

Proposal for International and Local Monitoring in the Transition

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Introduction

This proposal sets out guidelines for monitoring of political violence in the immediate future. The proposal covers both local (domestic) and international monitoring agencies. While monitoring is often assumed to refer to all aspects related to political conflict, the accepted focus of monitoring in the international context is the conduct of armed forces. Political parties are generally assumed to monitor each others behaviour in relation to campaign issues and electoral protocol whereas the police are tasked with monitoring – and acting on – criminal behaviour. In the South African context where only the armed forces have a monopoly on the legal use of force and coercion, it is these armed forces – and particularly the police which should rightly be the focus of any independent monitoring effort.

However the monitoring of the police and the criminal justice process cannot meaningfully occur in the absence of detailed knowledge of the context in which police action takes place. This proposal thus focuses specifically on the monitoring of the police **within the context** of monitoring and prevention of political violence.

The credibility of the transition process hinges on the credibility of the police as they possess the legal right to use force, and have the responsibility to oversee the process. It is vital for the creation of confidence for the police to be seen by all the political players to be under some independent constraint and/or scrutiny.

In the present context the following additional points should be considered.

- The current impasse in the negotiating process means that monitoring is even more important as a means of restoring confidence; and of restraining negative actions on the part of the police.
- At this point the international community has a vital role to play. At the same time local communities need to be able to feel that they are able to hold the security forces accountable for their actions.
- The massacre at Boipatong has created the climate where the international community, as well as local business, are willing to be involved in finding solutions to the violence. Both financial and human resources are thus readily available for the establishment of a diverse monitoring effort.

- Local monitoring has been accepted in principle by the government and a range of organisations conducting such monitoring already exist and have accumulated considerable experience in the prevention of violence and the organisation of monitoring.

The Nature of Monitoring

The most important question to be addressed is: how does monitoring make a difference? It is clear that "after the fact monitoring" – the arrival of monitors on the scene the day after a massacre, is likely to have little effect on the violence. Equally unsatisfactory are assessments of the adequacy of police operations which are based only on accounts from the police themselves.

This proposal is based on the view that neither domestic nor international monitoring offers a "magic fix" in terms of police practises or political violence. Indeed, there is considerable debate on the effectiveness of various forms of monitoring interventions. International experiences of the "policing of the police" for example, have shown that independent investigation of police misconduct does not necessarily produce better results than internal enquiries – particularly when such investigation is seen to be hostile towards the police force in general.

Generally monitoring is believed to help in preventing violence in several distinct ways, all of which are based on certain key assumptions about the nature of violence and the possibility of addressing it:

- The public exposure of the findings of monitoring can bring pressure on the police (or on parties) to act in different ways – which lead to a reduction in violence or more effective law enforcement. This monitoring is akin to independent investigation of political violence or police action in relation to dealing with such violence. The emphasis is generally on prosecutorial or "finger-pointing" outcomes.

Assumptions: *The monitors have sufficient influence to change the behaviour of parties. Violence is primarily influenced/caused by the actions of "leaders".*

- Information from such monitoring can be fed into the process of conciliation, facilitation and mediation and thus strengthen the peace process. This is particularly important in relation to the structures of the *National Peace Accord*, and is in essence about **confidence building**. The physical presence of monitors in volatile situations can help defuse the situation. In relation to the police such monitoring is about the facilitation of improved **police-community relations**.

Assumptions: *Violence is primarily fuelled by misunderstanding and the absence of trust. Parties are willing to work constructively to solve problems.*

- Information about violence, combined with direct monitoring of police actions or investigations can be used to facilitate the criminal justice system. This essentially involves "nursing the legal process", and is premised on the establishment of positive relations with the police and other parties. This process relies on the credibility or influence of the monitor/facilitator which enables them to ensure that the best channels are followed for the achievement of appropriate and committed action on the

part of the police. The levels of trust achieved by for example the Independent Law Enforcement Facilitation Office in Natal has effectively served as a restraining and motivating influence on the police.

Assumptions: *The failure of the criminal justice system to prosecute perpetrators and protect citizens is not primarily due to a deliberate or planned strategy.*

- The scrutiny of police practises, particularly in relation to public order and the investigation of political violence; by an independent agency. The "Waddington Inquiry" after the Boipatong massacre is an example of this. The findings of such inquiries constitute an "audit" of police practices and lead to recommendations and criticisms which cause the police to change their practises and improve the effectiveness of their response to political violence. Such inquiries are dependant on expertise on the part of the agency doing the scrutiny and the willingness of the SAP to respond.

Assumptions: *Policing is in need of fundamental reform, and more effective law enforcement will help reduce violence.*

In addition the presence of credible observers constitutes a restraining influence on the actions of potential perpetrators or the police.

The proposed diverse monitoring efforts would probably use all of the above intervention strategies in a complementary fashion, with the emphasis on conciliatory and confidence building measures rather than finger-pointing. The most effective use of a "prosecutorial" interventions, would be as a fall back option (or "threat") on the part of the international agencies involved.

It should also be noted that within a conciliatory climate of negotiations which the Peace Accord has attempted to make real at grassroots level, a reliance on "prosecutorial monitoring" which is high profile and feeds directly into ongoing political competition may well inhibit the effectiveness of "facilitative monitoring" which is, of necessity, "behind the scenes".

The Prerequisites of Effective Monitoring

- Sufficient information to be proactive and predictive of potentially volatile situations.
- Independent access to operational documentation of the police.
- Accessibility in relation to the public, in the form of a complaints office, or alternatively; access to communication between the public and the police.
- Rights of access to police structures and units.
- A widespread and considerable presence in the country.
- Credibility in relation to parties being monitored. In relation to the police, some acceptance of the monitoring effort is vital.

Other Considerations

- A clear set of guidelines on the role and functioning of international monitors, their relationship to local monitoring and the logistics of establishing such a monitoring effort must be urgently formulated.
- The financial state of the UN and other international agencies rule out a large scale peace-keeping force. It will thus be important to utilise the resources of domestic and international monitors in a complementary fashion.
- The governments recent positive response to international efforts to deal with the violence is an encouraging sign that they may accept the positive contribution international monitors could make to peace efforts.
- International Monitoring should fall under the authority of a credible international agency to be truly meaningful. This would place such an agency in the position to make recommendations as outsiders; which would thus carry considerable weight.
- Our domestic capability to resolve conflict and hold the police accountable to the process of positive change must be strengthened and not weakened by the presence of an international monitoring agency. It is therefore vital that the international presence complements local peace initiatives and domestic monitoring.

It is therefore proposed that the International and Local monitors be closely integrated in terms of practical deployment. In terms of their formal status however the International monitors should remain independent of any domestic structure.

Modus Operandi of Monitoring Operations

The modus operandi of monitoring is defined for both international and domestic monitoring and flows from the prerequisites of effective monitoring as discussed above. The specific methods described here attempt to take into account the expected diversity of the total monitoring effort.

- Each local monitoring office will have the services of a 24 hour toll-free "help-line" on which civilians can inform the monitors of impending or ongoing problems. Such a "help-line" could be shared between different monitoring agencies.
- Monitoring staff will, as a matter of course, have to meet with and get to know leaders of the various groups. In addition the communities will have to be properly informed of the precise role and limitations of the monitoring body.
- The monitoring staff may be divided into various functional units. "Technical Monitoring Teams" will be constituted to perform more specialised functions such as scrutinising the process of investigations, the activities of Internal Stability Units and other ongoing police operations. This function may be performed mainly by international experts. The technical teams will also look at issues such as "war talk" at rallies and disputes around the planning and preparation of public meetings and protests.
- Each local office to have a mobile "flying squad" unit which could be called out at short notice in times of crises.
- Monitors would focus their attention of public order events as well as visiting police establishments and monitoring a range of police operations on a random or planned basis. They would have the right to accompany police in the exercise of their normal duties.
- Each office would require administrative and research staff to compile reports and statistics.

- A larger mobile "national inquiry team" will provide higher profile presence during times of crisis and will be able to conduct on-the-spot inquiries into actions of the security forces.
- An effective liaison mechanism between the monitoring agency and the structures of the National Peace Accord will be essential. Both local and international monitors should have a structured relationship with local and regional dispute resolution committees. Members of the local monitoring agency may serve directly on such structures.
- **Equipment:** Specific equipment which must be provided for includes hand-held video cameras, all-terrain vehicles, and field telephones/two way radios.
- **Use of information:** The priority for information use should be on "nursing the criminal justice process" as described above as well as the strengthening of the strengthening of the peace process as described above.

A press liaison officer will also be tasked with issuing regular reports. The primary source of accountability, and thus channel for information for the international monitors will be the responsible international bodies.

Establishing International Monitoring

- International Bodies such as the UN, the Commonwealth and the EC must be approached on the basis of a widely canvassed monitoring model. This should follow a process of negotiation between all parties in order to broaden the governments definition of "observers".
- *A monitoring co-ordination agency* under the auspices of a politically non-aligned facilitator must be established as soon as possible. IDASA has been suggested, but this agency should possibly include representation from churches, business and trade unions. The role of this agency would be to prepare for the arrival of international monitors. It will arrange logistical support, briefings and information for the international monitors as well as assisting with the deployment of international monitors and co-ordinating the efforts of different monitoring agencies.
- **Size & Distribution:** The monitoring corps would be made up of between 200 and 400 monitors to be based in offices around the country. The distribution of the monitors would be determined according to patterns of violence.
- **Composition:** It is likely that a range of international agencies will want to be involved in monitoring. It will be preferable to integrate the different agencies into one coherent initiative. This should fall under the auspices of the UN. The monitors should preferably be made up of a multi-disciplinary force which would include police, military personnel, lawyers, NGO personnel and researchers. Dutch personnel should be prioritised, because of the dominance of Afrikaans in the Police.
- **Deployment:** The monitors should be based at their own independent offices situated close to strife-torn areas.

A Local Monitoring Force

A summit should be called of all monitoring groups as soon as possible.

The following options present themselves:

- **Supervision by the Goldstone Commission:** It has been suggested that "peace keeping and monitoring" be considered by a task force of the Goldstone Commission. While there is no doubt that this would be of value, the Goldstone Commission is performing quite a different function and is not suited to the supervision of the forms of monitoring proposed.
- **Unilateral monitoring:** Because of the slow progress of negotiations and the weakness of the Peace Accord, existing local monitoring groups could simply integrate themselves into a national monitoring network. This network would be strengthened with extra resources and the recruitment of more monitors, possibly through business and the churches. As this will be established without the prior consent of all parties, it faces the same problems as existing monitoring groups, namely that the information is assumed by some of the players to be biased.

In addition, international bodies are likely to limit the extent of their association or reliance on a local monitoring network which is not backed by all parties.

- **National Monitoring corps under Multi-party control**

Two alternative options for control present themselves:

- A broad "Multi-party committee" be established with close links to the National Peace Accord, but with broader representation from "civil society", such as organised labour, business and the churches. This has the advantage of not being limited to the political constituencies represented on the NPA, and thus having a degree of independence from the "political players". It is suggested that the actual day-to-day management and co-ordination of monitoring is performed by the agency described above.
- The monitoring corps to be established under the auspices of the National Peace Committee.

- **Functioning**

The functioning of domestic monitoring will be broadly similar to the general modus operandi as outlined above. However the following specific points should be considered with regard to domestic monitoring.

- The National Peace Secretariat or the monitoring co-ordination agency should establish a training course for such monitors.
- The monitoring corps will comprise of a number of monitors who are "certified" by the NPA.
- Such monitors should as far as possible be full-time. However monitors from sectors such as business are likely to be available only when incidents warrant their presence. Such monitors, if properly coordinated with the full-time network could provide valuable support in times of crisis. All monitors should however undergo some form of training/orientation.