not be forgotten that there is a major section of the South African community in which these strong reactions are already present — their protest and resistance against the inequalities and injustices of the present education system provide another set of realities.

There are clear indications that the members of the Indaba education committee were aware of the dangers of the 'protection of group interests', yet the general philosophy on which the report is based shows a strong leaning towards this concept. In the end we have to ask — are we South Africans first, i.e. human beings with most things in common; or is it more important that we are Zulu, or speak Afrikaans, or follow the Hindu religion? The education report throughout suggests an undue emphasis on the latter approach.

Single Department

The report's second major concern is with a design for the management of public education in the province. Its basic premise is the provision of a common service to all learners through a single provincial department of education. It recommends a provincial education council, broadly representative of the school committees, teachers' organisations, the 'users' of education (private sector, government), religious and cultural interests.

The council would have advisory and watchdog



Pupils at Uihongathi, a private multiracial school established recently in Natal as part of a national initiative by the New Era Schools Trust.

functions, would be consulted on all education legislation and, most importantly, would have the right to initiate its own investigations into educational issues. Because of the size of the proposed department (with 1,75 million pupils it would be the largest in South Africa), provision is made for decentralisation into regions and district offices, with regional co-ordinating committees providing an essential communication link between school committees and the provincial education council.

It is in the importance attached to the school committee that the central feature of the management proposals rests. Control over 'the ethos of the school' and the appointment of staff is vested in the committee, while provision is made for considerable input into its curriculum, including the choice of the medium of instruction in the school. The report intended to give practical expression to the Indaba principle that, 'the province shall respect the rights of parents to ensure education for their children in conformity with their religious, cultural and philosophical convictions'. It is stated further that while 'state schools provided and funded from state sources will be open, non-racial schools mainly serving their geographical community', there will be scope within the state system 'for schools which serve the interests of particular cultural and language groups' (1987: pp8/12).

Clearly, as in the De Lange proposals, this is an

attempt to give parents a greater say in their children's education while resolving conflicting interests by moving decision making down to the local level. However, local interests, which may well be concerned with the entrenchment of privilege or exclusivity, have to be balanced against the broader public interest of the province as a whole. When one of the main objectives is to achieve 'equal provision' of and 'equal access' to education in a situation of grave inequalities, the importance of strong central policy making and monitoring in providing checks and balances against the misuse of local power should not be underestimated. If, as stated in the Indaba Bill of Rights, 'every person shall have the same right to public education ... without discrimination' (Clause 8.4), a strong central authority is needed to ensure that this happens. The mechanisms for achieving this are not clearly spelled out or emphasised in the education report.

Transition Strategy

At a later stage in its deliberations, the education committee asked to be allowed to give attention to implementation strategies, transitional arrangements and short-term objectives in bringing about a new education system. This may well prove to be the most valuable section of the report, for it attempts to come to grips with the practical issues of replacing the six existing

education systems by one single department and identifying key areas for immediate attention during the transition period.

The proposed 'fully representative transitional planning body' would be critical to this implementation process. As a precursor of the new provincial education council, it would have to secure the co-operation of the existing systems in determining 'an agreed agenda of priorities', 'the total education resources' of the province, and 'the backlogs and surpluses of professional staff and schools' (op cit: p24).

The initial crucial test will be the extent to which it is possible to achieve any interdepartmental co-operation in an interim phase. The problems will lie not so much in relations with the 'general affairs' Department of National Education or with KwaZulu, but with the separate 'own affairs' ministries of the tricameral system which have tended to reinforce apartheid in education. And with the disappearance of the old provincial system, the white education authority in Natal (now firmly under the central control of the white Department of Education and Culture) has much less room for manoeuvre than it had at the time the Indaba started its work.

The test case for interdepartmental co-operation in the KwaZulu/Natal region, or on a nationwide basis, will be teacher education. The Indaba report correctly identifies teacher supply and quality as a key area for attention in the implementation phase and makes specific recommendations (Appendix E), e.g.:

- all teacher education institutions in Natal should be used to their fullest extent;
- underutilised schools should be closed and used as teacher training centres;
- there should be an equitable redeployment of well-qualified teachers.

Without the co-operation of the Department of Education and Culture in the House of Assembly none of the above objectives are attainable. Up to now separated teacher education, particularly for primary schools, has been regarded as 'non-negotiable' and there seems no likelihood of any immediate change in this attitude.

Firstly, the report describes the likely circumstances of the proposed single department as one of small surpluses and large backlogs, and gives considerable attention to the issue of funding during the interim phase. To comment briefly, the government's ten-year plan to achieve parity in education expenditure is not geared to provide 'substantial compensatory provision' throughout the implementation phase. While it will reduce the present 1:8 discrepancy between KwaZulu and the Natal Education Department (NED), it does not provide for a specific budget to eliminate existing backlogs, e.g. the number of classrooms.

Secondly, the report makes use of the argument of 'the overriding importance of teacher emoluments in any education budget' to explain the wide

variations in per capita spending on white and black education in the region (see data base: p65). While this partially accounts for unequal expenditure, it is not as significant as the fact that in KwaZulu the teacher/pupil ratio is 1:48, whereas in the NED it is 1:17. (In other words, the least qualified teachers have the heaviest load to carry.) Until the qualifications of black teachers match those of their white colleagues, new expenditure should be put into in-service programmes to upgrade skills and provide support in the field.

After Apartheid

The Indaba education proposals would seem to be vulnerable in terms of legitimacy and acceptance from two directions — their ability to mobilise either broad popular support, particularly in the African urban community, or enlist central government co-operation. The emphasis on the protection of the cultural rights of ethnic, religious and linguistic groups needs to be tested more widely, particularly in discussion and negotiation with those interest groups who were not part of the original 'accommodation' at the Indaba, and who see a new education system 'as an essential part of the process of liberation'.

In very immediate terms there must be grave doubts as to the readiness of central government to surrender the basic policies and attitudes of the kind entrenched in 'own affairs' and tricameral arrangements. Government is not about to give way on the fundamentals of apartheid education — this is particularly so in Natal with the recent strengthening of the Nationalist Party presence there. The battle will have to be fought on a national front, because only changes at national level would allow for and facilitate proposals of the kind put forward in this report. Educational reform is a national issue, and until it is resolved at this level attempts at regional educational solutions must necessarily be severely constrained.

This is not to negate the contribution made by the Indaba education committee. Exercises of this kind are part of the process leading towards post-apartheid education — they serve to keep the debate alive and prevent a settling back into complacency among those whom past arrangements have favoured. What is needed is to broaden the Indaba education debate from the sectional and regional to the national level, bringing in a broader range of interests with more urgent commitments to change at the same time. If this can be done, as suggested by Indaba Chairman Professor Clarence (1987: p95), then the education report will prove to have been a help rather than a hindrance in the search for an education system that will bring South Africans together and symbolise a common purpose rather than sectional, selfish interests. J.P.A.

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THE ECONOMICS OF EDUCATION

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Economists have been interested in education for many decades and for a number of reasons. Economics is, of course, concerned with the way we use scarce resources to satisfy our many and diverse needs. Education certainly uses resources, but the output of the 'educational industry' is fascinating in that it has elements of both consumption and investment. The benefits derived from education are partly private (accruing to the individual being educated), and partly social, for there are aspects of education which make it a 'public good' in the sense that it benefits society as a whole.

Perhaps the most intriguing aspect of education is its relationship with economic growth. Viewed as 'human capital', education plays an important part in the productive processes in the economy. Indeed, an early study by Edward Denison found that 23 percent of the growth of total real national income in the United States during the 1950s might well have been the result of the increased education of the labour force.

It is thus tempting to postulate an unambiguous causal relationship between more education and a higher economic growth rate. However, research has shown that this linkage is far too simplistic and that it is difficult to pinpoint the contribution of education on its own. Today many analysts would argue that greater expenditure on the wrong kinds of education simply raises aspirations in a way which could reduce the growth rate, and which might do little more than redistribute incomes to those fortunate enough to have access to education.

Ambiguous Evidence

There is evidence to suggest that, in a general sense, more education leads to higher earnings; but the

link between education and the distribution of incomes is not so clear-cut. Marin and Psacharopoulos have successfully tested the hypothesis that, in developing countries, increasing investment in education does not normally aggravate income inequalities, and may even reduce them. However, the effect of increased years of schooling on income inequality depends on a host of other factors too.

What will happen if we reduce inequalities in the provision of education? According to traditional (neoclassical) economic theory, this should both reduce the inequality of earnings and raise average incomes. Once again, this outcome is not inevitable, for there are many forces outside the economic system, such as trade union power, monopolies, social class and so on which explain the distribution of incomes. A stark example of the inadequacy of the theory is the fact that the share of educational expenditure received by blacks in South Africa rose from 11 percent in 1930 to over 25 percent in 1970, while their share of incomes remained constant over that period at about 27 percent.

Central to the issue of the link between education and economic activity is the concept of equality of opportunity in education. Greater equality in access to schooling is usually considered to be desirable as a social end in itself, but the economic effects have not been unambiguously established. Samuel Bowles (1976) has cautioned against claiming significant income redistributive effects for educational reforms. He suggests that the most important implications of increasing educational access might be to inculcate an awareness of inequality, thereby undermining the legitimacy of the status quo.

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In similar vein Martin Carnoy (1982) points out that whatever the economic effects of educational expansion, the demand for it is a fact of political life and a crucial element of political legitimacy for any government. One of the overriding points he made in a presentation to an Urban Foundation seminar was that qualitative improvement in education requires a very substantial budgetary commitment.

Pragmatism

Comparative data on white and black education reveals the nationwide problem areas that are replicated in the KwaZulu/Natal region:

- In 1980, 63 percent of total public spending on education in South Africa was devoted to whites, who constituted some 18 percent of the population. In 1983 the corresponding proportions for Natal were almost identical — 62 percent of educational expenditure was devoted to whites, who made up only 21 percent of the population.
- In 1985 an average of R2 316 was spent in KwaZulu/Natal on each white secondary school pupil, and R1 544 on each white primary pupil. The equivalent averages for black pupils in the region were R861 and R370 respectively (see data base: p65).
- In 1980 some 80 percent of all black teachers in South Africa had a standard eight or lower qualification, while no white teachers had this low a level of qualification. Francois Visser (1984)

estimated that almost one-quarter of the teachers in KwaZulu are underqualified in terms of the most conservative definition of the term (i.e. the real qualification backlog is undoubtedly higher).

Like its precursors, the De Lange and Buthelezi Commissions, the Indaba education committee's report propounds basic principles fundamental to educational reform and imply a massive injection of funds if they are to become more than grandiose pronouncements. The De Lange report referred to the necessity for 'equal opportunity for education ... for every inhabitant, irrespective of race, colour, creed or sex'. The Buthelezi Commission was more specific, recommending that basic schooling should be compulsory and free for all, that subsidised higher education should be available to all, and that a common high standard of educational provision should be achieved as soon as possible.

The broad principle of equality of educational provision has been accepted by the government, although the means whereby it is to be implemented remain in dispute. The equivalent principle is stated in the Indaba education report: 'Mindful of the enormous backlog in education, the province shall, as a matter of urgency, place a high priority on the achievement of equal provision of and access to education of the highest quality, to enable learners to achieve their full potential.' This proposal is not couched in unrealistic terms, particularly if one gives full weight to the opening phrase. It further acknowledges that 'the Department will have to

establish reasonable parameters within which the backlogs can be eliminated.'

The cautionary pragmatism reflected in the education report surely answers the objection set out in the minority report (Economic Aspects: Section 1.3) on the main Indaba proposals. In their projections on fiscal parity in the region, Du Pisanie and Meintjies (1986) point out the virtual impossibility of achieving parity in teacher qualifications by 1995. It is unfortunate indeed that the minority report chose not to quote the qualifying statement to the effect that 'by setting an ideal or acceptable ratio between number of pupils, teachers and classrooms, backlogs can be identified' (Du Pisanie and Meintjies: p5).

Setting a precise timetable for achieving parity in white and black education may be politically desirable, but it could be difficult to achieve, frustrating and even counter-productive in the long run. What is vitally important is to identify backlogs and to move with all possible speed to eliminate these in a practical manner. The Buthelezi Commission no doubt had this approach in mind when it stated that 'the initial task was to determine the realities of the region and its relationships with the rest of the Republic of South Africa' (Economic Development Subcommittee). In short, any plan which ignores these realities is doomed to failure from the outset.

Redistribution

The financial costs of attaining parity within a reasonable period of time are a sobering reality. The De Lange report stressed that the attainment of educational equality within ten years at the national level would necessitate an increase in current expenditure of between 75 percent and 160 percent in real terms. Du Pisanie and Meintjies address precisely this issue for KwaZulu/Natal, especially the implications for educational and health services between now, 1995 and 2000 (see data base: p65). All the indications are that either target will be almost unattainable if parity is interpreted to mean that per capita expenditure is to be brought up to the level for whites in 1986. But if parity means a constant expenditure at the overall average which prevailed in 1986, such parity theoretically could be achieved very soon by redistributing resources.

The Minister of Finance made allowance in the recent budget for an increase in national expenditure on education of some 20 percent, while black education is to receive an increase of 40 percent. This formula obviously implies a substantial redistribution from white to black scholars in the forthcoming fiscal year. An obvious problem (referred to by the Indaba minority report also) is precisely how such a redistribution can take place. While funds can be fairly easily switched from white to black schools in respect of equipment, it will not be possible to divert salary expenditures without a lengthy period of training — even

assuming that the present teacher training facilities are to be used far more efficiently on an integrated basis. A further avenue for redistribution is presumably the area of capital construction, particularly given the vast backlog of classrooms in black schools, and their comparative aggregate oversupply in white schools.

Du Pisanie and Meintjies suggest that parity in this sense can be achieved by the year 2000, even if we aim at reducing the proportion of the gross geographical product spent on government services in KwaZulu/Natal from 26,2 to 25 percent, and even if we allow for the anticipated population growth — provided that the economy grows at a rate of 2,9 percent a year or more. This is lower than the geometric mean growth rate of 4,8 percent over the past eighteen years.

The implication of this analysis is that there are effectively two policy choices:

- Aim for parity as soon as possible and certainly before the year 2000, but accept the interpretation of parity as holding per pupil expenditure constant at the prevailing average for all groups; or
- aim to increase the standard of education for Africans, coloureds and Indians by raising the expenditure to the level currently pertaining to whites, but accept that parity will not be achieved until well after the year 2000.

The choice is a difficult one, and neither option will be politically popular. The minority report (1987: p13) points out that the first option would substantially lower the general level of educational expenditure for whites. According to Du Pisanie and Meintjies, the average will drop to 24 percent of the present level for primary schooling, and 37 percent for secondary schooling. However, it is rather an exaggeration to say, as the minority report does, that the effect for black education represents 'no significant improvement'. On the contrary, black primary pupils would on average have just over double spent on them, and black secondary pupils more than threefold the present expenditure within a period of some 14 years.

A redistribution which is bound to have similar implications is actually planned for the country as a whole for the fiscal year 1987/88. It remains for the educationists to judge whether this is more or less pedagogically satisfactory than the likely situation arising from the second option. The latter choice would increase real average expenditure on black education by a multiple of 8,8 (the present ratio between white and black averages for both primary and secondary levels) over a far longer period of time (statistics based on Du Pisanie and Meintjies: table 8).

Hidden Factor

The only way to hasten the timetable in the second case (or to improve the overall average standard in the first case) is to find more funds for the region. The chairman of the Indaba economics committee, Mr Tony Ardington, has drawn attention

African pupils from Durban's KwaMashu township protest the alleged non-expenditure of R5,7m earmarked for textbooks and stationery, February 1986.



to possible additional sources of finance for education (1987). He has estimated that the first three of the following measures would bring in an additional R300-R400 million in provincial revenue:

- re-establishing the provincial taxes which existed prior to 1971;
- increasing general sales tax by one percent within the province;
- introducing a special levy on fuel, equalising prices with the Transvaal;
- disposing of certain state assets.

Furthermore, present constitutional arrangements are proving highly costly for the country. There is the wasteful duplication in educational services encountered so frequently — for example the investigation of a new Indian Teacher Training college while there are so many vacancies at Edgewood; and the contraction in the number of pupils at white primary schools in Durban's suburbs while Indian pupils living nearby have to attend schools in distant areas.

At present there are six education departments in the region. Both the Buthelezi and De Lange reports recommended a single ministry of education for all groups. The Indaba education report once again expresses the view that 'provision for control at provincial level shall be through a single

Minister and Department of Education'. Quite apart from the pedagogical, sociological and political implications of such a step, it would certainly result in a valuable rationalisation of services and a considerable increase in the efficiency of operation.

According to sociologist Michael Savage (1986) duplicated facilities in the area of education could be costing South Africans as much as R100 million each year. The introduction of a single ministry could result in considerable savings for KwaZulu/Natal. The hidden cost of apartheid is a factor often forgotten by those who express alarm at the costs involved in the ultimate equalisation of educational services, but one which could well render this vital and inevitable objective less financially burdensome than it might seem at first. *UDSA*

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CLOSING THE GAP

Toward Parity in Education & Health

Data Base

EXPENDITURE ON ORDINARY PRIMARY & SECONDARY EDUCATION BY POPULATION GROUP IN KWAZULU/NATAL (1985)

Population group	Total expenditure (R'000)		No of pupils ('000)		Expenditure per pupil (Rands)	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
White	101 132	114 642	65,5	49,5	1 544	2 316
Coloured	17 519	12 044	20,3	9,3	863	1 295
Indian	172 723	145 436	125,8	70,6	1 373	2 060
African	190 873	70 616	1 090,7	268,5	175	263
Total	482 247	342 738	1 302,3	397,9	370	861

EXPENDITURE ON HEALTH BY POPULATION GROUP IN KWAZULU/NATAL (1985)

Total expenditure (R'000)	Total population ('000)	Expenditure per capita (Rands)
88 011	578	152
15 225	100	152
104 766	724	145
301 192	5 771	52
509 194	7 173	71

PROJECTED EXPENDITURE BY THE KWAZULU/NATAL REGIONAL AUTHORITY 1990, 1995 & 2000 (at constant 1985 prices)

Government Function	Expenditure to reach parity in education & health by 1995			Expenditure to reach parity in education and health by 2000		
	1985	1990	1995	1990	1995	2000
Legislative & general executive functions (incl finance)	Rm 674 ¹	762	857	762	857	960
Interior (incl labour affairs)	85	96	108	96	108	121
Physical infrastructure	558	631	709	631	709	795
Education & Training	1 018	2 044	4 309	1 681	2 843	4 895
Agriculture & Forestry	167	189	212	189	212	238
Health	509	840	1 386	738	1 070	1 553
Welfare (incl pensions)	485	548	616	548	616	691
Police	128	145	163	145	163	182
Economic affairs	68	77	86	77	86	97
Culture	9	11	12	11	12	13
Total (Rm)	3 702	5 343	8 458	4 878	6 676	9 545

Notes

1 Estimates based on the average expenditure per white primary and secondary pupil in Natal of R1 544 and R2 316 respectively in 1985, combined with projected population growth.
2 Figure reduced by 25 percent (from R898m) on assumption that a single authority would effect savings in this area.

Source

De Ponce JA & CJ Heintjes. *Implications of Fiscal Parity in Kwazulu/Natal by 1995 and by 2000 respectively*. Central Merchant Bank (SARB) and Bureau for Economic Policy and Analysis (Bepp), University of Pretoria: October 1986.

LOCAL OPTION FOR THE WESTERN CAPE

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New legislation has radically changed the face of local government in South Africa since 1983. The king-pin of these statutes is the Regional Services Council (RSC) Act, which has provided for the establishment of various multiracial bodies to administer joint social and infrastructural services. RSCs are being introduced throughout the country at present.

In recent years the majority of Cape Town City Council (CCC) members have been opposed (albeit ambiguously at times) to apartheid structures at local government level. During the formulation stage of local government legislation the CCC submitted numerous memorandums to state departments and commissions. The constant threads running through these submissions were, firstly, the rejection of statutory racial separation at local level and, secondly, the call for the establishment of structures flexible enough to take cognisance of local conditions.

New legislation on local government has failed to meet the CCC's criteria. RSCs are predicated upon separate racial structures and, despite government declarations to the contrary, are leading to a centralisation of powers and uniformity, rather than devolution and diversity.

Two Initiatives

Several attempts have been made to thwart the introduction of the RSC for the Western Cape. Initially, at a council meeting in May 1985, a motion was proposed by Councillor J Kantey, calling on the CCC's Executive Committee (Exco) to consider approaching neighbouring local authorities and civic organisations for discussions about alternatives. Kantey was subsequently authorised by Exco to examine the feasibility of setting up a broadly based

commission on local government in the Cape Peninsula along the lines of the earlier Buthelezi Commission in Natal (Argus 26/7/1985).

Two months later at an informal meeting attended by certain councillors, academics and local businessmen, it was decided that a commission of this kind should be appropriately established under the auspices of a neutral public authority with credibility, such as the CCC. The group felt that all local organisations and groups with public standing should be represented on the commission and proposals should be directed towards the community of Cape Town rather than the government (CCC workshop 20/7/1985).

This initiative was disrupted in late 1985 by the outbreak of riots in Cape Town, after an upsurge of nationwide civil unrest in black communities. The first instalment of 'own affairs' in education saw school boycotts in protest against Labour Party authority, which subsequently escalated into insurrection on the streets. Tourism, the lifeblood of the Western Cape economy, suffered severely in the context of an already stagnating regional economy. For a number of Cape Town's councillors it became paramount to ensure that RSCs underpinned by unrepresentative black (African, coloured and Indian) local authorities were not introduced. They feared it would lead to more political unrest which in turn would have further detrimental effects on the economy.

In response to these crises, CCC opened up a second initiative, embarking on 'a call for dialogue'. The mayor and the chairman of Exco were directed to invite civics and other organised community groups to submit their views on subjects ranging from the most appropriate system of local government for metropolitan Cape Town, the

municipal franchise and the proposed RSC in the Peninsula, to matters associated with the unrest (Argus 17/9/1985).

In another attempt to halt the 'escalating violence and the alarming deterioration of race relations' in the region, the CCC's constitutional committee (an ad hoc subcommittee) was requested to convene a Cape Metropolitan Peace Conference 'that would draw up a manifesto for non-racial democratic local government'. (Argus 31/10/1985; 11/11/1985). A motion was passed, with overwhelming support, to invite all sections of the community to meet with the Council and find solutions to the crisis. The constitutional committee was given approval to establish a secretariat for the peace initiative, expand its membership for appointing councillors, co-opt special advisers and investigate ways of raising funds to finance the initiative (Argus 3/12/1985).

The erstwhile leader of the PFP, Dr F van Zyl Slabbert was offered and accepted the position of facilitator to promote the aims of the conference. His role was to attempt to get as many leaders as possible from all disparate groups in the region to this planned conference. At the end of 1986 Slabbert submitted an interim report in which he stated that he had made exploratory contact with a number of community organisations.

The RSC

The CCC proceeded to adopt a motion calling on the Provincial Administrator to defer the implementation of the RSC in the Western Cape until such time as an alternative 'local option' had been fully investigated. The Council later requested that the Minister of Constitutional Development, Mr Chris Heunis should meet with a delegation of CCC representatives, local businessmen and academics, delay the introduction of the RSC and discuss a local option for the Western Cape. Minister Heunis refused, saying that the RSC Act was a fait accompli, and that the Western Cape Metropolitan RSC was due to be introduced in the third quarter of 1987.

In the meantime the mayor had released a report announcing that there was 'virtually unanimous support' among civic and other political associations for the Council's stance on an apartheid-free local option for the city. Virtually everyone who submitted evidence called for a common voter's roll to be introduced in the Peninsula. Another recurrent demand was for the establishment of a CCC open to all races, which would include the African areas of Langa, Nyanga, Guguletu, New Crossroads and Khayelitsha.

The report stated that if the government would not consent to an open council, serious attention should be given to the creation of an informal council consisting of members of all races elected on a common voter's roll through an election financed by commerce and industry. This informal body would debate and make decisions on all matters

affecting the city and the official CCC would give effect to their decisions.

Part of the CCC's local option is based on the belief that Cape Town has certain unique circumstances. Although a case could probably be made for a local option in all the metropolitan regions in the country, it is nevertheless true to say that the Western Cape is characterised by certain regionally specific conditions:

- Firstly, coloured people, who are culturally and socially more embedded to the whites than the other racial groups, are the predominant group. The population of the Cape Metropolitan Region consisted of 57 percent coloured, 31 percent white, 11 percent African and one percent Indian, compared with the national breakdown of 65 percent African, 20 percent white, 11,5 percent coloured and 3,5 percent Indian (1980 census figures).
- Secondly, Cape Town has an historical background of political participation at both central and local level by all communities on a common voter's roll. Arguably these factors have led to the Cape having a more tolerant attitude in the sphere of race relations, the purported legacy of a Cape liberal tradition.

Opposition

What are the chances of drawing the major extra-parliamentary groupings into a local option of the kind envisaged in the mayor's report? Unlike Natal there appears to be no major 'moderate' black movement that can be wooed into the envisaged system in the Western Cape. The institutional representatives in the region — management committees and African community councillors — have been elected on pitifully low polls and lack legitimacy in the communities they are intended to serve. Furthermore, the extra-parliamentary opposition in the Western Cape although notoriously fragmented is more widely supported.

Despite the mayor's claims that almost all groups canvassed supported a local option, it is well known that the major extra-parliamentary groupings did not give evidence in the Council's investigation. The non-collaboration tradition seems to preclude as a matter of principle the possibility of the Cape Action League or the New Unity Movement being interested in such an option. Further, the United Democratic Front and its affiliates are opposed to working out regional or local solutions until such time as the question of political power at national level has been settled. According to the UDF's acting publicity secretary, Murphy Morobe, these strategies are opposed because 'the people's feelings have gone way beyond potholes and streetlights. The main objective of the black community is to exercise political power' (Argus 2/12/1986).

The other major problem encountered in enlisting broader participation appears to be the state of emergency, with so many key leaders either in

David and Goliath on the riot-torn streets of the Cape Flats, late 1985. A climate of violent conflict is not conducive to negotiation politics.



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detention or in hiding. Slabbert has found it extremely difficult to make contact with key figures to see if they would drop their previous stance and become involved in a local initiative. A climate for negotiation does not currently exist and under prevailing conditions the chances of getting a local option off the ground in the Western Cape or in other regions appear to be negligible.

Centralisation

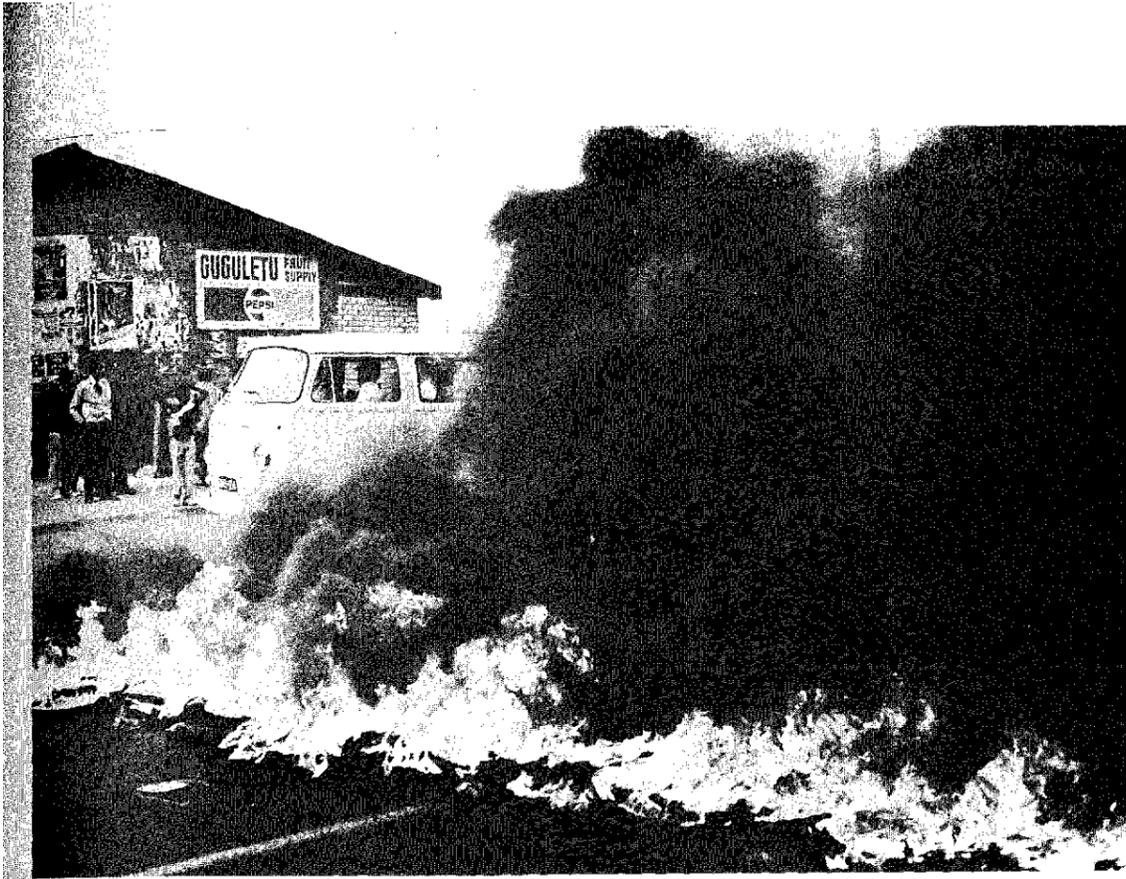
Federal forms of government and local options are not necessarily counter-revolutionary systems designed to safeguard capitalism. Contrary to the view generally held by the South African left, federalism can also logically co-exist with socialist economies. Yugoslavia has a federal constitution and has adopted policies which can be described as being genuinely federal, such as extensive devolution of power to local units.

Certain academics have recently argued that the State is moving in a federal direction (Cobbett et al 1985). They appear to have been confused by moves towards a deconcentrated form of regional government whereby certain functions may be situated at a lower tier of government but the ultimate policy decisions affecting these are made at central level. Federalism, which appears to be a precondition for a local option, requires a diffusion of power, precisely the opposite of what has been occurring in South Africa in recent years.

In many aspects, there has been a general

centralisation of powers. Local government has been one of the fields where there has been extensive centralisation. The pivotal figure has been the Minister of Constitutional Development and Planning, who is well known to be opposed to any scheme that will undermine his grandiose constitutional plans. Any moves in the direction of local autonomy in the Western Cape run counter to the centralising tendency, are contrary to the statutory Nationalist principle of group separation, and are likely to be rejected. Further, the military, an influential actor on policy through the State Security Council, has always been dead set against devolving functions. Centralisation of power is seen as essential to ensure that overall control is kept over the reform process.

In societies where political stability is tenuous, the primary and dominant necessity for the governing regime is to secure and maintain itself in power. All other objectives must be subordinated to that end, including the creation of representative institutions, the promotion of local self-sufficiency, or the better co-ordination of government services (Dawson 1978). The objective of the South African government over the last four years has been not to negotiate with extra-parliamentary opposition, but rather to remove all groupings they perceive as a threat in an attempt to resurrect the discredited system of black local government. This strategy hardly favours the negotiation of a peace conference in the Western Cape, involving all sections of the community.



The Cape Times

At the present juncture a local option does not appear to be a viable option for the Western Cape. The inability to generate political support from key extra-parliamentary groupings is the immediate stumbling block. The CCC's interim solution, the creation of an informal body consisting of members of all races whose decisions will be ratified by the official council, is a non-starter. Blacks will almost certainly shun an informal body which has no binding power and is subject to veto by the 'whites-only' CCC. The one ray of light for the CCC could be if the government lifts the state of emergency and allows unhindered negotiations to occur. This could give the CCC the space to try and persuade authentic opposition groupings to alter their stance towards regional and local options. *PPA*

An illegal roadblock in Guguletu (pre-emergency picture). The Cape Town City Council has struggled to entice dialogue with opposition groups during the civil unrest and state of emergency.

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To promote the proposals, the Indaba has launched a national publicity campaign, using pamphlets, newsletters, videos, and adverts reflecting endorsement of the Indaba by prominent personalities. Public lectures, house meetings and workshops are also arranged regularly.

10 SUNDAY TIMES, AUGUST 16 1987

Here's why we support the Indaba

What it means to you and your family...

In April 1986, the KwaZulu Natal Indaba began its work.

Over 200 delegates and advisors from 34 organisations, representing the widest possible cross-section of differing views, hopes, and fears, sat down together with a single purpose:

Foreign Affairs, Transport, and Posts and Telecommunications but most other matters would be decided by the people of Natal and KwaZulu.

The certainty that any grouping with a reasonable degree of support will be represented in both Chambers of the

Provincial Parliament, as well as in the Standing Committees and Cabinet.

- A guarantee of your property rights and your right to make a living where and as you choose.
- A guarantee of your language, religious, and cultural rights.
- A Bill of Rights which guarantees that your rights as an individual will be protected by the Supreme Court against

arbitrary government action - as in any Western democracy.

- An alternative to the country's dangerously widening polarisation - a growing sense of goodwill as the people of this Province come together to build a peaceful and prosperous future.
- A shifting of the logjam nation-wide. KwaZulu/Natal could be the start of a process of regional agreements across the entire country, which would make a national settlement that much easier. For once, the "Last Outpost" is taking the lead.
- An easing of international pressure as it becomes clear that an important part of South Africa is seriously tackling its problems and striving for a new society.

The KwaZulu Natal Indaba and its proposals belong to you, the people of this Province. It needs your understanding and your support.



POWER-SHARING
HOW THE INDABA
ACCOMPLISHES
IT

KwaZulu Natal
Indaba's
first meeting
in Durban
in April 1986
had taken



Inkatha accepts Indaba 'in principle'



The Inkatha Freedom Party (IFP) has accepted the proposals of the Indaba in principle. This was announced by the party's National Executive Committee (NEC) in a meeting held in Durban on July 10. The NEC members included the party's National Chairman, M. M. Goniwe, and other prominent leaders.

The Indaba proposals are seen as a significant step towards a peaceful new South Africa. The IFP's acceptance is a positive sign for the future of the province.

TOGETHER

WE ALL WIN



EDITORIAL COMMENT - PAGE 4



The country also as it should be seen as a forerunner of South Africa's Indaba. Bishop Alpheus Zulu.

BISHOP ALPHEUS ZULU is the Speaker of the KwaZulu Legislative Assembly and Chairman of the KwaZulu Finance and Investment Commission. He is a former Bishop of Zululand and former President of the World Council of Churches.

MAKE IT YOUR INDABA TOO
KWAZULU NATAL
Indaba

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...ly has my support...
...ly, that of millions...
...abroad who wish...
...its world

PLEASE! Send me more information
 Enclose my contribution for R...
 Enrol me as a supporter
 KwaZulu Natal Indaba, P.O. Box 2925, DURBAN 4009

NAME: _____
 ADDRESS: _____
 CODE: _____
 TEL. NO.: _____

Praxis

Prospects

In preceding chapters the KwaZulu/Natal Indaba has been evaluated in terms of constitutional procedures and proposals, economic costs and the feasibility of reform policies, the region's conflicts and resources, and the major political alternatives. The two concluding essays in this Indicator SA special report set out to assess both the prospects for successful implementation, and the Indaba's place in the broader quest for a solution to the nation's conflicts.

Inevitably, the same fundamental ideological cleavages between white and black nationalism that paralyse South African politics have surfaced in the KwaZulu/Natal debates. Critics to the left claim the regional initiative is pro-capitalist, elitist and divisive, while critics to the right claim it is egalitarian, enforces racial integration and promotes majority rule without proper minority safeguards. However, the diverse range of contributors to this review appear to concur that any future political system must satisfy two basic prerequisites, namely tested popular or public acceptance and socio-economic efficacy.

Drawing on the experience of post-colonial modernisation and militant urban politics in other parts of Africa, political scientist Karl Magyar argues that the Indaba's prospects are limited by the traditionalist orientation of the major black participants. The minority status of other Indaba delegates raises further questions on the depth of the emergent coalition's power base and on the likelihood of eliciting sufficient support in an envisaged referendum. Magyar believes the Indaba model does not take cognisance of the high economic costs of democratisation and of meeting heightened popular expectations. On the other hand, an invaluable lesson has been learned in the politics of pragmatism and negotiated compromise.

In a concluding overview, Professor Lawrence Schlemmer identifies the eight macro-issues on which Indaba participants reached consensus and critics dispute. Among other factors, the debates centre on the prospects for managing ethnic conflict, developing the region, meeting rank-and-file needs, winning government acceptance, securing a public mandate and extracting revenue from central government. In the absence of a national solution, the Indaba is an innovative attempt to provide a regional breakthrough. Schlemmer proposes that all parties should test their alleged strengths through competing in a referendum and in a new regional legislature, which reconciles majority and minority demands for meaningful political participation.

A summary of the main findings of three attitude surveys conducted on public responses to the Indaba are also presented here. The results indicate that there is substantial support among all race groups for the inception of a regional power-sharing model in KwaZulu/Natal.

TO THE POLLS...

The Indaba goes public

MARKINOR SURVEY (March 1987)

Table 1

	Sample Size	Heard or Seen Indaba
Whites	1 200	80,6%
Africans	1 500	36,3%
Indians & Coloureds	800	53,5%
TOTAL	3 500	

Table 2

STATEMENT 'The Indaba proposals deserve to be supported by people of all races living in KwaZulu and Natal.'

RESPONSE (%)	Total	Whites	Africans	Indians & Coloureds
Totally/somewhat agree	75,9	67,5	82,9	55,0
Totally/somewhat disagree	9,7	17,0	6,2	16,2
Neither agree or disagree	12,7	12,6	9,4	28,4
Do not know	1,7	2,9	1,5	0,4

Table 3

STATEMENT 'Everyone in Natal and KwaZulu will benefit from the introduction of the Indaba proposals.'

RESPONSE (%)	Total	Whites	Africans	Indians & Coloureds
Totally/somewhat agree	69,7	54,6	79,9	43,6
Totally/somewhat disagree	12,2	24,3	6,1	23,3
Neither agree or disagree	16,3	18,0	12,3	32,2
Do not know	1,8	3,1	1,7	0,9

Survey Sample

A probability sample of 3 500 adults of both sexes resident in KwaZulu/Natal, was obtained from the population census. In addition, the survey included shackdwellers in the Durban area who were not recorded in the census.

MARKINOR SURVEY (June 1987)

Table 4

STATEMENT 'The Indaba proposals could serve as a good example to other parts of South Africa and to South Africa as a whole.'

RESPONSE (%)	Voted in May 1987 for				
	Total	NP	PFP	NRP	CP/HNP
Totally/somewhat agree	61,4	43,2	89,9	88,1	16,7
Totally/somewhat disagree	21,0	31,7	4,9	4,8	69,5
Do not know	17,6	25,1	5,2	7,1	13,7

Survey Sample

798 white adults of both sexes resident in Natal. This table reflects only the responses of the 89,1% of the sample who had heard of the Indaba.

Prospects

SUTCLIFFE SURVEY (March 1987)

Table 1

	Sample Size	Heard or Seen Indaba
Whites	153	88%
Africans	618	51%
Asians	175	72%
Coloureds	54	69%
TOTAL	1 000	

Table 2

QUESTION 'How do you feel about the Indaba?' 'Why do you say this?'

RESPONSE NO 1 'It is a good thing.'	Whites	Africans	Coloureds	Indians
Equality	3,0	18,0	27,0	10,0
Unity	7,0	8,0	11,0	11,0
Protect blacks	0,0	0,0	0,0	1,0
Will stop riots	13,0	6,0	11,0	8,0
Power sharing without domination	8,0	4,0	11,0	2,0
Peace	17,0	2,0	5,0	6,0
Better opportunities	1,0	8,0	3,0	0,0
Sets an example	4,0	2,0	0,0	1,0
Will end apartheid	0,0	1,0	0,0	1,0

RESPONSE NO 2
'It is a bad thing.'

Ignores rest of South Africa	2,0	7,0	5,0	6,0
Gives blacks too much	16,0	0,0	3,0	1,0
Does not go far enough	4,0	4,0	0,0	2,0
Will result in a bantustan	1,0	3,0	0,0	3,0
Piecemeal solution/divisive	4,0	9,0	5,0	3,0
Not democratic	2,0	3,0	0,0	2,0
White paternalism	0,0	1,0	0,0	1,0

SAMPLE SIZE 135 313 37 126

Survey Sample

A sample of 1 000 adults of both sexes was obtained from the most recent population census. To lessen the possibility of an 'urban bias', the survey drew a proportionate sample approximating the geographical spread of the population of KwaZulu/Natal.

Source

Sutcliffe M. 'The KwaZulu/Natal Indaba: An Analysis of the Attitudes of Residents Living in Natal/KwaZulu'. Department of Town and Regional Planning, University of Natal, Durban.

MODERNISING

Lessons from Africa

**By Prof Karl Magyar,
Department of International Relations,
University of Witwatersrand**

The Indaba was certainly a major political event, not only for the inhabitants of KwaZulu/Natal but for the entire country. Must we judge the work of the Indaba in terms of ensuing institution building and actual evidence in the form of a proposed government structure for the region? Or may we evaluate *the process* of the Indaba, which, even if it does not lead to a major restructuring of Natal, may in itself prove to be a valuable experiment?

The region's inhabitants have yet to express their popular voice on the entire affair. If the opportunity to do so should arrive, the kind of critical evaluations that were mostly absent during the progress of the talks may finally emerge. Unfortunately negotiations were held behind closed doors, which certainly did not encourage a continuous stream of critical public comment and response.

Reservations about the discussions were undoubtedly expressed at the Indaba but the public was informed predominantly of general consensus rather than disagreement among the participants. Selective information was abetted by a very expensive public relations campaign that has presented the virtues of the Indaba only. The effectiveness of this overly commercialised campaign, which has attempted to establish the legitimacy of the talks prior to convening a popular referendum, is yet to be determined.

National Significance

The significance of the Indaba for the country as a whole still has to be proven. Merely convening negotiations by legitimate political bodies at regional level is in itself an expression of disenchantment with the government's slow progress towards attaining a national solution. The fact that Natal proceeded with the first such effort is not surprising

considering its history of separate political identity and its predominant black population, parts of which have retained a traditional leadership and conservative political orientation.

In the context of socio-geographical peculiarities, the Indaba could have been an excellent format for regional independence. Secession is not contemplated, however, and just how KwaZulu/Natal politics would be co-ordinated with national politics remains unclear. The real value of the talks may turn out not to be in constitutional engineering at the regional level but in alerting the nation to the possibility of peaceful negotiations between disparate parties. The Indaba adequately dispelled minority group fears. The talks across social lines went relatively smoothly, with all participants having the opportunity to articulate their core concerns.

In addition the initiators and participants deserve to be commended for providing the Indaba as a useful model in terms of certain procedural aspects. Nevertheless, some unanswered questions about the Indaba are of such magnitude that they may render the Indaba negotiations entirely futile.

Power Bases

As an exercise in popular democracy, the numbers purportedly represented by the 37 participating organisations may well fall short of a majority of the province's population. Natal's inhabitants fall into four analytical categories, namely 578 000 whites, 724 000 Indians, more than 4 million rural Africans, and urban Africans who officially number 850 000 but could actually be double this count.

The political affiliations of these four groups may be broken down broadly as follows:

- In the white community there are both pro- and anti-Indaba members.
- Among Indians there are supporters of the tricameral government structure, those who openly

associate with the UDF and the Natal Indian Congress (anti-Indaba), and those who prefer not to identify with either of these factions.

- Among rural Africans there are two large factions — one which openly supports the KwaZulu government and Inkatha and another with no perceptible political identification or significance.
- Lastly, among urban Africans, there are the large pro-UDF/ANC and anti-Inkatha faction, a (probably smaller) pro-Inkatha faction and a neutral faction which seeks to avoid overt allegiance to these two established groups.

Admittedly the competing strengths of these factions cannot be quantified. However, in relation to the broad inclusive spectrum of political interests in Natal the Indaba represented perhaps only half the white community, a very small political base among Indians (whose participation was very lukewarm), and virtually no sizeable number of urban Africans. The major participant in terms of sheer numbers came from the inseparable KwaZulu government/Inkatha faction that represents rural Africans.

Whether an absolute majority of the region's population was represented at the Indaba is doubtful. Basing a constitutional dispensation on mere fragments of some communities and on Inkatha's predominantly rural power base is to court protracted problems of legitimacy. Further, many of the participating organisations had absolutely no political authority, being trade or cultural groups, e.g. chambers of commerce and industry, owners of commercial establishments, etc.

All the problems associated with representative legitimacy could have been avoided by conducting a referendum prior to convening the talks. What

would happen if the majority of Africans vote in a subsequent referendum for the enactment of the proposals but the whites and Indians massively reject them? Will the ensuing African rural power base be accepted by the rest of Natal's population as a foundation for a government under, no doubt, Chief Buthelezi?

The lessons from the rest of Africa are being ignored. Rural power bases tend to be quickly overturned by the process of modern political socialisation while traditional trappings of tribal office are discarded by urban dwellers. Chief Buthelezi owes his official position as head of the KwaZulu administration to the national government's homelands policy - a system challenged by urban black activists and an increasing group of whites. Despite invitations to attend the Indaba, the lack of participation by left-wing organisations such as the ANC, PAC, UDF and Azapo does not mean that these substantially capable organisations will not play a role in Natal in the future.

Economic Pressures

The Indaba lists as a major achievement the fact that racial impediments to political negotiations were overcome. Yet it may be argued that these were never the major stumbling blocks in resolving political conflict in Africa. In the rest of the continent independence struggles have been centred not on racial concerns but on achieving self rule. Upon the attainment of independence from colonial powers the real problems emerged in the form of achieving economic development. The Indaba has not come to grips with the fundamental economic prerequisites needed to sustain the

Veteran politician Morris Fynn of the People's Congress Party takes the course of direct action and cuts down offensive segregation signs on Durban's beachfront.



political changes to be introduced by the new regional dispensation. Therein lies its largest single shortcoming.

Upon conversion to a new system of regional government, it is easily conceivable that work seekers with high aspirations will descend legally from the populous rural areas upon the few 'white' urban areas of Natal en masse in search of jobs. Such social disruptions are already felt, but in the future a beleaguered Natal government may well have to introduce draconian security measures to enforce a new form of group areas, based not on racial but on class divisions. This may be a recipe for civil war, the early rumblings of which are already occurring in frequent Inkatha/UDF/Cosatu clashes around the Durban area. In short, the Indaba could expedite the emergence of open conflict between a predominantly African government and a militant African opposition.

Although economic data on Natal/KwaZulu is available, it is barely utilised for constitutional planning, which again repeats the oversight of independence moves in the rest of Africa. What are the Indaba's projections of the economic implications of the following data? (Stanwix 1985):

- Africans comprise nearly 80 percent of Natal's population, their growth rate is almost three times the rate of whites, and they are urbanising very rapidly.
- Migrant remittances produce 80 percent of KwaZulu's paltry income, the homeland contains about 18 percent of the nation's population but produces only 7 percent of the nation's GDP, and among the homelands it ranks among the poorest performers in the vital economic sectors (Nattrass 1985).
- There are 32 400 job seekers in the region every year but only about 5 700 new jobs are produced annually (Buthelezi, *The Daily News* 25/2/83).
- Government service is the single largest category of economic activity in the homeland.
- In the more distant rural areas of KwaZulu most families cannot even produce half of their food needs, less than 20 percent of farmers produce for the commercial market and the average annual income is an unbelievable R1 250 (J Erskine, *The Star* 7/4/83).

Should all race groups in Natal undertake to place their future political leadership in the hands of the representative of such a numerically large and impoverished constituency, it might rank as one of history's most humble acts but perhaps also one of the most shortsighted. If the white and Indian groups were to undertake a sincere effort to improve these appalling conditions of poverty and work towards the equalisation of disparate economic levels, it would indeed be commendable. However, simple constitutional manipulation will hardly bring all this about. A very massive redistributionist effort would be needed, but under no circumstances could it be financed by the current economic resources of the 'non-African' groups.

Is it fair to expect approximately ten to fifteen percent of the region's population to undertake the rapid advancement of the rest of their fellow 'KwaNatalians', bearing in mind that neither all whites nor all Indians are wealthy?

Scenarios

These admittedly pessimistic scenarios are, in part, answered by Indaba proponents who point to the structure and composition of the proposed two-house legislature. Despite the idealistic, interesting and well-meaning safeguards, it would not be long before the African group, with its 80 percent population base in the region, would question the legitimacy of the entire effort; especially if the executive offices are not occupied and dominated by their own representatives, or if radically new socio-economic policies are not enacted. Would the entire structure not be accused of being an elaborate plan to put Africans into prominent leadership positions, while zealously protecting the established super elite of the minority groups in the provinces?

Many private and some public efforts have endeavoured to devise new constitutional structures for the entire nation but the proposed system of government for Natal is a rare, if not the sole product of a multiracial negotiation process. Current power realities are accommodated in the second chamber where whites are offered 20 seats compared with only ten each for the African and the Indian background groups. Nevertheless, this may also be a source of friction in years to come. During the negotiation process some of the Indian delegates objected to whites receiving twice their number of seats, despite the fact that Indians outnumber whites by substantial numbers in Natal (Omar, *Sunday Times Extra* 23/11/86).

Although the Indaba purports to work towards non-racial political objectives, it goes beyond the racial institutionalisation of the national tricameral system in one respect — white voters are divided further along linguistic lines of English- and Afrikaans-speaking background groups. How such extreme structural manipulation was tolerated by African representatives at the talks will need to be explained to their constituencies. The strong protests about white overrepresentation from Indian representatives whose relations with the African community have been undergoing traumatic changes, were simply ignored.

Where do the Indaba results go from here? If a separate referendum on the proposals is held in Natal, the likely outcome will be:

- a probable rejection by the majority of whites who are not averse to the leadership of the National Party, as demonstrated by the May election results in the region;
- a very low support base among Indians; and
- massive acceptance by pro-Inkatha Africans;
- an overall rejection by urban Africans — the youth, scholars and workers who await 'meaningful

liberation' by militant leaders advocating a national solution;

- most likely a massive voter stayaway that will legitimise neither the proposals nor the region's new structure if it is enacted subsequently.

In sheer numerical terms, sufficient overall support may be found to (barely) support self-government for KwaZulu/Natal, but they will be the wrong support bases. Modern political leadership is hardly ever rural based unless it is the result of a protracted guerilla war — even then peasants' needs tend to be quickly disregarded by the new rulers. Local and traditional authorities are further institutionalised in the proposed structure, which suggests a total disregard of the very painful history of modern Africa. Further, will any black leader recognised by the urbanised radical core tolerate the fact that each white voter represented in the proposed legislature's second chamber will have 16 times the voting power of a black voter?

National Convention

The Indaba may stimulate other similar efforts, perhaps at regional level in the Eastern Cape, or even at national level. If it fails at home and is not enacted in Natal, the Indaba could still serve as an interesting model for attempts elsewhere. Certainly, repetition of the mistakes of the initiative should be avoided. Briefly stated, these include the vastly disproportionate overrepresentation of whites; proceeding without a prior referendum; participation by non-political groups; the excessive influence of a dominant political personality (in this case Chief Buthelezi); and the mysterious closed-door sessions.

Furthermore, the Indaba disregarded Indians in terms of overemphasising African/white relations and unwisely resorted to high-powered American-managed public relations techniques. Constitutions are not usually sold in the same manner as soap!

To conclude, it is necessary to establish economic foundations before another effort like the Indaba is undertaken. A national convention will have to first concentrate vast efforts on building the economy to the point where all those who are to be absorbed into the new system will have prospects of realising the rising expectations political liberation entails. The KwaZulu/Natal Indaba does nothing of the kind — putting the region's black majority into power will in all likelihood only invite the rapid politicisation of a very large and hitherto passive African population.

South Africa's problems have been several centuries in the making — we cannot expect to undo them in eight short months of political negotiation. The Indaba could be the beginning of a solution that will take much, much longer to attain.

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Nattuss 1. 'The Homelands: Fiscal Aspects of Dependency', in *Indicator SA*, Vol 2 No 4: 1985.

'A War with UDF, Cosatu and the ANC', in *WPP* No 43: August 1986.

Prospects

At some future date historians may well look back at the present political ferment in South African politics and remark that so few of the major political actors appeared to desire a solution to the conflict in the country. Quite possibly they will diagnose it as a time too early for serious negotiation, when too little pain had been inflicted on either side to make compromises seem worthwhile. Hopefully, however, they will also record it as a period when some breakthroughs occurred.

The KwaZulu/Natal Indaba, and the debate around it reflected in this special report, are indicative both of such a potential breakthrough and of the vitality and the pathologies of the South African political debate in general. There is cause for hope, caution and despair in the arguments and proposals presented in an *Indicator SA* review of what may well be the most important constitutional initiative of the decade.

Principles

The process and outcome of the Indaba are described in detail by authors Dhlomo, Saunders, Mansfield, Van Wyk and Wiechers in this report. Suffice it to say here that the recommendations represent:

- The conviction that regions in which relatively greater political consensus can be reached than in the country as a whole should have the opportunity to establish interracial second-tier government with autonomy and extensive powers, but firmly within the framework of citizenship of South Africa.
- Full acknowledgment of the democratic rights of a majority to determine the composition of the regional legislature.
- A recognition of the needs of ethnic minorities to participate in executive government, through representation in a second chamber and the cabinet, provided that such minorities are formed through voluntary political association and not by means of race classification or any other formal categorisation.
- An affirmation of the rights of individuals in a democratic order as expressed in a Bill of Rights, which implies that all forms of discrimination will be abolished and formal segregation such as Group Areas eliminated.
- A commitment to a steady elimination of inequalities between groups and parts of the territory in regard to welfare and the provision of social services.
- An attempt to avoid the dangers to democracy of majoritarian domination by providing for constitutional checks and balances without, however, allowing fixed and guaranteed racial power bases which carry the danger of chronic mutual alienation of groups.

The Indaba proposals are imperfect in many elements of constitutional detail as Boule points out in his contribution. This is not surprising, since

THE INDABA & THE SOUTH AFRICAN DEBATE

By Prof Lawrence Schlemmer,
Director, Centre for Policy Studies,
University of the Witwatersrand

the task in the negotiations was to develop the themes of political resolution on the understanding that more detailed formulation would follow prior to any implementation. Indeed, follow-up work is already being planned to flesh out the social, economic and political content of the broad proposals.

It is clear from the essays carried in this review that the major problem with these proposals is their location in the ideological crossfire between deeply polarised political viewpoints in South Africa. It is possible that, falling between two political currents, they may be lost in the tide of history. On the other hand, their position in the crossfire may be the surest indication that they represent a creative resolution to the South African conflict. No matter how creative, however, if the Indaba proposals cannot mobilise political support, their significance will wither.

Political Support

How worthy of political support are the proposals? The arguments in this report raise most of the telling responses to this fundamental question. The major issues which arise are reviewed below:

- *Were the Indaba negotiations undemocratic by virtue of being closed to the press and public? Were they a 'top-down' exercise as is sometimes said?*

Author Mare argues this point. In some measure he is right, but this problem was fully considered by the convenors and planners of the exercise. Given the intention right from the outset that the proposals would eventually be put to the test of public opinion in a referendum, it was felt that the advantages of closed sessions outweighed the disadvantages. In a highly charged political climate there was a greater likelihood of divergent views being modified if participants were not playing to the gallery of the media. The assumption was valid, and there was very little posturing during the middle and latter stages of the Indaba.

There is a notion, implied in some of the critiques published here, that a new order can and will be

established in South Africa at some major historic event like a national convention, or similar singular process, to be preceded by a massive round of consultations with the people. This is an attractive notion, to be sure, but hardly compatible with the untidy, often fortuitous and sometimes confusing way in which historical change occurs.

This aside, the major problem in South Africa is how to commence a process of negotiation in a situation with many unwilling political actors. Some catalytic initiative or vanguard action by certain organisations is required. The history of the Indaba shows how difficult and constrained such a process can be. However, the Indaba was no sudden idea or imperious imposition. It was the end of a complex institutional process which involved a great deal of consultation at all levels at various stages. The final safeguard, for democratic interests, will be a referendum to which the actors in the Indaba are firmly committed.

- *Will the proposals reinforce ethnicity? Will they strengthen group cleavages?*

Authors Ramgobin and Mare make this criticism very strongly. Ramgobin makes his case with assertions that suggest that he has not read the proposals (a common feature of politics in South Africa). He believes that the Indaba will create 'another administrative unit — complete with Group Areas, Population Registration ...'. There is absolutely nothing in the proposals that would establish these formal racial criteria. In fact, this is one of the major reasons why a contributor on the right, Steenkamp, finds the proposals so weak in the reinforcement of group privileges.

The issue is a serious one. South Africa is deeply divided enough without any reinforcement of group boundaries. In my view the criticism is ill-informed, however. Whether based on false consciousness or not, ethnic group consciousness is pervasive among minorities in South Africa. It is simply a political fact. One response is to ignore it and smother it in non-racial ideology as is frequently proposed by progressive extra-parliamentary movements. While this might be my

personal inclination, it is dangerous in the extreme.

History and current world politics are redolent of examples where ethnic minorities, particularly if well-mobilised like Afrikaners, have pitted themselves irrationally against reigning majorities, with tragic consequences. It matters little that the underlying forces may be class competition or subtle political manipulation; if the surface experience is one of ethnic mobilisation and the group feels threatened, then active resistance tends to follow. Can these authors seriously imply that the precedents of the Ulstermen, the Sikhs, the Tamils in Sri-Lanka, the Israelis, the Basques, the Lebanese Christians and numerous others are to be simply dusted under the carpet of a supposedly deeper, class-based analysis?

The Indaba faced the choice of either trying in advance to suppress ethnic consciousness, which was amply displayed in the proceedings, or to attempt to give it some *Lebensraum* and integrate it into a broader functioning political unity. In the choice of the latter there is a reasonable chance that much of the social poison of intergroup hostility could be dissipated.

● *Is the Indaba at base a promotion of capitalist or bourgeois interests?*

Curiously, the critics on the left, as well as Steenkamp, the National Party MP, share the view that the Indaba is elitist and informed by capitalist interests. At one level they are quite right. Corporate capital has heavily endorsed the proposals and will probably continue to do so.

There are two ways of interpreting this support, however. The interpretation in the conspiratorial mode is to assume that capital has developed an agenda to use the proposals to suppress the interests of the poor or labour and to ensure the reproduction of labour power in the region under conditions favourable to its exploitation (my apologies to the English language), or to undermine the interests of lower-middleclass Afrikaners or whites in general. Ramgobin even suggests that the NP government has not honoured its supposed partnership with capital in not 'gleefully' accepting the proposals. Either this type of interpretation is monastically removed from everyday realities, or it hugely overestimates the sophistication of businessmen.

Corporate capital would support the Indaba because of its perfectly logical interest in seeking greater stability and hence improved economic confidence in its operating environment. The business leaders that support the Indaba have a somewhat longer-range view of the economy and consider that the benefits of a political settlement probably outweigh the risks of the expression of majority interests. Few intelligent capitalists would want to deny this explanation and there is no reason why it should cast doubt on the proposals.

● *Would the proposals damage the interests of 'the people'? Would they be rejected by the rank-and-file population, given the opportunity to make a calm*

and considered choice?

It is obviously true that the Indaba process did not involve the mass labour movements like Cosatu, or the potentially mass populist movements like the ANC (although the planners would have welcomed such participation).

Author Mare makes an uncomfortable distinction between 'the people' and the Zulu nation. Unless 'the people', like 'die Volk' (the Afrikaner nation), is a code word for a particular form of mobilised power, presumably everyone in South Africa is part of this universal category. The Indaba therefore included a representation of a substantial proportion of the people (but I am sure that from some viewpoints it was the wrong proportion).

The fact of the matter, though, is that the proposals provide for an open vote for the legislature, which will determine the membership of most of the cabinet. This majority voice can be vetoed, it is true, but it has been the experience elsewhere that when vetoes are used ruthlessly or too frequently, they undermine constitutional legitimacy. Between majorities and minority vetoes there is inevitably a trade-off. It would be impossible to significantly suppress majority interest if the Indaba constitution were to be implemented.

These democratic merits would, however, depend on whether or not the majority of people participated in the electoral process. This would depend partly on decisions taken by popular organisations and partly on the sentiments of the rank-and-file.

Survey Findings

Two surveys reviewed in this report give a broad but obviously highly tentative indication of potential support for the Indaba among the population at large. The Markinor survey (sample 3 500) shows clear majority support or qualified support among all groups. The Sutcliffe survey (sample 1 000) shows more support than opposition among all groups, but with between three and four out of ten black people indicating uncertainty.

More broadly, however, even at the early stage of March 1987 (the date of both surveys), both Sutcliffe and Markinor show that there was at least substantial support for the idea of regional power sharing among all people in the region. Provided that the popular testing and implementation of the proposals is an inclusive process allowing for the promotion of all viewpoints, the prospects for significant mass participation seem favourable. In full view of international publicity, which would be inevitable, it is unlikely that the politics of intimidation or coercive mobilisation would be practised by any formation. The voice of the masses is not likely to be obscured.

In parenthesis, some of the critiques in this review imply that the Indaba proposals will allow for Inkatha domination of the whole process. There is a

simultaneous assumption that the proposals give too much power to ethnic minorities. It is a contradiction in terms to assume both Inkatha control and minority control, unless one anticipates an alliance between minority interests and Inkatha. Obviously Steenkamp does not anticipate such an alliance; nor would Inkatha's present rejection of the Regional Services Councils, for example, suggest that it would be likely to occur.

The contradictory expectations of the outcome of the proposals reflected in the various authors' views are significant and point to one of the strengths of the Indaba model. The proposals are not heavily loaded in favour of either majorities or minorities. Only under unusual circumstances could majority domination or a successful perpetual minority veto occur. The proposals attempt to establish a balance of interests.

● *Are the proposals economically and administratively feasible?*

Magyar, Hartshorne, Trotter and other contributors to this review draw attention to the serious implications for the proposed regional government of the wide disparities in welfare and social services between groups, particularly in the field of education. This is a serious issue for, as Magyar points out, experience in Africa shows that the sheer enormity of economic challenges to equalisation and general welfare could sabotage the democratic process. Particularly in a region where intergroup tensions are already critically high, a sharp competition for resources with mass discontent could precipitate dictatorial or authoritarian government.

However, Trotter's review of options for the equalisation of educational opportunity illustrate that provided solutions are not sought instantly, clear goals are set and innovative means are employed to raise fiscal revenue, there can be steady progress towards equality without frightening off investment. One must also assume that the wealthier classes and corporate capital will be prepared to pay reasonably increased taxes in order to secure a stable and lasting political settlement.

The proposal is made, *inter alia* by Boule, that the equalisation of opportunity requires remedial attention at the central level of government, and that a 'special status' region will not have the resources to undertake the task. This argument, that national problems require national solutions is very popular and sounds very plausible, but it misses the whole point of the Indaba exercise.

It is precisely because a national solution is at this stage still remote that the KwaZulu/Natal regional initiative started in the first place. Insisting on national solutions if there is a chance of regional progress is like waiting for Godot!

Furthermore, a united regional government articulating the needs of both the masses and the establishments of the region is likely to have considerable bargaining power at national level. Enhanced transfer payments from the centre are

very probable.

Author Magyar implies that economic solutions have to be well underway before a political democracy can be risked, particularly where there is intergroup and interfaction competition for opportunity and resources. He lists this inversion of priorities as the 'single greatest problem' of the exercise. In theory he is absolutely right — economic development is supportive of democracy. The problem, however, is one of process. In the case of KwaZulu/Natal a political settlement (with as many safeguards against the usurpation of power as possible) is necessary to extract the resources from the central fiscus to promote development. If development succeeds, then hopefully the need for safeguards will fall away.

● *Is the Indaba initiative divisive? Does it weaken the national struggle for rights in the country as a whole?*

These questions reflect a rhetorical cry against the initiative that is heard almost as frequently as the claim that it will hand the region over to 'the blacks'. If the Indaba had the same chances of success in the short- to medium-term future as the 'national struggle for liberation', then there could be a direct competition between the two ideals. As said before, however, one of the basic points about the Indaba is that it may achieve an earlier breakthrough. If there were prospects for negotiation between the government, the ANC, Inkatha, etc. in the near future, the relevance of the Indaba might indeed be questioned.

The following question is directly relevant to whether or not the Indaba is politically divisive. If all groups in Natal are able to participate effectively in a regional government which controls the resources of the second largest industrial region in the country and the two most important harbours, will Africans (or 'the people') have more or less influence over the future development of the country? I believe that it is self-evident that they would not have less.

The Indaba proposals, if implemented, may weaken the strength of extra-parliamentary movements opposed to Inkatha only if they choose to boycott the electoral process. The Indaba could provide the UDF, for example, with its first opportunity to acquire formal leverage and protection from state action. If the constituency it represents is indeed dominant in black politics, as is often claimed, it could produce the leader of the region.

Quite frankly, the only movement that the Indaba is likely to weaken is that of revolution. Most participants in the Indaba will make no apologies for this, if for no other reason than the fact that 'the revolution' is unlikely to occur with or without the Indaba.

● *Could the implementation of the proposals result in a black majority government for the region? Could the white minority enjoy no more than token representation?*

Author Steenkamp refers to the minority safeguards as a 'booby prize'. Other critics in this review read into the proposals continued minority control.

Steenkamp bases his case on the possibility that the majority party in the proposed regional government will be black (Inkatha or the UDF) and that the strongest opposition party could also be black (the UDF or Inkatha). In this prognosis he is quite correct — it could happen.

If it does happen, however, one of those two parties (who are not well-known for their amicable relations) would be inclined to seek alliances with minority parties in order to enhance their leverage. Or the minority parties may add the balance of power between the two. Furthermore, if Inkatha is as conservative as some of its extra-parliamentary critics make it out to be, an alliance between it and white parties may be possible or probable. In other words, Steenkamp's arithmetic, although technically correct, is not conclusive when it comes to a political process. There appears to be as much significant political disagreement among blacks in the region as there is between blacks and whites. One may predict that the National Party will acquire some powerful allies in the region, perhaps from among other minorities, perhaps from 'the majority'.

Furthermore, there are cultural (not racial) safeguards in the constitution itself which will be guaranteed by an act of central parliament. The proposals are not for secession, nor for complete and total independence.

Above all, however, few people assume that central government will not wish to negotiate on the precise form of the regional constitution. Provided that elements of race classification are not insisted upon, many of the issues raised by Steenkamp may be taken up in such negotiations. Obviously, the National Party is in a position of power. The issue is whether or not these proposals are going to be taken seriously by the government or summarily rejected. The latter would seem to be unnecessary, given the manifest ultimate control which the government has over the process.

● *Finally, what are the prospects of success of these proposals?*

The Indaba proposals are far from any participant group's ideal political arrangement. Their greatest strength, however, lies in the fact that they satisfy nobody. They represent the kind of compromises and limitations which will be necessary if wider South African negotiations are to succeed in the short to medium term.

The case study on the Western Cape talks by Cameron clearly illustrates how problematic the negotiation process is in South Africa. This contributor points out that the supreme advantage in the Natal situation, which is frequently absent elsewhere in the country, is a middle grouping of moderates who can act as a catalyst.

Yet, with all its positive impetus, there is absolutely no certainty that the Indaba initiative, in its present or modified form, will win eventual acceptance. It has more than a fifty percent chance of success, however, for the following reasons:

- It will not be the first time that the government has accepted proposals that were rejected initially. The Erica Theron Commission report, the early demands for black labour rights, the first report of the President's Council constitutional committee on the Group Areas Act, among others, were proposals which won eventual acceptance after initial rejection.
- The government has long committed itself to devolution of power but as yet, as Cameron points out, has centralised rather than decentralised power. There may be some pressure within the governing party to correct this contradictory record.
- The government seems to be planning for a central governing structure in which there will be representation on a superordinate National Council drawn from both racial and geographic representative bodies. In the recent election campaign, for example, President Botha made mention of so-called city states. The Natal region could be linked to the central constitution through the former council provided that provision is made for genuine power sharing and a formal racial character is avoided.
- Machinery exists for government to give formal, expert consideration to the proposals within the same processes used for recent reforms. Such mechanisms could be expanded to allow for multilateral negotiations between itself, the Indaba and other interests relevant to the future of Natal who are willing to participate.
- One issue which caused resistance from government — the participation of parliamentary opposition parties in the Indaba process — is much less salient since the National Party gained control of white politics in the province in the May 1987 elections.
- The government faces two opposing sets of demands. One is to institute incisive political reform and to move away from a rigidly racial basis of planning and political participation; the other is to accommodate strong demands from conservative regions for white community self-determination. The ruling party cannot do both unless it is prepared to differentiate policy on a regional basis. The Indaba would provide a lead in this regard, and other, less conservative regions could follow in due course.
- Finally, the proposals have mobilised substantial and growing support. As the present stalemate in South African politics drags on, more support is likely to be forthcoming, even from some extra-parliamentary circles. The government has already responded to some degree to the politics of regionalism with the KwaZulu/Natal Joint Executive Authority. Clearly a process is underway which is not likely to die. **PPA**

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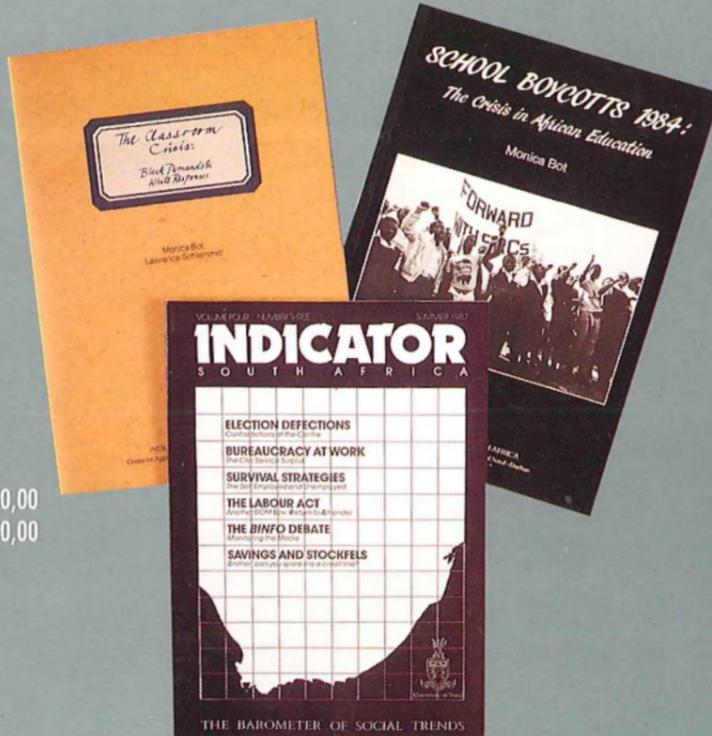
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