

PUBLIC SECTOR - GOVT - JUSTICE

1992

JUNE — JULY.

company, Rob Rocky Auctioneers, was registered in March last year, with Lombaard and Plumari as directors

"When I go to lay charges, the police refuse or where they agree, the Attorney-General declines to prosecute"

# Report misused - ANC

*Sowetan 11/6/92*  
THE ANC has withdrawn its initial attack on the Goldstone report, saying there was a large discrepancy between the actual report and the press statement by Mr Justice Richard Goldstone

A press statement by the organisation late on Friday said the organisation had now received the full report which was markedly different from the press release

"We are deeply disturbed at the manner in which the Government has manipulated the press release in order to focus attention on issues that are not covered in the report of the Commission

"The report has been in the hands of the Government for four weeks. The Government then chose to concentrate the attention of the public on the press release so as to divert attention from contents of the report," said the statement.

It added that Government ministers had trumpeted the view that the commission had no doubt that the primary cause of the violence was the political rivalry between the ANC and the Inkatha Freedom Party.

*(252)*  
"In reality, the report identifies more than 10 causes of the violence and at no stage suggests a so-called 'primary' cause," the ANC said

"In fact, the stated first historical cause of the violence in the report is the apartheid system itself"

The reality, the ANC continued, was that the commission attributed part of the violence to State complicity in undercover activities and the report further criticised the failure of the Government to act on such matters

The ANC said it fully supported the decision of the National Peace Committee to convene a meeting of all leaders as soon as possible to discuss the escalating violence. This meeting should also discuss Mr Justice Goldstone's report.

"The ANC will take all necessary additional steps to ensure proper control of all our members and will continue to cooperate with both the National Peace Committee and the Commission to the best of our ability," the ANC concluded. - *Sapa*.

# Goldstone hits out at handling of his report

(252) WILSON ZWANE  
and BILLY PADDOCK

JUDGE Richard Goldstone yesterday slammed the way in which government had handled the release of his commission's second interim report, saying this had led to confusion.

The judge said in a statement his commission was concerned about the manner in which its views were unfairly and selectively used by public representatives, who had been in possession of all the information for some weeks.

Justice Minister Kobie Coetsee, however, last night stood by government's handling of the issue.

Goldstone's report was submitted to President F W de Klerk on April 29, but a news statement on the report was released only last week. Other Goldstone reports have all been released within two days of being submitted to De Klerk.

Goldstone said yesterday government's handling of the issue led to an "unfortunate" confusion, which could have been avoided, had all interested parties — particularly the signatories to the national peace accord — been given the report before "government and police spokesmen made public comment on it".

Reacting to the statement, Coetsee said that he agreed all signatories to the national peace accord should be recipients of all relevant reports "at the earliest possible opportunity".

He also said that the second interim report by the Goldstone commission had certain far-reaching implications for departments and the taxpayer and as such the departments concerned had to be allowed an opportunity to study the recommendations.

The DP yesterday criticised the mutual recriminations of government and the ANC over the Goldstone findings.

In a statement DP Deputy Law and Order spokesman Lester Fuchs said the DP was concerned that the two parties "have once again resorted to opportunism and gestures designed to appease their respective constituencies rather than mak-

□ To Page 2

## Goldstone *Bloay 2/6/92*

ing an honest attempt at finding solutions to SA's most nagging problem — the on-going political violence".

ANC spokesman Saki Macozoma said the "mischievous" way in which government had handled the commission's report could have had serious consequences, such as denting Goldstone's reputation and impeding an important "instrument" of the national peace accord — the Goldstone commission.

The Human Rights Commission (HRC) yesterday apologised to the Goldstone commission for having criticised its report saying it did so without knowing that government had "misrepresented and manipulated" the report.

Goldstone said his commission had not

(252)  From Page 1

exonerated elements in the security forces. The commission had said action by the security forces alone could not meaningfully curb violence in Transvaal and Natal areas. The primary cause of the violence in these areas was the political rivalry between Inkatha and ANC supporters.

Goldstone said violence could not abate until ANC and Inkatha leaders had taken appropriate steps to cause their supporters to abandon violence as a political weapon.

ANC spokesman Gill Marcus said her organisation would take stringent disciplinary measures against members who violated the organisation's code of conduct.

Inkatha central committee member Musa Myeni said his organisation had proper control over its members.

● Comment: Page 10

## Ramphele named Anglo director

2/6/92  
B/Docy MATTHEW CURTIN

ANGLO American has appointed distinguished academic and community health worker Mamphele Ramphele as a non-executive director of the corporation.

Anglo chairman Julian Ogilvie Thompson said yesterday that he was particularly pleased with Ramphele's appointment because of her important contribution to research work the group was undertaking on the issue of poverty in SA.

Ramphele had taken a leading role in Anglo's efforts to define affordable and effective programmes of poverty alleviation which would be undertaken in SA within a framework of sound macroeconomic policies.

Ogilvie Thompson said the research would form the basis of discussions with political parties as well as make a contribution, through publication, to the wider public debate on these issues.

Ramphele is currently deputy vice-chancellor at UCT, where she completed a PhD in social anthropology last year.

In 1990 she won an Anglo and De Beers Chairman's Fund research grant for adolescent research in the Western Cape.

## 'Contraventions led to finrand changes'

Picture BRIAN HENDLER

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B/Docy 2/6/92  
THE large number of exchange control contraventions uncovered and investigated by the Reserve Bank led to the amendment of many of its policies regarding finrand applications, the Rand Supreme Court heard yesterday.

This was said by Reserve Bank official Charles van Staden during cross-examination.

He was testifying at the trial of former Interboard chairman Ed Dutton who pleaded not guilty to 14 counts of forex and finrand fraud involving about R150m.

The State alleged that Dutton, using forged invoices and contracts, had obtained foreign currency unlawfully by misrepresenting that the funds were required to pay for plant and equipment purchased overseas.

It was alleged that most of the plant was never purchased and that the value of the imported plant was grossly inflated.

Dutton was also alleged to have had ultimate control of the two overseas companies, Partic Industrial Co Ltd and Ligneus Processing and Engineering Co Ltd, which were purported to have supplied the goods.

Dutton denied that he controlled the Mary Gibbs Trust, which was the ultimate holding company for the

SUSAN RUSSELL

Dutch- and SA-registered Interboard companies, or that the Trust owned Ligneus and Partic.

Cross-examined by Dutton's counsel Max Hodes SC yesterday, Van Staden told the court that one of the measures, introduced after the Reserve Bank had uncovered and investigated so many exchange control contraventions, was to establish whether there was any relationship between the overseas supplier and the local importer.

This and other amendments to Reserve Bank exchange control policy applied only to finrand applications, Van Staden said.

The witness was also asked by Hodes whether the Reserve Bank was concerned about where the overseas investor who wished to use the finrand mechanism obtained his funds.

Van Staden said the Reserve Bank was not concerned if the funds were obtained from a foreign source, but if funds had been made available by someone with an SA interest, the Reserve Bank would obviously have a different attitude to that particular finrand application.

The case continues today.

PRIVATE SECTION HAS BEEN MARKED BY THE PRESS AND RHM at inter-



Peter Fabricius  
Political Correspondent

The Goldstone Commission has criticised the Government for delaying publication of its interim report on political violence last week, and unfairly using selected facts from it.

The chairman of the commission, Mr. Justice Richard Goldstone, issued a statement yesterday in an attempt to clarify the confusion

# Goldstone attacks 'unfair' use of report

which has been caused by conflicting Government and ANC interpretations of his findings.

Much of the confusion was caused by the simultaneous publication last week of Mr. Justice Goldstone's second interim report on political violence, and a separate press statement of only the Transvaal and Natal violence.

Mr. Justice Goldstone submitted the interim report to President de Klerk on April 29, but the Government only released it last week.

The delayed interim report spreads the blame only amongst all parties to the violence, while the press statement clearly identified the ANC/IFP rivalry as the primary cause of violence.

Mr. Justice Goldstone said that the commission was concerned by the manner in which its views were unfairly and selectively used by public representatives, who for some weeks had been in possession of all the information before it was made public.

"This led to unfortunate confusion that could not have

happened if all interested parties and particularly all signatories to the National Peace Accord had been placed in possession of the commission's report before Government and police spokesmen made public comment on it.

The commission recommended that steps be taken to avoid a repetition

STAR 16/1/92

Justice Minister Kobie Coetsee responded last night by explaining that the report had been held back to allow Government to study it. Recommendations

He said the report had certain far-reaching implications for departments and the taxpayer.

Mr. Coetsee said he agreed that all signatories to the National Peace Accord should receive all relevant reports at the earliest possible opportunity.

The Human Rights Commission yesterday apologised to the Goldstone Commission for its earlier criticism of the report, saying it had commented "on the basis of a Government press release."

### Former Minister in court

STAR 2/6/92  
Former Manpower Minister Pietie du Plessis and three others appeared in the Pretoria Regional Court yesterday on 60 counts of fraud and one charge of corruption. The case was transferred to the Pretoria Supreme Court because of the complexity of the charges and postponed to January 25 next year



Released on warning Pietie du Plessis

### Codesa 'not Christian'

The Afrikaanse Protestantse Kerk said yesterday it would not take part in the forthcoming "peace prayers" because "Christians participating in Codesa were betraying God for the sake of co-operation with non-Christians" The APK said Codesa's nature was contrary to Christian principles and it could not pray for Codesa's success The APK broke away from the Afrikaans reformed churches in the late 1980s.  
STAR 2/6/92

### Murder suspect escapes

A 31-year-old gardener, Jacobus Arendolf, who confessed to the murder of an elderly Parow couple last

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re: AFP

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14 days



# Goldstone condemns Government over report

*Sowetan 2/6/92*  
JUDGE Richard Goldstone yesterday criticised the way in which the Government had handled the release of the Goldstone Commission's second interim report saying it had led to unfortunate confusion.

He said the commission had not exonerated elements in the security forces from contributing to violence in South Africa.

Mr Justice Goldstone said action by the security forces alone could not meaningfully curb violence in Transvaal and Natal areas.

The primary cause of the present violence in those areas was the political battle between supporters of the African National Congress and the Inkatha Freedom Party, he said.

Violence could not abate until leaders of these or-

ganisations had taken appropriate steps to cause their supporters to abandon violence as a political weapon.

He said the commission was concerned by the manner in which its views were unfairly and selectively used by public representatives who for some weeks had been in possession of all the information.

"This led to unfortunate confusion. That could not have happened if all interested parties and particularly all signatories to the National Peace Accord had been placed in possession of the commission's report before the Government and police spokesmen made public comment on it."

The commission recommended that steps be taken to avoid a repetition of this occurrence - *Sapa*



# If Mlangeni had listened to wife ...

*Sowetan 2/6/92*

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**SLAIN ANC human rights lawyer Mr Bheki Mlangeni could possibly have been alive today if he had listened to a suggestion from his wife.**

This evidence emerged yesterday during the inquest into Mlangeni's death in the Rand Supreme Court.

Warrant-Officer Robert Brockway told the inquest yesterday that Mlangeni's widow told him she had asked her husband not to use the deadly walkman cassette recorder posted from Lusaka.

"She told me she had asked Mlangeni to play the cassette, 'Evidence on hit squads', on a bigger cassette player so that she could also listen.

"But the deceased switched the walkman on and there was suddenly an explosion," Brockway said.

Brockway, the second policeman to give evidence before Mr Justice B O'Donovan, said police had investigated all suspects who included the ANC and the rightwing.

Mlangeni died at his home on February 15 last year when a package containing the deadly cassette recorder

By **KENOSI MODISANE**

exploded.

Last week Captain André Kritzinger told the inquest that police considered three theories about the origin of the booby-trapped cassette player.

The package containing the deadly tape player was addressed to former member of the Civil Co-operation Bureau Dirk Coetzee and listed Mlangeni as the sender.

It was originally posted from Johannesburg to Lusaka and lay at a post office in Zambia for about eight months before it was returned to South Africa.

Kritzinger told the court that he had considered the possibility that Coetzee had sent the cassette to draw attention to the evidence he was to give at the Harms Commission of Inquiry into alleged hit squads.

His other theories were that the cassette recorder was sent by the ANC or from Vlakplaas, the base for CCB operatives.



## Mediation body meets

CAPE TOWN — The committee investigating implementation of the Short Process Courts and Mediation in Certain Civil Cases Act met for the first time in Cape Town yesterday, Justice Minister Kobie Coetsee announced (252)

The Act provides for mediation by an impartial party in a short process court or magistrate's court before judgment is given in certain civil actions

The Act is intended to save costs and resolve matters quickly in a forum providing an alternative dispute resolution procedure

The Minister will be empowered to appoint an independent, objective, impartial person — an advocate, attorney, law lecturer or retired magistrate — to act as a mediator or adjudicator in a short process court

The committee — chaired by Justice Department Deputy-General J G Geysers — would advise the Minister on the establishment of the courts, managing pilot projects, drafting the rules of mediation process and setting up the courts — Sapa (154)

# No prospect of Mykonos Fancourt payouts 'y

CAPE TOWN — There were no prospects of investors in any of the Club Mykonos companies, Mykonos Weskus Beleggings, and Fancourt receiving interest payments yet, Masterbond's provisional curators said in an interim report submitted to the Cape Town Supreme Court this week.

The provisional liquidation of Marina Martinique would also mean a considerable delay before debenture and participation bond investors received a dividend. However, there was hope for capital payments to Silverhurst, Finanzhaus and Spectravest investors

The report disclosed that about R155m of funds invested in Masterbond debenture bonds had been unallocated prior to the provisional liquidation of the group. Initially it was thought that R139m was unallocated, curators Willem Wilken, Arnold Galombik and Jozua Malherbe said

They had obtained the advice of senior counsel on how to deal with the R155m in unallocated funds, accumulated in an undifferentiated account and lent to debtor companies without issuing debenture certificates to investors

LINDA ENSOR

The debtor companies which received the R155m had been identified as Club Mykonos (R27m), Fancourt (R22m), Marina Martinique (R28,7m), Phindaland (R2m), Finanzhaus and Spectravest (R58,4m), Silverhurst (R13m) and others (R3,9m)

Senior counsel had advised that monies received by the debtor firms should be pooled and apportioned on a pro-rata basis to all unallocated investors as amounts were received.

The report disclosed that Club Mykonos share block owners' rights were in doubt as the validity of the unregistered lease on the land was open to dispute. Investors' rights depended on the validity of the unregistered 99-year lease.

A negotiated settlement was essential for Club Mykonos as there were a number of conflicting interests and claims, the curators said

Club Mykonos Langébaan owed R79m to investors for funds borrowed, R49,6m to unsecured creditors and R70m in surety mortgage bonds.

"Unless there is a compromise between the secured investors, the purchasers of the time share and share

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## Church council plans joint rallies to end violence

THE SA Council of Churches will soon invite representatives of political parties, trade unions and homeland governments to attend joint rallies aimed at ending unrest

Leaders of the organisations — with the exception of the ANC and Inkatha — yesterday attended a meeting of a committee which was appointed in April at a summit on violence convened by the SACC

The committee comprises representatives of the ANC, Inkatha, the PAC, Azapo, Cosatu, Nactu and two

WILSON ZWANE

homeland parties

A source close to the council said the committee resolved to ask church leaders to invite black political organisations to joint rallies soon, probably next month. B/day 3/6/92

The source said the committee had stressed that joint rallies should be aimed at promoting peace, not political differences. "The organisations are not precluded from holding their

own political rallies," the source said.

He said the committee also resolved to recommend the formation of a "multiparty commission" to visit hostels and squatter camps with a view to finding mechanisms to curb violence in these areas

Although a date had not yet been finalised, church leaders would ask the organisations to reconvene later this month to discuss violence which continued to affect SA's townships, the source added

## Govt sidelined in Goldstone reports

B109m  
3/6/92 BILLY PADDOCK (252)

CAPE TOWN — The Goldstone Commission declared yesterday that from now on its officials, rather than those of the Justice Department, would issue statements on investigations into violence.

This follows a stinging attack by Judge Richard Goldstone on government's handling of the release of his commission's second interim report last week. Goldstone said the way government had made the report public had led to confusion.

Justice Ministry spokesman Werner Krull yesterday confirmed that the commission had informed the department that its help in releasing statements would no longer be required.

There was an uproar last week when government issued a media statement giving its interpretation of the interim report.

The report was handed to President F W de Klerk on April 29, but was only made public a month later. Earlier reports had been released within two days.

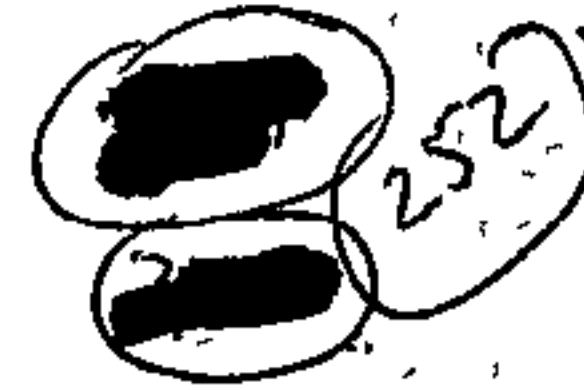
Before the interim report was handed to the signatories of the national peace accord, Defence and Constitutional Development Minister Roelf Meyer and Law and Order Minister Hernus Kriel attacked the ANC on the basis of government's interpretation of the report.

The actual report placed blame for violence on government and elements of the police as well as the ANC and Inkatha.

See Page 4

# SADF link to lawyer's murder

Sowetan 3/6/92



**EVIDENCE** at the inquest into the death of ANC human rights lawyer Mr Bhekri Mlangeni yesterday was that explosives available only to the SA Defence Force were used in the assassination.

Under cross-examination in the Rand Supreme Court investigating officer Warrant-Officer Robert Brockway said the micro-detonators stuffed into the earphones of the fatal cassette recorder were available from Nasionale Chemicals

"Naschem had, however, run out of stock and they would only be available from the military," Brockway said

Asked how one could obtain the chemical and other chemicals such as PETN, Brockway said "Only a person in the military would have access to the chemicals

"Alternatively, one would need to have strong contacts in the military for the supply of the chemical"

Brockway said he could not understand how another chemical, Nitroglycerine, a commercial explosive, was

By **KENOSI  
MODISANE**

also added into the explosives mixture

He said the explosive was available from the mines and could also be obtained through contacts

Under cross-examination Brockway said it was dangerous to work with the explosives

"A person needs to be experienced or must have had military training to work with the explosives,"

he added

In another development, Captain André Kritzinger, who gave evidence last week, was again called for cross-examination

Kritzinger at some stage accused Counsel for Mlangeni's family of arrogance during cross-examination

Kritzinger had apparently been asked about an explosives laboratory over which he had contradicted himself



## Company liquidations rise 72%

*Bl Day 4/6/92*  
**PRETORIA** — Liquidations of companies and close corporations increased by 72,6% to 711 in the three months to end-April, compared with the same period last year.

The CSS disclosed yesterday that in the previous three months — November to January — the increase was 47,5%.

And insolvencies of private individuals tell a similar story.

They increased by 18,3% to 1 009 in the first quarter of the year compared with January-March last year.

Over the previous three months the increase was 3,5%.

The CSS said 224 companies and close corporations were placed under final liquidation in April alone. This was an increase of 49,3% compared with April last year.

Earlier this week CSS figures showed debt summonses in the first three months of the year had increased by 8,5% and averaged about 3 000 a day in the three months. Civil judgments for debt increased

*22/180*  
**GERALD REILLY**

by 11,5% — and averaged about 1 500 a day in the quarter.

Stellenbosch University's Bureau for Economic Research head Ockie Stuart said the debt pattern was consistent with an economy in deep trouble. And he stressed the number of individuals and businesses going to the wall would continue to rise until at least the end of the year — and well beyond the economy's turning point.

In another CSS release yesterday, figures showed a decrease in the workforce in the manufacturing industry of 14 100 to 1,4-million in the four months to end-February. And in the construction industry, the number of workers decreased by 5 900 to 376 600 in the same four months.

The number of blacks employed in manufacturing fell by 7 606 to 743 500, and in construction the numbers decreased by 4 500 to 268 100.

## Policeman misled investigator

*Bl Day 4/6/92*  
**A SENIOR** policeman investigating the death of assassinated ANC lawyer Bhekis Mlangeni yesterday admitted he had misled an independent forensic expert hired by the dead man's family.

Capt Andre Kritzinger admitted that when questioned by David Klatzow he had demed knowledge of a police explosives expert, Capt Wal du Toit, whom renegade policeman Dirk Coetzee had alleged was responsible for the booby-trapped cassette player which killed Mlangeni.

He told the court he had known Du Toit was in fact a colonel but had misled Klatzow because they had been arguing earlier and he was angry.

He denied he had lied to Klatzow.

*252*  
**SUSAN RUSSELL**

The policeman told the court he had no specific motive for misleading the forensic expert.

Kritzinger made these admissions under cross-examination at the inquest into Mlangeni's death, being heard before Judge B O'Donovan in the Rand Supreme Court.

Mlangeni was killed on February 15 last year when he activated a booby-trapped cassette player posted to him from Lusaka.

The cassette player and a tape marked "evidence of hit squads" had originally been posted to Coetzee in Lusaka where he had taken refuge with the ANC following his claims that he had been a member of a

police hit squad

Coetzee did not collect the package and it was re-directed to Mlangeni who was listed as the sender.

Mlangeni was killed when he put on the ear-phones to listen to the tape.

Kritzinger, who investigated Mlangeni's murder under Lt-Gen Ronnie van der Westhuizen, has demed police had not made a serious attempt to investigate the case.

It was put to him by counsel for the Mlangeni family, G Rautenbach, that when Klatzow spoke to him a month after the police were informed of Coetzee's allegations about Du Toit and his work at a police explosives laboratory, the allegations had still not been investigated.



# Time for a Bill of Obligations

Blow 4/6/92

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DAVID LAPIN

did not provide rights to its people Human rights have been equated with morality

It is therefore interesting to note that, although it is the Bible that has made the greatest impact on Western thinking regarding righteous legal systems, there is no concept in the Bible of rights, nor is there any Hebrew word that means "rights."

To quote from Lord Immanuel Jakobovits's speech to the Institute of Directors in London in 1976

"In the moral vocabulary of the Bible we speak of human duties not of human rights, of obligations, not of entitlements. The Decalogue is a list of Ten Commandments, not a bill of human rights. In the charity legislation of the Bible, for instance, it is the rich man who is commanded to support the poor, not the poor man who has the right to demand support from the rich."

If Judge Olivier were to have instead spoken about a second generation of obligations — the obligation of society to provide food, housing and medical services to all of its

members — then Vivian and Grant would find their argument difficult to sustain

It might appear to be purely a matter of semantics the rights of one are the obligations of another, yet the moral and ethical ramifications of using the term "rights" as opposed to "obligations" are enormous. Rights concentrate on the selfish needs of the individual, whereas obligations focus on the needs of others. A society concerned with its obligation is one in far greater moral health than one more concerned with its rights

In the industrial relations arena the same applies. If labour would concern itself with the obligations of management rather than the rights of labour, it would force labour to examine its obligations are to management and shareholders. The same applies to management

it, too, needs to focus on labour's obligations rather than management's rights, and then turn its focus on to itself and examine its obligations to labour

In discussing SA's new constitutional direction, of course the legal concept of a Bill of Rights must be examined, explored and achieved. But the approach to the debate regarding the Bill of Rights should be one that comes from the viewpoint of the obligations of individuals, and the obligations of that society to the individual. A debate regarding obligations becomes far less adversarial than a debate regarding rights

The ramifications of this style of thinking are endless.

If society, instead of emphasising and striving for entitlement, stressed duties and obligations, then the right to incur debt would not be seen as important a value as the obligation to repay debt. What impact might that have on a society's inflation rate?

If a government understood that its obligation to appropriate the tax-

es it raises judiciously is more fundamental than its right to raise taxes, what might the efficiency of our civil service look like?

If students understood that their obligation to be creatively productive in society was more important than their rights to attend schools and university, what kind of educational institutions might we have?

If managers understood that their obligations to other stakeholders were more fundamental than their rights to salaries, benefits and share options, then what calibre of corporate leadership might we have?

No, we are not dealing with semantics but with basic ethical perspectives. Are we here to hunt or farm? Are we here to take from our environment everything we can and constitutionally entrench our rights to that? Or are we here to invest in our environment — the fruits of which, will automatically come back to us in all forms of economic, social and spiritual wealth?

This new perception will create a new moral vision and facilitate the emergence of a society able to care for its members and simultaneously provide sufficient wealth to give that care tangible form

□ Lapin, a rabbi, is also director of the SA Institute of Business Ethics.

SA Law Commission vice-chairman Judge P J Olivier's support for "second generation rights," such as the rights to food, housing and medical services, has aroused the criticism of Robert Vivian and Richard Grant (Business Day, May 21) on the basis that such rights remove any incentive to produce food, and provide housing and medical services

"If we have a right to food, then everybody else incurs a liability to provide food, a liability that can never be paid off. The end result of the enforcement of a right to food is the same as for collective farming: no incentive, a resort to force and chronic food shortages."

From an economic point of view the writers are perfectly correct. These second generation rights are not feasible. On the other hand, from the moral point of view, Judge Olivier is right surely every member of a civilised society should be provided with fundamental needs. Where lies the catch?

The catch is that even sophisticated intellectuals often find themselves slotting into sloganised terminology, resulting in sloganised thinking. For decades the Western world has been obsessed with the term "rights." A society could not be considered part of the free world if it

LETTERS

**Trust Feed probe** (25)

5/11/97  
19/6/97

A FULL public investigation led by a Supreme Court judge into allegations of a cover-up in the Trust Feed case was "a possibility", Law and Order Minister Herinus Kriel said yesterday. He said former Regional Court president Willem Krugel had been appointed to analyse the evidence and advise him.

**Bail for ANC pair (252)**

Two senior ANC officials in the Vaal area were granted bail of R2 000 after appearing in the Vanderbijlpark Magistrate's Court yesterday on a charge of murder and attempted murder. The bail application was not opposed by the State. Both Petrus Mazibuko (25), of Zone 3 Sebokeng, and John Radebe (32), of Evaton North, have pleaded not guilty. The case resumes on July 7.

STAR 4/6/92

# Captain: I misled Mlangeni expert

STAR 4/6/92

By Susan Smuts

Captain Andre Kritzinger, one of the policemen investigating ANC lawyer Bhekis Mlangeni's death, admitted to an inquest in the Rand Supreme Court yesterday he had intentionally misled an independent forensic expert who had been employed by Mr Mlangeni's family.

The forensic expert, Dr David Klatzow, later withdrew from the investigating team and accused it of a cover-up, saying it was obviously not interested in following up ideas and that the investigation would lead nowhere.

Mr Mlangeni was killed in February last year when a portable cassette player intended for former security police captain Dirk Coetzee exploded.

Mr Coetzee named Colonel Wal du Toit, who worked at the police forensic laboratory in Pretoria, as a possible suspect.

After an argument with Captain Kritzinger, Dr Klatzow taped the ensuing conversation in which Captain Kritzinger denied any knowledge of Colonel du Toit being at the laboratory.

Under cross-examination from G Rautenbach, appearing for Mr Mlangeni's family, Captain Kritzinger said "There was no real reason to mislead him. I was just cross with him (Klatzow) at the time."

Dr Klatzow had referred to Captain du Toit, not Colonel du Toit, he added. He told Mr Justice B O'Donovan he had not

"blatantly" misled Dr Klatzow.

Although they were supposed to be co-operating with him, the police did not inform Dr Klatzow of a visit to the laboratory two weeks later "because he had not always arrived" when invited on other *in loco* investigations.

Captain Kritzinger admitted he had been sent to Natal during the Trust Feed massacre investigation, and that other policemen suspected he and General Ronnie van der Westhuizen — the senior investigating officer in Mr Mlangeni's death — had tried to cover up the facts.

Under cross-examination from E du Toit, SC, appearing for the Minister of Law and Order, Captain Kritzinger said there was not a shred of evidence before the court implicating either Colonel du Toit or any other policeman from Vlakplaas, the alleged base of police hit squads.

The court watched a police video of the scene of Mr Mlangeni's death, followed by a video which showed tests on the strength of explosives on a pig's head.

Mr Mlangeni's widow, Abigail, described seeing her husband hunched over the cassette player moments before the blast knocked him backwards. She ran for help and when she saw the ambulance, she realised her husband of two months was dead.

The hearing continues.



# Jurists lay blame for violence on Buthelezi

By Garner Thomson  
Star Bureau

(252)

LONDON — The International Commission of Jurists (ICJ) has put much of the blame for South Africa's present township violence squarely on the shoulders of Chief Mangosuthu Buthelezi.

A hard-hitting report produced in Britain after a visit to South Africa by a five-man fact-finding mission goes on to suggest that while the amount of violence caused by the ANC had increased, this was "perhaps inevitable" in the absence of effective law enforcement or a curb on Inkatha supporters.

The members of the mission are unequivocal about the seriousness of the situation as they saw it. Their report says flatly "Law and order has broken down in Natal and in the parts of the Transvaal we visited. The violence was significantly worse than it was in September 1990. The ordinary black population has been absolutely ham-

pered."

So bad is the situation that the ICJ believes that free and fair elections are now impossible — a view held by the vast majority of people the mission interviewed.

The commission blames unemployment, the absence of social security, massive urbanisation, squalid living conditions, the hostel system, the evolution of the police as the enforcers of apartheid, the loss of influence of traditional and religious leaders, the collapse of education for blacks and the rise of gangs who kill indiscriminately.

The ICJ goes on to accuse the security forces of siding with Inkatha and indulging in random killings (one example of which was witnessed by the members of the mission themselves, the report states). The conduct of the KwaZulu Police had deteriorated since the ICJ's last visit and the situation was set to slide even further if Chief Buthelezi did not assert his authority and control the excesses of his supporters, the ICJ said.

"It is our view that Chief

STAR 4/6/92  
Minister Buthelezi carries a heavy responsibility for the escalation of the violence."

The mission believes that the police could still play a major part in bringing the violence to an end, though "we do not think the police force as presently constituted will ever be able to gain the confidence of ordinary people. South Africa needs a new civilian police force."

The ICJ recommends that Codesa should call on the help of a team of international experts to monitor on a continuing basis South Africa's law enforcement agencies and other signatories to Codesa.

It also suggests outside supervision of elections, the introduction of senior civilian administrators into the SAP at all levels, and a ban on all weapons at meetings or in public places.

It urges a new agency to supplant the old riot squads, immediate action by the security forces to end all violence, and the replacement of hostels by homes for families and single people which provide a degree of privacy.

# Judge castigates Inkatha 'hitman'

is/was s/b-11/6/92.

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**F**ORMER African National Congress cadre Dalixolo Luthuli — now reputed to be one of Inkatha's most notorious hitmen — gave a testimony riddled with contradictions, inaccuracies, lies and denials when he appeared before the Goldstone Commission in Pretoria earlier this week.

At one point, Judge Richard Goldstone said that he didn't think Luthuli was being helpful to the committee as he seemed to have "a very defective memory".

An evasive Luthuli, whose answers were often punctuated with a casual "I cannot remember", shed little light on his involvement in the training of Inkatha supporters at Caprivi and the death of a man at an Inkatha funeral at Wesselton township, near Ermelo.

Accusing him of apparently lying, the judge said "Your evidence doesn't make sense, Mr Luthuli. You're not telling the truth." Luthuli replied "There's no reason why I shouldn't be telling the truth."

Luthuli is alleged to have been responsible for the murders of a number of ANC members in the greater Pietermaritzburg area, at Mpumalanga in the Natal Midlands and at

Wesselton. He is also alleged to have been involved in the military training of Inkatha supporters from Wesselton at

*An alleged human and a kwaZulu policeman appeared before the Goldstone commission this week to give evidence on their activities for Inkatha.*

**By LINDA RULASHE**

Mkuzi, after which the trainees returned to the township and carried out murderous attacks on pro-ANC people.

However, in a statement presented before the commission looking into *Weekly Mail* reports, Luthuli denied the trainees had gone to Mkuzi to train or that he had ever given them training in the handling of weapons.

"They had to be moved out of the Old Police barracks building, as it was required for renovations at the time," Luthuli, now employed as a field organiser for the Inkatha Freedom Party at Ulundi, admitted he had been

The commission also heard from a member of the kwaZulu Police's Bureau for Information Service (BIS), Thompson Xesibe, that he (Xesibe) had gone to work at Secunda's Sasol Two plant to gather information for either the kwaZulu or the South African governments.

Xesibe, a former KZP member presently in charge of administration of Inkatha offices in Ulundi, said he was told by Khumalo to go to Secunda on a project.

Xesibe said he was aware of a letter to Buthelezi that said he was advised not to resign from BIS when he went to Secunda because he would be continuing the service's work there.

Asked what kind of project Khumalo was referring to, Xesibe said he was to look after eight people he once accompanied on military training in Caprivi. He added he was there to help maintain discipline.

"Four out of these eight trainees were highly trained and were well disciplined, were they not?" asked Soggot.

"It was true I disciplined them."

"Well, I want to put it to you that they must have been charged with sensitive work for you to look after them," said Soggot.

"That is not true," Xesibe later denied he had gone on an Inkatha mission when sent to Secunda.

Asked if he knew of allegations published in a daily newspaper that Sasol management was promoting and funding Inkatha at Secunda, he said he had only heard the party was linked but he did not know of any funding.

Xesibe acknowledged the existence of an anti-ANC organisation, the Secunda Education and Cultural Organisation (Seco), set up at Sasol.

Asked if he knew that Sasol had been funding and promoting Seco, Xesibe said he had heard people say that they liked that organisation "but where they got the funding, I don't know."

Xesibe also said he knew of a man called Gwala at Secunda, who was allegedly used to recruit Zulu workers from Natal. Xesibe, however, denied knowing that Gwala recruited people

in the killing of an ANC member at a funeral in Wesselton in 1990, Luthuli testified he had gone to attend the funeral of an Inkatha member but never took part in the procession.

Luthuli, who together with Inkatha members was waiting at the cemetery for the funeral procession, said they went to investigate and found a body lying on the ground.

"Didn't you join the procession later after the shootings?" asked David Soggot SC, representing the ANC and the Congress of South African Trade Unions.

"No, because the situation was tense."

"Well, I put it to you that your explanation is a concoction to remove you from the scene. The truth of the matter is that you were probably involved in the killing — just as the police later believed — with an Uzi machine gun."



# Take charge, FWV, say world jurists

Ujwawid s/b - 11/6/92

**S**OUTH AFRICA'S political violence could be checked within three to six months if the government had the political will and if President FW de Klerk took personal charge of law and order

This is the finding of the International Commission of Jurists (ICJ), in a 25-page report released this week, based on their recent two-week visit to South Africa. Jurists from the United Kingdom, Sweden, Senegal, Zimbabwe and Ghana met scores of politicians, lawyers, judges, academics, ministers and township dwellers countrywide.

Recommending that the country's law enforcement agencies should be monitored by at least 100 European, Commonwealth, United States and African observers, based in Johannesburg and with branches in all major centres, the ICJ also called for the South African Police to be restructured with civilian administrators at all levels.

As presently constituted, the SAP was "unlikely ever to gain the confidence of ordinary people", in part because of its record of enforcing "apartheid laws which had no moral content".

Pointing to the Trust Feed judgment, which "proved conclusively that violence is being pro-

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*If the government had the will, there is a way to end the violence, say international jurists who visited South*

*Africa. By ARTHUR GAVSHON*

voked by some elements in the security forces", the ICJ warned that unless the army and police were controlled "it will not be possible to hold free and fair elections on a one-person, one-vote basis in much of South Africa today".

Law and order in Natal and large parts of the Transvaal had broken down and "are being torn apart by terrible strife", the jurists said. "The police do not protect the people and people do not trust the police and misconduct is rife."

The report is heavily critical of the Inkatha Freedom Party, charging that IFP leader Mangosuthu Buthelezi had contributed to violence by his failure to curb the excesses of his followers.

It also accuses the police of collaborating with Inkatha in murders and attacks on African National Congress supporters. The Trust Feed case represented "the tip of the iceberg", it said. The jurists said the one big question the group



**Mangosuthu Buthelezi . . . Failed to control 'warlords'**

encountered wherever it went was whether the government was truly committed to ending the violence.

"For many years responsible people have been calling for a ban on weapons at all political rallies and marches. No ban has been imposed. Why?"

"For 18 months people have been slaughtered on commuter trains. We have seen the government can stop this by searching people at stations. They have not done so. Why not?"

"President de Klerk must surely realise that

there will be no winners if the violence is not brought under control."

Turning to the IFP leader, the ICJ says Buthelezi "carries a heavy responsibility for the escalation of violence between his supporters and those of the ANC".

Because he had failed to control Inkatha "warlords", ANC retaliation had become inevitable. Harry Gwala, the ANC's Midlands chairman, is quoted in the report as saying: "People hit back they carry the war to those who started it. If people are angry they will kill anyone. The acts are acts of desperation."

The explosion of violence in the Transvaal in 1990, centred on the hostels, coincided with Inkatha moves to extend its influence outside Natal, the commission said.

Citing positive developments, the jurists said: "The country's lawyers and judges had displayed courage and impartiality in dealing with evidence presented to them by honest police officers. Captain Frank Dutton and Warrant Officer Wilson Magadla are cited for exposing the cover-up of the Trust Feed massacre."

● The Goldstone Commission had been effective in defusing violent situations, despite the size of its task and the intimidation of witnesses.

# Postal bomb 'work of military experts'

W/Mail 5/6-11/6/92  
Weekly Mail Reporters

THE "walkman bomb" that killed human rights lawyer and African National Congress activist Bheki Mlangeni was the work of a highly trained professional with extensive contacts in the military establishment.

This was the evidence presented by explosives expert Warrant Officer Robert Brockway at the Mlangeni inquest in the Rand Supreme Court this week.

It also emerged in evidence that the investigating officer in the Mlangeni murder, Captain Andre Kritzinger, and his superior, Major General Ronnie van der Westhuizen, were among the policemen implicated in an attempted cover-up of the Trust Feed massacre in Natal.

On Wednesday, a grisly video of the death scene, showing close-ups of Mlangeni's mutilated head, was shown.

The court heard that a month before Mlangeni was killed, he had received an anonymous phone call informing him that a hit-squad had been despatched to Lusaka to eliminate renegade police captain Dirk Coetzee. At the time of the phone call Mlangeni was researching information to present to the Harms Commission on hit squad activities.

Mlangeni was killed in February last year when he played a cassette marked "Evidence hit squads" sent to him in a parcel from Lusaka bearing his name and address — after Coetzee, to whom the package was first sent, refused to accept it.

Brockway, based at Protea police station in Soweto, told Judge B O'Donovan the explosive chemical PETN — used in the killer bomb — was only available from the army but could be obtained by someone with contacts in the military establishment.

In response to questions by advocate Guys Rautenbach, representative for the Mlangeni family, as to why he and his team only visited Vlakplaas, a training base for turned ANC guerrillas, three months after Mlangeni was killed, Brockway said: "I saw no need to question anyone at Vlakplaas."

Brockway conceded that he knew certain people at the base had had training in the manufacture and detonation of explosives.

Also giving evidence this week was Kritzinger, who as investigating officer in the Mlangeni murder was questioned on the progress made in his

inquiries.

He and Van der Westhuizen were both mentioned by Judge Andrew Wilson in the Trust Feed judgement as members of a team alleged to have interrupted investigations to determine the involvement of special constables in the Trust Feed killing.

Rautenbach put it to Kritzinger that he had stalled his investigations for up to three months as part of an attempt to conceal possible links between a Vlakplaas-based explosives expert, Colonel Vaal du Toit, and Mlangeni's murder.

Rautenbach pointed out that days after the killing Du Toit's name had been linked to the incident by Coetzee in a statement implicating police hit-squads.

Kritzinger admitted deliberately trying to thwart investigations by the Mlangeni family's independent forensics expert, David Klatzow, and his request to see the evidence, after telling the family's lawyers that it would be acceptable to make use of an independent expert.

He said his instructions to investigate Mlangeni's murder came from Van der Westhuizen, who had since resigned from the police force.

Kritzinger denied knowing Du Toit. After hearing a tape recording of his conversation with Klatzow, in which he admitted that he might have heard of Du Toit, he said he had seen Du Toit's name in the press.

The tape also made it clear that he had denied Klatzow access to a police forensic laboratory. Earlier, he denied doing this, saying Klatzow wanted to see "an explosives factory".

Brockway told the inquest the combined use of PETN and nitro-glycerine in an explosive was unprecedented in South Africa before the Mlangeni murder. He added that the SAP did not have micro-detonators, the device used to trigger the explosion, in their possession as they had no use for them.

Speaking from London this week, Dirk Coetzee told *The Weekly Mail* he could "solve the case in three days" by analysing the handwriting on the insurance slip pasted to the bomb's wrapping before it was mailed from the Joubert Park, Johannesburg, post office.

Kritzinger told the court police had employed a specialist to analyse the handwriting of Vlakplaas-based policemen, including Du Toit.



# Low

## Bonny Bird fights for single-sex farm hostel

VUSI KAMA  
Weekend Argus Reporter

BONNY Bird Farms in the Strand has demed it is a breach of contract to ask workers to move into single-sex hostels where they would not be allowed to stay with their families

Lawyers for Human Rights, who represent the workers, maintained that the employees' contract included fully subsidised accommodation at Lwandle Hostel near the Strand, where they could live with their families

The company had stated that the workers would not be allowed to move with their families into Temperance Farm near Gordon's Bay, where they had been supposed to live since Monday

The company said the women and children would be arrested for trespassing if they joined their husbands at the farm

Lawyers for Human Rights claimed that the company management said the workers' wives and children would introduce diseases to the farm

Bonny Bird Farms decided to halt the move, pending negotiations between the company and LHR, held throughout the past week.

More meetings will be held next week

Mr John Maldune of Bonny Bird said yesterday the matter had been "resolved".

He refused to comment on the LHR statement

The lawyers, acting on behalf of the Farmworkers' Support Committee, who represent the workers, had threatened legal action if the company went ahead with the removal of workers to Temperance Farm against their will

"The provision of family unit accommodation at the Lwandle Hostel is a benefit of the employment contract," a spokesman for the LHR said

The employees' contract included "fully subsidised accommodation at Lwandle Hostel, together with paid transport to and from (Temperance Farm) on daily basis"

## Two guilty of widow's murder

DURBAN — A couple who broke into the home of a widowed Pinetown woman and stabbed her 39 times before ransacking her home, have been found guilty in the Durban Supreme Court of murder.

Mrs Violet West was found murdered in her Padfield Park home on March 28

The court yesterday found Nokuthula Gumede and Madoda Mchunu planned the robbery and went to Mrs West's home with the intention of "eliminating" her

Mr Justice Broome will pass sentence on Monday — Sapa

## PARLIAMENT

## Dalling opposes anti-demo bill

ARG 6/6/92  
THE Democratic Party and the ANC-aligned independents rejected the Gatherings and Demonstrations in or near the Union Buildings Bill yesterday, saying it was an infringement of the right to protest peacefully

In the second reading debate on the Bill, Mr Dave Dalling (Ind, Sandton) said the Union Buildings were a perfect place for people to bring their problems to the attention of the government

Freedom of association was a right as long as the gathering was a peaceful one and the Bill infringed on this right

The legislation gave the state blanket control at the Union Buildings

Legislation on protests was piecemeal and confusing and it should be encompassed in one act

Mr Douglas Gibson (DP, Yeoville) said no previous demonstrations at the Union Buildings had posed a threat to a head of state

Deputy Minister of Justice Mr Danie Schutte said the Bill was not an imposition on freedom of speech or assembly He said the area around the Union Buildings affected by the Bill was small

"The Union Buildings is the office of the State President, the highest authority of the country The same considerations that apply to the legislators of the land (parliament) should apply to him"

Public protest was not affected by the Bill — Sapa

## Body reports on land use

ARG 6/6/92  
THE Advisory Commission on Land Allocation has identified undeveloped state-owned land for agriculture and residential use on which it will soon make recommendations, according to its report tabled in Parliament yesterday

The seven-member commission, chaired by Mr Justice T H van Reenen, was appointed in terms of the Abolition of Racially-Based Land Measures Act last year

Seven applications for restitution of land were received by the commission All are under investigation

These include a request for restoration by a Ladysmith community in respect of Roosboom farm and an application from the Doornkop, Botshabelo and Malapong Committee for restitution of the farm Doornkop 246 JS in Middelburg, Transvaal.

## Farm labour debated

ARG 6/6/92  
LABOUR relations pioneered the breakthrough to negotiations in South Africa, Minister of Manpower Mr Leon Wessels said yesterday

Replying to debate on the second reading of the Basic Conditions of Employment Amendment Bill, he said the government would not allow a wedge to be driven between itself and the farming community

In the debate on the Bill, Mr Willem Botha (CP, Uitenhage) said labour relations between employee and employer in agriculture were healthy The farmer had always taken good care of his workers without being obliged to do so by law

Mr Robn Carlisle (DP, Wynberg) said "The Bill is largely fair to farming employers They have little cause for complaint" — Sapa

## New measure for A-Gs

ARG 6/6/92  
MINISTER of Justice Mr Kobie Coetsee said yesterday, introducing the second reading debate on the Attorney-General Bill, that at present attorneys-general did not function completely outside the executive authority (152)

It had, however, been the convention that the Minister of Justice did not interfere with their decisions

The Bill provided for the appointment by the State President of people with at least 10 years' legal experience from outside the civil service as attorneys-general And, it provided that AGs could be discharged only by a decision of Parliament — Sapa



# Right falls on dark deeds

Star 6/6/92

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IT is about 200 km from Wesselton near Ermelo to the NGK Synod Hall in the centre of Pretoria.

It is nearly 22 months since that Eastern Transvaal township was convulsed in violence as both the African National Congress and Inkatha tried to hold funerals for comrades killed in earlier bloodshed, and clashed again in Wesselton's dusty streets

One man at the ANC funeral was attacked at the graveside and pumped full of 9 mm shells

This week, in a large conference room, four "judges", five advocates, a handful of witnesses and an interpreter were trying to make sense of what happened on that brutal day — August 11 1990

This is the daily work of the Goldstone Commission, far removed from the war of words that boiled up around it last week. The process is deliberate rather than dramatic, a painstaking attempt to uncover the roots of past violence so that

these may be dug up to prevent such bitter fruit from flourishing again

This inquiry has been investigated reports published in the Weekly Mail that 200 Inkatha men were taken to an SADF base in the Caprivi in 1986 for six months. There, it is alleged, they were turned into crack gunmen and then deployed in the war against the ANC and its allies, in Wesselton and elsewhere in the country. There is much more at issue than just finding out who committed a murder

The "commissar" of those trainees, Daluxulo Luthuli, is in the dock. He does not deny going to Caprivi in charge of the 200 men, but he disputes that they were being trained to act as gunmen. Their future role would be to protect the officials and property of the KwaZulu government from the growing threat posed by ANC-aligned groups in Natal, he says. Ironically, Luthuli himself was once an ANC guerrilla and spent time on Robben Island after being convicted

Luthuli was in Wesselton on that day in August, in a

**Painstakingly, the Goldstone Commission tries to make sense of what happened on a brutal day in August 1990, when an ANC man was gunned down at a funeral. Chief Reporter JOHN PERLMAN reports.**

car in which firearms were found. Police arrested him, but charges were withdrawn

Sergeant Anton Botha, a detective-sergeant at Ermelo, who first investigated the murder, takes the stand. Du Toit's questioning reveals that statements taken at the time of the incident have gone missing. Conspiracy? Carelessness?

The process of cross-examination is laborious, each questioner with little brush-strokes trying to paint a picture of what happened. Then suddenly a firm denial, a



EAGLE EYE: Mr Justice R S Goldstone probes violence

convincing explanation, wipes a smear in paintwork just beginning to dry

In the corridors outside — watched over by stern black and white portraits of NGK moderators — advocates meet their clients during breaks and insist everything is going fine

One is struck by the fact that were it not for the Commission, many things would not have been dragged into the daylight — the existence of the Caprivi camp, the nature of the police investigation into the Wesselton shootings. Whether any

wrongdoing is proved is perhaps less important than a slow retrieval of the public's right to know

Even so, the difficulty the Commission faces in pinning down the facts is a telling reminder of just how far truth and the law have been twisted in this country, of just how many dark corners exist for the planning and practice of dark deeds. A newspaper billboard in the street outside reads: "Soweto Savagery as 17 Die" — a reminder that while these horrors are being investigated, fresh blood is being

spilled. And each day the commissioners pass the offices of the Pickard Commission, which is housed in the same building — a reminder, perhaps, that there is no way of knowing how this Government will react to the findings of inquiries it sets up

But for all the obstacles, those involved in the Commission believe it can make a difference. The commissioners believe that they can play a preventive role, particularly when they have advance warning. Earlier this year, a timely inquiry revealed that an alleged ANC plot to murder Zulus on the Reef — which prompted strong war talk in response — was based on the flimsiest of evidence

While he is unwilling to give public interviews, Mr Justice Goldstone has made it clear that he sees the work of the Commission as more than just the sum of its parts. His second interim report gave a clear indication of where he wanted the Commission to go. Unnoticed in the row over who should bear the bulk of the

blame for the violence, Judge Goldstone said that one of the Commission's most important functions "is to act as a catalyst in the process of transforming the police force into a body that has the confidence, respect and co-operation of the vast majority of the people of South Africa"

The first attempt to use both what has been learned in the course of the Commission's work and outside expertise will take place next week in Cape Town, when a forum will consider new approaches to the policing of mass demonstrations. The findings of the group will be presented in public next month, opened to debate and finally proposals for legislation will be made

The Goldstone Commission intends setting up similar processes. The long-term intention seems to be that what is learned from the inquiries can help in recasting justice and law and order. Whether the politicians — in their haste to find evidence of the other side's fault — allow these lessons to be learned, remains to be seen

The man drove away when confronted by the police, but

had been bugged But transcripts of taped conversa-

On Wednesday, his attorney, Mr Johann Breitenbach,

and at least one fictitious claim of more than R800 000 of

# Senior cop discredited — again

SITimes 7/6/92

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By HEATHER ROBERTSON

FOR the second time in less than three months a senior policeman's behaviour has been discredited in court.

Captain Andre Kritzinger, a senior investigating officer in the "walkman bomb" killing of ANC lawyer Bhek Mlangeni, admitted this week in the Rand Supreme Court that he had misled forensics expert Dr David Klatzow

Captain Kritzinger was giving evidence at Mr Mlangeni's inquest

Dr Klatzow had been appointed by the Mlangeni family to investigate the killing which took place in February last year.

During cross-examination, counsel for the Mlangeni family Gys Rautenbach argued that Captain Kritzinger's investigations were inadequate.

A tape-recorded discussion showed that Captain Kritzinger refused to co-operate with Dr Klatzow even though the Minister of Law and Order had agreed that the family could appoint an independent forensics expert.

Captain Kritzinger refused to inform Dr Klatzow of his list of suspects and denied

knowledge of Captain Wal du Toit, a police explosives expert who fugitive policeman Dirk Coetzee claimed was responsible for the booby-trapped bomb which killed Mr Mlangeni.

Dr Klatzow was denied access to a police explosives laboratory where Captain Du Toit was alleged to have manufactured sophisticated bombs for the police anti-terrorist unit.

Captain Kritzinger also admitted he had not considered compiling a list of suspects from former colleagues of Coetzee who were incriminated by him in the

Harms Commission

Evidence during the inquest was that Captain Kritzinger was the same policeman whose behaviour during the investigation into the Trust Feed massacre caused "grave doubts" in the mind of the judge in the case, Mr Justice Andrew Wilson.

Mr Justice Wilson sentenced Captain Brian Mitchell to death for his part in the massacre. He also called for a public inquiry into the behaviour of Captain Kritzinger and others who worked under the now retired General Ronnie van der Westhuizen in the initial Trust Feed probe

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## Widow breaks down at inquest

By MARTIN (252)  
NTSOELENGOE  
7/16/92  
TIME has not healed  
Abigail Mlangeni's  
broken heart

Her husband died 15 months ago, but at an inquest hearing this week she wept so bitterly that Judge B. O'Donovan adjourned the hearing for 15 minutes.

When the hearing resumed she was composed as she told the court that she had never seen the booby-trapped Neil Diamond cassette that killed her husband, Godfrey Bheki Mlangeni.

He was killed by a miniature bomb placed in the earphones of a walkman cassette player that exploded in his Jabulani home on March 15 last year while he was listening to Diamond's music.

She said her husband was a student at Wits University and chairman of the Jabulani ANC branch at the time.

Then a hushed court heard Captain Andre Kritzinger admit that he had tried to mislead an independent forensic expert engaged by the Mlangeni family, Dr. A. Klatzow, about forensic laboratories.

At an earlier hearing Kritzinger of the Soweto Crime Intelligence Service was strongly criticised for taking three months before investigating the allegation made by former police captain, Dirk Coetzee, that Mlangeni was assassinated by a hit squad from Vlakplaas farm.

Kritzinger told Judge O'Donovan that Klatzow made him "angry" and that was why he had tried to mislead him.

The inquest hearing was postponed until June 15.

## Cops 'hid in mountains' (252)

A GOLDSTONE committee heard on Friday that it took the SA Police in Ermelo almost 10 months to extradite two KwaZulu policemen implicated in murder cases arising from a funeral at Wesselton.

Capt Andre Marais of the Ermelo police told the committee - sitting in Pretoria to inquire into public violence and intimidation - that the two KwaZulu policemen, a W/O Maseko and Const Zweli Dlamini, were suspects in two cases of murder and three of attempted murder.

He said the SAP in Ermelo contacted the KwaZulu Police on four occasions without success. *C/Pres 716/92*

During cross-examination, legal counsel for the committee, JJ du Toit, disclosed that according to police records in KwaZulu, the two policemen were said to be in hiding somewhere in the mountains at the time.

by-election has a much ANC refuses to become  
situation yesterday that  
local government struc-  
the situation should

# Van Eck ejection could rebound on NP

By MIKE ROBERTSON  
Political Correspondent

SHORTLY after voting to suspend ANC member Jan van Eck from Parliament this week, a National Party member said he felt as if he had just watched the Springboks lose a rugby Test.

The MP, a backbencher who opposed the move but did not break ranks, was contemplating the implications of what was a parliamentary first in this country.

Mr Van Eck was suspended for the rest of the parliamentary session because the NP believed he had abused the privilege of freedom of speech.

What they objected to was Mr Van Eck's statement that sources in military intelligence had said that former president P.W. Botha had often stated that the government had been responsible for the execution of more than 1 000 black radicals.

To achieve the suspension, the Nationalists, who say they are opposed to the idea of a political party being able to wield total power simply because it has a majority of members in Parliament, used their simple majority in the Assembly to override opposition from the CP, the DP and the ANC.

The Act, which deals with offences against Parliament, is the Powers and Privileges of Parliament Act of 1963.

It is this Act which gives members the right to exercise freedom of speech, but also defines what they may not say or do and what action may be taken against them if they break these rules.

Among the more common examples of what they may not do is to accuse another member of lying or of being a coward or a traitor.

Last year several CP members got into trouble with the Speaker for repeatedly accusing Mr F.W. de Klerk of being a traitor.

They were "named" by the Speaker and told to leave the precincts of Parliament for a week.

In Mr Van Eck's case, he did not contravene any of the provisions of the Powers and Privileges of Parliament Act.

So to act against him the NP had to use a provision contained in the present constitution, but which dates back to the 1910 constitution.

The effect of this provision is to confer on Parliament all the rights and privileges that existed then in the British Westminster system.

In SA, however, parliamentary officials and researchers could find no precedent for the action against Mr Van Eck.

The only previous occasion they know of a House deciding to suspend a member for offending it was when the House of Delegates suspended Mr Amlehand Rajbansi.

That was on the ground that he had deliberately misled the House (Parliament's euphemism for lying).

So to suspend Mr Van Eck, the NP had to rely on precedents set in Britain and Australia, of which there are many.

However, most of these examples date back several years, and the tendency in both countries more recently has been not to act against members on the ground that they abused privilege.

The NP chose to ignore these more recent rulings and used its majority to suspend an ANC member.

The ramifications of this are enormous. This provision allowing a House to act against a member who offends it will almost certainly be included in the interim constitution to be drawn up by Codesa.

That constitution will govern the operation of a 400-member national assembly that will write a final constitution.

Should the ANC, as expected, have more than 50 percent of members of the assembly, but not a sufficient majority to force through the final constitution it wants, it could simply chuck out its opponents on the ground that it found what they were saying to be offensive.

Obviously this would require of the ANC that it behaved in a particularly bloody-minded way. But then, if the NP be bloody-minded, why shouldn't the ANC?

It was for this reason that the more astute members of the NP were not celebrating their "victory" on Tuesday night.

## NEWS ROUND-UP

### Leaders to debate

### Goldstone report

THE Goldstone report on the causes of violence is to be debated by the National Peace Committee and political leaders next month. The long-awaited verdict, released last week, was lost in the scramble by politicians to lay the blame elsewhere.

The National Peace Committee has decided the report "is of such significant importance that national political leaders would be invited to discuss the content" at the National Peace Executive's next meeting on July 30. The executive has also asked that the ANC give an assurance that the principles of the Peace Accord be strictly adhered to during mass action.

It is also to give urgent attention to the establishment of a sub-committee to "deal with the massive task of handling the numerous complaints and violations" of the accord.

### Zimbabwe in Fisherman's



### Justice Minister applauds media

THE role of the media in exposing large-scale corruption in both public and private sectors deserved high praise, Justice Minister Kobie Coetsee said on Friday. (25) [REDACTED]

"The watchdog role of the media should be encouraged to play a positive, objective and analytical role," he said while replying to the Second Reading debate on the Corruption Bill

The two-and-a-half hour debate on the Bill resulted in support from all parties except the Conservative Party.

epnews 7/6/92

# Racist inscription to go — govt

CIP/MS 7/6/92

By DAN DHLAMINI (252)

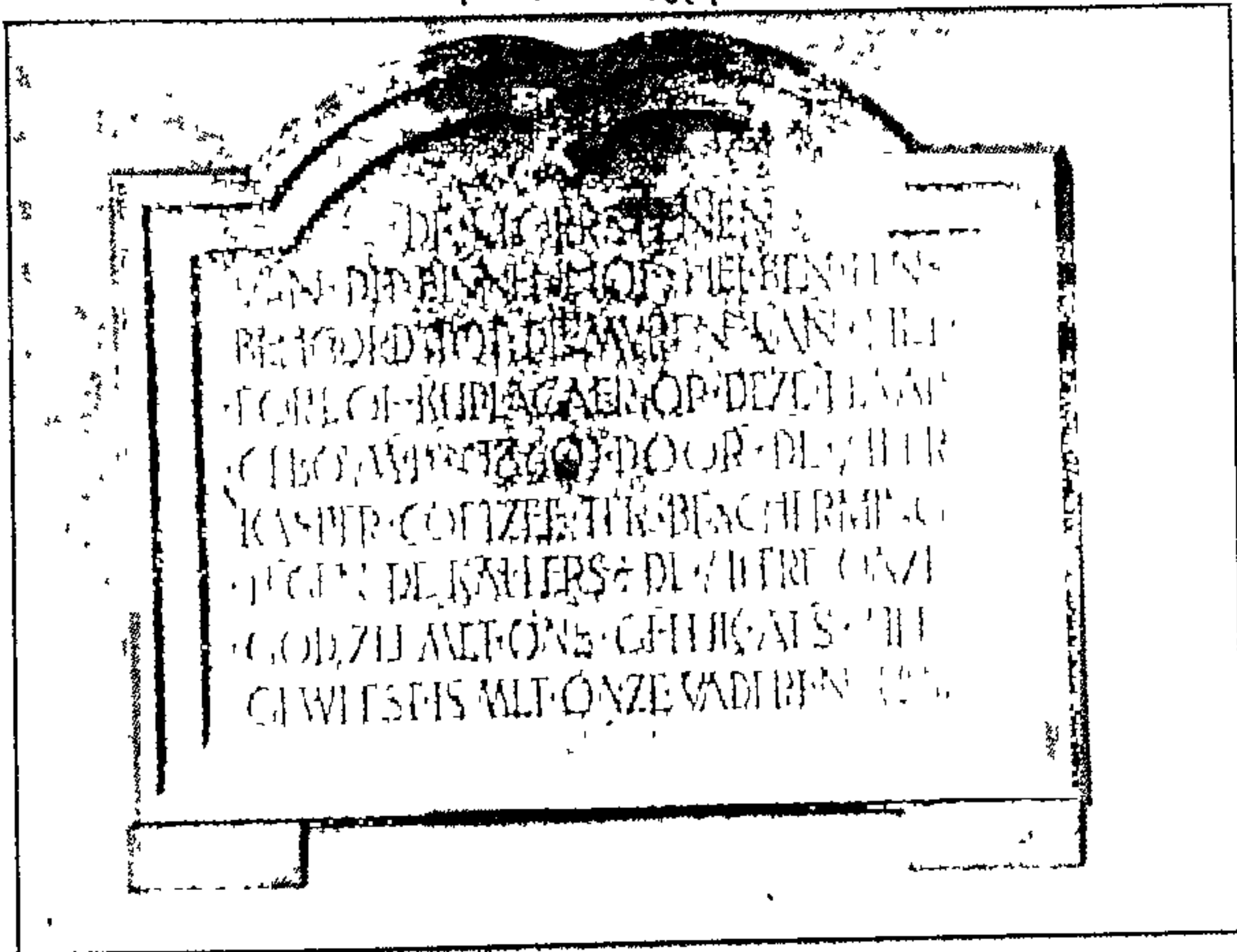
THE government's Department of Public Works (DPW) is going to conceal a racist inscription on the Zeerust Magistrate's Court wall which encourages racial prejudice.

The undertaking by the DPW follows City Press' inquiry regarding the racist inscription, which is clearly written in Dutch on the courtyard wall asking God for protection from "the kaffers".

As one enters the Zeerust Court's yard, one walks straight into a plaque that reads: "De vloersteen van dij binnehof heben eens behoord tot de mevren van het fort of kliplagaer op dese plaats gebowwd (1860) door de heer Kasper Coetzee, ten bescherming tegen de kaffers."

Loosely translated the inscription means that the place where the court stands was a fortress or stone laager which served as a protection against the kaffirs.

The inscription which has caused concern among members of the



**BLAME IT ON THE STONE ... The controversial Dutch plaque at the Zeerust Magistrate's Court.**

■ PLOI TLADI KHUELE

public, especially blacks, was brought to our attention by a concerned member of the public and the Lawyers for Human Rights western Transvaal regional office.

Alfred Montsho said although he did not understand Dutch he knew

that something negative had been written about blacks, because historically, blacks had been referred to as kaffirs.

He said that to see such a plaque at a place where justice had to be carried out made him suspicious of the country's judicial system, and that he felt

uneasy whenever he had to appear in court.

Lawyers for Human Rights' regional director Igbal Motale said the public regard courts of law as neutral venues where justice has to be seen to be done, and not places encouraging racial bias.

# Private scheme to protect witnesses

5 Times 7/6/92

252

By CHARLES LEONARD

THE country's first private witness protection programme has been started by Lawyers for Human Rights, which claims that police fail to provide enough safeguards in sensitive court cases

The programme was established last month against the background of what co-ordinator Indrin Govender described as "the total lack of trust in the police in black communities".

## Fear

Three of the witnesses who testified in the Sebokeng night-vigil massacre case this week are part of the scheme

Seven Inkatha-linked men are being tried in the Vereeniging circuit court for the slaying of 39 Sebokeng people in January last year.

Without the programme, these key witnesses might not have testified.

"The police have been unable to get these wit-

nesses to appear as they feared for their lives, as the perception in Sebokeng and other townships is that the police are in collusion with Inkatha," said Mr Govender.

The need for the scheme became apparent during Goldstone Commission hearings when a key witness had to flee from his community

"The commission could not give him protection and we had to fill that role," said another of the programme's co-ordinators, Mr Aubrey Lekwane.

Twenty witnesses have been involved so far, he said

Protection ranging from accommodation at "safe houses" and hotels, transport to and from court, liaison with local organisations and defence units, and the monitoring of witnesses' safety before, during and, especially, after cases.

After three days in the witness box, harassment by Inkatha supporters outside the court and clandestine trips between the court and a safe house, Mr Tankiso Makhanya hardly looked his 19 years of age as he explained his reasons for giving evidence.

"Most of the victims at the vigil were elderly people who were not involved in politics at all," he said. "Also, three of my best friends were mowed down in the attack."

## Gangsters

"But I would not have given evidence if it was not for the programme."

"Firstly, we don't trust the police as we have seen evidence that they are in cahoots with the gangsters.

"Also, I wouldn't have gone to court if I had to travel by taxi as they drop you off in the middle of town. I would have been too scared to walk from the taxi-rank to court"



## Broderstrom guerrilla indemnified

THE fifth member of the ANC's all-white Broderstrom guerrilla cell has been granted indemnity and has returned to SA. *Slade* Paul Annegarn, who left the cell to return to ANC headquarters in Lusaka before his fellow cell members were arrested in 1988, has been given indemnity from prosecution for deserting the SADF, entering SA illegally and making an illegal explosive device.

*Slade* Annegarn had been variously reported to have been held by the ANC at its Quatro detention camp, executed by the movement, and to be studying in London. A family member said he returned to SA this year. His indemnity was published in the Government Gazette at the weekend. Three other Broderstrom cell members, Darlan de Lange, Iain Robertson and Susan Westcott were jailed but released early last year.



(Registration number 05/07982/08)

## Convertible subordinated debentures 1992/1997

### Declaration of payment of debenture interest No. 7

NOTICE IS HEREBY GIVEN that interest of 20,46 cents per unit, calculated at a coupon rate equal to The Trust Bank of Africa Limited's prime overdraft rate, has been declared for the period ending 30 June 1992, payable on 26 June 1992 to debenture holders registered at the close of business on 12 June 1992

Cheques in payment of the above amount will be posted to debenture holders on 26 June 1992

By order of the Board

R Pleaner  
Company Secretary

Johannesburg  
8 June 1992

Transfer Secretaries  
NOTES TO APPLICANTS

## Viability study of Masterprop firms is mooted

LINDA ENSOR

CAPE TOWN — An immediate audit and viability study of nine of the 11 Masterprop syndicated property companies had been called for, companies representative Donald Slade said at the weekend. *Slade*

Executive committees consisting of three members each were elected last week to manage the affairs of the nine companies under boards of directors' supervision. The boards were elected by shareholders recently.

Former Masterprop MD Graham Manchip has been appointed CE and manager of all nine properties. Slade said the first task of the executive committees — which had limited delegated powers — would be to assess the companies' current affairs and report to shareholders. Focus would also be on centralising the functions of the individual companies.

Negotiations to defer legal action were in progress with bondholders whose bond interest was in arrears. Slade said possible tax liabilities in certain of the companies were also receiving the executive committees' urgent attention after Inland Revenue raised objections to certain tax deductions made.

Three members elected to most of the committees were Slade — a consultant for Masterbond's curators — Manchip, and Chris Bruyns, a shareholder with a long history of involvement in property matters.

The other people elected were JH Isaacs (director Peter Holling (on the executive committee of Masterbloem), Bill van Wezel (Mediorum Welkom and Bracketell committees) and Johan Swiegeleer (Main Street, Port Elizabeth committee).

"The composition of the various executive committees was determined with continuity and depth of knowledge in property development management and finance in mind," Slade said.

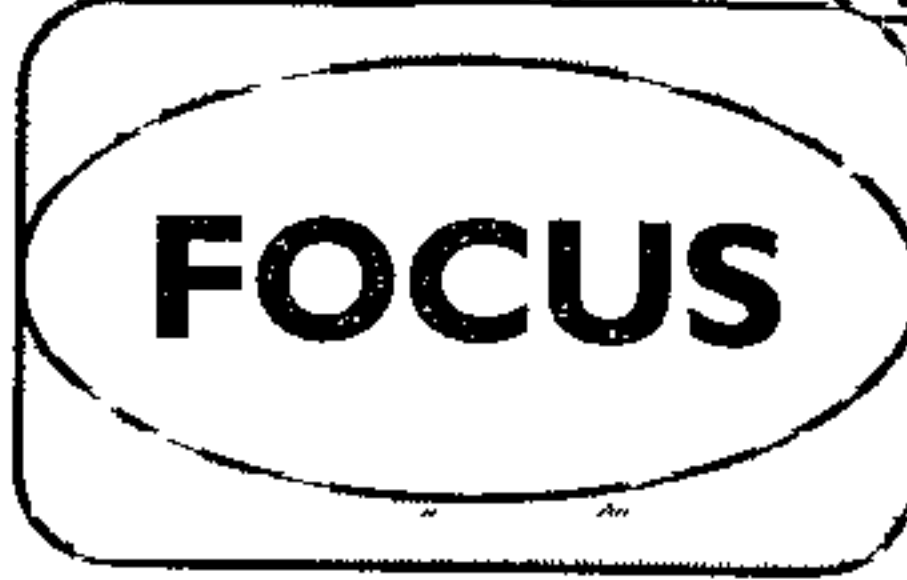
Manchip was not involved with Masterbond's collapse. His deep knowledge of the properties would provide continuity in their management, Slade added.

TRANSFER SECRETARIES

# 'Proof' of cops' role in violence

Sowetan 8/6/92.

Sowetan 8/6/92 (252)



By ISMAIL LAGARDIEN  
Political Correspondent

**THE Trust Feed case, where a senior police officer and four of his subordinates were found guilty and convicted of murder, "proves conclusively" that senior elements in the security forces play a part in fomenting violence in the country.**

This, the International Commission of Jurists suggest, should be the starting point for Government, if it were really serious about ending the violence in the country.

"Any consideration of the violence in Natal must begin with that case," the jurists say in their "Independent Survey of the Violence in South Africa" which was made public late last week

The members of the mission were Mr Adamo Didng (Senegal), Mr John Macdonald, QC (United Kingdom), Mr Christian Ahlund (Sweden), Mr Justice Enoch Dumbutshena (Zimbabwe) and Mr Philip Amoah (Ghana)

They spent two weeks in South Africa between March 14 and 30 this year

The jurists spent the morning of March 20 this year at the Maritzburg Supreme Court listening to one of the accused give evidence

They were drawn particularly to Mr Justice Andrew Wilson's comments in delivering judgment when he said "A distressing feature of the case is that as the evidence went on it became clear that the evidence of senior police officers could not be accepted and that official records produced from the files were also subject to suspicion and shown to be completely inaccurate"

The jurists believe that there is enough flesh in this case to build on the skeleton of a third force operat-

ing in the country

"The Trust Feed case establishes that the South African Police worked with Inkatha, that the South African Police ordered the killing of innocent people to create mayhem, that this happened with knowledge of senior police officers and that there was a massive cover-up which involved generals in Pretoria

"It is difficult to believe that the cover-up was not known to senior politicians. We note that no one has resigned

"The Trust Feed case is not an isolated case. Human rights lawyers have long known that the security forces have sided with Inkatha and have indulged in random killings. It is still going on"

## Cold-blooded

"The Trust Feed killings were in March 1988. In March 1992 white police officers are still killing people in a random and cold-blooded way," the jurists' report states

They also point out that while the incident was at the time reported to the police they (the jurists) had not been informed of it

They point out that the conduct of the police was distinctly out of step with the Peace Accord and even the recommendations of the Goldstone report

"One of the major problems

with the Peace Accord is that agreements are reached by the political organisations and yet there is no mechanism to investigate properly and expeditiously violations of the Peace Accord," the report states

They point out that the establishment of regional and local dispute resolution committees could go a long way towards establishing some kind of local authority

The jurists conclude that the cause of the violence in the country are nevertheless many and indeed diverse. Most of them are a result of the Government's laissez-faire attitude to the strife and more particularly its apartheid policy and the perpetual division of ethnic groups in the country

"The hostel system is one of the great evils of apartheid. The anger of people trapped in hostels is understandable, but it is very real. They do not absolve the ANC and its membership of the perpetuation of violence in the country but do recommend strongly that the KwaZulu police be placed under some kind of joint control and that Inkatha Chief Mangosuthu Buthelezi "carries a heavy responsibility for the escalation of violence"

"The ordinary black population has been absolutely hammered by the violence. They long for peace. It is our judgment that the police have the capacity, given the right leadership, to bring the violence under control within three to six months

"What is needed first is the political will, and second, someone to monitor and make sure that the orders are being implemented

"We believe that the violence will only be brought under control if politicians of all parties and the whole civil society play their part

"We also think the interim gov-

ernment would be wise to invite a small international team to monitor the violence and provide an independent point of reference

"While we think the police could play a major part in bringing the violence to an end we do not think the police force as presently constituted will ever be able to gain the confidence of ordinary people

South Africa needs a new civilian police force," the jurists note

They further conclude that the country is not prepared for general elections and that the leaders at Codesa should consider inviting a group of international observers from the European Community, the Organisation for African Unity, the Commonwealth and even the United States to monitor the transition, law enforcement and elections

## Experience

"We anticipate that a majority of the investigators would be lawyers or have appropriate police experience"

The jurists suggest too that "senior civilian administrators should be introduced into the police force at all levels"

But first, and like the Goldstone Commission, the jurists recommend a blanket ban of all weapons at political meetings rallies and in public places

The security forces should be given "clear orders" to intervene and end the violence

Like the Goldstone Commission, the jurists recommend the disarming of hostel residents

But the Government must also withdraw all remaining covert support for Inkatha

And finally "President de Klerk should take personal charge of law and order and insist that the necessary action is taken to bring the violence under control"



# Rape probe: 'Sensitivity' new attitude

Staff Reporter ET 10/6/92

TWO women appointed by acting attorney-general Mr Frank Kahn to help find new guidelines for prosecutors in rape cases, said yesterday that their most important job would be to enlist the aid of all the organisations concerned with rape victims.

Mr Kahn, appointed Paarl's senior prosecutor, Mrs Esther Cross, and advocate Mrs Sandra Swart to find ways in which rape victims could be more sensitively handled.

Mrs Swart said they would make sure that all organisations that dealt with rape and rape victims were consulted.

Mrs Cross said that once they had identified the groups concerned it would be possible to assess more rapidly where to send rape victims for counselling.

Their appointment resulted from an investigation by Mr Kahn after a Wynberg magistrate said that because the rape victim had no permanent physical injuries she was unlikely to suffer psychologically.

Both Mrs Swart and Mrs Cross have dealt with many child abuse cases and rape cases and said that owing to their experience they were fully aware of the psychological effects of rape on victims.

"I cannot tell you any specific traumatic experiences each victim goes through because every victim experiences her problems differently," said Mrs Swart.

Mrs Cross said that age had nothing to do with trauma, because a young girl might deal better with a traumatic situation than a much older woman.

WORK TO DO  
Sandra Swart



# Rape probe: 'Sensitivity'<sup>252</sup> new attitude

Staff Reporter CT 10/6/92

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WORK TO DO  
Sandra Swart

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Govt negligent, says Amnesty

# Report links armed forces to violence

LONDON — Amnesty International has accused SA's security forces of involvement in violence and says government is guilty of "gross negligence at best" in not bringing the culprits to book.

The London-based human rights organisation also said unless steps were taken to safeguard human rights the political reform process in SA could break down.

These were among the conclusions reached by Amnesty in a 100-page booklet, called SA — State of Fear, which was based on a month-long visit to SA by senior members in December last year and subsequent monitoring operations.

The report, released worldwide today, said reforms in SA had brought sweeping changes but it was "business as usual" for the security forces — often including collusion in political killings or standing by while others massacred political rivals.

Law and Order spokesman Capt Craig Kotze described the report as partisan and one-dimensional.

It could "therefore not be regarded as a constructive addition to the debate on violence due to the fact that it represents an almost complete whitewash of the ANC, one of the main, if not the major, antagonists in the violence" Kotze said it ignored the fact that policemen were victims of violence.

Inkatha and the KwaZulu police were also heavily criticised in the report. It also accused the Bophuthatswana government of violent coercion and said there was a strong suggestion authorities in the home-

CHRIS BATEMAN and  
GAVIN DU VENAGE

land condoned the use of torture.

It said the ANC had been guilty of abuses against its members as well as involvement in township violence in the past two years. "The ANC and its supporters have been responsible for deliberate and arbitrary killings."

Although victims of violence came from across the political spectrum, the "overwhelming majority" had been members or perceived sympathisers of the ANC and other formerly banned organisations.

The report documented what it called a "systematic pattern of police and military involvement in torture and assassinations" during the past two years.

Government had failed to act against "all but a tiny proportion" of human rights violators within the police and military. This served to give the security forces the impression that they could "get away with anything, even murder", the report said.

The report follows last week's stinging criticism of police by the International Commission of Jurists, as well as an interim report by the Goldstone Commission which also implicated police in violence.

The Amnesty report said in spite of President F W de Klerk's promises to take the police out of politics, the police had continued their "war against the ANC and allied organisations" Government had been slow to act against policemen despite mounting evidence.

In township violence which had cost

□ To Page 2

## Amnesty report From Page 1

7 000 lives since early 1990, police had continued the fight against those they saw as "the enemy"

The report documented many incidents in which police were alleged to have been involved in violence or colluded with Inkatha supporters in massacres.

The report noted that in only one of these cases had the conduct of the police been subject to independent inquiry. When there had been official inquiries these had been hampered by violence and marked by official failure to act on their conclusions.

One exception was the "rare example of professional police investigative work" of Maj Frank Dutton, the policeman who brought to court seven policemen accused

of murdering 11 people at Trust Feed.

A western Transvaal probe into torture, killings of detainees and extra-judicial executions by police resulted in witnesses and human rights monitors being harassed, threatened and shot at by police.

Amnesty noted not a single prosecution followed the high-profile judicial inquiries of 1990 and 1991 into "death squads" where evidence of murder, poisoning, kidnapping, arson, perjury and destruction of evidence by the police and army had emerged.

ANC spokesman Carl Niehaus said yesterday the report confirmed "our concerns over SAP complicity in the violence".

A Bophuthatswana government spokesman described the report as "nonsense".



# How killers survive to kill again

STAR 10/6/92

**I**N A CLOSE scrutiny of patterns of political violence in South Africa, Amnesty International shows how alleged killers and torturers escape the sanction of the law and, literally, go on to fight another battle.

The London-based human rights group's report, "South Africa: State of fear", delves beneath the generalities, drawing linkages between violent events and arguing particularly that security force actions and general government licence serve to maintain a chain of terror in the age of political reform.

It tells, for instance, the little-known sequel to the abduction and murder of three trade unionists in the Natal Midlands township of Mpopophemen in 1986 an inquest court found nine identified Inkatha members responsible for the killings. The Attorney-General did not press charges

"In early April 1992, one of the nine men appeared in a Natal Midlands Magistrate's Court charged with the murder of two men in February 1992. It appears, also, from the list of names handed to the Goldstone Commission in 1992, that this same man was one of a group of Inkatha members trained by Military Intelligence in the Caprivi Strip in 1986"

The report also focuses on the township of KwaMakhutha near Durban, where armed men accompanied by members of the KwaZulu Police allegedly went on a shooting spree in December 1990, killing several teenagers.

According to Amnesty, "An eye-witness described seeing a vehicle with darkened windows pass his house. A gun barrel was sticking out of one of the windows. The car was accompanied by two KwaZulu Police vehicles whose registration number the witness noted."

This sinister procession passed out of sight. Gunfire

Amnesty International has released a report based on research during its first visit to South Africa last December. JO-ANNE COLLINGE reports.



sounded. The vehicles returned, "this time moving slowly behind a group of about 10 armed men. The men were shooting at anyone on the street or visible to them in the houses"

When the South African Police arrived about an hour later to collect the bodies "they were accompanied by the same KwaZulu Police vehicles which had escorted the attackers," the witness stated

## Interdicts

The same civilians backed by the same police vehicle allegedly continued their reign of terror into 1991. Court interdicts were issued to restrain some of the group, but they remained at large

In July 1991, Emmanuel Bhengu, a determined peace-maker and Inkatha leader who switched allegiance to the African National Congress, was assassinated. One of the two men charged with his killing was among those supposedly restrained earlier by a court

These cases serve to illustrate the close mesh of the Amnesty report and suggest its two major theses one, that the security forces continue to pursue a war against ANC-aligned organisations, and two, that the Government as a whole is "grossly negligent" in bringing its armed forces to book for human rights abuses.

The organisation is not arguing a case of "rogue policemen" in isolated, minor instances. Its research deals extensively with major events relating to political violence, from the Harms

Commission on death squads to the massacres at Phola Park, Swaneville and Bruntville, from the 1990 "Seven Day War" around Maritzburg — preceded by the Government-funded Inkatha rally of Inkathagate fame — to the ongoing Cape Town "taxi wars".

Amnesty states that its concern is the consistent pattern of allegations and, in some cases, evidence of State complicity in these mass killings and other acts of violence. The report details these allegations, many of which have been carried in the media in the past.

The section on the "Seven Day War", for instance, is said to be based on 200 statements from residents displaced in a series of co-ordinated Inkatha attacks. It contains allegations ranging from police bias in failing to check Inkatha assailants to accusations of direct attacks by the police on embattled communities

"According to one eye-witness (of events at Caluza), when some women went to help one of the wounded youths, a white police officer intervened and asked him to open his mouth. The police officer then allegedly put a gun in the boy's mouth and fired," the report reads

Amnesty argues that President de Klerk's 1990 message that neutrality and professionalism are now expected of the security forces has simply not filtered down to members on the ground. Referring to evidence in the Trust Feed case in which five policemen were convicted for 11 murders, Amnesty

submits that the police were "operating in an environment which encouraged members of the security forces to do everything in their power to act against those perceived as the 'enemy'," mainly the ANC and its allies

It hones in on the inaction which followed the Harms Commission and the failed defamation action by police forensics chief General Lothar Neethling, heard by Mr Justice Johan Kriegler "Judge Harms and Judge Kriegler between them uncovered evidence of murder, poisoning, kidnapping, arson, perjury and destruction of evidence by members of the SAP and SADF. Yet not a single prosecution has resulted"

Far from increasing control over the KwaZulu Police, the South African Government effectively increased its jurisdiction this year with the passing of the Police Amendment Act, the report notes

In the western Transvaal township of Khutsong, where a special police investigation was launched into alleged assaults and extra-judicial executions by members of the police unrest unit, there were indications that police officers under investigation, "including suspended officers", continued to be involved in unlawful activities and that witnesses and human rights activists co-operating with the probe were harassed and threatened with death

In its closing chapter, Amnesty makes a strong plea for action on the part of the Government to check the security forces. It spells out internationally accepted practices.

Amnesty effectively tells Mr de Klerk that, if he does not meet this challenge, there is a large question mark over his declaration to the police in 1990 that "we don't want to use you any more as instruments to reach certain political goals". □



# Five fined R3 000 for park assault

STAR 10/6/92  
By Dirk Nel  
Northern Transvaal Bureau

PIETERSBURG — Five men were sentenced to fines of R3 000 each (or 18 months' jail) in the Pietersburg Regional Court yesterday after being found guilty of public violence.

The convictions arose from the assault on a group of black Sunday school pupils in Louis Trichardt on November 24 1990.

Christoffel Johannes Wolf-aart (45), Barend Johannes Marthinus Terblanche (50), Phillip Terblanche (43), Johan George Nagel (25) and Stephanus Hendrik Boshoff (41) were also each sentenced to an additional 18 months in jail suspended for three years. (252)

Initially, 15 men appeared in court in connection with the incident, but charges against nine of them were withdrawn at various stages.

● To Page 3

# Five fined for assault at park

STAR 10/6/92

● From Page 1

of the prolonged hearing. Gerhardus van der Linde, another suspect in the case, was acquitted yesterday by magistrate WJ Fourie because of insufficient evidence against him.

The magistrate said it was clear that the group of children, under the supervision of two ministers, were on an organised outing when the confrontation took place in a Louis Trichardt park.

Policemen went to investigate why the group had stopped in the park, and were told that the party were on their way to a nearby church.

A group of men, armed with sjamboks and

sticks, then arrived in several vehicles and assaulted the children, despite being assured by police that the situation was under control and that the church group would be moving on.

One of the men insulted and attacked a police officer, saying "the AWB is now in control", the court found.

It was evident that, apart from the physical attacks on the children, at least two vehicles were driven into the crowd. Several children were injured during the chaos, the magistrate said.

Earlier, Olaf de Meyer, defending the accused, claimed the evi-

dence of the two ministers in charge of the children had been unreliable. He also questioned the testimonies of two detectives who were at the scene of the violence.

Arguing in mitigation, Mr de Meyer claimed the entire situation had become an emotional matter for the men, as there had been threats of an unruly ANC march on that day.

The magistrate pointed out that the accused had no right to take the law into their own hands or to obstruct police.

He said he had taken into account that some of the men had lost their jobs since the attack.

## Armed forces undermining law report

By Jo-Anne Collinge

STAR  
10/6/92

The London-based human rights group Amnesty International has challenged the South African Government to publicly admit that grave human rights violations continue to be committed by its armed forces.

It also calls on the Government to act with urgency to stop the police and military from undermining the law.

"Despite Government promises to take the police out of politics, the fact is that they have continued their war against the ANC and allied organisations — and the Government has been slow to react despite mounting evidence against the police," Amnesty said.

The statement accompanied the release of a 100-page report based on Amnesty's first official visit to South Africa in December.

The report, titled "South Africa State of Fear", documents police and military involvement in torture and assassinations.

"The Government of South Africa has, at best, been grossly negligent. It has failed to act against all but a tiny proportion of human rights violators within the police and the military," Amnesty's statement said.

Ministry of Law and Order spokesman Craig Kotze criticised the report, describing it as biased, one-dimensional and representing "an almost complete whitewash of the ANC, one of the main — if not the major — participants in the violence."

Captain Kotze added "It (the report) also ignores the fact that the SAP itself is a victim of violence and that scores of policeman have been murdered trying to end violence."

● How killers survive to kill again — Page 17



# Cops and army fan violence — Amnesty

Sowetan 10/6/92



252

**Amnesty International today issues a report on South Africa titled "State of Fear", detailing police involvement in killings of political activists. Sowetan Investigations Editor MATHATHA TSEDU reports on the major findings of the report.**

**FOR the second time in under two weeks, an international organisation has found South Africa's police and defence forces guilty of complicity in killings of black people.**

The London-based human rights organisation, Amnesty International, says in a report released in London this morning that security forces in South Africa continue to attack or stand by as vigilantes of Inkatha members attack political opponents

Amnesty says the De Klerk Government at a political level is guilty of complicity as it has at best "been grossly negligent" in failing to "act against all but a tiny proportion of human rights violators within the police and military"

Inkatha comes in for hard criticism in the 100-page report, which documents evidence of a systematic pattern of police and military involvement in torture and assassinations during the two years

The report also touches on the ANC's maltreatment of its own members in detention camps in African states

The reform process, it says, could break down unless the violence, which has claimed 7 000 lives in just over two years, is stopped by state intervention to safeguard human rights

"The reforms of the past two years have brought some sweeping changes in South Africa but, as far as the security forces are concerned, it is business as usual

"And all too often that means

taking part in political killings or standing by while others massacre political opponents.

"Despite Government promises to take the police out of politics, the fact is they have continued their war against the African National Congress and allied organisations and the Government has been slow to react despite the mounting evidence against the police," Amnesty says

Detailing examples of incidents of police and military involvement since early 1990, Amnesty says police have continued their war on those seen as traditional enemies progressive forces such as ANC, Cosatu, SACP, Nactu, Azapo, PAC and allied structures

Their treatment of Inkatha however is different, Amnesty says, pointing at police reluctance to intervene in Inkatha attacks, escorts for Inkatha attackers, early release of Inkatha people arrested for attacks on political opponents and non-investigation of Inkatha murders

Some of the cases in which police and military personnel either participated directly or stood back to allow massacres to occur include:

- 80 people killed during an onslaught by thousands of armed Inkatha supporters on a Mantsobu township in March 1990,

- 80 people killed in two days of

attacks by Inkatha supporters and masked white men on Phola Park "squatter" camp, East Rand, in September 1990;

- 29 people killed "when 1 000 Inkatha supporters with active police involvement invaded Swannieville squatter camp, West Rand, on 12 May 1991";

- 18 residents of Bruntville township, Natal, killed during attacks by hundreds of Inkatha supporters on the night of December 3 1991, "with police in unmarked vehicles raiding residents' homes for weapons which they might have used to defend themselves"; and

- 18 people killed "by armed Inkatha supporters and police in a dawn attack" on March 13 1992 at Uganda settlement outside Durban

Amnesty says despite this and other innumerable examples of police involvement in the killings, only one of the above cases has resulted in a prosecution while another had resulted in an independent inquiry,

a clear reference to the Trust Feed case which led to irrefutable evidence of police actions to enhance Inkatha's political standing

The organisation decries the intervention of state instruments, especially the police, in official and independent inquiries into police conduct, citing the harassment and shooting of witnesses and human rights monitors in the Western Transvaal

"In 1990 and 1991, high profile judicial inquiries into military and police "death squads" found evidence of murder, poisoning, kidnapping, arson, perjury and destruction of evidence by members of the police and military

"Not a single prosecution fol-

lowed Political assassinations and other violations are not a thing of the past, as the Government claims

"They have not been stopped by the reform process", Amnesty says

The report comes in the wake of another presented by the International Commission of Jurists, who spent two weeks in this country investigating violence and came to the conclusion that senior elements in the police force were fomenting the violence

It also follows on the now controversial interim report of the Goldstone Commission into violence which found that the police and the army, as well as rivalry between Inkatha and the ANC, were the chief instigators of the violence.

Also not in the report are recent disclosures by several newspapers which included

- The ordering of the Goniwe murders by defence force senior officers,

- The existence of secret police squads operating from "safe" houses where activists were allegedly taken and instructed to kill political opponents of the regime, and

- The revelation by *Sowetan* that people were being hired for a fee to kill and get paid for each person killed

A man who refused to get involved in this scheme in Alexandra was nearly killed but police refused to investigate the linkage with the violence

Amnesty says the remedy could include a public acknowledgement by the Government that assassinations, torture and other grave human rights violations continue to be committed by security forces "and others acting apparently on their behalf or with their acquiescence"





By ALLISTER SPARKS

# Can we all live with shameful past?

NOW that it has been established that a senior military officer sought permission from the State Security Council to assassinate three black community leaders in 1985, the question arises more sharply than ever of how the new South Africa is going to live with its past

Great crimes have been committed in this country, both individually and collectively. Indeed, the United Nations declared apartheid a crime against humanity. People were tortured and murdered, beaten to death in interrogation rooms, robbed of their homes and driven from their land. Families were ripped apart and children denied education.

It is a past stained with 18 million pass law arrests and 3,5 million forced removals.

We reek of crime and drip with guilt. We need a Nuremberg trial to cleanse the soul of this nation, a tribunal that will bring out the truth so there can be justice for the dead and a purgation of anger.

But you cannot have a Nuremberg trial after a negotiated settlement. Ours is an armistice, not an unconditional surrender. Any hint of an apartheid-crimes tribunal would send the ruling party scurrying from the negotiating table.

### Shameful

So what are we to do with all that guilt? With all that criminality and "structured sinfulness", as Allan Boesak has called it? Just sweep it under the carpet with all the other detritus of the shameful system that was constructed here? That is what President De Klerk wants. We must forget the past, he says,

and not keep raking it up.

But you cannot have reconciliation that way. The theologians tell us that to attain reconciliation you must first have confession and receive forgiveness. Only then can there be redemption and reconciliation. With confession, of course, goes penance, atonement, compensation.

Aye, there's the rub. For we are too greedy for that. We want the new society, an end to sanctions and the old polecat status, but we don't want to pay for what we did. We want to forget that. And being a good theologian himself, President De Klerk knows that once he confesses that the past was riddled with injustice he will have to go the whole hog and pay the compensation.

So he stops short. Apartheid was a mistake, he says, not because it was fundamentally evil and did millions of people grievous injury, but because it didn't work. It was "impractical", "inefficient", "outdated" but never unjust.

The pattern began soon after the famous February 2 1990 speech when Mr Barend du Plessis, then Transvaal

leader of the NP, thanked congress delegates for agreeing to open party membership to all races. After declaring that this had given rise to "a liberated National Party that is now operating on a moral basis", he paused to ask rhetorically "Is there implicit in what I have just said an accusation that our predecessors were not moral, that they were unjust?"

"Absolutely not," was his reply. "The truth is that if it had been possible to divide this country so that the whites could be a majority and the blacks had their own sovereign states, then we would have been able to escape that way from the accusation of discrimination and injustice."

"But over a long period of time it became clear that total segregation was not possible and with that we realised that we had to change course and that power-sharing was the only way for us to go," Du Plessis said.

Piet Cillie, the doyen of Afrikaans journalists, wrote soon afterwards that it had been necessary to pursue the apartheid policy to demonstrate that it was unworkable.

Only once has Mr De



PIET CILLIE "Unworkable"



BAREND DU PLESSIS Thanked congress



KADAR ASMAL Powerful lecture

Klerk himself uttered any words of remorse, and that was when he told an obscure Japanese newspaper in October 1991 "We are very, very sorry for the pain which was caused by that period in our history and we are glad that the period has passed."

### Reprehensible

He has said nothing to the people here at home who actually suffered that pain. The closest any minister has come to that was when Mr Leon Wessels, then deputy Minister of Foreign Affairs, said last February "We failed to listen to the crying of our fellow countrymen. That must never happen again."

This refusal to come to terms with our past is not only morally reprehensible, it is dangerous. As Kadar Asmal, Professor of Human Rights Law at the University of the Western Cape, warned in a powerful inaugural lecture the other night, it can kindle resentment on the part of those who suffered under apartheid and induce a chauvinist response.

In other words, De Klerk and his colleagues run the risk of provoking counter-racism with their "silence of insensitivity", as Professor Asmal phrased it.

Beneath the surface of the new society the old antagonisms will continue to fester, making it difficult to reach out to forge real non-racial unity.

"We need a revival of moral conscience if we are ever to build a common citizenship and a common national consciousness," Professor Asmal said.

So the truth must be admitted to heal the wounds and provide redress for those who have suffered. Confession and atonement. Professor Asmal wants a "reconciliation accord" to atone for the past. It must include compensation payments to those who have suffered and been dispossessed and affirmative action programmes for those who have been disadvantaged.

### Rehabilitation

He also wants justice. Although there can be no Nuremberg tribunal in South Africa, Professor Asmal believes there are certain categories of crime, such as murder, which are beyond amnesty or any statute of limitations.

Retribution, he says, is not the primary motive. Neither is it simply a question of money. "It is the acknowledgement which is vital to the process of rehabilitation."

I find the arguments compelling. The precedents are there. Germany paid reparation to those who suffered under Nazism. Today it is restoring land appropriated by the former East German regime to the original owners, or compensating them if the land cannot be returned.

The United States government has decided to compensate Japanese Americans who were detained after the Pearl Harbour attack in 1941. In Russia, the KGB is opening its files to reveal the truth of what happened during the communist years. Argentina is paying R14 000 to people tortured by the military dictatorship which ran that country from 1975 to 1982.

Chile set up a Commission for Truth and Reconciliation after Pinochet was ousted from the presidency, though not from the army, in 1990. Although the deal with the former dictator means the commission cannot punish the assassins and torturers, the new Chilean government believes it is necessary to bring out the facts to achieve national reconciliation.

As Professor Asmal puts it "The struggle for human rights is a struggle of humanity against the misuse of power. It is also the struggle of memory against forgetting."

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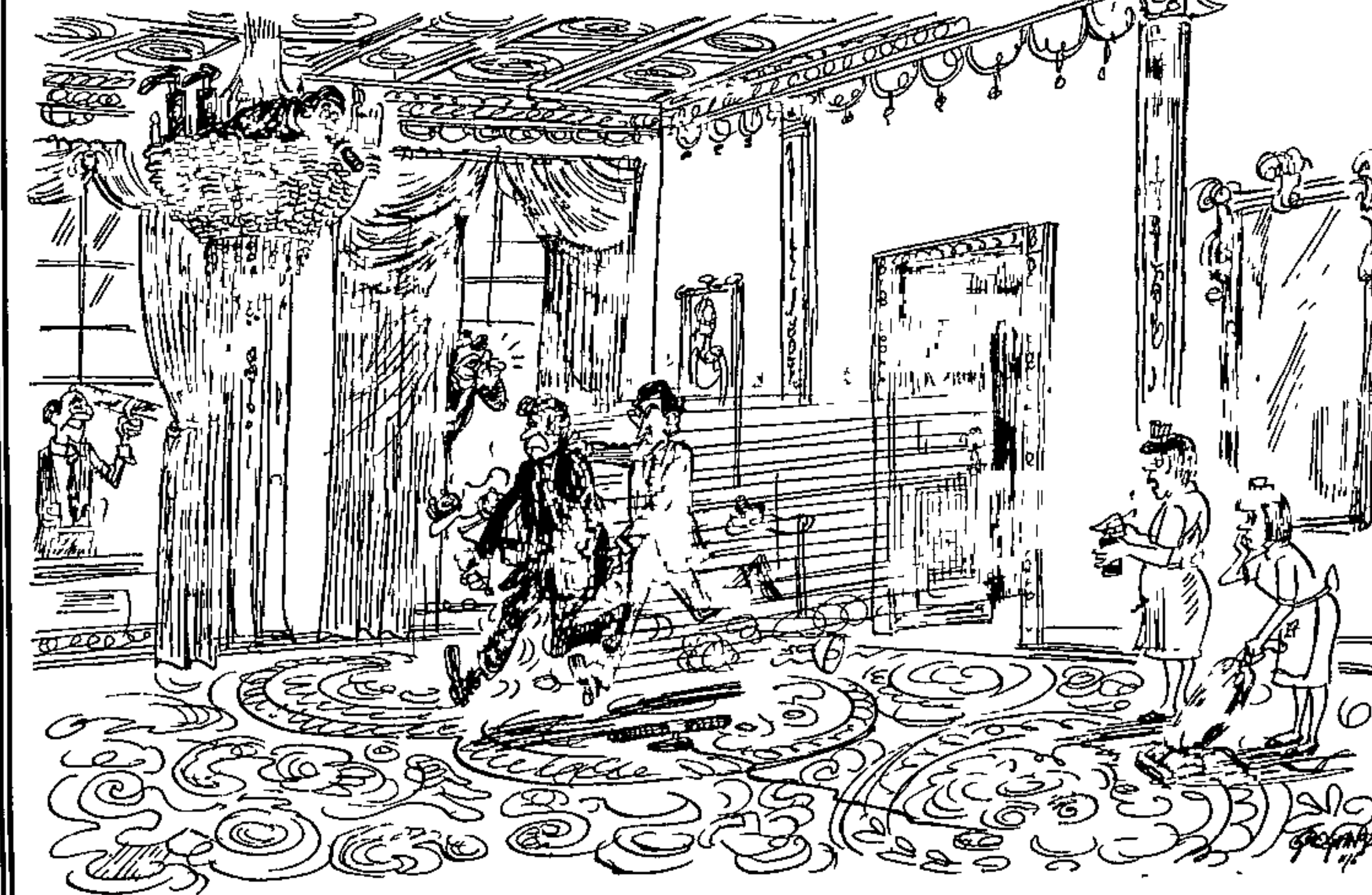
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"Nearly another royal scandal! His Highness found a strange man under Princess Di's bed but he was a reporter."

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# MK man spared jail to aid negotiations

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## Supreme Court Reporter

A JUDGE has postponed passing sentence on an Umkhonto we Sizwe member convicted of possessing an arms cache because jailing him would "remove from society a valuable member of the community"

David Dlah, 32, a Food and Allied Workers' Union employee and part-time law student at the University of the Western Cape, pleaded guilty to illegally possessing a Beretta pistol, a Makarov pistol, an AK 47 machine rifle, four handgrenades, two limpet mines, 30 AK 47 bullets, 27 9 mm bullets and two .22 bullets

He was arrested in Guguletu on April 7

Mr Justice Foxcroft said he had

given the question of sentence "anxious consideration"

He accepted Dlah's explanation that in 1989 he had instructions from the the ANC's military wing, Umkhonto we Sizwe, to accept the weapons and keep them in a safe place

In April this year he was told negotiations between the government and the ANC on MK and arms had reached an advanced stage MK cadres had to prepare to hand over the arms to the joint command of the government and the ANC, the judge said

Dlah's evidence was corroborated by the testimony of the chief legal adviser of the ANC, Mr Penuell Maduna.

ARC 11/6/92

# Amnesty slams State oppression

Sowetan 11/6/92

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AMNESTY International condemned State oppression and if the ANC became part of a future government and committed human rights abuses, it could also expect criticism, an Amnesty International spokesman said yesterday.

Amnesty International's Ms Mary Rayner, who was part of the London-based human rights organisation's delegation that visited South Africa last December, was reacting to the SAP's denouncement of its report on violence in South Africa on the grounds that it was "partisan" for representing "an almost complete white-wash of the ANC"

Rayner said AI was on record for expressing concern about evidence of human rights violations by the ANC in its camps abroad

The organisation was also involved in a programme to

monitor the ANC's commission of inquiry into human rights abuses

She said the organisation did acknowledge in its report that ANC supporters were involved in killings, but the major focus of the document was State security involvement in torture and killings

It was acknowledged in the report that State President FW de Klerk took the initiative in 1990 to take the police out of politics, but "evidence over the past two years showed that (police) practice on the ground has not substantially changed"

One of the reasons for the lack of change at grassroots level and police action on the ground, Rayner said, was the failure of the authorities to act swiftly on continuing allegations and evidence of violations over the past two years. The State President's message was "muddied" by this lack of action, Rayner said - Sapa

## 'Phone bills are a Government ploy'

Sowetan 11/6/92.



SOARING telephone bills — bane of many households in these days of recession and depression — were the result of the privatisation of the Post and Telecommunications Department

Post and Telecommunications Workers Association charged yesterday that it launched campaigns

against privatisation of public organisations like Posts, Telecommunications and Transport services with public sector unions affiliated to the Congress of SA Trade Unions three years ago

"The régime refused to listen... and proceeded to lay the basis for privatisation. We warned them

that many of our people would lose jobs, soaring service charges would be the order of the day," read the statement. Potwa also rejected claims that the 087 number service was responsible for soaring phone bills. The privatisation schemes were clearly aimed at "selling off the crown jewels" so any in-

coming non-racial government would "simply find it is unable to govern". Potwa said it was hoping to convene a meeting on June 18 — to be attended by all interested parties, including civic associations, Cosatu and the National Council of Trade Unions — to "address this matter decisively" - Sapa



# cadre: MK man

BY YVETTE VAN BREDA

A COMMANDER in the ANC's military wing was found guilty yesterday of possessing a huge arms cache — but walked out of court a free man.

Mr Justice J G Foxcroft postponed sentence of uMkhonto weSizwe regional commander David Dlalali, 32, for a year.

He said negotiations between the government and the ANC should "run their course". He unconditionally postponed the sentence and said Dlalali need appear in court on June 10, 1993, only if called upon to do so.

In passing sentence on Dlalali, who is now studying law at the University of Western Cape, the judge said that oppression in any country would lead to people attempting to put right the wrongs committed against them.

"The hated system of apartheid and the economic repression that went

## Judge says negotiations must 'run their course'

with it and practised for so long, led to the accused and many like him trying to rid the country of the system.

"It was the deprivation that the system caused him that led to his involvement in trade union movements and then the ANC and eventually MK.

"I have decided that this is an appropriate sentence for a number of reasons — so that negotiations referred to in the trial can run their course and also so that all weapons of this sort can be handed over to the authorities

"What happens is relevant to what sentence the accused gets in one year's time Mr Dlalali you are free to go and come back in a year's time if told to do so."

Earlier Dlalali pleaded guilty to and was convicted of illegally possessing an AK-47, Makarov and Beretta pistols, two limpet mines, four hand grenades, 30 AK-47 rounds, 27 nine mm rounds and two .22 bullets at his Gugulethu home on April 7.

"Some sections of SA society may see this warranting a severe sentence,

# 'free'

but I'm satisfied that many other sectors will not wish to see the accused punished at all," the judge said

Mr Justice Foxcroft found that Dlalali had in 1989 received instructions from uMkhonto weSizwe (MK), to take receipt of certain arms and ammunition and place them in storage.

Dlalali buried the arms and in March 1990 he was instructed to retain the arms in storage and not to use them under any circumstances.

He was told by MK commander, Mr Chris Hanu, that the armed struggle had been suspended and he was to retain the cache until further instructions

A joint structure was supposed to be set up under the joint commission of the ANC and the government

To page 2

From page 1

Dlalali was told that MK cadres were to get ready to hand over arms. He took the arms home for this purpose and held them "in the hope of an MK-government settlement". Dlalali never used the arms.

His statement was corroborated by Mr Penuell Maduna, chief legal adviser to the ANC, who was closely involved with many discussions between the ANC and the government.

"It is clear from Mr Maduna's evidence that negotiations have been continuing and that but for a temporary breakdown of talks at Codesa recently, the whole question of arms would be resolved."

Mr Foxcroft said Dlalali's aim was to prevent weapons falling into the wrong hands. "His motive was not only innocent but laudible."

After the surprise sentence, an obviously pleased Dlalali was carried down the court steps by friends and fellow students laughing and shouting "Viva"

# Spy Gerhardt seeks release from jail

LAWYERS acting for jailed Soviet spy Dieter Gerhardt intend applying to the Pretoria Supreme Court today for his release from prison *Bloum*

The former Simon's Town naval dockyard commander is serving a life sentence in Pretoria Central Prison for spying for the Soviet Union *11/6/92*

The application will be brought by Lawyers for Human Rights (LHR) on the basis that Gerhardt is a political prisoner whose spying activities were motivated by a political goal

LHR lawyers will argue that in terms of the Pretoria and Groote Schuur Minutes agreed to by government and the ANC on the release of political offenders, Gerhardt should be set free. They will argue also that the Indemnity Act provides for the release of political offenders.

**(252) PATRICK BULGER (252)**

The application will be accompanied by an affidavit from Gerhardt which may throw light on his motives for providing the Soviets with some of their best information on Western defences during the entire Cold War period. Gerhardt's 1983 trial was held in camera.

It is understood the state will argue, probably, he was motivated primarily by financial gain and did not qualify for release as a political prisoner.

The LHR said the case would test whether the state's interpretation of its agreements with the ANC was in fact correct.

Gerhardt, who has developed links with the ANC since his arrest, is one of 357 prisoners still held in SA jails and deemed to be political by human rights groups.

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# Outcry over snoop Bill

STAR 11/6/72

● From Page 1  
real accountability.

"Ironically, today we're talking about moving towards a human rights culture and a bill of rights. This particular Bill is the absolute antithesis of a human rights culture," Mr Currin said.

ANC spokesman Carl Niehaus stressed that the organisation had not yet had a chance to study the Bill and that its comments were therefore of a preliminary nature.

The ANC was nevertheless deeply disturbed by the Bill and, while it had repeatedly called on the Government to combat crime, it did not believe the Bill would contribute to this end.

"Rather, it will make further inroads into people's privacy. At the same time we are deeply concerned that such Bills are tabled in Parliament while negotiations are going on at Codesa."

Mr Niehaus said the Bill was clearly not directed only against criminal activity, but also political activity.

Democratic Party justice spokesman Tony Leon said in a statement the DP had grave reservations about the Bill.

"We are concerned about the incursions into fundamental liberties and private conduct evidenced in the Bill. This is part of a pattern in recent legislation

"The only significant procedural safeguard provided for in the Bill is that the relevant attorney-general, or his deputy, will be granted the power to authorise such interception."

But, Mr Leon said, the Attorney-General remained the chief prosecuting arm of the State and it would be invidious for the Attorney-General or his deputies to be the sole judge over whether a tap or mail interception was justified.

Witwatersrand Attorney-General Klaus von Lieres said he had not had an opportunity to study the provisions of the Bill.

The Bill empowers agents to "at any time enter upon any premises in order to install, maintain or remove a monitoring device"

It applies to serious offences including treason, sedition, public violence, murder, culpable homicide, rape, indecent assault, sodomy, bestiality, robbery, kidnapping, child-stealing, assault when a dangerous wound is inflicted, arson and malicious damage to property.

Other suspected crimes which may be held to justify intercepts include breaking or entering, theft, receiving stolen property, fraud, forgery and coinage offences.



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**Rights body blasts ANC probe**

STAR 11/16/92  
LONDON — The Frankfurt-based International Society for Human Rights has dismissed as "insufficient and unacceptable" the terms of reference of the ANC's commission of inquiry into complaints by former ANC prisoners.

The society said the terms of reference res-

tricted the commission to dealing with only the conditions of detention, allegations of maltreatment and complaints about missing property, but ignored any inquiry into the reasons for these detentions and the "blatant miscarriage of justice" that had occurred

— Star Bureau

Developing correct approaches to dissent is vital for the future, writes Christof F

# Ensuring disobedience is civil

Star 11/6/92.

HERE is a certain logic in the fact that South Africa was the cradle not only of apartheid, but also of one of the strongest modern forms of political resistance, namely mass action or civil disobedience

It was here, at the beginning of the century, where Gandhi achieved what Jan Smuts would later call "a successful coup", when his campaign of Satyagraha brought about fundamental changes in the racial policy of the South African Government. For the first time in history did the masses openly and non-violently resist the State by defying its laws

Civil disobedience, in one form or another, would hereafter play a prominent role in the political history of South Africa. "Passive resistance" would be inscribed as a legitimate strategy in the first constitution of the ANC

After World War 2 followed the Resistance Campaign of 1946-1948, the Defiance Campaign of 1952 and the Anti-Pass Campaign of 1963. Another widespread cam-

paign of anti-apartheid civil disobedience was held in 1989. In 1990 the Conservative Party, following the rapid changes introduced in that year, threatened not to pay taxes and TV licence fees

Early 1991 saw the siege of Pretoria by disgruntled farmers

This raises the question how government should respond to civil disobedience. In some cases it is justified to disobey certain laws (for example if they prohibit one from praying) but it cannot always be tolerated. Respect for law is a value cherished in all civilisations. On what grounds can acceptable civil disobedience be distinguished from unacceptable civil disobedience?

One must ask oneself which criteria for legitimate resistance would I accept today, that I would also accept under a new government. That is, one's approach should be the same whether one is the resister or the resisted

The first condition for having a right of resistance is met when the government infringes on basic human rights. This connection be-



Gandhi... the father of non-violent resistance

between the recognition of human rights and the right of resistance runs through all the major human rights documents of the world, from the Magna Carta of 1215 to the Universal Declaration of Human Rights of 1948

No one has the right to disobey the State in protest against its policies (for example the decision that a certain street should be a one-way in a certain direction), but one has the right to resist serious violations of basic RIGHTS

In short, it could be said that civil disobedience is legitimate if — and only if — basic human rights are being violated and breaking the law is the only reasonable alternative to resist this

How is this criterion to be applied to the recent threats of mass action by the ANC? At the bottom of the ANC's statements lies the demand for political participation. This is a demand for the recognition of a basic right, which means that, as long as everybody in the country does not have the vote, there is in principle a right of resistance.

One could argue, however, about the question whether mass action is indeed the only reasonable alternative available to secure this right. Those on the side of the Government would maintain that Codesa provides a constitutional channel for the attainment precisely of the goal of political participation and that makes resorts to extra-constitutional mechanisms unacceptable

The ANC, on the other hand, argues that Codesa is at best a

flawed instrument of liberation and that they can no longer reasonably put up with what they see as its slow progress

Both sides, therefore, seem to accept the criterion for legitimate resistance posed above, but they differ on the application of this norm

The maintenance of law and order, and the increase in violence which widespread political turmoil could bring about in some cases, are important factors which weigh heavily. Beyond a certain threshold of anarchy, any form of social progress is dependent upon the restoration of a minimum public order

On the other hand, however, it should be remembered that civil disobedience could also play a positive role in society. Often such acts of political expression serve the dual function of safety valve and alarm signal

Given the composition of our society, strong political dissent is inevitable under any conceivable political dispensation. It is no exaggeration to say that the future

of the country depends on w sensible ways sent, which destructive measures

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Christof H ate professor iversity of Pr director of Human Righ the author o book "Civil South Africa"

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ing correct approaches to dissent is vital for the future, writes **Christof Heyns**

# Surging disobedience is civil

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Given the composition of our society, strong political dissent is inevitable under any conceivable political dispensation It is no exaggeration to say that the future

of the country, to a large extent, depends on whether we can find sensible ways of managing dissent, which encourage less destructive means for expressing dissent

If the State treats non-violent and violent acts of resistance with equal ferocity, no incentive is provided for protesters to engage in the former rather than in the latter

Those who are now being resisted should also remember that they are likely to be the resisters of tomorrow Their treatment of protesters with whom they strongly disagree will set a precedent for the treatment of protesters in the future Tolerance now is not necessarily a guarantee of tolerance later, but intolerance today will almost certainly lead to intolerance tomorrow

Christof Heyns is an associate professor of law at the University of Pretoria and acting director of the Centre of Human Rights Studies He is the author of the forthcoming book "Civil Disobedience in South Africa"



# Black children CT 12/6/92 (252) 'still suffering'

By RAMOTENA MABOTE

THE suffering of black children has not abated in the 2½ years since President F W de Klerk's accession to power, human rights' advocate Mr Dullah Omar said yesterday.

Addressing the International conference in Sea Point on the Rights of the Child yesterday, Mr Omar said that the victims of human rights' violations were still the same as were the perpetrators.

He said the realisation of children's rights would only be possible after the destruction of apartheid and the election of a democratic, non-racial, non-sexist government.

The conference was organised by the Community Law Centre of the University of the Western Cape and was attended by more 100 dignitaries and representatives of international organisations.

Mr Omar criticised both the government and the National Party for ignoring the rights of children

and the importance of those rights being entrenched in the future bill of rights.

To free the children, you must also free the mothers, he said.

A member of the UN Committee on the Rights of the Child, Dr Thomas Hammarberg of Sweden, said that children were and had always been the victims of political hypocrisy.

"Politicians often pay lip service to the well-being of children, many of them are eager to be seen as child-friendly, but in real terms, when economic and partisan political interests come into the picture, children tend to be let down," said the former secretary-general of Amnesty International.

Dr Hammarberg said that putting the condition of the child outside the political agenda had been to the detriment to the child because other interests had been given priority at the cost of those related to the rights of the child.

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## Legal costs: No win, no pay

Staff Reporter

A PAROW woman who is claiming R3,7 million in damages for injuries suffered during the rapid fall of a shopping centre lift, may be able to continue her deferred lawsuit with the help of a new Law Society ruling dealing with fees

Mrs Amanda Kleynhans, 37, formerly of Pretoria, shelved her claim because she could not afford the legal costs

Yesterday Law Society chairman Ms Ingrid Hoffman said the new ruling means that the client only pays the lawyer's costs if the case is successful (252) (11/6)

# Arms caches: 'Law still law'

By ANTHONY JOHNSON

THE decision by a Supreme Court judge to free an ANC military commander found guilty of possessing a huge arms cache has sparked widely divergent reactions from the police and the ANC

And the Conservative Party said the decision by Mr Justice J G Foxcroft to postpone sentence of uMkhonto weSizwe commander David Dlalé for a year because of continuing negotiations between the government and the ANC had far-reaching implications and required further examination

Law and Order Ministry spokesman General Leon Mellet said yesterday that the police would continue to "relentlessly" track down and bring to trial any individuals illegally possessing arms

He said the police did not wish to criticise the judge's ruling,

## MK 'stockpiling weapons'

JOHANNESBURG. — Tons of armaments belonging to the ANC's armed wing are allegedly being stored at former ANC camps in Angola.

This was alleged on Wednesday by the International Freedom Foundation in a letter from its chairman, Mr Duncan Sellars, to the US national security adviser

The letter says that uMkhonto weSizwe (MK) weapons, including hundreds or even thousands of tons of armoured personnel carriers, light amphibious tanks, rocket launchers and anti-aircraft guns are being stored within 400km of the Angolan capital of Luanda

Mr Sellars suggests that the UN Angolan Verification Mission impound the weapons. — Sapa

"but the law remains the law and we will continue to hunt down anyone in possession of illegal arms, as too many heinous crimes are today being committed with such weapons"

General Mellet said the ANC had no way of ensuring that its arms caches did not fall into the hands of people responsible "for hideous deeds such as murders, armed robberies, kidnappings

CT 12/6/92  
and rapes

He said the vast majority of crimes committed with so-called "terrorist weapons" were being committed by hardened criminals with no political motives

However, ANC spokesman Mr Carl Niehaus said yesterday that the judge's ruling implied that it was "quite wrong for the security forces to take actions against MK members when negotiations were under way to deal with the problem of arms caches"

He said he hoped the SAP would now stop its "harassment" of MK members

Mr Niehaus disputed police claims that arms caches often fell into the hands of ordinary criminals

He said there was a great deal of "arms running" across the Mozambique border, "often with arms provided to the Renamo rebel movement by the SA Defence Force" (252) (314)



"THIS gutter paranoia can only be prevented by fighting the conditions in which it can breed, and for that fight we need more, not less, freedom of discussion."

These ringing words on anti-Semitic propaganda, by Jewish American journalist IF Stone, have a direct bearing on the South African government's decision last week to withdraw the residence permit of British historian and Nazi sympathiser David Irving.

Behind the scenes, the Jewish community itself appears to have prompted the move, raising serious questions about freedom of expression and how far South Africans are prepared to go to defend it.

The issue is far broader than Irving's situation. South Africa has no shortage of racists of all shades and racism has been enshrined in our law for many decades. Will we ban the expression of racist views under a new order? Will banning them not raise more problems than it solves?

The African National Congress' constitutional proposals recognise the need for free speech, but would outlaw the expression of views which fan racial hatred.

Irving is a rightwing historian who has cast doubts on the authenticity of the Holocaust. A great deal of what he has to say on the subject is false and among those who have acknowledged this is the German government, which imposed a substantial fine on him for his claim that the Holocaust did not take place.

His views, which cause considerable pain to Jews and others who lost relatives in the Nazi death camps, are backed up by "facts", many of which have been shown to be false by reputable and independent academic authorities.

Irving has been in South Africa several times to speak on various platforms. In fact, he was invited to a Radio 702 talk show before the station withdrew the invitation.

Contrary to some press reports, he was not refused a visa. According to the Department of Home Affairs, his temporary residence permit was revoked because he had violated its terms by speaking on public platforms.

A department spokesman avoided the direct question of whether or not the Jewish community had pushed the department into this action — as did the chairman of the Jewish Board of Deputies in Cape Town, Mervyn Smith, who said he preferred not to comment on the question.

However, sources within the Jewish community and close to the government have confirmed that the "irregularities" were brought to the government's attention by the Board of Deputies, and that the government acted on these representations.

Smith welcomed the move and made it clear that propagandists of Irving's ilk were not welcome. "We don't want Irving in this country. He is our enemy," he said, adding that Nazis have no right to freedom of speech here or anywhere else.

This is not the first time the government has acted directly to curb freedom of expression on behalf of one section of the community. Salman Rushdie's controversial *Satanic Verses* was banned at the behest of orthodox Muslims. *The Protocols of the Elders of Zion*, a trumped-up anti-Semitic tract, was rebanned after the government had unbanned it — with the case for its prohibition being argued by a noted Jewish free-speech advocate.

The simple truth is that these are acts of censorship which curb freedom of expression and which bring the perpetrators — who see them-

# Can we combat gutter paranoia?

Rightwing historian David Irving has been made unwelcome in South Africa. Should those who find his views repulsive be celebrating — or worrying about the implications for freedom of speech?

Comment by PAT SIDLEY  
12/6 - 18/6/92



Testing the limits .. Nazi sympathiser David Irving Photo Courtesy of THE STAR

selves as defending liberty — perilously close to those they are seeking to censor.

South Africa's Chief Rabbi, Cyril Harris, who becomes angry when speaking about Irving, believes there is a point "where liberty becomes a great danger".

"Freedom of speech does not mean poisoning people and then giving them an antidote," he says, referring to the persuasive academic trappings of Irving's misrepresentations.

Harris argues that there needs to be an "authenticity test". Where people — like Irving — spectacularly fail this, they should not be

allowed to propagate their views.

It is a stand shared by Les Harris of the Jewish Board of Deputies, who believes "absolutely" in freedom of expression and wants it to be enshrined in a future South Africa — but draws the line at propagating falsehoods.

This raises the questions of where to draw the line between "acceptable" and "unacceptable" falsehood, and who should apply the test. South African journalists have for decades lived with such "truth tests" — in the Police and Prisons Acts, among others — and there can be little doubt that they have been principally used to

suppress information damaging to the state and to protect erring officials.

When it's pointed out that the public which risks being duped by Irving's falsehoods has access to the truth, the proponents of censorship become guardians of the public's ability to judge. Says Les Harris: "Often the public doesn't have access to the full facts."

Freedom of speech carries with it responsibilities, but these include the willingness to allow others free expression.

A Johannesburg lawyer who is an expert in racially offensive literature and who has fought during much of his professional life for freedom of expression believes there must be some limits on freedom of expression. He points to the fact that most Western democracies have some form of legal prohibition on racially offensive expression. As signatories to a convention intended to stop racial hatred, they are obliged to prevent the dissemination of racially offensive material, one sanction being criminal.

South Africa has such a statute, dating back to 1927, which the lawyer concedes is a "textbook case of abuse" because "this law has been used against leftwing opponents of the government".

But he adds: "Nowhere in the world is freedom of expression absolute. What this debate is about is placing acceptable limits according to internationally acceptable standards." He points to societies like India — and, for that matter, South Africa — where a few words in a particularly highly charged ethnic or religious context will provoke hundreds of deaths.

ANC spokesman Carl Niehaus stresses that the ANC has no sympathy with Irving's "repulsive" views, but does not believe freedom of movement and expression should be limited in an arbitrary way. Any infringement of its Bill of Rights, which would prohibit the propagation of racially offensive views, would have to be tested in a court of law before action could be taken, he says.

David Dison, a Johannesburg civil liberties lawyer who has worked extensively with the media, believes Irving should have been allowed to come here, whatever his views. "I think that the public at large has the ability to assess the evidence for what it is. Only misguided and crazy people underplay the Holocaust," he says.

"It's like underplaying apartheid. If (Conservative Party leader) Andries Treurnicht wanted to go to Europe and say things were better under apartheid, he should be able to do this, and people could evaluate the statement on the evidence they have."

"I don't agree with outlawing race hatred. I'm virulently against it, I've fought censorship all my professional life. The National Party has used it politically against the ANC, and the ANC will now use it against the rightwing."

Perhaps the last word should go to Roy Steinman, the cantor at the Emanu-Shalom synagogue in Johannesburg, who lost close relatives in the Holocaust.

He believes that as repulsive as Nazis are — and he considers the Afrikaner Weerstandsbeweging to be in the same league — they should be allowed to speak. "If the Holocaust taught us anything at all, it is that the minute you start cutting freedoms, you run the risk of creating another Holocaust."

12/6-18/6/92  
Farmers  
convicted  
for killing  
(252)

labourer

w/m.c. 12/6-18/6/92  
Weekly Mail Reporter

THREE young white farmers from the Riversdale area in the southern Cape have been convicted of culpable homicide, after beating a farmworker to death in what the magistrate described as a "cruel and sustained assault".

The finding in the Mossel Bay Regional Court is a sequel to an incident on the farm Watergat on August 31 last year. Evidence was that the farm owner, Isak Odenaal, did not tolerate workers from other farms visiting his farm, and that on that day his two sons and the foreman beat up several coloured visitors.

Magistrate CPJ Prinsloo convicted Willem Odenaal (22), his 17-year-old brother and the foreman, Christiaan du Toit (24), of culpable homicide for the death of 24-year-old Hans Muggels. Muggels' body was found in a shed after dying of multiple head injuries.

# Alleged train killers go free

By BEATHUR BAKER 252

THE Witwatersrand attorney general's office this week announced it was dropping all charges against three alleged train killers who were caught virtually "red-handed" and arrested by police during an attack on a Soweto-bound train last year.

Seven people were killed and 17 injured in the incident.

Khulekani Mvalazi, Mlanu-lene Mchunu and Richards Khoena Majola appeared in Johannesburg magistrate's court shortly after the attack, facing seven counts of murder, 17 of attempted murder and the illegal possession of firearms and ammunition.

However, on their third appearance this week they were set free and an inquest ordered into the deaths of the seven killed during the July 25 train attack. The attorney general's office declined to state the basis on which the decision had been made.

The release of alleged train killers is not unusual. Several other suspects have been arrested and charged. But after a first

court appearance on charges such as murder and culpable homicide, they are regularly allotted bail as low as R2 000 and then released to await a second appearance.

Alfred Dlamini, one of the first alleged train killers arrested by police, was remanded for the sixth consecutive time last week. He has been free on R2 000 bail since he appeared in the Germiston Magistrate's Court in October last year.

The attorney general's office said the Dlamini case had been postponed six times because they were trying to establish whether the charge against him should be culpable homicide or murder.

This week the office announced that Dlamini will face a murder charge in the Rand Supreme Court in October.

Only one person has been convicted for his part in the violent attacks on trains. Walter Matlaba from Soweto, who received a seven-year sentence for his part in an attack at Braamfontein station on September 15 last year.





**POLICE UNDER FIRE** Amnesty International says the SAP is still at war with 'the enemy'

# 'It's business as usual' for partisan police — Amnesty

South 13/6 - 17/6/92

By Rehana Rossouw

THE GOVERNMENT must take steps to safeguard human rights or South Africa's political reform process could break down. This is the view of Amnesty International in a report released this week that implicates the police and military in political killings.

"The reforms of the past two years have brought some sweeping changes in South Africa. But as far as the security forces are concerned, it's business as

usual," says the human rights organisation. "And all too often that means taking part in political killings or standing by while others massacre political opponents."

In the 100-page report, Amnesty International documents evidence of a systematic pattern of police and military involvement in torture and assassinations during the past two years.

"Despite government promises to take the police out of politics, the fact is that they have continued their war against the ANC and allied organisations — and the government has been slow to react despite mounting evidence against the police," according to the report.

In the township violence which has cost 7 000 lives since early 1990, the police have continued the fight against those they see as 'the enemy', says Amnesty International.

The report details some of the many incidents in which police participated directly or stood back and allowed massacres to occur.

- 80 people killed during an onslaught by thousands of armed Inkatha supporters on Pietermaritzburg townships in March 1990
- 80 people killed in two days of attacks by Inkatha supporters and masked white men on Phola Park squatter camp east of Johannesburg in September 1990
- 29 killed when 1 000 Inkatha supporters with active police involvement invaded Swankville squatter camp west of Johannesburg on May 12, 1991
- 18 residents of Bruntville township, Natal, killed during attacks by hundreds of Inkatha supporters on December 3, 1991, with the police in unmarked vehicles raiding residents' homes for weapons which they might have used to defend themselves
- 18 people killed by armed Inkatha supporters and police in a dawn attack on March 13, 1992 on the Uganda squatter camp outside Durban

### Few attackers prosecuted

In only one of these cases have the attackers been prosecuted for murder and in only one case has the conduct of police been subject to independent inquiry.

When there have been official inquiries, they have been hampered by violence and marked by official failure to act on their conclusions.

During an investigation into torture, killings of detainees and extrajudicial executions by the police in the Western Transvaal, witnesses and human rights monitors were harassed, threatened and shot at by the police.

In 1990 and 1991 high-profile judicial inquiries into military and police "death squads" found evidence of murder, poisoning, kidnapping, arson, perjury and destruction of evidence by members of the police and military. Not a single prosecution followed.

"The government of South Africa has, at best, been grossly negligent," says Amnesty International.

### 'Get away with murder'

"They have failed to act against all but a tiny proportion of human rights violators within the police and the military.

"This can only serve to give the security forces the impression that they can get away with anything, even murder. They must be held to account."

"Reform is dependent on human rights being respected. As well as welcoming political change in South Africa, the world must be alert to what is happening to human rights at the grassroots level."

"Nearly all the human rights violations in the report have happened since Nelson Mandela was freed.

"Political assassinations and other violations are not a thing of the past, as the government claims. They have not been stopped by the reform process," says Amnesty.

"The government must act now to make the police and military uphold the law, not undermine it. Otherwise hopes for a new South Africa will founder."

This is the second report in as many weeks slamming the government, police and military for their involvement in violence.

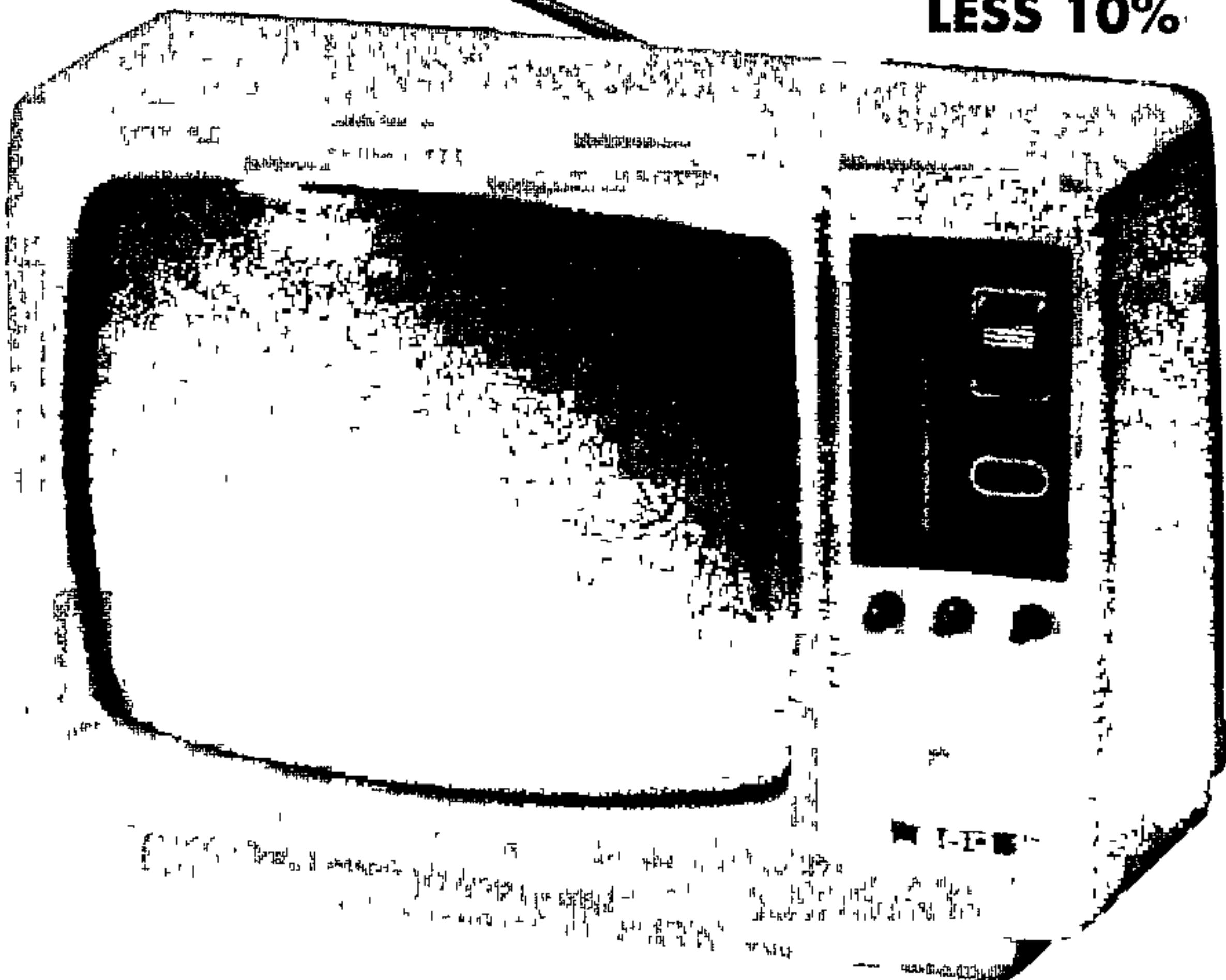
Last week the International Commission of Jurists released a report after their fact-finding tour of the country in March in which they challenged President F.W. de Klerk to bring the violence under control.

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# Killing and culpability

STAR 13/6/92

252

IT'S not just that the jury is still out — but that the jury, in many cases, never got a chance to sit. That is the biggest problem in trying to understand the causes of violence in South Africa, writes Chief Reporter JOHN PERLMAN.



MR JUSTICE GOLDSTONE. His commission this week incisively dissected police conduct

**A**S EVEN the most casual tennis player will know, it's not too difficult to put away a smash when your opponent's lob is dropped a bit short.

So it was no surprise this week when Minister of Law and Order Hernus Kriel — through his mouthpiece in the ministry, Captain Craig Kotze — took a confident swipe at an Amnesty International report released this week which charged the police with complicity in attacks on African National Congress supporters.

"A one-dimensional view and a critical lack of balance," Kotze thundered, "a complete whitewash of the ANC." The report, compiled after a visit to South Africa in December by researchers from the London based human rights organisation, alludes to violent conduct by ANC members but does not detail it.

It virtually ignores the Inkatha casualties and the mounting toll in the police ranks. Most important, it fails to point out that some of the casualties, caught as they were in crossfire, cannot simply be placed in a party-political body-bag.

In one sense, then, Kriel and Kotze had a point. But putting away a smash and scoring a point is one thing — clinching a game, set and match is another. Amnesty, by skimming over undeniable aspects of the violence, left some sizeable holes that the police, Inkatha and others were only too happy to push them into.

Even so, the document is still an important chronicle of business that is both bloody and unfinished, a record of conflict that must inevitably act as a seedbed for more of the same for as long as the wounds remain open.

How one allocates blame for events like the Swamieville massacre — when 1 000 hostel dwellers attacked a western Transvaal squatter camp in May 1991, leaving 29 dead — or the grinding civil war in Natal is not the immediate point. The fact is there are scores of incidents involving murder and mayhem that have not yet been properly investigated. It isn't just that the jury is still out — the jury, in many cases, never got a chance to sit.

Now this suggestion could easily prompt Kriel and Kotze

into another flurry of words. But one can't help wondering if they might measure their reactions just a little if they had sat in on this week's proceedings at the Goldstone Commission.

The commission has been investigating a massacre two years ago in Wesselton township, near Ermelo, where two men were shot dead and others wounded after clashes between the ANC and Inkatha. Both organisations were that day holding funerals for members killed in a previous round of clashes. The focus of the commission's attention this week was on the police investigation into the incident, and why it produced nothing.

The Amnesty International report details other investigations which came to nought. In Mphophomeni, Natal, for instance, an inquest court found nine men responsible for the abduction and murder of three trade unionists, but the Attorney-General declined to prosecute. Six years later, a Natal court heard that one of those nine men had killed again.

**T**HAT at least was a case that came to court. But many of the other incidents dealt with by the Amnesty report have had to be pieced together from affidavits gathered by human rights monitoring groups, from lawyers, newspaper investigations and eyewitness accounts. Most of this material never got a chance to be tested in the full glare of a judicial process. Does this undermine the credibility of the report? Or is it an indictment of the process of law and order and its unwillingness to settle this unfinished business, one way or another?

The Goldstone Commission, by contrast, this week used blades of great sharpness to dissect police conduct in Wesselton and assess whether they had in fact taken sides. For perhaps the first time ever, advocates and commissioners had access to the dockets that po-

lice opened after the shootings — dockets, normally, are protected by privilege.

Now before Kriel and Kotze jump in and say — as both have frequently done — that this, and the very existence of the commission, is proof of police openness, one point should be made. These dockets were handed over with great reluctance, and probably because refusing to do so in open court would have been more embarrassing in the long term.

Armed with this kind of cutting edge, the hearing was able to probe deep into what happened in the months that followed the Wesselton shootings. Advocate for the commission J J du Toit, Judge Richard Goldstone himself and advocate David Soggett — acting

KwaZulu policemen, which had never been carried out.

The third was a statement about the incident by Amos Mthungwa, a KwaZulu MP who had come to Wesselton that day to attend the Inkatha funeral. Mthungwa, under oath, said four members of the KwaZulu security branch would be in Wesselton to ensure his safety. During the funeral he heard shooting, he says, and saw two of the four, Constable Zwell Dlamini and Warrant Officer Nhlanhla Khawula, run into the street. "They began shooting back at the ANC members who were also holding a funeral," Mthungwa testified. It was for Dlamini and Khawula that warrants of arrest were issued.

When the investigation was reopened nearly a year later,

statements were only taken from four — Mthungwa, a member of the Black Cats, who were the ANC's foe in Wesselton, an ANC official from Witbank who said he was at the back of the procession and a woman who was injured while running away.

On the night of the shooting, police found hand grenades, pistols and an Uzi machine-gun in a house occupied by members of the Black Cats. Sergeant Botha said fingerprinting was done, but there were no records of this in either docket.

Also found in the house was Dlamini's police ID. Yet Captain Andre Marais and two senior officers went to Ulundi with the warrants and returned to Ermelo without the suspects. Marais said they were told the men could not be traced as there were "so many Dlaminis" in the town.

That, at least, was Marais's version. Goldstone sent Louis Visser, counsel for Inkatha in the hearing, to phone General Jac Buchner, head of KwaZulu Police, to ask him what he had to say. Buchner denied saying that the men could not be found. He says one of them was actually brought in and questioned at length. It took five more visits to the KwaZulu capital and nearly a year before Dlamini and Khawula were eventually brought to Ermelo for questioning.

This entire investigation was under the command of Major Patrick John Otto, then district head of criminal investigation in Ermelo. He has since been promoted to colonel.

This particular commission hearing resumes in August. If Judge Goldstone finally recommends that steps be taken against anyone, he is unlikely to tolerate any dragging of heels. This week he issued what was, in effect, a public reproach to the police for failing to act more promptly on evidence regarding the murder of an ANC official in the western Transvaal.

Last December, the commis-

sion heard evidence to an alleged conspiracy murder the chairman of civic association in Swaziland, Reneke." The commission Goldstone said, had prima facie evidence members of the SAP had involved in the conspiracy had, however, become concerned at the time which it was taking to report progress in ensuing police investigation. The investigating officer this week brought before commission to explain.

This, and the evidence the commission heard this week may well add weight to claims that the police are on certain kinds of warrants and returned to Ermelo without the suspects. Marais said they were told the men could not be traced as there were "so many Dlaminis" in the town.

The violence has become a vicious circle, and attacks on policemen and Inkatha are undeniably part of it. That circle has to be somewhere, and the wider implications of Goldstone's is that restoring respect for processes of law is a good to start.

**T**WO examples force that. Earlier this month, Sebokeng police station, Skuta Mamo, was accused of shooting young Vaal Triangle and soon afterwards a key witness to that shooting was self murdered. Repeated requests for the suspension Marumo, pending settlement the case, were refused. One decided to take the law his own hands.

And this week in the stone hearings, one of the Ermelo officers was asked why hadn't tried to get straight after the shootings. It was impossible, said "Soon after we got the crowd drove us back with shower of stones." As he it was hard not to think that too was a victim of all this finished business.



**KOTZE:**  
**'A complete whitewash of the ANC'**

for The Weekly Mail, the ANC and others — could not have delved so far without the raw material from the policemen's own files.

This process revealed a number of things. An investigation into the shootings was opened soon after they occurred, but within a couple of months it had been closed. Pressure on the Government at high level forced a reopening of the case in July 1991, after ANC complaints that police were protecting Inkatha people involved in the shootings.

When the case was again put before the prosecutor for a decision, three crucial pieces of evidence from the first investigation were left out. The first was the *ondersoek dagboek* (investigation diary) of Sergeant Anton Botha, who had conducted the initial inquiries. The second was a warrant for the arrest of two men, both

Mthungwa made a second statement to Sergeant Dawid Hall, who told the commission he was never informed of the existence of the first testimony. This time Mthungwa said that when the shooting began, "I had no idea of where the security guards were at that time."

The prosecutor told Du Toit that she never received the first statement. After outlining this to a Warrant Officer Geldenhuys, who took over the investigation in 1991, Soggett put it to him that the investigators had buried the three pieces of evidence that would have implicated the KwaZulu Police in the shooting. Geldenhuys replied that he had not intended this. Goldstone then cut in. Even if this wasn't your intention, was this not the effect?

The police had some more explaining to do. Despite the fact that there were close on a thousand people at the funeral,



# Bill gives AGs more muscle

SITimes 14/6/92

252

By MIKE ROBERTSON: Political Correspondent

ATTORNEYS general will be given sweeping powers to decide on whether bail should be granted in violence-related crimes in terms of a Bill to be tabled in Parliament tomorrow.

A Justice Ministry spokesman said the Criminal Law Amendment Bill, which also contained new provisions to deal with issues such as the possession of firearms, intimidation

and private armies, amounted to "government's declaration of war on violence".

But Democratic Party justice spokesman Tony Leon said the Bill amounted to further evidence that the government was undermining fundamental liberties and the due process of law.

## Treason

In recent weeks the government had tabled a range of legislation which, if implemented, would

- Reverse the onus of proof in drug-related crimes. The measures would apply not only to drug traffickers but bank managers and stockbrokers who could unwittingly be in possession of drug money;

- Give attorneys general the right to authorise phone taps and mail interceptions in a wide range of suspected crimes, including drug trafficking, murder, treason, rape, bestiality, arson and serious economic crimes

Mr Leon said he appreci-

ated the government's motivation in wanting to stamp out violence and drug-related offences

However, by ditching procedural safeguards it was fashioning a club which the future government could use at will.

He said that, despite recent changes which made attorneys general independent of the government, AGs remained the chief prosecuting authority for the state.

When it came to phone taps, he said, this would result in "the state being able to determine whether it has the authorisation to invade a person's privacy"

"I have nothing against the AG, but he is not the right person to sit as judge and jury."

Mr Leon said he would be moving an amendment to replace the AG with a judge in chambers "He will be a proper referee," he said

"Fundamental liberties and due processes have to be preserved in the new South Africa. But this has

to be balanced with powers to protect the community"

He hoped that many of the worst aspects of the Bill would be removed once the parliamentary select committee that dealt with justice legislation had finished studying it.

He said one aspect that troubled him was that parliament would have just five days to discuss and approve the Criminal Law Amendment Bill if the government was determined to push it through this session.

## Bail

A Justice Ministry spokesman said the Bill would give AGs the right to decide on bail applications in violence-related crimes.

If an AG decided not to grant bail he would have to issue a certificate to the court stating that the person concerned was being held in connection with a special offence relating to violence

An onus would be placed on the state to proceed with the case against the person who was denied bail within a specific time frame.



KEVIN DAVIE

Business

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original, unaltered draft letter to which he referred in his reply to Question No 1 on 13 May 1992, approached foreign heads of state with the request that the South African Government be supported in the referendum of 17 March 1992, if so, (a) in what way were these heads of state approached and (b) what heads of state were so approached?



B704E

#### The MINISTER OF FOREIGN AFFAIRS

No The letter, as I explained previously, was sent to missions for their information only. Furthermore I have sent a subsequent instruction informing missions that the final text, as amended by the State President, was on its way. All missions have confirmed that no Head of State was approached on the basis of the initial text.

(a) and (b) Fall away

#### Trust Feed case call by General Bar Council

\*13 Mr A J LEON asked the Minister of Law and Order

(1) Whether he will accede to the call by the General Bar Council of South Africa for a full, public investigation, presided over by a Supreme Court judge, into the allegations of a police cover-up in the Trust Feed case, if not, why not,

(2) whether he will make a statement on the matter?

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B710E

#### The MINISTER OF LAW AND ORDER

(1) The possibility exists. Former Regional Court president, Mr Willem Krugel, has already been appointed to co-ordinate and analyse the evidence and to advise me in this matter. As soon as I receive the advice a decision will be made.

(2) No

#### INTERPELLATION

The sign \* indicates a translation. The sign †, used subsequently in the same interpellation, indicates the original language.

#### Own Affairs

#### Directorate Financial Assistance/Land Bank

\*1 Mr A A B BRUWER asked the Minister of Agricultural Development

(1) Whether he envisages combining the functions of the Land Bank and the Directorate Financial Assistance of his Department, if not, why not, if so, what are the relevant details,

(2) whether he will make a statement on the matter?



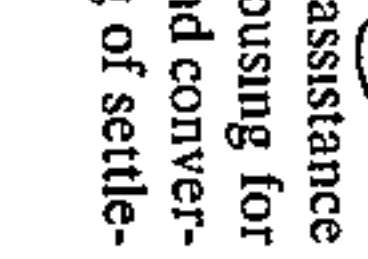
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\*The MINISTER OF AGRICULTURAL DEVELOPMENT Mr Chairman, the question is whether it is being envisaged to combine the functions of the Land Bank and the Directorate Financial Assistance. The reply to both questions, on which I will issue a statement, is no. In my opinion it is not possible or desirable to combine all the functions of the Directorate Financial Assistance and the Agricultural Credit Board on the one hand and those of the Land Bank on the other. The reason for this is that the primary mandates and tasks of the two bodies differ fundamentally from each other.

Where certain functions such as the consolidation of debts and the financing of beginner farmers and the advancing of production credit overlap, the rationalisation thereof in order to vest it in the Land Bank is indeed being considered and promoted. In a nutshell this means that the Land Bank provides the capital for these financing functions in these cases, and the Agricultural Credit Board subsidizes the interest on these amounts based on merit and the appropriation by Parliament of funds.

These functions form a relatively small component of the activities of the Agricultural Credit Board and the Directorate Financial Assistance, whereas it is a main function of the Land Bank, besides the financing of co-operatives and marketing boards. The other functions of the Directorate Financial Assistance and the Agricultural Credit Board comprise areas that are not dealt with by the Land Bank at all, for example the

approval and control of soil conservation works and the payment of subsidies, the evaluation and allocation to farmers of state-owned agricultural land, the administration of various drought and schemes for stock farmers and ostrich farmers, water and drilling projects, and the administration of and schemes for flood damage.



Then there is also the approval and assistance with the erection and upgrading of housing for labourers, the administration of the land conversion scheme, as well as the facilitating of settlement agreements.

The Government needs an instrument in order to have particular functions, that cannot be performed by the private sector, available for the evaluation of emergency aid in particular.

The above-mentioned functions cannot be dealt with by the Land Bank, which is an independent body, on behalf of the Government. The Agricultural Credit Board and its functional arm, the Directorate of Financial Assistance, is therefore an instrument in the hands of the Minister of Agriculture to carry out specific instructions of the Government in respect of dealing with disasters, emergency aid and financial assistance in specific cases and circumstances. The funds for this come out of the State budget and are allocated annually according to the circumstances in prevailing agriculture at the time.

On the other hand the Land Bank operates under the provisions of a specific Act. In terms of this Act the Land Bank is empowered to raise funds on the open capital market at market-related interest rates in order to supplement its own limited funds and then to lend it to farmers and agricultural concerns at market-related interest rates.

The Land Bank also reports to the Minister of Finance on its activities. Various investigations have already been launched by the Commission for Administration, Dr Japie Jacobs and Mr van Zyl, in order to determine the viability of combining these functions of the two bodies [Time expired.]

\*Mr C E HERTZOG Mr Chairman, in the first place I should like to apologise for the hon member for Lydenburg who cannot be here today owing to other important business.

If certain functions of the Agricultural Credit Board and the Land Bank can be combined it is

absolutely essential that the new body should be subject to the Agricultural Credit Act, Act 28 of 1966.

The position is that if a farmer's financial situation has deteriorated to such an extent that a settlement has to be considered, the Land Bank can go ahead and take the farmer's land and sell it, because the Land Bank is not bound by section 21(1), regarding the protection that the board may extend in order to give the farmer a chance to carry out the settlement.

Apart from the disadvantage for the farmer, it is also disadvantageous to the other creditors, because they are prevented from taking any action if protection has been extended in terms of section 21.

With the present position, it has happened that the Land Bank comes in when the negotiations with other creditors is at an advanced stage, and takes the farmer's land and sells it, with the result that all negotiations collapse. As the Land Bank is not subject to the Agricultural Credit Act, it is also excluded when the creditors meet in order to settle. If the creditors should agree to a settlement, the Land Bank can come in at any stage and wreck the whole settlement and days of work.

At present the position is that the farmer no longer has a choice of going out in terms of section 28 if the settlement proposals are accepted at a meeting, but the Land Bank later acts against the farmer and wrecks the settlement. He is then simply sequestrated if enough assets have remained in the estate—once again to the detriment of the farmer and other creditors.

If such a step is taken it will cut out much unnecessary red tape for the farmer, especially when a farmer envisages buying land. At present the position is that the farmer must first apply to the Land Bank for assistance and only if he is refused assistance there, can he apply to the board for consideration there, while months are wasted. Such a combined body would also have better security. At present the board in many cases has lower bonds than first bonds at its disposal, whilst the bank has first bonds at its disposal. Farmers should under no circumstances be forced to pay higher interest rates, as are being paid at present [Time expired.]

Mr M A TARR Mr Chairman, the Department administers four types of schemes, all of which



where does the money of the increasing gap is going and what the solutions are. ~~It is~~ According to the report only approximately 29% of the increasing gap can be attributed to the fact that some boards restrict competition. What about the other factors to which approximately 71% of the blame can be attributed but in respect of which no recommendations were made? ~~What~~

The following are examples from the report itself. Firstly, one of the most important causes is general inflation pressure which comprises approximately 40% of the cause which, according to the report, can *inter alia* be attributed to overspending by the State. Secondly, wages and trade union action are not in line with productivity. Thirdly, industries are being overprotected in the name of self-sufficiency. In the fourth instance six large food companies provide more than 60% of the processed food products. They are part of the big conglomerates in the country and their share prices increased more rapidly than those of the other industries. In the fifth instance the gap increased especially after the introduction of VAT in 1991, especially also as a result of the taxability of food which can therefore be linked directly to State policy. [Time expired]

**THE DEPUTY MINISTER OF TRADE AND INDUSTRY** Mr Charman, the hon member for Yeoville said he would let me off lightly with his savage attack. Of course, the classic comment on being attacked savagely is that it feels like being savaged by a sheep. [Interjections] I thank him for his gentleness. [Interjections]

The hon member for Delmas referred to the report of the Board of Trade and Tariffs in which there is an attempt to make an analysis of the divergence between the producer price index and the consumer-price index. It is interesting to note that the media have run away with this report and interpreted this divergence as being solely the result of control boards.

They correctly pointed out, however, that food inflation is a part of inflation in general. I do not intend to become involved in an argument on macro-economic policy at this stage. It also points out that 2% of that divergence was due to an increase in wages, and also due to an increase in so-called shrinkage in the retail chain. Shrinkage means theft, mainly on the part of the employees of those retail chains.

It goes further and says that 0.2% is due to the fact that price subsidies on food have been removed. It says that 0.3% is due to the fact that certain controls have been removed. It goes further and says that 1% is unidentifiable.

The popular notion, however, is that control boards are the great evil. I have to ~~say~~ that it was in the [Time expired]

**MR E K MOORCROFT** Mr Speaker, five years ago, here in Cape Town, I was shocked to see, for the first time in my life, a person scrounging for food in a garbage can. That sort of thing, I thought, only took place in Ethiopia or Bangladesh. Today, however, the sight of hungry people scrounging in garbage cans has become commonplace. One can see it during any lunch-time on a walk up Government Avenue.

It is but one of the many symptoms which indicate the cruel poverty in which increasing numbers of underprivileged people in this country are beginning to live. As my colleague the hon member for Yeoville has pointed out, we do not have to look very far for at least one of the causes of poverty, and that is the ever-increasing spiral in the cost of basic foodstuffs.

The hon Deputy Minister has a knowledge of France and will be aware of the political consequences of shortages of affordable food. He will know what happened to Marie Antoinette when, on being informed that there was a shortage of bread, advised her subjects to eat cake instead.

The first thing the hon the Minister should do, as my hon colleague has suggested, is to study carefully the recently tabled report of the Department of Trade and Industry. He should seek ways of decreasing the ever-increasing gap between producer and consumer prices highlighted in that report. One of the best ways of doing that is to improve the climate for free choice. Both producer and consumer must have free access to markets of their choice. The State should make it possible for this choice to be exercised. [Time expired]

**MR D H M GIBSON** Mr Speaker, the hon the Deputy Minister's reference to sheep was enough to make the consumer's mouth water, because there are many of them who have not been close to that expensive meat for a long time. I was talking about the hon the Minister himself, and I believe he has enormous clout in Govern-

prof Kasser to investigate the role of marketing control boards in South Africa. [Time expired]

Debate concluded

**QUESTIONS**

Indicates translated version

For oral reply

General Affairs

State President

\*1 Mr D P DU PLESSIS asked the State President +

Total cost of overseas visits

What was the total cost of the overseas visits undertaken by him and his entourage (a) in 1991 and (b) during the period 1 January 1992 up to the latest specified date for which information is available?

B780E

**THE STATE PRESIDENT**

(a) R2 790 357

(b) R2 614 724

These amounts are based on the latest available information and reflect the expenditure for all components which were involved in the overseas visits, namely:

- (1) The State President's Office
- (2) The Department of Foreign Affairs
- (3) The security component, as provided by the National Intelligence Service

**Second Interim Report: Goldstone Commission**

\*2 Mr L FUCHS asked the State President

- (1) When was the Second Interim Report of the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone Commission) received by him, (252) (254)
- (2) whether this report was released immediately after being so received, of not, (a) why not and (b) on what date was it released?



†THE STATE PRESIDENT

(1) and (2)

The report was signed by Mr Justice Goldstone on 29 April 1992 and then made available for the translation, printing and duplication thereof. These steps were necessary due to the fact that the responsible Minister was of the opinion that the report was not simply an *ad hoc* report but represented a phase of the Commission's wider investigation. I was informed that these preparatory steps were cleared by the responsible Minister with Mr Justice Goldstone. Final clearance occurred on 13 May 1992. On 14 May 1992 the Minister of Justice submitted the report to me in the normal course of events by means of a Minute. After consideration of the report I directed that it be tabled in Parliament and that certain Ministers concerned should react thereto with a view to the implications thereof. This, *inter alia*, led to a positive result in that the Minister of Local Government and National Housing could confirm on 2 June 1992 that an amount of R294,6 million was budgeted for the 1992/93 financial year for the conversion and upgrading of hostels. This was in accordance with one of the Commission's recommendations.

Mr L FUCHS: Mr Speaker, arising from the hon the State President's reply, is he prepared to concede that in withholding the report for a long time, and then releasing certain selected passages, he was willingly or unwittingly placing the whole commission and its credibility in jeopardy?

The STATE PRESIDENT: Mr Speaker, I received it, as I have said, on 14 May and gave instructions that it be tabled in Parliament. It was tabled in less than 14 days. If the hon young member [Interjections] would go to the trouble of checking other legislation, he would find that there are prescriptions with regard to the period within which documentation is to be tabled. The usual period allowed is 14 days. In this case the enabling Act does not prescribe any period whatsoever.

I think that within the practice of parliamentary experience it is commonly done within 14 days, and this was tabled within 14 days. That is not an unreasonable delay, and there is nothing sinister in the delay which has occurred, inasmuch as it can be described as a delay. The argument which I am advancing is that there was no delay in any

made. As soon as these amendments are effected, details will be made known.

(2) No, not at this stage. [Interjections] Mr R M BURROWS: Mr Speaker, arising out of the hon the Minister's reply, can he at least give us an indication of the implementation date of these regulations?

The MINISTER: Mr Speaker, I envisage an implementation date of not later than 31 July.

#### Reduction of personal income tax

\*2 Mr A GERBER asked the Minister of Finance †

(1) Whether he considers himself bound by his predecessor's undertaking to reduce personal income tax over a period of five years, if not, why not, if so, (a) how and (b) over what period does he envisage bringing about this reduction.

(2) whether he will make a statement on the matter?

B751E

#### The MINISTER OF FINANCE

(1) I regret that I will not be able to answer the hon member's question satisfactorily until early in 1993. As I stated during the interpellation debate on 20 May 1992, decisions about taxation rates for the next financial year will be taken during the preparation of the 1993/94 National Budget. The final decisions will be taken by the Cabinet. At that stage I hope to propose some alternatives to my colleagues, and I can assure you that at least one of them will be based on lower rates.

As we are all well aware, circumstances have changed since my predecessor, Mr Barend du Plessis, undertook four years ago to reduce taxation rates over a five year period. South Africa is experiencing its longest post-war economic recession and this is placing pressure on state revenue. At the same time, socio-economic demands on state expenditure are increasing. Signs that these dual pressures were limiting the Government's ability to continue with its programme of lowering taxation rates began to emerge last year. They were confirmed in the 1992/93 National Budget when my predecessor

stated that tough economic conditions precluded a reduction in taxation rates during the current financial year.

(2) I do not intend making any statements on tax rates before the 1993/94 Budget.

†Adv C H PIENNAAR: My Speaker, arising out of the reply of the hon the Minister, will he concede that unless there is an economic upswing, the position of the State's liabilities and the debts that the State has to service at the moment are of such a nature that the indication is that in order just to cope, the State will have to increase taxation?

†The MINISTER: Mr Speaker, any good development in our economy will be able to take place only if we can make the economy grow vigorously again. I think it is clear.

†Dr P J GOUS: Mr Speaker, further arising out of the hon the Minister's reply, may I ask him if he is of the opinion that the South African taxpayer, as far as both direct and indirect taxation are concerned, is taxed at a low rate or not?

†The MINISTER: Mr Speaker, I think according to the general expert opinion we are not taxed at a low rate. [Interjections]

†Dr W J BOTHA: Mr Speaker, [Inter-

jections] †Mr SPEAKER: Order! Just let us hear the hon member's question! [Interjections]

†Dr W J BOTHA: Mr Speaker, further arising out of the reply of the hon the Minister, I want to ask him if he thinks that the benefits that the South African taxpayer receives compare with the benefits the taxpayer receives in countries that pay lower rates? [Interjections]

†The MINISTER: Mr Speaker, I do not believe I am able to draw such comparisons with other countries. The position of each country is unique, and we treat this situation on merit. [Interjections]

†Dr W J BOTHA: Mr Speaker, further arising out of the reply of the hon the Minister, may I ask him why, then, he has used the argument of the low rate of taxation in other countries in the interpellation?

†The MINISTER: Mr Speaker, I am not aware of having made use of low rates of taxation. I think I mentioned a number of rates of taxation



1991-92 financial year and (b) what amounts were involved in each case?

B802E

**THE MINISTER OF REGIONAL AND LAND AFFAIRS**

Financial aid referred to in part (a)(i) of the question was rendered by the South African Government to the self-governing territories in the financial year 1991-92 in terms of the provisions of section 6(2)(c) and 6(2)(d) of the Self-governing Territories Constitution Act No 21 of 1971. Section 6(2)(c) determines the extent of the amount payable as the *Statutory Grant* to the Revenue Funds of the self-governing territories from the State Revenue Fund of the South African Government.

In addition to this amount an *Additional Amount* appropriated by Parliament in terms of the provisions of section 6(2)(d) is paid annually to the Revenue Funds of the self-governing territories by the South African Government. The extent of this amount is determined according to the affordability of the State Revenue Fund of the South African Government. The result of this factor is that the growth in the *Additional Amount* differs from year to year.

In the financial years in which *improvement of conditions of service* for exchequer remunerated personnel are announced and implemented funds are drawn on the *Vote Improvement of Conditions of Service* which is being administered by the office of the Commission for Administration and paid to the Revenue Funds of the self-governing territories in order to enable the territories to fund the increased expenditure resulting from the salary improvements. Salary improvements came into effect on July 1, 1991 consequently funds were drawn on the aforementioned *Vote* in the 1991-92 financial year and paid to the self-governing territories.

The South African Government decided during the financial year 1991-92 to make an amount of R1 billion available for the *sale of strategic reserves* in order to promote investment in capital projects. Interested government institutions were requested to identify projects that could be financed from the

amount of R1 billion. Projects to the value of almost R283 million were approved for the self-governing territories. Cashflow information obtained from the self-governing territories indicated that an amount of R69,972 million could be utilised on these projects for the financial year 1991-92. Claims certified for payment by line function departments totalled only R6,375 million with the result that an amount of R63,597 million had to be suspended and rolled over to the financial year 1992-93 in order that the programme may be continued.

The development and referred to in part (a)(ii) of the question consists mainly in the secondment of personnel to the departments of the self-governing territories in terms of the provisions of section 5(4) of the Self-governing Territories Constitution Act No 21 of 1971. Expenditure incurred by the South African Government in this regard amounted to R193 million (rounded) for the financial year 1991-92.

In addition to this and the South African Government also rendered legal, agricultural and in the field of infrastructure creation and town establishment and management to name but a few examples to the self-governing territories. The monetary extent of this aid is not determinable in view of the fact that it is included in the overhead costs of a variety of line function departments.

As far as part (b) of the question is concerned it can be mentioned that a total amount of R7 260 534 000 had been made available in the financial year 1991-92 from the State Revenue Fund of the South African Government to the self-governing territories. Amounts of R12,35 million and R63,597 million were however suspended and rolled over to the financial year 1992-93 with the result that an amount of R7 184 587 000 was directly transferred to the Revenue Funds of the self-governing territories. Details of the total grant of R7 260 534 000 are set forth in the attached schedule. Except for an amount of R236,765 million in respect of capital expenditure the balance reflected in columns 3, 4 and 5 is mainly for current expenditure.

**GRANTS TO SELF-GOVERNING TERRITORIES: FINANCIAL YEAR 1991/92**

TERRITORY	SOCIAL ASSISTANCE ALLOWANCES COLUMN 1 R'000	DEVELOPMENT ASSISTANCE COLUMN 2 R'000	OTHER ASSISTANCE COLUMN 3 R'000	IMPROVEMENT OF CONDITIONS OF SERVICE COLUMN 4 R'000	STATUTORY GRANTS COLUMN 5 R'000	TOTAL R'000
Gazankulu	34 086	26 343	710 650	72 688	85 563	929 330
KaNgwane	20 210	24 321	381 131(a)	31 588	71 082	528 332
KwaNdebele	12 799	11 342	262 318	27 159	73 366	386 984
KwaZulu	228 111	51 482	2 402 066	198 162	268 844	3 148 665
Lebowa	111 308	48 486	1 473 352	147 632	131 098	1 911 876
Owaqwa	14 348	7 998	273 949	33 471	25 581	355 347
Total R	420 862	169 972(b)	5 503 466	510 700	655 534	7 260 534(c)

**Explanations**

(a) R12,35 million suspended and rolled over to financial year 1992/93

(b) R63,597 million obtained from sale of strategic reserves suspended and rolled over to financial year 1992/93

(c) Includes R522,564 million of Additional Appropriation, 1992

**Involvement of State in Case No 13359/85**

321 Mr A GERBER asked the Minister of Local Government and National Housing +

- (1) Whether the State was involved in Case No 13359/85 which came up for trial in the Cape Provincial Division of the Supreme Court, if so, (a) what in essence did this case deal with, (b) what in essence was the outcome of the case and (c) what were the total court costs to the State.
- (2) whether the finding of the court has been implemented since, if not, why not, if so, to what extent.
- (3) whether he will make a statement on the matter?

B806E

**THE MINISTER OF LOCAL GOVERNMENT AND NATIONAL HOUSING**

- (1) Supreme Court Case No 13359/85 (Cape Provincial Division) was reported in the South African Law Reports as "*Sedgefield Ratepayers' and Voters' Association and Others v Government of the Republic of South Africa and Others 1989 (2) SA 685*". As appears from the first page of

the judgment of the Court annexed to the question, various institutions of the State were involved in the matter as respon-

(a) In essence the dispute concerned a proposal by the Divisional Council of Outeniqua to establish a township on Portion 2 of Lot KD No 185 held by the Divisional Council under Crown grant. The land lies close to the Swartvlei lagoon. The town of Sedgfield on the other side of the lagoon is in close proximity to the land and the applicants in the matter contended that the establishment of the township would diminish the value and impair their enjoyment of their properties in Sedgfield.

The Crown grant was made subject to certain conditions, notably that the land be used for special public purpose, viz a holiday resort. At the instance of the Divisional Council with a view to the establishment of the township on the land, both the State President and the Minister of Community Development had, some



252

years earlier and at various times, deleted certain of the conditions of title. The Registrar of Deeds had registered such deletions.

The applicants applied to the Court for an order declaring to be void and of no effect—

\* the decisions by the State President and the Minister of Community Development to delete the conditions, and

\* the decision by the Divisional Council to establish the township on the land

(b) In essence the Court—

\* declared the deletions of the conditions to be void and set such aside,

\* declared the registration of the deletions to be void and set such aside,

\* declared the Divisional Council to be not entitled to develop a township on the land

(c) The total court costs to the State amounted to R29 011,75

(2) The Registrar of Deeds has not yet reinstated the title conditions concerned in his records, but such registration action would be taken by him only when approached in this connection by the owner of the land. The Administrator's approval of the establishment of the township (which lapsed before the judgment of the Court) has not been renewed. No township has been established or developed on the land

(3) No

**Nutritional value of foodstuffs**

322 Mr M J ELLIS asked the Minister of National Health

(1) Whether, with reference to composite products included in her Department's recommended list for its Nutrition Development Programme, any of the foodstuffs supplied by a certain company, the name of which has been furnished to the Minister's Department for the purpose of her

reply, have been analysed for their nutritional value, if not, why not, if so, (a) what foodstuffs are supplied by this company, (b) (i) which of these foodstuffs have been so analysed and (ii) what were the findings in each case and (c) what is the name of the company in question,

(2) whether she will make a statement on the matter?

B808E

**The MINISTER OF NATIONAL HEALTH**

(1) Yes, the South African Bureau of Standards analysed the nutrient content of some of the foodstuffs which are supplied by the relevant company,

(a) "Lebonomux" (dairy blend) Maize meal

"Mince" (texturized vegetable protein and marog)

"Mince marog" (texturized vegetable protein)

"Fruutkoel" (vitamin C-enriched drink)

"Provit" (protein-vitamin-mineral-enriched drink)

Other foodstuffs which are supplied by the company and which comply to the approved list of food items, are stew nuggets (texturized vegetable protein), "Supreme" soup and high protein soup powder,

(b) (i) the nutrient analyses of the "mince", stew nuggets and supreme soup were done and

(ii) the products' nutrient values complied with the laid-down requirements and

(c) Lebnor Foods,

(2) no.

**Funds to organizations: Nutrition Development Programme**

323 Mr M J ELLIS asked the Minister of National Health

(1) Whether any organizations have received funds in terms of the Government's Nutrition Development Programme, if so, (a) what are their names, (b) how much has been made available to each

organization and (c) in respect of what date is this information furnished,

(2) what criteria does an organization have to meet in order to qualify to receive funds in terms of the above-mentioned programme?

B809E

**The MINISTER OF NATIONAL HEALTH**

(1) Yes, funds were made available to non-governmental organizations in terms of the Government's Nutrition Development Programme (NDP),

(a) a list with the names of the 309 non-governmental organizations that have received funding from the NDP, appears on the attached annexure,

(b) see annexure and

(c) 245 non-governmental organizations received funding from the NDP between 1 October 1991 and 31 March 1992. 64 non-governmental organizations received funding from the NDP between 1 April 1992 and 16 June 1992,

(2) each non-governmental organization which applies for financial assistance from the NDP must describe the planned project/programme in a prescribed application form which is obtainable from the nearest regional office of the Department of National Health and Population Development (NHPD)

Some of the details that should be furnished in the application are

- Goals and objectives of the programme/project, that must include development actions
- The target group(s)
- Criteria for entering the programme/project
- Criteria for withdrawal from the programme/project
- Criteria for evaluating the success of the programme/project
- A financial state of income and expenditure

— The amount of funds needed

— The manner in which the money will be utilized

Furthermore, each non-governmental organization must complete and sign the Undertaking and initial the Financial Control Measures to ensure that funds will be utilized only for the purpose mentioned, before any payments can be made

Funds paid to non-governmental organizations (NGO's) as at 31 March 1992 (1991/92 financial year)

Southern Transvaal Region	
1 Imquallie (Pty) Ltd (Nutsmaatskappy)	R1 925 000,00
2 Food Gardens Foundation	R 200 000,00
3 Street-Wise	R 70 000,00
4 "Mes-Aksie (Middestad Evangelisasie en Sending-Aksie)"	R 250 000,00
5 Save the Children Fund	R 250 000,00
6 Ekurulen Anglikaan Mission	R 44 000,00
7 "Christelike Maatskappike Raad"	R 607 200,00
8 The Shepherd's Flock Ministries	R 50 000,00
9 Bluegill Waters Farm School	R 10 000,00
10 South African Legion	R 27 500,00
11 Soweto Workshop for the Blind	R 10 000,00
12 Society of Saint Vincent de Paul	R 17 520,00
13 "Shiloh Voedselbediening"	R 100 000,00
14 "Suid-Afrikaanse Vroue-federasie Rustenburg"	R 18 000,00
15 Kinderrothilfe Southern Africa	R 83 000,00
16 "Sultfontein Kinder-en Gesnorsorgvereniging"	R 37 500,00
17 "Die Ark Bediening"	R 12 500,00
18 The Jimmy O'Connor Welfare Services Club	R 50 000,00
19 Meals on Wheels for the Aged Johannesburg North Branch	R 10 000,00
20 "Kosmos Dienssentrum vir Bejaardes"	R 10 000,00
21 AFCS Community Nutritional Education and Feeding Scheme	R 20 100,00
22 "Laerskool Venterspost"	R 6 000,00



School names (Cont.)	(a)	(b)	(c)	(d)	School names (Cont.)	(a)	(b)	(c)	(d)
Sakiszwe Secondary School	4	1	0	3	Ilungelo Primary School	-	-	-	0
Tamsanga Secondary School	2	0	2	1	Khwezi Lomso Comprehensive School	1	0	2	5
Aaron Goadu Primary School	-	-	-	0	Kwazakhele Secondary School	2	0	2	2
Estiyeni Primary School	-	-	-	0	Loyiso Secondary School	1	1	1	3
Sophakama Secondary School	3	1	0	3	Masibamane Secondary School	3	0	2	3
Douglas Mbopa Secondary School	3	1	4	4	Mzontsundu Secondary School	1	1	1	3
Engqlem Primary School	-	-	-	0	Ndzondelelo Secondary School	1	1	1	2
Kwamagxaki Secondary School	-	2	1	3	Phakamsa Secondary School	1	1	3	1
Lungisa Secondary School	1	2	2	4	Sakiszwe Secondary School	4	1	0	3
Masiphathisane Secondary School	1	1	3	7	Tamsanga Secondary School	2	0	2	1
Nxanelwumfundo Primary School	-	-	-	0	Aaron Goadu Primary School	-	-	-	0
Siyuyiseni Primary School	-	-	-	0	Estiyeni Primary School	-	-	-	0
Siyaphambili Primary School	-	-	-	0	Sophakama Secondary School	3	1	0	3
Vernon Gamanda Secondary School	1	0	1	1	Kwamagxaki Secondary School	-	2	1	3
Vulumzi Secondary School	1	2	4	6	Lungisa Secondary School	1	2	2	4
Cowan Secondary School	2	1	3	0	Siyuyiseni Primary School	-	-	-	0
Ernest Skosana Primary School	-	-	-	0	Vernon Gamanda Secondary School	1	0	1	1
Itembelhle Comprehensive School	1	0	3	5	The Port Elizabeth metropole includes the Ibayi metropole as well as the Motherwell residential area. Therefore the answer coincides with the answer at (i) with the exception of the schools in Motherwell mentioned below not situated in the Ibayi metropole.				
Masangwana Public Primary School	-	-	-	0	Douglas Mbopa Secondary School	0	0	1	3
Molefe Primary School	1	-	-	0	Engqlem Primary School	-	-	-	0
New Brighton Primary School	-	-	-	0	Masiphathisane Secondary School	1	1	1	3
Newwell Secondary School	2	1	2	1	Nxanelwumfundo Primary School	-	-	-	0
Philip Nikiwe Primary School	-	-	-	0	Siyaphambili Primary School	0	0	1	3
Stephen Mzungula Primary School	-	-	-	0	Vulumzi Secondary School	-	-	-	0
Thubelhle Secondary School	-	-	1	1	(iii) Limekaya Secondary School				
Tyhilulwazi Secondary School	1	0	2	3	Sisonke Secondary School	-	-	1	3
Gqebera Secondary School	1	0	1	4					

Thanduxolo Secondary School - 0  
Tinara Secondary Public School 1 1 2 4

(iv) The Uitenhage metropole includes the Kwanobuhle and the Kabah-residential areas. There is only one primary school in the Kabah-residential area. Therefore the answer coincides with the answer at (iii).

Note:  
In the answer a dash (-) indicates that the subject is not offered at a school.  
A zero (0) indicates that although the subject is offered at a school, no suitably qualified teacher is available to teach the subject.

— In view of the fact that the question deals with secondary school subjects, only schools with secondary pupils were taken into consideration. In the case of some intermediate and combined schools (that started out as primary schools) the designation of primary school was retained notwithstanding the change in their status.

— In determining "appropriately qualified teachers" the following criteria were applied:  
(a) A teacher is considered to be appropriately qualified should he be in possession of (i) a three year (post standard 10) or higher professional qualification for secondary education with appropriate specialized subject(s), or (ii) passed an appropriate degree course(s) as well as a professional (teaching) qualification.

(b) Persons in possession of appropriate academic qualifications, (degrees) without any professional teaching qualification are not considered to be "appropriately qualified".

284 MR R M BURROWS asked the Minister of Education and Training

With reference to the reply to Question No 185 on 8 April 1992, (a) what was the total amount actually spent by his Department in the 1991-92 financial year on (i) personnel expenditure in respect of salaries of (aa) teachers and principals (bb) administrative staff, (cc) inspectorate and executive officials and (dd) any other specified staff, (ii) capital expenditure, (iii) supplies and services, (iv)

equipment and (v) other items and (b) what percentage of the total education expenditure by his Department in the 1991-92 financial year does each of the above amounts constitute? B711E

THE MINISTER OF EDUCATION AND TRAINING

The information as requested in (a)(i)(aa) to (i)(dd) is not readily available and a total amount for personnel expenditure is supplied

	(a)	(b)
	R'000	%
(i)(aa)-(i)(dd)	2 611 132	74,32
(ii)	284 478	8,10
(iii)	174 117	4,95
(iv)	46 575	1,33
(v)	396 893	11,30
Total	<u>R3 513 195</u>	<u>100,00</u>

Note:  
The books for the 1991/92 financial year have not yet been closed. The final expenditure should not differ substantially from these amounts.

Sentences passed by magistrates review

289 Mr A A B BRUWER asked the Minister of Justice +

(1) (a) How many sentences passed by magistrates were referred to the Supreme Court for review (i) in 1990, (ii) in 1991 and (iii) from 1 January 1992 up to and including the latest specified date for which information is available, and (b) what percentage do the cases concerned constitute of the total number of cases in which magistrates passed judgment in each of the above-mentioned three periods, 252

(2) in what circumstances are sentences passed by magistrates reviewed,  
(3) in how many cases were sentences passed by magistrates mitigated in each of the above-mentioned periods?

B718E

THE MINISTER OF JUSTICE

(1) (a) The statistics furnished in respect of questions (i) and (ii) hereunder have been obtained from the Annual Reports of the Department for the



specified periods. As far as question

(iii) is concerned the required information will only become available after 30 June 1992. To obtain the information now, all magistrate's offices would have to be contacted which is not economically feasible

(i) 35 922 for the period 1 July 1989 to 30 June 1990

(ii) 43 260 for the period 1 July 1990 to 30 June 1991

(iii) Not readily available

(b) (i) 5,53%

(ii) 6,8%

(iii) Not readily available

(2) The circumstances in which sentences imposed by magistrates are subject to automatic review, are set out in section 302 of the Criminal Procedure Act, 1977 (Act 51 of 1977). The other circumstances in which criminal cases can be reviewed, are set out in section 304(4), 305 and 306 of the said Act, as well as section 24 of the Supreme Court Act, 1959 (Act 59 of 1959)

(3) Statistics are not kept in regard to sentences mitigated but in regard to sentences/convictions set aside or amended. The available statistics are as follows

Period	Setaside Amended	Total
(i) 1 7 89	695	867
30 6 90	—	1 562
(ii) 1 7 90	516	882
30 6 91	—	1 398

#### THE MINISTER OF EDUCATION AND TRAINING

(iii) Not readily available

End-of-year exams written/passed, schools in PE metropole

293 Mr E W TRENT asked the Minister of Education and Training

How many pupils in schools falling under his Department in the Port Elizabeth metropole (a) wrote the end-of-year examinations for, and (b) passed, each standard in 1989, 1990 and 1991, respectively?

B731E

THE MINISTER OF EDUCATION AND TRAINING

1989 1990 1991

	(a)	(b)	(a)	(b)	(a)	(b)
Sub A	9 456	8 404	10 504	9 355	10 445	9 111
Sub B	7 278	6 547	7 753	6 974	8 172	7 293
Sid 1	6 487	5 911	7 379	6 699	7 533	6 776
Sid 2	5 594	5 288	6 421	6 022	7 069	6 570
Sid 3	5 419	4 623	6 336	5 427	6 878	5 929
Sid 4	5 563	5 014	5 774	5 057	6 351	5 489
Sid 5	8 498	7 660	6 276	5 473	6 095	5 340
Sid 6	4 094	2 920	9 054	6 003	8 807	5 856
Sid 7	3 503	2 358	3 967	2 616	8 454	5 475
Sid 8	3 250	2 188	3 894	2 561	4 824	3 404
Sid 9	2 955	1 975	3 214	2 266	4 284	2 735

End-of-year exams' primary schools in Uitenhage

294 Mr E W TRENT asked the Minister of Education and Training

B732E

*(Handwritten mark)*

#### THE MINISTER OF EDUCATION AND TRAINING

How many pupils in each of the primary schools falling under his Department in the Uitenhage metropole (a) wrote and (b) passed the end-of-year examinations in 1989, 1990 and 1991, respectively?

School	1989	1990	1991
	Wrote	Passed	Wrote
Alex Jayiya	566	483	439
Ashton Gontshir	476	393	427
Ilunge	539	483	389
James Ntunswana	677	573	609
J N Tuliwana	625	565	523
Little Flower	428	379	391
Mjulemi	833	728	768
	Passed	Passed	Passed
	483	389	468
	393	372	424
	483	355	359
	573	494	602
	565	451	537
	379	369	391
	728	672	806
	1 398	381	370
	1 562	320	320
	1 398	536	443
	1 398	359	359
	1 398	737	737

School

1989

1990

1991

	Wrote	Passed	Wrote	Passed	Wrote	Passed
Mngcunube	882	764	798	693	842	716
Mghayi	930	841	587	455	622	484
Mtonjemi	785	656	816	785	840	784
Nokhwezi	958	851	559	466	1 288	982
Nosipho	527	450	1 103	955	1 243	1096
Ntlemenza	893	780	446	386	492	428
Phakamile	879	796	1 304	1 083	1 488	1 319
R H Godlo	664	639	738	710	818	755
Stephen Nkomo	587	538	594	534	587	540
Vuba	553	507	551	475	599	513
James G Ndulula	919	792	624	560	706	627
Phundubuye			937	794	1 170	1 010

End-of-year exams schools in Uitenhage

295 Mr E W TRENT asked the Minister of Education and Training

How many pupils in schools falling under his Department in the Uitenhage metropole (a) wrote the end-of-year examinations for, and (b) passed, each standard in 1989, 1990 and 1991, respectively?

B733E

THE MINISTER OF EDUCATION AND TRAINING

1989 1990 1991

	(a)	(b)	(a)	(b)	(a)	(b)
Sub A	3 279	2 787	2 328	1 980	3 049	2 506
Sub B	2 093	1 811	2 281	1 997	2 268	1 934
Sid 1	1 868	1 655	1 941	1 665	2 344	2 081
Sid 2	1 766	1 572	1 833	1 627	1 856	1 657
Sid 3	1 215	1 074	1 727	1 496	1 831	1 633
Sid 4	1 138	1 029	1 253	1 067	1 676	1 446
Sid 5	1 362	1 290	1 240	1 166	1 258	1 143
Sid 6	911	615	1 233	683	1 478	847
Sid 7	750	526	571	346	1 077	631
Sid 8	692	413	621	371	818	449
Sid 9	439	299	420	256	631	290

#### THE MINISTER OF NATIONAL HEALTH

296 Mr M J ELLIS asked the Minister of National Health

(1) Whether any flats in the doctors' quarters of Addington Hospital in Durban have been converted into luxury flats, if so, (a) how many flats were used to effect the conversion, (b) (i) how many luxury flats were developed, (ii) what is the size of

each such flat and (iii) what does each comprise, (c) (i) for what purpose are these flats to be used and (ii) what are the names of the persons who are to use them, (d) what was the (i) total and (ii) itemized cost of (aa) converting and (bb) equipping these flats and (c) from which vote or votes was the cost of (i) constructing and (ii) equipping these flats financed,

(2) whether any funds from the 1991-92 budget were used for these flats, if so, (a) what total amount and (b) how was this effected in terms of the practice of unutilized moneys in the budget having to be returned to the Treasury at the end of the financial year,

(3) whether the decision to convert these flats was taken by the Executive Committee of the Province of Natal, if not, why not,

(4) whether one of these flats is for the use of a director-general, if so, (a) for which director-general, (b) why and (c) at whose discretion?

B738E



**THE MINISTER OF HOUSING AND AGRICULTURE**

- (1) No, it is the responsibility of the Local Authority to provide such a community facility,  
 (a) Falls away,  
 (b) Falls away, and  
 (2) No

**Mr K CHETTY** Mr Chairman, arising from the hon the Minister's reply, I would like to know why he, being the hon the Minister of Housing and Agriculture, cannot go ahead with that project in Phoenix Those people need that facility The hon the Minister says it is the responsibility of the local authority, but I remember very clearly that the former Chairman of the Ministers' Council was responsible for the Chatsworth Stadium He personally allocated the funds to the Durban City Council when he was still the Minister of Housing

**The MINISTER** Mr Chairman, I do not need to tell the hon member for Chatsworth Central that we are discussing this issue in 1992 and at a time when money for housing is in short supply I can assure him that it we had the necessary funds today, we would start building a hall in Phoenix tomorrow However, one has to take the current situation into account

**THE LEADER OF THE OFFICIAL OPPOSITION** Mr Chairman, further arising from the hon the Minister's reply, is he aware of the fact that as the Minister in charge of housing, he controls the utilization of community facility funding by any municipality? In view of this fact, will the hon the Minister direct that an investigation be carried out to ascertain how much money the community facility fund of Phoenix has at its disposal? Is the hon the Minister aware of the fact that there has been a policy decision that the profits from all unsold sites in Phoenix be used to provide facilities, and that this money could be used to start building the stadium in Phoenix?

**The MINISTER** Mr Chairman, I am very mindful of the issue which the hon the Leader of the Official Opposition has raised However, for the information of this House, I will certainly carry out the investigation which he has suggested

HOUSE OF DELEGATES

**Alleged assault of 21 Battalion on squatters**

\*2 **Mr M RAJAB** asked the Minister of Defence

- (1) Whether the South African Defence Force has investigated an incident involving members of 21 Battalion who are alleged to have assaulted squatters in the Tamboville squatter area near Watville, Benoni, on or about 24 May 1992, if not, why not, if so, what are the findings,  
 (2) whether he will make a statement on the matter? D194E

**THE DEPUTY MINISTER OF DEFENCE**

**Mr Chairman**, thank you very much for this opportunity I would like to convey my sincere apologies to the Chair and to all hon members for not being here on time I was incorrectly informed by my office

- (1) Yes, a Board of Inquiry has been convened to investigate the incident, but it has as yet not been completed  
 (2) No

**Mr M RAJAB** Mr Chairman, arising out of the hon the Minister's reply, would he tell this House when it is anticipated that the board of inquiry will complete its task?

**THE DEPUTY MINISTER** Mr Chairman, it is difficult to say, but I would imagine that it will do so within the next few weeks It should not take longer than that

*For written reply*

**General Affairs**

**Ministerial Representatives travelling/**

**substance expenses**

33 **Mr K CHETTY** asked the Minister of Constitutional Development

- (1) Whether two Ministerial Representatives of the House of Delegates, who serve on Codesa and whose names have been furnished to the Minister's Department for the purpose of his reply, have claimed any travelling and substance expenses in regard to their attendance of Codesa meetings, if so, (a)(i) for how many air tickets and (ii) what (aa) road transport and (bb) hotel expenses have been claimed by each and (b) in respect of what

specified period are these figures furnished,

- (2) what are the names of the Ministerial Representatives in question? D167E

**THE MINISTER OF CONSTITUTIONAL DEVELOPMENT**

- (1) No  
 (a) Falls away  
 (b) Falls away  
 (2) Falls away

**Ministers of State travel/accommodation expenses**

34 **Mr K CHETTY** asked the Minister of Constitutional Development

- (1) Whether the (a)(i) air and (ii) road travelling and (b) accommodation expenses incurred by Ministers of State attending meetings of Codesa are paid for by his Department, if not, (aa) why not and (bb) by which Departments are they paid for, if so, why,  
 (2) whether he will make a statement on the matter? D168E

**THE MINISTER OF CONSTITUTIONAL DEVELOPMENT**

- (1) (a) (i) No  
 (ii) No  
 (b) No

(aa) The air and road travelling expenses of ministers are paid by their respective departments and ministers are accommodated in their official residences

**Own Affairs**

(2) No

(bb) Falls away

Number of court cases **House of Delegates**  
 30 **Mr M RAJAB** asked the Minister of the Budget and Auxiliary Services **(252)** Whether his Department has information on the number of cases involving the Administration House of Delegates that were handled on behalf of the Administration by the Office of the State Attorney in each of the latest specified three years for which information is

HOUSE OF DELEGATES



available, if not, why not, if so, (a) how many such cases were there in each of these years, (b) what are the names of the advocates who were given briefs in this regard by the said Office, (c) what was the total amount paid by the Administration in respect of costs to the (1) Office of the State Attorney and (ii) each of these advocates for each of the three years referred to above and (d) how many cases were successfully defended? D141E

(a) The table below indicates the number of cases for each of the last three years

DEPARTMENT	1989	1990	1991
Education and Culture	2	NIL	6
Health Services & Welfare	NIL	1	1
Local Government, Housing and Agriculture	12	9	10
Budgetary and Auxiliary Services	2	1	2
Totals	16	11	19

(b) The table below indicates the names of the Advocates who were given briefs.

NB Figures in brackets ( ) indicate that counsel was appointed to assist a senior advocate

	1989	1990	1991
<b>DURBAN BAR</b>			
D A Gordon SC	1	NIL	5
J E Hewitt SC	NIL	NIL	1
N V Hurt SC	1	2	NIL
C G Marnewick SC	8	4	2
R J A Callum	NIL	1	NIL
A W M Harcourt	NIL	NIL	1
D G Harpur	2	NIL	1
C B Mann	—	—	—
J Marais	NIL	1	NIL
P Meskin	NIL	NIL	1
P J Olsen	(1)	(2)	NIL
F G Richings	NIL	NIL	3
A L Simpson	1	NIL	NIL
B L Skinner	(1)	(1)	NIL
P S Smith	1	NIL	NIL
G O van Niekerk	NIL	NIL	1
<b>JOHANNESBURG/PRETORIA BAR</b>			
S F Burger SC	NIL	2	NIL
G L Groblier SC	NIL	NIL	1
C J H Badenhorst	NIL	(2)	NIL
A B de Wet	NIL	NIL	1
L van Wyk	NIL	NIL	(1)
<b>CAPE TOWN BAR</b>			
J Heunis	NIL	NIL	1

(c) The total amount paid by the Administration in respect of legal costs for each of the last three years is indicated in the table below

DEPARTMENT	89/90	90/91	91/92
Education and Culture	R 168 959	R 27 100	R 24 100
Health and Welfare	1 723	1 911	438
Local Government, Housing and Agriculture	194 351	611 935	290 748
Budgetary and Auxiliary Services	6 253	549	98
TOTAL	371 286	641 495	315 384

(i) The office of the State Attorney does not raise fees on the "attorney and client" basis as is the practice by private attorneys and only recovers, from the user Department, disbursements made by the State Attorney's Office on such Departments' behalf. Counsel's fees are paid by the State Attorney's Office and recovered from the user Department through the inter-Department accounting system.

(ii) Different amounts have been paid to the various counsel in respect of their services rendered in a particular matter for which they were appointed by the State Attorney's Office concerned. It is not possible to extract the information required relating to fees paid to individual advocates within the time permitted, as the details required are distributed over several Departments and each payment to the Office of the State Attorney would have to be examined to extract payments to individual counsel.

(d) The table below sets out the details of the outcome of the cases for each of the last three years

PARTICULARS	1989	1990	1991
<b>EXPROPRIATION</b>			
(a) Received	8	1	3
(b) Finalized	1	2	5
(c) Carried forward	6	4	NIL
(d) Pending	1	NIL	3
<b>OTHER CASES RECEIVED</b>			
Pending	8	10	16
Cases won	2	4	6
Cases lost	NIL	NIL	1
Cases settled	NIL	NIL	NIL
Cases settled	5	3	11

# Drastic new laws to curb violence

## Political Staff

THE State is to give itself drastic new powers — including a toughening-up of detention without trial procedures — in an attempt to curb the continuing violence and intimidation

New legislation tabled in parliament today aims also to ban private armies, give attorneys-general the power to refuse bail and to drastically streamline court procedures for serious crimes of violence and intimidation

The Criminal Law Second Amendment Bill, as it is called, was described by a Justice Ministry spokesman as a "declaration of war against violence" — although the Bill has raised concerns that the rule of law is again under threat

It is just one of a series of major and contentious Bills which Justice Minister Kobie Coetsee has brought to parliament just before it adjourns this week.

Democratic Party justice spokesman Mr Tony Leon said yesterday it was impossible for parliament to do justice to the flurry of legislation from Mr Coetsee, especially since several of the Bills had raised concerns about a possible erosion of the rule of law

Mr Leon said parliament's justice committee had six major Bills to process before par-

liament adjourned on Friday — including complex and contentious legislation giving the State extended powers to combat drug trafficking and to tap telephones

"It's a joke to legislate like this," he complained

He said his chief concern about the Criminal Law Second Amendment Bill was that it gave attorneys-general the power to refuse bail in cases involving violence and intimidation.

Mr Leon said he needed to study further the provisions of the Bill relating to shortened court procedures and detention without trial.

While the DP could see the need for shortening court procedure to avoid the problem of witnesses disappearing, this had to be balanced against the requirement of due process

The new Bill contains several major aspects.

- In an effort to curb private armies, it makes it an offence to organise, train, equip or arm any military organisation which tries to usurp the role of the police or the army

- It criminalises indirect intimidation. In the present Intimidation Act, the offence of intimidation only occurs if the victim has been persuaded by acts or threats to do or not to do something.

# UWC wage talks set for more disruptions

SHARON SOROUR  
Labour Reporter

UNIVERSITY of the Western Cape wage negotiations continue this week amid lunch-hour demonstrations and pickets by hundreds of disgruntled workers.

Last week about 600 members of the National Education Health and Allied Workers' Union staged pickets and demonstrations and held a sit-in at the office of rector Professor Jakes Gerwel.

Workers also demonstrated in Modderdam Road, Bellville to draw attention to their demands.

A union spokesman said workers were "outraged and disgusted" at the wage offer of the university's administration, which they thought to be insultingly low.

"It appears to be an indication of their insensitivity to the hardships experienced by their fellow employees," the union spokesman said

The administration revised its offer last week and offered an average increase of five percent, a two percent increase on the previous offer, a UWC spokesman said.

The union's revised and final demand is 15 per cent or a R220-a-month increase

The union also asked for the home-loan ceiling to qualify for a subsidy to be increased from R50 000 to R70 000.

Str



# Bill seen as declaration of war against violence

STAR 15/6/92  
By Peter Fabricius  
Political Correspondent

CAPE TOWN — The State is to give itself drastic new powers — including a toughening-up of detention-without-trial procedures — in an attempt to curb the continuing violence and intimidation

New legislation to be tabled in Parliament today aims also to ban private armies, give attorneys-general the power to refuse bail, and to drastically streamline court procedures for crimes of violence and intimidation.

The Criminal Law Second Amendment Bill, as it is called, was described by a Justice Ministry spokesman last week as a "declaration of war against violence".

It is one of a series of con-

tentious Bills that Justice Minister Kobie Coetsee has brought to Parliament before it adjourns

Democratic Party justice spokesman Tony Leon said yesterday it was impossible to do justice to the flurry of legislation from Mr Coetsee.

Mr Leon said Parliament's Justice Committee had six major Bills to process before Parliament adjourns on Friday. "It's a joke to legislate like this," he complained.

## Criminalises

He said his chief concern about the Criminal Law Second Amendment Bill was that it gave attorneys-general the power to refuse bail in cases which involved violence and intimidation

He said the DP would consider moving amendments to ensure the interrogative detention provisions of the new

Bill were brought in line with safeguards in the amended Internal Security Act.

The new Bill contains several major aspects:

● To curb private armies, it makes it an offence to organise, train, equip or arm any military organisation which tries to usurp the role of the police or the army.

● It criminalises indirect intimidation. In the present Intimidation Act, the offence of intimidation occurs only if the victim has been persuaded by acts or threats to do or not to do something.

● The new Bill also creates new intimidation offences. Anyone who commits certain acts of violence with intimidatory intent will be guilty of an offence and liable for 25 years' jail.

● The Bill gives the State extended powers of detention for interrogating those su-

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spected of withholding information about unlawful possession of weapons.

These suspects may be detained and arrested on a warrant from a magistrate and held indefinitely, provided that they are brought before a magistrate within 48 hours of arrest and then not less than once every 10 days.

And no one other than a State official shall have access to the suspect.

● The Bill gives attorneys-general powers to introduce special, shortened procedures for offences involving violence and intimidation.

● The Bill establishes a minimum sentence of five years for offences with certain weapons possessed illegally.

Some drastic provisions of the Bill would remain in force for only a year and could be renewed by Parliament.

## Foreign funds to be allowed

CT 16/10/92  
THE prohibition on foreign financing of South African political parties is to be temporarily suspended in terms of the General Law Amendment Bill published in Parliament yesterday. (5)

A memorandum to the bill states that the temporary suspension of the Prohibition of Foreign Financing of Political Parties Act emanates from the need for funds to "expand the process of democratisation"



## 20 acts amended <sup>252</sup> in one fell swoop <sup>ct 1/16/92</sup>

THE government has tabled an omnibus bill amending more than 20 acts — among them the Criminal Procedure Act of 1977, which is to be amended to delete the directive that an accused's race must be mentioned in a charge sheet

The bill also amends the Sexual Offences Act, making applicable to men the provision that women in a brothel, who won't reveal the keeper's identity, will be deemed to keep the brothel

The Prevention of Public Violence and Intimidation Act is amended to allow the Goldstone Commission to appoint pro Deo legal representatives for witnesses appearing before it

## Grosskopf 'is

### still a suspect

5/10/92  
STEPHANE BOTHA

ANC member Hein Grosskopf was positively linked to the Quartz Street bomb blast in Johannesburg in 1987 which injured 68 people, and was still a suspect in two other blasts which killed seven, police said yesterday.

An SAP statement said a R50 000 reward for information linking Grosskopf or any other person to a blast at the Krugersdorp Magistrate's Court in 1988, which left three people dead, was still on offer.

However, a reward for Grosskopf's arrest had lapsed, Sapa reports.

Police said Grosskopf, believed to be in Zambhia, was still a suspect in the 1987 Johannesburg Magistrate's Court bomb blast and that at the Krugersdorp Magistrate's Court in 1988.

# No pay for staying away, say employers

5/10/92

DIRK HARTFORD

BUSINESS organisations yesterday called for a no work, no pay policy as they and unions engaged in a war of words over the ANC alliance's mass action campaign.

Sacob, the Afrikaanse Handelsinstituut, the Johannesburg Chamber of Commerce and Industry, Spoornet and Anglo American's gold and uranium division all advised yesterday they would follow a policy of "no work, no pay", Sapa reports.

Seifsa recommended that disciplinary action be taken against employees staying away from work because of mass action.

"In this particular case, it would constitute an illegal strike," Seifsa spokesman Hendrik van der Heever said of the campaign, which starts today.

Cosatu yesterday said employers had done nothing about the issues motivating the mass action programme.

"If there is a better way to stop government corruption and death squads and get movement at Codesa, we would like to hear about it," a Cosatu spokesman said.

Cosatu has asked business organisations to support its mass action

campaign as the quickest route to establishing the political stability needed for economic growth.

A Sacob spokesman said business did not have a position on these issues. In any event, it would rather engage directly with government than through Cosatu.

"We are concerned about government corruption and the (assassinated) activist Matthew Goniwe affair, but we don't respond to every issue like Cosatu does. There are institutions like the Goldstone Commission, the Justice Department and Codesa which should be used to solve these problems."

Meanwhile, the thousands of workers currently on strike at TPA hospitals, SABC and Toyota could swell to hundreds of thousands in the next few weeks if negotiations in the textile, municipal transport, forestry, metal, car, tyre, retail and mining industries were not settled, Cosatu said.

Disputes had already been declared in many of these sectors. Tomorrow 250 000-member Numsa will unveil its mass action, plan for the metal, motor, car and tyre and rubber industries.

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## Bill lifts ban on foreign funding

Political Staff

CAPE TOWN — Government has tabled an omnibus Bill which includes the temporary suspension of the ban on foreign funding of political parties. 5/10/92

A memorandum to the General Law Amendment Bill says the suspension of the Prohibition of Foreign Financing of Political Parties Act "emanates from the need of funds in order to expand the process of democratisation".

The Bill amends elements of another 20 Acts, among them the provision in the Criminal Procedure Act of 1977 that an accused's race must be mentioned in a charge sheet or an indictment.

The Criminal Procedure Act is being amended to make it clear correctional supervision may be imposed for statutory offences.

Clause 6 of the Sexual Offences Act is extended to include males in the provision that anyone found in a brothel who refuses to disclose the name and identity of the keeper or manager will be deemed to be keeping the brothel.

Section 99 of the Insolvency Act is also being amended so that a preferential claim will be granted to the state in respect of VAT, as was the case with GST.



## Police deny accusations at Mlangeni's inquest

SUSAN RUSSELL

A POLICE officer investigating the death of ANC lawyer Bheki Mlangeni, killed last year by a booby-trapped cassette player, denied in the Rand Supreme Court yesterday that there had been an attempt to source the origin of the device as far away from SA as possible. *B/day 16/6/92*

Capt André Kritzinger made the denial during cross-examination at an inquest on Mlangeni.

Mlangeni was killed on February 15 last year when he activated the device at his home.

The cassette player and a tape marked "Evidence of hit squads" had originally been posted to policeman Dirk Coetsee in Lusaka, where he had taken refuge with the ANC after making public his claims about the existence of police hit squads.

Coetsee left the package at the post office in Zambia because he did not have the money to claim it and it was redirected to Mlangeni, who was listed as the sender.

Coetsee has claimed the booby-trapped cassette player was sent to him by former colleagues at the police farm Vlakplaas from where, he alleges, the hit squads operated.

The inquest court heard yesterday that the yellow sticker on the package was one used internationally to facilitate a uniform postal process but was not used in SA, which had been excluded because of sanctions and other isolationist policies against the country.

Counsel acting for Mlangeni's family, G Rautenbach, suggested to Kritzinger that a statement obtained by the police from a post office employee stating that the sticker was not used in SA was an attempt by the police investigators to distance the origin of the device as far away from SA as possible. Kritzinger denied this.

# Hostel residents warn of revenge

WILSON ZWANE

DEMOLITION of a hostel in Dobsonville, Soweto, by township residents had set the stage for a "bloody confrontation", West Rand Hostel Residents' Association chairman Joseph Kubheka warned yesterday. *B/day 16/6/92*

On Sunday, Dobsonville residents used earthmoving equipment to demolish sections of the local hostel, while the majority of the Inkatha-supporting inmates were attending an Inkatha Youth Brigade rally at Jabulani Amphitheatre.

Residents commandeered an earth-mover and a road leveller and crashed through the razor wire, smashing into the hostel and tearing open four rooms.

Kubheka said since police had displayed a disregard for the safety of hostel residents, the time had come for hostel residents to take the law into their own hands and defend themselves against attacks from township residents.

"We will use whatever means at our disposal to repel attacks directed at us," Kubheka said.

He added that the development would lead to a "bloody confrontation" between township residents, bent on demolishing hostels, and hostel dwellers.

Soweto police spokesman Lt-Col Tienie Halgryn said police would do everything they could to protect lives and property.

□ In its monthly report on repression, the Human Rights Commission said yesterday 296 people had died and 274 had been injured in violence countrywide last month.

Most of the deaths (228) and injuries (192) were reported in the PWV region.

Meanwhile, Lawyers for Human Rights (LHR) is distributing pamphlets on the Reef offering R10 000 rewards to people with information leading to the conviction of those responsible for politically-motivated attacks.

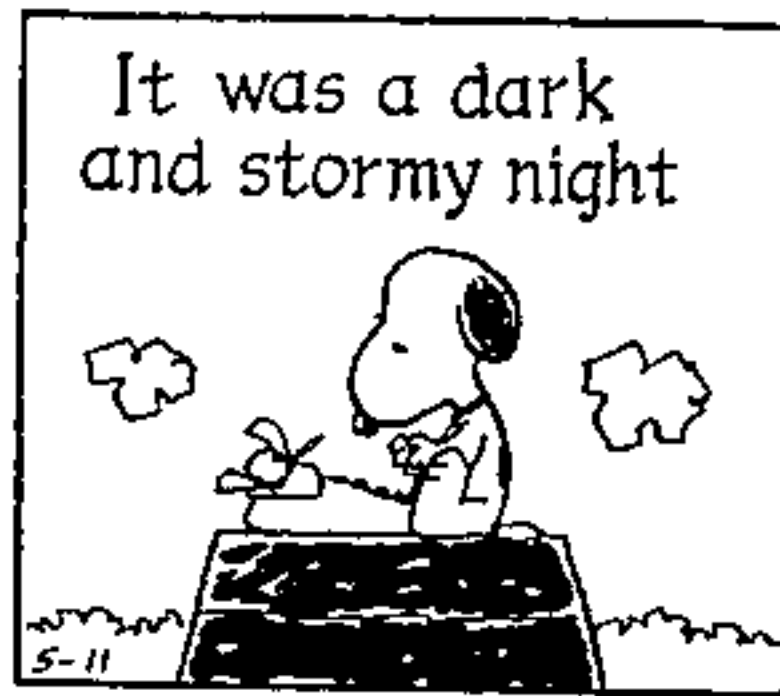
A spokesman for the LHR said the pamphlet campaign would be extended to Natal and the western Cape.

In another development, the national peace committee has requested an explanation from the Student Representatives Council (SRC) of Soweto's Vista University of the disruption of a peace symposium by its members last week.

"At the time when the urgency of normalised police/community relations is being stressed by the national peace secretariat, the national peace committee strongly condemns last week's disruption of a peace symposium in Soweto by members of the Student Representatives Council of Vista University," committee spokesman Val Pauquet said yesterday.

## PEANUTS

By Charles Schulz



## Winnie's clique faces a hearing

ANC Women's League members who demonstrated in support of former regional chairman Winnie Mandela last month will face a disciplinary committee soon, ANC spokesman Carl Niehaus said yesterday. *B/day 16/6/92*

The league's entire regional executive was suspended after a memorandum was presented at ANC headquarters complaining that Mandela was being victimised by "faceless" congress leaders who had made "unauthorised" allegations about her private life to the media.

Asked if Mandela would face the committee, Niehaus said he could not comment — Sapa



**EVERYONE** agrees that an independent judiciary is fundamental to a successful post-apartheid constitutional order. It is also widely agreed that this judiciary ought to be, as for obvious reasons it has not been heretofore, generally representative of the population at large.

The obvious question, given what apartheid has done to the composition of the legal profession, is how to achieve, within a relatively short period of time, a pluralist bench whose competence and impartiality will command wide respect.

The obvious question, however, is not always the right question. In this instance it may actually be a serious obstacle to achieving the desired result. Worse, it may lead, after bitter and impassioned debate, to a dubious compromise which may undermine all other agreed constitutional arrangements by rendering their final arbiter suspect from the start.

The issue of judicial pluralism was addressed at the symposium on federalism organised by American University for members of the Codesa working group dealing with constitutional principles. Regrettably, the subject was addressed in such a way that many of the South Africans — ranging from Constitutional Development Deputy Minister Tertius Delpoit to the SACP's Thenuwe Mtshiso — may have learnt little beyond what their prejudices had already told them was the case.

**T**he lead speaker on the topic was Leon Higginbotham, Chief Judge of the US Court of Appeals for the Third Circuit, and the most senior black member of the federal bench after Supreme Court Judge Clarence Thomas. Engaged to critique his presentation was Charles Cooper, an assistant attorney-general in the Justice Department's civil rights division in the early years of the Reagan administration.

Higginbotham, who has taken a personal interest in the SA legal system and holds his friend, Supreme Court Judge Ismail Mahomed, to be "one of the greatest legal minds of this century", had prepared an acutely argued text on pluralism, and how it enhanced both justice and public respect for the judiciary, based on the US experience.

He chose instead to deliver a biting attack on the inherent racism of

the constitution's framers and the failure of the Bush and Reagan administrations to appoint more than a handful of minority judges, among them Thomas, whose views Higginbotham made no secret of despising. He cited, in particular, Thomas's dissent from the court's recent ruling that a black prisoner beaten by his warders was entitled to protection under the cruel and unusual punishment clause of the constitution's eighth amendment.

Higginbotham's view of Thomas's dissent as unleashing the racist cruelty of the state on the individual was highly tendentious. Thomas had not condoned the behaviour of the prison guards; he had merely argued that the constitution could not remedy all ills and that this matter was more properly dealt with by the laws of the state concerned (Louisiana) lest the "cruel and unusual" clause come to cover so broad an array of contingencies that the federal government be obliged to see to it that all prisons were turned into hotels.

For this, using an exquisite periphrasis Higginbotham called Thomas an Uncle Tom, describing him as a black man who appeared to be operating under the illusion that he could have been a "confidante" of James Madison when the latter was drafting a constitutional regime that held blacks to be "three-fifths" human. For many of the Codesa members in the audience, Higginbotham's vituperation — with which not a few sympathised — was prima facie evidence of the failings of the American system and, in particular, its capa-

# Legitimacy, not race, must shape judiciary in new SA

By *David Mervin*, SIMON BARBER in Washington 252



□ THOMAS

A good judge sometimes bails counsel to get at the truth. Higginbotham, on the bench at least, was a good judge, a model of fairness who had never shown the faintest hint of bias. Whether this was his strategy now was unclear. He did, however, provoke Cooper to uttering a most important truth.

It was this: "Of federal judges 4.6% are black, 3.2% of lawyers of all ages are black. The great majority of black lawyers have less than 10 years' experience. Therefore far fewer than 3.2% would, in any reasonable sense, be eligible to be nominated to the federal bench. Presidents tend to favour members of their own parties and look for appointees who mirror their own philosophies and views of the courts' role. Reagan got 10% of the black vote. The number of eligible black lawyers reflective of the president's philosophy was therefore extremely small (President Jimmy Carter appointed far more black judges because he had a far larger pool of blacks sharing his own party affiliation to choose from."

Deliberately or not, Higginbotham had succeeded in getting Cooper to say what he, as a judge, was loath to say. In the US judicial selection is a highly political business. Republican sympathisers tend to get appointed under Republican administrations and Democrats under Democratic ones. There are few black Republicans. Therefore, since 1980, there have been few black nominees. Superficially, this may seem to fly in the face of all notions of judicial

independence, and a system to be avoided by anyone who does not want to see one party controlling all branches of government in a new SA. In fact, the American way has some considerable merit as long as it operates within the appropriate constitutional framework — a framework designed to reflect popular sentiment and at the same time to "ensure domestic tranquility" by inhibiting raw majoritarianism.

A key reason Reagan was elected in 1980 was that voters felt the federal courts were becoming "too liberal" on matters such as crime, affirmative action and abortion. Reagan, and subsequently George Bush, promised to redress that balance, and have kept their promise, subject to critical constraints.

These include the confirming power of the Democrat-controlled Senate (witness the rejection of Supreme Court nominee Robert Bork who was judged too extreme), the tendency of judges to see things differently once removed from external pressures by life tenure and constitutionally guaranteed remuneration, and, perhaps above all, the president's need for continued voter consent which can be withdrawn the moment the public feels the balance has shifted too far.

Individual senators also play a role in putting forward names for federal judgeships below the Supreme Court level. This is a practice which might usefully be copied in SA if its own future senate is constructed on counter-majoritarian lines (two senators per state regardless of the state's size) to limit the potentially explosive exclusion of minority or regional interests.

**F**or a new SA constitution to succeed, what is needed is neither an ivory tower judiciary which might be prone to take a formalist view of the document's text nor a bench packed with supporters of the dominant party, but rather one that will be sensitive to the temper — perhaps tempers would be more accurate — of the times. And that, by letting the public in on the selection process, however obliquely, through its elected representatives, is what the US system, wart-ridden though some may find it, ultimately delivers.

It may not automatically produce a "pluralist" bench. It does, however, produce one that, by the consent of virtually all — Judge Higginbotham included — is legitimate.



# A foreign assassination?

Court Reporter

252  
Policemen investigating the murder of ANC lawyer Bheki Mlangeni had tried to make the plot "as foreign as possible", an inquest in the Rand Supreme Court heard yesterday.

Mr Mlangeni was killed in February last year when an earphone of a portable cassette player intended for former security police captain Dirk Coetzee exploded. The parcel had been posted to Mr Coetzee in Lusaka, but he did not have money to pay the excess postage.

Mr Mlangeni received the parcel, which con-

tained the cassette player and a tape marked "Evidence hit squads".

Gys Rautenbach, appearing for Mr Mlangeni's family, cross-examined investigating officer Captain Andre Kritzingler about a yellow postage sticker on the parcel.

Captain Kritzingler said the sticker, not used by the SA Post Office but freely available in Lusaka, was useful only in that it showed how long the parcel had been in the post.

Mr Rautenbach said the sticker had not been on the parcel when Mr Coetzee went to collect

it, but the police had tried to underplay the possibility of the bomb being made in South Africa.

Mr Rautenbach also said Mr Coetzee's statement to senior investigating officer General Ronnie van der Westhuizen had included a manuscript concerning his time at Vlakplaas, the alleged hit-squad headquarters.

The manuscript contained details of time bombs, and mentioned that Captain Wal du Toit, who was based at Vlakplaas, had used foreign materials in clandestine operations.

The hearing continues.

# 'Police offered me cash to bomb homes of activists'

STAR 16/6/92

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Pretoria Correspondent

An ANC member has told the Goldstone Commission how he was lured to a police "safe house" and offered money to launch petrol-bomb attacks on the homes of ANC and SACP activists.

The inquiry, before R Wise, SC, follows reports published in The Weekly Mail recently alleging that police used "safe houses" in Sebokeng from which to plan attacks on activists.

Daniel Kolisang (24), who described himself as an ANC Youth League

and SACP member from Sebokeng, told the commission he had made contact in December last year with a man who called himself "Oupa".

The man, whom he later found out was a Sergeant J K R Seago of the SAP, offered him a job with the Transvaal Provincial Administration's security division.

He was then taken blindfolded to a house where he was introduced to man calling himself "Brian".

At first he thought the man was a member of the AWB, but he later suspected the man to be a

member of the police

At the first meeting, on January 2 this year, "Brian" asked him to obtain information on a number of activists in Sebokeng.

He reported the meeting to community leaders and other activists, and was told to return to a second meeting, scheduled for January 16.

At a second meeting, "Brian" told him to petrol-bomb the houses of eight activists to "prove his loyalty" and said he would be paid R5 000.

The cross-examination continues today.



# New law on phone taps amended

252

CT 17/6/92

## Political Staff

THE government has bowed to pressure on its controversial phone-tapping bill and will now amend the legislation to provide that only a judge can authorise the monitoring

The Interception and Monitoring Amendment Bill raised a storm when it was tabled last week and contained a clause giving the attorney-general the power to authorise phone tapping, bugging of rooms and interception of post

The Minister of Justice will now appoint a retired judge for each division of the Supreme Court to perform this function

Mr Gert Myburgh, chairman of the parliamentary Joint Committee on Justice, added in a statement yester-

day that "the manner in which applications for telephone tapping and other monitoring were carried out would be controlled by the Judges-President"

He said this had been agreed to by Justice Minister Mr Kobie Coetsee at the request of NP members of the Justice Standing Committee

It is understood that Democratic Party MPs on the committee led the onslaught against the original clause

It is understood that important changes to two other bills — the Drugs and Drug Trafficking Bill and Criminal Law Second Amendment Bill — are also being debated following proposals by the DP

In both cases the DP is arguing for greater safeguards for people who are detained without trial, demanding that they have access to their attorney and a doctor

**Own Correspondent**

**DURBAN** — The Natal Law Society brought an application in the Supreme Court here yesterday temporarily restricting the activities of a business called The Mediator which offers advice on divorce proceedings

Operating since the beginning of the year, Mr. Stanley Posthumus has come under the legal spotlight for his services in resolving disputes between married parties to enable them to divorce on mutually agreed terms

The Natal Law Society is now seeking an order which will prevent Mr Posthumus from "engaging in activities which are reserved for practising practitioners"

Mr Posthumus was not, it was submitted in papers before the court, a practising practitioner as defined by the Attorneys Act of 1979

# Interdict <sup>(252)</sup> on divorce consultancy

CT 17/6/92

It had come to the attention of the society that The Mediator had expanded its services to include settlement agreements, summonses and particulars of claim for a divorce action

An advert suggests Mr Posthumus charges only for his non-legal services. The society has submitted this is not so

Mr Justice Booysen issued an interim interdict, pending the final determination of the application



# Harsh aspects of new bills softened

## Phone-taps curbed, casinos get respite

### Political Staff

THE government has agreed to soften some of the harsher provisions of tough and controversial new legislation dealing with telephone tapping, detention without trial and fighting drug crime

Several important changes to Justice Department legislation were agreed to by parliament's joint standing committee on justice yesterday

The controversial law allowing the government to summarily cancel the registration of newspapers is to be repealed

And it now seems that casinos in South Africa have been granted a reprieve because legislation to close loopholes in the gambling law will almost certainly not come before parliament this session

All parties agreed yesterday that only a judge will be allowed to authorise telephone tapping and mail interception — and not an attorney-general as was originally proposed in the Interception and Monitoring Prohibition Bill

This change was suggested by Democratic Party justice spokesman Tony Leon and was accepted by Justice Minister Kobie Coetsee yesterday

And several important changes to the Criminal Law Second Amendment Bill — also mostly proposed by the DP — were accepted by the National Party

Authorities will only be able to hold suspects detained for interrogation on weapons offences for 30 days — and not indefinitely as was originally proposed

Detainees' lawyers will also be allowed access to them and courts will be able to order their release

In the original draft of the bill, suspects held for interro-

### MR TONY LEON . . DP may still not support the bills

gation on certain weapons offences could be detained indefinitely without trial, with no access except by officials and with no right to seek a court order for their release

The justice committee also agreed to several important changes to the Drugs and Drugs Trafficking Bill which gives the State drastic new powers to fight drug crime

Tough provisions for detaining drugs suspects for interrogation were also softened to bring them roughly into line with the protective measures in the amended Internal Security Act

Suspects will now be allowed visits by their lawyers and the State will be given the duty of ensuring they are examined by a district surgeon at least every five days

The committee also watered down the strict provisions which placed the onus on bank managers and stockbrokers to prove that they did not know that money deposited with them came from drug dealing

At its marathon all-day sitting yesterday, the justice committee also agreed to repeal section one of the Registration of Newspapers Amendment Act of 1982 which allowed the Minister of Justice to cancel the registration of newspapers

Sources said the justice committee did not get round to discussing the controversial Gambling Amendment Bill which would have effectively snuffed out the recent proliferation of casinos in South Africa

The bill has run into strong resistance even from within the NP and MPs believe the fact that it was not discussed yesterday means it will not be enacted this year

This will grant an indefinite reprieve to the hundreds of casino operators who have mushroomed

The justice committee agreed to several changes to the telephone tapping bill

A retired judge appointed by the Minister of Justice will have to authorise tapping and other forms of communication interception, and the manner in which it is done will be controlled by the Judge President, National Party MP Gert Myburgh, chairman of the committee, announced yesterday

Another important change is that a period of interception of telephone calls or other communication may now only continue for three months and not six as originally proposed by the government.

The number of crimes for which tapping can be carried out has also been reduced to exclude sodomy, bestiality and malicious injury to property

The telephone tapping bill was introduced by the government to extend telephone tapping — which may now only be done for political crimes — to cover other serious crimes such as murder and drug trafficking

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# New law on phone taps amended

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ET 17/6/92

## Political Staff

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The Interception and Monitoring Amendment Bill raised a storm when it was tabled last week and contained a clause giving the attorney-general the power to authorise phone tapping, bugging of rooms and interception of post.

The Minister of Justice will now appoint a retired judge for each division of the Supreme Court to perform this function.

Mr Gert Myburgh, chairman of the parliamentary Joint Committee on Justice, added in a statement yester-

day that "the manner in which applications for telephone tapping and other monitoring were carried out would be controlled by the Judges-President".

He said this had been agreed to by Justice Minister Mr Kobie Coetsee at the request of NP members of the Justice Standing Committee.

It is understood that Democratic Party MPs on the committee led the onslaught against the original clause.

It is understood that important changes to two other bills — the Drugs and Drug Trafficking Bill and Criminal Law Second Amendment Bill — are also being debated following proposals by the DP.

In both cases the DP is arguing for greater safeguards for people who are detained without trial, demanding that they have access to their attorney and a doctor.

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# Van Schoor gets 20 years

**MULTIPLE murderer Louis van Schoor was sentenced in the East London Supreme Court yesterday to an effective 20 years in jail.**

He was sentenced on seven counts of murder and two of attempted murder to a total of 91 years in jail, but Mr Justice Lionel Melunsky ordered that most of the sentences run concurrently.

"An effective sentence of less than 20 years would not be appropriate in this case," he warned Van Schoor before dealing with the individual counts.

Melunsky said there were mitigating circumstances in Van Schoor's favour, but the aggravating

## Killer had no regard for human life

South African 17/6/92. 252

He said Van Schoor had shown a callousness and a disregard for human life when deliberately shooting nine people.

Van Schoor had then set about misleading the police and had shown a lack of remorse by trying to justify his conduct.

"Some people in this city seem to feel that your actions merited commendation, but they could not be fully informed of the facts," said Melunsky.

He said fully informed people would not see Van Schoor's actions as acceptable.

"No civilised state can allow a person to impose his own punishment on

criminals.

"No country can function if its citizens are allowed to act above the law. This could only lead to further violence, anarchy and chaos.

"And any failure to take appropriate steps against this may create the impression that violence is acceptable in our society."

**Penalty**

He said the State had called for the death penalty or a long term of imprisonment. He would have considered imposing life imprisonment if he felt there was any chance of Van Schoor repeating his violent actions.

But as this was unlikely, he would give Van Schoor

## The police seemed more interested in the housebreakings than in the people he had shot" - Mr Justice Lionel Melunsky.

He said the State had called for the death penalty or a long term of imprisonment. He would have considered imposing life imprisonment if he felt there was any chance of Van Schoor repeating his violent actions.

But as this was unlikely, he would give Van Schoor

more interested in the housebreakings. Van Schoor had encountered more than in the people he had shot.

"He should have been stopped in his tracks in 1987," said Melunsky referring to the date of the first murders committed by Van Schoor.

The murders were carried out over a number of years when Van Schoor was working on contract to local burglar alarm companies. He would respond to alarms that had been triggered on protected premises and a serious of fatal shootings took place.

His defence advocate, Mr Johan Wessels, said he would apply for leave to appeal against the sentences



# Government backs down on key part of phone-tap Bill <sup>(252)</sup>

MICHAEL MORRIS  
Political Correspondent

THE government has backed down on a key element of the controversial phone-tapping Bill by agreeing that only a judge, rather than an attorney-general, may sanction surveillance.

There were strong protests from the Democratic Party and even National Party members of the joint committee on justice when it met this week to consider the Interception and Monitoring Prohibition Bill.

The shift came on a day when the government agreed to soften some of the harsher provisions of other tough legislation, including detention without trial and fighting drug crime.

The NP chairman of the committee, Mr Gert Myburgh, said in a statement that Minister of Justice Mr Kobie Coetsee had agreed to the phone-

tap amendments specifically at the request of the NP members of the committee.

There was "wide agreement in the committee that only a judge should have these powers".

The Bill generated a storm of protest when it was tabled last week because it dramatically widened the scope for surveillance and placed the authorisation of phone-tapping, mail interception and bugging by the army, police and secret service in the hands of attorneys-general.

However, after opposition in the committee, Mr Coetsee has agreed that a retired judge, designated by the minister, will now perform this function in a specified division of the Supreme Court.

The way applications for authorisation will be implemented will be controlled by the judges-president.

● See page 8.

APR 17 1992



## Govt gives in on monitoring Bill

(252) Political Staff  
CAPE TOWN — Government has bowed to pressure on its controversial phone-tapping Bill and will amend the legislation to say only a judge can authorise the monitoring.

The Interception and Monitoring Amendment Bill raised a storm when it was tabled last week with a clause giving the attorney-general power to authorise phone tapping, bugging of rooms and interception of post.

Justice Minister Kobie Coetsee will now appoint a retired judge for each division of the Supreme Court to perform this function.

Parliamentary joint committee on justice chairman Gert Myburgh said the judge-president would control clandestine monitoring applications.

It is understood, however, that DP MPs on the committee led the onslaught against the original clause.

It is believed important changes to two other bills — the Drugs and Drug Trafficking Bill and Criminal Law Second Amendment Bill — are also being debated following DP proposals. The DP is arguing for greater safeguards for people detained without trial.

Under the current law, only a state officer may have access to a detainee or information he provides.

● Comment: Page 6

## Confiscation of weapons unnecessary

# Inkatha

STEPHANE BOTHMA

Bl Day 17/6/92  
THE confiscation by the police of harmless "traditional weapons" such as shields and sticks from Inkatha supporters was unnecessary and had resulted in mistrust of the SAP, Inkatha regional organiser Themba Khoza said yesterday.

About 1 200 shields and 200 sticks, seized on Sunday when police intercepted trains at three Soweto stations before an Inkatha Youth Brigade rally at Jabulani Stadium, were returned to the organisation this week and shown to the media yesterday.

However, Khoza criticised the SAP for not returning all the seized weapons — estimated to number about 2 000 items.

Referring to the Zulu cowhide shields and sticks, Khoza said it was blatantly apparent that many of the items taken by the police were not dangerous and as such should not have been confiscated.

He pointed out that no weapons such as axes, spears, pangas and sharpened wooden and metal sticks were returned.

At the time, police also took possession of about 30 handguns, AK47 rifles and more than 300 rounds of ammunition.

A formal complaint about the police action on the weekend — including the destruction of Inkatha flags — had been made.

Khoza said the organisation regretted that some of its members had carried illegal lethal weapons.

They acted against Inkatha policy, he said.

"But when people are frightened, they resort to any means of protection," he said.

He accused the police of having failed adequately to protect hostels and members of Inkatha in residential areas and called on them to protect the rights of those wanting to go to work during the ANC's mass action call.

Prior to the news conference, Khoza showed a recording of SABC news footage of the police swoop at one of the stations.

Khoza claimed the footage refuted allegations the SAP supported Inkatha. The footage showed policemen "jubilantly" holding up confiscated weapons to show to a group of cheering "ANC supporters" who had gathered on a pedestrian bridge at the station, Khoza said.

## Auditor-general on future role

Bl Day 17/6/92  
CAPE TOWN — SA's new constitution should provide for an independent auditor-general who could do his duty without fear or favour, Auditor-General Peter Wronsley said in his first annual report tabled in Parliament yesterday.

And Deputy Auditor-General J Loots said Wronsley had made proposals to this effect to SA Law Commission vice-chairman Judge Pierre Olivier.

Loots said the office's statutory responsibilities, supported by the image of objectivity, autonomy and integrity, had earned it a place in the new SA.

Experience of countries undergoing radical transition gave some credence to fears that sound financial administration and consistent public accountability might not be enforced in the future.

Loots also reported increased productivity with the office succeeding in maintaining functional audit time, the cost of which was recovered from auditees, at 77% for the 1991 year. This was higher than

the norm set at 72%. He indicated that this was partly due to the better staff complement, which showed a turnover of 16,6%, which compared well with the average for non-profit organisations of 15%.

The auditor-general's office was responsible for conducting regularity audits of 32 departments, 18 votes of own affairs administrations, four provincial administrators, 780 local authorities, 22 agricultural control boards, 37 regional services councils, the six self-governing homelands and 140 other statutory bodies, accounts, funds and museums, Loots said.

Apart from this, "several performance audits, special investigations and computer audits were also conducted during the financial years under review".

A separate performance auditing directorate had been set up to report on measures introduced by accounting officers to promote efficient utilisation of resources.

## Judge drops Dutton's bail by R100 000

SUSAN RUSSELL

FORMER Interboard chairman Ed Dutton, on trial on forex and financial fraud charges involving more than R150m, had his R500 000 bail reduced to R400 000 in the Rand Supreme Court yesterday.

Dutton, 35, applied for a reduction of bail last Friday on the grounds that he had run out of money to finance his defence and had no further assets of his own.

He had asked the court to reduce his bail to R50 000.

Dutton's application was opposed by State counsel James de Villiers who said that to grant a reduction of bail in a case of such seri-

The sale of diamonds was expected to be the most important part of this



# Govt may look for new local government forum

CAPE TOWN — Government would go ahead and launch a national local government forum if Codesa did not reach speedy agreement in implementing the interim councils for local and regional affairs, Local Government and National Housing Minister Leon Wessels said yesterday.

Speaking in the debate of the Provincial and Local Authority Affairs Amendment Bill he said "During this added period of negotiation at Codesa I am not prepared to sit back passively and do nothing in the face of the obvious indefensible, discriminatory practices."

He said he would take it upon himself to launch a national body for local government along the lines of the economic forum.

"Leaders from organised local government and leaders from civic organisations that were not involved in Codesa should sit down with political parties (which were part of Codesa) and take the initiative to participate in such a body, he said.

He said there was no reason for local leaders to sit back and do nothing while negotiations at Codesa were deadlocked. Those in favour of establishing a national forum on local government must not now hide behind excuses when the onus is upon them to build a new life at local level.

Wessels said it was clear there

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BILLY PADDOCK

would be a strong and effective system of local government in the new SA and until such time that a new system had been negotiated and implemented, there had to be effective and orderly administration in the interim.

"Government and local government have realised and acknowledged that black local authorities and also smaller local authorities as they are presently demarcated, are not economically viable," he said.

The problem could only be addressed through the establishment of non-racial economically viable local authorities and some measures in the Bill were specifically aimed at bringing about a purposeful and orderly transition towards a new local government system.

Wessels denied that the Bill was a racist measure to further apartheid. It empowered administrators to demarcate joint administrative areas in towns where local authorities were not making sufficient progress towards a joint administration and to arrange the allocation of income and set uniform service tariffs.

Sapa reports Jasper Walsh (DP Pinelands) as saying in the debate that government has struck local negotiations a death-blow with the Bill.

Government had made no attempt to consult outside the system when draft-

ing the Bill

The most offensive clauses were those which empowered provincial administrators to determine the boundaries of joint administration areas and establish advisory commissions on financial aspects of local authority affairs.

Wide powers had been given to administrators who were not elected, but had been appointed by government.

The minister was clearly upset with the pace of local government negotiations taking place in terms of the unacceptable Interim Measures for Local Government Act.

He was surprised that the minister had threatened fiscal measures when joint administrations had not been established spontaneously by means of negotiations.

Virtually every problem he tried to address was a direct result of his party's failed apartheid policies.

Government held the attitude "if they won't negotiate, we will force such negotiations".

"What a bankrupt approach. What a lack of sensitivity and understanding. What an admission that when the pen or word fails, there is still place for the sword.

"But the very worst action that the government can take is to brush negotiations aside and dictate their own solutions."

## Parliament may sit again in 1992

CAPE TOWN — A second session of Parliament was being planned for October, but would depend on Codesa's progress, government sources said yesterday.

Speculation about a second session has been rife since Codesa II failed to agree to allow Parliament to pass a Bill providing for a transitional executive council.

Legislation at a second parliamentary session is usually restricted to a particular field. If Parliament meets again, the focus will be firmly on constitutional legislation.

Meanwhile, President F W de Klerk said yesterday that government was not clinging to power for as long as possible, as alleged, but was anxious to move to power sharing in the shortest possible time, Sapa reports from Ulundi.

In an address prepared for the KwaZulu Legislative Assembly, he said government

B/Dany 17/6/92  
Political Staff

was not prepared to exchange one form of domination for another.

He said political leaders were more than ever responsible for keeping negotiations on track, adding that all leaders needed to refrain from inciting their followers to act in a spirit contrary to real and honest negotiations. Government would not be bulldozed into a constitution not suited to SA's complexities.

De Klerk rejected allegations government was not doing its duty in curbing violence, but conceded more security force action was necessary.

He said political activities had to be planned to avoid violence and the national peace committee and Codesa had to increase their efforts against violence.

## Govt gives in on monitoring Bill

CAPE TOWN — Government has bowed to pressure on its controversial phone-tapping Bill and will amend the legislation to say only a judge can authorise the monitoring.

The Interception and Monitoring Amendment Bill raised a storm when it was tabled last week with a clause giving the attorney-general power to authorise phone tapping, bugging of rooms and interception of post.

Justice Minister Kobie Coetsee will now appoint a retired judge for each division of the Supreme Court to perform this function.

Parliamentary joint committee on justice chairman Gert Myburgh said the judge-president would control

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## Van Schoor sent to jail for 20 years

8/Day 17/6/92  
Own Correspondent (252)

EAST LONDON — Seven times murderer Sybrand Lodewickus van Schoor was sentenced to an effective 20 years in prison by Judge Lionel Melunsky in the Supreme Court here yesterday.

The security guard who shot dead 39 black burglary suspects was convicted on seven counts of murder and two of attempted murder. He was acquitted of 12 counts of murder and 11 of attempted murder, Reuter reports.

Melunsky said less than 20 years would not be appropriate for the crimes Van Schoor had committed.

He swiped at the manner in which "police ineptitude" prevailed in the investigation of Van Schoor's cases, calling it "disquieting in the extreme" and a "matter of grave concern" that no proper investigations took place after the shootings.

He found it "inexplicable" that there was no investigation by the police into the shooting after the first murder in January 1987 when Van Schoor shot a housebreaker.

The police only investigated house-breaking, the judge said, but had there had been an investigation into the shooting as well, the lives of Van Schoor's later victims would have been saved.

Van Schoor showed a lack of remorse and also falsified evidence.

No society could tolerate a situation where one of its members took the law into its own hands, he said.

It was necessary to impose a sentence that had a deterrent effect on violence.

## Why cop could not catch culprit

AN investigating officer in the murder of ANC lawyer Mr. Bheki Mlangeni told an inquest at the Rand Supreme Court yesterday it would have been impossible for him to track the murderer if Mlangeni had been killed on a clandestine police operation.

Captain Andre Kritzinger told Mr Justice B O'Donovan he would not have been able to trace the culprit because he did not know anything about an illegal and clandestine operation against former security police captain Dirk Coetzee.

Mlangeni died in February last year when a booby-trapped portable cassette player intended for Coetzee exploded. 17/6/92

Under cross-examination from Mr Gys Rautenbach, appearing for the Mlangeni family, Kritzinger said if there had been police involvement in Mlangeni's death, it would have been illegal and clandestine.

He said he had not had access to Coetzee's manuscript which detailed clandestine operations carried out by policemen at alleged hit squad base, Vlakplaas.



# Van Schoor gets 90 years for 7 murders

STAR 1/16/92 (252)

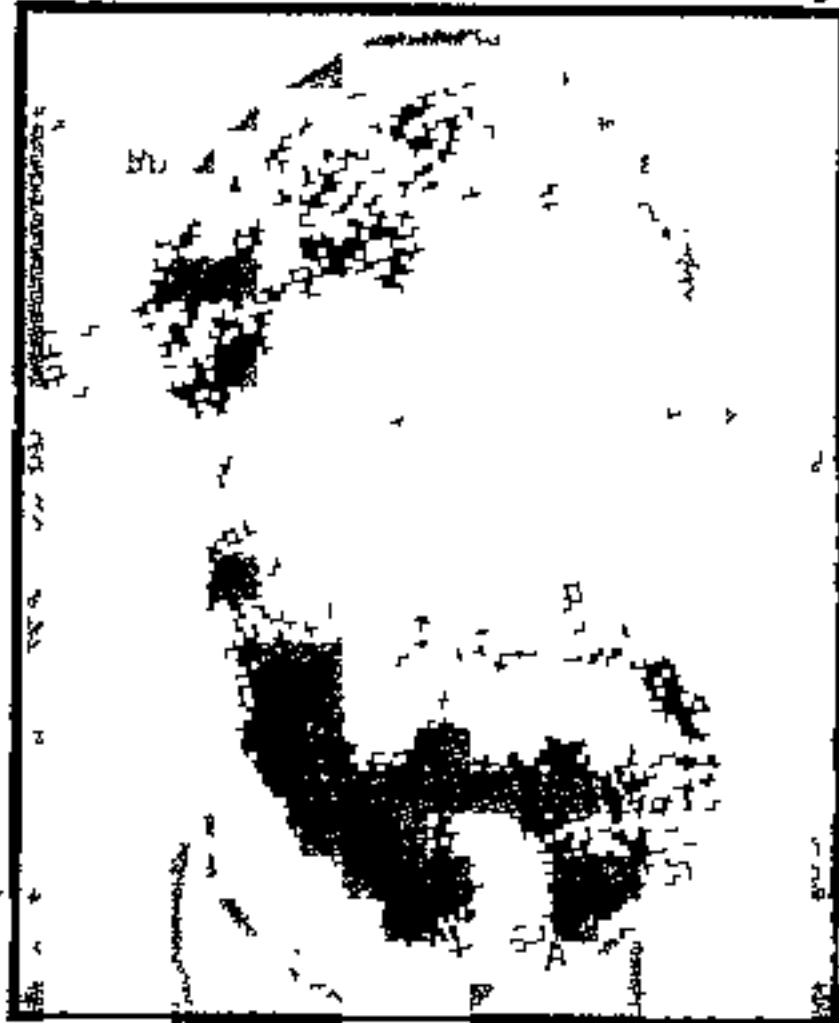
EAST LONDON — Multiple murderer Louis van Schoor was sentenced to 90 years in jail yesterday for seven counts of murder and two of attempted murder

He will serve an effective 20 years, as the sentences are to run concurrently. Van Schoor is to apply for leave to appeal.

A packed Supreme Court heard Mr Justice Lionel Melunsky pass sentence on a composed Van Schoor, whom he said had shown callous disregard for life.

The charges arose out of Van Schoor's activities as a self-employed security guard from 1986 to 1989. He shot dead at least 39 suspected burglars during that time, all of them black.

Mr Justice Melunsky also blamed official ineptitude for the number of fatal shootings, saying the killings



Van Schoor . . . callous disregard for life.

could have been stopped earlier. If police investigations into the shootings had been conducted properly, Van Schoor "could and should have been stopped in his tracks in 1987" and other lives would have been spared.

"If the proper authorities

had done their work, the killings would have been stopped," the judge said.

Van Schoor had "no mercy or compassion" for his victims, and the judge criticised him for "needlessly resorting to the use of a firearm with appalling frequency."

"A lengthy term of imprisonment is warranted and is the most appropriate sentence." He said he believed that Van Schoor could be rehabilitated.

In mitigation, the judge accepted that Van Schoor had a clean record until the beginning of 1987 and that he had a good service record with the police for 12 years.

He also took into account that Van Schoor had lost his business and income and had been subjected to stress and anxiety.

The judge said Van Schoor

● To Page 3 ■

## Louis van Schoor gets 90 years for 7 murders

● From Page 1

may have been affected by working in an environment where people reacted with violence, and criminals were considered enemies of society.

Mr Justice Melunsky warned, however, that society could not allow an individual to take the law into his own hands.

The courtroom was packed with spectators, some of whom felt that 20 years was not long enough and a few who felt sympathy for him.

Van Schoor seemed unmoved by his sentence and shook hands with supporters as he descended to the cells.

He had been acquitted of a further 12 counts of murder and 11 counts of attempted murder, in what is believed to have been one of the biggest murder trials in South African history.

The defence counsel, Johan Wessels, gave the court notice of leave to appeal against the convictions and sentences on all counts — Elnews

# Bill will fight against crime

THE Criminal Law Second Amendment Bill, which was tabled in Parliament on Monday, reflected the Government's commitment to fight violence and eradicate crime, the Minister of Justice, Mr Kobie Coetsee, said in a statement

"The Government is irrevocably committed to the introduction of a Bill of fundamental rights

"It is, however, quite obvious that a bill of rights and a rights culture cannot come to fruition in a climate of violence . . . which negates efforts to establish a rights culture."

Coetsee said the provisions of the Bill would effectively strengthen the hands of the men, women and children at grassroots level who suffered from violence, crime and intimidation

"They deserve the full protection of the State. They must not hesitate to assist the State in its drive to combat violence, crime and intimidation."

Included in the provisions of the Bill are special measures to combat intimidation, measures to combat offences in respect of organisations with a military character and measures relating to the unlawful possession of weapons as well as measures creating trials for special offences

Because of the far-reaching effect of the measures creating special trials and those relating to the possession of weapons, it is proposed that these provisions be valid for only one year unless Parliament agrees to an extension.

"Given the fact that 1 230 people were killed with firearms during 1991 and that violence continues unabated in certain areas, everyone who favours peace will agree that drastic measures need to be taken.

All peace-loving persons will agree that this legislation is both timely and necessary" - Sapa.



# Snoop Bill softened, reprieve for casinos

By Peter Fabricius  
Political Correspondent

CAPE TOWN — The Government has agreed to soften some of the harsher provisions of controversial new legislation dealing with telephone tapping, detention without trial and drug-related crime

Several important changes to Justice Department legislation were agreed to by Parliament's Joint Standing Committee on Justice yesterday

● All parties agreed that only a judge will be allowed to authorise telephone tapping and mail interception — and not an attorney-general as was originally proposed

This change was suggested by Democratic Party justice spokesman Tony Leon and was accepted by Justice Minister Kobie Coetsee

The justice committee agreed that telephone tapping can continue for only three months, not

six months as originally proposed

The crimes for which tapping can be carried out now exclude sodomy, bestiality and malicious damage to property. It will be used only for the most serious crimes

● The controversial law allowing the Government to summarily cancel the registration of newspapers is to be repealed

● It now seems that casinos in South Africa have been granted a reprieve because legislation to close loopholes in gambling laws will almost certainly not come before Parliament this session

Several important changes to the Criminal Law Second Amendment Bill — mostly proposed by the DP — were accepted by the National Party

● Authorities will be able to hold suspects detained for interrogation on weapons offences for only 30 days, not indefinitely as was originally proposed

● Lawyers will be allowed access to detainees, and courts

will be able to order their release

In the original draft of the Bill, suspects could be held indefinitely without trial and with no right to seek a court order for their release. Only officials could visit them.

The Bill, aimed at increasing the State's powers to fight violence and intimidation, sparked a public outcry with charges that the rule of law was being jeopardised

The justice committee also agreed to several important changes to the Drugs and Drugs Trafficking Bill which gives the State drastic new powers to fight drug-related crimes

Tough provisions for detaining drugs suspects for interrogation were softened. Suspects can now be visited by lawyers and they must be examined by a district surgeon every five days

The onus on bank managers and stockbrokers to prove that they were unaware that deposited money came from drug deals has been removed.

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STAR 17/6/92

# Criminal bill draws opposition criticism

CT 18/6/82 Political Staff. (252)

THE controversial Criminal Law Second Amendment Bill was opposed by the Democratic Party, Conservative Party and ANC during the second reading debate on the legislation last night

But Justice Minister Mr Kobie Coetsee said while the government was "not overjoyed" to introduce measures like these, it "cannot abdicate its duty, and that is to govern".

The bill is the chief weapon in the government's crackdown on violence and provides, among other things, for detention without trial for a period of up to 30 days for withholding information on the possession of certain illegal arms

Opposing the bill with "regret and reluctance", the DP's Mr Tony Leon said the legislation did not "effectively or sufficiently remove the evils inherent in the detention without trial provisions".

The CP's Mr Chris de Jager said he was pleased the clause for detention would only apply for a year.



# MPs angry over bid to rush Bills through session

(252) ARG 18/6/92

**MICHAEL MORRIS, Political Correspondent**

THE government has been roundly criticised for trying to ram important legislation through parliament before it rises tomorrow

MPs have had to contend with two evening sittings so far this week — and will face another tonight — as well as a marathon all-day meeting of the justice committee on Tuesday, to plough through the list of important and far-reaching Bills

Democratic Party justice spokesman Mr Tony Leon complained yesterday of having "extremely limited time" for a proper evaluation of two profoundly important Bills — the Criminal Law Second Amendment Bill and the Drugs and Drug Trafficking Bill

The DP opposed both because of the absence of "more fundamental due process protection measures"

Last night, in the first reading debate on the Income Tax Bill, DP finance spokesman Mr Ken Andrew said the reckless conduct of the government to have legislation put through parliament was a disgrace

He said, MPs had been told earlier there would be no financial legislation yesterday, but two tax Bills had been put down for debate on an order paper delivered late yesterday, allowing little time for the preparation of arguments

# 'Steamrolling' of new Bills angers ANC

DENNIS CRUYWAGEN  
Political Staff

ARG 18/6/92

THE African National Congress today accused the government of trying to steamroll "last-minute, badly drafted and ill-considered legislation" through parliament before the end of the session tomorrow.

An ANC statement singled out the Criminal Law Second Amendment Bill, the Defence Amendment Bill, the Provincial and Local Government Affairs Bill and the Internal Peace Institutions Bill for criticism.

They bore the "hallmarks of the total onslaught approach".

"Effective and impartial law enforcement does not need such a draconian armoury of new laws. We should be removing rather than adding such legislation to the statute books."

Attacking the Criminal Law Second Amendment Bill, the ANC said it sought to extend the period of detention without trial for 30 days to extract information on arms offences.

But the majority of delegates at Codesa had opposed detention without trial as a permanent piece of legislation.

The ANC said the Bill would extend the definition of intimidation to cover accusations in cases where no intimidation had taken place, deprive detainees of the right of access to their lawyers and families and shift the onus of proof.

The Bill would also create a vague offence of usurping the powers of the police or Defence Force and open the way for the government to prosecute people and organisations taking part in negotiations.



# Police quizzed about missing evidence

W/Week 12 | 6-18/6/92.

**P**OLICE were closely questioned at the Goldstone Commission this week about the disappearance of a crucial statement from a docket into the killing and injuring of African National Congress members at a funeral in Ermelo two years ago.

The ANC funeral, held in Wesselton township simultaneously with an Inkatha one, ended with two mourners dead and several others injured. More than four guns, including a machine gun, were used in the incident.

The Goldstone Commission — investigating reports in *The Weekly Mail* and attended by several senior policemen — heard in Pretoria this week that a member of the kwaZulu legislative assembly, Amos Mthungwa, had given a statement to the Ermelo police shortly after the incident on August 11 1990.

In the statement, Mthungwa admitted that Inkatha members had returned fire after shots had been fired at them from the ANC crowd. He added that two kwaZulu policemen, Constable Zwelli Dlamini and Warrant Officer Nlanhla Khawula, were among those who had shot at the

*A statement implicating two kwaZulu policemen in a fatal shooting incident*

*was replaced by one in which the two men were not mentioned, the*

*Goldstone Commission heard this*

*week. LINDA RULASHIE reports*

**ANC crowd**

Colonel Patrick John Oto, who was district commander of investigations in Ermelo at the time, told the commission that in July 1991 he was instructed to start a new investigation into the incident, after the ANC had complained that the South African Police were shielding members of Inkatha implicated in the shooting.

During the second investigation, another statement by Mthungwa was taken down and sent to the state prosecutor handling the case, but no mention was made of the evidence which implicated the two KZP men in the shooting.

Asked why Mthungwa's first statement was not included with the second one in the docket

that was sent to the prosecutor, Oto said he believed they had both been sent to the prosecutor.

However, counsel for the commission, Johan du Toit, said the prosecutor who handled the docket had informed him that Mthungwa's first statement had never been brought to her.

The commission heard that the document had since been found by Ermelo policeman David Hall in a cabinet in his office.

Due to the evidence brought before the commission, Judge Richard Goldstone has subsequently requested the attorney general of the Transvaal to investigate the incident and to consider suspending the inquest into the mourners' deaths, which is scheduled to start on June 26. All the dockets of this case will also be handed to the Transvaal attorney general.

Asked by counsel for *The Weekly Mail*, David Soggot SC, why the suspects had not been apprehended after nearly a year and whether Oto had asked the investigating officer what the particular problem was in arresting these men, Oto replied "I cannot remember whether I asked him

or not."

Police Captain Andre Marais, who is stationed at Ermelo, gave this account of his attempts to trace the two KZP men armed with warrants for their arrest, he visited KZP commissioner Jac Buchner in Ulundi, together with two senior SAP officials. They returned to Ermelo without the suspects. One could not be found because, Buchner said, there were many Dlamini's (although Marais said the warrant contained Dlamini's full police particulars). A KZP official went to fetch the other suspect but had not returned when the SAP contingent left.

When asked by Soggot why the men were only brought to Ermelo a year later, since as KZP men they were surely easy for Buchner to find, Marais was unable to give an explanation.

The commission had asked counsel for Inkatha, Louis Visser, to ascertain Buchner's version of these events. Visser said Buchner had told him during a phone conversation that one of the suspects was brought to the policemen and interrogated. Buchner had also told him that the SAP officials had wanted to arrest the suspect, but that he had intervened.

The commission heard that one of the firearms which belonged to the KZP men was ballistically tested and linked to the funeral shootings, but was later returned to the KZP.

Judge Goldstone asked Oto, "Do you not find that quite ironical?" Oto replied that it wasn't.

Warrant Officer Geldenhuys, who had taken over as investigating officer in the case in 1991, conceded on Monday that the manner in which the Ermelo police had handled the case could not have solved it.

During cross-examination, Soggot put it to Geldenhuys that in the course of constructing the new docket for the investigation, he had buried the relevant evidence.

He replied that he had not intended to do so. Goldstone then put it to him that it had the effect of the evidence being buried and Geldenhuys replied "yes".

Meanwhile, a former Black Cat gang member — referred to only as "Mr D" — implicated several Inkatha members from Ulundi, including Khawula, as having been involved in the shootings at the Wesselton funeral.

Mr D said he saw Khawula fire shots at the coffin of the person who was to be buried by ANC supporters that day. He said he did not know exactly how many shots Khawula fired at the coffin, which had been left lying on the ground after the crowd scattered.

Mr D alleged Khawula also fired at a teenage boy, identified only as Sibanyoni, when he fell to the ground after being shot. Sibanyoni had been at the front of the funeral procession and was holding up one of the poles of an ANC banner when he fell.

Mr D said on the evening prior to the funeral some Inkatha members from Ulundi — including Mthungwa — arrived in Ermelo in three cars. He said these men brought guns with them which they showed off to the Black Cat members.

"The men said that they had come to provide security in case there was an attack. They had 9mm guns, 38s and hand-machine carbines. They showed us these guns and explained what types they were and how to load them."

He said the next morning the men from Ulundi took their guns with them to the funeral, as did a local Inkatha leader, Noah Mqobokhazi, who carried an AK47 rifle.

Mr D alleged that they subsequently fired at the ANC crowd.

# Parties can receive foreign money

*Sowetan 18/6/92*  
THE prohibition on foreign financing of South African political parties is to be temporarily suspended in terms of legislation published in Parliament on Monday

The General Law Amendment Bill proposes a wide range of amendments, including changes to obsolete provisions and measures to supplement deficiencies in the law identified in legal practice.

A memorandum to the Bill states that the temporary suspension of the Prohibition of Foreign Financing of Political Parties Act emanates from the need for funds in order to expand the process of democratisation.

In another change, the common law crime of extortion is extended to include acts of a non-patrimonial nature.

The Sexual Offences Act is amended to provide that anyone found in a brothel who refuses to disclose the identity of the brothel keeper or manager shall be deemed to keep the brothel. Previously, this provision applied only to women.

The Criminal Procedure Act is amended so that

the race of an offender no longer has to be furnished on a charge sheet or indictment as it could be viewed as discriminatory

The Minister of Justice is empowered to refer to the Appeal Court the case of anyone sentenced to death prior to the commencement of the Criminal Law Amendment Act in 1990. Persons sentenced to death after this date have an automatic right of appeal.

The Goldstone Commission is also permitted to appoint pro deo legal representatives for witnesses appearing before the commission.

As in the case of general sales tax, a preferential claim in respect of value-added tax is granted to the State.

Another provision confirms correctional supervision as a sentencing option even in the case of statutory offences.

On the recommendation of the Advisory Committee on Non-Racial Area Measures, the conversion of certain quitrent titles into ownership is also allowed - *Sapa*



(252)  
**Alexander charged by CP**

Star 18/6/72  
The CP had laid charges against PAC general-secretary Benny Alexander for promoting armed attacks against the security forces, Fanie Jacobs (CP Losberg) said yesterday. He said the CP was under the impression that Mr Alexander had not been indemnified. Charges were laid on May 4.

## 'Govt took less than 2 weeks to table Goldstone report'

PARLIAMENT — The report of the Goldstone Commission of Inquiry into the prevention of violence and intimidation had been tabled less than 14 days after he received it on May 14, President F.W. de Klerk, said yesterday.

He said the report had been given to the Department of Justice on April 29 this year.

The report had been read, translated and prepared for printing before being handed to him.

The department thought the report had been a formal interim report, and not ad hoc findings. STAR 18/6/92

There was no time stipulation for the report to have been tabled and its presentation within 14 days did not represent a delay by parliamentary standards.

The Government had no intention of causing any doubt or suspicion on the work or credibility of the commission — Sapa



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# Fight last-minute Bills ANC

STAR 18/6/92

The ANC has called on concerned South Africans to oppose legislation being introduced during the current parliamentary session

"After nearly five months of the parliamentary session, last-minute, badly drafted and ill-considered legislation is being steamrolled through a complacent legislative system," the ANC said in a statement yesterday

"The most far-reaching changes in civil liberties since the passage of the dra-

conian Internal Security Act of 1982 are contained in the Criminal Law Second Amendment Bill"

The Defence Amendment Bill "will compel untrained servicemen to do police work in townships, thus introducing a further controversial element into policing"

The ANC said the Provincial and Local Government Affairs Bill would give "legal force to apartheid structures and perpetuate

racial privilege and domination", while the Internal Peace Institutions Bill would give justices of the peace, who were not judicial officers, power to force people to enter into a bond not to disturb the peace

It said the Interception and Monitoring Prohibition Bill would give "statutory effect to spying of the most insidious kind under the guise of combating crime and drug-dealing" — Sapa

● More reports — Page 8

# Goldstone witness tells of *STAR 18/6/92* 'bomb pay'

A witness to the Goldstone Commission committee inquiring into alleged underground police operations to kill Government opponents yesterday said he had been promised more than R5 000 if he petrol-bombed the homes of ANC, SACP and civic association members

Daniel Kolisang, of Sebokeng, told the one-man committee, chaired by R Wise, SC, that Sergeant J K R Seago, known to him at the time as "Oupa", had told him if he felt R5 000 was not enough he should say so and more money would be requested on his behalf

Mr Kolisang said on January 26 this year, Sergeant Seago, who earlier promised him employment with the TPA, said he should meet him in Vanderbijlpark the following day to collect the petrol bombs he was to use

He was told if he did not turn up he would be killed. He reported the matter to the ANC.

Earlier, Mr Kolisang said Sergeant Seago had on two occasions taken him to a secret house outside Vanderbijlpark to meet a white man who introduced himself as "Brian", who later also turned out to be a policeman, and who instructed him to get names and addresses of anti-apartheid activists in Sebokeng

Police counsel Phillip Hattingh produced reports which he said were written by Mr Kolisang to "Brian", but the witness denied it was his handwriting

He also denied having received R600 as his first salary from the police, and when a document was produced which indicated he had signed for the money, he said his signature had been forged — Sapa



# 'R5 000 offer for attacks on activists'

*sowetan 18/6/92*

*252*

A WITNESS yesterday told a committee of the Goldstone Commission inquiring into alleged underground police operations, that he was offered R5 000 to petrol bomb homes of ANC, SACP and civic association members.

Mr Daniel Kolisang of Sebokeng, told committee chairman Mr R Wise SC, that Sergeant JKR Seago, known to him at the time as Oupa, had told him if he felt R5 000 was not enough, he should say so and a higher payment would be arranged.

Kolisang said Seago also promised to secure him employment with the Transvaal Provincial Administration.

He said Seago then ar-

**SA Press  
Association**

ranged for him to collect the petrol bombs he was to use.

He was told if he did not turn up he would be killed. He reported the matter to the ANC.

Earlier, Kolisang had told the committee that Seago had on two occasions taken him to a secret house outside Vanderbijlpark to meet a white man who introduced himself as Brian.

## Signature

He said Brian, who later turned out to be a policeman, instructed him to get names and addresses of anti-apartheid activists in Sebokeng.

He said during the second meeting on January 16

he was ordered to collect petrol bombs. He said he did not and started staying away from his own home.

Kolisang said when he returned home on January 19, Seago asked him where he had been.

"I told him I was no longer interested in his work and that I wanted to go to school," he said.

He said Seago then told him he would arrange for his schooling if he worked with the police.

Counsel for the police, Mr Phillip Hattingh, produced reports which had allegedly been written by Kolisang. Kolisang denied it was his handwriting.

He also denied having received R600 as his first salary from the police.

He said the signature on the document had been forged.

# traces key witness <sup>252</sup>

SUSAN RUSSELL

A SENIOR police officer investigating the assassination of ANC lawyer Bheki Mlangeni had over a period of several months been unable to locate a witness who was found within a few hours this week by a junior legal clerk. *Blow*

This emerged yesterday at the inquest into Mlangeni's death, which is being conducted before Judge B O'Donovan in the Rand Supreme Court. 19/6/92

Capt Andre Kritzingger said he had failed to find the Post Office employee who, according to records, had insured the parcel containing the boobytrapped cassette player which killed Mlangeni.

But counsel for the Mlangeni family, G Rautenbach, said a law student working at the firm Cheadle Thompson and Haysom had located Karin Scholtz (now Smit) who had insured the parcel at Joubert Park post office.

She had been found in less than one afternoon.

Rautenbach gave Kritzingger Scholtz's address.

Rautenbach said the Mlangeni family felt the police had investigated the case inadequately. They were also concerned that Kritzingger and his senior, Lt-Gen Ronnie van der Westhuizen, had been implicated in a cover up in the Trust Feed case in Natal.

Kritzingger said neither he nor Van der Westhuizen had been involved in a cover up.

His superiors had agreed to a request from the Mlangeni family's lawyers to fingerprint police working at Vlakplaas. This was conditional on the names of about 100 policemen not being made public because they feared for their lives.

The court also heard that police investigators had analysed a fingerprint found inside the tape cover only four months ago.

A police handwriting analysis expert said the writing on the insurance sticker was similar to that on the tape. Rautenbach put it to Col Jacobus Hattingh that the two writing samples were the same.

Hattingh said the investigators had not given him the sample from the tape which said "Evidence of hit squads." So he had not been able to compare the two.



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**Viljoen is implicated by Ombudsman**

BILLY PADDOCK

CAPE TOWN — The Ombudsman Judge P J van der Walt yesterday confirmed that State Affairs Minister Gerrit Viljoen refused a recommendation from him four years ago to appoint a commission of inquiry into the affairs of the Development Aid Department

Former advocate-general Van der Walt said that at his request he had a meeting with Viljoen on December 6, 1988 and recommended an inquiry into the department following complaints by the Transvaal attorney-general of corruption

Officers of the auditor-general had made the same complaints to Viljoen

However, Viljoen rejected the recommendation. Viljoen instructed Van der Walt to work with the Transvaal attorney-general on an internal inquiry alongside a police inquiry. Van der Walt said in a letter to the Speaker of Parliament Eli Louw

Louw had called on Van der Walt to clarify the chain of events after a Parliamentary debate

B/Daw 19/6/92  
B/Daw 19/6/92  
**Secret accounts Bill is a sham, says DP**

CAPE TOWN — Government's draft legislation on secret accounts was a deliberate attempt to mislead the media and public by claiming such accounts would come under centralised control, DP Finance spokesman Ken Andrew said yesterday

He was speaking in the debate of the Secret Services Amendment Bill, which the explanatory memorandum says is designed to bring all secret service projects such as CCB operations under the control of an evaluation committee to prevent misuse

"This is simply not so," Andrew said

"It is a sham. It is a cosmetic cover-up that will not prevent the major abuses of the past. It is a case of 'The CCB is dead, long live the CCB'."

President F W de Klerk had given undertakings that secret projects would be tightly controlled and not misused. The Bill was an attempt to "mislead the media and the public into believing that those undertakings are being honoured, when in fact they are not", he said

He said the explanatory memorandum was misleading and guilty of perpetrating untruths by stating that two of the objectives of the Bill were

- To finance all secret services via the Secret Services Account from the budget of State Expenditure, and
- To limit the operation of the Special Defence Account to the supply of military

BILLY PADDOCK

armaments  
He said the Bill did neither of these things but instead tried "to fool as many people as possible that a procedure is being established that will prevent the awful abuse of secret funds occurring again"

The Bill did not limit the uses to which the billions of rands voted for the Defence Special Account (the largest of the secret accounts) could be used. The memorandum states that it would only be used for the purchase of armaments but this was not true, he said

It would continue to finance purchases, military intelligence and "special defence activities" as provided for in the Defence Special Account Act. The DP's amendment to limit the use of funds to purchases and military intelligence line functions had been rejected, he said

"So the secret funds used to finance CCB 1 will be just as readily available to finance CCB 2," he said

The limited extent to which CCB activities were uncovered was because of a procedural error in authorisation that allowed the auditor-general to pick up that the CCB existed

"There is no way of knowing whether other CCB-type activities or worse were taking place in the past, are taking place now or will take place in the future — and this Bill will ensure that we have no greater chance of finding out," he said

... have been stopped  
... are filled only after  
... consideration and subsi-

... rily for the commissioning of the new  
... intensive care unit and theatre com-  
... plex at Pelonomi Hospital

## Govt slated for late Bills

(252)

Political Staff

CAPE TOWN — Government came under fierce attack from the ANC and DP yesterday for trying to steamroller controversial legislation through Parliament in the last days of the current session *Bills 19/6/92*

DP senior whip Roger Burrows gave notice of a motion calling for Justice Minister Kobie Coetsee and State Expenditure Minister Amie Venter to be censured for late submission of Bills. Parliament's Chief Whip Alex van Breda was asked not to consider legislation unless sufficient time was allowed for it to be fully debated.

Burrows proposed that Coetsee be censured for late submission of the Criminal Law (Second Amendment) Bill, the General Law Amendment Bill, the Interception and Monitoring Prohibition Amendment Bill, and the Drugs and Drug Trafficking Amendment Bill, and Venter for the Secret Services Account Amendment Bill.

The ANC said government was trying to ram legislation with "hallmarks of the total onslaught" through Parliament before the current session ended today.



# 'Where police failed, student got witness'

Star 19/6/92

By Susan Smuts

A law student at the Cheadle, Thompson and Haysom law firm, where murdered ANC lawyer Bheki Mlangeni worked, managed within hours to trace a witness whom the police claimed they were unable to find, an inquest at the Rand Supreme Court heard yesterday.

Investigating officer Captain Andre Kritzinger, under cross-examination from Gys Rautenbach, appearing for the Mlangeni family, had told the court that the police could not trace the Post Office employee who insured the booby-trapped portable cassette player when it was sent to former security police captain Dirk Coetzee.

Mr Rautenbach said the student had tracked the employee and he had asked Captain Kritzinger whether he would take a statement from the employee. Captain Kritzinger replied that he would.

Mr Mlangeni was killed in February last year when a cassette player, intended for Mr

Coetzee, exploded as he tried to listen to a tape marked "Evidence — hit squads".

Mr Justice O'Donovan also heard that a handwriting analysis expert, Colonel Jacobus Hattingh, had not compared the handwriting on the tape to that which appeared on the insurance voucher because the handwriting on the tape had not been made available to him by the investigating officers.

Colonel Hattingh said that, on the face of it, the handwriting on the tape and the insurance voucher appeared to be the same. He would have to do tests to make certain, he added.

He also said he had received the fingerprints of Vlakplaas policemen only four months ago. The comparison between those fingerprints and those found on the cassette player was completed about a month ago. This was in spite of Mr Coetzee naming former colleagues at Vlakplaas as possible suspects shortly after Mr Mlangeni's death 16 months ago.

The hearing continues.

**Government's** proposed new powers for attorneys-general are an effort to clamp down on a wide range of crimes, including the illegal possession of weapons, drug dealing and the organising of private armies

The Interception & Monitoring Prohibition Bill and the Criminal Law Second Amendment Bill were expected to be rushed through parliament before the current session adjourned this week

The monitoring Bill widens existing powers to tap telephones and intercept mail. These powers have up to now been limited to activities that threaten State security

The Bill provides for the tapping and interception for other offences including drug dealing

The measures have been widely condemned by opposition groups that see them as an effort by government to curb political activity. However, the considerable power the authorities already have to tap and intercept makes this unlikely

The Criminal Law Amendment Bill raises far more serious issues, including the reintroduction of conditional detention without trial under certain circumstances. It aims, inter alia, to

Widen the parameters of the Intimidation Act to include "indirect forms of intimidation" and to broaden the interpretation of intimidation and increase the penalties that may be imposed. According to a memorandum published with the Bill this week, the aim is to "combat indirect intimidation, especially at bus stops, shopping centres, polling booths";

Withdraw the AGs' power to prevent the granting of bail and to issue warrants for the

FM 19/6/92

(252)

detention of witnesses in terms of the Internal Security & Criminal Procedures Acts — but effectively transfers these powers to the new Bill,

Streamline legal procedures in some criminal cases involving violence and intimidation to allow communities to see that offenders are brought to trial quickly,

Impose harsher penalties — including a mandatory five-year minimum jail sentence — for offences committed with illegal firearms and the unlimited detention of people who withhold information from the police relating to certain weapons, and

Restrict the activities of private armies, but does not prohibit them completely. They may not be organised, trained, equipped or armed in order to take over functions of the SAP or SADF

Justice Minister Kobie Coetsee says the measures are in line with government's commitment to curb "unacceptable levels of violence and intimidation"

He adds that the measures relating to special, speedier trials for certain offences, and the possession of weapons, have a "far-reaching effect" and will therefore be valid for only a year unless extended by parliament

While government remains committed to a Bill of Rights, it is, says Coetsee, quite obvious that its introduction won't be possible in a climate of violence ■



# Commission fed propaganda, says witness

By LINDA RULASHE

THE Goldstone Commission was being fed "propaganda and dirty tricks" by the South African Police, a witness told the commission in Pretoria this week.

Sebokeng African National Congress member Daniel Kolisang told the commission police had fabricated evidence and forged his signature to discredit him after he had helped expose a top-secret police base linked to the planning of violence against ANC and South African Communist Party activists in the Vaal.

Declaring that Kolisang was a police informer, counsel for the police, Phillip Hattingh, presented Kolisang with numerous documents containing lists of names he had allegedly provided and receipts for payments for which he had allegedly signed.

Kolisang denied he was an informer and said the documents and receipts were forged.

Hattingh also accused Kolisang of downplaying his involvement, and asked him whether he had not in fact harmed the ANC by giving information to the police. Kolisang replied: "There is nothing that I did that could in any way damage the ANC. I only gave them (the police) information regarding the names of the leadership and their addresses."

The covert police operation was unearthed by a *Weekly Mail* investigation in May following an affidavit made by Kolisang in January.

Befriended by a man called "Oupa" who claimed to work for "Delta Insurance", Kolisang said he was promised employment by "Oupa" and another man calling himself "Mike". They were later found to be policemen, respectively named Sergeant JKR Seago and

Johannes Mkwane.

Kolisang said he later found out that they wanted him to act as an informant.

On January 2, the commission heard Kolisang was driven to a house in the Vanderbijlpark area while lying on the back seat of a car with his head covered. He was later told it was for his own security so that other informers would not see him.

He said "Brian" — a white man who interviewed him at the house and later discovered to be a police sergeant, AG Steenekamp — offered him weapons training and money to carry out petrol-bomb attacks against ANC and SACP leaders. The weapons training was to be given by a certain Mike Kolokoto, who was attached to the De Deur Police Station.

The training would be conducted at a location near Rust-der-Vaal, which "Brian" suggested was a shooting range.

According to Kolisang, he was asked to establish the precise address of a number of Umkhonto weSizwe (MK) members, including someone called "Speech", Hlaphi Molatu and a certain "Ntyanyana", as well as the ANC's assistant PWV secretary, Bavumle Vilakazi, and Evaton SACP executive members Gideon Sithole, Martin Nkonkoto and "Comrade Phyllis".

"Were you prepared to help them (the police)?" Hattingh asked during cross-examination.

Kolisang replied: "I said yes, I was going to help them. Had I said something else, they would have killed me."

"Brian" had told him that "Speech" was "a bloody bastard" and that he had been responsi-

ble for sabotage in Sasolburg and for killing several people in Johannesburg.

Kolisang said that a second meeting followed on January 16, but the police deny meeting him on either of these occasions. They have instead provided dates of meetings during November and December, which Kolisang said did not occur as he had only met "Oupa" and "Mike" in January.

Kolisang said he thought he was dealing with the Afrikaner Weerstandsbeweging at the time.

"What is your attitude about the AWB?" Hattingh asked Kolisang. "Do you know their attitude towards blacks?"

"Yes," Kolisang replied.

"Are you against this or in favour of this?"

"I am not against anybody."

Hattingh later put it to Kolisang that "Brian" had explained to him that he was an SAP member and had in fact shown him his card.

"No, that's propaganda. He only told me he was 'Brian' ... I only found out during the investigations that he was a policeman after talking to the ANC and *The Weekly Mail*."

Kolisang told the commission "Brian" had offered him R5 000 to carry out petrol-bomb attacks on the houses of ANC-linked activists.

He said he was also asked to sign a form stating his name, ID number, the R5 000 payment and his code name, "Patrick Khumalo". The police deny having done this.

Hattingh put it to Kolisang that he had told "Oupa" he was interested in joining the South African Defence Force, to which Kolisang replied: "No, I said I wanted to join MK ... Why would I join the SADF if I am a member of the ANC?"

# Call to hound out corrupt officials

MORE than 25 organisations yesterday threw their weight behind an ANC-initiated coalition against Government corruption, political assassinations and violence

The organisations, which include Nafcoc, the South African Council of Churches, Cosatu, legal and human rights groups, adopted an "ANC briefing document on corruption and murder" at a day's summit in Johannesburg

The ANC said Azapo, which had been invited but did not attend, had pledged support to the campaign. The PAC had also been invited but did not attend.

The document said "consideration should be given to drawing up a 'wanted list' of apartheid criminals, just as the United Nations did some time ago"

"The possibility should not be excluded

of future trials for those engaged in such crimes, particularly those who continue to perpetrate these atrocities post-February 1990

The coalition is to campaign for the establishment of an independent commission of inquiry into corruption and State expenditure. The coalition said the commission should have "full access to all Government departments and records"

The coalition also intends to demand the seizure of assets of those implicated in the theft of public funds,

● The dismissal and prosecution of all Ministers and officials implicated in the misappropriation, and murder,

● Full disclosure of all secret projects and covert operations and the disclosure of all minutes of the State Security Council



# Violent '32' may retire after ruling

PETER FABRICIUS, Political Correspondent

CAPE TOWN — Defence Minister Gene Louw is reconsidering the deployment of controversial Portuguese-speaking 32 Battalion after the Goldstone Commission had ruled that it should never again be used for peace-keeping duties in South Africa.

The commission said in a report issued yesterday that 32 Battalion — composed mainly of Angolans — had been guilty of unjustified violence against residents of the Phola Park squatter camp on the night of April 8 this year.

Louw said he could not react to the findings before all investigations, including those by the SA Police and Defence Force, had been completed.

The allegations concerned certain individuals of one of the 40 platoons "of a proud unit of the Defence Force which has performed excellent work since 1974". The platoon was withdrawn from Phola Park soon after April 8.

But Louw added. "Taking the findings of Mr Justice Goldstone into consideration, the continued deployment of 32 Battalion will be considered against the background of the specific requirements of the South African Defence Force."

The commission found that more than 200 rounds had been fired by 32 Battalion in a skirmish with the Phola Park self-defence unit.

Several bullets had penetrated shacks and at least two residents were killed. A 32 Battalion platoon then did a sweep through the camp, supposedly to look for casualties and arms.

But the commission found the soldiers had acted in a manner "completely inconsistent with the function of a peace-keeping force and, in fact, became perpetrators of violence".

There was evidence that soldiers had not collected the injured and had in one case entered a shack and left an injured person who died the next day.

The battalion's own legal representatives had acknowledged that soldiers had committed acts of violence against residents.

Because it had acted unlawfully and contrary to its purpose and because the use of Portuguese-speaking soldiers had become controversial, the commission recommended that it should be withdrawn from Phola Park.



ON THE SPOT: Defence Minister Gene Louw.

## Swapo

Commission chairman Goldstone noted that there had also been serious complaints against soldiers of 32 Battalion when it was deployed in Imballi, Natal.

The battalion was involved for a long time in fighting against Swapo in Namibia and was perceived as being biased against the ANC, an ally of Swapo's. The perception was heightened by the inability of the battalion to speak a language understood by township residents.

Goldstone concluded therefore that 32 Battalion should not again be used for peace-keeping duties anywhere in South Africa.

He also recommended that the Defence Force take urgent steps to impress upon senior officers the difference between war-making and peace-keeping.

● TO PAGE 2.

## Soldiers

● FROM PAGE 1.

This recommendation followed an expression of concern by the commission about the evidence of the captain in command of 32 Battalion on April 8.

He had justified the use of what would normally be considered excessive force by soldiers on the grounds that they were involved in what amounted to a war.

The commission said that despite the gun battle in Phola Park that night, it should not have affected the battalion's responsibility as a

peace-keeping force for the maintenance of law and order in relation to the civilian population.

The commission expressed concern that this attitude might prevail elsewhere in the Defence Force.

Democratic Party defence spokesman Bob Rogers said the DP fully supported the recommendation that 32 Battalion should never again be used for peace-keeping duties.

It was natural to react aggressively when being fired upon. This stressed the importance of special training, strict discipline and strong leadership in units engaged in peace-keeping.



By Quentin Wilson

# 'Kaffirs' told to leave court

TWO Koekenaap women allege that a Vredendal magistrate called them "kaffirs" and that one of them was dragged from court, kicked and punched by police

Ms Nomarussa Matyeni and Ms Patience Nshangase allege that magistrate Mr Hendrik Muller ordered them removed from court when they attended the trial of a friend.

During a lunch-break in the trial on May 25, Matyeni and Nshangase were talking outside the court

Muller passed them and allegedly said: "You kaffirs, you're speaking about marches and toyi-toyis — you must get away from here"

Matyeni said, "We told him he was a racist. We told him he had no right to use such language with us.

"I did not expect him to speak like that to us. I knew that he didn't

like black people, but he is a magistrate and should enjoy respect."

When they returned to court, Muller instructed the women to leave the courtroom, which they did. Nshangase returned to the court to seek an explanation and Muller ordered the police to detain her. She was released later that day.

The next day when both women again attended court, Muller saw them and again ordered them out. Nshangase left the courtroom, but Matyeni refused to leave and the police removed her.

"A policeman grabbed my blouse. He dragged me out of the courtroom," Matyeni said.

"Outside, another policeman helped him and they twisted my arm, pushed me to the ground,

like black people, but he is a magistrate and should enjoy respect."

"I feel very sad about what happened, specially because it was done in public. Everybody must have seen my panties, because my skirt came right up to my hip. My arm still hurts," she said.

Matyeni spent the night in jail — charged with assaulting a policeman, crimen injuria, damage to property and resisting arrest.

Matyeni appeared in court the following day and was released. She appeared again on June 8 and the trial was postponed to August

"As soon as I was released I went to the doctor. He said he wouldn't treat me until I got a police form that explained what had happened

"The police refused to give me

252 Court 20/6-24/6/92

the form and said I must go to the Transkei and get it from Mandela," said Matyeni.

She claimed she tried to lay charges of assault against the policemen at the Lutzville and Vredendal police stations. At both stations, they refused to listen to her.

Muller said he could not "remember much" about what had happened in his courtroom, but denied calling the women "kaffirs."

"I think there is a criminal investigation on the go, so I am not in a position to comment on why they were expelled from court.

"I know that I would not call a black person a kaffir," Muller said.

The police refused to comment on Matyeni's allegations that she was assaulted

# Rush of Bills gives SAP wide powers

From Page 1

SITimes 21/6/92

By MIKE ROBERTSON: Political Correspondent

THE government has ended the parliamentary session with a rush of Bills which give extraordinary powers to the police to detain people indefinitely.

The measures — the government insists they are necessary to combat gun and drug running — have been strongly opposed by the liberal opposition.

Democratic Party justice spokesman Tony Leon argues the government has fashioned a club which can be used by a future government to suppress political opponents in the same way that Stalin used insanity laws in the Soviet Union.

In particular, the opposition is angered by the way the Bills have been raced through Parliament — in one case a Bill was tabled on Monday this week and approved on Wednesday night.

The result differing detention provisions in different pieces of proposed legislation.

Mr Leon said this week

there was no consistency in the sort of safeguards provided in the three pieces of legislation recently approved by Parliament. The legislation in question were amendments to the Internal Security Act, the Criminal Law Second Amendment Bill and the Drugs and Drug Trafficking Bill.

Mr Leon said the amended Internal Security Act made provision for indefinite detention.

But it contained a safeguard the arresting officer would have to have "reason to believe" the person in question had broken the law.

In addition, after being held for 10 days the detainee would have to be brought before a Supreme Court judge who would then determine whether the detention should continue and whether the reason for the arrest of the detainee was justifiable.

Finally the detainee would be examined, in pri-

vate, by a district surgeon every five days and visited, in private, by a magistrate every five days.

The Criminal Law Second Amendment Bill makes provision for the detention of a person withholding information relating to the possession of specific firearms.

In this case a person can be arrested on the authority of a magistrate whenever it appears to him that reasonable grounds exist for such an arrest.

Mr Leon said the wording "whenever it appears" would be much more difficult for the detainee to set aside than the "reasonable grounds" provision contained in the Internal Security Act.

## Doctor

In another variation, this piece of legislation makes provision for the detained person to be brought before a magistrate and not a judge every 10 days.

Finally, it provides that a person may only be held for a maximum of 30 days.

No provision is made for visits in private by either a district surgeon or magistrate.

The drug trafficking legislation, too, contains the wording that a person may be arrested "whenever it appears" to a magistrate that he is withholding information in a drug-related offence.

The detained person may be held indefinitely, must also be brought before a magistrate every 10 days, and will be visited by a district surgeon every five days, although not in private.

No provision is made for

a visit by a magistrate.

During the debate on the "Drugs Bill" Justice Minister Kobie Coetsee argued that it was necessary that the Bill be approved speedily in order to bring SA's drug trafficking legislation in line with the United Nations Vienna Convention.

This would allow SA to become a member of the convention.

However, Mr Leon said that there was no provision in the Vienna Convention for detention without trial.

# UN slates SA on exiles

SITimes 21/6/92

By EDYTH BULBRING: Political Reporter

THE United Nations this week presented a demarche — one of the most serious forms of diplomatic protest — to the South African government over security force treatment of returned exiles.

The UN High Commissioner for Refugees said it was gravely concerned about clear breaches of the agreement between the government and the ANC on the return of exiles.

The demarche says the breaches posed a serious threat to the future of the repatriation operation.

Talks between the UNHCR and representa-

tives of the departments of Law and Order, Justice and Foreign Affairs were held in Cape Town this week to try to resolve the differences sparked by recent security force action against returned exiles.

On June 8, more than 100 policemen surrounded the Sebokeng Reception Centre around midnight and searched the premises and more than 200 residents.

The UNHCR said it was concerned that during these arrests, and in other incidents against returned exiles, excessive force was used by police not only against exiles, but also against their relatives.

## Concerned

The Vaal Triangle centre is one of several established to accommodate returning exiles in transit to their homes.

The UNHCR said while no one was hurt and there was no damage to property, the incident was frightening for those who had recently returned to the country.

The demarche says the incident occurred at a time when the organisation was already concerned about a pattern of other actions and omissions regarding exiles, primarily by SA security personnel.

These incidents included the arrest and detention of exiles despite their being cleared of all offences before their return.

The UNHCR said it was concerned that during these arrests, and in other incidents against returned exiles, excessive force was used by police not only against exiles, but also against their relatives.

"According to several sources, such activities and the failure to provide security for the returnees have led or contributed to the reported loss of lives of 15 returnees," it said.

Foreign Affairs director-general Neil van Heerden said yesterday the repatriation programme had been a good joint exercise with the UNHCR and that the organisation should not allow incidents like these to spoil it.

"It is inevitable that there will be certain problems but there is no evil intent on the part of the government to circumvent the programme," he added.

He said the matter was being attended to and attempts would be made to prevent further incidents.

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TRANSVAAL. Fine and mild but warm in the north and Lowveld.

FREE STATE. Fine and mild but cold overnight.

NATAL. Fine and warm but cold over the interior overnight.

CAPE. It will be fine and warm but becoming cooler in the Eastern Cape with partly cloudy conditions along the coast overnight. The Western Cape will be fine and mild but partly cloudy and cold over the south-west and west coast where it will become cloudy with rain. The Cape north of the Orange River will be fine and warm becoming cooler in the west.

	High/Low	High/Low
Cape Town	0045/0643	1245/1917
Mossel Bay	0053/0653	1254/1930
Krystna	0104/0708	1305/1944
Port Elizabeth	0056/0654	1258/1930
East London	0057/0655	1302/1930
Durban	0053/0653	1302/1923
Wahns Bay	0053/0715	1259/1931

**BANGKOK**

THAI...



# Killer who hid behind the law

of p/ren 21/6/92. (252)

**KILLER** security guard Louis van Schoor, sentenced this week, had been able to "manipulate the law" to avoid prosecution for many years, according to the Black Lawyers' Association

Van Schoor was sentenced to an effective 20-year jail term in the East London Supreme Court this week on seven counts of murder and two of attempted murder. While working as a self-employed security guard between 1986 and 1989, he shot at least 39 suspected burglars dead

BLA publicity secretary Dumisa Ntsebeza, said the BLA was "alarmed" at how Van Schoor had been able to manipulate the law, particularly the Criminal Procedures Act, to avoid prosecution for many

years Van Schoor had pleaded justifiable homicide in terms of a section of the law which allows burglars to be shot if they attempt to escape. Earlier inquiries had exonerated him on these grounds

Ntsebeza said there was a law for the poor, who were mainly black, and one for the rich, who were mainly white

"If Van Schoor had been killing white kids at the rate he did (kill black kids), the mayhem would have been stopped almost immediately," he said

Passing judgment this week, Justice Lionel Melunsky also blamed offi-

cial ineptitude for the number of fatal shootings

He said if police investigations had been properly conducted Van Schoor "could and should have been stopped in his tracks in 1987" and other lives would have been spared

Concern has also been expressed that Van Schoor actually serves out his sentence

Head of the judicial reform project at Lawyers for Human Rights, Jody Kollapen, said he hopes the sentence is carried out and that "some bureaucrat" doesn't decide in six months that Van Schoor should be released

"We are concerned that he does in fact serve the effective sentence, given the complicity that existed before he was charged and him being an ex-police officer," Kollapen said.

The sentence has excited wide comment and interest. Some have said he should have been hanged, while others called the sentence too harsh.

Border ANC media officer, Mcebisi Bata, said the ANC is opposed to the death sentence, but he believes Van Schoor should have been given a longer sentence.

"Mandela spent 27

years in jail and he never killed anyone, while Van Schoor killed at least seven people," said Bata.

The BLA's Ntsebeza said "The death penalty is never appropriate, even for people like Van Schoor"

But a local AWB leader, John du Toit, said Van Schoor should have been given a suspended sentence

"I'm utterly disgusted," he said "We need more people like him"

One taxi commuter said she thought Van Schoor should be hanged and then the death penalty abolished. - Elnews



PUBLIC outrage greeted the acquittal of seven members of the Inkatha Freedom Party charged with multiple murder in Sebokeng

The seven were acquitted on 38 charges of murder at the Vereeniging Circuit Court this week.

There were cries of "Sies!" outside the court after Judge W Schutz acquitted the seven for their involvement in the Sebokeng night vigil massacre of January 12.

A massive 200 people attending the night vigil of ANC organiser Christopher Nangelimbe were shot with AK-47s.

According to court documents, a grenade was also hurled into a tent packed with mourners.

The seven were cock-a-hoop after the judge had acquitted them on eight charges of attempted murder and three of illegal possession of AK-47s, ammunition and a grenade.

The accused are Zebuse Khuzwayo, 38, Aubrey Mfanafuthi Myeni, 23, Aaron Nkosinathi Mtshali, 21, Daniel Mokgethi Mabote, 22, Silwane Kubheka, 27, Thomas Siphon Lukhozi, 28 and Hunter Ndlovu, 18.

In his summary, the judge said the ANC did not want the police to obtain statements from some witnesses for the trial.

ANC member Barbara Hogan said it was very

# Rury over acquittal of Sebokeng 7

CPA 21/6/92 (252)

disturbing that the perpetrators of massacres were never brought to book.

"The police never seem able to catch up with the real culprits," added Hogan.

There were long faces outside the Vereeniging courts afterwards.

Some people were too angry to answer City Press questions, but a relative of one of those fatally shot at the night vigil said shaking his head: "Justice has gone to the dogs in this country."

A close member of Christopher Nangelimbe's family smiled bit-

terly and said: "What could one expect."

Judge Schutz in his summary ruled that the evidence of the three policemen witnesses was unreliable and was therefore inadmissible.

It was the court's view that the accused made the confessions concerning the massacre under duress and not voluntarily.

The judge also took into account the evidence of Const Musawenkosi Kubheka who earlier told the court that some of the weapons were found by police in an empty room belonging to a woman called Lindiwe.

She was away visiting her baby in Natal when the accused were arrested and the weapons found in January.

The judge further pointed out that State Prosecutor FC Roberts had failed to prove that the accused were guilty, therefore the court was not satisfied that the accused had been involved in the massacre.

He said it was not for the court to say why there was a public massacre and people were killed without reason.

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# Van Schoor dodged the law for years

*Sawetan 22/6/92 :*

**FOCUS**

*252*

**THE** killer security guard Louis van Schoor, sentenced last week, had been able to "manipulate the law" to avoid prosecution for many years, according to the Black Lawyers' Association.

Van Schoor was sentenced to an effective 20 year jail term in the East London Supreme Court this week on seven counts of murder and two of attempted murder.

While working as a self-employed security guard between 1986 and 1989, he shot at least 39 suspected burglars dead.

The publicity secretary of the Black Lawyers' Association, Mr Dumisa Ntsebenza, said the BLA was "alarmed" at how Van Schoor had been able to manipulate the law, particularly the Criminal Procedure Act, to avoid prosecution for many years.

Van Schoor had pleaded justifiable homicide in terms of a section of the law which allows burglars to be shot if they attempt to escape. Earlier inquiries had exonerated him on these grounds.

Ntsebenza said there was a law for the poor, who were mainly black, and one for the rich, who were mainly white.

"If Van Schoor had been killing white kids at the rate he did (kill black kids), the mayhem would have been stopped almost immediately," he said.

Passing judgment this week, Mr Justice Lionel Melunsky also blamed official ineptitude for the

number of fatal shootings. He said if police investigations into the shootings had been conducted properly Van Schoor "could and should have been stopped in his tracks in 1987" and other lives would have been spared.

Concern has also been expressed whether Van Schoor will actually serve out his sentence.

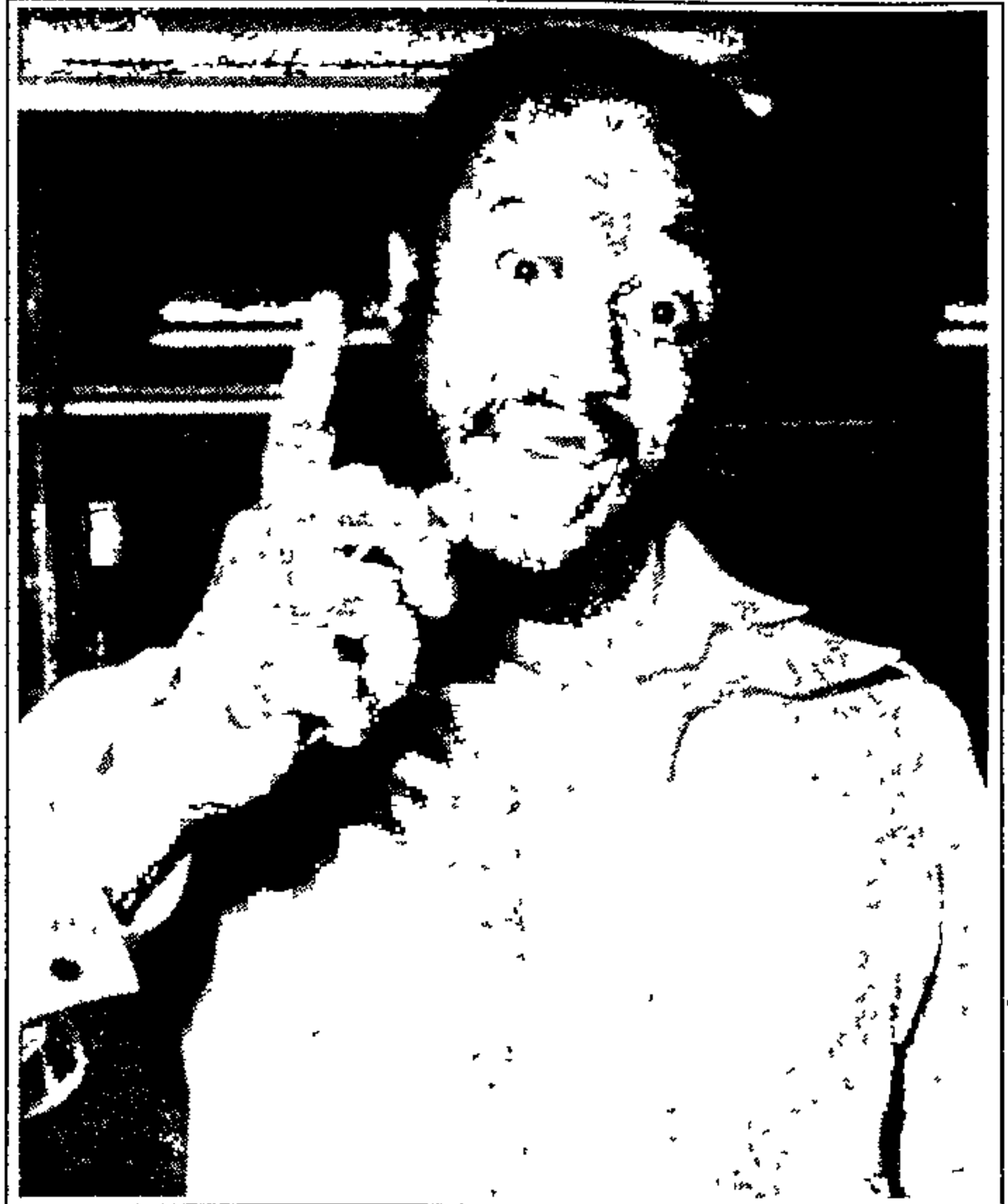
The head of the judicial reform project at Lawyers for Human Rights, Mr Jody Kollapen, said he hoped the sentence was carried out and that "some bureaucrat" doesn't decide in six months that Van Schoor should be released.

"We are concerned that he does in fact serve the effective sentence, given the complicity that existed before he was charged and him being an ex-police officer," Kollapen said.

The sentence has excited wide comment and interest. Some have said he should have been hanged, while others called the sentence too harsh.

The Border ANC's media officer, Mr Mcebisi Bata, said the ANC is opposed to the death sentence, but he believed that Van Schoor should have been given a longer sentence.

"Mr Mandela spent 27 years



**Dumisa Ntsebenza ... law was manipulated.**

in jail and he never killed anyone, while Van Schoor killed at least seven people," said Bata.

The BLA's Ntsebenza said "the death penalty is never appropriate, even for people like Van Schoor" and they applauded the judge for not imposing it.

Democratic Party Member of Parliament, Mr Andre de Wet, said he thought it was a "just sentence". He said 20 years was not an excessive sentence for seven murders.

But a local AWB leader, Mr John du Toit, said Van Schoor

should have been given a suspended sentence.

"I'm utterly disgusted," he said "We need more people like him."

There have been sympathetic sentiments towards Van Schoor from some people in the community, with "I love Van Schoor" stickers published, but most people said they thought he deserved harsher punishment.

One taxi commuter said she thought Van Schoor should be hanged and then the death penalty abolished - El News.

Political comment in this issue by Aggrey Klaaste and Joe Thlooe Newsbills by Sydney Matlhaku Sub-editing and headlines by Ivan Fynn. All of 61 Commando Road, Industria West, Johannesburg  
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# Unrest 'inhibits rights bill'

One of the single most important factors inhibiting the operation of a bill of rights in South Africa is the culture of violence in the country, says the head of the Human Sciences Research Council's Centre for Constitutional Analysis, Dr Bertus de Villiers.

He is a co-compiler of the HSRC's latest publication, "Human Rights Documents that Paved

the Way," which is said to contain reproductions of the most important human rights documents of the world.

If radical steps were not taken to develop a culture of tolerance in SA, a bill of rights would have scant chance of success, he said.

A legally enforceable bill of rights would put an end to the dominant

position of Parliament. The country's courts would be able to test all legislation and administrative actions of the authorities against the bill of rights, Dr de Villiers said.

Should such legislation or actions clash with the provisions of the bill, for the first time in SA's constitutional history the courts could declare them invalid — Sapa

STAR 2/16/79  
252

# Sebokeng

## killings:

252  
7 suspects

STAR 22/6/92  
acquitted

By Melody McDougall  
Vereeniging Bureau

VEREENIGING — Seven men have been acquitted in the Vereeniging Circuit Court on 38 counts of murder and eight of attempted murder arising from the ANC funeral vigil massacre in Sebokeng's Zone 7 on January 11 last year.

The group — all allegedly members or supporters of Inkatha — were on Friday also found not guilty of charges relating to the possession of firearms and ammunition.

Mr Justice W Schutz said the public would ask why nobody could be convicted, but added that the State had failed to prove beyond reasonable doubt that any of the seven accused were the attackers.

The judge said the police should have tried harder to find incriminating evidence.

What remained though, he said, was that there were many ordinary people who were brutally murdered and senselessly slain, and that the culprits had not been brought to justice.

Referring to the trial-within-a-trial regarding statements and confessions made by some of the accused after their arrest, Mr Justice Schutz said the court had ruled that they were inadmissible as there was evidence these accused had been intimidated by police into making the statements.

The two main witnesses for the State in this regard were two detectives, a Sergeant Marais and Sergeant Gerhard Peens, whose testimony the judge criticised.

He stated that the court "took a strongly adverse view of the evidence led by the pair, and that it was very probable they had set out to deliberately deceive the court."

The seven acquitted are Zebuse Khuzwayo (32), Aubrey Myeni (23), Aaron Mtshali (21), Daniel Mabote (22), Filwane Kubheka (37), Thomas Lokhozi (28) and Hunter Ndlovu (18).



# Battalion not fit to keep the peace

Sowetan 22/6/92

252

MEMBERS of the SA Defence Force's 32 Battalion should not be used for peace-keeping duties anywhere in South Africa

This is what a committee of the Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation recommended in its report on the army unit's behaviour

The report, signed by Mr Justice Richard Goldstone on June 10, was released on Friday

The committee also recommended that the Defence Force consider any steps necessary to ensure officers were made aware of their special role in peace-keeping duties

The committee found 32 Battalion had failed to carry out the function it entered the area for, which was to look for injured people

The battalion had acted in a manner completely inconsistent with the function of a peace-keeping force and, in fact, had become perpetrators of violence.

# Alleged Sebokeng killers freed

SEVEN members of the Inkatha Freedom Party have been acquitted of 38 counts of murder arising from the Sebokeng vigil massacre of January 12. Mr Justice W Schultz

acquitted the men, who also faced eight attempted murder charges and three of illegal possession of firearms, ammunition and a handgrenade. They had pleaded not guilty in the

*Soweto*  
Vereniging Circuit Court. Handing down his judgment on Friday, Justice Schultz pointed out that State Prosecutor Mr FC Roberets had failed to prove the accused had been

involved in the massacre. He further noted the accused made their confession under duress. The men are Mr Zebuse Khuzwayo (38), Mr Aubrey Mfanafuthi Myeni

(23), Mr Aaron Nkosmathi (25), Mr Daniel Mshali (21), Mr Daniel Mokgethi Mabole (22), Mr Silwane Kubheka (27), Mr Thomas Sipho Lukhozi (28) and Mr Hunter Ndlovu (18).

According to court records, a grenade was hurled at the tent in which more than 200 mourners held a night vigil for slain ANC organiser Mr Christopher Nangalembe in Zone 7 Sebokeng.



# Killings inquiry

THE Goldstone Commission will hold a preparatory inquiry into the massacre at Boipatong township and the Slovo squatter camp

The commission's chairman, Mr Justice R Goldstone, said the commission would sit in public at 10am on July 2 and 3 to ascertain from witnesses the issues and disputes concerning the events of June 17 and 18.

The commission would in the meantime conduct its own full investigation, he said

The commission appealed to all interested parties to come forward immediately and furnish any relevant information to the secretary of the Commission at Private Bag X858, Pretoria, 0001, or fax number (012) 320-3812 - Sapa

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Soweto

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# Violence curbs Bill of Rights

STAR 22/6/92  
One of the single most important factors inhibiting the operation of a Bill of Rights in SA is the culture of violence in the country, says the head of the Human Sciences Research Council's Centre for Constitutional Analysis, Dr Bertus de Villiers (252) • Page 5

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## ANC slams acquittal of hostel <sup>(252)</sup> seven

WILSON ZWANE

THE ANC has hit out at the acquittal of seven Kwa-Madala Hostel inmates by a Vereeniging Circuit Court saying it further diminished township residents' faith in the police and judicial system

The seven, who were acquitted on Friday, had been charged with murdering 38 people at an ANC funeral vigil in the Vaal Triangle township of Sebokeng in January last year

Judge Schutz was reported to have acquitted the seven because the State had failed to prove beyond reasonable doubt that any of them had been involved in the attack

ANC spokesman Saki Macozoma said the matter was of such magnitude that Law and Order Minister Hernus Kriel should make a public statement on it

The judge's acquittal of people implicated in murders because of a lack of evidence further diminished township residents' faith in the police and the judicial system, Macozoma said

A former official of the Independent Board of Inquiry into Informal Repression Anton Steenkamp said failure by police to find incriminating evidence where the accused had Inkatha links "seems to be a recurring theme"

The board, in a special report earlier this month, said hostels were a key element in the violence which had gripped the Reef since July 1990 in which 1 207 people died

ANC president Nelson Mandela said this week that had government "transformed" hostels into family units, as it had promised, people would not have been killed in Boipatong last week

Blow 23/6/92



ssday, June 23 1992

# Top policemen to be fingerprinted

*B/Dcy 23/6/92*

*252*  
SUSAN RUSSELL

LAWYERS acting for the family of murdered ANC attorney Bheki Mlangeni yesterday submitted to the Rand Supreme Court a list of 34 people, including police forensic chief Gen Lothar Neethling, from whom they wanted fingerprints and handwriting samples taken

Counsel for the State said five of the people on the list were dead, but fingerprints and handwriting samples would be taken from the others by today

The inquest into Mlangeni's death is being heard before Judge B O'Donovan Mlangeni was killed in February last year when he activated a booby-trapped portable cassette player intended for former security police captain Dirk Coetzee

A package containing the cassette player and a tape with "evidence hit squads" written on it were posted to Coetzee in Lusaka

Coetzee had been living there under the protection of the ANC after fleeing SA when his allegations about the existence of covert police hit squads based at Vlakplaas outside Pretoria were published

He did not collect the parcel and it was redirected to Mlangeni, who was listed as the sender

Mlangeni was killed instantly when he activated the cassette player

at his home on February 15 last year

Another name on the list submitted by the Mlangeni lawyers yesterday was that of a Col Wahl du Toit, who worked at the police forensic laboratory in Pretoria and who has been implicated by Coetzee as a suspect

Meanwhile, senior investigating officer Gen Ronnie van der Westhuizen testified yesterday that he was satisfied the police had done everything possible to solve the Mlangeni case

He said this after counsel for the Mlangeni family Gys Rautenbach asked him why the police had delayed three months before searching Vlakplaas in response to Coetzee's allegations that his former colleagues there were responsible for the booby-trapped cassette player

Van der Westhuizen said Vlakplaas had been searched long before and during the Harms commission

The inquest has heard from Rautenbach on a number of occasions that the Mlangeni family is unhappy about the way the police investigation has been conducted Rautenbach has also put it to another member of the police investigating team, Capt Andre Kritzinger, that the family was unhappy about the fact that both he and Van der Westhuizen had been implicated in an attempted cover-up in the Trust Feed case in Natal.

## Policeman faces two murder charges

*B/Dcy 23/6/92*  
MARITZBURG — Former SAP Mooi River station commander Lt George Nichaus, 49, will stand trial in September on two counts of murder and two of attempted murder

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Own Correspondent

district, and refrained from interfering with police in the town

His charges stem from alleged unlawful police action, relating to incidents in Bruntville township when police allegedly fired on a crowd commemorating Soweto Day in 1990, and on an April 7 protest march

aved away

# Reopen Biko case - Azapo

The Azanian People's Organisation yesterday called on the International Commission of Jurists and Amnesty International to investigate claims by former security policeman John Horak that police killed Steve Biko

Horak claimed in an interview with *Vrye Weekblad* newspaper the Black Consciousness leader was beaten to death in 1977 by a policeman who was angry because he had allegedly insulted a colleague

In a statement from Pietersburg, Azapo national media liaison officer Mr Khangale

Makhado said the disclosures came as no surprise to members of the organisation

"We, therefore, call on the international community to investigate the disclosures because we have no trust in the local judiciary to be able to come out with a proper finding

"Azapo will ensure that all those responsible for the murders of Steve Biko, Onkgopotse Tiro, Tsietsi Mashimani and many others will face their Nurembergs in a liberated Azania," Khangale added - *South African Press Association*

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# Policeman faces murder charges

Own Correspondent

MOOI RIVER — Former Mooi River police station commander Lieutenant George Niehaus (49) will stand trial in the Maritzburg Supreme Court from September 14 to 25 on two counts of murder and two of attempted murder

The trial date was set when he appeared in the Magistrate's Court yesterday

His bail of R3 000 was extended on the condition that he does not enter the district of Mooi

River and that he does not interfere with members of the South African Police there

The charges against him relate to incidents in nearby Bruntville township when police allegedly fired on a crowd on June 16 1990

The crowd had gathered in the main street

Lieutenant Niehaus is charged with murdering Jotham Nchuu on April 7 1990 and Sibusiso Madela on that day

The other charges both relate to incidents on June 16

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# Mlangeni: Cop is satisfied with his probe

*Sowetan 23/6/92*  
THE senior investigating officer in the murder of ANC lawyer Bheki Mlangeni told a Rand Supreme Court inquest yesterday he was satisfied with his investigations.

General Ronald van der Westhuizen, who was implicated in the alleged Trust Feeds cover-up, told Mr Justice B O'Donovan that everything which could have been done to trace the murderer had been done.

He also said there was no point in re-investigating allegations made by former security police Captain Dirk Coetzee.

Coetzee was the intended victim of the cassette player which killed Mlangeni when it exploded. Coetzee had handed Van der Westhuizen a manuscript detailing the activities of alleged hit squads, and implicating former colleagues at Vlakplaas and Colonel Waldu Toit, who worked at the police technical laboratory in Pretoria.

Van der Westhuizen said he did not believe Coetzee's allegations as "he named everyone he knew".

Gys Rautenbach, the Mlangeni family lawyer, asked why it had taken the police three months to search Vlakplaas and the technical laboratory.

"What would we get there after one month that wouldn't still be there after three months?" Van der Westhuizen asked.

# Officers to be fingerprinted

*Monday 24/6/72*  
POLICE would take fingerprints and handwriting samples from more than 30 people, including two of its own senior officers, in the presence of an independent forensic expert employed by the family of assassinated ANC lawyer Bhekis Mlangeni, the Rand Supreme Court heard yesterday

Judge B O'Donovan, who is hearing the inquest into Mlangeni's death, was told this was one of the terms of an agreement between lawyers acting for the police and those representing the Mlangeni family

Counsel for the family, Gys Rautenbach, submitted a list of 34 names on Monday from whom fingerprints and handwriting samples were wanted

It includes police forensic chief Lt-Gen Lothar Neethling and Col Wahl du Toit

Mlangeni was killed at his home in February last year when he activated a booby-trapped portable cassette player meant for former security policeman Capt Dirk Coetzee

The tape recorder and a cassette marked "evidence of hit squads" were

~~SUSAN RUSSELL~~ SUSAN RUSSELL (252)

posted to Coetzee in Lusaka. He did not collect the parcel, which was redirected to Mlangeni, who was listed as the sender

Coetzee has claimed that his former colleagues at Vlakplaas were responsible for sending him the package and has implicated Du Toit as a suspect

Rautenbach said Col Jacobus Hattingh would take the samples in the presence of independent forensic expert Dr David Klatzow and attorney Peter Harris

He said Klatzow would be allowed to determine the identity of each person from their identity book

Each person would have to write his name and provide a full set of fingerprints

A copy of the specimens would be lodged with the Attorney General for safekeeping. Rautenbach said Klatzow would be allowed to examine the specimens in Hattingh's presence. Each of several experts would then make the results of their analysis available to the other

The inquest has been adjourned to July 6.

## Police smash five car-theft syndicates

FIVE vehicle-theft syndicates have been uncovered and 18 members arrested in a weeklong crackdown on vehicle robberies in the northern Transvaal

Police said yesterday 63 vehicles worth more than R4m were recovered

In addition, a further seven people were arrested for vehicle thefts and cars to

STEPHANE BOTHMA

the value of another R900 000 were recovered, the SAP motor vehicle theft unit in Pretoria said

The police also said 463 arrests had been made by the child protection unit last month. This included 126 rapes, 80 indecent assaults and 49 assaults on children

During May the diamond and gold unit arrested 235 people and took possession of diamonds, gold and other gems valued at R1,3m

The commercial branch charged 338 people in cases involving R6,3m

The narcotics bureau arrested 2 145 people and confiscated more than 1-million mandrax tablets

## NP appeals to Potchefstroom blacks

*Monday 24/6/72*  
POTCHEFSTROOM — NP secretary-general Stoffel van der Merwe addressed an incident-free meeting for the first time in the black township of Ikageng, on Monday night, as part of the NP launch in the area

Arriving in a black taxi, without a police or body-guard escort and accompanied by six white NP supporters, Van der Merwe addressed the lively audience of about 300

However, the residents

forced him to abandon the Afrikaans/English format after a vote in favour of an English speech with Tswana interpretation.

Members of the ANC and PAC later strongly criticised him and government for the logjam at Codesa, the Boipatong massacre and the failure to implement an interim government.

Van der Merwe said "I refuse to apologise for

apartheid I did not cause it. I am very sorry for it, but all my political career, I have fought for its downfall"

Asked about relations with the ANC now that it had partially suspended talks with the government, Van der Merwe said. "We cannot negotiate in this manner with the ANC. Let us work together, win together for a rich nation"

"If we keep fighting, we will all lose" — Sapa

# Legal brains seek more jobs to aid own unemployed

LINDA GALLOWAY, Staff Reporter ARG 24/6/92  
ATTORNEYS are battling to find work and structural changes to the profession to help the legal jobless.

Many smaller law firms have stopped training articled clerks — a minimum requirement to practise as an attorney — and larger firms have cut down on the number of trainees they will employ.

The deputy director of the Law Society of the Cape of Good Hope, Mr Ian Murray, said there was concern in the profession that many recently qualified attorneys had not been able to find work.

"I know a number of them have set up their own practices because they weren't able to get jobs," he said.

"Most big law firms take a quota of articled clerks every year and with the number of applications, they can pick and choose.

"Small firms can't afford it any more. Times are tough."

Mr Murray said it was impossible to predict how many law students would want to become attorneys until they started applying for positions.

"Many go into commerce or industry, become advocates or join the justice department."

There were discussions taking place in the profession on the restructuring of the clerkship, taking into account the opening of a full-time practical training course in Cape Town next year, and the possibility that legal aid clinics would be allowed to employ clerks.

"We are discussing making the clerkship shorter if students attend the practical training course; and more jobs will become available if clinics can employ clerks," he said.



## Setting the record straight (252)

In a report in The Star on June 22 on the acquittal of seven men on charges of murder following a Sebokeng massacre, Mr Justice Schutz was quoted as saying the police should have tried harder to find incriminating evidence. He was also quoted as saying the police had said they were prevented from speaking to certain witnesses.

The Star's attention has been drawn to the fact that

in the judgment, the court did not make any finding as to whether the police were remiss in their investigation.

Star 24/6/92  
After stating that the court simply decided on the evidence before it and was not an investigating body, the judge said it might be suggested that the police might have tried harder, but the court was unable to reach a conclusion. The Star regrets the error.

# Mlangeni: experts to analyse writing

By Susan Smuts

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An independent forensic expert retained by the family of slain ANC lawyer Bheki Mlangeni will examine the handwriting samples of 34 policemen to determine if any of them can be implicated in Mr Mlangeni's murder.

This in terms of an agreement reached yesterday by lawyers representing the family and the Minister of Law and Order at the inquest into Mr Mlangeni's death.

Police handwriting analyst Colonel Jacobus Hattingh and independent forensic expert Dr David Klatzow will make the results of their work known to the police and the Mlangeni family before the inquest into Mr Mlangeni's death resumes in the Rand Supreme Court on August 6.

Colonel Hattingh, Dr Klatzow and attorney Peter Harris, of the law firm Cheadle Thompson & Haysom, are to be present when the samples are taken. The specimens are to be kept by the Attorney-General.

Mr Mlangeni was killed in February last year when a portable cassette player intended for former security police captain Dirk Coetzee exploded.

Former Joubert Park post office employee Karen Smit, who handled the cassette player when it was sent to Mr Coetzee in Lusaka, told Mr Justice D O'Donovan she could not remember who had posted it. Under cross-examination from Gys Rautenbach, for the Mlangeni family, she denied telling the law student who traced her that a black man had posted the parcel.

## No witnesses in massacre probe

(252) WILSON ZWANE

NOT one Boipatong resident had come forward with information to assist police investigations in last week's massacre, a police spokesman said last night.

Lt-Col Dave Bruce Bruce said newspaper reports were being used to try to find witnesses.

"People quoted in the Press as having made certain allegations are potential witnesses and we would like these people to come forward and give us the information"

Meanwhile there were more incidents yesterday on the Golden Highway between Johannesburg and Vereeniging. Sapa reports that two meat trucks were set alight and looted. The road was closed on Tuesday after mobs set fire to 13 vehicles.

Police said a man was necklaced in Sebokeng yesterday afternoon.

At least four people were killed in Folweni, south of Durban, and one person murdered at Esikhawini, in northern Natal, on Monday and Tuesday, KwaZulu police said.

The Human Rights Commission recorded 106 deaths and 86 injuries in the week to Tuesday — the highest toll since the week preceding the March 17 referendum.

## Churches offer to help settle row over squatters

AN ALLIANCE of churches representing a wide spectrum of denominations has offered its services as mediator in the conflict surrounding the relocation of the Zevenfontein squatters.

Church Alliance for Zevenfontein spokesman Ron Steele said in a statement that the organisation had canvassed the support of 14 churches in the Randburg/Sandton area — ranging from the Methodist Church to Rhema Ministries — "to ensure the peaceful settlement of the Zevenfontein community in the area". Other church groups are expected to join the alliance.

Steele said the alliance had been formed to counter the demonstrations by Diepsloot and Nietgedacht residents who were opposed to the resettlement of the Zevenfontein squatters in their areas.

In the event of the Zevenfontein community being relocated to Diepsloot and Nietgedacht, the alliance would "stand against all forms of aggression by anyone in the process of relocation".

The alliance also questioned "on biblical grounds" the fact that they

KATHRYN STRACHAN

were refused representation on the TPA task group. It also claimed the TPA had made its decision without sufficient consultation and that it had not considered all the alternatives.

Meanwhile, Lazonia Landowners' Association attorney Brian Moss said papers would be served on the TPA today seeking an urgent interdict against the relocation.

He said the association had appealed to the TPA not to proceed with the relocation before the application was heard next Tuesday.

If the TPA went ahead the association would make a new urgent application which would bring the case forward to this week, said Moss.

Association spokesman Urs Honegger said earlier the court action followed the TPA's failure to supply residents with adequate information to allay fears that the resettlement site would become a "slum city".

He said the TPA had been given until the close of business on Monday to supply details of the exact services it intended to provide in the area.

Honegger said the TPA had failed to do this.



# Development cuts conflict - planner

Sowetan 25/6/92

THE transformation of a culture of defence into a culture of development could reduce conflict in the Phola Park squatter camp near Tokoza, town planner Mr Julian Baskin said on Tuesday

Appearing before a Goldstone Commission committee inquiry into violence and intimidation, Baskin, a chartered town and regional planner from the community development organisation Planact, based his suggestion on nearly two years of close association with the Phola Park community

Baskin said his evidence was submitted in the belief that development was at least part of the solution to the problems of Phola Park, "but badly conceived development programmes can exacerbate a situation

leading to further conflict"

During his dealings with Phola Park civic representatives he had held many meetings and workshops on the development of the East Rand squatter camp

Baskin said he identified three groups among the residents of Phola Park

There were families wishing to urbanise, single men who had their base in rural areas, and non-South Africans from countries such as Mozambique, Zimbabwe and Malawi

He said because the single men and non-South Africans might believe they would not qualify for accommodation in a developed Phola Park, they could be against it

Baskin said reasons for the conflict were outside the community's control

Among them were a dis-

credited hostel system and no alternative State-rented accommodation, a wrecked rural economy and little chance of survival without urbanising, hostile State structures which aimed to undermine community structures rather than strengthen them, and a history of violence as conflict resolution

Baskin recommended that local government structures recognise the importance of community institutions and provide support

He disclosed that the International Development Trust would make R23 million available for development of the squatter camp and he showed plans which his organisation and the community had compiled and were to be implemented soon - Sapa

# Alleged mass killer in court

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**LADYSMITH** man Carel "Callie" Delpert (35) who pleaded guilty on April 7 to nine counts of murder and 21 of attempted murder, appeared briefly in the Ladysmith magistrate's court this week.

He was remanded to July 10. The thickset, dark-haired man admitted that he knew he was acting unlawfully when he shot and killed his father and eight other victims on January 20.

He also acknowledged that he was aware that he was acting unlawfully when he shot at 21 others,

## Sowetan Correspondent

intending to kill them, on the same day.

Psychiatrists Dr John Dunn and Dr Bertie Lind said in a report that Delpert was aware of the seriousness of his actions and expressed genuine remorse for his deeds. He was not mentally ill at the time, although his intellectual function was judged to be in the borderline range.

His IQ was in the 62-67 range. His mental handicap was not big enough to make him unable to discriminate between right and wrong and act accordingly.

It was possible that as a result of his modest cognitive competence and relating stress-coping capacity, his ability to act in accordance with his knowledge of wrongfulness would under certain circumstances be diminished.

They said he related well on his admission to hospital and gave a coherent account of the charges against him.

His birth and early neonatal development was normal, but he later fell gravely ill with meningitis.

His subsequent physical progress was not influenced but learning handicaps became evident at school.

# Little cause to tremble over defamation judgment

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By Jo-Anne Collinge

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The Appeal Court recently confirmed that political parties, no less than individuals, have a right to sue for defamation. Should this judgment have journalists and other political commentators trembling in their boots?

No, say media lawyers of the outcome in the case *Argus Printing and Publishing Company Limited v Inkatha Freedom Party*. The bold print of the judgment certainly holds that freedom of expression cannot override the right of political parties to protect their reputations by legal action.

But the fine print indicates that the circumstances in which legal action can be brought are limited, and the defences open to the media recognise the value of freedom of political expression.

"What's really happening is that the courts have been extending the class of people

who can sue for defamation — and this judgment is just part of that trend. But, at the same time, the courts have been increasing the number of defences available to defendants," says attorney Norman Manom.

"I think defamation of political parties is something that the media need to be on the lookout for now. But I'm not sure we are going to see an avalanche of suits and it will be only in rare cases that the party is going to succeed," says attorney Wend Wendland, who represented the *Argus Company* in the recent appeal.

In his judgment, Mr Justice Grosskopf said "Mere debate on political questions or expressions of disagreement with an opponent's political views would clearly not be actionable." He quoted approvingly the observation of Mr Justice Ludorf that the audiences of politicians would dwindle "if the speaker were to use tones, terms and expressions that one could expect from a lecturer at a

meeting of the ladies' agricultural union on the subject of pruning roses".

If debate is allowed considerable latitude, factual reporting of the actions of political parties is not so immune to defamation action. This gives some cause for concern — in view of the courts' extremely broad definition of political parties to include extra-parliamentary political organisations, trade unions, civic and residents' organisations — and that some of these organisations are regularly accused in the media of anti-social or violent acts.

Mr Justice Grosskopf noted that if a newspaper were sued for reporting such matters, the major defences of truth, fair comment and public benefit remained open.

"The publication of true statements about public officials and figures is generally for the public benefit."

And, the judge added, it seemed that the defendant would not bear the onus of proving the truth of the supposedly defamatory state-

ment, the overall burden of proving unlawful publication remained with the plaintiff.

Journalists argue that the foundation for an adequate defence on these criteria should be laid in the normal course of sound reporting.

Raymond Louw, of the Campaign for Open Media, observed that a report "would have to be very very wrong and injurious" for a political party to sue with hope of success.

The recent judgment reaffirmed the position that the Government does not have the right to sue for defamation and allowed that the ruling party might have to be considered differently from other parties.

Mr Manom said apartheid had created an abnormal situation where organisations denied access to the institutions of political power used the courts as a substitute. He foresaw that as inclusive political institutions were created, parties would stick to political terrain in fighting their battles.



# Mom wants son's killer back in jail

Sowetan 25/6/92



Sowetan Correspondent

**THE mother of a youth killed by former KwaZulu policeman Mr Khetani Shange has lodged an application in the Maritzburg Supreme Court to have the killer, out on parole, put back in jail.**

Mrs Nomaswazi Theodora Ntuli this week applied to have the decision of the Minister of Justice on July 4 1991, to authorise the release of Shange on parole, reviewed and set aside

Shange was released in April after serving seven months of a 27-year sentence imposed by Mr Justice Gordon in the Durban Supreme Court in May last year after he was convicted of the murder of Themba Abraham Gumede and the attempted murders of Mrs Ntuli, Christopher Sandile Peters and Dumisani Joseph Mthemba.

The order, to be served on the Minister of Correctional Services and Shange, seeks information on Shange's last residential address and his last place of employment

It also seeks to have Shange, once the order is served, accompany the sheriff of the Maritzburg Supreme Court or his deputy to the Westville Prison where he should present himself to the officer commanding to continue serving the prison sentences imposed by Mr Justice Gordon

Should Shange fail to do this, the order sought in the application instructs the sheriff or his deputy to arrest Shange and to deliver him to the prison

The Minister of Correctional Services is ordered to do "all such things as may be necessary" to ensure that Shange is detained in prison and to pay the costs of the application

The Minister has 15 days to furnish the court with the records relating to the decision to authorise Shange's release and to respond to the application

Ntuli said in her affidavit accompanying the application that the decision of the Minister of Justice to release Shange could be explained only if it were assumed that the Minister acted as he did because he was motivated by improper consideration, bias, that he acted in a purely arbitrary fashion, did not apply his mind to the matter and/or that he did not direct himself properly in law because the decision was not a proper and bona fide exercise of his discretion

She added that the decision was invalid and unlawful and that it should be properly reviewed and set aside

Ntuli said that she was concerned that justice be done as the mother of Gumede, as a person in respect of whom Shange was convicted of attempted murder and as a member of a community, KwaMashu, which had suffered from Shange's illegal activities and which is now exposed to further risks of illegal activity on the part of Shange

## Union wins court order for meeting

SUSAN RUSSELL

THE Johannesburg Municipal Combined Employees' Union, locked in a wage dispute with the city council, obtained an order in the Rand Supreme Court yesterday allowing it to hold a mass meeting on the piazza outside the council's offices in Braamfontein next Tuesday.

The meeting was originally planned for 3.30pm yesterday to coincide with the Council's budgetary debate.

During the course of yesterday's urgent application however it was agreed that if the judge ruled in favour of the union, the meeting would be held at 3pm next Tuesday instead. *Bl Day 26/6/72.*

After hearing argument from counsel representing both parties, Judge N M MacArthur granted an order declaring that the management committee's refusal earlier this week to give permission for the meeting on the piazza was invalid and of no force and effect.

He set aside the management committee's decision subject to a number of conditions agreed upon by the union, council representatives and their lawyers.

The union brought its application against the town clerk and the management committee only hours before the meeting was due to take place yesterday afternoon.

However while the application was still in progress, the judge granted a short adjournment to allow both parties to reach agreement on conditions under which the meeting would be held if there was a ruling in the union's favour.

# Boipatong probe finds arms cache

PRETORIA — Trunks containing R1 rifles and ammunition were discovered at the Greenside collieries near Witbank this week during a visit by a delegation from the Goldstone commission, it was disclosed yesterday.

The commission's investigating officer, Lt-Col Henk Heslinga, told a preliminary hearing in Pretoria that the commission had received information a group of people staying at the mine were involved in recent acts of violence at Boipatong.

He said a delegation from the commission, including lawyers, went to investigate on Wednesday and found about 40 former Koevoet members staying in a security building at the mine.

Heslinga said three firearms were found in the building and later, about a kilometre away at the quarters of white policemen in charge of the group, trunks with R1 rifles and ammunition were found.

ANC counsel Gys Rautenbach told the commission earlier that information became available to the ANC that there were "suspicious people" at the mine who were armed, spoke a foreign language and were kept away from mine workers.

He said an ANC delegation which went to the mine to investigate had been threatened by members of the former Koevoet police unit, deployed in counter-insurgency operations during the Namibian bush war.

Counsel for the Law and Order Minister, the SAP and employees of the SAP, Phillip Hattingh, demed that members of the group were involved in acts of violence at Boipatong. He conceded, however, that they were former members of Koevoet.

Hattingh said the group was not made up of permanent policemen, but were employed by police to combat crimes such as stock theft and the theft of telephone cables in the countryside.

He said the unit was based in Rooiberg, near Thabazimbi and the base was not a secret place as it had already appeared on a television programme.

Meanwhile, in an emotional memorial service yesterday for the 49 people killed in Boipatong, an angry church minister called on people to form defence units and "go to war".

"This violence is planned violence and it won't end today. It is perpetrated by a Satanic type of government," Rev Ernest Sotsu told the packed audience in Boipatong Community Hall.

"I call on the people of the Vaal to organise defence units and go to war. You must drive out the enemy."

As relatives of those killed last Wednesday night wept, the minister read out the victims' names. The service was organised by local clergy and attended by representatives of most churches, including Bishop Peter Storey of the Methodist Church and the Rt Rev Martin Lund of the Presbyterian Church.

The service passed without incident and during the afternoon police were not seen in the township.

However, after the service police said about 400 people gathered on the grounds of the Boipatong police station and demanded weapons.

Col Dave Bryce said police locked themselves inside the building as the crowd knocked on the doors and shouted for weapons. The Internal Stability Unit arrived and the crowd dispersed without incident.

The Vaal Civic Association yesterday suspended all local government negotiations in protest against the massacre.

□ It could not be ascertained yesterday how much money had been contributed to the Boipatong Relief Fund.

The ANC has said it would donate R100 000 to a fund which would be used to assist victims of violence in SA, including Boipatong. The PAC has pledged R20 000.

Among the foreign missions in SA, the US and Taiwanese embassies have pledged R700 000 each to the International Committee of the Red Cross for the assistance of violence victims — Sapa



**A GOLDSTONE**  
Commission delegation found trunks containing R1 rifles and ammunition at Greenside Collieries Mine near Witbank on Wednesday, it was disclosed yesterday.

The commission's investigating officer, Lieutenant-Colonel Henk Heshinga, told a preliminary hearing in Pretoria yesterday that they had been told a group of people involved in recent acts of violence at Bopatong were staying at the mine premises.  
He said a delegation from the commission, including lawyers, went to in-

# Goldstone team finds arms at mine

investigate  
They found a group of about 40 former Koevoet members staying in a security building of the mine.  
They found three firearms in the building and later, about a kilometre away at the quarters of white policemen in charge of the group, trunks with

R1 rifles and ammunition were found.  
Earlier, counsel for the African National Congress, Mr Gys Rautenbach, told the commission that the ANC had received information that suspicious people were at the mine premises.  
The information was

that these people were armed, carried radios, spoke a foreign language and were kept separately from the mine's workers.  
Rautenbach said the ANC was not alleging the group was responsible for the Bopatong violence, but the organisation had received information linking

members of the group as having been involved in the violence at the Vaal Triangle township.  
"That is why we say we are concerned and the matter should be investigated so that proper findings could be made," Rautenbach said.  
Counsel for the Minister

of Law and Order, the South African Police and employees of the SAP, Mr Phillip Hattingh, denied that members of the group, who he conceded were former members of Koevoet, were involved in acts of violence at Bopatong - SA Press Association

*Scudpan 26/6/92*

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# War chest

Trunks of arms found at Witbank mine

So wefer 26/6/92

THE Goldstone Commission found an arsenal of arms at a mine this week after receiving information that a group involved in violence at Boipatong was living there, a senior police officer said yesterday.

Lieutenant-Colonel Henk Heslinga, the commission's investigating officer, told a hearing in Pretoria yesterday that they found trunks containing R1 rifles and ammunition on Wednesday. They also found about 40 former Koevoet members staying in a security building at Greenside Collieries Mine near Witbank.

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Counsel for the ANC, Mr Gys Kautenbach, told the commission that the ANC had received information that strange people were living at the mine separate from the mine's workers. These people were armed, carried radios, spoke a foreign language and lived separately.

He said an ANC delegation which went to the mine to investigate was threatened by the group. Counsel for the Minister of Law and Order and the police, Mr Phillip Hattingh, denied that members of the group, who he conceded were former members of Koevoet, were involved in acts of violence at Boipatong. He said the group was not made up of permanent policemen, but were employed by the police to combat crimes.

● Full report on page 3



While the adults mourned the people who died in last week's Boipatong massacre, this little boy broke into a spontaneous toy-toy dance at a memorial service at Boipatong Stadium yesterday.  
Pic: MBUZENI ZULU

**THE SALE**  
**TO STOP**  
**THE SHOW**

**SHOW STOPPERS**

**HELIOS**  
**SUNFLOWER OIL**



THE GOLDSTONE MASSACRE: UNIT'S SALES OFFICER

**INSIDE**  
**HOW DID IT**  
**ALL GO SO**  
**WRONG?**

So far, you don't  
 know what's in  
 explain  
 PAGE 14

# Secret Koevoet base linked to Boipatong

Wimac 26/6 - 2/7/92

By **EDDIE KOCH** and **PORTIA MAURICE**

**T**HE Goldstone Commission this week uncovered a covert Koevoet unit at a Gold Fields mine hostel in the eastern Transvaal after being tipped off that the squad had been ferried into the Vaal to take part in the Boipatong massacre.

The discovery — which may corroborate information that security forces were involved in the massacre — has highly damaging implications for President FW de Klerk's government. The presence of a "third force" on a British-owned mine will also have major international repercussions.

More than 40 members of the police counter-insurgency unit, including two white officers, were found in a hostel room at the Greenside colliery near Ogies when the commission swooped on the the mine premises on Wednesday afternoon.

At a special hearing of the Goldstone Commission in Pretoria yesterday, police admitted the unit of ex-Koevoet men existed. But they denied the men were linked to violence, saying they were used to protect stock theft in the area.

The African National Congress says it has witnesses who will testify before the commission of the unit's role in the Boipatong slaughter.



Uneasy truce ... a policeman stands guard at Kwamhlatla hostel, trigger finger at the ready

Photo: GUY ADAMS

• Continued on PAGE 2

P.T.O



# Goldstone swoops on Koevoet base

W. Mail 26/6-2/7/92

● From PAGE 1

In the ed last year, renegade police captain Dirk Kruger said he believed disbanded Koevoet members were behind much of the violence in the townships, and had a particular role in the "random massacres disrupting negotiations between the government and the ANC"

The lightning raid — carried out jointly by the ANC's intelligence department, a Goldstone commissioner and a special police task force — took place after the ANC obtained evidence that members of the secret unit had been involved in the massacre at Boipatong in an effort to undermine the ANC mass action campaign.

When the raiding party arrived on the mine it found a group of surprised Koevoet fighters — members of a police counter-insurgency unit that was supposed to have been disbanded two years ago — present in a section of the hostel.

The room was located in a section of the hostel set aside for Gold Fields' mine security personnel. The commission found at least two licensed handguns as well as nine R-1 rifles in a trunk at a house in the married quarters of the mine complex.

Most members of the 40-strong squad said they were Namibian nationals, although some spoke Portuguese, indicating they belong either to the army's controversial 32 Battalion or are elements of Renamo that may have been involved in "third-force" attacks.

Two white officers who appeared to have been in charge of the unit were found at the mine when the raid took place. One of these men, a Sergeant Taljaard, took the commission to a nearby house where the cache of R-1 rifles was discovered.

The rifles were found in a locked trunk and the raiding party was told that the keys were not available. Arrangements had to be made for the trunk to be broken open.

The head of the police special task force, Colonel Henk Esslinger, recused himself during the raid as he was a former Koevoet officer.

ANC official Sydney Mufamadi, who took part in the operation, told *The Weekly Mail* that the lack of police command had made it difficult to proceed with the raid. He added that the white Koevoet officers instructed black members of the unit not to answer any questions.

Members of the Koevoet squad were hauled before an emergency session of the Goldstone Commission yesterday in Pretoria. In their opening statement, police lawyers acknowledged the unit was made up of former Koevoet members now under the control of the South African Police and that "there was no secret about this".

But police counsel Phillip Hattingh then asked for the hearing to be in camera, a request refused by the presiding commissioner, Mr Justice Steyn. The police claimed they had rented the premises from Gold Fields and that the unit was based at the

mine to control stock theft in the area.

Mufamadi told *The Weekly Mail* that none of the unit's members appeared to speak local black languages. During the raid one of the counter-insurgency men said he was from Rustenburg but was unable to speak seTswana. He conceded under questioning that he was from Oshakati.

ANC officials say they know of two witnesses who will testify that members of the Koevoet squad at Ogies travelled to Boipatong to take part in the massacre. One of these witnesses failed to appear at the hearing yesterday and the commission will sit today to hear his evidence.

Mufamadi said ANC sources on the mine had seen vehicles pick up the Koevoet members from the hostel in the evening and return them in the early hours of the morning.

PHILIPPA GARSON reports a member of the National Union of Mineworkers (NUM) who went to investigate the mine on Saturday last week, after the ANC had received evidence linking its occupants to the Boipatong, as saying that he saw about seven unit members standing outside the security barracks. "They were talking a strange language I didn't understand."

The official said he received information that about 30 dark-skinned men had arrived at the mine on May 25 and were staying in special quarters in the security barracks.

"I was told that during the day they sometimes wore overalls and were taken to the shaft and that at night they went elsewhere. They do not eat in the mine kitchen. They eat special food which is cooked for them, which is sent to their room."

The NUM official said he personally witnessed two police vans collect a group of the men, who were carrying two large canvas bags, at about 9.30 on the night he visited the hostel.

In his opening statement to the commission yesterday, ANC counsel Gys Rautenbach said: "We do not allege at the outset that these people were responsible for the Boipatong massacre, but evidence needs to be led and people questioned to get to the bottom of this."

Police lawyers said in their statement. "We deny that this unit was involved in the planning or execution of any acts of violence in Boipatong or elsewhere. This is not the only premises the police rents to house its units. "We are not going to make the news public and say that there are ex-Koevoet people around but we are also not going to hide it."

NUM president James Motlatsi said the union had called for an urgent meeting with the Chamber of Mines today on the matter. He said he had no doubt that Gold Fields' management was aware of covert practices at its mine.

Gold Fields' public affairs department has refused to comment on the issue, but confirmed that the Goldstone Commission had visited its Greenside Colliery on Wednesday.

"Management does not wish to comment on the purpose of the visit as it concerns one of the tenants who is leasing property from the mine which is currently in excess of the mine's requirements. This is a normal commercial transaction," the company said, availing itself to provide further information the commission may require.

# IFP 'unit' member tells of attacks

By Jo-Anne Collinge

A self-confessed member of an armed "unit" in KwaMadala hostel has given the Goldstone Commission detailed testimony about the mobilisation of hostel dwellers against "comrades" in the surrounding Vaal communities.

A copy of Mr X's affidavit to the Goldstone Commission is contained in the memorandum compiled by attorneys for the Vaal Council of Churches (VCC).

According to the VCC document, Mr X's verbal testimony was heard by advocate J J du Toit of the Goldstone Commission on April 3. Mr X's identity is known to the commission.

The following is an edited version of his affidavit, from which all identifying details have been removed.

"I am able to live at the Kwa-Madala hostel without charge. I am unemployed.

"All the residents of the Kwa-Madala hostel are members of the Inkatha Freedom Party. Among the residents there are individuals who are leaders of the IFP. Among them is one Mr Y.

"A system exists in the Kwa-Madala hostel whereby each resident becomes part of a

'unit'. I was trained in the use of weapons by Mr Y. Every resident is trained in the use of weapons. "I have seen many arms and ammunition stored at the KwaMadala hostel. The arms are brought by members of the IFP from Natal.

"On (a certain date) my unit was instructed by Mr Y to go to Sharpeville township to attack comrades who had been responsible for the killing of an Inkatha member, to attack certain taverns (and) kill people there because it is known that comrades drink there.

"We were given arms by Mr Y. I was not myself carrying a rifle. I moved with A. He was carrying a rifle.

"Between 8 pm and 9 pm, in Sharpeville, we saw a group of comrades. Among them was one comrade known to me. My partner opened fire and this comrade was struck.

"Thereafter, we moved to (a certain) tavern B was shooting at people in the tavern. I was carrying a rifle given to me by A at this tavern."

The mission, which resulted in a number of deaths, was terminated abruptly, Mr X stated, because of unforeseen developments. Details of these developments would reveal his identity.

# Municipal employees win right to hold meeting

Court Reporter

Star 26/6/92

3 30 pm report-back and protest meeting yesterday on the wage negotiations between the union and the municipality.

Municipal employees yesterday won an urgent application brought against the Johannesburg town clerk and management committee to invalidate the city council's decision to bar the employees from holding a protest meeting.

In terms of an agreement reached during an adjournment in the court proceedings, the Johannesburg Municipal Combined Employees Union will hold a protest and report-back meeting next week, rather than yesterday as planned, at the Civic Piazza

Mr Justice N MacArthur heard the matter in the Rand Supreme Court, made the agreement an order of court, and awarded costs of the application to the union.

The union had planned a

A request by the union to the town clerk to hold the meeting in the piazza was forwarded to the management committee, which turned it down. The union then brought an urgent interdict against the town clerk and the management committee to have the decision declared invalid

The judge granted the application and ruled that the union could hold the meeting at 3 pm on Tuesday subject to certain conditions, including that the meeting must end by 3.45 pm; union members are not to enter the council building; and the union marshals are to ensure proper and orderly conduct of the meeting. Other stipulations were included in the ruling.



**Weekly Mail Reporter**  
 DAYS after a former African National Congress prisoner returned to South Africa, he was fleeing from police "intelligence operatives".

Solly Bheki Ngomezulu told the Goldstone Commission this week that he believed he had been employed by a cosmetic company, but discovered that the "company" was in fact "the intelligence service".

He described how he was blindfolded, driven around in a car and taken to a house in the Free State, where he was put in an empty room and told to write a statement about ANC arms caches.

Ngomezulu said he managed to escape from the house by diving like "a warhead coming out of a pistol" through a window and running away.

The Free State house has been exposed by *The Weekly Mail* as being connected to a covert police operation in the Vaal

Ngomezulu said that on February 17, his first day back in South Africa, someone called "Robert" came to his Soweto house and offered him a job at a company called AP Cosmetic Products "Robert" claimed to have been in exile with Ngomezulu

The next day, "Robert" picked him up and they drove to Orlando East and then to the Ultra City station on the Pretoria highway. There, Ngomezulu met "Robert's boss" — a tall white

# Goldstone witness thought he was selling cosmetics

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man called "Jan".  
 "Jan" questioned Ngomezulu and asked him to write a "biography" about what had happened to him in exile. Ngomezulu was also asked who the chief ANC representative in Angola was and whether he had been in Quatro (a prison camp).  
 "I started to have broad suspicions of the company," he told the commission.

Ngomezulu was asked to write down what he knew about DLBs (dead letter boxes — jargon for arms caches) belonging to the ANC and about the ANC's underground structures. He said he then realised that he was in the hands of the "intelligence service", adding that he decided "to comply to each and every order because when I was in exile I was made to understand these things of Askarris (turned ANC guerrillas)".

Ngomezulu said after the meeting he was driven on a road "which had a bridge on the top". He was ordered to lie down on the back seat of the car and a towel was placed around his head

When the car stopped, he was told to get out and was led into a small room in a house, where he was told to write his "academic biography".

"Jan" then arrived with his "boss", who greeted him in Sotho, Ngomezulu testified. During cross-examination, counsel for the South African Police, Phillip Hattingh SC, asked Ngomezulu whether a policeman attending the hearing, Lieutenant General PJ Potgieter, was this "boss". Ngomezulu replied "You can't deny that you spoke to me in Sotho outside the conference room". Potgieter denied this.

Ngomezulu continued that the two men had told him that if he wanted a "vendetta" they would help him and provide him with "firearms training".

He said he had written a statement for them in which he identified DLBs. He had described one at the Komati Bridge, but "I was just writing something out of the blue".

"Robert" then told him that they would travel to Komati, near the Mozambique border, so that

Ngomezulu could point out the area. He realised that once the statement had been read he "would be in for it", so he decided to run away. He told a woman whom he had heard being called "Ouma" that he needed to empty his portable toilet, waited for an opportunity and then jumped out of a window.

Ngomezulu said he had reported these events to the ANC and the South African Council of Churches. He then told his story to *The Weekly Mail* and managed, with the newspaper's journalists, to locate the house in which he was held. At the hearing, Ngomezulu was asked to identify the house in a series of photographs. The only definite identification he made was of the colour of the carpet and the type of curtains in the room that he allegedly occupied.

Ngomezulu said the police were trying to fool him by refurnishing the room. He said the room had been unfurnished at the time he was held captive and, therefore, he could not clearly identify the furnished room in the photographs.

Commissioner R Wise SC asked the parties' lawyers to get a positive identification of the house, "since they would have been wasting a great deal of time should this be the incorrect house under discussion". *The Weekly Mail* journalist Drew Forrest was requested to identify the "safe house".

The inquiry was then postponed to July 29.

The Washington Post

# Legalising Violence

Guardian/W

A YEAR ago, the Court of Appeals of the Republic of South Africa ruled that the prosecution of a defendant kidnapped by agents of that government in another country must be dismissed. Such a seizure, in violation of international law and disruptive of the comity among nations, was held to invalidate the criminal proceedings that followed. Last week, the Supreme Court of the United States took the opposite position in a case involving a Mexican physician wanted in connection with the murder of a U.S. Drug Enforcement agent, Enrique Camarena.

It may come as a surprise to many Americans, but courts in the United States have traditionally held that the manner in which a defendant is brought into U.S. territory is irrelevant to the question of whether he can be tried. Bounty hunters and others have, since the last century, brought fugitives across the border for trial. The courts have even refused to intervene when defendants have been kidnapped in one state and brought to trial in another.

The case decided last week differed from those precedents in several respects. The wanted man, Humberto Alvarez Machaul, is a Mexican captured in his own country, not a fugitive. The kidnapping was engineered and rewarded by U.S. government agents, not bounty hunters acting privately. The crime was committed in Mexico, although it was also a violation of U.S. law. And, of paramount importance, the United States has an extradition treaty

with Mexico, which is supposed to govern the transfer of individuals from one country to the other for trial.

A six-man majority of the Supreme Court found none of these differences persuasive and after an excruciatingly lawyerly analysis ruled that the abduction does not violate the extradition treaty, because that document does not specifically prohibit kidnapping. They accepted the reasoning that while the pact ostensibly sets out the rules for returning fugitives, these rules are not exclusive, and that each nation retains the option of violence as an alternative. Chief Justice William Rehnquist, writing for the majority, does not applaud this alternative. But, he says, even if it is shocking and in violation of international law, it has no impact on the trial.

The U.S. government, of course, should never have authorized the kidnapping. It is a reckless act belying America's adherence to the orderly settlement of disputes and most dangerously inviting retaliation.

If the courts will not intervene, the responsibility is on the executive branch to abandon tactics that, if nothing else, put Americans at risk. And if the president persists in using the abduction option, he should not be surprised if countries with which the United States has extradition treaties press for amendment, clarification, and a firm assurance, as part of the treaty itself, that only lawful means will be used by U.S. agents to bring fugitives to justice.

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By BEATHUR BAKER  
LAWYERS acting for the family of slain human rights lawyer Bheki Mlangeni this week traced a key witness in the space of one afternoon, after the investigating officer on the case told the Rand Supreme Court the woman could not be found during fifteen months of investigation

# Key Mlangeni witness traced

Two days before, the court instructed the investigating officer, Captain Andre Kritzinger, to locate Smith as soon as possible after it found that the statement he took from the Joubert Park post office superintendent did not include information on the persons who had handled the parcel

A research clerk for the attorneys Cheadle Thompson and Haysom tracked down the post office worker who received the parcel bomb that killed Mlangeni in February last year. He found the woman, Karen Smith, by consulting records of the Kempton Park Hospital where she was employed as a nurse after leaving the post office

Smith remembered receiving the parcel from an unknown black man

Kritzinger told the court that he thought it unnecessary to add this to her statement, which he thought was sufficient for his investigation. Kritzinger also testified that a yellow insurance label pasted on the parcel was not obtainable locally, and said it must have been applied in Lusaka. Upon being shown a copy of the slip, Smith confirmed that it was a South African post office tag commonly used on parcels.

the witness stand was fraught with uncertainties. He repeatedly told the court that all he could do was to inform them of his intention immediately to address all new evidence

In another dramatic revelation, police handwriting analyst Colonel Johan Hattingh said samples from 16 policemen were only given to him by

It emerged that while taking a statement from the superintendent, Kritzinger neglected to include in it that she went out to speak to both people working at the dispatch and reception counters. While giving evidence, he suddenly remembered the information she had given him that both employees were unable to remember

to be repeated as they were inadequate. Tests required both free-hand and print samples, as the writing on the parcel was in print form unlike the approximately 12 of the 16 samples handed in by Kritzinger. Counsel for the family, Guy Rautenbach, then presented Hattingh with a photograph of the cassette holder labelled "Hit squads Evidence" and asked him to compare the script on it to the writing on the parcel and insurance slip

It emerged that Hattingh had never seen this evidence. Kritzinger's lengthy appearance on the former policeman who was originally sent the parcel bomb. He was also told to obtain the fingerprints and handwriting analysis of the policemen based at Vlakplaas — the police hit squad base exposed by Coetzee — at the time of the murder

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# KOEVET IS UNDER FIRE

By DESMOND BLOW

THE ANC will bring more witnesses before the Goldstone Commission in Pretoria tomorrow to substantiate allegations that former Koevoet counter-insurgency members were involved in the Boipatong massacre.

## Massacre: ANC has more witnesses

The ANC's attorney, Peter Harris, said yesterday that the ANC had informed them they would produce more witnesses.

This follows the startling evidence given before the commission on Friday by a witness produced by the ANC, "Ace" Mngomezulu, a security guard at Greenside Collieries mine where the former Koevoet unit was housed.

Mngomezulu told the commission that one of the former Koevoet members, Jeremiah Sekongu, had admitted to him in Soho that the unit had taken part in the massacre.

While the hearing was in process, the Commissioner of Police, General Johan van der Merwe, held a press conference placing the blame for the killings squarely on about half the residents of the Kwamadala Hostel.

He said that the trunk of arms found at the premises of the former Koevoet-unit were arms for the policemen in charge of the unit.

In reply to a question by City Press as to how a

crowd of 200 to 300 armed men had descended without warning on Boipatong from Kwamadala hostel, which was a fair distance away, the general said they had apparently crossed an open field.

Rev Paul Verryn of Peace Action earlier told City Press that he had passed on two warnings to Colonel Zik Gouws of Crime Intelligence shortly before the raid on Boipatong.

He said he had told Gouws one call was from Boipatong and the other from Sebokeng.

When pressed by City Press on why Colonel Gouws claimed he had only received a single warning about Sebokeng, when in fact he had received two warnings, Van der Merwe said that the SAP were investigating that there had been a dereliction of duty.

Mngomezulu, a member of the ANC and the National Union of Mineworkers, said the mine's white security chief had also told him the unit had taken part in the killings.

But when Sekongu, a Namibian, later gave evidence he denied ever

speaking to Mngomezulu, saying he did not understand Soho.

Earlier Sekongu was identified by Mngomezulu at an identity parade held at the commission's offices.

Referring to this process Sekongu said "I told him (Mngomezulu) not to let politics confuse his head. I told him politics was making him sick."

He said Mngomezulu had told him during the meeting that he (Sekongu) should confess everything about Boipatong. If he did, Mngomezulu said, he would make sure that the ANC would look after him and that he should join the ANC.

"That (last remark) made me very angry," said Sekongu.

A second security guard also denied the allegations.

He said that he had attended the meeting with the white mine security chief when the police, together with the Goldstone Commission, had raided the Koevoet living quarters.

He denied that the security chief had said that Koevoet had taken part in the massacre.

Lawyer Harris said yesterday that even if there was no evidence to prove the former Koevoet unit had participated in the massacre, he found the circumstances of their presence in the nearby area very suspicious.

Meanwhile, a Boipatong resident who could be a key witness in the massacre is believed to have gone into hiding in fear of his life writes MONWABISI NOMA-DOLO.

Meshaek "Teenage" Theane, a petrol attendant at Trek Filling Station near Kwamadala Hostel, was intensively questioned by police about the tragedy. Two days after the massacre he drew his pay and then disappeared.

According to his niece Mapontso Theane, her uncle told the family that he saw the assailants on the Wednesday night.

"He told us that around 8 pm he saw a group of heavily armed men moving into Boipatong from the hostel."

"Minutes later, realising the murderous aims of the group, he pressed an alarm at the garage to alert police," said Mapontso, a 19-year-old matriotic student.



HEROES' WELCOME... ANC veterans Oliver Tambo (left) and Andrew Mlangeni salute the crowd.

## Echoes of 1955 in Kiptown

By MOSS MAMAILA

MORE than 10 000 ANC supporters yesterday gathered at the Freedom Square in Kiptown outside Johannesburg to celebrate Freedom Charter Day.

The open field, the scene of the adoption 37 years ago of the ANC's manifesto, the Freedom Charter, was turned into a hive of political activity.

The crowd was emotionally charged and ran around the field when ANC veterans arrived, led by the organisers' national chairman Oliver Tambo.

"It was at this spot that we held the Congress of the People, and adopted the Freedom Charter in June 1955," one veteran said.

Elderly people, ANC activists in the 1950s, were given "special" accommodation. Remembering the old days, the veterans sang their famous song *Kolona ha ena mavhli, Sutha wena Sitydom*.



# KOENIGSBERGER FIRES UNDER

BY DESMOND BLOW

THE ANC will bring more witnesses before the Goldstone Commission in Pretoria tomorrow to substantiate allegations that former Koewoet counter-insurgency members were involved in the Bopalong massacre.

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Theocane told her that police arrived but had ignored his information and went off in another direction.



HEROES' WELCOME... ANC veterans Oliver Tambo (left) and Andrew Mlangeni salute the crowd. ■ PRA ANDRÉAS MOHLEKA

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# Need for new era of justice

Legal expert DAVID BEATTY asks who will judge the judges in the new South Africa

St. Times 28/6/92.

(252)

EVERYONE, it seems, is agreed that the major difference between the new South Africa and the old will lie in the recognition and the protection of human rights. The expectation is that human rights will be guaranteed by a constitutional bill of rights

In fact, whether the new South Africa will realise its ambition will depend on who is chosen to sit on the country's highest court. How well human rights are protected depends much more on the method of appointing the judges than on the words in the constitution. As a chief justice of the US once said, "A constitution is what the judges say it is"

Studies show that judges differ in their approach to constitutional bills of rights. The Japanese Supreme Court is, for example, recognised as being much more conservative in checking the excesses of its government than the German Constitutional Court.

The challenge facing South Africa then is to design an appointment process which will ensure that only those most committed to the protection of human rights will be appointed. Many people,

including the South African Law Commission, think the best option is to create a new judicial services commission — thus handing the appointment decision to a small committee of judges, lawyers, members of the government and the community.

In my view, a judicial services commission is not likely to produce the desired results. Experience shows these institutions tend to be dominated — even if not numerically — by members of the legal and judicial elites, and they tend to choose people who take a cautious and conservative approach to the enforcement of bills of rights.

Judicial services commissions also constitute a serious compromise of popular sovereignty and the idea of democratic rule, transferring control to an unrepresentative elite. It means, in the final analysis, that only the most powerful judges and lawyers in the country will judge the judges

South Africans would do better to think about more accessible — and accountable — appointment procedures. Legislative committees, for example, have a

better record of selecting people committed to enforcing constitutional guarantees. Appointments to the German Constitutional Court, which has one of the strongest records of human rights protection, are made in this way.

Two characteristics of legislative committees encourage the appointment of people committed to the vigorous protection of human rights. First, because they perform such an important function, these committees tend to be controlled by the most senior and respected political leaders. Second, because a candidate must receive the approval of some super majority — for example, a two-thirds majority — of the committee, governments cannot act without the opposition's agreement

In addition to being accountable to the public — through their elected representatives — an appointment process should be open to the community at large

Once appointed, these people will rule on all of the most controversial political and moral questions. They will have the final say on whether laws touching abortion, affir-

mative action, capital punishment, minority languages and schools, religious freedom and so on are constitutional or not. The people have a right to know how a prospective judge will approach questions like these.

Although many in the legal community will object, saying that such a process would be unethical and open to scurrilous personal attacks, there is no reason in principle why public hearings are likely to be conducted in this way.

If the purpose is to ensure that only the most committed defenders of human rights are appointed, the process should focus naturally on the theories and principles the candidates say they will use in enforcing the bill of rights.

With the commitment to build a new society based on tolerance and respect, it should not be difficult to design the necessary procedural and structural devices to keep proceedings on track.

● David Beatty is a Professor of Law at the University of Toronto and a visitor in the Department of Public Law at the University of Cape Town.



# Walkman bomb: Cops tested

By MARTIN  
NTSOELENGOE

THIRTY-FOUR former Vlakplaas-based policemen are to be fingerprinted and subjected to handwriting analysis in an effort to get to the bottom of the "Walkman bomb" murder of ANC activist and lawyer Bheki Mlangeni in March last year.

Mlangeni's death sent shockwaves throughout the world after former security police captain Dirk Coetzee blamed the murder on some of his former police colleagues.

Coetzee also named Col Wal du Toit, who is working at the police forensic laboratory, as a possible suspect.

The Mlangeni family requested the handwriting and fingerprint samples, which will be taken by police handwriting expert, Col Jacobus Frederick Hattingh, and David Klatzow, an independent forensic expert hired by

CIPNEN 28/6/92  
the family.

Klatzow pulled out of the previous investigating team, accusing it of covering up. He said it was obvious the investigations headed by Capt Andre Kritzinger would lead to nowhere.

This week a shocked inquest court heard how a vital clue - a cassette marked "Evidence Hit squad" - was kept away from handwriting experts.

Hattingh told the Rand Supreme Court inquest headed by Judge O'Donovan that he saw the cassette for the first time in court.

When the samples are ready they will be sent to the Attorney-General for safekeeping. The case was adjourned to August 6, when results will be made available.

A former post office employee who received the package containing the booby trapped cassette player said she could

not remember who posted the parcel at the Kempton Park post office.

Karen Smith had received the package - addressed to Coetzee in Lusaka - in May 1990 and had issued an insurance slip, but could not remember who had posted it. Smith said it could have been a black person.

Mlangeni, who was also chairman of the ANC Jabulani branch, was fatally wounded at his home on March 15 last year when a shaped-explosive charge placed in the earphones of the cassette player exploded when he tried to listen to the cassette.

The package was initially posted from the Kempton Park post office to Coetzee in Zambia, but he did not collect it and it was later collected by Mlangeni's law firm as his name had been given as the sender. He had been Coetzee's lawyer at the time.

## Are mines in on violence? - PAC

QUESTIONS are being asked about whether mining establishments are involved with the security apparatus in criminal activities, following the Goldstone Commission's discovery of arms at Greenside Collieries and the housing of 40 alleged Koevoet mercenaries at the mine's security premises. (252) [REDACTED]

The PAC has demanded an immediate explanation from the Chamber of Mines, said publicity secretary Barney Desai. (1/19/92)

"FW de Klerk has always insisted there was no evidence implicating the security forces in the violence. Once more he has been proven wrong by a Commission appointed by his regime. Will he now act by instructing his subordinates to detain the management of Greenside Collieries for questioning?"

# International assessors will join Goldstone investigation this week

LONDON — A British academic and a former Indian chief justice will fly to SA on Thursday to start overseeing investigations into the Boipatong massacre

Judge Richard Goldstone said at the weekend that because of the urgency of the ANC's mass action campaign he hoped new rules for police and crowd behaviour could be put into effect within three weeks. He named the international assessor in the Boipatong massacre probe as former Indian chief justice Judge Bhagwati

The man who would evaluate the police probe was Reading University criminal justice director Prof Peter Waddington

Five other top experts from the US and Britain would join five top SA counterparts in the Goldstone commission subcommittee probe into mass public demonstrations, beginning in Cape Town on July 9, Goldstone said. Immediate input would come from lawyers, psychologists and other experts who were now considering submissions from the ANC, Cosatu, municipalities and police on mass demonstrations

Goldstone said the commission would draft legislation, for submission to government, on aspects of conduct. On the current potential for violence with the ANC's mass action campaign, the judge said he hoped for rules and agreement between the parties within three weeks

Goldstone arrived in London last week from France where he had been probing the "absolutely fascinating" French sys-

CHRIS BATEMAN

tem of judicial checks on the police. He said SA could learn from the system

In London, he is scheduled to meet UK Constabulary chief inspector Sir John Woodcock, the UK police's quality and service division head, Peter Martin, and top appeal court judges and barristers

He will also see senior Home Office officials, Amnesty International researchers, Aid and Development minister Lynda Chalker and a member of the recent International Commission of Jurists mission to SA, John MacDonald QC

Goldstone said he had been in almost daily contact with his commission

He welcomed the "highly unusual" request by the SAP to have their Boipatong massacre probe evaluated by an outsider

The commission's most important function would be to act as a catalyst to bring about a new culture of policing in SA, he said

Goldstone said that after hearing of the Boipatong massacre in France, he had felt "deep anguish, concern and horror" that it could happen when it seemed the option of peace in SA was a reality

He said he now felt a tremendous sense of urgency about his probe

He said there had been 10 500 demonstrations in SA in the 18 months since President F W de Klerk's February 2 speech, three of them "violent"

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cord at both national and local levels," it said  
 "There was an overwhelming need

sutho Buthelezi  
 These meetings are expected to take place within the next week

## Guards 'told of group's involvement in attack'

*Blomay 30/6/92. (252)*

PRETORIA — A security guard at the Greenside Colliery mine near Witbank yesterday told a preliminary hearing of a Goldstone commission committee his chief told guards that a group of men who stayed at the barracks were involved in the Boipatong massacre

William Mthimkulu appeared before the committee, chaired by Gert Steyn, investigating allegations

that former Koevoet members who were housed at the mine were involved in the June 17 attack

Mthimkulu said that a meeting of mine security personnel last week, "the chief of the mine security, a Mr du Preez, said the group of people housed at the barracks had been working with the police and were involved in the shootings in Boipatong"

Mthimkulu said the group of men arrived at the mine early in June and the mine's security was surprised because the group did not work during the day, but left at night in a kombi carrying objects "concealed in blankets"

He said security guards who inquired about the group's work were threatened by their chief and told that if they persisted in asking questions they could lose their jobs — Sapa

below

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## 087 COMPLAINTS

Is the 087 telephone service you have dialed fair, decent and honest? If not, you can complain to the Premium 087 Ombudsman. Call toll-free 0800-111-087 (office hours only) or

# Outcry over ANC's 'police escort'

STEPHANE BOTHMA

THE Goldstone commission will be asked to investigate an alleged police-escorted ANC march into an Inkatha stronghold in the Natal midlands this weekend which preceded several attacks on Inkatha — leaving four dead and 12 injured

Inkatha was also considering asking for redeclaration of the Richmond, Natal district as an emergency area and for redeployment of the SAP's internal stability unit in the area, Inkatha spokesman Kim Hodgson said yesterday

The move followed a march last Friday by about 200 ANC supporters carrying spears, pangas and other weapons to Patheni outside Richmond

The SAP, allegedly under instruction from station commander Lt Lombard, escorted the impi into the Inkatha area. This act has been described by Patheni residents as a blatant act of provocation," Hodgson said. A formal complaint was being drafted and would be submitted to the Goldstone commission today

The march into Patheni was followed by an ambush in which ANC youths allegedly ambushed and gunned down 11 Inkatha supporters, killing two men and injuring nine at Gengeshe outside Richmond on

Saturday, he said. On Sunday two men died and three were injured when Inkatha supporters at Patheni were attacked by a large group of armed youths

Violence also erupted in Durban's Umhlangi township. The dead included a three-year-old child who was burned in a petrol-bomb attack on a house in the township

The body of a policeman who had been stabbed was found in Empangeni, police said

Sapa reported that the latest violence had led to an exodus from the area, with unrest monitors reporting a possible refugee crisis in the Port Shepstone area on Natal's south coast

Three people were killed in fighting between Inkatha and the ANC in Murchison, on the south coast, police said yesterday

Their unrest report said the body of a man who had been shot was found in Katilehlong, near Germiston, on Sunday

The ANC's Stanger branch in Natal has broken off talks with the local town council, citing the political crisis triggered by the Boipatong massacre. They were to meet today to discuss demands

# Dutch airline puts SA flights on hold

AMSTERDAM — Dutch charter airline Transavia said yesterday it was postponing a planned new service to Durban because of renewed unrest in SA

Parent company KLM Royal Dutch Airlines said it did not rule out changes to its own recently expanded programme

"In the light of the political situation and the reactions of tour operators we see no basis to begin flights," said a Transavia spokesman

Transavia had been due to start the weekly flight on December 1

A KLM spokesman said "We don't rule out changes but we hope to fly as planned"

KLM, which has an 80% stake in Transavia, plans to extend its twice-weekly Johannesburg run to Cape Town from October 27

No one was available to comment at Martinair, which also just won extra SA landing rights. KLM also owns a minority stake in Martinair — Sapa-Reuter



**W**HOEVER places on public or private property a symbol, object, appellation, characterisation or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know, arouses anger, alarm or resentment in others on the basis of race, colour, creed, religion or gender commits disorderly conduct and shall be guilty of a misdemeanor.

This is the text of a local law, known as the Bias-Motivated Crime Ordinance, adopted by St Paul, Minnesota, in 1982. The references to cross-burning and swastikas were added in 1989, to gender, in 1990. Last week the US Supreme Court unanimously declared the entire text an unconstitutional infringement on the First Amendment's free speech provisions.

Since the issues involved are central to SA's own constitutional debate — indeed some parties seem eager to go rather further than St Paul's city fathers — the court's reasoning is worth a detailed look. Bear in mind that in American jurisprudence "speech" is basically anything that conveys ideas.

**T**he case began in the early hours of June 21 1990. Robert Viktora, a 17-year-old high school dropout, had been drinking with other loutish teenagers at the home of his friend Arthur Miller. Across the street lived Russ and Laura Jones and their five children. The Joneses had recently become the first black family in the quiet, working class neighbourhood.

Their presence did not sit well with Viktora and his companions. After talk of "burning" some blacks, they taped two pieces of a broken chair into a cross, doused it with paint thinner and set it alight on the Joneses' front lawn. Viktora and Miller were swiftly arrested and charged under the bias ordinance. Miller pleaded guilty and served 30 days in jail. Viktora challenged the ordinance as unconstitutional.

The trial court sympathised, finding the ordinance "over broad". That is to say, in addition to restricting clearly restrictable speech, it could

# Guard against laws which silence the politically incorrect

B/Daw 30/6/92

SIMON BARBER in Washington



also be used against speech protected by the First Amendment. The case moved to the Minnesota Supreme Court, which reversed the lower court's ruling. It found the law's reach was limited because it applied only to speech calculated to "arouse anger, alarm or resentment in others", in short "fighting words", a form of expression, like obscenity and gratuitously shouting "fire!" in a crowded theatre, not protected by the First Amendment.

The case moved on to the US Supreme Court which restored the trial court decision. Although the ruling was unanimous, the nine judges were bitterly divided over the reasoning. Four wanted simply to dismiss the ordinance as over broad. The majority, including the court's new black member, Judge Clarence Thomas, decided to take matters further and joined Judge Antonin Scalia, by common consent the bench's towering intellect, in crafting a new and controversial doctrine.

How controversial can be seen from the several minority opinions filed. "I fear," wrote Judge Harry Blackmun testily, "that the court has been distracted from its proper mission by the temptation to decide the issue over 'politically correct speech' and 'cultural diversity', neither of which is presented here."

This is fair comment, and may well be based on the intentions Scalia

and his supporters voiced to their colleagues when the judges were discussing the case in camera. There can be no doubt that the majority opinion represents a devastating assault on attempts to give "politically correct" prejudices the force of law. It could lead to the wholesale revision not only of "hate crime" laws similar to St Paul's, but also to the growing host of race and gender based "speech codes" springing up at universities all over the country.

Writing for the majority, Scalia is prepared to accept the Minnesota Supreme Court's view that the St Paul ordinance covers only "fighting words", but finds this to be immaterial. Instead, he contends, the real issue is whether the state has the right to declare certain types of "fighting words" — or obscenity or libel — more heinous and proscribable than others.

casting from its speakers. The state is not entitled either to let him be or shut him up because it likes or dislikes what he is saying. It may regulate his activities only on the grounds that he is imposing himself on an audience which has not consented to his making an unholy din.

Likewise, Scalia argues, "fighting words" can only be proscribed as elsewhere defined them, as "conduct that itself inflicts injury or tends to incite immediate violence". To codify such conduct into more specific categories defined in terms of content or target, is to make the proscription arbitrary, subject to political whim and unconstitutional.

The St Paul ordinance singles out for unique punishment those "fighting words" that deal with race, religion and gender because these happen to be "disfavoured topics". In the process, it grants relative protection to forms of expression that might incite homosexuals, say, or handicapped persons or union members or the holders of certain political beliefs. The authors of the law have thus effectively granted themselves the power to coerce points of view with which they disagree.

The whole point of the First Amendment, Scalia notes, is that it does not permit the state "to impose special prohibitions on those speakers who express views on dis-

favoured topics". As the ordinance is currently written, "one could hold up a sign saying, for example, that all 'anti-Catholic bigots' are misbegotten, but not that 'papists' are, for that would insult and provoke violence 'on the basis of religion'. St Paul has no authority to license one side of a debate to fight freestyle, while requiring the other to follow Marquis of Queensbury rules."

Scalia, contrary to some of his critics, is not arguing that the essential evil of cross-burning or daubing swastikas on synagogues is debatable, or that the punishment of those who commit such acts does not serve a compelling state interest. It does. However, "the dispositive question is whether content discrimination is reasonably necessary to achieve St Paul's compelling interest; it plainly is not. An ordinance not limited to the favoured topics would have precisely the same effect."

Such an ordinance would presumably look like this: "Whoever places on public or private property a symbol . . . which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others shall be guilty of a misdemeanor." As Scalia himself recognises this would not easily survive the "over broad" test. After all, newspaper columnists often write not only knowing they will arouse anger, but fully intent upon doing so.

**U**ltimately, therefore, creatures like Viktora must be dealt with via other, less thoughtcrime-oriented laws. Of these, as it happens, the state of Minnesota has plenty. He could quite easily have been convicted, and given a far more severe and fitting punishment, for common assault, criminal property damage and making "terroristic threats" (a law that would surely be dear to the heart of Prof. Albe Sachs). At the federal level, he could even be subject to civil rights charges.

There is merit to this approach, especially in SA where one party is already attempting to silence another for the crime of expressing itself in ethnic terms. Regrettably, one can expect to see the St Paul ordinance writ large either in SA's new constitution or in the legislation issuing from a new parliament.



# Boss spoke of attack in Boipatong - claim

A SECURITY guard at Greenside Colliery yesterday told a preliminary hearing of the Goldstone Commission his chief told guards that some men at the barracks were involved in the Boipatong massacre

Mr William Mthimkulu appeared before the committee, chaired by Mr Gert Steyn, investigating allegations that former Kooevoet members housed at the mine near Witbank were involved in the shootings at Boipatong on June 17

Mthimkulu said after a Goldstone Commission delegation went to the barracks last week and searched the area, he received a telephone call from a security sergeant about a meeting of the security personnel the next morning

"The chief of the mine security, a Mr du Preez, said the group of people housed at the barracks had been working with the police and were involved in the shootings in Boipatong"

He denied that this was an allegation Mthimkulu said the group of men arrived at the mine early in June The mine's security was surprised because the group did not work during the day but left at night in a kombi carrying objects concealed in blankets

He said some security guards who enquired about the group's work were threatened by their chief and told they could lose their jobs if they persisted in asking questions

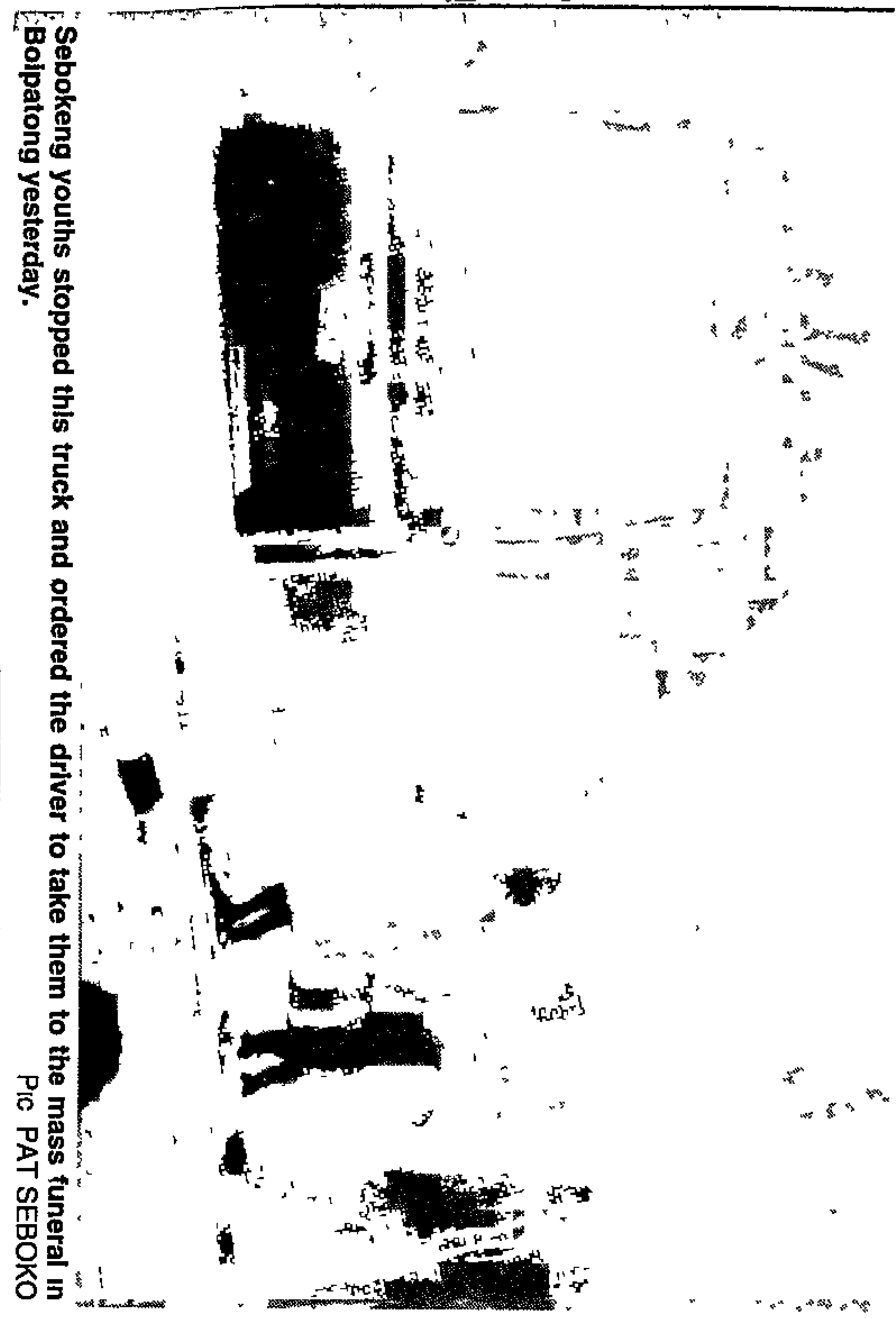
Mthimkulu said members of the group were at the barracks when he went to play soccer on June 17 But most of them had left when he returned He thought they might have gone out to perform their duties as they seemed to work during the night

He and security guards Mr Ace Mngomezulu, Mr Michael Mkele and Mr Zama Nokosi were not happy with the men's stay at the mine because they did not know what their work was

Mngomezulu promised to find out on June 19 about the type of work they were doing from some of them, who used to play a board game with him

Mthimkulu said he did not receive a report from Mngomezulu the next week

Counsel for the commission, Mr Torre Pretorius, told the committee that further witnesses would be referred to the formal sittings of the Boipatong committee which would begin on July 2 - *Sapa*



Sebokeng youths stopped this truck and ordered the driver to take them to the mass funeral in Boipatong yesterday. Pic PAT SEBOKO

# Goniwe probe

Sowetan 30/6/92

THE date for a new inquest into the murder of Cradock activist Mr Matthew Goniwe and three others still has to be set.

Mr Mike Hodgen, Attorney-General of the Eastern Cape, confirmed yesterday that he was receiving information from people about the killings in 1985.

He refused to confirm that he had been approached with information that could link the shadowy "Hammer Unit" to the murders.

State President FW de Klerk ordered the reopening of the inquest in May after a newspaper disclosed the existence of a document which appeared to implicate the State Security Council in the killings.

## '104 whipped in SA daily'

OVER 100 people a day  
are given whipping sen-  
tences by South African  
courts

CT 1/7/92  
The Minister of Jus-  
tice, Mr. Kobie Coetsee,  
said yesterday that  
38 200 were sentenced to  
corporal punishment be-  
tween July 1990 to June  
1991

(252)  
This means that an  
average of 104,65 people  
were given whipping  
sentences every day



# Defence Act could 'silence witnesses'

PROVISIONS of the Defence Act could be used to prevent key witnesses from giving evidence in the re-opened Matthew Goniwe inquest, Labour MP Mr Luwellyn Landers said in Parliament yesterday

Mr Landers had asked the Minister of Defence, Mr Gene Louw, to suspend provisions of the Defence Act to enable "certain witnesses" to give evidence in the re-opened inquest into the deaths of Mr Goniwe and three other activists in 1985

Mr Louw said he had no authority to suspend any provision of an act of Parliament and would not make a statement on the matter

General CP van der Westhuizen,

now Chief of Staff of Military Intelligence, allegedly gave an order on June 7, 1985, that Mr Goniwe and two of his colleagues "be permanently removed from society, as a matter of urgency"

The order was signed by Lieutenant Lourens du Plessis, who confirmed this year that he had done so on instructions of the then-Brigadier Van der Westhuizen

Mr Landers said the Defence Act together with the Protection of Information Act could prevent them from giving evidence "They would be able to simply say 'I refuse to answer any question in terms of these two laws'," Mr Landers said.

117192

# Squatter move challenged in court

*B/Day*  
PRETORIA — Two separate urgent applications were made in the Pretoria Supreme Court yesterday for an order setting aside the Transvaal Provincial Administration's decision to move the Zevenfontein squatters to Diepsloot, near Sandton

The applications by the Laezonia Landowners' Association and the Diepsloot Residents' and Landowners' Association were postponed by agreement to July 14, giving the respondents time to file replying affidavits

The TPA undertook not to move any one to the recently expropriated stands 120, 151, 152 and 153 of the farm Diepsloot until mid-

night on July 16. Should the matter not be finally adjudicated by then, the associations could again apply for interim relief

Laezonia businessman David Ware said it would be in the Zevenfontein community's best interests to remain at the Rietfontein farm until an appropriate new site was found

The proposed resettlement was to be done without any planning, violating every principle of orderly, desirable town planning

Ware claimed Laezonia landowners would suffer irreparable harm if the move went ahead

Business consultant Stuart Aitchison, who filed an affidavit on behalf of the

Diepsloot Residents' and Landowners' Association, said moving the squatters would interfere with the rights of owners of surrounding properties

It appeared the TPA intended to provide a minimum of services to the proposed site, and there would be no influx control, resulting in the settlement being swamped, a health hazard being created and the crime rate in surrounding areas rising, he said

Aitchison said the value of properties had already decreased and could decrease further, causing property owners to have a claim for damages against the TPA — Sapa.

Easter, out...

# The 'sickening frequency' of massacres

252  
STAR 11/7/92

**M**AJOR massacres have been taking place with "sickening frequency" since July 1990, according to Human Rights Commission findings

In the past two years there have been 49 massacres resulting in 1 250 deaths — on average 25 deaths per massacre.

"However, it is important to note that our premise of 10 or more deaths qualifying an incident as a massacre does not take into account numerous other incidents encompassing over 6 000 deaths and 13 000 injuries during the period, which could also properly be described as massacres," the HRC said in a special briefing on massacres

During this period, 38 of the massacres, costing the lives of 1 083 people, took place in the PWV area

Eleven massacres, resulting in 167 deaths, occurred in Natal. These were, however, not the only massacres to have taken place in Natal and the HRC said a survey over the past five years would give a full picture of the region

The HRC has identified the following points which have emerged on the nature of the massacres

- The drive by Inkatha to establish political influence, membership and territory was the predominant theme
- The tactics of extreme ter-

The Human Rights Commission's analysis of South African massacres in the last two years is discussed by Political Reporter ESTHER WAUGH.

ror, used indiscriminately against township communities, to paralyse, immobilise and disorganise, was a complementary theme.

- The use of hostels as bases from which to plan and launch these activities

- The persistent reports of security force complicity in these massacres, as well as involvement of unidentified whites.

- Retaliation which sometimes produced its own massacres.

An analysis of media and other reports, at times corroborated by legal evidence, had shown that IFP members and supporters were responsible for 34 massacres

"Vigilantes of unspecified affiliation, but certainly aligned with the IFP," were responsible for three massacres, the security forces were "directly" responsible for six, and township residents and ANC supporters were responsible for six.

The HRC could find no clue as to the identity of attackers in 10 other massacres

In eight massacres, responsibility was shared between two parties.

The HRC said the assessment of the identity or affiliation of victims was easier than in the case of the attackers

Residents specifically identified as ANC supporters were victims in 10 massacres and IFP members and supporters were the victims in nine

Repeated and persistent reports had emerged of collusion between the security forces — the SADF, SAP and the KwaZulu Police (KZP) — and vigilante groupings, "primarily elements within Inkatha", the HRC said

Eyewitnesses also made frequent allegations of security force complicity in massacres

Such allegations had been made in 19 massacres, "which is a frequency difficult to ignore".

The HRC also noted that allegations of the presence of unspecified or unidentified whites appeared in eight cases

"Finally, it must be said that the abysmal record of the authorities in arresting and prosecuting the perpetrators provides further reason to believe they are part of the problem."

Massacres over the past two years had taken place at the rate of two a month

"There can be little doubt that there is a design and purpose behind most of them that places them alongside the gas chambers of Nazi Germany in sheer cold-blooded cynicism and brutality," the HRC said □



# 49 massacres cost 1 250 lives

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 Day 2/7/92  
**HRC**  
 Political Staff

CAPE TOWN — There had been 49 massacres in SA over the past two years, costing 1 250 lives, the Human Rights Commission said yesterday

Altogether 6 000 people had died and 13 000 people had been injured in political violence since July 1990. The 49 massacres involved incidents where 10 or more people had been killed

The HRC said in a special report that its records showed Inkatha supporters had been responsible for 34 of the massacres, or 69%, and vigilantes aligned with Inkatha for a further 6%

Township residents and ANC supporters had been responsible for 12% and the security forces for 8%

In 10 massacres, there were no clues to the identity of those responsible. There was shared responsibility in eight other massacres.

The massacres had oc-

curred with frequency since July 1990, with an average of 25 deaths in each. In 15 cases the death toll was higher than 25

The HRC said a number of points had emerged about the nature and objectives of massacres:

- The drive by Inkatha to establish political influence, membership and even territory, was the predominant theme,

- The tactics of terror, used indiscriminately against township communities, to paralyse, immobilise and disorganise, was a complementary theme,

- The use of hostels as bases from which to launch these attacks,

- Reports of security force complicity in massacres, and involvement of unidentified whites, and

- Retaliation, which sometimes produced its own massacres

# Vaal boycott and stayaway 'will continue'

WILSON ZWANE

POLITICAL and civic groups, business, trade unions and churches in the Vaal triangle have decided to continue with an indefinite stayaway and consumer boycott in the region.

The boycott, aimed at businesses in Vereeniging and Vanderbijlpark, and the stayaway have been in effect since Monday

Cosatu organising department secretary Zwelinzima Vavi said yesterday the forum decided at a meeting on Tuesday that the protest was still appropriate to force government to end violence in the Vaal region.

"These actions will, however, be re-evaluated on Friday," Vavi said.

The forum also agreed to call on township residents in the Vaal triangle to stop "undisciplined actions", such as attacking cars on roads near the townships

"Such acts will sow division among us and discredit our struggle for liberation," he said

The forum is made up of the ANC/SACP/Cosatu alliance, Azapo, the Vaal Civic Association, the Vaal African Chamber of Commerce, the Roshnee Civic Association and the Vaal Council of Churches

- E Sandton, Johannesburg (011) 883-5814
- D Illovo, Johannesburg (011) 442-9216
- S Arcadia, Pretoria (012) 344-4100
- Y Gardens, Cape Town (021) 462-1500

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# Eskom to spend R200m on cleaning up power stations

8/Day 21/7/92

ESKOM will spend R200m over the next few years to clean up air pollutants emitted from Duvha and Majuba, two of its power stations in the Transvaal

Duvha power station in Witbank had consistently exceeded the pollution limits set by the Health Department's Chief Air Pollution Control Officer (Capco), an Eskom spokesman said

The clean-up contract for Duvha, awarded to Johannesburg-based BBT Flakt, called for the replacement of electrostatic precipitators with bag filters. The filters would collect the fine ash particles which accumulated as a result of burning coal.

Duvha deputy manager Roy Bailey said Eskom had opted initially to test the bag filters at its flagship power station because of mechanical problems with precipitators, which made it difficult to maintain acceptable emissions.

Duvha was expected to be fitted with three units, the first of which would be completed in early 1993. An individual unit would contain four compartments for dust, each equipped with 6 000 filter bags. They would reduce emitted particles to less than

**MEREDITH JENSEN**

50 milligrams a cubic metre.

Eskom manager for boiler plant engineering John Begg said the company planned to spend an additional R100m on bag filters for its planned Majuba power station, to be built in a few years time.

Begg said all of Eskom's 10 fossil-fired power stations were receiving attention to rectify emission problems.

Prof Dieter Holm of the International Solar Energy Society said yesterday pollution levels in the PWV area were six times greater than internationally acceptable levels.

GAVIN DU VENAGE reports that Holm, who returned recently from the world environment forum in Rio de Janeiro, where he was appointed the society's African representative, said the cost of SA's cheap coal-fired energy was paid for in the long term through excessive air pollution.

Holm said society studies had shown that by 2020 about 36%-45% of world energy needs would come from renewable resources.

## Tastic gets interdict against strikers

TASTIC Rice obtained an interdict in the Rand Supreme Court yesterday against about 200 striking workers allegedly involved in acts of sabotage and intimidation against the company and other employees.

The workers, who voted to go on strike on June 4 after wage negotiations broke down, are all members of the Food and Allied

8/Day 21/7/92  
**SUSAN RUSSELL**

Workers' Union. Judge J Lazarus granted an order prohibiting striking workers, except two shop stewards and three other workers at a time, from coming within 250m of the company's Industria premises.

They were also interdicted from unlawfully inter-

fering with or obstructing the normal operation of Tastic's business and from intimidating, assaulting or harassing other employees.

The union did not oppose granting of the interdict.

Tastic's human resources manager Peter Lawrence Latta said in one incident the braking air-pipes of four transport trucks were found to have been severed.

# Aid for public defenders urged

By Kaizer Nyatumba  
Political Reporter

Justice Minister Kobie Coetsee yesterday called on the private sector to become involved in the financing of South Africa's fledgling public defender system.

In a statement issued by his department, Mr Coetsee said the public defender system — set up in Johannesburg in January this year as a two-year pilot project — had succeeded beyond expectations.

He said its purpose was to gain experience and to form a basis for its expansion, firstly to areas with most criminal trials and



Kobie Coetsee system exceeding expectations.

then progressively to other areas

Mr Coetsee's statement comes three days after the Sunday Star revealed that the public defender system had taken on 1122 of the 1154 cases referred to it

between January and May

The story quoted public defender Vivian Fortunat as saying that out of 620 completed trials, public defenders had won 63 percent of their cases

Mr Coetsee said the expansion of the system might be inhibited by the shortage of funds, and he called on the private sector to help

"For meaningful expansion of the public defender system, and for the provision of legal aid in general, it is imperative that the private sector becomes involved to a greater extent," he said



STAR 2762

# Govt urged to decide on death penalty

By Helen Grange 252

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Supreme Court judges are exerting renewed pressure on the Government to decide on the death penalty — a sentence which continues to be handed down despite a moratorium

Natal Supreme Court judge Mr Justice Hugo this week joined other judges in criticising the Government's refusal to carry out executions, saying the task of the courts was made impossible in the case of an accused whose actions made the death sentence legally appropriate

The general feeling was that by applying the death penalty,

the courts were playing a "deadly but not serious game", he said

Earlier, Rand Supreme Court judge Mr Justice Strydom said the death penalty had not had the same deterrent effect as it had before executions were suspended in November 1990

In addition, the delay was intolerable for Death Row prisoners who did not know whether and when they would be hanged

By December 1991, about 265 prisoners were on Death Row. The prison authorities could not provide updated statistics yesterday

Johannesburg Bar Council

chairman Schalk Burger described the situation as totally unsatisfactory

Apart from relieving the pain of delay for Death Row prisoners, it would enable judges to hand down sentences which could be carried out, he said

However, other legal organisations are content that a moratorium on executions should remain until a bill of rights is implemented

"While the question of the future dispensation is under debate, and a bill of rights is in the offing, we believe the moratorium should stay," said former Association of Law Societies president Ed Southey

# Perskor, union dispute appeal

By JOE MDHLELA

*Sowetan 217192*

THE two-year-old dispute between the Media Workers' Association of South Africa and Perskor will be heard by the Appellate Division of the Supreme Court in Bloemfontein on August 27

The case is a sequel to the dismissal of 3 500 workers by Perskor in 1990

The company subsequently re-employed some of the dismissed workers, a move that angered the union, which then took the matter to the industrial court

## Favour

The industrial court ruled in favour of the union and ordered the company to reinstate all the dismissed workers

The company appealed to the Pretoria Supreme Court, which upheld industrial court ruling and dismissed the appeal

At a later hearing, the same court overruled an earlier decision by Mr Justice Curlewis in favour of Perskor

Mr Justice Spoelstra ruled in favour of the company, prompting Mwasu to take the matter to the Appellate Division





# UK cops to probe massacre

*Sowetan 2/7/92*  
SENIOR British detectives will assist the Goldstone Commission in its investigation into the Boipatong massacre (252) ~~252~~

The chairman of the commission, Mr. Justice Richard Goldstone, said yesterday Commander Tom Laidlaw and Detective Superintendent David Don of the British Metropolitan Police would assist the commission.

"Their function will be to form a judgment of the adequacy and effectiveness of the South African Police investigation into the events at Boipatong," said Goldstone. The detectives would report directly to the commission, he added.

# Tastic gets interdict against union strikers

By Susan Smuts

Death threats and sabotage during a strike formed the background to an urgent interdict brought by Tastic Rice against the Food and Allied Workers' Union (Fawu) yesterday.

In an affidavit handed to Mr Justice J V Lazarus in the Rand Supreme Court, Tastic's human resources manager Peter Latta said strikers at its Industria branch had assaulted and intimidated non-striking employees and casual workers. They had damaged property and vehicles belonging to Tastic and its contractors, he said.

Nine supervisors at Industria had taken paid leave after receiving death threats.

Some of the incidents described by Mr Latta include:

- The severing of brake air-pipes of four trucks.

- The slashing and piercing of truck and car tyres.

- Death threats.

- The damaging of tarpaulins on trucks.

- The smashing of a wind-screen.

Strikers had also damaged the gate at Tastic's dispatch point, preventing trucks from leaving and entering.

Mr Latta said the company would be severely prejudiced if it could not distribute its rice. Competitors stood to gain, he said.

The judge granted an interdict restraining Fawu and 164 striking workers from coming within 250 m of Tastic's premises, or that of one of its contractors, Elite Truck Hire.

Strikers were also restrained from interfering in Tastic's business and intimidating, assaulting, harassing or interfering with working employees.

The union did not oppose the application.

# 'Killers came from hostel'

STAR 3/7/92

By Zingisa Mkhuma  
and Own Correspondent

A senior policeman yesterday told the preliminary hearing of the Goldstone Commission of inquiry into the Boipatong massacre that they could find no evidence linking security forces to the June 17 attack which killed more than 40 people and injured 30.

Speaking on behalf of the police and the Minister of Law and Order, Major Christo Davidson — a member of the 200-strong police team charged with apprehending the killers — said investigations had revealed that ANC allegations that "white persons", security force members or ex-Koevoet members had been involved in the attack were false.

"The allegations that the security forces were involved in the attack and that they transported residents of the KwaMadala hostel to and from the township are totally unfounded," he said.

He said investigations had indicated that between 200 and 300 men had left the KwaMadala hostel on foot at about 9.15 pm on June 17. They had gathered in an open veld before separating into small groups which attacked residents in Boipatong and Slovo Park.

He said police who arrived after the attack had prevented youths from attacking the hostel.

The chairman of the ANC PWV region, Tokyo Sexwale, said Boipatong residents had frequently repeated, at the time, that security forces had been seen in Boipatong and seemed to have been involved in the attack.

"This perception persists among many residents of Boipatong today," he said.

Mr. Sexwale added that concrete evidence obtained

● To Page 3

# 'The killers came from hostel'

STAR 3/7/92  
From Page 1

from witnesses would be submitted to the commission at a later stage. He denied earlier police submissions that the ANC had hampered police investigations into the massacre by instructing witnesses not to give evidence. Mr Sexwale said it was the people themselves who refused to do so because they perceived the police to be involved in the violence.

He said the commission had no powers to protect witnesses and that some of the people who had given evidence

before the commission had in the past been subsequently killed.

Major Davidson submitted that their investigations had revealed that some hostel residents intended attacking the self-defence units in Boipatong on June 17.

Mr Sexwale told the commission the massacre "compelled the ANC and its national executive committee to sever multilateral talks with the Government".

"There is a deep, dangerous and explosive anger among the residents of Boipatong and in the Vaal Triangle gen-

erally," said Mr Sexwale. He said the angry mood of the residents was evident at a mass meeting held in the course of ANC president Nelson Mandela's visit to the area on June 21.

The standard gesture on such occasions is to observe a minute's silence in remembrance of the dead. However, said Mr Sexwale, the residents on that occasion refused to observe tradition.

Instead, he said, they sang a song to the effect that "you are behaving like a lamb, while people are being killed".



INTERNATIONAL MEDIATION

252

# Beware the innocents

FM 3/7/92

**International mediation** — beginning with a monitoring commission to help end political violence and restore the credibility of the security forces — has been offered to SA as a means of restarting constitutional talks

This follows contacts between government officials and foreign diplomats in Pretoria over the past week, and separate meetings in Nigeria between UN secretary-general Boutros Boutros-Ghali, Foreign Minister Pik Botha and ANC president Nelson Mandela

Boutros-Ghali is due to visit SA within the next few weeks, possibly to take the process further

The ANC is insisting on international monitoring of the security forces. Government has tentatively agreed to foreign observers coming in to help end unrest, but refuses to accept that alleged security force misbehaviour or neglect of duty is the only cause of violence

President FW de Klerk says foreign teams are welcome as long as they don't compromise SA's sovereignty

If successful, the monitoring operation could lead to formal foreign mediation in Codesa or a similar body, a move that government has rejected up to now. However, with Codesa stalled and the country on the verge of slipping back into international isolation, it may have no choice

International mediation, possibly including an independent foreign chairman, would also assist the ANC in holding on to its militant Left wing. The PAC has long insisted that constitutional talks take place at a neutral venue under an independent chairman. It blames the failure of Codesa partly on the ANC's refusal to accept these prerequisites. A compromise could save face for both the ANC and PAC

Democratic Party leader Zach de Beer says monitoring may lead to mediation, which he believes is essential to help SA out of the current political impasse

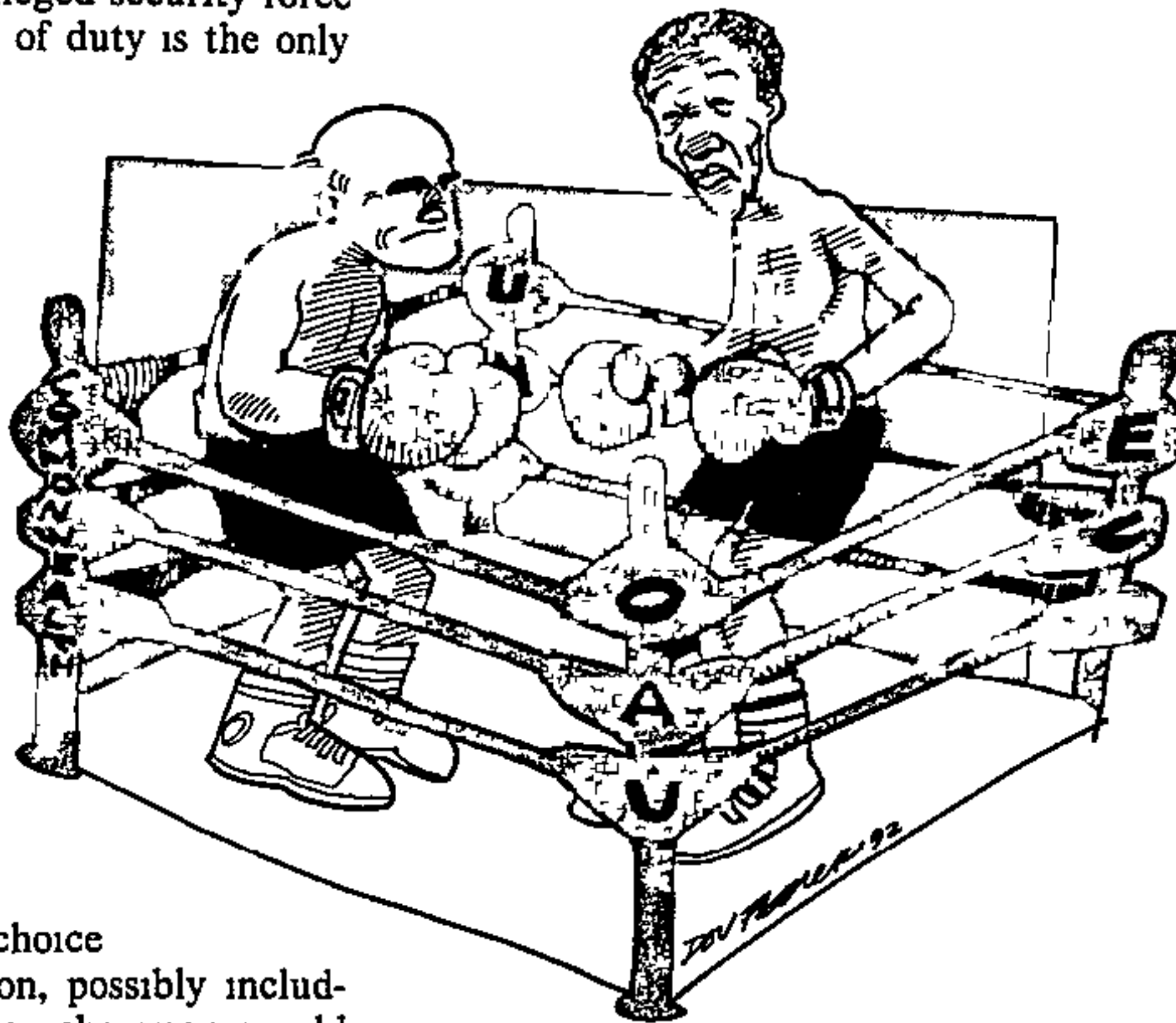
*The Sowetan* also says SA now needs international mediation to keep the reform process moving. "It is now required that our friends in the world give us a hefty push to the achievement of a peaceful and democratic society."

But analysts point out that unrest monitoring should not be seen as the solution to violence. It will have little effect unless poli-

tical groups honour commitments to work for peace and the SAP intensifies efforts to restore law and order

Johan Olivier, Human Sciences Research Council authority on political violence, says he is not over-optimistic about the chances of a monitoring group being able to end the violence which is "clearly out of control. What we need is for all parties to remain committed to the terms of the Peace Accord. At the moment we even have Cabinet Ministers making irresponsible statements on violence. Political leaders are either naive or are simply using the violence to score political points"

Olivier says issues such as the size, financing and *modus operandi* of a monitoring group need to be carefully considered so that



it is perceived as credible and impartial. For example, if it is financed by the State and travels with the security forces, it may be perceived as being compromised

He says if the monitoring group wants to treat causes and not just symptoms, it will have to be both reactive and proactive, in the same way that the Peace Secretariat is and signatories to the Peace Accord should be (but often are not). At the same time there will have to be greater efforts to address economic, political and social issues that contribute to unrest

Clifford Shearing, head of the University of the Western Cape's community law centre, says a major problem facing SA at present is the lack of a valid descriptive base for acts of violence. "Virtually every descriptive account is part of a political game, part of the struggle. There can be no accountability because nobody really knows what's go-

ing on"

He says in a normal democracy a group like the SAP would be subject to scrutiny by a credible monitoring body, which would then report to a credible parliament. The Goldstone Commission is able partly to fill the role of a credible monitor but it is reporting to parliament that lacks credibility

The co-opting of international participants by Goldstone — Reading University's criminal justice director Peter Waddington, and former Indian chief justice Prafulla Chandra Bhagwati — is a positive move, but Shearing believes international participation needs to be on a representative rather than an individual basis. "We need an internationally credible outside body to become involved in some way or other"

He says ideally a monitoring group should include international representatives, but be comprised mainly of an acceptable cross-section of South Africans. There are already a considerable number of individuals and organisations involved in unrest monitoring who could be brought in

He sees government's concern that international monitors may compromise its sovereignty as a red herring. "Rather than interfere with its ability to govern, a monitoring group would compel it to govern in a climate where evidence of good governance is known"

Rather than monitoring all political activity, he believes the monitors should concentrate on ensuring the correct behaviour of the SAP, which should in turn maintain law and order and ensure that political groups don't resort to violence. "The monitors should not take over the law and order role of the SAP, but simply ensure that the police do their job in an equitable and acceptable manner"

Both Shearing and Olivier say agreement on the composition of a monitoring group should not be a major obstacle as long as there is a common will to end the violence

But there may be better reasons, other than protecting sovereignty, for government's reluctance

The statements after a recent tour by an Amnesty International delegation showed how easy it is for foreigners to decide who the bad guys are before they get here. The National Party is, after all, the party which invented and applied apartheid, it is understandably concerned about the foreign tendency to reduce SA politics to a case of Hitler vs the Cosby family

Then there is the question of what the monitors would actually do. Would they stand around with notebooks whenever police confront a raging mob? How would they decide what level of force is required to stop, say, a necklacing? Who would transport the

cont →

## Trial of 2 in SADF case

STAR 317/92  
postponed

The trial of two men who face eight charges ranging from breaking into defence force installations to armed robbery was yesterday postponed for the second time until September 9, in the Pretoria Regional Court.

State prosecutor L J de Klerk said a psychiatric report on one of the accused, Cornelius van Wyk — in a separate case, but which may have a bearing on the present case — was still being awaited.

A murder charge against Mr van Wyk is to be referred to the Supreme Court.

The State alleges that Mr van Wyk (21) and Jean du Plessis (20) stole the car of Michael van Leeuwen, and broke into a clothing store at the Infantry School in Oudtshoorn, where clothing was removed.

They allegedly broke into an SADF store and removed arms and ammunition, and allegedly threatened two SADF members and stole their rifles — Sapa

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REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

# GOVERNMENT GAZETTE

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Vol 325

KAAPSTAD, 3 JULIE 1992

No. 14087

CAPE TOWN, 3 JULY 1992

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No 1780

3 Julie 1992

No 1780

3 July 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word —

It is hereby notified that the State President has assented to the following Act which is hereby published for general information —

No 94 van 1992 Wet op Korrupsie, 1992

No 94 of 1992 Corruption Act, 1992



# ACT

To provide anew for the criminalization of corruption and for matters connected therewith.

*(English text signed by the State President )  
(Assented to 18 June 1992 )*

**BE IT ENACTED** by the State President and the Parliament of the Republic of South Africa, as follows —

**Prohibition on offer or acceptance of benefit for commission of act in relation to certain powers or duties**

- 5 1. (1) Any person—
- (a) who corruptly gives or offers or agrees to give any benefit of whatever nature which is not legally due, to any person upon whom—
- 10 (i) any power has been conferred or who has been charged with any duty by virtue of any employment or the holding of any office or any relationship of agency or any law, or to anyone else, with the intention to influence the person upon whom such power has been conferred or who has been charged with such duty to commit or omit to do any act in relation to such power or duty, or
- 15 (ii) any power has been conferred or who has been charged with any duty by virtue of any employment or the holding of any office or any relationship of agency or any law and who committed or omitted to do any act constituting any excess of such power or any neglect of such duty, with the intention to reward the person upon whom such power has been conferred or who has been charged with such duty because he so acted, or
- 20 (b) upon whom any power has been conferred or who has been charged with any duty by virtue of any employment or the holding of any post or any relationship of agency or any law and who corruptly receives or obtains or agrees to receive or attempts to obtain any benefit of whatever nature which is not legally due, from any person, either for himself or for anyone else, with the intention—
- 25 (i) that he should commit or omit to do any act in relation to such power or duty, whether the giver or offeror of the benefit has the intention to influence the person upon whom such power has been conferred or who has been charged with such duty, so to act or not, or
- 30 (ii) to be rewarded for having committed or omitted to do any act constituting any excess of such power or any neglect of such duty, whether the giver or offeror of the benefit has the intention to reward the person upon whom such power has been conferred or who has been charged with such duty, so to act or not,
- 35

shall be guilty of an offence

- (2) If any offence referred to in subsection (1) or any part thereof is committed or done outside the Republic, it shall be deemed to have been committed or
- 40 done in the Republic if the power or duty referred to in that subsection is connected with any person or any institution or any government body in the Republic

**Jurisdiction in respect of offences committed outside Republic**

2. (1) Any court within the area of jurisdiction in which the person, institution
- 45 or government body referred to in subsection (2) of section 1 is domiciled or seated, shall have jurisdiction to try any offence referred to in that subsection

(2) Subject to the provisions of section 47 of the First Schedule to the Defence Act, 1957 (Act No 44 of 1957), "court" shall, for the purposes of this section, mean—

- 5 (a) any magistrate's or regional court referred to in the Magistrates' Courts Act, 1944 (Act No 32 of 1944), or
- (b) any provincial or local division of the Supreme Court referred to in the Supreme Court Act, 1959 (Act No 59 of 1959)

#### Penalties

10 3. Subject to the provisions of section 277(1) of the Criminal Procedure Act, 1977 (Act No 51 of 1977), any person who is convicted of an offence referred to in section 1 shall be liable to any penalty within the punitive jurisdiction of the court concerned

#### Repeal of laws

15 4. The common law crime bribery, the Prevention of Corruption Act, 1958 (Act No 6 of 1958), section 36 of the General Law Amendment Act, 1964 (Act No 80 of 1964), and the Prevention of Corruption Amendment Act, 1982 (Act No 43 of 1982), are hereby repealed

#### Short title

5. This Act shall be called the Corruption Act, 1992

# WET

**Om opnuut voorsiening te maak vir die strafbaarstelling van korrupsie en vir aangeleenthede wat daarmee in verband staan.**

*(Engelse teks deur die Staatspresident geteken )  
(Goedgekeur op 18 Junie 1992 )*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg —

**Verbod op aanbied of ontvangs van voordeel vir handeling verrig met betrekking tot sekere bevoegdhede of pligte**

1. (1) Iemand— 5
- (a) wat aan enige persoon aan wie daar—
- (i) 'n bevoegdheid verleen of 'n plig opgedra is uit hoofde van 'n diensbetrekking of die bekleding van 'n amp of 'n verteenwoordigingsverhouding of 'n wet, of aan enigiemand anders, op korrupte wyse enige voordeel van watter aard ook al wat nie regtens verskuldig is nie gee of aanbied of instem om dit te gee met die opset om die persoon aan wie so 'n bevoegdheid verleen of plig opgedra is, te beïnvloed om 'n handeling met betrekking tot so 'n bevoegdheid of plig te verrig of na te laat, of 10
- (ii) 'n bevoegdheid verleen of 'n plig opgedra is uit hoofde van 'n diensbetrekking of die bekleding van 'n amp of 'n verteenwoordigingsverhouding of 'n wet en wat 'n handeling verrig of nagelaat het wat 'n oorskryding van so 'n bevoegdheid of 'n versuim van so 'n plig uitmaak, op korrupte wyse enige voordeel van watter aard ook al wat nie regtens verskuldig is nie gee of aanbied of instem om dit te gee met die opset om die persoon aan wie so 'n bevoegdheid verleen of plig opgedra is, te beloon omdat hy aldus opgetree het, of 15
- (b) aan wie daar 'n bevoegdheid verleen of 'n plig opgedra is uit hoofde van 'n diensbetrekking of die bekleding van 'n amp of 'n verteenwoordigingsverhouding of 'n wet en wat op korrupte wyse van enige persoon enige voordeel van watter aard ook al wat nie regtens verskuldig is nie ontvang of verkry of tot die ontvangs daarvan instem of poog om dit te verkry, hetsy vir homself of vir enigiemand anders, met die opset— 20
- (i) dat hy 'n handeling met betrekking tot so 'n bevoegdheid of plig moet verrig of nalaat, hetsy die gewer of aanbieder van die voordeel die opset het om die persoon aan wie so 'n bevoegdheid verleen of plig opgedra is, te beïnvloed om aldus op te tree al dan nie, of 30
- (ii) om beloon te word vir 'n handeling wat hy verrig of nagelaat het wat 'n oorskryding van so 'n bevoegdheid of 'n versuim van so 'n plig uitmaak, hetsy die gewer of aanbieder van die voordeel die opset het om die persoon aan wie so 'n bevoegdheid verleen of plig opgedra is, te beloon omdat hy aldus opgetree het al dan nie, 35
- is aan 'n misdryf skuldig
- (2) Indien 'n misdryf in subartikel (1) bedoel of enige deel daarvan buite die Republiek gepleeg of gedoen word, word dit geag in die Republiek gepleeg of gedoen te gewees het indien die bevoegdheid of plig in daardie subartikel bedoel, in verband staan met 'n persoon of 'n instelling of 'n owerheidsliggaam in die Republiek 40

**Jurisdiksie ten aansien van misdrywe buite Republiek gepleeg**

2. (1) 'n Hof binne die regsgebied waarin die persoon, instelling of owerheidsliggaam in subartikel (2) van artikel 1 bedoel, gedomisiileer of gesetel is, het jurisdiksie om 'n misdryf in daardie subartikel bedoel, te bereg 45



(2) Behoudens die bepalinge van artikel 47 van die Eerste Bylae by die Verdedigingswet, 1957 (Wet No 44 van 1957), beteken "hof" vir die doeleindes van hierdie artikel—

- (a) 'n landdros- of streekhof bedoel in die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), of
- (b) 'n provinsiale of plaaslike afdeling van die Hooggeregshof bedoel in die Wet op die Hooggeregshof, 1959 (Wet No 59 van 1959)

5

#### **Strawwe**

3. Behoudens die bepalinge van artikel 277 (1) van die Strafproseswet, 1977 (Wet No 51 van 1977), is iemand wat skuldig bevind word aan 'n misdryf in artikel 1 bedoel, strafbaar met enige straf binne die strafbevoegdheid van die betrokke hof

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#### **Herroeping van wette**

4. Die gemeenregtelike misdryf omkoperij, die Wet op die Voorkoming van Korruptie, 1958 (Wet No 6 van 1958), artikel 36 van die Algemene Regswysigingswet, 1964 (Wet No 80 van 1964), en die Wysigingswet op die Voorkoming van Korruptie, 1982 (Wet No 43 van 1982), word hierby herroep

15

#### **Kort titel**

5. Hierdie Wet heet die Wet op Korruptie, 1992

# Police blame 300 Kwamadala hostel residents for Boipatong killings

PRETORIA — The SAP yesterday told the Goldstone commission that the Boipatong massacre was carried out by up to 300 residents of nearby Kwamadala hostel.

The commission was also told on its first day of hearings into the massacre that the ANC would not necessarily give an undertaking that it would submit evidence of security force involvement.

Judge Richard Goldstone and four assessors are hearing submissions in order to prepare terms of reference for a committee which will investigate allegations surrounding the massacre.

3/1/92

In a submission of behalf of the Law and Order Minister and the Commissioner of the SAP, May Christio Davidson said investigations to date revealed that about 200 to 300 residents of Kwamadala hostel attacked Boipatong houses and residents.

"The allegations that the security forces were involved in the attack and that they transported residents of the Kwamadala hostel to and from the township are totally unfounded," Davidson said.

No member of the security forces took part in the attack, the street lights were not switched off during the attack, police

252/251

TIM COHEN

did not disperse residents with tearsmoke prior to the attack and police did not have prior knowledge of the attack, he said.

Police investigation indicated that on June 17 various vehicles of the SAP and SADF were present. They were patrolling the area or were sent to the scene as a result of reports of the attack, he said.

Hospital authorities were reluctant to allow the SAP to talk to the injured, but once they were allowed to do so none of the injured could identify their attackers.

Other injured people had refused to give statements to the SAP, he said, alleging that the ANC and the Red Cross had advised residents not to make statements.

"The primary cause of the attack can be found in a power struggle between supporters of the ANC and supporters of the IFP," Davidson said.

In his often emotional submission, ANC P/W regional chairman Tokyo Sexwale said there was a perception "in the community" that elements of the security forces were involved in the attack.

Asked by the commission's legal repre-

sentative J J du Toit whether the ANC would submit evidence in this regard, Sexwale said he trusted that this evidence would emerge, but stressed that people who had given evidence before the commission were in personal danger.

He said there was no official ANC policy or decision to instruct residents not to make statements to the police, but added that in the ANC's view there were sound reasons why members of the community were reluctant to talk to police.

"It is a direct result of the profound ins-

## Boipatong

3/1/92

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Page 1

trust which the residents have of the police and security forces generally."

WILSON ZWANE reports that the ANC will not overrule the decision by its Vaal branch to discourage Boipatong residents from helping the police.

On Wednesday ANC P/W spokesman Wally Mbele said the decision to discourage residents from co-operating with police was taken by the Vaal branch of the ANC/SACP/Cosatu alliance because of alleged police complicity in the massacre.

ANC national spokesman Carl Niehaus said yesterday his organisation "understood and respected" the decision.

The ANC was encouraging residents to give statements to independent bodies, such as the Independent Board of Inquiry into Informal Repression.

Sexwale told the commission govern-

ment and President F W de Klerk were "criminally negligent" for not adhering to the recommendations of the Goldstone commission that all hostels should immediately be fenced. Were it not for this omission, the Boipatong massacre might not have occurred.

Citizen Force and Vaal Commando member May Pieter van Wyk said he had interviewed all members of the Vaal Commando who were on duty on the night of the massacre and had found no evidence of SADF involvement.

Meanwhile, police have said they were looking for owners of goods they had recovered at Kwamadala hostel and in the reeds nearby.

The goods were allegedly looted by Kwamadala hostel inmates.

Comment Page 6

**Applikant:**

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001

- 2 Wysiging van die beskrywing van veiligheids- of ontlaskleppe, indeelbaar by tariefsubposte 8481 40 10, 8481 40 20, 8481 40 30 en 8481.40 90, deur die vervanging van die bestaande voorsienings deur die volgende

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90	Ander	vry

[RTH-verw. T5/1/15 (920224)  
(R. J van den Berg)]

**Applikant:**

Die Kommissaris van Doeane en Aksyns, Privaat Sak X47, Pretoria, 0001

[Opmerking Die voorgestelde wysiging sal 'n verlaging van die reg op ander veiligheids- of ontlaskleppe, tans indeelbaar by tariefsubpos 8481.40.90, van 5 per sent *ad valorem* tot vry van reg meebring.]

Lys 24/92 is by Algemene Kennisgewing 571 van 26 Junie 1992 gepubliseer  
(3 Julie 1992)

**KENNISGEWING 597 VAN 1992****RAAD OP TARIEWE EN HANDEL****ONDERSOEK NA PRYSVORMING  
IN DIE VOEDSELKETING**

Die Raad is besig met 'n ondersoek na prysvorming in die voedselketting

'n Voorlopige verslag oor die ondersoek is as 'n besprekingsdokument vrygestel en kan by die Raad se kantore afgehaal word.

Belanghebbende persone of instansies word hierby genooi om skriftelike kommentaar oor die besprekingsdokument of enige ander aangeleentheid met betrekking tot prysvorming in die voedselketting aan die Raad voor te lê

Voorleggings moet die Voorsitter, Raad op Tariewe en Handel, Privaat Sak X753, Pretoria, 0001, nie later as **14 Augustus 1992** bereik nie.

Inligting oor die ondersoek kan van mnr M R. Heyns by Tel (012) 310-9856 verkry word  
(3 Julie 1992)

**KENNISGEWING 598 VAN 1992****DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GOEWERMENTSKENNISGEWING No. 3013 VAN 18 DESEMBER 1990 VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting in die Bylae bekend, die name van persone wat die inligting bedoel in paragraaf (b)

**Applicant:**

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

- 2 Amendment of the description of safety or relief valves, classifiable under tariff subheadings 8481.40.10, 8481.40 20, 8481.40.30 and 8481.40.90, by the substitution for the existing provisions of the following:

Tariff Heading	Description	Rate of Duty
8481 40	Safety or relief valves.	
10	of a kind commonly used with domestic hot water systems	15%
90	Other	free

[BTT Ref. T5/1/15 (920224)  
(R J. van den Berg)]

**Applicant:**

The Commissioner for Customs and Excise, Private Bag X47, Pretoria, 0001

[Note The recommended amendment will bring about a reduction in the duty on other safety or relief valves, currently classifiable under tariff subheading 8481 40.90, from 5 per cent *ad valorem* to free of duty ]

List 24/92 was published under General Notice 571 of 26 June 1992  
(3 July 1992)

**NOTICE 597 OF 1992****BOARD ON TARIFFS AND TRADE****INVESTIGATION INTO PRICE FORMATION  
IN THE FOOD CHAIN**

The Board is currently conducting an investigation into price formation in the food chain

A preliminary report on the investigation has been released as a discussion document and can be obtained from the Board's offices

Interested persons or organisations are hereby invited to submit to the Board written comments on the discussion document or any other matter related to price formation in the food chain

Submissions should reach the Chairman, Board on Tariffs and Trade, Private Bag X753, Pretoria, 0001, not later than **14 August 1992**.

Information regarding the investigation may be obtained from Mr M. R. Heyns at Tel (012) 310-9856.  
(3 July 1992)

**NOTICE 598 OF 1992****DEPARTMENT OF JUSTICE**

ANNOUNCEMENT OF NAMES OF PERSONS WHO FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF GOVERNMENT NOTICE No 3013 OF 18 DECEMBER 1990

The Director-General: Justice hereby makes known for general information in the Schedule, the names of persons who furnished in full the information referred to



van Goewermentskennisgewing No. 3013 van 18 Desember 1990 volledig verstrek het, vir sover sodanige inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing, ten opsigte van die verlating van die Unie of Republiek sonder 'n geldige paspoort of 'n permit of sonder magtiging by 'n ander plek as 'n toegangspoort, soos bedoel in paragraaf (a) daarvan, deur sodanige persone.

in paragraph (b) of Government Notice No 3013 of 18 December 1990, in so far as such information relates to the granting of indemnity in accordance with the said Government Notice, in respect of the departure from the Union or Republic without a valid passport or a permit or without authority at a place other than a port, as referred to in paragraph (a) thereof, by such persons.

**BYLAE • SCHEDULE**

252

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Cindi .. ....	Patrick Zazile...	1956-03-26
Lentsoe .....	Mogomotsi William .....	1957-01-13
Leepile .. ....	Moshobane William .....	1959-05-08
Magxala .. ...	Emerald Nomfundo .. ...	1948-06-01
Mahiasela .. .	Andrew Dhoo .....	1948-12-01
Majabane . . .	William Ntinyana . ...	—
Makgalo . . .	Mpele Jimmy . . . . .	1947-01-18
Mokoetle . . .	Michael Qabang . . . . .	1956-01-31
Molefe . . . . .	Kitty Dorothy .....	1959-10-06
Nkosi .. . . .	Reginald Mazwandile . . . . .	1961-05-17
Pule .. . . .	Edwin Freddie ... . . . .	1959-04-11
Segal . . . . .	Ronald Michael ... . . . .	1932-07-14
Solomon . . . .	Uranin Vladimir Dzerzhinsky .....	1962-06-09

(3 Julie 1992)/(3 July 1992)

**KENNISGEWING 599 VAN 1992****DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENTS-KENNISGEWING No 501 VAN 6 MAART 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (d) VAN GENOEMDE GOEWERMENTS-KENNISGEWING VERSTREK HET

Die Direkteur-generaal Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

- (a) wat lede van die African National Congress of Umkhonto we Sizwe is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ontwikkeling ooreenkomstig paragraaf (a) van Goewermentskennisgewing No 501 van 6 Maart 1991 onderskryf het; en
- (b) wat die inligting bedoel in paragraaf (d) van genoemde Goewermentskennisgewing volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing ten opsigte van die ondergaan van opleiding in stryd met die bepalings van artikel 2 (1) (b) van die Wet op Terrorisme, 1967 (Wet No 83 van 1967), of artikel 54 (1) (ii), saamgelees met artikel 54 (7), van die Wet op Binnelandse Veiligheid, 1982 (Wet No. 74 van 1982), na gelang van die geval

**NOTICE 599 OF 1992****DEPARTMENT OF JUSTICE**

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No. 501 OF 6 MARCH 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (d) OF THE SAID GOVERNMENT NOTICE

252

The Director-General: Justice hereby makes known for general information, in the Schedule hereto, the names of persons—

- (a) who are members of the African National Congress or Umkhonto we Sizwe, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government Notice No. 501 of 6 March 1991 subscribed to the principles of peaceful solutions and development, and
- (b) who have furnished the information referred to in paragraph (d) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice in respect of the undergoing of training in contravention of the provisions of section 2 (1) (b) of the Terrorism Act, 1967 (Act No. 83 of 1967), or section 54 (1) (ii), read with section 54 (7), of the Internal Security Act, 1982 (Act No. 74 of 1982), as the case may be.

## BYLAE • SCHEDULE

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Gumede .....	Christian Langalinye .....	1960-12-10
Kebotlhale .....	Christopher Tebogo .....	1967-11-14
Magxala .....	Emerald Nomfundo .....	1948-06-01
Malinga .....	Itumeleng .....	1962-06-15
Matsimela .....	Herman .....	1954-05-27
Mketi .....	Trevor Xosa .....	1956-01-06
Mohrpi .....	Peter Valentine Mokgobo .....	1964-11-24
Mokoetle .....	Michael Qabang Moeletsi .....	1956-01-31
Mpuqa .....	Michael Mawushe .....	1960-07-28
Ndebele .....	Bafana Christopher .....	1954-05-27
Ngiba .....	Bhekisisa .....	1965-11-22
Nqocobo .....	Reginald Siphon .....	1946-01-13
Solomon .....	Uranin Vladimir Dzerzhinsky J. .....	1962-06-09
Zenzile .....	Haylett Thozamile Wanty .....	1957-06-26

(3 Julie 1992)/(3 July 1992)

## KENNISGEWING 600 VAN 1992

## DEPARTEMENT VAN JUSTISIE

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF "(a)" VAN GOEWERMENSKENNISGEWING No R 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF "(b)" VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal: Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

- (a) wat lede van die African National Congress is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ontwikkeling ooreenkomstig paragraaf (a) van Goewermentskennisgewing No. R 936 van 24 April 1991 onderskryf het; en

- (b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermentskennisgewing volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing aan elke sodanige persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermentskennisgewing. 'n Lys van die spesifieke handeling ten opsigte waarvan vrywaring deur elke sodanige persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal: Justisie.

## NOTICE 600 OF 1992

## DEPARTMENT OF JUSTICE

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH "(a)" OF GOVERNMENT NOTICE No. R 936 OF 24 APRIL 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH "(b)" OF THE SAID GOVERNMENT NOTICE

The Director-General Justice hereby makes known for general information, in the Schedule hereto, the names of persons—

- (a) who are members of the African National Congress, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government Notice No. R. 936 of 24 April 1991 subscribed to the principles of peaceful solutions and development, and

- (b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to each such person in respect of any act referred to in paragraph (c) of the said Government Notice. A list of the specific acts in respect of which indemnity has been acquired by each such person is available for inspection at the Office of the Director-General: Justice.

## BYLAE • SCHEDULE

Van Surname	Voorname Names	Geboortedatum Date of birth
Geyer .....	Arnold Heinrich .....	1948-04-02
Kebotlhale .....	Christopher Tebogo .....	1967-11-14

(3 Julie 1992)/(3 July 1992)



# Witnesses fear giving evidence

## Sexwale

By LINDA RULASHE and JACQUIE GOLDING

BOIPATONG residents had refused to give statements to the police on the recent massacre because of "profound mistrust of the police and security forces", the Goldstone Commission was told yesterday.

In a strongly worded memorandum presented to the commission on the first day of the inquiry into the Boipatong massacre, African National Congress PWV chairman Tokyo Sexwale also said it was not "the hand that disembowelled the nine-month pregnant woman that day" but the forces behind the attack which should be emphasised, namely the police and the state.

Present at the sitting was the former chief justice of India, P Bhagwati, specially appointed for the inquiry. Also in attendance were a British expert on policing, Dr Peter Waddington and two members of the London Metropolitan Police, Commander Tom Laidlaw and Detective Superintendent David Don.

Sexwale stressed that it was not ANC policy to dissuade people from submitting statements to the police.

Describing the "deep and dangerous explosive anger among the residents", Sexwale explained how President FW de Klerk had been labelled "the butcher of Boipatong" during his recent "insensitive" visit to the township. This, he said, was because De Klerk had legalised the carrying of traditional weapons.

Counsel for the commission Johan du Toit, said: "But we are not looking into that," to which Justice Goldstone interceded: "But with respect Du Toit, I understand Mr Sexwale's depth of feeling and he should be allowed to continue."

Sexwale said residents were also critical of the commission's inability to ensure that steps were taken on its findings and recommendations carried through.

"In fact, giving evidence here is perceived as the same as giving evidence to the police," Sexwale said, because witnesses were often killed or disappeared under mysterious circumstances.

To date, the police have managed to obtain more statements from kwaMadala hostel dwellers — about 400 — than from victims and or witnesses of the massacre.

Major Christo Davidson, attached to the Unrest and Violence Crime Investigation Unit and involved in the probing of the killings, told the commission the allegations that the security forces were involved and that they transported hostel residents to and from the township were unfounded.

Davidson said the evidence collected by the police unambiguously pointed to the residents of the kwaMadala hostel as the perpetrators of the attack.

Other allegations he denied were that the police had prior knowledge of the attack and that they dispersed residents with tearsmoke before the massacre to allow the attackers access to the area.

On the night of the attack, patrolling members of the Vaal Commando saw a group of men wearing white headbands — suspected to be ANC members — in the veld adjacent to Boipatong.

It was ascertained that the group was carrying knobkerries and other traditional weapons but they were not questioned and suddenly vanished.

Members of the South African Defence Force and SAP waited at kwaMadala hostel for a while "to determine what the intentions of this group of blacks was".

Shots were heard coming from the township but this, according to Major Pieter van Wyk of the Vaal Commando, "is not a rare occurrence".



# Witnesses fear giving evidence

(252) (P08)  
Sexwale

W/m 317-917192  
By LINDA RULASHE and  
JACQUIE GOLDING

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# Shootings not unlawful, says Kriel

**BY CARMEL RICKARD**  
**MINISTER of Law and Order** Hennis Kriel is refusing to pay compensation to two survivors of the Trust Feed massacre, denying that the police shot them unlawfully.

His response to the survivors' civil suit, in which they are claiming R100 000, clashes with the supreme court finding earlier this year, when Judge Andrew Wilson ruled that police had attacked the house in which mourners were keeping a vigil, killing 11 people. The judge sentenced one of the policemen involved to death and sent four special constables to jail.

After the trial, the minister appointed a commission of inquiry to investigate the role of the police and whether there had been a cover-up. But in his plea responding to the survivors' action, Kriel effectively prejudices the inquiry findings by exonerating the police.

Ida Radebe and Nomagoli Zulu are between them claiming more than R100 000 for the injuries, pain and permanent disfigurement they suffered as a result of the shootings.

The women claim that their attackers were policemen acting in the course and scope of their duties. The minister agrees they were employed as policemen, but denies both that they acted unlawfully and that they were acting in the course of their duties.

However, he says that even if the women are able to prove the policemen were acting as servants of the state, their claims should still be dismissed because they did not bring them to court within the six-month period stipulated by the Police Act.

This week Radebe and Zulu said it was "unconscionable" for the minister to use this argument. They said that at the time of the shootings, their attackers disguised their identities and the fact that they were members of the police force. After the incident, they had continued to hide their involvement and were helped in this cover-up by other policemen.

The women only discovered the true identities of their assailants in October 1991, when the Trust Feed trial began in the Pietermaritzburg Supreme Court. They argue that the conduct of their attackers and other members of the police force was designed to frustrate any civil action against the police or the minister, and that the court should therefore not accept this ground to dismiss their claim.

Other civil claims arising out of the Trust Feed trial are pending. Several are being brought on behalf of a number of children whose parents were killed in the shooting; others concern

people whose homes were burnt down in the incident.

When the case of Radebe and Zulu is heard, it will test an important clause in the law which gives the police special privileges. In terms of the Police Act, civil claims must be brought within six months of the relevant incident or the claims lapse. Other civil claims lapse after two years.

This will be the second case being heard in Natal to test the issue. The family of Griffiths Mxenge, allegedly murdered by a police "death squad", has launched a civil suit which the police also argue was brought too late. The Mxenge family argues that since the police allegedly covered up their involvement, the six months' provision should not apply.



# BENCHMARKS

CARMEL RICKARD'S weekly look at the law, the lawyers and the courts



## R50m more to defend the poor

W/Mant 3/7-9/7/92

**T**HE right to be represented in court remains only a dream for most South Africans facing criminal charges. But R50-million could make it a reality. (252) (24) (7)

That's how much the director of the Legal Aid Board, Nic Pretorius, estimates it would cost to expand the pilot "public defender scheme" now operating in the Johannesburg magistrates' courts, and offer a similar service countrywide.

The pilot scheme aims to help some of the more than 100 000 accused people, too poor to afford their own lawyer, who are jailed every year after a trial in which they defended themselves.

For a moment in 1988 it seemed the courts might step in and stop the unacceptable situation in which the quality of justice depended on the individual's bank balance. The Natal Supreme Court ruled that under certain circumstances a trial could not be fair unless the accused was represented.

But the Appeal Court squashed that hope. The judges said representation for all was an ideal which they supported. However, many different and urgent needs competed for public funds and they could not find legal grounds allowing the right to counsel to jump the queue.

By the time this judgment was delivered, however, plans for a pilot scheme were close to completion.

Ten public defenders — three advocates and seven attorneys — together with an office manager, a secretary, an interpreter and a clerk, started business on January 2 on a budget of R2,5-million. Exactly six months later, their success is obvious.

**T**hey appear in the 40 Johannesburg regional and magistrates' courts, and have so far been able to accept virtually all the work that comes in. News of their service has spread quickly, so many more people are asking for their help. They are now booking cases "far into the future" which, senior defender Vivian Fortunat says, is cause for some concern. Like Pretorius she believes that the pilot scheme should expand — more staff would make it possible to handle cases without such long delays.

By the end of May they had been asked for help by 1 122 people whose cases included murder, rape, assault, house breaking and theft. Lawyers appeared in 203 bail related cases. In 89 of these bail was granted, it was reduced in 95 cases and refused in only 19.

In cases handled by the public defenders, where the accused pleaded not guilty, they have an acquittal rate of about 63 percent.

Fortunat wants more money and more staff so the scheme can be extended to the other courts around Johannesburg like Hillbrow, Soweto and Jeppe. She is also keen that the project should soon be established around the country.

Pretorius shares this hope. He says the only problem holding back expansion is money.

He estimates it would cost R50-million to employ 600 public defenders to staff legal defence centres at all the magistrates' courts in the country. Durban, Cape Town and Pietermaritzburg would probably be the next cities at which such a scheme would start. As for the more remote rural areas, Pretorius says some kind of arrangement would probably have to be made with the closest centre to send staff out as needed.

Many involved in the pilot project believe it has another value, apart from ensuring the best defence for the accused. It enhances the much-battered image of the legal system in the eyes of the public and begins to repair the alienation developed over many decades of apartheid.

This is also the view of Natal Supreme Court Judge Andrew Wilson, who says a national public defender scheme would be valuable. "It also has an important role in maintaining public confidence in this country's courts."

Justice Minister Kobie Coetsee says the pilot project would provide experience from which to expand the service to other areas. Asking the legal profession to help look for money, he says it is "imperative" for the private sector to become more involved in funding. However, the minister might find resistance to the idea that business must provide legal defence for the country's poor.



# Killings and the IFP: a sickening connection?

South Africa  
417-817192  
By Rehana Rossouw

**S**INCE the Inkatha Freedom Party became a political party in June 1990, massacres have occurred in South Africa with "sickening frequency", the Human Rights Commission (HRC) said in a briefing document this week.

The organisation said Inkatha's decision had far-reaching consequences in extending the five-year war beyond Natal borders, particularly to the PWV area.

HRC files show over 5 000 politically-related incidents monitored from media, police unrest reports and community structures. An incident is classified as a "massacre" when 10 or more people died.

"It should be noted that while most incidents occurred over a period of a few hours, some of them took days or even weeks to unfold," the HRC said.

"In the two years, there have been 49 massacres costing the lives of 1 250 people or, on the average, 25 deaths a massacre. In 15 cases, the death-toll was higher than 25."

"However, it is important to note that our premise of 10 or more deaths qualifying an incident as a massacre, does not take into account numerous other incidents encompassing over 6 000 deaths and 13 000 injuries during the period, which could also properly be described as massacres."

The organisation said a number of points emerged about the nature and objectives of the massacres. Inkatha's drive to establish political influence, membership and territory was the predominant theme.

They tactics of "extreme terror, used indiscriminately against township communities to paralyse, immobilise and disorganise, was a complementary theme.

Hostels were used to plan and launch these activities and there were persistent reports of security force complicity, as well as involvement of unidentified white people.

Retaliation sometimes produced its own massacres. In Natal over the last two years, 11 massacres costing 167 lives were



**COMING OUT SHOOTING: Protesters marching through the centre of Johannesburg didn't mince their comments on leading figures in the government**

recorded. "These have not been the only massacres experienced by the region, one must go back a further five years or so to grasp the full picture," the HRC said. In the PWV area, 1 083 people

The security forces — SAP, SADF and the Kwazulu Police — were responsible for four massacres. Township residents and ANC supporters were responsible for six massacres.

In 10 cases there were no clues about the identity of the attackers. There was shared responsibility in eight massacres.

Township residents were victims in 36 massacres, while residents identified as ANC supporters were additionally victims in 10 massacres.

IFP members and supporters were victims in nine massacres, and in six massacres both opposing parties were assessed to be victims, and having a joint responsibility.

Funerals and vigils were held on three occasions, public recreation facilities twice, and commuters on three occasions.

Repeated and persistent reports have emerged in Natal since the mid-eighties and in the PWV since July 1990, of collusion between the security forces and vigilante groups, primarily elements within Inkatha," the HRC commented.

"Allegations of security force complicity in massacres appear frequently in reports of eyewitnesses. Such allegations have been made in the cases of 19 massacres, which is a frequency difficult to ignore."

"Furthermore, allegations of the presence of vigilantes in support of vigilante massacres appears in eight cases. Such reports are so persistent they cannot be discounted.

"Finally, it must be said the abysmal record of the authorities in arresting and prosecuting perpetrators provides more reason to believe they are part of the problem."

The HRC said massacres over the last two years have been happening at the rate of two a month. "There is a design and purpose behind most massacres, that places them alongside the gas chambers of Nazi Germany in their cold-blooded cynicism and brutality.

"The horrifying trail of massacre after massacre confirms the correctness of the declaration by the international community that the apartheid system is a crime against humanity," the HRC said.

South Africa  
417-817192

An examination of their lists showed IFP members and supporters were responsible for 34 massacres — 69 percent of the total. "Vigilantes" of unspecified affiliation, but aligned with the IFP, were responsible for three massacres.

### Former journalist indemnified

ARNOLD Geyer - a former *Rand Daily Mail* reporter specialising in religious reporting - has been indemnified from prosecution, according to a Government Gazette notice *Apr 5/192*

Geyer, who left SA in the early 1980s, was indemnified for the arson attack on PFP party offices in Johannesburg in 1981.



# BRUTTES WHO TRAIN TO KILL

Press 517192

## Shock claims from INSIDE

### KwaMadala

By SOPHIE TEMBA (252)

ALL the men in Iscor's KwaMadala Hostel, believed to be the base from which attackers massacred the Boipatong victims, are taught to use guns brought in from Natal, according to an affidavit submitted to the Goldstone Commission by a hostel resident.

The men are then dispatched to the townships to launch attacks, the commission was told.

The ANC, which submitted the affidavit, is not disclosing the inmate's identity to protect him.

The statement was included in a memorandum submitted to the commission by the Vaal Council of Churches in which it gave an overview of events that took place in the Vaal between residents and KwaMadala Hostel inmates.

In another startling submission to the commission this week, a senior SAP official disclosed that two police assistants, MM Xaba and Joseph Sello, had made statements implicating the SAP in the massacre which claimed 49 lives. Their allegations were being investigated, Mayor Christo Davidson of the



## Twisted arm of the law?

By FRED KHUMALO

A MASSIVE fraud charge - involving the cashing in April of two stolen KwaZulu government cheques to the value of R1,3-million at a Dundee bank - took a dramatic turn when an attorney was arrested this week.

Prominent Durban human rights lawyer Kwenzakwakhhe Elnah Mlaba, 42, was arrested by police at his office on Thursday.

According to SAP spokesman Captain Bala Nando, Mlaba is alleged to have received R1,3-million which was deposited into his trust account.

Mlaba appeared in court this week but was not asked to plead.

He was released on bail and the case was post-



of events that took place in the Vaal between residents and KwamMadala Hostel inmates.

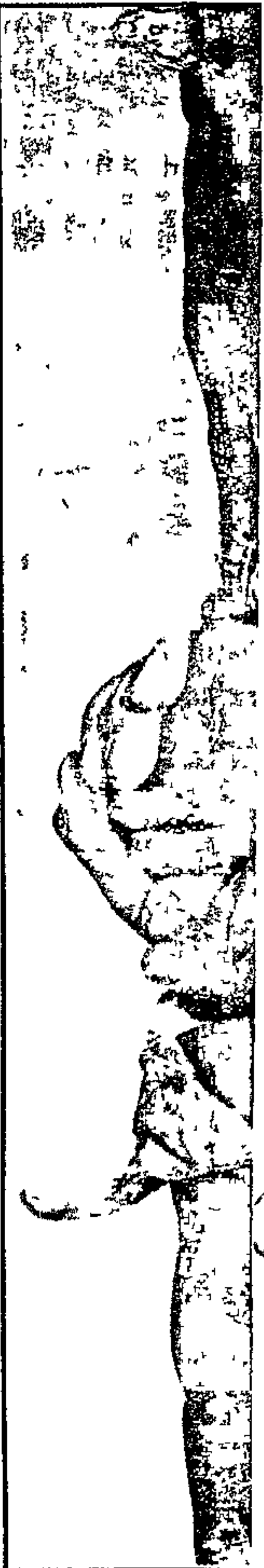
In another startling submission to the commission this week, a senior SAP official disclosed that two police assistants, MM Xaba and Joseph Sello, had made statements implicating the SAP in the massacre which claimed 49 lives. Their allegations were being investigated, Major Christo Davidson of the Unrest and Violence Unit told the commission.

In a week of drama during which the commission sought to get to the bottom of the massacre which shocked the world and brought constitutional negotiations to an abrupt halt, a resident of KwamMadala told of regular arrivals of arms, including poisoned spears, which inmates - all members of the IFP - used in attacks on township residents.

He said he belonged to a unit of four and was trained by a man called Buthelezi.

"During my four months at the hostel I have seen units being sent out on missions, but sometimes I did not know where they were going. On March 15 this year Buthelezi told my unit to go to Sharpeville to attack comrades who had been responsible for the killing of an Inkatha member known as Thhola," the inmate said.

"We were also told to attack two taverns,



**NO ENTRY ... Angry Bolpatong residents turn away after marshals prevented them from marching on KwamMadala Hostel in the wake of the June 17 massacre which claimed 49 lives.**



**Vaal Anarchy ... Taxi passengers are sjamboked by youths who accuse them of ignoring a Vaal stayaway call.**

Chief's Place and Phildelpha. Our instructions were to kill people as it was known that comrades drank there. Buthelezi gave us two rifles, but I didn't carry one. We divided ourselves into two groups. I moved with a man called Ndondu, who had a gun." He said at about 8 pm the group spotted "comrades" in Sharpeville's Phomolong Section. They opened fire and hit a man identified as Ntompia. They then proceeded to Chief's Tavern where they found a member of their unit, named Kgosi, shooting at patrons.

The inmate said during the shooting, Kgosi shot him by mistake. After being shot he did not go back to KwamMadala, and later approached the ANC to clear his conscience.

# Mandela rules out talks with De Klerk

By SEKOLA SELLO

THE slanging match between the government and the ANC continued yesterday dimming hopes of negotiations getting on track soon.

ANC president Nelson Mandela dashed any hopes of an early reconciliation between his organisation and the government when he reiterated the accusation that Pretoria is involved in the current violence.

And as relations between the two worsened, Mandela also dismissed the possibility of an early meeting with State President FW de Klerk saying "no good purpose will be served in my meeting him at this stage".

Mandela repeated the allegation of the government's involvement in the violence soon after his arrival from an OAU meeting in Senegal.

The ANC leader's attack follows De Klerk's hardline response to the list of demands the organisation has made to the government before it can resume talks.

However, although De Klerk used a harsh language in replying to the ANC

which was used into his trust account. Mlaba appeared in court this week but was not asked to plead. He was released on bail and the case was postponed to July 24.



**NEWS ROUND-UP**

**British police aid  
Boipatong probe**

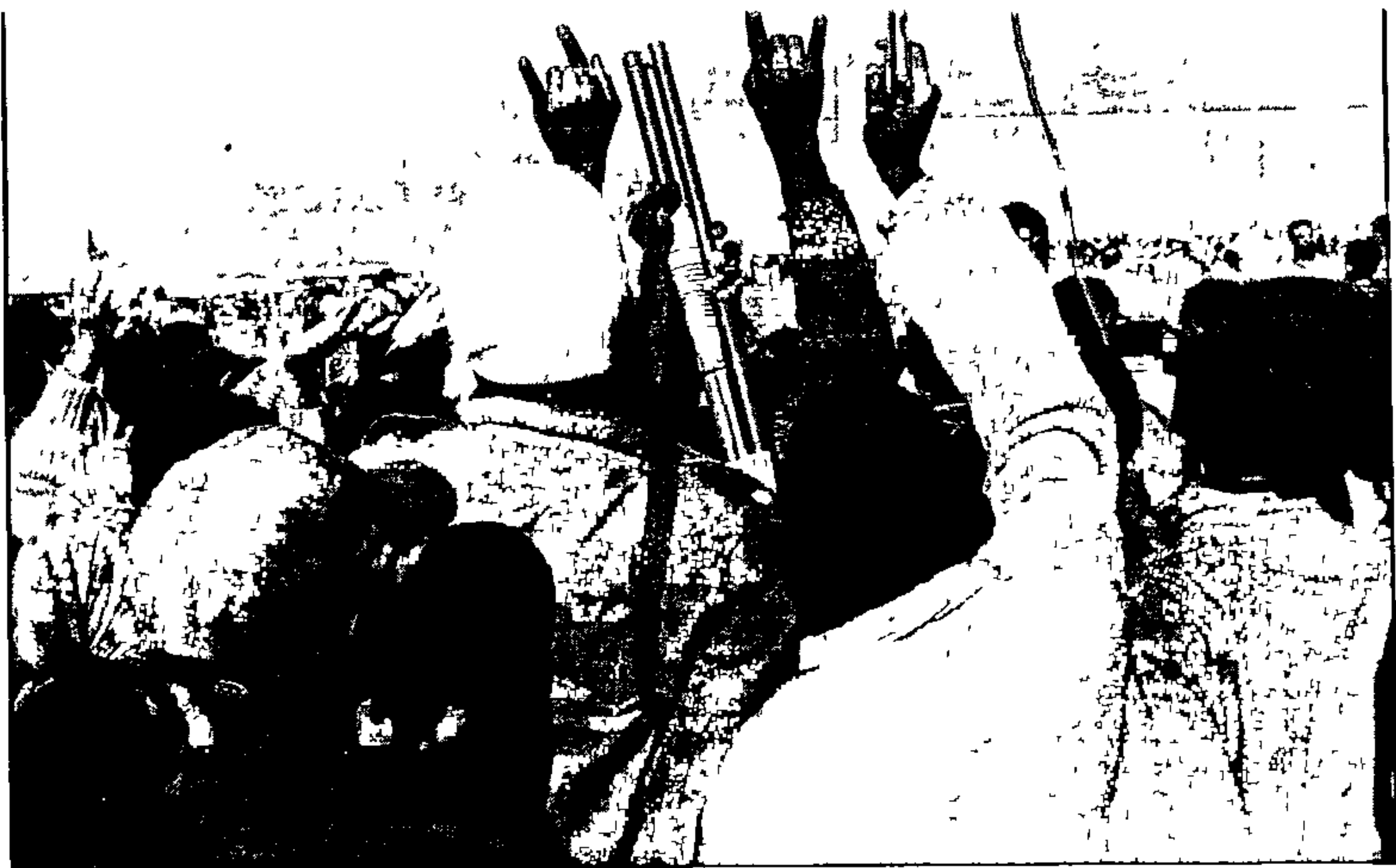
51-71ms 5/7/92  
BRITISH detectives, assisting the Goldstone commission, began an intensive inquiry this weekend into the SAP investigation of the Boipatong massacre.

Superintendent David Don and Commander Tom Laidlaw of Scotland Yard, together with police expert Dr Peter Waddington of the University of Reading, spent more than five hours at Vanderbijlpark police station on Friday, interviewing the chief detectives in the Boipatong probe about their investigation techniques and results.

They also interviewed the Inkatha Vaal Triangle chairman, ANC members and Boipatong survivors. The commission heard introductory evidence this week from the ANC, the police and the SADF about the June 17 massacre



**BOIPATONG, MONDAY.** Among the more than 37 000 mourners at the burial service for 37 people killed in the June 17 massacre were pockets of militant youths armed with a variety of weapons, including this police-issue shotgun, one of several firearms taken by force from policemen in the Vaal Triangle  
Picture JUAN KUUS



**T**WO years ago, then Umkhonto we Sizwe chief Chris Hani said "Violence will not stop until egos are buried"

Since then well over 4 000 people have died Political egos have not

As a result, the gruesome image of every major atrocity in South Africa soon sinks under the weight of the rhetoric that follows as all sides seek political mileage

The Goldstone commission was appointed last year in the hope that violence and intimidation would decline "when investigated and when the background and reasons are exposed" The signatories to the National Peace Accord, of which the Goldstone commission is an integral part, all agreed that to be effective, the commission would have to be a credible instrument Implicit in this was the acceptance that the parties concerned would act on the commission's findings

This has not happened and now, ironically, the commission itself is coming in for criticism from the very people who have contributed to its lack of success

Mr Justice Richard Goldstone, who heads the commission, refuses to comment, but it is known that he and his staff are concerned by the lack of action on his commission's recommendations

This week ANC PWV chairman Tokyo Sexwale explained why, with the recommendations being ignored, Boipatong witnesses were refusing to give evidence to the police or to ANC lawyers "We have horrific memories of people who have given information to the police, and some who have given information to this commission, who have subsequently been killed"

The commission, in its second interim report released early in June, called for "adequate means and procedures for offering protection to witnesses who testify before it or its committees" But President FW de Klerk, who receives the reports, has not yet facilitated this

The commission, in its first interim report in January, noted optimistically that "the prompt establishment of, and action by, its committees may result in the decrease of violence"

It had yet to encounter political intransigence

By January the commission had seven committees, studying violence in Thokoza, taxi wars in the Cape, violence at President Steyn gold

mine during last year's VAT stayaway, killings near Mooi River; allegations of SADF involvement in township unrest, the murder of a Schweizer-Reneke civic leader; and mass action

The commission began its inquiry into the Boipatong massacre this week Its report on train violence is expected next week when its first public hearings on mass action begin in Cape Town

A key commission recommendation has focused on dangerous weapons being carried in public Its frequent, strong protests have fallen on deaf ears, so much so that witnesses to some hearings have come bearing spears and pangas

In one well-publicised incident a month ago, police at a railway station disarmed Inkatha implis, but most weapons were later returned

**A** WEEK later 43 people were killed, mostly hacked and stabbed to death, at Boipatong The SADF admitted at this week's hearing that it saw a crowd of "between 80 and 300 men" near Boipatong on the night in question, carrying such weapons, and did not disarm them

The fact that commission recommendations are not always specific does create something of a problem As an example, in its second report, the commission suggests that because hostels are "common to most of the worst areas of violence, (they) should immediately be adequately and securely fenced A strong and efficient police presence should ensure that no arms are taken in or out of hostels (and) hostel dwellers (should) be protected from external attacks"

But the report fails to say who should be accountable —

local authorities, the state or business groups with hostel inmates Thus, nothing is done

Even after an ultimatum to Iscor from Boipatong residents to demolish its Kwamadala hostel, the company is still considering whether to demolish it, convert it into family quarters or move the residents to Kwamasiza hostel (an ANC stronghold, which spokesman Neels Howard was unaware of

After three years of violence around hostels on the Witwatersrand, inmates still live in squalor and are feared by township residents Mr De Klerk's plan, announced in May last year, to "upgrade or convert hostels" in an attempt to combat violence has come to naught

Two other significant Goldstone reports have also been ignored

The commission investigated killings at Bruntville township, Mooi River, last December and noted "The peace process will be seriously hampered if dangerous weapons continue to be flaunted in public

The Inkatha Freedom Party and the ANC have both refused to disarm members Last week ANC leaders pointed privately to the display of arms by its members at two recent events as evidence of a new militancy

This week Minister of Law and Order Hernus Kriel said charges had been withdrawn against those arrested in Bruntville, because of a lack of evidence

In the second instance, the commission investigated violence in Phola Park on the East Rand in April It recommended on June 10 that "32 Battalion should not again be used for peacekeeping duties anywhere in South Africa" It also asked the SADF to ensure that the attitude expressed by Captain Mark

Hermanson of 32 Battalion, that his unit was involved in "a war" was not prevalent in the officer corps

However, the SADF continues to deploy 32 Battalion "in support of the SA Police on the East Rand" SADF spokesman Colonel John Rolt said the outcome of police investigations was awaited He said no action had been taken against Capt Hermanson The SADF was "considering" whether the attitude the commission complained about was prevalent, "if (it existed) at all" And Defence Minister Gene Louw referred to this "proud unit" and its "excellent work"

Business has also been tardy Cape Town's taxi war claimed 66 lives and resulted in property damage of R3 6-million The commission's first interim report on the issue, released on June 10, examined a number of socio-economic problems, including the opportunities denied to black businessmen by apartheid

**I**N part it blamed high rates charged by financial institutions for fuelling taxi industry tensions It suggested that finance houses and oil and motor companies assist Sabta and others to upgrade training facilities

Not a single institution canvassed by the Sunday Times either knew of the recommendations or was acting on them Sabta did not respond to requests for comment

Suzanne Vos of the IFP said of Boipatong "The IFP did not orchestrate this attack But the IFP cannot speak for individuals who may have been involved We have no control over those individuals and their actions"

Inkatha is by no means the only organisation unable to exert control in townships

That lack of control will only get worse unless the signatories to the Peace Accord implement the recommendations of the Goldstone commission

It is, after all, an instrument they created, in the words of the preamble to the accord, "to signify our common purpose to bring an end to political violence"

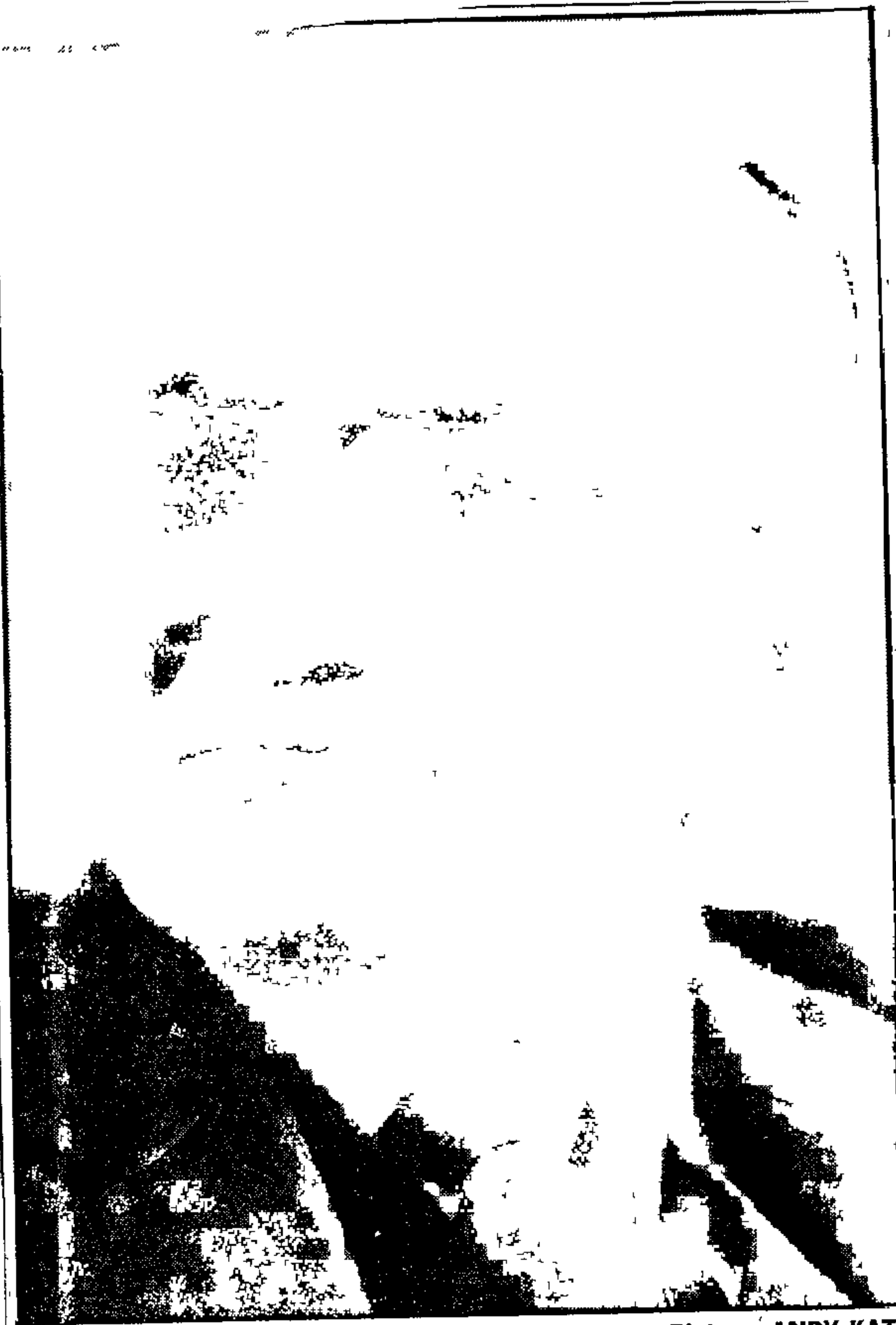
Peace has become just another catchword

# Turning a deaf ear to Goldstone

The Goldstone commission was established to help end violence by pinpointing its causes, but its recommendations are going virtually unheeded. CHARLENE SMITH reports

(252) (252)





JUSTICE BHAGWATI: Gandhi changed his life

Picture: ANDY KATZ

# The freedom fighter who became a judge

*STimes 5/7/92*  
MR JUSTICE Prafullachandra Bhagwati, one of the Goldstone commission's international assessors, is not only an internationally esteemed judge, but also a former freedom fighter.

The judge, who quickly made his mark at the Goldstone hearings on Thursday and Friday this week with his penetrating questions, returns to India tomorrow night. The commission is expected to adjourn until August, when he will return.

The 71-year-old former Chief Justice of India says his most profound influence was Mahatma Gandhi. The first time he heard India's "great soul" speak — in 1942 — changed his life.

"I will never forget what Gandhi said that August night: 'Stare at the world, though the world has bloodshot eyes for you, go ahead for the fear of God within.'"

The small, bespectacled student immediately joined India's Congress Socialist

*(252)*  
By CHARLENE SMITH

Party. He was soon detained for a month for his activities and upon release went underground with the resistance movement for 18 months. The judge assisted in organising the Congress Youth Movement and was involved in violent activities for a time, but prefers not to speak of them.

He practised as a lawyer in his native Gujarat for 12 years before being appointed a judge.

"I went to the rural areas and saw stark, naked poverty. I saw poor, exploited, deprived people who had seen the majesty of the law but never felt its justice. They looked upon the law as an enemy that took from them, but never gave anything. It was not a friend I began to see the law as a tool for social and economic change," he said.

# Making claims in a small way

STAR 6/7/92

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Thandi Shosana had worked as a domestic worker for the Smith family in Johannesburg for four years when they told her they were moving to Cape Town. They paid her for the days she had worked, but would not give her notice pay or holiday money.

Thandi had been cheated. She decided to take the matter up and went to the Small Claims Court.

The Small Claims court is like a Magistrates Court, but it doesn't cost any money to make a claim. People are not allowed to have lawyers with them in court. This makes it cheap and easy for ordinary people to use this court.

Cases are heard after work so people don't have to take time off to go to court. The judges or magistrates in the Small Claims Court are called Commissioners. They are experienced lawyers who do this work free.

is from the clerk of the court at the Magistrate's Court. You can take a person or a company to the Small Claims Court if you have been cheated of money or goods worth less than R1 500. You can take a case to this court if you have paid for something but never received the goods, you have sold something but never got paid for it, you are a domestic worker or farm worker and did not get paid all the money your boss owes you.

This will change once domestic and farm workers have won their right to be included under labour laws in this country. You have to make your claim at the Small Claims Court in the area where the person you are taking to court lives or works or where he or she has a place of business. It can also be in the area where the contract was broken.

You must first send a letter of demand by registered post to the person or company you are making a claim against. In this letter you must ask for the money owed to you. You must also say you will go to the Small Claims Court if you haven't received this money within 14 days of the date of the letter. Keep a copy of this letter and the registered slip.

If your claim has not been settled for 17 days, go to the clerk of the court at the Small Claims Court to start a case. The Small Claims Court is a cheap way to claim your rights if someone has cheated you. **SPEAK** Magazine looks at how you go about taking someone to this court.

summons. Once the summons has been signed, it will have to be delivered to the person you are claiming against. You can deliver it yourself, or the messenger of the court will deliver it for a cost of about R10. The summons must be delivered at least 10 weeks days before the case. Whoever delivers the summons must get written proof that the defendant received it. This means the defendant must sign for the summons. This written proof is called the return of summons.

service and it must be handed to the clerk of the court together with the original summons. You must tell the clerk of the court if you want an interpreter in court. Both you and the defendant must appear at the Small Claims Court on the date and at the time stated in the summons. You will both have to tell your sides of the story to the court. You must take a copy of the letter of demand, the post office receipt, a copy of the summons and your identity document with you to the court. You can also take other documents which prove your case. If you have witnesses to back your case, these people must be at the court with you.

When your case is called, the Commissioner will ask you to take an oath and swear to tell the truth. You will then have to explain why you are making the claim. When the defendant tells his or her side of the story, you can tell the Commissioner whether you agree or not. After the Commissioner has heard both sides and looked at all the documents he or she will pass judgement. At the end of the case the Commissioner will give a judgement. She or he can say the claim was valid and the defendant must give you the money or goods you asked for. The court might let the defendant pay off the money in instalments or she or he can say there was not enough information for the court to decide. If this happens you can bring the claim again after you have found more evidence to support your demand, or she or he can say your claim was not valid and you have lost the case. If you win the case and the defendant refuses to pay you or misses an instalment you can go to the clerk of the court and get a warrant of execution. This means the court can take the goods or property of the defendant and sell them to raise money to meet your claim.

From "The Small Claims Court and You" Copy available from Black Sash Khotso House 25 Anderson Street, Johannesburg 2001 (telephone 011-834-8361) Speak, Box 261363, Excom 2023, South Africa



# Making claims in a small way

STRYL 6/17/92

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Take a copy of the letter of demand, the registered post receipt and your identity document with you.

The clerk of the court will give you a summons form. Ask him or her to help you fill it in. Ask the clerk to make the date of the case in five weeks' time so you have time to prepare.

The summons will call you the plaintiff (the person making the claim) and the person you are claiming against the defendant. You and the clerk of the court must sign the

summons

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NEWS TV viewers prosecuted ● Judge j

# Bhagwati - concerned about human rights

■ Goldstone Commission — An overseas judge arrives in South Africa to probe violence

## Sowetan Correspondent

PRAFULLA Chandra Bhagwati is a name that has become closely linked with human rights concerns, both in his native India and abroad

Now he has arrived in South Africa to help the Goldstone Commission investigating violence

The son of a Supreme Court judge, later

to become a judge himself, Bhagwati made a number of innovations which put aspects of Indian law well ahead of most of its neighbours

One such system enabled ordinary people to write into the courts with their problems. The letters were sorted, then listed as cases to be heard at the discretion of the Chief Justice

Now retired, Bhagwati was India's Chief Justice

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### Poet a State witness

AFRIKAANS poet and Hertzog literary prize winner Antjie Krog is to be a State witness in the murder trial of the Free State leader of the African National Congress, Mr Dennis Bloem, and two others *Sowden 6/7/92*

Krog was implicated after balaclavas, a firearm and ammunition were found in her Kroonstad home after the murder of the leader of the so-called Three Million Gang of robbers at Kroonstad. The case will be heard in Bloemfontein later this year.



## smacker

WORLD Cup and Cameroon soccer star Roger Milla gets a warm welcome from a Boipatong resident during a solidarity visit to the township by the Cameroon squad yesterday. Milla, who was part of a delegation which included Sata's general secretary Solomon Morewa and Cameroon's Minister of Trade and Industry Rene Owona, was an instant hit among the township's residents. The Cameroon delegation delivered a message of peace from Cameroon president Paul Biya PIC LEN KUMALO

# Goldstone shocker

**JUDGE POINTS FINGER** Government failed to implement recommendations on hostels: *Sowetan 7/11/92* **152**

JUDGE Richard Goldstone yesterday

cleared the State President and his Cabinet of direct complicity in the Boipatong violence but slammed the Government for its failure to act on his commission's recommendations

In a clear reference to the ANC and its allies, the judge said it was "unwise, unfair and dangerous" to accuse the Government and security force leaders of direct involvement, when no evidence had emerged to substantiate

the charges.

Responding to the the judge's statement, the ANC said it found it odd that the commission could make conclusive statements without evidence being led

Government spokesman Mr Pret Coetzer said the judge's statement had illustrated how the ANC leadership had abused recent tragic incidents of violence for the purposes of propaganda

## ATTENTION!

### GOVERNMENT EMPLOYEES:

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See the main story on page **2**



## Debt judgments rise 3.7%

ANDREW KRUMM

THE number of civil judgments for debt in magistrates' courts countrywide rose 3.7% in April 1992, compared with April 1991, the CSS said yesterday.

While the number of judgments rose, the number of summonses issued in the same period dropped 5.9% from about 90 000 in April 1991 to 84 298 in April 1992.

The CSS said the rise was primarily related to a 31.6% hike in judgments involving promissory notes, bills, returned cheques and credit cards — the cumulative value of which jumped 72.1% on April last year.

However, a rise in the total value of all debtor judgments was less acute, increasing only 0.3%.

Standard Bank group economist Nico Cypionka said when taking inflation

into account, the more than 9% increase in the value of debtor's judgments was not significant.

However, the very high level of judgments and summonses — 141 618 and 83 641 respectively in the quarter ending April 1992 — indicated the deterioration of the economy.

The high incidence of summonses and judgments reflected stretched finances and employment conditions and was indicative of pressure from high interest rates and negative cashflows, Cypionka said.

The CSS said judgments for the quarter ending April 1992 were up 11 000 on last year, while summonses for the quarter had risen by more than 12 500 on the same period last year.

Direct Govt involvement in Boipatong violence not proved

# 'Ignored' Goldstone hits out

STAR 7/17/92  
By Helen Grange and Shaun Johnson (2S2)

Harsh criticism of the Government and security forces for failing to act on some of the Goldstone Commission's recommendations came yesterday from commission chairman Mr Justice Richard Goldstone

While allegations of direct State complicity in the Boipatong violence had not been proved, the judge said, he was "distressed that some of the considered and urgent recommendations (of the commission) have been ignored".

In a clear reference to the ANC and its allies, Judge Goldstone said it was "unwise, unfair and dangerous" to accuse the Government and security force leaders of direct involvement in the violence, when no evidence had emerged to substantiate the charges

Reading a statement at the preliminary hearing into the Boipatong massacre, he said

- No action, apart from an allocation of funds for "upgrading", had been taken on his recommendation for the immediate fencing off of hostels
- Recommendations concerning the bearing of weapons in public had been "partially but inadequately implemented"
- The commission's suggestions on the controversial 32 Battalion had been met "with what can generously be described as an unhelpful response from a senior SADF member"
- Recommendations on policing in Mooi River had "been ignored with no reasons furnished"
- Police investigation into a prima facie case of police involvement in a plan to assassinate an ANC leader in Schweizer-Reneke, had "taken unacceptably long"

In addition, Judge Goldstone said that whether or not Koevoet was involved in violence, "the very existence of such a group in South Africa in 1992 is calculated to cause yet further distrust of the security forces"

Judge Goldstone, announcing that a full inquiry had been established to investigate the Boipatong massacre, said the commission had nevertheless "unanimously decided to make public its views on a number of issues in view of the present climate of violence"

## 'Ignored' Goldstone hits out at inaction

● From Page 1

Africans have no alternative peaceful means of political action  
"But at the same time this right should not be exercised in such a way that is calculated to lead to violence" He said an international panel of experts set up by the commission to make recommendations on rules and procedures of demonstrations and marches would report in public in

Cape Town on Thursday He said his commission was currently hearing "other kinds of allegations concerning Government and security force involvement in the violence" Violence allegedly instigated by the ANC and the Inkatha Freedom Party would also continue to be investigated  
Serious acts of violence committed by 32 Battalion in Phola Park had been reported by the

commission to the State President  
On the question of the difficulty in obtaining testimony from witnesses in Boipatong, Mr Justice Goldstone said the security forces needed to understand the anger and frustration of the people, who could not be expected to cooperate with those they saw as being instigators of violence  
The commission's inquiry into the massacre

was postponed to August 4 to allow legal teams to prepare evidence  
The judge said he hoped appropriate regulations offering witness protection - currently being discussed with the Justice Department - would be in force by the time the hearings begin  
He also criticised "recent press comment" which anticipated the commission's findings, saying "this practice is regrettable"

He said that if the commission's recommendations were ignored, this could "only be calculated to diminish if not destroy the credibility and effectiveness, not only of the commission, but also of the Government"

Judge Goldstone appealed to all leaders to re-establish "appropriate ways to continue the search for a peaceful transition"

Regarding the current mass action campaign, Judge Goldstone said the "right to public demonstration is especially important at a time when the disenfranchised majority of South

● To Page 3



Goldstone exonerates De Klerk

# Govt rapped for ignoring

# Judicial probe

6/20/92 7/17/92

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TIM COHEN

PRETORIA — The Goldstone Commission yesterday criticised government for ignoring its recommendations and said allegations that government and security force leaders were directly responsible for violence were "unwise, unfair and dangerous".

Judge Richard Goldstone said in view of the climate of violence and political volatility, the commission had decided to make public its views on a number of issues. These included allegations of responsibility for violence, lack of co-operation with police, the ignoring of commission recommendations and mass action.

Goldstone said no evidence had been submitted to the commission which in any way justified allegations of any direct complicity in or planning of current violence by the President, any Cabinet members or any highly placed officer of the SAP or SADF.

These allegations were dangerous particularly because they were likely to exacerbate the climate of violence and frustrate and retard attempts to curb violence. Evidence in support of allegations of government and security force involvement in the violence had been received by the commission, which would be investigated, as well as evidence of violence instigated by ANC and Inkatha supporters.

Government had to demonstrate that it had full control of the security forces, which had to secure the lives and homes of the population. Goldstone said the commission was distressed some of its considered and urgent

recommendations had been ignored. In particular, he pointed to recommendations regarding hostels, which the commission had reported should be immediately and securely fenced and effectively policed.

The commission's recommendations regarding policing in Mooi River had been ignored with no reasons provided.

"The commission's recommendations concerning the deployment of 32 Battalion in peacekeeping operations were met with what can generously be described as an unhelpful response from a senior member of the SADF," he said.

The commission referred to the Transvaal attorney-general a prima facie case of police involvement in an unsuccessful conspiracy to murder an ANC leader in Schweizer-Reneke. Notwithstanding constant inquiries by the commission, the police investigation had taken an unacceptably long time.

"The commission by no means expects that recommendation made by it should necessarily be accepted or implemented. It does expect, however, that they will not be ignored."

Concerning lack of co-operation with the police the commission said it had already set out several reasons for the distrust and mistrust of the SAP.

"Whether or not groups of former Kooet members employed by the SAP are involved in incidents of violence, the infamous reputation of Kooet is such that the very existence of such a group in SA in

To Page 2

## Goldstone

6/20/92 7/17/92

1992 is calculated to cause yet further distrust and suspicion of the security forces. The wisdom of employing such a group or groups must be open to serious question."

Meanwhile, the commission has framed terms of reference in relation to the inquiry into the Boipatong massacre, which included actions of members of the SADF in the vicinity of the Kwamadala Hostel. The commission will also investigate whether the SAP could or should have taken steps to prevent the massacre.

The investigating committee will consist of Goldstone as chairman and advocates D J Roussouw and M N Sithole. Former chief justice of India P N Bhagwati will assist the committee as an assessor.

The ANC said in reaction that it acknowledged the important role played by the Goldstone Commission. "The commission has, unfortunately, narrowed the issue of state culpability to direct complicity in or planning of the 'direct' violence. This misses the point. Culpability extends to acts of commission and omission. We find it odd that the commission can make so conclusive a determination without evidence being laid before it."

Sapa reports Police Commissioner Gen

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Johann van der Merwe was paying urgent attention to policing issues raised by Goldstone, the Law and Order Ministry said. Spokesman Craig Kotze said Goldstone's statement that no evidence had been received which justified allegations of direct complicity in or planning of current violence by the President, any member of the Cabinet or any highly placed officer in the SADF or SAP was welcomed.

Van der Merwe said he had "noted with appreciation that no evidence has been laid before the commission that the SAP was involved in the massacre, but that any evidence in this regard would be thoroughly investigated."

He said police had given attention to the recommendations with regard to policing at Mooi River and the commission would be contacted as a matter of urgency in this regard. A lack of clarity also existed with regard to the commission's statements regarding the Schweizer-Reneke matter.

The NP said last night that the ANC leadership owed the President, the Cabinet and the security forces an apology. The finding was damning for the ANC which had spread propaganda, said NP spokesman Piet Coetzer.



# Goldstone: The full text

MR 7/1/92  
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**T**HIS is the full text of Mr Justice Richard Goldstone's statement from Pretoria.

## INQUIRIES BY THE COMMISSION:

The commission consists of five members and a small staff. It is obviously unable to inquire into every one of the many tragic incidents of violence which regrettably have become a daily occurrence in South Africa.

In deciding which incidents to investigate the commission has regard to many factors and primarily its most important task which is to find ways and means of curbing violence. When it declines to investigate any particular situation or incident of violence, in no way does it lack a full appreciation of the personal and public tragedy associated with needless and often mindless loss of life or serious injury.

The commission holds preliminary inquiries to assess whether the issues are such that a full inquiry is necessary having regard to the commission's resources and terms of reference.

## THE BOIPATONG INQUIRY:

1 Some incidents cry out for full and exhaustive inquiry. The Boipatong massacre is one. The number of people who were murdered and injured, the personal tragedy of the bereaved families and the justified anger of all decent people demand answers to the questions which so obviously arise in relation to the events of June 17, 1992.

2 The legal representatives of the parties have assisted the commission in framing terms of reference relating to the inquiry. They are:

(a) The identity of the people directly responsible for the massacre;

(b) The cause of the massacre and the nature, time and place of the planning of the massacre and the people responsible for the massacre and its planning;

(c) The action taken by members of the Defence Force who were in the vicinity of the Kwa-madala hostel immediately af-

(a) Direct complicity in or planning of current violence by the State President, members of the cabinet and senior members of the police and Defence Force;

(b) Direct complicity in or planning of current violence by members of the middle or lower ranks of the police and Defence Force;

(c) Unwillingness or inability by the State President and members of the cabinet to take adequate steps to prevent current violence;

(d) Unwillingness or inability by the security forces to prevent current violence.

3 No evidence has been submitted to the commission which in any way justifies allegations of direct complicity in or planning of current violence by the State President, any member of the cabinet or any highly placed officer in the police or Defence Force. But if such evidence is submitted to the commission it will be thoroughly investigated.

4 In the absence of such evidence the commission considers that allegations to the effect that government and security force leaders are themselves directly responsible for the commission of violence are unjustified, unfair and dangerous. They are dangerous particularly because they are likely to exacerbate the climate of violence and frustrate and retard attempts to curb violence.

5 Evidence in support of the other kinds of allegations about government and security force involvement in the violence has been received by the commission. The serious acts of violence committed by 32 Battalion in Phola Park have been reported by the commission to the State President. Other evidence of misconduct by members of the police or army are being heard and considered by committees of the commission.

6 The commission will continue to investigate allegations of violence alleged to have been instigated by supporters of the

police misconduct or complicity which are not materially substantiated by facts

## IGNORING RECOMMENDATIONS OF THE COMMISSION

13 The commission is distressed that some of the considered and urgent recommendations made by it have been ignored. In particular it would refer to the following:

14 In its second interim report the commission reported that

"Hostels are common to most of the worst areas of violence. All hostels should immediately be adequately and securely fenced. A strong and efficient police presence should ensure that no arms are taken in or out of hostels. It should also be in a position to protect all hostel dwellers from external attack."

The only response to date has been a statement on behalf of government that R294 million has been allocated for the upgrading of hostels. As far as the commission is aware no action has been taken.

15 The commission's recommendations, made in January 1992, on policing in Mzoli River have been ignored. No reasons have been given.

16 The commission's recommendations on the deployment of 32 Battalion in peace-keeping operations were met with what can generously be described as an unhelpful response from a senior member of the Defence Force. No reasons have been given for ignoring the commission's recommendations.

17 In December 1991, the commission referred to the Attorney-General of the Transvaal a prima facie case of involvement by policemen in a conspiracy to murder an ANC leader in the town of Schweizer-Reneke in an unsuccessful conspiracy to murder. Notwithstanding constant inquiries by the commission, the police investigation has taken an unacceptably long time. Eventually the commission felt obliged to call the investigating officer to testify in public and explain the delays.

18 The commission by no means expects that recommendations made by it should necessarily be accepted or implemented. It does expect, however, that they will not be ignored. If they are not accepted or not implemented the commission believes that it and the public are entitled to be informed of that fact and of the reasons.

19 If the commission is to continue to serve any purpose it must retain such national and

international credibility as it may have earned. To ignore its recommendations can only be calculated to diminish if not destroy the credibility and effectiveness not only of the commission but also of the government.

20 The commission's recommendations on the bearing of weapons in public has been partially but inadequately implemented.

## MASS ACTION

21 Public demonstration is a fundamental democratic right though in times of political tension it may have the potential for violence. For that reason, some months ago the commission set up an international panel of experts to assist it in making recommendations to the State President on the rules and procedures which should apply to public demonstrations, marches and picketing. That panel will report in public in Cape Town on Thursday. It is the hope of the commission that at the end of the public debate which will follow the report, an accord will be reached on rules and procedures.

22 In the view of the commission the right to public demonstrations is especially important at a time when the disenfranchised majority of South Africans have no alterna-

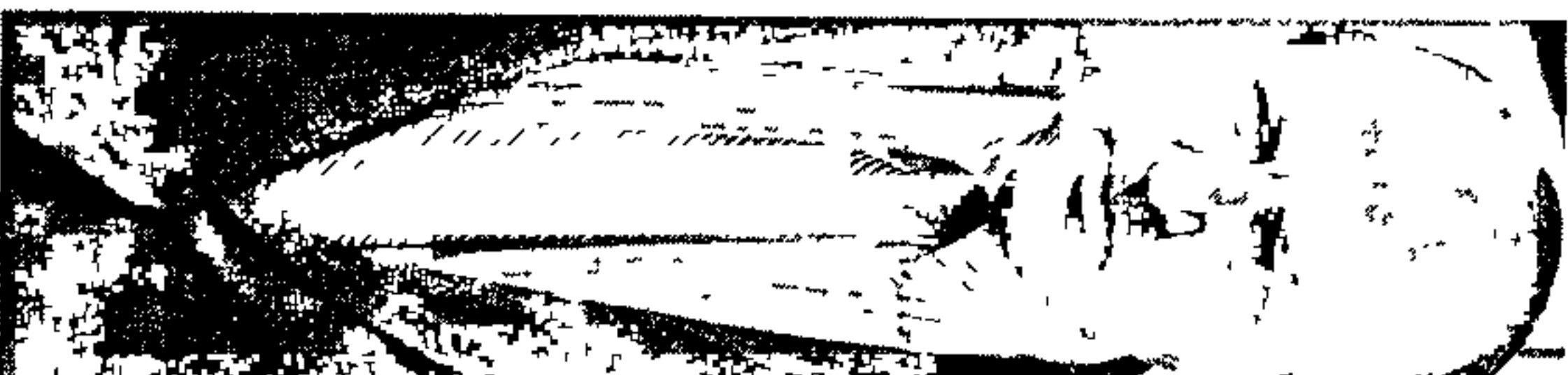
tive peaceful means of political action. But at the same time this right should not be exercised in such a way that it is calculated to lead to violence.

## APPEAL TO LEADERS

23 The commission appeals to all of our country's leaders to spare no effort in re-establishing appropriate ways to continue the search for a peaceful transition to a democratic form of government. Without it the efforts of people of peace will come to nought and the activities of the instruments of the Peace Accord will become irrelevant.

## ANTICIPATION OF THE FINDINGS OF THE COMMISSION

24 The commission has previously welcomed vigorous public debate on matters referred to it for inquiry and on its reports. However, it views with concern recent Press comment which anticipates findings which have to be made by the commission. In particular there has been comment on the credibility of witnesses who have testified before the commission and findings have been stated in matters which have yet to be decided by the commission. This practice is regrettable and it is hoped that it will not be repeated. — Sapa



Mr Justice Goldstone



sonal tragedy of the families and the justified anger of all decent people demand answers to the questions which so obviously arise in relation to the events of June 17, 1992

2 The legal representatives of the parties have assisted the commission in framing terms of reference relating to the inquiry. They are

(a) The identity of the people directly responsible for the massacre,

(b) The cause of the massacre and the nature, time and place of the planning of the massacre and the people responsible for the massacre and its planning;

(c) The action taken by members of the Defence Force who were in the vicinity of the Kwamadala hostel immediately after the massacre,

(d) Whether any steps could or should have been taken by the police to prevent or avert the massacre;

(e) The nature and efficiency of the investigation by the police after the massacre,

(f) Steps which should be taken to prevent or avert a recurrence of such acts of public violence

3 With the concurrence of the Minister of Justice, the commission has decided that a committee of the commission should be established to conduct the full inquiry. It will consist of myself as chairman. The members will be advocates Mr D J Rossouw SC and Mr M N S Sithole, and the former Chief Justice of India Mr Justice P N Bhagwati will assist the committee as assessor.

4 All of the legal representatives appearing before the commission are agreed that they are not yet in a position to begin the inquiry. It has been agreed that it will commence on August 4, 1992 at 10am at a venue to be announced.

5 In its second interim report the commission recommended that the government empower it to offer adequate witness protection to people testifying before the commission. The Minister of Justice has informed the commission that this recommendation has been accepted and discussions are being conducted by the commission with officials of the Department of Justice on appropriate regulations. It is hoped that the regulations will be in force by August 4, 1992.

6 Mr Justice Bhagwati has generously agreed to return to South Africa to sit with the committee. I would like to express my sincere appreciation to him for agreeing to do so. The commission is indebted to him more especially as his wise counsel and wide experience have already been of much value to the commission.

#### **GENERAL POLICY CONSIDERATIONS:**

1 In view of the climate of violence and political volatility in the country, the commission has unanimously decided to make public its views on a number of issues.

#### **ALLEGATIONS OF RESPONSIBILITY FOR VIOLENCE**

2 With regard to the involvement in current violence of government and the security forces different kinds of allegations have been made by some political leaders and by some newspapers. They include

accelerate the violence and frustrate and retard attempts to curb violence

5. Evidence in support of the other kinds of allegations about government and security force involvement in the violence has been received by the commission. The serious acts of violence committed by 32 Battalion in Phola Park have been reported by the commission to the State President. Other evidence of misconduct by members of the police or army are being heard and considered by committees of the commission.

6 The commission will continue to investigate allegations of violence alleged to have been instigated by supporters of the African National Congress and the Inkatha Freedom Party.

7 So, too, the commission will continue to investigate any allegations about the unwillingness or inability of the security forces to prevent violence and those relating to the adequacy or sufficiency of steps taken by them to do so.

8 The commission is of the view that for a government to gain the respect and support of its citizens whom they serve, it must be able to demonstrate that it has full control of its security forces. In turn, the security forces must be able to secure the lives and homes of the people. Such a state of affairs cannot be brought about without active co-operation between the security forces and the vast majority of the citizens and their political representatives. How to bring about such a state of affairs is the most urgent and daunting task of the commission.

9 The Commission appeals to all political leaders in South Africa to actively assist in this task.

#### **NON-COOPERATION WITH THE POLICE**

10 In its second interim report the commission set out a number of reasons for the distrust and mistrust of the police by so many South Africans. The commission remains deeply aware and concerned at this state of affairs.

11 If acts of violence were to be committed by or with the complicity or with the active support or connivance of members of the police, it could not be expected of the victims of violence to co-operate with the police in subsequent inquiries into the violence by the police.

The government and the security forces should therefore understand and appreciate the anger and frustration of so many South Africans. It will take more than the abolition of racial legislation and statements of good intention to achieve racial and ethnic harmony in South Africa.

Whether or not groups of former Koevoet members employed by the police are involved in incidents of violence, the infamous reputation of Koevoet is such that the very existence of such a group in South Africa in 1992 is calculated to cause yet further distrust and suspicion of the security forces.

The wisdom of employing such a group or groups must be open to serious question.

12 But at the same time, in the current climate of distrust and suspicion community leaders should be particularly careful not to make allegations of



Goldstone exonerates De Klerk

# Govt rapped

# for ignoring

# Judicial probe

PRETORIA — The Goldstone Commission yesterday criticised government for ignoring its recommendations and said allegations that government and security force leaders were directly responsible for violence were "unwise, unfair and dangerous".

Judge Richard Goldstone said in view of the climate of violence and political volatility, the commission had decided to make public its views on a number of issues. These included allegations of responsibility for violence, lack of co-operation with police, the ignoring of commission recommendations and mass action.

Goldstone said no evidence had been submitted to the commission which in any way justified allegations of any direct complicity in or planning of current violence by the President, any Cabinet members or any highly placed officer of the SAP or SADF.

These allegations were dangerous particularly because they were likely to exacerbate the climate of violence and frustrate and retard attempts to curb violence. Evidence in support of allegations of government and security force involvement in the violence had been received by the commission, which would be investigated, as well as evidence of violence instigated by ANC and Inkatha supporters.

Government had to demonstrate that it had full control of the security forces, which had to secure the lives and homes of the population. Goldstone said the commission was distressed some of its considered and urgent

TIM COHEN

Recommendations had been ignored. In particular, he pointed to recommendations regarding hostels, which the commission had reported should be immediately and securely fenced and effectively policed.

The commission's recommendations regarding policing in Mool River had been ignored with no reasons provided.

"The commission's recommendations concerning the deployment of 32 Battalion in peacekeeping operations were met with what can generously be described as an unhelpful response from a senior member of the SADF," he said.

The commission referred to the Transvaal attorney-general a prima facie case of police involvement in an unsuccessful conspiracy to murder an ANC leader in Schweizer-Reneke. Notwithstanding constant inquiries by the commission, the police investigation had taken an unacceptably long time.

"The commission by no means expects necessarily be accepted or implemented. It does expect, however, that they will not be ignored."

Concerning lack of co-operation with the police the commission said it had already set out several reasons for the distrust and mistrust of the SAP.

"Whether of not groups of former Koevoet members employed by the SAP are involved in incidents of violence, the infamous reputation of Koevoet is such that the very existence of such a group in SA in

To Page 2

## Goldstone

1992 is calculated to cause yet further distrust and suspicion of the security forces. The wisdom of employing such a group or groups must be open to serious question."

Meanwhile, the commission has framed terms of reference in relation to the inquiry into the Borpatong massacre, which included actions of members of the SADF in the vicinity of the Kwamadala Hostel. The commission will also investigate whether the SAP could or should have taken steps to prevent the massacre.

The investigating committee will consist of Goldstone as chairman and advocates D J Roussouw and M N Sithole. Former chief justice of India P N Bhagwati will assist the committee as an assessor.

The ANC said in reaction that it acknowledged the important role played by the Goldstone Commission. "The commission has, unfortunately, narrowed the issue of state culpability to 'direct complicity in or planning of the violence'. This misses the point. Culpability extends to acts of commission and omission. We find it odd that the commission can make so conclusive a determination without evidence being laid before it." Sapa reports Police Commissioner Gen

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From Page 1

Johann van der Merwe was paying urgent attention to policing issues raised by Goldstone, the Law and Order Ministry said.

Spokesman Craig Kotze said Goldstone's statement that no evidence had been received which justified allegations of direct complicity in or planning of current violence by the President, any member of the Cabinet or any highly placed officer in the SADF or SAP was welcomed.

Van der Merwe said he had "noted with appreciation that no evidence has been laid before the commission that the SAP was involved in the massacre, but that any evidence in this regard would be thoroughly investigated."

He said police had given attention to the recommendations with regard to policing at Mool River and the commission would be contacted as a matter of urgency in this regard. A lack of clarity also existed with regard to the commission's statements regarding the Schweizer-Reneke matter.

The NP said last night that the ANC leadership owed the President, the Cabinet and the security forces an apology. The finding was damning for the ANC which had spread propaganda, said NP spokesman Piet Coetzer.



# The Government says:

*Sowetan 7/7/92*  
THE leadership of the ANC owed the State President FW de Klerk, the Cabinet and the security forces an apology, the National Party said

NP spokesman Mr Piet Coetzer said the commission's finding that no evidence had been submitted to support allegations of direct Government or security force involvement in the violence was damning for the ANC, which had spread propaganda to this effect

"It is hoped the ANC and its leaders will take note of Mr Justice (Richard) Goldstone's finding that under the circumstances such accusations are unwise, unfair and dangerous "

Coetzer said Goldstone's statement illustrated how the ANC leadership abused recent tragic incidents of violence for purposes



**FW de Klerk**

of propaganda

"If the ANC is serious about a peaceful settlement, it will cease to make wild allegations about others and return to the negotiation table," he said

Coetzer did not react to Goldstone's expression of "distress" that the Government had failed to implement a number of its recommendations

*[Handwritten scribble]*

*252*

## The ANC says:

*Sowetan 7/7/92*  
EXONERATING the security forces from responsibility before the commission had sat to consider evidence was premature, the ANC said in its reaction.

In a statement, the ANC said it agreed with the commission's view that the disenfranchised had no other recourse other than public demonstrations.

It charged that State President FW de Klerk's remarks about mass action during his visit to Japan were both unwise and dangerous and only served to exacerbate the climate of violence.

The organisation said the lack of resources and the terms of reference of the commission restricted its ability to get to the bottom of a number of violent incidents.

The commission, it said, had

Nelson Mandela

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narrowed the issue of State culpability to "direct complicity in or planning of violence", which missed the point as culpability extended to commission or omission.

"We find it odd, too, that the Commission can make so conclusive a determination without evidence being laid before it," the ANC said.

# Goldstone attacked

STAR 81192  
Political Reporter (252)

Mr Justice Richard Goldstone and United Nations Secretary-General Boutros Boutros-Ghali yesterday came under attack from Conservative Party leader Dr Andries Treurnicht, who said he took exception to their reported statements

In separate statements, Dr Treurnicht took issue with reports that Goldstone Commission chairman, Mr Justice Goldstone, had expressed himself in favour of "full transition to democracy", and also with reports that Dr Boutros-Ghali had said all political parties in South Africa wanted a United Nations presence in the country

Dr Treurnicht said the statement by Mr Justice Goldstone was "a purely political expression which can harm the commission's political neutrality."

"The creation of a unitary

state along the recipe of the National Party, ANC-South African Communist Party cannot be described as a transition to full democracy.

"It contains precisely a serious infringement of democracy and nations' rights to self-determination," he said

In his statement on Dr Boutros-Ghali, Dr Treurnicht said the Conservative Party had always expressed its opposition to a UN presence in the country, and would now inform the UN directly in writing about this.

He said it was clear that the ANC and certain African countries had embarked on an orchestrated campaign to get external interference in South Africa's domestic issues

"The continuing allegations of the Government's and the security forces' organised involvement in violence is clearly a part of this campaign," Dr Treurnicht said



**For their own ends** FM ( )

10/7/92

**Far from** being used to promote the cause of peace, Judge Goldstone's statement at the end of his commission's preliminary hearing into the Boipatong massacre is being selectively exploited to suit various political points of view

Judge Goldstone clearly reached no final conclusions but called for restraint all round until the matter is fully investigated by the Goldstone Commission into Public Violence to be convened on August 4

Government appears to regard specific sections of his statement as conclusive exoneration that security forces were not involved in the bloody night of June 17 when 32 people died. The ANC questioned this preliminary finding

What did Judge Goldstone say?

His 24-point statement issued on Monday commits the commission to a "full and exhaustive" investigation of the massacre and sets out the points of reference for the probe. They are

- To identify those responsible for the atrocity,
- Why it occurred and how, where and when it was planned,
- What the SADF element was doing at the KwaMadala hostel after the incident, and
- What steps could or should have been taken to prevent the carnage.

The judge appealed to all sides to avoid making unsubstantiated claims about the massacre and who was to blame. It is in this context that he commented on allegations made by leaders and some newspapers concerning government and security force involvement. But, he pledged, "if such evidence is submitted to the commission, it will be thoroughly investigated"

He added, however, that evidence of their involvement in other serious violence and misconduct had been submitted and was being considered by the commission. He referred specifically to violence committed by 32 Battalion at Phola Park. He noted that the commission was also continuing investigations into allegations of ANC and IFP instigated violence and the alleged unwillingness or inability of the security forces to prevent violence

And he feels that if government is to gain the respect and support of its citizens, it must demonstrate its control over its security forces. These forces, in turn, had to demonstrate that they could protect peoples' lives and property. This was not, however, possible without the co-operation of the vast majority of citizens and their political representatives

"How to bring about such a state of affairs is the most urgent and daunting task of the commission," maintains Judge Goldstone

But, these efforts, he believes, are being hampered by government ignoring, or doing little to implement, key recommendations of the commission — such as the securing and

FM 10/7/92 (252)

adequate policing of hostels; deployment of 32 Battalion in peacekeeping operations, and the Transvaal attorney-general ignoring or procrastinating over evidence of a *prima facie* case of police involvement in a failed conspiracy to murder an ANC leader at Schweizer-Reneke.

The police are quick to deny this. Police Commissioner-General Johan van der Merwe claimed attention had been given to implementing commission recommendations

"It is therefore not clear what the commission means when it states that its recommendations have been ignored. The commission will be contacted as a matter of urgency in this regard"

# Panel agrees on right to demonstrate

STAR 10/7/92.  
Own Correspondent

CAPE TOWN — An international panel of experts has agreed that the right to demonstrate was fundamental in a democracy, but a democratic public had an equal right to insist upon demonstrations and protests being carried out peacefully and without violence

The responsibility for that was shared by three parties, the organisers, local or State authorities, and the police

The panel, which considered lawful control of demonstrations in South Africa, has given its findings to the Goldstone Commission of Inquiry into the Prevention of Public Violence and Intimidation. The findings were released at a public meeting in Cape Town yesterday

The panel said new legislation was needed to give effect to the principles in their report, and that existing legislation should be repealed.

The relevant resources in managing peaceful and effective demonstrations included first aid stations, toilets, speaker systems and platforms, and assistance with traffic

Where there were disagree-

ments over the way in which a demonstration should be planned, the dispute should be resolved by a higher authority which, in South Africa, the panel believed, should be a judge of the Supreme Court

Great restraint, the panel said, had to be used in applying "very vague statutes" on breach of the peace or unlawful assembly to arrest non-violent demonstrators.

Police should be formed in well-disciplined and specialised units and have a wide range of non-lethal resources available to them

They also required skills in peacefully interacting with crowds, negotiation in situations of potential conflict, and human relations

"Minimal necessary force is the widely agreed upon rule for acting against either individuals or the demonstration

"That requires something more than disobedience by the demonstrators.

"Lethal force can only be justified when delay in its use would subject police, or others, to a severe risk of death," the panel said.

Panel members were drawn from South Africa, the US, Canada and Europe



# Panel moots new protest laws

BIDAY 10/7/92

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LINDA ENSOR

CAPE TOWN — New legislation to regulate demonstrations, which would include severe limitations on the use of force by the police, should be promulgated urgently, an international and local panel of experts appointed by the Goldstone commission has recommended.

Legal enactment of the panel's recommendations would bring SA practice into line with international procedures, the panel said. The panel's report on the lawful control of mass demonstrations was released yesterday.

Judge Richard Goldstone, in opening the presentation on the report, said the commission would consider setting up other multinational panels to investigate matters such as police training and the public accountability of the police.

He said the panel would hold three days of talks with the legal representatives of the ANC, Cosatu and the Inkatha Freedom Party, and after submissions from the public next week the final recommendations and draft legislation would be submitted to State President F W de Klerk.

The report strongly recommended that demonstrators be universally prohibited from carrying weapons or replicas of weapons. Police should have special powers to

confiscate weapons carried at demonstrations, said the panel, which has sat under the chairmanship of Harvard Law School Centre for Criminal Justice director Prof Philip Heymann.

The fundamental principles of the report were that peaceful demonstration should be entrenched as a democratic right in SA and one of the central responsibilities of the police should be to facilitate the exercise of this right.

Lethal force could only be justified when delay in its use, and the use of anything less, would subject the police or others to severe risk of death.

"Our message to the SA police force is to avoid situations where self-defence or defence of others is necessary by planning, equipping and training," Heymann said. The panel believed shotguns firing bird-shot should be regarded as lethal weapons.

The panel recommended that the use of non-lethal force must be proportionate to the need, reasonable in the circumstances and minimal to accomplish what was required. It suggested arrest as the preferable form of action.

The report urged that the police force be properly organised, trained and equipped

to handle demonstrations without force. This new approach would mean the police would need skills in peacefully interacting with crowds, in negotiation and in human relations. To achieve this, police training would have to be reviewed.

The panel said respect for the right to demonstrate was especially needed in SA — despite its politically inflammatory conditions — as the majority of the population lacked voting rights. However, it noted that the police also had an obligation to prevent violent mass actions.

The panel believed those organising demonstrations, local authorities and the police all had a responsibility to ensure demonstrations were held without violence.

The Supreme Court should have wide powers to review local authority decisions.

The report acknowledged many demonstrations in SA occurred spontaneously.

The panel accepted an ANC recommendation that a commission be available to provide independent monitors of police conduct on request at demonstrations and said this could be an extension of the Goldstone commission. The report said a post-incident, independent review of police action would exert a powerful influence on police behaviour.

## Three policemen die in East Rand unrest

THREE policemen had been shot dead in unrest-related incidents in Katlehong on the East Rand since Tuesday, police reported yesterday.

Police reservist Matli Mhale was shot dead and his firearm stolen by unknown attackers yesterday. Police are investigating.

Two other policemen were killed in Katlehong on Wednesday by a group of men armed with AK-47 rifles.

Police said yesterday they would investigate claims made this week by the military wing of the Pan Africanist Congress, the Azanian People's Liberation Army (Apla) that it had attacked and killed policemen.

In another incident, two men were killed when ANC and Inkatha supporters clashed using firearms and other weapons near Estcourt in Natal yesterday. — Sapa

## Vaal business feels the boycott

THEO RAWANA

BUSINESS in the Vaal Triangle is beginning to feel the consumer boycott launched by the Broad Forum, but has vowed not to be brought to its knees.

Business leaders in the area have hinted at retaliation for a boycott they view as senseless as it hits "apolitical business people and innocent consumers".

The Broad Forum, an alliance of community groups and political organisations, this week announced the intensification of the boycott against white business in Vereeniging, Vanderbijlpark, Meyerton and Sasolburg. The boycott was launched after the Boipatong massacre to support demands which included the demolition of the KwaMadala Hostel, arrest and prosecution of all people involved in the violence, withdrawal of security forces from Vaal townships and compensation by Iscor for Boipatong residents.

Vereeniging Sakekamer chairman Henne Olberts said smaller businesses were the worst hit. But the boycotters were also

suffering

"The boycott won't bring business to its knees. Blacks are suffering too, and it's time unions and political leaders saw what they were doing to themselves."

He said the business community was thinking of ways to "boycott the boycott", like refusing township deliveries.

The Vanderbijlpark Sakekamer said it had dropped the word "Afrikaanse" from its name to accommodate other language groups.

"We opened our hand to them and we warn that if we close it they won't be able to get in again."

"They must be warned."

Broad Forum spokesman Paul Sithole said he had had "confidential approaches" from some companies asking what to do. "I suggested they lobby big business to come and address the issue."

He said it was too early to say how effective the boycott was.

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# AFRICA NEWS Amnesty accuses South Africa ● Lesotho prepares for elections

## Africa improves

### On human rights

South Africa 10/7/92  
252  
Amnesty says hundreds of SA Government opponents were executed with the approval of the security forces:

LONDON - Africa's surge toward democracy in 1991 brought "immense changes" in the human rights situation in many countries

But some governments continue to murder their opponents, the human rights organisation Amnesty International said yesterday

And in South Africa, hundreds of Government opponents were extra-judicially executed "with the acquiescence or direct involvement of the Government's security forces", Amnesty International said in its 1991 annual report

"Extra-judicial executions were reported in countries like Chad and Mali, whose new governments had come to power only a few months earlier pledging to respect human rights," it said

Demonstrators demanding political reform were shot in Cameroon, Madagascar, Mali and Zaïre, and opposition party supporters were detained in many states, it said

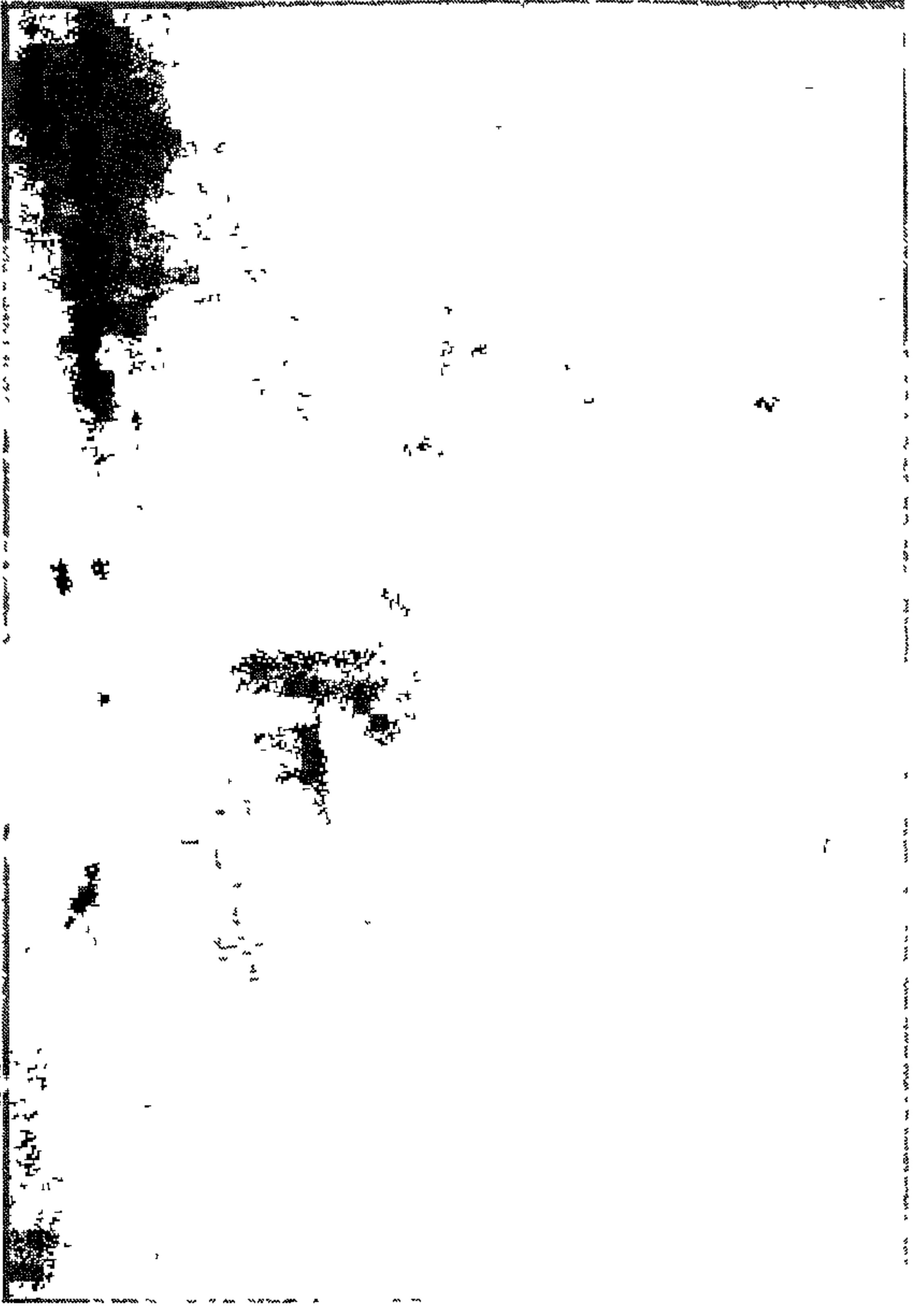
By the end of 1991, most of Africa's one-party states had been abolished, Amnesty International said

Political change ended entrenched patterns of human rights' abuses in Zambia, which lifted semi-permanent emergency laws allowing detention without trial, and in Ethiopia, where the new government released hundreds of detainees, it said

But extra-judicial executions continued in Chad, Mali, Mauritania and Rwanda in 1991, the report said

In Burundi, 1,000 or more extra-judicial executions were committed "against a backdrop of ethnic tensions", it said

Some 300 black political prisoners were executed in Mauritania *Sapa-AP*



Three African drug traffickers sit with 5.8kg of heroin after their arrest on July 8. The suspects are, from left, Dovi Dit Albert of Benin, Motombo Woyele of Nigeria and Mohamed Swaray of Liberia.

# PEOPLES LIVES *Our greatest need: effective detective work and policing*

**O** H what short memories we have: If we cared to remember, we would have known that whenever the National Party is embarrassed by the excesses of its security forces and its policies, it has had a standard response: appoint a commission of inquiry.

After the Sharpeville massacre on March 21 1960 when the police killed 69 people and injured hundreds, a commission of inquiry was appointed.

After the Langa massacre in Uitenhage on March 21 1985 when the police killed 20 people and injured scores, there was a commission of inquiry.

There have been many more but the above come to mind immediately.

The Government appoints the commission and gives it terms of reference that sidestep the real issues.

Now it has an ongoing one, the Goldstone Commission, that it can use as a receptacle for any problems it has with the violence.

We should have known that it was not going to solve the nation's current crisis.

The Commission was flawed right



## Joe Thlooe's Perspective

# NP tactics: hiding behind commissions

from conception

Nobody is prepared to say that now that the Commission is up and running. The vague feelings of unease that some politicians, particularly those in the liberation movements, have about it are quickly suppressed, as people thrash around to beef up the work of the Commission

101 7/92

Confusion is heaped on confusion. Accusations fly: you owe us an apology because the Commission has cleared our name... or the Commission had no business making a statement before all the evidence was in. It's become a travelling show interesting only to politicians. And this happens when men, women and chil-

dren are being slaughtered in our streets.

Train violence? The Goldstone Commission. Tokoza? The Goldstone Commission. Boipatong? The Goldstone Commission. Mass action? The Goldstone Commission. Dangerous weapons or cultural ones? The Goldstone Commission.

Toss everything into it. When you realise that it is not helping stop the violence, you beef it up by getting a judge from abroad to come and join it as an assessor.

What difference is he going to make to the work of the Commission except give it dubious credibility?

Let's be clear about some things I don't for a minute doubt Mr Justice Goldstone's abilities as an impartial judge nor am I saying he is not doing his work well.

I have met him and spoken to him and find him a man concerned about his country.

The problem he faces however is that he still depends on the investigations of other people - the police and other institutions like human rights organisations - for effectiveness.

## Goldstone has already complained that his recommendations are ignored

And there is the rub. What is needed is efficient and effective police work. The volumes that the Commission has produced already and the volumes it will still produce will not replace effective detective work and policing.

Goldstone himself has already complained that the recommendations he made on policing have, up to now, been ignored.

The irony is that most of his recommendations on policing should have come from the police themselves if they were serious about stopping the carnage in the townships. Sadly, more people have died since he made the recommendations.

# Report not biased in favour of ANC, claims Amnesty

STAR 10/7/92

By Garner Thomson  
Star Bureau

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LONDON — Amnesty International has rejected suggestions that its latest annual report is biased because of its failure to report ANC attacks on Inkatha

The international human rights organisation this week castigated South African authorities over alleged security force involvement in — or their failure to prevent — acts of murder and violence against supporters of the ANC

It also claimed Inkatha was acting against its political opponents with the tacit approval of the security forces.

However, an Amnesty

spokesman yesterday rejected a suggestion that the report was flawed. She said "The focus this year was on killings and violence directly linked to governments or their agencies. There has been some confusion in reporting the report where the State link has been overlooked."

"This is not to say we are not aware of alleged ANC attacks on Inkatha supporters or of young 'comrades' on police. We receive a great deal of information from a highly organised network of informants, and this has been part of the information received. It is simply that we have no evidence whatsoever of any ANC attacks which were carried out in collusion with State security forces."



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# Experts suggest new ways to prevent demo violence

W/Mail 10/7-16/7/92

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**S**WEEPING changes to laws and regulations governing demonstrations — entrenching the democratic right of people to demonstrate and stressing the need for radical change in policing — have been recommended by a panel of local and foreign experts appointed by the Goldstone Commission to investigate the issue.

Contained in a 79-page report, the panel's recommendations spell out a new set of principles relating to demonstrations and a different concept of how they should be managed — requiring "a departure from the role the SAP may have been expected to play in managing demonstrations in the past"

The panel's "most important" recommendation was that "every effort" be made to plan, equip and train police so that a life-threatening situation, the only instance where it felt use of lethal force might be warranted, not be allowed to arise.

Police monitoring ordinary demonstrations should not be armed with any lethal weapon other than holstered pistols, the panel recommended. Where demonstrators were expected to vastly outnumber police and likely to cause police grave injury if not stopped, special units armed with lethal weapons should be deployed, but maintain a low profile until needed

Lethal force should not be used to prevent demonstrators reaching a location where they were likely to destroy public property but not lives, nor when they threatened to overrun a police blockade.

Police authorities should define "with greater precision" situations in which lethal force might be necessary — and a new set of rules governing the use of "somewhat dangerous devices" such as rubber bullets and teargas should be estab-

*Police need to learn new techniques and new attitudes to handling demonstrations, a Goldstone-appointed panel of experts has found.*

**GAYE DAVIS** looks at their recommendations

lished

The SAP should also consider introducing systems of command and control to ensure use of any level of force was properly authorised. "In the highly charged conditions of a disorderly or violent demonstration a decision by an individual to open fire, can trigger a massive escalation," the report states. The more forceful the tactics necessary, the higher should be the rank

Organisational and training implications for the SAP included a comprehensive review of police training if the panel's recommendations were accepted with a new emphasis on techniques and tactics.

Central to this was the concept that responsibility for ensuring peaceful and effective demonstrations was shared by organisers (who had the greatest moral authority over demonstrators), local authorities and police

Instead of seeking permission for demonstrations, organisers should be able to give notice of their intentions to a local authority, rather than police or a magistrate, within six working days of a demonstration by more than 15 people

Right of appeal to a supreme court judge should be enjoyed by both organisers and the police and penalties should be imposed where organisers violated agreements

The recommendations carry far-reaching implications for police training and chains of command to facilitate co-operation with organisers to defuse situations of potential conflict.

Human relations training — covering topics such as racism, communication skills and awareness of other cultures — should be central, the panel recommended.

At a broader level, effort was needed "to reduce the paramilitary quality of present thinking". The panel recommended that outside experts' help be sought to help the SAP develop new attitudes to public order policing

New legislation incorporating principles and procedures dealt with in the report should be drafted as matter of urgency — preferably with a single Act replacing existing laws, panel chairman Professor Philip Heymann, director of Harvard Law School's Centre for Criminal Justice, said yesterday

Speaking during the first public hearing of the committee, Heymann said the panel's members were agreed that the right to demonstrate was as important a political right as the right to run for office — something to be "valued, encouraged and facilitated by all the arms of government, including the police".

However, the panel had proposed new rules without proposing new referees — the structures to enforce them

"We are acutely aware that if the people of South Africa are to have confidence in those whom we have recommended be responsible for planning and policing demonstrations they will have to be assured that the police and others will act in accord with the approach we advocate," Heymann said.



# London bobbies talk about the right beat

*W. Ward 10/17-16/17/92*  
THE unexpected task of assessing a massacre investigation in a foreign country was an arduous one for London metropolitan policemen Commander Tom Laidlaw and Detective Superintendent David Don

Asked, on 12 hours' notice, to fly to South Africa and undertake a week's audit of the police inquiry into the Boipatong killings was one thing. Then there was the question of being seen to be liaising with the South African Police

But the two officers — accompanied by English academic Dr Peter Waddington, director of criminal justice at Reading University — believe their expertise stood them in good stead. Being outsiders, they also believe they were able to maintain a degree of objectivity essential to their task. "There are strengths as well as weaknesses in being an outsider," said Don. "The strong point is that is one can look at things from an objective point of view."

"We wouldn't presume to understand the political or historical circumstances in this country. It would mean living, eating, breathing and sleeping here to understand that. But we do understand policing. We understand, from our perspective in England, the right and proper thing to do."

Waddington added: "That is what Judge Richard Goldstone wanted. He wanted an assessment of how well the SAP had responded to the circumstances measured against international

*British experts asked to assess police investigations into the Boipatong massacre are*

*unable to release their findings yet, but they*

*discussed with*

**LINDA RULASHE**

*some lessons for restoring public confidence*

*standards"*

The men were unable to discuss their report, which will only be released when the Goldstone Commission of Inquiry into the Boipatong massacre begins on August 2.

Though dealing with an inquiry of this nature was new to them, they said the process of auditing is a common one in the London police force.

Don explained that it is not unusual to initially use "a couple of hundred officers" in an inquiry. This eventually winds down to a "normal team" of about 30 officers, depending on the incident and how long it takes to solve.

"Any murder is considered a major inquiry by us. For a man in my position, this means dealing with the problems of running a large team of detectives all gathering information. That's something you gain by experience." The closest England has come to an



*W. Ward 10/17-16/17/92*  
Policing the police ... Commander Tom Laidlaw (left), Dr Peter Waddington and Detective Superintendent David Don

inquiry like Boipatong's was after the collision (later found to be an accident) between a passenger riverboat and another boat on the Thames, in which 152 people died. "We are very fortunate in that we don't tend to get as many deaths in public disorder," said Laidlaw.

The officers have been involved in protracted inquiries into rail disasters, aircraft crashes and serial murders. These inquiries are usually followed by internal investigations to assess the police progress, they said.

Laidlaw, who has investigated various demonstrations and riots, said: "There was a significant riot in central London in March 1990. The next year a

large report was compiled to learn all the lessons that could be learnt from the subsequent inquiry. A rather lesser outbreak occurred some months later and a similar report was produced for that.

"This process of review and satisfying oneself about whether the right or wrong thing was done is something all police forces must do."

Ever conscious of the way they are regarded by the public, the English police constantly reassess their role, said Waddington.

Restoring public confidence in the SAP is a key task the Goldstone Commission has set itself. In a statement read at the commission's preliminary hear-

ing into the Boipatong massacre this week, Judge Goldstone said: "The commission is of the view that in order for a government to gain the respect and support of its citizens whom they serve, it must be able to demonstrate that it has full control of its security forces."

"In turn, the security forces must be able to secure the lives and homes of the people. Such a state of affairs cannot be brought about without active co-operation between the security forces and the majority of the citizens and their political representatives."

"How to bring about such a state of affairs is the most urgent and daunting task of the commission."





# Here, FW, is the case against the state

W/Mail 10/7-16/7/92

## Wait and see as KZP gets control

By LENA SLACHMUIJDER  
NATAL unrest monitors have reacted with alarm to moves which will increase the role of the KwaZulu Police (KZP) in countering unrest.

From July 1, the South African Police stopped using Internal Stability Unit (ISU) members in KwaZulu unless specifically called in by the KZP district commissioner.

The chairman of the Natal-KwaZulu regional dispute resolution committee, MC Pretorius, said the move was a matter of "restoring command".

Pretorius said that as the KZP held the major responsibility for areas under its jurisdiction, it would be compelled to act in a more responsible manner. "Unfortunately, we'll only be able to tell if it does or not by continuing the search for peace."

The move was particularly in the Umlazi dispute resolution committee. John Dlamini, an ISU member, said it was a matter of who could be trusted to act more responsibly if given the reins.

Complaining that the decision had not been canvassed with local peace structures, Dlamini said it had put the brakes on progress towards joint SAP-KZP policing in Umlazi. SAP patrols around troubled shack settlements in Umlazi had fostered a climate of peace, while joint patrols in the township over the Easter weekend had greatly improved residents' perceptions of the security forces.

"The decision is discouraging in the face of increasing violence," said Democratic Party unrest monitor Roy Aunke. "We have used the ISU to a great extent, and have been very impressed with them recently."

The move follows the release of a report by the Legal Resources Centre and Human Rights Commission, which paints a picture of deteriorating KZP conduct and distrust of the force by communities over the past six months.

Despite protestations of innocence by FW de Klerk and cabinet members, persistent doubts linger about state involvement in the violence.  
By PHILIPPA GARSON

THE government had taken "numerous concrete steps" to stop political violence, had given the police more money and more men, had backed the National Peace Committee and launched the Goldstone Commission and was "irrevocably committed" to a peaceful solution of South Africa's problems, President FW de Klerk told the nation last week.

Just how credible is his posture of hurt innocence? How are South Africans to view the claims — made repeatedly over the months — of the government's clean record on the violence and a determination to eradicate it?

In an interim report on the Boipatong massacre last week, Mr Justice Richard Goldstone said he had found no evidence that the government and high-ranking members in the security forces had been directly implicated in political violence.

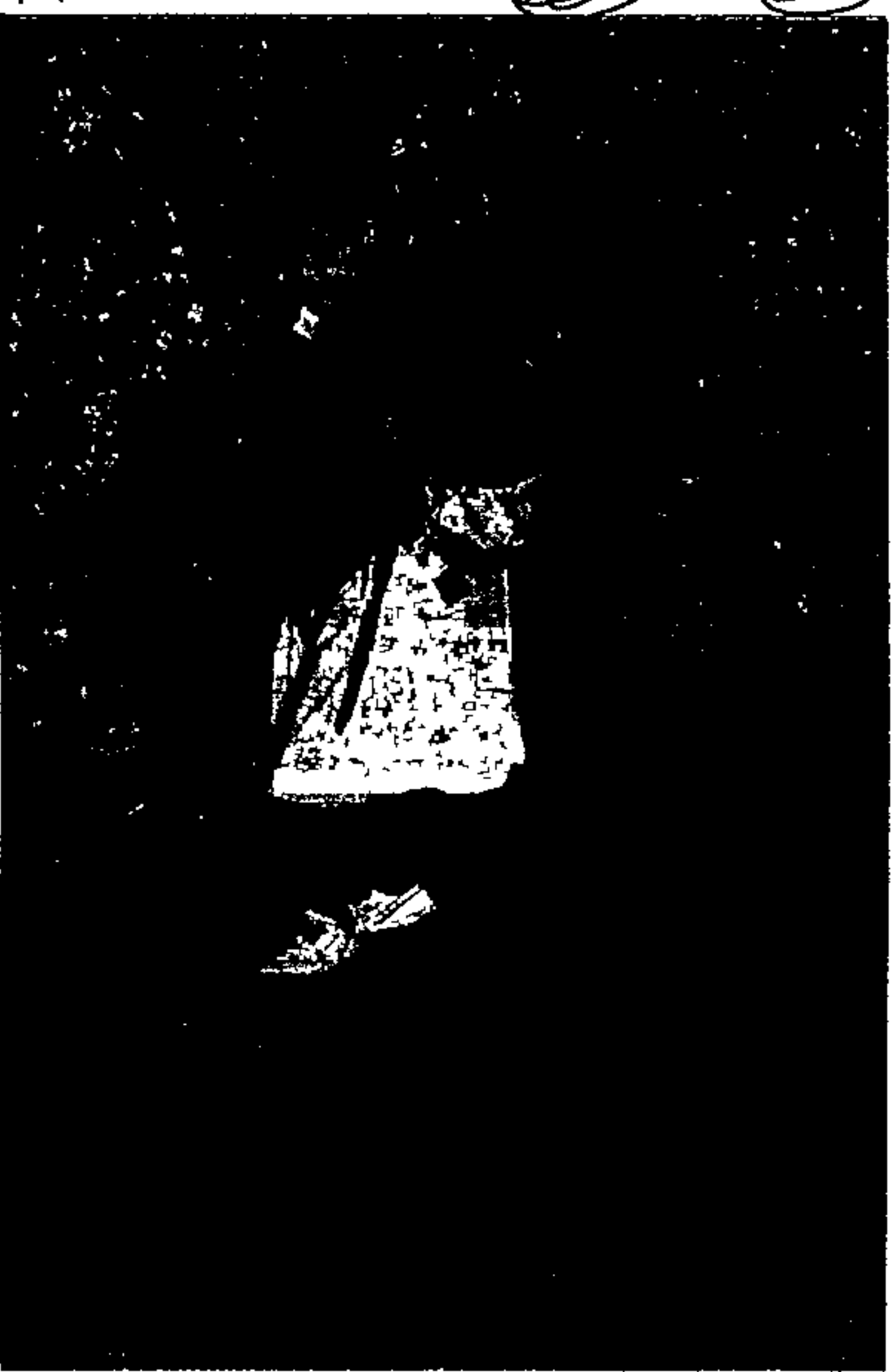
But the issue, as the African National Congress pointed out, is broader than this. "Culpability extends to acts of commission and omission," it said.

Judge Goldstone himself hints at official foot-dragging. In his report he complains of several instances where the authorities have ignored his recommendations, among them that the hostels be secured, policed and upgraded, and that 32 Battalion should not be deployed in a peacekeeping role.

Both the International Commission of Jurists and Amnesty International have blamed the government for not taking sufficient steps, with the latter noting a "failure to bring to justice all but a tiny proportion of those involved in human rights violations."

However justified it may be, the strong impression is created that the government and its security arms are more concerned with trying to wriggle off the hook than to get to the bottom of claims of their complicity in or inaction on violence.

Lack of action is only part of the problem. Active steps taken by the government, such as legislative amend-



Blood on the tracks Train attacks have claimed many lives in the tide of violence sweeping South Africa  
Photo PETER NKOMO

ments on the carrying of cultural weapons and, more recently, giving more powers to the homeland police, have, in the opinion of many, served to fuel the violence.

To judge by government rhetoric, the National Party under De Klerk is a different party from that of PW Botha, and has no responsibility for the latter's systematic use of violence as an instrument of policy. How can De Klerk — and half his cabinet, including General Magnus Malan, Roelf Meyer, Leon Wessels and Adriaan Vlok, who also served under Botha — so glibly disassociate himself from the Civil Co-ope-

ration Bureau (CCB) and police hit squads based at Vlakplaas?

The refusal to disband the special forces, the insistence on using controversial forces such as former members of Koevoet, and the continuation of covert operations only reinforces public suspicion.

Commenting on the police deployment of ex-Koevoet fighters, Judge Goldstone said that whether or not they were involved in violence, their "infamous reputation" could only cause further distrust and suspicion of the security forces.

In assessing the government's

record, the following must be taken into account

● Not a single person has been convicted in connection with the 49 massacres which have occurred over the past two years in the Transvaal (See accompanying story)

Ironically, the Trust Feeds massacre of December 1988 stands out as the major instance where the convictions have been secured. Those convicted were policemen.

● A secret document released by Transkei military leader Major-General Bantu Holomisa in May this year directly implicates the State Security Council (SSC) and South African Defence Force in the murder in 1985 of four Eastern Cape activists, including Mathew Goniwe. The document is a message from SADF Military Intelligence Chief General CP van der Westhuizen (then a brigadier) proposing to the SSC the "urgent removal from society" of Goniwe. De Klerk, denying the cabinet or the SSC ever planned or sanctioned murder, ordered the reopening of the inquest. No move has been made to suspend Van der Westhuizen from his position.

● No move has been made to suspend head of the SAP forensic laboratories, General Lothar Neethling, after a supreme court civil case finding in January last year that his involvement in the poisoning of activists was, on the balance of probabilities, true.

● Despite a Harms Commission finding implicating several CCB members in political violence, none has been charged. At least 20 CCB members, and probably many more, remain on the SADF payroll.

● In February *The Weekly Mail* published allegations made by "Black Cat" vigilantes in Wesslton that local white policemen based at nearby Ermelo police station had encouraged and actively helped them destabilise the community. To *The Weekly Mail's* knowledge, the policemen concerned have not been suspended. The Goldstone Commission is currently hearing evidence on these allegations.

● In an official operation in 1986, the SADF gave military training in Namibia to 200 Inkatha men, who were later absorbed into the KwaZulu Police (KZP). In sworn affidavits, several of the trainees claimed to have been trained in offensive warfare. Some of the trainees have subsequently been implicated in the Natal violence.

● No action has been taken to rein in the KZP, which is indicted in a lengthy Legal Resources Centre (LRC) and Human Rights Commission report, backed by legal documents, listing incidences of KZP partiality in the Natal violence and citing the KZP as an obstacle to peace in Natal.

The powers of the KZP in unrest situations have in fact been strengthened. In terms of a July 1 policy decision, the police's Internal Stability Unit will only act on unrest in KwaZulu if called on to do so by the KZP district commissioner.

● Government amendments to the Dangerous Weapons Act, the Natal Code on Zulu Law and other by-laws have generated extensive confusion and made weapons bans almost unenforceable, say human rights organisations.

● A *Weekly Mail* investigation this year revealed the use of extra-legal methods — including systematic use of false vehicle registration plates, some belonging to bona fide individuals and companies — to cover a police operation in the Vaal.

The network has also been linked in affidavits to the orchestration of violence, although these allegations are still under investigation by the Goldstone Commission.

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## No convictions on carnage

W/Mail 10/7-16/7/92  
Weekly Mail Reporter  
NOBODY has been convicted in connection with the more than 40 massacres on the Reef over the past two years, in which at least 1 200 people have died.

"Massacre" has been defined according to the Human Rights Commission's criterion of a mass killing claiming the lives of at least 10 people. This definition excludes the conviction of a man involved in the 1991 Braamfontein train attack, in which two people died.

Prior to the Boipatong massacre, 45 arrests had been made in connection with five massacres, according to police figures. Trials of some of these suspects are still in progress.

Last week John Zakwe, one of five men accused of slaughtering 13 mourners at an Alexandra night vigil in March 1991, was acquitted on grounds of insufficient evidence.

This came hard on the heels of the acquittal of seven alleged Inkatha Freedom Party men on murder charges in connection with the Sebokeng night vigil massacre of January last year, in which 38 people died.

Delivering his judgment in that trial, Judge W Schultz dealt the South African Police a tongue-lashing, saying they "should have tried harder" to find incriminating evidence.

The SAP's credibility crisis in the townships had led to a situation where lawyers had

to take over the job of the police, ensuring that witnesses went to court, providing them with "safe houses" and persuading them to testify, commented a lawyer representing one of the families affected by the Sebokeng slaughter.

But SAP media liaison officer Captain Eugene Opperman has accused the media and political organisations of hindering police investigations.

Media allegations about the Boipatong massacre, for example, had made potential witnesses "confused, angry and even more emotionally charged," he said, stressing that the African National Congress had instructed residents not to communicate with the police.

Giving further details of progress made in investigating the massacres on the Reef, a police spokesman said:

● The attorney general had temporarily withdrawn charges against five people arrested in connection with a Johannesburg train attack two years ago which claimed the lives of 15 people.

● Twelve people arrested in connection with the May 1990 Swanieville massacre — in which 28 people died — had all been released on bail.

● Twelve people had appeared in court in connection with the deaths of 11 people at the Chamdor coal yard, on the West Rand, on August 21 last year.



# Catch-22 revealed in plea for free speech

STAR

11/19/92

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A DEFENCE advocate facing the Bar of Bophuthatswana's Mmabatho Supreme Court this week found himself in a ticklish situation — by pleading his case, he may have been technically breaking the law.

But he was in good company — so, possibly, was counsel for the state and the judge.

The situation arose because in Bophuthatswana — where freedom of speech and association are guaranteed by a written constitution — a law was passed last year making it an offence for any non-citizen attending a gathering to speak or engage in debate on a wide range of social, political and economic issues.

## Embarrassed

Challenging this "pernicious" provision of the Internal Security Amendment Act in the Mmabatho Supreme Court this week, counsel

for the Winterveld Action Committee, Cedric Puckrin SC, while not exactly blushing, professed himself to be embarrassed.

"As a non-citizen of this republic, in seeking to have this legislation set aside, I too will be contravening section 31 of the Act," he told Mr Justice Friedman.

With a glance at Professor Johan van der Vyver, the Wits University academic who appeared for the government of Bophuthatswana, Puckrin added: "Even my learned friend, in seeking to support this legislation, may be committing a crime."

And fixing his eyes on the Bench, Puckrin ventured that the judge might "vicariously" be committing a crime by convening the gathering at which non-citizens expressed themselves in defiance of the law.

Winterveld Civic Association chairman

Kehla Nyamakazi applied to the court to have sections of the amendment Act struck down on the basis that they were in conflict with the constitution, which guaranteed fundamental freedoms not only to citizens but to all persons.

The question of whether fundamental rights can be denied to non-citizens is particularly pertinent in Bophuthatswana, which was created less than a generation ago by the wholesale "annexure" of South African citizens.

For Nyamakazi, one of these annexed people, this was no academic issue. His organisation had been granted permission by the Minister of Law and Order to hold a meeting this weekend to discuss certain public issues closely affecting residents' lives. The minister had cleared the meeting on security grounds. But Nyamakazi had been

## CHALLENGING Bophuthatswana's Internal Security Amendment Act could be a contravention of the Act, reports JO-ANNE COLLINGE.

warned that he or any other non-citizen who addressed the meeting still faced the possibility of arrest.

The provisions which put Nyamakazi in this trap are the following: firstly, section 31(b) of the amendment Act which states that non-citizens shall not "at any gathering whatsoever deliver any speech or address or participate in any discussion, debate or campaign" related to a wide range of issues and designed to influence the authorities.

Secondly, the wide definitions of "public protest" and the func-

tions of "political organisations" which stake out the prohibited areas of speech. These include debate aimed at bringing about "any constitutional, political, social, economic or industrial change" in Bophuthatswana; terminating "the sovereign independence of the republic and seeking its amalgamation with or incorporation of its territory in any other state"; or relating to "public protest".

Public protest is such a catch-all term that it actually includes actions calculated to "support or promote" government policies — as well as those intended to oppose government actions. The concept covers all action which relates to any "real or supposed policy or public interest . . . concern, demand, grievance, objection or outrage" that is intended to influence authorities in the territory or beyond it.

Commented Puckrin: "If the Pope were to come to Bophuthatswana and suggest that all the people should become Catholics . . . that too would be an act of public protest."

Van der Vyver responded that it was the task of the court to "try and read validity into the Act" and he argued that the definitions should be interpreted restrictively.

The definitions might appear wide, he conceded, but a "golden thread" ran through the prohibited Acts. In essence, "what the legislation is trying to prevent is participation of non-citizens in the internal politics of Bophuthatswana."

Asked Judge Friedman: "Non-citizens cannot vote. Is that not enough to exclude them from politics in the way envisaged?" No, answered Van der

Vyver it was necessary to prevent outsiders from "dictating or intruding" citizens in the exercise of politics. Bophuthatswana was going through difficult times, he submitted. "It is in a political dilemma where its whole future is at stake."

Puckrin pounced on the argument, submitting that it could not be used because no evidence of this situation had been placed before the court.

## Nub

The argument turned on constitutional concepts. But an observer could not help thinking that the nub of the issue lay in Van der Vyver's outburst that Bophuthatswana perceived that its future was "at stake" and in Puckrin's own by-the-way observation that the state was not seeking to control true aliens, but quasi-citizens

By S'BU MNGADI

CONTROVERSY surrounds this week's provisional withdrawal of charges against a policeman and two men who allegedly gunned down three people in Folweni south of Durban on June 22.

SAP constable Gilbert Sosibo, Shadrack Mnguni and Vusi Bonginkosi Sibiya were arrested on July 1 and appeared in the Umbumbulu Magistrate's Court on July 3.

They were remanded in custody until July 9 pending further investigations.

When they appeared on Thursday the prosecutor announced the case had been provisionally

aprem 12/7/92

# Folweni charges dropped

withdrawn "on the instructions" of Natal Attorney-General Mike Imber's office. No reasons were given.

However, Umbumbulu court officials attributed the withdrawal to a "shoddy investigation" by the investigating officer from Montclair police station, where Sosibo is stationed.

The only survivor of the attack, SAP constable

Ambrose Mbill of the Berea mobile unit, is still unable to speak after being shot through the mouth. He related in writing how his live-in lover Zama Gumede, 19, and their neighbours, Tholakele Damini, 19, and Maso Duma, 22, were murdered by three policemen from Montclair and an Inkatha activist.

SAP spokesman Capt Hamilton Ngidi could not explain how it was possible for charges to be provisionally withdrawn when Mbill had positively identified his assailants. He referred City Press to the A-G, who was not available at the time of going to press.



"The right to demonstrate is as important a political right as the right to campaign for office — it is nothing to be repressed, despised or feared."

This is the nub of the most recent Goldstone commission report, on "Lawful Control of Demonstrations" in South Africa.

Demonstrations, it says, are "something to be valued and facilitated by government, including the police... who should be prepared to stand and be hit by stones, bottles and petrol bombs and not use lethal force as a response."

The 10-man panel, chaired by Professor Philip Heymann, head of Harvard's Centre for Criminal Justice, spells out the need for restraint and civility in South Africa.

The panel, with its four international contributors, began working on the report in late April. On Thursday the final pages were typed, 12 hours before they were due to be delivered at the new Breakwater campus of the University of Cape Town's Graduate School of Business.

Counsel for the police, the Inkatha Freedom Party, the ANC, Cosatu, the SA Communist Party and Saccola praised the work that went into the 79-page report. Whether their clients have the "political maturity", as one lawyer put it, to accept its provisions will be debated behind closed doors in

# PROTEST GUIDELINES WILL TEST POLITICAL MATURITY

Cape Town next week.

As Professor Heymann noted: "No system will make demonstrations peaceful, unless the parties involved want peaceful and effective demonstrations."

He added: "South Africa is a country where one can never tell if it is at war or at peace."

Certainly, the hush of the lecture room at Breakwater, where Professor Heymann and the Goldstone panel delivered the report, was a far cry from the streets where millions of people have taken part in more than 100 000 demonstrations since President F.W. de Klerk's speech on February 2 1990.

On Friday, a six-man legal team for the police screened footage of demonstrations, ranging from A.W.B. protests in Pretoria to unrest in Sebokeng, to show the commission — as lawyer Jan Wagener put it — "that SA is different. In other countries people throw stones, here they try to kill the police."

SA is experiencing a wave of strikes and demonstrations. In a dramatic report this week, the Goldstone commission emphasised the right to demonstrate and called for police restraint. **CHARLENE SMITH** reports

All the legal teams will debate the report with the commission until Tuesday next week. From Wednesday, the commission will hear evidence from the public.

Professor Heymann, delivering the report, said: "Respect for peace should be shared by demonstrators, local authorities and police. Agreement and co-ordinated plans or activities are the central guarantee of an effective and peaceful demonstration."

However, "violation of the conditions and restrictions imposed" were not grounds for dispersing a demonstration. "It is simply a sign that the co-operation which should benefit

everyone, and which the public should insist on, has broken down."

The panel suggested that when, for example, peaceful demonstrators occupied a building, police should merely switch off utilities and wait for the demonstrators to leave, as Dutch and German police have done in similar situations.

New York police commissioner Lee Brown, the only panelist not at Thursday's proceedings, noted in the report that "shotgun fire and other projectiles as a means to disperse demonstrators is not recommended these days."

The panel emphasised human rela-

tions training "to equip the officer with the knowledge and skills for working with persons different from himself... Topics such as prejudice, hate, racism, discrimination and bias should be included." Listening skills should be stressed.

The report noted: "For the organisers of a demonstration to want to negotiate in good faith, they must see advantages. More predictable and tolerant policing is one such advantage."

"There is no more important resource for the police than their relations with the local community. There is no resource that is more in doubt in SA."

The panel made the "strong recommendation" that demonstrators no longer apply for permission to demonstrate, but "give six working days' notice", similar to the system in several US cities, Northern Ireland and as recommended in the National Peace Accord.

Spontaneous gatherings should not

be dispersed, as long as the protest was non-violent

It recommended a "universal prohibition on any demonstrators carrying weapons or replicas of weapons, without exception".

The panel members were "almost unanimous" that "guarantees of damage could not be demanded from 'organisers'. Demonstrations were 'the political tactic of the poor and the powerless', imposing financial liabilities would remove this right.

Professor Heymann said that while demonstrators expressing "hate or disdain or discrimination would be allowed in the US, we believe it is too dangerous in South Africa. The need for reconciliation is too important. Hatred runs too deep."

The report suggested police wear helmets and shields during confrontations. If a sniper was in a crowd, the police should not fire on the crowd, but use a SWAT team to isolate the sniper.

It concluded, "History teaches us that democratic politics, including peaceful demonstrations and restrained and trusted police involvement in protecting democratic values, depends upon a society not being at war with itself, politically or otherwise. There is no restraint in war and democracy without mutual restraint."



Killings go unpunished as ...

BY SIBU MINGADI

252

CPren 12/7/92

# Goldstone ignored

6 pm on December 3 and the second at about 4.30 am the following morning. The first attack left four people dead and the second some 15 dead.

"It is also not disputed that an IFP organiser, Mbuyiselwa Johannes Mbatha, died from a gunshot wound on December 3. According to the IFP witnesses, he was shot in the vicinity of the hostel.

"Some few hundred men participated in the first attack by the IFP supporters. They were armed with assegais, sticks and knobkieries." Witnesses had spoken of between 400 to 1 000 people launching a second attack.

After this the police had arrested 172 IFP supporters and confiscated 19 Zulu shields, 16 bush knives, one home-made firearm, 69 sticks, two pangas and 144 spears.

The committee asked the police to find out how many of the arrested IFP members were hostel dwellers.

This figure was to help in deciding on the degree of planning involved and whether the hostel had outside support.

The 172 did not resist arrest and their weapons were confiscated en masse.

"One can imagine the negative impact it will have in this situation if none

or only a small number of those arrested are convicted," Goldstone said.

On March 22 this year a fact-finding delegation of the International Commission of Jurists (ICJ) also visited Bruntville, the hostel and Mooi River police station and gathered evidence.

In their June report the ICJ said the arrest of the IFP 172 had met with no resistance; their weapons were confiscated en masse and the opportunity of identifying the man with his weapon was lost, rendering successful prosecution difficult.

This week, nearly five months after his recommendations, the judge noted that his recommendations had been ignored.

However, SAP Commissioner General Johan van der Merwe said police had given the commission's recommendations "full attention".

"It's therefore not clear what the commission means when it states that its findings have been ignored. The commission will be contacted," Van der Merwe said this week.

**CHARGES** have been withdrawn against hostel dwellers who allegedly killed 19 people and were arrested at the scene with blood-stained weapons in the Mooi River township of Bruntville in December last year.

And Justice Richard Goldstone this week complained that his commission's recommendations regarding policing of the Natal midlands town had been ignored with no reason given.

Law and Order Minister Hernus Kriel has told Democratic Party MP for Mooi River Wessel Nel that the charges were withdrawn because of lack of evidence.

Kriel had said investigations were continuing but no first-hand evidence had been found to bring new charges.

Nel said that the action of the force was an "indictment on the government and tantamount to acknowledging a state of anarchy".

He said for Kriel to say six months

later that charges had been withdrawn and to decline to make a statement on the issue when asked to do so was "frankly abhorrent".

He said the Bruntville incident was a duplicate of the Boipatong massacre except that in Bruntville armed perpetrators were arrested at the scene of crime.

Nine of the 19 victims were women and children.

Following the killings, the Goldstone Commission heard evidence from all interested parties in the town earlier this year.

Goldstone's report, put together by the Commission's Committee on Mass Demonstrations, was tabled in parliament in February.

Goldstone said peace and tranquility had reigned in Mooi River up to November 1990. Since then Bruntville had become highly politicised with Inkatha controlling the 1000-strong men's hostel and most of Bruntville's 14 000 residents supporting the ANC.

Several homes around the hostel had been burnt down and were deserted.

The judge said: "It appears to be undisputed that the IFP supporters launched two attacks on dwellers in Bruntville township, the first at about

**One can imagine the negative impact it will have in this situation if none or only a small number of those arrested are convicted.**

Monday, July 13, 1992

# Bail 'leniency' puts criminals back on street

ET 13/7/92  
Own Correspondent

(252)

JOHANNESBURG — South Africa's lenient attitude to the granting of bail resulted in a high number of suspected criminals committing further crimes, while awaiting trial, legal sources said at the weekend.

Recent research by the police over a nine-month period showed that of a total of 61 306 accused released on bail, 10 353 breached their bail condi-

tions, and 3 850 committed crimes while on bail.

This situation not only placed a massive burden on police, but also caused growing public dissatisfaction.

"In particular the black population finds it difficult to come to terms with this type of administration of justice and they take the law into their own hands or turn to people's courts," the

police said.

Witwatersrand attorney-general Mr. Klaus von Lieres und Wilkau said: "It is a well-known fact that South African criminal law has a very liberal view on the granting of bail to accused."

The granting of bail to accused should be seen against the background of the presumption in SA law of an accused's innocence until he or

she had been proved guilty, he said.

Recently the Law Commission recommended that, at hearings on whether to grant bail, the onus should be moved from the accused having to prove why he should get bail to the state having to prove why the suspect should not be granted bail. If the recommendation was accepted, it would be even easier for courts to grant bail.



# Hint of progress in Goniwe probe

Own Correspondent

PORT ELIZABETH — The acting attorney-general in the Eastern Cape has hinted that progress had been made in his investigation into the 1985 assassination of Cradock UDF leader Matthew Goniwe and three others

Mr Michael Hodgen, SC, said it had been mooted by various attorneys involved in the case that the inquest into the deaths should re-open in the Port Elizabeth Supreme Court today

Asked if this meant his team had made a breakthrough, Mr Hodgen declined to elaborate, but stressed they were working hard to secure a conviction

"We are making an all-out effort to solve the matter" Should they be able to go to court with the accused and secure a conviction, they would "make history in having solved one of these cases"

Asked about the long delay since the New Nation's revelations in early May about the alleged involvement of certain SADF officers in the deaths, Mr Hodgen

CT 13/7/92 (252) said it was a question of "another few weeks"

While it was unfair to the people allegedly implicated to let the matter drag on, the "wider implications of justice" demanded they solve the matter. And if those implicated were found not to be involved they would be "off the hook"

● Members of the ANC-tripartite alliance in Cradock held peaceful protests outside government offices in the town on Friday to demand a commission of inquiry into the murders-

## ANC cautions gang

THE Tembisa branch of the ANC has threatened to revive "people's courts" in the area to deal with the notorious Toasters gang if police did not act against the youths, who have mounted a reign of terror ~~228~~ (252).

The threat was made by the branch's general secretary, Mr Chilly Magagula, who told residents after a march on the local police station at the weekend that the community would have to arrest, try and prosecute the gangsters.

*Journal* 13/7/92

STAR 1417192

## 'I found no third force evidence'

A member of the Alexandra Interim Crisis Committee yesterday told a Goldstone committee of inquiry he had personally found no evidence of a "third force" operating in Alexandra, north of Johannesburg (252)

Deane Yates, a lay minister of the Anglican Church, told the committee the two warring parties seemed to be ANC and IFP supporters

The committee's terms of reference is to establish the circumstances in which people were forced by violence

or intimidation to vacate their homes or hostels in the township; who was responsible, and if there should be compensation

Mr Yates told the committee certain IFP leaders had told him they intended challenging the ANC and gaining political mastery, not only in Alexandra but in the country as a whole

He said the mass of people in Alexandra were not politicised and were not members of any political party, but the potential for violence posed by paramilitary

youth groups was real

"They are spoiling for a fight. It seems to be the policy of MK (Umkhonto we Sizwe) to keep a low profile. On the other hand, the supporters of the IFP seem to make a show of being militant and aggressive."

He said it was not a "total war in which the inhabitants of Alexandra were fighting each other". They were rather watching helplessly as a war they did not want raged in their township.

— Sapa.



## Value of judgments 'could exceed R3bn'

KARIN FRANKEN 252

THE combined value of judgments for debt could well exceed R3,3bn by year end, the Information Trust Corporation (ITC) warned yesterday.

This would be accompanied by an increase in unemployment, poor consumer confidence and dull trading.

"The current state of our economy together with predictions of a worsening situation will ensure a record year in terms of bad debt judgments," ITC CE Tony Leng said in a statement.

Central Statistical Service (CSS) figures released last week showed the value of judgments granted for debt in the first four months of 1992 rose by almost 50% to R1,185bn from R793m.

Leng said: "While there were some positive signs during the first few months of 1992 and a possible slow recovery in the last quarter, current political developments in SA will allow little improvement in the short to medium term."

In April, 224 close corporations and limited companies were liquidated, in which 12 daily liquidations were reported during April's 19 working days. March's liquidation figure of 290 was the highest in almost six years.

Furthermore, consumer confidence was at its lowest.

"More than 1 000 individuals have been sequestrated this year and have lost everything," Leng said.

# Government slated for failing to protect Goldstone witnesses

The Argus Correspondent

JOHANNESBURG. — The South African government was neglecting its responsibility to protect Goldstone Commission witnesses — and foreign governments had been left to foot the bill, Lawyers for Human Rights (LHR) charged.

LHR director Brian Currin said his organisation ran a special witness protection programme to ensure the safety of Commission witnesses.

The programme cost about R20 000 a month, and ran solely on funds donated by foreign embassies.

"It is ridiculous that LHR and foreign governments should foot the bill for something that is the responsibility of the South African government," Mr Currin charged.

LHR spokesman Laura Pollecut said two categories of witnesses needed protection: Those who witnessed the violence and those who allegedly took part in it.

Indarn Govender, co-ordinator of LHR's Violence Monitoring Project, who organises the protection of witnesses, said LHR was trying to fill a gap in the judicial system, but could not hope to do so adequately.

Only the Department of Justice could take responsibility for the protection of witnesses because independent organisations lacked the funds and the police lacked the credibility, Mr Govender said.

# 'Govt must pay for witness protection'

By Bronwyn Wilkinson

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STAR 147192

The Government was neglecting its responsibility of protecting Goldstone Commission witnesses — and foreign governments had been left to foot the bill, Lawyers for Human Rights (LHR) charged yesterday

LHR director Brian Currin said LHR ran a special witness protection programme to ensure the safety of commission witnesses

The programme cost LHR about R20 000 a month and ran solely on funds donated by foreign embassies

"It is ridiculous that LHR and foreign governments should foot the bill for something that is the responsibility of the South African Government," Mr Currin charged

"We object to having to take over the State's responsibility and we object to having to beg money for it from foreigners

"The State should be held accountable for the safety of witnesses as is the case in most countries," Mr Currin added

LHR spokesman Laura Pollecut said two categories of wit-

nesses needed protection those who had witnessed the violence and those who allegedly took part in it

Indarin Govender, co-ordinator of LHR's Violence Monitoring Project, who organises the protection of witnesses, said LHR was trying to fill a gap in the judicial system but could not hope to do so adequately

Only the Department of Justice could take responsibility for the protection of witnesses because independent organisations lacked the funds and the police lacked the credibility, Mr Govender said

Because of political sensitivity, a witness protection programme should be funded by the State, but controlled and monitored independently. The police should have no involvement, he said

The programme run by LHR aims to make life as normal as possible for witnesses under protection

According to Mr Govender, LHR provides safe accommodation — often relocating witnesses — as well as fulfilling basic needs

Some witnesses needed psychological help, he said

"Some of these people have committed really gruesome acts and they need help coming to terms with that

"Others have difficulty living in isolation and having their lives ripped up from underneath them," he said

Mr Govender said LHR was encouraged by a statement from Mr Justice R J Goldstone after the commission's preliminary hearing into the Boipatong massacre in which Judge Goldstone announced that a programme to protect witnesses who testified to the commission could be in place by August 4

Judge Goldstone said the commission had recommended that the Government empower it to offer adequate witness protection to persons testifying in commission hearings

The Minister of Justice had accepted the recommendation, and discussions were being conducted between members of the commission and ministerial officials with regard to the appropriate regulations, which could be in force early next month when the full hearing into the Boipatong massacre is due to begin

● When witnesses tremble  
— Page 15



# 14 strikers sentenced for violence

By Rochelle Gosling-Hughes

Fourteen former employees of Clicks, who were dismissed after striking on December 4 1990, were convicted yesterday of public violence and each fined R300 or one year in jail.

Sentencing the 14, Johannesburg magistrate O Rautenbach said public violence was a very serious offence "Picketing is supposed to be a peaceful, lawful means of settling disputes," he said.

Addressing the accused, he said "The whole idea of picketing was totally misused here, with the sole intent of forcing your employer to adhere to your demands, with total disrespect for the rights of any other person"

Warrant-Officer Andre van Rhyn said he found similar situations at the Clicks stores in Jeppe Street, Pritchard Street and the Carlton Centre

He described how strikers armed themselves with tins of spray paint and insecticide and barricaded the shop doors with cash tills. Management and police who tried to negotiate were chased away.

He said gas was sprayed from a tin and then set alight, like a "mini flame-thrower". Traffic police cordoned off the area and teargas was used to disperse the crowd.

Mr Rautenbach said he took into account that the trial began only in July — six months after the strikers had been arrested — and then lasted for almost a year.

"This caused a substantial loss of income on your part," he told the accused.

He said there was an increasing trend whereby demands were set and, if not met, were followed by violence.

"Society loses in the end," he said, adding a further one year in jail suspended for three years to the sentence.

The convicted are Stanley Skinasana, Gaworo Phokojoe, Ben Makhoti, Maria Morulono, Susan Mabata, Johanna Manthata, Ruth Malefetse, Debrah Hadebe, Zama Ndlovu, Ivy Moleko, Magdaline Motsoeng, Dorothy Mfuthi, Veronica Mashimini and Johannes Mngomezulu

## Witnesses 'need protection'

THE Government was neglecting its responsibility of protecting Goldstone Commission witnesses, the Lawyers for Human Rights charged yesterday.

Director Mr Brian Currin said foreign governments had been left to foot the bill.

LHR ran a special programme to ensure the safety of witnesses. The programme cost LHR about R20 000 a month and ran solely on funds donated by foreign embassies.

"It is ridiculous that LHR and foreign governments should foot the bill for something that is the responsibility of the Government," Currin charged.

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Journal 14/7/92

# Call to <sup>(252)</sup> prosecute govt for 'violence'

CF 14/7/92  
JOHANNESBURG —  
The Coalition Against  
State Murder and Cor-  
ruption (Casmac) — a 49-  
member group — met  
yesterday to declare  
they had "had enough"  
and to pinpoint ways of  
gathering proof and en-  
suring prosecution of  
these charges against  
the government

Speaking at a press  
conference after the  
meeting here, Lawyers  
for Human Rights repre-  
sentative Mr Brian Cur-  
rin said the conference  
had taken as its premise  
the assertion that the  
government was guilty of  
violence.

Mr Currin said the  
fight by groups such as  
LHR had until now fo-  
cused on individual  
cases of government-  
sponsored violence

Pressure would con-  
tinue for the prosecution  
of those government  
structures or personnel  
who had already been  
identified, he said —  
Sapa



# focus on peace

**O**SLO - Five secretive Norwegians, generally with little expertise in international affairs, award what most people hail as the world's top accolade - the Nobel Peace Prize

The award has regularly been denounced as sexist, racist or a tool of Western imperialism since the first one was presented in 1901

It has crowned the careers of mighty statesmen and humble human rights workers

Yet even the Nobel Institute admits that in hindsight, some laureates probably should not have won the prize and that the list has at least one glaring omission - Indian independence leader Mahatma Gandhi

So why is the Peace Prize so prestigious?

At a recent seminar here on the meaning of the prize, Irwin Abrams of Antioch University in the United States said "Taking the complete list of awards into consideration, one must conclude that the Norwegian committees have done a good job"

For one thing, the award creates immense publicity for winners

Supporters of the 1991 laureate, detained Burmese opposition leader Aung San Suu Kyi, said it gave an important boost to their struggle for democracy against Burma's military junta. Burma denounced the award

Other winners, ranging from Poland's anti-communist campaigner - now president - Lech Walesa to anti-apartheid campaigner Archbishop Desmond Tutu of South Africa, have said the award helped protect them while aiding their work

Yet before the 1960s, the prize almost always went to white men or organisations in western Europe or North America

In its 90 years, the prize has gone to only eight women

Commentators in the former Soviet Union used to routinely denounce the award as part of a "dirty anti-Soviet game", said Tatyana Telyikova, an historian at the Russian Academy of Sciences

But the former communist party daily, *Pravda*, changed its tune when former Soviet President Mikhail Gorbachev won it in 1990. *Pravda* then hailed it as "the world's most prestigious award"

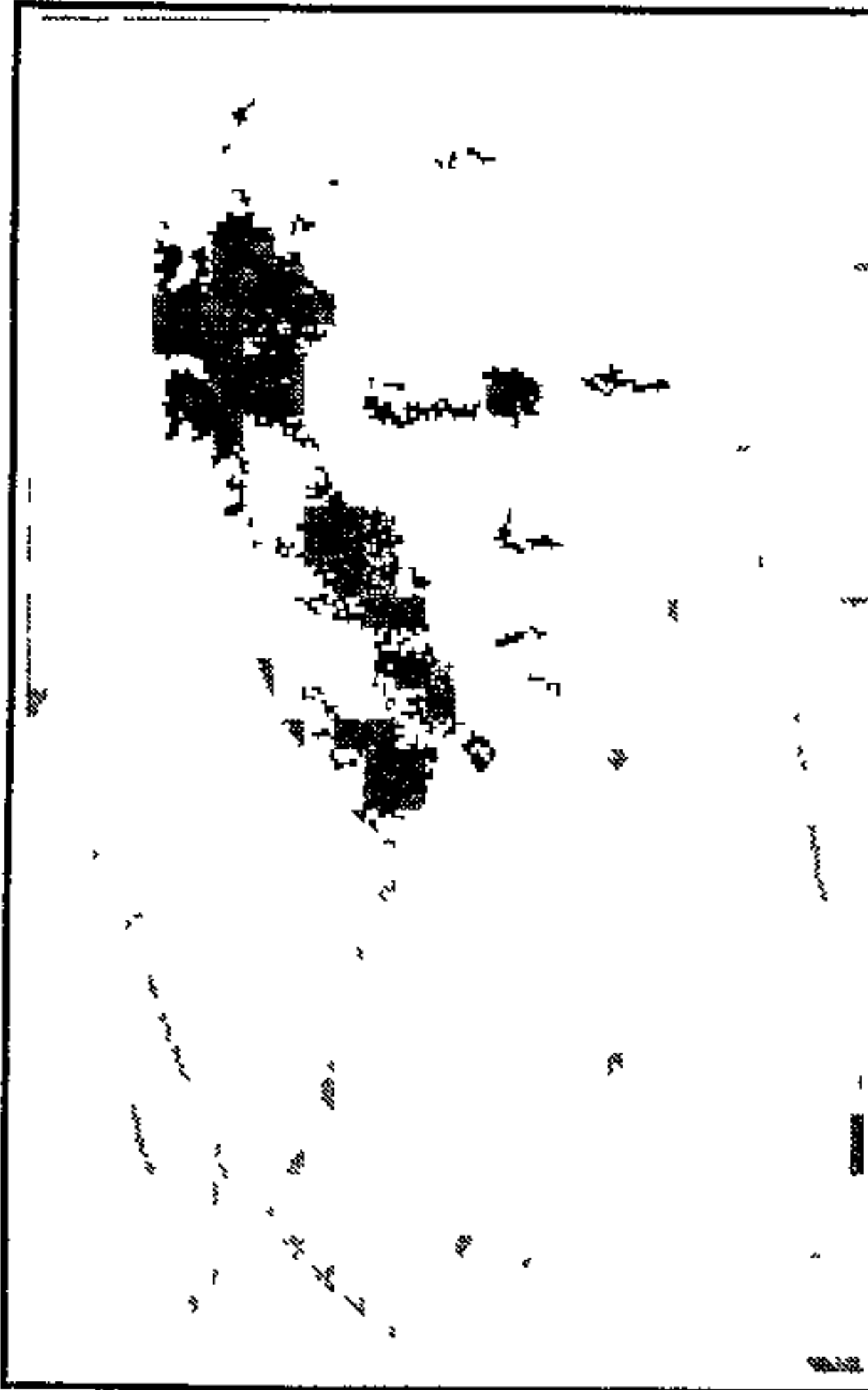
Geir Lundestad, director of the Institute where the five committee members meet, told the seminar he saw three main reasons for the prize's renown

"We have a longer history than other peace prizes"

It is one of a family of prizes named after Alfred Nobel, Swedish inventor of dynamite. Nobel Prizes for literature, physics, chemistry, medicine and economics are made in Sweden. "This enhances each prize's strength," he said

"Our record. We don't claim a perfect record,

Ninety years on and the spirit of the Nobel Peace Prize lives on despite critics citing the absence of India's Mahatma Gandhi from its list of laureates to show its bias. This year, Nelson Mandela and Russia's Boris Yeltsin are among the nominees. Sowetan 14/7/92



Chief Albert Luthuli

but overall I think it's been quite good"

There are a record 125 nominees for this year's Peace Prize, to be announced in October

They include Russian President Boris Yeltsin, South African nationalist leader Nelson Mandela and the Salvation Army, which was considered a favourite in 1991

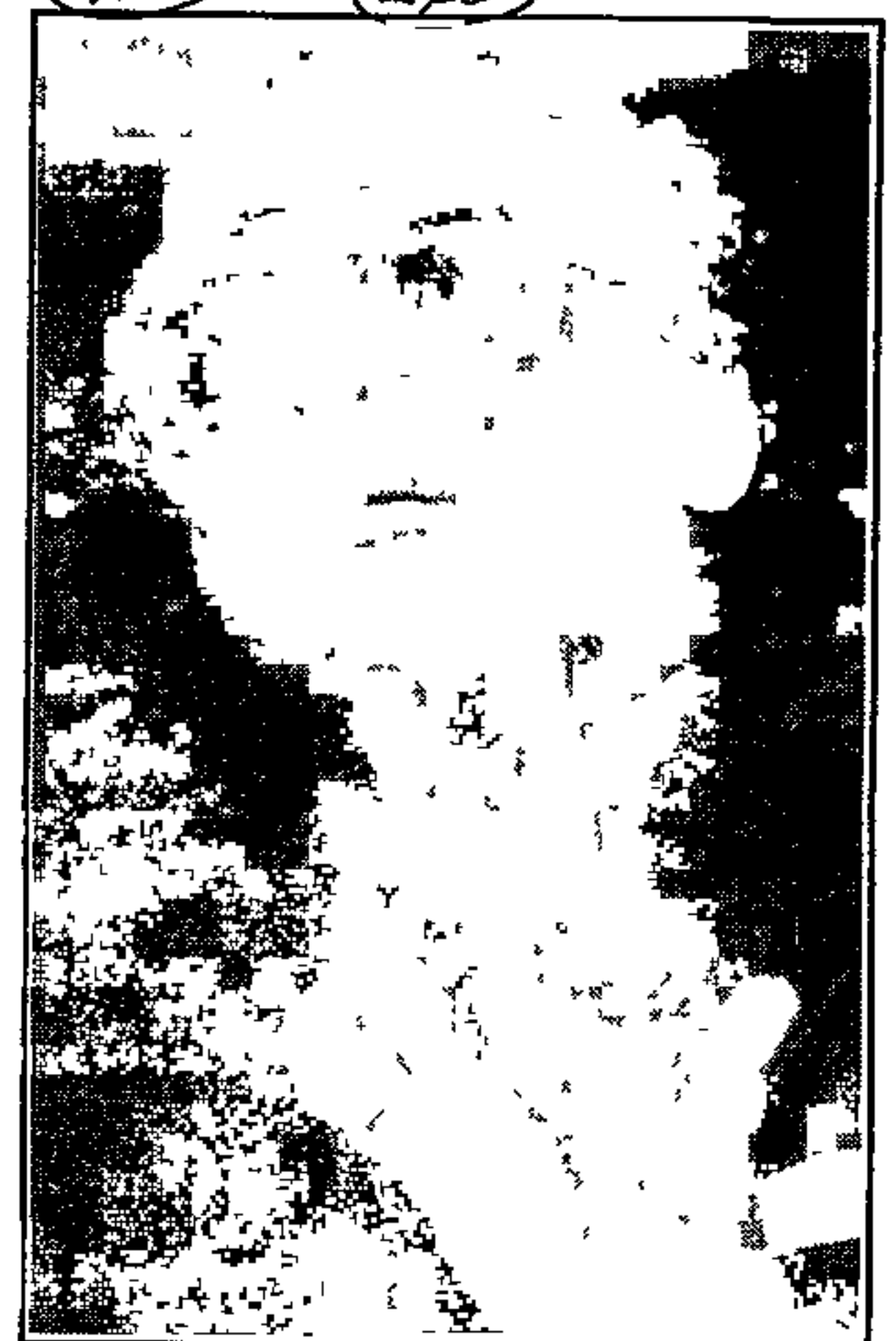
Since the 1960s, the scope of the prize has greatly widened. Laureates have included Tibet's spiritual leader, the Dalai Lama (1989) and former Costa Rican President Oscar Arias for a Central American peace plan (1987)

The annual prizes are the world's richest, each worth about R2,8 million

Members of the committee are appointed by the Norwegian parliament, so members often know far more about domestic issues in Norway than about foreign affairs

"We must realise that its five members are not possessed of Olympian detachment," Abrams said

The present committee comprises three



Archbishop Desmond Tutu

former members of parliament, including a prime minister, a professor of history and an author. They meet around an oval table at the Nobel Institute several times a year to reach their choice

Criticism of the prize is nothing new

In 1901, many peace workers were unhappy with the award of the very first Peace Prize to Jean Henri Dunant of Switzerland, founder of the International Committee of the Red Cross (he shared it with Frenchman Frederic Passy, founder of the first French peace society)

Critics complained that relief of suffering had nothing to do with promoting peace

The current head of the committee, Francis Sejersted, said that after last year's award to Aung San Suu Kyi "a Burmese diplomat in Thailand asked 'why should we care what an anonymous committee so far away decides?'"

"It's not easy to explain," Sejersted said "It's a relevant and interesting question" - *Sapa-Reuters*



# When witnesses tremble, what hope

STAR 147192

252

WITHOUT a solid, State-funded witness protection programme, convictions in political violence trials will remain the exception rather than the rule and the spiral of bloody violence will continue, human rights experts agree.

According to figures supplied by the Human Rights Commission (HRC), in trials completed in the first three months of this year, charges were dropped against two-thirds of people accused of political offences. Not one of the investigations into the more than 40 massacres on the Reef in the past

two years, in which more than 1 200 people have died, has resulted in a conviction. Last week, three residents of Merafe hostel in Soweto were acquitted on charges of attempting to murder two passengers on a Johannesburg-Soweto train. The court was not satisfied that the accused had been positively identified.

Two weeks ago, one of five people accused of the slaying of 13 people at a night vigil in Alexandra in March last year was acquitted because of insufficient evidence.

Earlier, seven IFP members charged with murder after 38 people were massacred at a vigil in Sebokeng in January last year were acquitted because of insufficient evidence.

Witnesses' terror and a police force that lacks credibility force the courts to drop charges against people accused of violent political crimes. Without convictions, the courts have no deterrent to discourage future perpetrators. BRONWYN WILKINSON reports.

Sally Sealy of the Independent Board of Inquiry into Informal Repression said the board had monitored cases in which IFP supporters would pack into a court before an ANC member was due to testify. Witnesses felt so intimidated that they came across as unsure of their testimony.

According to Ms Sealy, an overloaded and crammed legal system contributes to the likelihood of political offenders being acquitted. "Many prosecutors only get the docket on the morning the case comes up. They do not have enough time to brief their witnesses."

"The prosecutors have to rely on the police investigation, so the police play a more impor-

# to end violence?

tant role in the judicial process than they should," she said.

Allegations of police involvement in violence, particularly in the Boipatong massacre, have led to a deep mistrust of the police and a reluctance to supply them with information.

Detectives investigating the Boipatong massacre charged that local political leaders had urged the public not to make statements to the SAP.

In a statement read at the Goldstone Commission's inquiry into the massacre, Mr Justice R.J. Goldstone said "It could not be expected of the victims

of the violence to co-operate with the police in subsequent inquiries" when such allegations had been made.

In some cases where confessions have been made, confessors have later told the court that they confessed under duress.

A spokesman for SAP public relations headquarters in Pretoria, Lieutenant-Colonel Reg Crewe, said the police were aware that confessions were sometimes made under duress, but this was not condoned.

Commenting on allegations that police did not conduct thorough investigations, Colonel

Crewe agreed that witnesses were afraid to come forward with evidence, some fearing they could be killed by political opponents, and others because they did not trust the police.

If witnesses did not come forward, he said, it was impossible for the SAP to conduct a thorough investigation.

He agreed that until more people were convicted, others would not be discouraged from political violence, and attacks were likely to continue.

"But," he added, "in the end, the case is only as strong as the evidence of the witnesses." □

# 'No proof of third force in Alexandra'

Sowetan 14/7/92

252

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~~252~~

■ **WAR OF ATTRITION** Group told

fights won't end until there's a winner:

**A** MEMBER OF the Alexandra Interim Crisis Committee yesterday told a Goldstone committee of inquiry he had found no evidence of a "third force" operating in Alexandra.

Deane Yates, a lay minister of the Anglican Church, told the committee the two warring parties seemed to be African National Congress and Inkatha Freedom Party supporters

The committee's terms of reference is to establish the circumstances in which people were forced by violence or intimidation to vacate their homes or hostels in the township, who was responsible, and if there should be compensation

Yates told the committee certain IFP leaders had told him they intended challenging the ANC and gaining political

mastery, not only in Alexandra but the whole country

"During the last two or three years we have watched the IFP build up, consolidate and extend its political power in Alexandra through the bridgehead which it has established in this area"

He said many people in Alexandra were not politicised and were not members of any political party, but the potential for violence posed by para-military youth groups was very real

He said there were at present 3 000 residents in the Madala hostel, most of whom were IFP members He added

that it had been the scene of most of the fighting since March 7

It was not a "total war in which the inhabitants of Alexandra were fighting each other" He said the struggle would continue until one party won

Most residents fled from the area of the Madala hostel, driven out by the fighting or leaving of their own free will because they were afraid

Counsel for the IFP said she would submit evidence that IFP members had been forced to move into the hostel as a safe haven because their homes scattered around Alexandra were unsafe



# 'No proof of third force in Alexandra'

Sowetan 14/7/92

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## Independent probe into alleged ANC torture

JOHANNESBURG — The role of the ANC as a possible future South African government has prompted an independent commission of inquiry into alleged torture and murder in the organisation's detention camps, according to the International Freedom Foundation (IFF).

Announcing the commission yesterday, IFF Southern African director Mr Russel Crystal said it had appointed senior Natal lawyer Mr Bob Douglas, "the most independent commissioner we could find". The move comes in the wake of another commission, appointed by the ANC, to look into the issue — Sapa (752) CT 15/7/92

# Witness protection urged

CT 15/1/92  
PRETORIA. — The Goldstone Commission should have a witness protection programme to function properly, Lawyers for Human Rights (LHR) national director Mr Brian Currin said yesterday.

He said because of the lack of such a programme LHR was running one at a cost of R20 000 a month.

Mr Currin said two witnesses who

(252)  
testified before the commission had been killed. One was killed in spite of having testified in camera. "This sort of information gets out," he said. "We don't know how, but it does."

Mr Justice Richard Goldstone said last week that Justice Minister Mr Kobie Coetsee had accepted the commission's recommendation that the commission be empowered to offer adequate witness protection. — Sapa



# Demos: New laws needed, parties agree

By PETER DENNEHY CT. 16/7/92

THE law on how to handle mass demonstrations needed to be reviewed, parties giving representations before the Goldstone Commission agreed

The African National Congress, Cosatu, the South African Communist Party and the South African Police, all agreed new laws were needed

The new law should contain a "proportionality principle" and a "necessity test" to ensure lethal force was used only in extreme circumstances, ANC legal representative Professor Nicholas Haysom told Mr Justice Richard Goldstone yesterday

"A broken window pane or a stone off a Casspir does not justify the killing of a child," he said

Police legal representative Mr David Gordon SC said: "If properties such as hospitals, water purification plants, power stations and occupied buildings are attacked, this would in exceptional circumstances justify the use of lethal force"

The achievement of a peaceful demonstration rested on a "safety triangle" of police, local authorities and march organisers

The police did not want to be required to disperse peaceful gatherings, he said

# Supreme Court turns down urgent Zevenfontein application

Pretoria Correspondent

STAR 16/1/72

An urgent application in the Pretoria Supreme Court application to obtain guidelines on how to serve court papers on the Zevenfontein squatter community, informing them about the case to prevent their resettlement in Diep-

sloot, was thrown out of court yesterday.

The application for substituted service followed an unsuccessful urgent application on Tuesday by Laezonia landowners to prevent the Transvaal Provincial Association from moving the squatters from Rietfontein on to Diepsloot, adjacent to Laezonia.

Mr Justice Smit struck the application from the roll, with costs, on grounds that the Zevenfontein community should also have been joined as respondents as they had a "substantial and material interest" in the case.

Laezonia landowners' counsel had argued it was a difficult task to serve papers or

notify squatters about the case and that they could "hardly give notice to every one". But the judge ruled that counsel could have approached the court with an application for substituted service to give directions on how the papers should be served on the squatters, before bringing the application to interdict the TPA.

When the urgent application for substituted service was launched yesterday, Mr Justice Smit held there was no grounds for urgency. The applicants planned to launch another urgent application on Tuesday applying for substituted service.

# Long 'sentences' for FW, Pik

BY MOR CREWS

FOREIGN Minister Mr Pik Botha and Chief "Gatscha" Buthelezi received "life sentences" yesterday on the Grand Parade in a mock trial witnessed by several hundred ANC Youth League members and supporters. Mr F W de Klerk was "sentenced" to 25 years' imprisonment.

The trial was part of the ANC's mass action campaign for an interim government and a constituent assembly.

Mr Tony Yengeni, general secretary of the ANC in the Western Cape, told the crowd that when the new government came to power those in the present government who were guilty of offences would have to face Nuremberg-type trials in 'people's courts'.

He said the mock trials marked the be-



LEADERS 'ON TRIAL'... ANC Youth League members with pictures of Mr F W de Klerk, Chief "Gatscha" Buthelezi, Mr Pik Botha, Dr Gerrit Viljoen and General C P van der Westhuizen.

Picture BENNY GOOL

ginning of a campaign leading to the general strike on August 3

Supporters applauded the verdict of the government and sentenced to 25 years.

"National People's Court of South Africa" when "F W de Klerk" was found guilty and sentenced for refusing to implement a majority government and failing to halt the violence.

"Pik Botha" was charged with wasting taxpayers' money and denying people their rights and sentenced to life imprisonment.

"General C P Van der Westhuizen", head of military intelligence, also received life imprisonment when "found guilty" of ordering the murders of Cra-dock activist Mr Mat-thew Goniwe and his friends.

"Gatscha Buthelezi" was sentenced to life imprisonment for being a National Party puppet and being in collusion with the SAP, and "Gerrit Viljoen" was charged with being part of an illegitimate government and sentenced to 25 years.





# Governments 'ignore rapes' by security force members

STAR 16/7/92 (252)

At least five rape charges have been laid against members of the South African security forces this year. Four Phola Park women have charged members of the 32 Battalion with rape, and a 17-year-old Katlehong girl has charged a police officer with rape.

Human rights organisation Amnesty International says governments turn a blind eye to such abuses of power by security forces.

Here is a shortened version of the Amnesty report. Just before midnight on May 18 1990, a wedding party was stopped at an army road block in the north of India. The soldiers opened fire, killing the groom's brother and wounding nine people, including the bride, Mubina Gani, and her husband.

Soldiers dragged the bride and her pregnant aunt into a field.

"They took off our clothes and then we were raped," said Mubina. "Four to six men raped me I think."

Security forces around the world are guilty of raping and abusing women, according to a recent international report. **Speak magazine** investigates . . .

Government officials said the bus had been caught in crossfire.

International law says governments must protect all men, women and children from torture.

Women who are political activists or community organisers have been targets around the world. Soldiers and police use rape or sexual abuse to shame these women, "punish" them or to get information.

Gunay Korkut, a 20-year-old Turkish student, was arrested in May 1991. She was taken to police headquarters and accused of helping murder a police officer.

In her first week in prison, she said, she was often

stripped, hung up by her wrists with leather straps, tortured with electric shocks and sexually molested. When Gunay still denied the charges, she was laid naked on blocks of ice and given electric shocks to her feet, breasts and genitals.

Four days later, they threatened to repeat the torture. She signed a confession.

A 17-year-old girl in Bangladesh was brutally raped because her brother was suspected of being a political activist. "A lieutenant raped me, followed by another soldier. Each one raped me twice. The officer said he was going to rape my sister-in-law to pay for my brother's activities. Two of them raped her."

Some governments have laws which punish the rape survivors. Pakistani women found guilty of sex outside marriage — including rape — can be publically whipped, sent to jail or stoned to death. *Speak, Box 261363, Excom 2023 South Africa*

# Local govt move caused rift in Alex

STAR 16/7/92

Pretoria Correspondent

Protest against the establishment of a local authority in Alexandra and the subsequent rent boycott led to a rift between different political organisations in the area, a committee of the Goldstone Commission heard yesterday.

IFP branch chairman in Alexandra Lucas Khoza told the committee, chaired by advocate R. Nugent, that a number of "hostile" organisations were against the establishment of a local authority in the area. They had urged people not to take part in or stand for election.

Mr. Khoza said Alexandra used to be peaceful with different ethnic groups co-existing.

Things took a turn for the worse when the Government announced in 1982 that there would be elections for local authorities throughout SA.

"The elections were turned into a political issue by some organisations in the area."

This resulted in Alexandra being divided into two zones, one belonging to the IFP and the other to the ANC.

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# IFF commission's probe biased — ANC

B (DAY 17/7/92 (252)

RAY HARTLEY

AN INVESTIGATION of alleged ANC human rights abuses by the International Freedom Foundation's Douglas Commission would be "totally, totally biased", says ANC spokesman Carl Niehaus

Niehaus said yesterday commission chairman adv R S Douglas "happened to be a member of the IFF", which he described as a discredited organisation set up to smear the ANC and other organisations

Meanwhile Mwezi Twala, chairman of

the Returned Exiles Co-ordinating Committee — a group of former ANC members who claim to have been abused while in exile — has welcomed the commission

Twala said he was "totally satisfied" with Douglas's credentials in spite of the fact he "was appointed by Nelson Mandela to investigate the causes of violence in Natal on behalf of the ANC".



Aug 17/1992

# Bringing the law within reach of all

LIBBY PEACOCK 252  
Supreme Court Reporter

A NEW law aimed at making the legal process more accessible comes into effect today.

Minister of Justice Mr Kobie Coetsee said the Short Process Courts and Mediation in Certain Civil Cases Act of 1991 would make litigation in civil cases easier and cheaper.

The Act provides for mediation procedures intended to encourage and help parties to reach out-of-court settlements or speed up the finalisation of trials.

Litigation will also become cheaper with the establishment of a short process court for civil cases which would otherwise be adjudicated in a magistrate's court.

The procedure in the short process court will be less formal than a magistrate's court.

Mediators and adjudicators are to be appointed from the ranks of retired magistrates, attorneys, advocates and legal academics.

An earlier landmark was the small claims court, Mr Coetsee said.



REPUBLIEK VAN SUID-AFRIKA  
REPUBLIC OF SOUTH AFRICA

# Staatskoerant Government Gazette

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Vol. 325

PRETORIA, 17 JULIE  
JULY 1992

No. 14164

## PROKLAMASIE

*van die*

*Staatspresident*

*van die Republiek van Suid-Afrika*

No. 74, 1992

INWERKINGTREDING VAN DIE WET OP HOWE VIR KORT PROSES EN BEMIDDELING IN SEKERE SIVIELE SAKE, 1991 (WET No 103 VAN 1991)

Kragtens artikel 15 van die Wet op Howe vir Kort Proses en Bemiddeling in Sekere Siviele Sake, 1991 (Wet No 103 van 1991), bepaal ek hierby **17 Julie 1992** as die datum waarop genoemde Wet in werking tree

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die Negende dag van Julie Eenduisend Negehonderd Twee-en-negentig

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**  
Minister van die Kabinet

449—A

## PROCLAMATION

*by the*

*State President*

*of the Republic of South Africa*

No. 74, 1992

COMMENCEMENT OF THE SHORT PROCESS COURTS AND MEDIATION IN CERTAIN CIVIL CASES ACT, 1991 (ACT No 103 OF 1991)

Under section 15 of the Short Process Courts and Mediation in Certain Civil Cases Act, 1991 (Act No 103 of 1991), I hereby fix **17 July 1992** as the date on which the said Act shall come into operation

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Ninth day of July, One thousand Nine hundred and Ninety-two

**F. W. DE KLERK,**  
State President

By Order of the State President-in-Cabinet:

**H. J. COETSEE,**  
Minister of the Cabinet

14164—1

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# Control of weapons 'chief issue'

CAPE TOWN — The most troublesome problem at South African gatherings was the control of weapons at public demonstrations, the chairman of the international panel of the Goldstone Commission said yesterday

Professor Phillip Haymann said the SAP should be empowered to prevent armed demonstrators from proceeding to a different location, as well as to disarm them

"We also agree strongly with the party who emphasised the responsibility of the organisers in this regard," he said, presenting the panel's reply to representations made on Wednesday in response to last week's report on demon-

strations

Professor Haymann said the SAP had recommended that a universal prohibition on carrying weapons in places open to the public immediately before, during or after demonstrations should be tempered by a judicial power to make limited, symbolic exceptions.

"We think the proposal is safe and may be useful to attain wider acceptance of the prohibition," he said

Far sharper distinctions should be drawn between situations subject to normal policing and those justifying the use of the SADF, which should be kept to the minimum.

Professor Heymann said the panel did not agree with the

ANC that police forces should always initially be kept invisible at a demonstration. Nor did it think the opposite was true: that there should routinely be an early show of available police force

"We urge all parties to address the specifics of the situation, developing more case-specific practices. Police presence should depend on the situation.

"Training of police at all ranks is even more at the heart of what our international police experts consider the real issue. Commissioner Lee Brown of New York had asked the panel to emphasise human relations training"

The panel disagreed with

the SAP about the right of local authorities to deny innocent, law-abiding demonstrators the right to go to a particular area because of the expected response of lawless, hostile opponents.

"It is the responsibility of the police to enforce the law against the lawless and not against the lawful, unless maintaining the peace is beyond their powers," he said

The complete review of police powers, including the use of deadly force, was timely and important. The use of power to control free, political expression was a sometimes necessary, always regrettable, last resort, he said — Sapa.

STAR 17/11/92

(252)

# Panel on demonstrations finds much consensus

Own Correspondent

CAPE TOWN — The International Panel on Mass Demonstrations has completed its work and the Goldstone Commission will draft legislation to be aired for comment before submission to the State President.

Panel chairman Professor Philip Heymann said at the conclusion of the hearing yesterday there was "remarkably extensive" agreement among contributing parties.

The panel's recommendations for new legislation include a six-day notice requirement for gatherings and demonstrations; negotiations between organisers, police and local authorities; and minimum use of force by police

Responding to the submissions by the ANC/Cosatu, the IFP, and Police and Justice Department representatives, Professor Heymann said the parties' respect for and belief in the courts was "striking"

The panel agreed with a police recommendation for a universal ban on protesters carrying weapons before, during or after demonstrations, "tempered by a judicial power to make limited, symbolic exceptions".

## Planning

The panel was adamant that training of police at all ranks, and particularly human relations training, was imperative.

"Men and women must be taught and learn to deal with provocation and fear. Senior officers need to be taught and

to learn how they might handle various dangerous contingencies and how to plan in advance for even the unexpected. These are present weaknesses, and they must be addressed," the panel report said.

The panel rejected the police assertion that foreign policing models could not be applied here because of "particular and peculiar circumstances" and said South Africa was "not the only place where demonstrations are challenging to the skills and patience of the police".

"There is no reason why the authority of the police to use force in South Africa should differ from that of the major Western democracies."

The panel supported the recommendation of the ANC for a system of providing independent monitors who were

accessible to demonstration organisers and who also had access to the policing of demonstrations.

"We continue to recommend a committee to examine the set of systems that are or could be used to provide greater accountability and transparency to policing decisions. This is unusually important in a country where trust in the police is so often lacking," the report said.

● The international consultants to the Goldstone inquiry into mass demonstrations had seen "some police restraint" exercised during Wednesday's mass action in Cape Town, Professor Heymann said.

Making the panel's final recommendations on peaceful and effective protest action, he said he hoped the attitude would spread to the rest of the country.

STAR 17/7/92

# 10 policemen accused in torture trial

SITimes 5/17/92  
BLOODY gang warfare in a West Rand township — which prompted community leaders to call for SADF troops to halt the carnage — has led to a series of trials involving former policemen.

This week 10 suspended members of the Welverdiend Unrest Unit appeared in the Carletonville magistrate's court on charges arising from allegations that they tortured detainees and fuelled the 1990 violence between rival gangs by supplying a vigilante group, the Zim-Zims, and the ANC-supporting Gaddafi Squad with guns and money.

At the height of the unrest in Khut-

(252) (252)  
By CATHY STAGG

song — the Sotho word for peace — policemen were accused of torturing and killing activists, both in the township and in what residents called the House of Horrors, a converted house which served as the unrest unit's headquarters.

A crack squad of detectives was appointed to investigate allegations of police brutality made by community leaders, trade unionists and Amnesty International.

This week's trials will be followed by at least 15 more in the next three months.

Eight of the former policemen — Solomon Nyelele, Ephraim Nkosi,

Tommy Makaza, Dean Oosthuizen, James Moami, Petrus Matolo, Samuel Mkhambule and Joseph Lesakeng — have already been acquitted on charges of assault with intent to do grievous bodily harm by magistrate Mr VC de Jager.

However, last Friday, Matolo, Lesakeng and Nkosi appeared in court again on new charges of assault.

As in the earlier trial, allegations were made that a member of the Independent Board of Inquiry into Informal Repression, Miss Sally Sealey, had been the force behind the charges that were laid against the policemen. Mr Whitey Mabitsa told

the court that he knew Miss Sealey as Sister Sheza. However, he said he had no knowledge of her taking "bakkie-loads of people" to lay charges against the accused, as their attorney had suggested.

Mr Mabitsa said the three policemen were among a larger group who arrived at his house on April 14 1990. They accused him of "storing guns for the comrades".

He said that during interrogation the accused hit and kicked him. They also tied plastic over his face, he said. Then, while he was bound hand and foot, electric shocks were applied to his anus, he said. He was later acquitted on a charge of murder.

The case against the policemen was adjourned to October 5.

## Shocked

The first death in Khut-song was that of Ntson Phiri, 16, who died in detention in January 1990. He had allegedly been tortured with electric shocks. It is alleged that the police shot those who gave affidavits concerning Phiri's treatment in detention.

Last July, the Regional Commissioner of Police in the Western Transvaal, Major-General JG de Waal, announced a special investigation into "ongoing allegations of irregularities" at Welverdiend and Lieutenant WP Viljoen was appointed to replace the head of the unrest unit.

Within a month, 11 policemen had been suspended.



**NEWS** Police did not investigate displaced resident 'because they didn't complain'

# Cop is quizzed on refugees

Sowetan 17/7/92

■ **DISPLACED FAMILIES** The Goldstone

Committee asks why police "sat back" and did not interview displaced residents in strife-torn Alexandra township: 252

By **MONK NKOMO**

**T**HE Goldstone Committee yesterday quizzed a policeman about "inaction" in connection with the displacement of more than 600 families in strife-torn Alexandra township.

The chairman of the committee, Mr R Nugent, asked a witness, Captain Albertus Britz, why police "sat back" and did not interview displaced residents some of whom are now staying at the local council office.

Britz told the committee that police had received very few complaints of intimidation from residents since violence flared in the township last year.

The hundreds of families who fled their homes - some even helped by police - never reported to police that they had been intimidated or forced out of their houses, Britz said. Nugent told the police officer he was not suggesting any wrongdoing on the part of the police.

He said: "There is a big crisis in Alexandra. And there has been evidence that the township is now a stronghold of the Inkatha Freedom Party

"I want to know why the police did not visit the dispossessed residents and ask them why they fled their homes."

Britz said police did not investigate the matter because they did not receive any complaints. He said police could help dispossessed families return to their houses only if they produced proof of their residential sites or that their houses were bought or rented.

There would be no difficulty in arresting people who were occupying those properties and charging them for trespassing, said Britz.

Answering another question, he said it would be difficult to identify rightful hostel inmates as hostel registers had been confiscated by unknown persons.

Asked how he proposed to assist dispossessed families regain their properties peacefully and safely, Britz said: "That can be done with the mass presence of police, security forces and regular patrols."

The committee was informed yesterday that a member of the IFP who was arrested during a funeral procession in Alexandra on March 7 this year carrying an AK-47 rifle had been granted R5 000 bail.

He is due to appear in the Wynberg Magistrate's Court on August 11.

# SAP patrols soothe 'Beirut', probe told

STAR 18(7)19Z

(252)

POLICE foot patrols had proved effective in stabilising the trouble-torn area of "Beirut" in Alexandria, Captain Carel Theron van den Bergh of the SAP Internal Stability Unit said yesterday.

Van den Bergh told the Goldstone Commission committee inquiry into problems of displaced people of Alexandria that the South African Police had recently deployed policemen successfully to patrol "Beirut" on foot.

"Beirut" was not a well-structured township, and it was difficult for the police to patrol in vehicles. Policemen on foot could walk easily among the residents, making

policing much more effective. Van den Bergh said he believed that if residents worked hand in hand with the police, they could be easily protected and would not have to flee their homes. However, he could not say that if people re-

turned to their homes in "Beirut" they would not be shot at. He believed that the continuous police presence would curb shootings and intimidation in the area.

The chairman of the committee, R Nugent SC, asked Van den Bergh if it was possible for the police to solve the crisis in "Beirut" without first identifying the problems that had led the residents to leave their homes.

Van den Bergh said a crisis committee of representatives of the police and community leaders, including African, National Congress and Inkatha Freedom Party officials, had been formed and given the task of identifying the problems. He said that people were not prepared to make statements to the police.

He said that the township was overpopulated, and that the police were working with others to help clean up the area and repair broken water pipes.

Conflict in the township was partly the result of militant speeches by political leaders at rallies, he added.

The hearing continues on Monday. — Sapa.

# Boipatong: 78 in court on Monday

STAR 18/7/92

JOE LOUW and SAPA

252

A TOTAL of 78 KwaMadala hostel residents will appear in court on Monday in connection with charges of murder and public violence, after an intensive police investigation into the June 17 Boipatong massacre.

The men, being held under unrest regulations, will be released but re-arrested immediately to appear in connection with fresh criminal charges.

In another development, Iscor yesterday indicated that KwaMadala hostel, from where the massacre was allegedly launched, would be cleared and its residents moved to another hostel.

There was confusion last night after two apparently contradictory police statements on the 78 hostel suspects had been issued.

The first indicated that the accused would be charged with public violence and released. Later clarification confirmed that the men would have to appear in connection with murder charges as well.

The first statement announced that the police investigation had reached "an advanced stage" and that the docket had been referred to the Attorney-General for his decision.

It went on to say that the Attorney-General had decided that the suspects would be released and all 78 then charged with public violence.

No mention was made of any charges in connection with the deaths of the people killed at Boipatong.

## Correction issued

The suspects, the statement concluded, were in custody and would appear in court in Vanderbijlpark on Monday.

Several hours later a second statement was issued, apparently correcting the first. It stated: "A case of murder and public violence was investigated in consultation with two advocates attached to the Attorney-General's office."

Police had decided to release the 78 detainees but would bring them before court in Vanderbijlpark on Monday. It went on to say all 78 were still in custody.

This was taken to mean that the men would immediately be re-arrested on criminal charges after being released under the unrest regulations — a point later confirmed by the Attorney-General's office.

Major-General Wouter Grove of the SAP, briefing journalists and editors on July 9, expressed the hope that the investigation would be recorded as "a success story".

He said 81 KwaMadala hostel residents had been arrested and over 1 000 sworn statements collected.

On the closure of KwaMadala, Iscor said in a statement that the target date for the full integration of the KwaMadala residents into its official hostel, KwaMasiza, has been set for September 21, 1992.



**Human rights group launch**

*Express 19/7/92*  
A NEW human rights organisation for students, the Students for Human Rights, will be launched at the University of Natal in Durban on August 8. Anyone interested in joining can contact the organisation at (031) 816-1346. (252)

# Baralong refuse to accept court ruling

By DAN DHLAMINI

(252)

FIFTY Barolong ba Modiboa tribesmen this week refused to accept the withdrawal of trespass charges against them.

Charges were laid following a second attempt by the men to re-occupy Machaviestad in April this year.

A Barolong spokesman told the Potchefstroom magistrate that they would not accept the withdrawal of charges and that the case should proceed in order for them to return to their ancestral land.

The magistrate postponed the hearing to August 17 and the accused were released on R30 bail.

Angry Barolong said their return to Machaviestad was not negotiable.

# SAP need protection

Sunday Times, 19/7/92

to ensure this

Sunday Times Reporter

THE Sunday Times stated last week that a report on the lawful control of demonstrations by a panel of the Goldstone Commission had noted that "police

should be prepared to stand and be hit by stones, bottles and petrol bombs and not use lethal force as a response"

Mr Justice Richard Goldstone, chairman of the commission, this week objected to the article on the grounds that it was inaccurate and did not properly reflect the views of the panel considering the issue.

He also said a subsequent SAP statement based on the Sunday Times report had embarrassed the commission and the panel

The panel's report, said Mr Goldstone, made it clear that it recognised the need for policemen to be adequately protected from missiles, let alone petrol bombs, and the need for policemen to be adequately equipped to hold violent demonstrations at bay

## Force

The panel's report observes: "The only answer for this is careful training, making sure that the police are operating in units and not alone, careful supervision, proper protective gear, and equipment with non-lethal means to hold an angry and hostile demonstration at bay"

The report continues "In all the places we have examined, the police would accept a rain of stones and bottles rather than use lethal force"

The report also noted that despite a rain of missiles, "the police should not retreat, leaving the target

exposed to damage at the hands of an unruly and violent crowd"

When presenting the report to the commission last week, Professor Philip Heymann, the Harvard head of criminal law and chairman of the panel, said "The police do not, however, use even a barrage of rocks and bottles and gasoline bombs as justification for using lethal force, for shooting the demonstrators"

The use of lethal force in such instances, he said, would mean the police "are quite likely to hit demonstrators who have no responsibility for the bomb, for the rocks or for the bottles. They are likely to inflame the situation and not reduce it"

After hearing submissions by various parties this week, the panel noted. "A complete review of police powers (including the use of force, especially deadly force) is timely and important. There is no reason why the authority of the police to use force in SA should differ from that of the major Western democracies... SA is not the only place where demonstrations are challenging to the skills and patience of the police"

It also suggested that the use of rubber or plastic bullets be limited

The panel's central precept was that responsibility for non-violent protest was shared by the organisers of the demonstration, local authorities and the police. Negotiation and agreement between the three parties — the "safety triangle" — was essential

Police should be adequately organised, trained and equipped with a wide range of non-lethal resources and protective gear to control public protests. When the use of force was required, specialised and well-disciplined police units, under the command of the officer normally in charge of the community, should be used.

The Sunday Times regrets misquoting the panel's report and Professor Heymann's delivery

● Charlene Smith, meanwhile, reports that new laws defining police powers and regulations around mass demonstrations, marches and picketing will flow from the most recent Goldstone commission hearings in Cape Town

## Fear

The commission and the Department of Justice will soon begin preparing legislation on mass action in time for the next parliamentary session in October.

Mr David Gordon, who appeared before the panel on behalf of the police, said "There's a need for protection — not only for demonstrators, but also for police. There is a high level of fear on the part of demonstrators, public and the police."

Mr Nicholas Haysom, a member of the Police Board who appeared for the ANC tripartite alliance, said "Difficulties appear to be experienced by police officers who seem uncertain of their powers"

The proposed new legislation on police powers is designed to give the SAP clearer instructions



# Law gives access to cheaper legal service

PRETORIA — Short process courts and laws governing mediation in civil cases, which the Justice Department says establish SA as a "world leader", came into operation at the weekend

The Short Process Courts and Mediation in Certain Civil Cases Act is meant to ensure greater access to legal services and simplify and cheapen litigation

The mediation section of the Act provides for the intervention of a mediator to encourage parties to reach an out of court settlement or expedite court proceedings

The Act says that at any time prior to judgment, but even after the issuing of a summons for institution of a civil action, the parties or their legal representatives may give notice that they have agreed to submit their dispute to mediation

If the court concerned is satisfied that mediation will not delay the trial unreasonably, the clerk of the court will give notice to the parties to appear at a specified time, date and place in chambers before a mediator.

The mediator will attempt settlement, but if this is not possible, will try to simplify issues and may amend the pleadings

The mediator will investigate the possibility of obtaining admissions with a view to avoiding unnecessary adducing of evidence at the trial and limiting the number of witnesses

The order made by the mediator will be deemed an order of court, and will be binding on the parties

The Justice Department said mediators would be appointed mainly from the ranks of retired magistrates, attorneys, advocates and legal academics

The Act also provides for the establishment of a short process court for cases that would otherwise be adjudicated in a magistrate's court

The Act says that the minister may establish a short process court in any district

Pilot projects will be launched in Pretoria and Pretoria North in September

The court will, at the request of the parties or their legal representatives, "take any steps in relation to the hearing of any action which may lead to the expeditious and cost-saving disposal of the case"

No appeal will derive from decisions of these courts, although review proceedings are provided for if there is an absence of jurisdiction, bias of the mediator or gross irregularity

"With the commencement of this Act, SA will be a leader in the world in respect of cheaper alternative adjudication processes," the Justice Department said in a statement

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Picture AP

## ve strike

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# Inkatha to urge members to form 'self-defence units'

ULUNDI — Inkatha is to encourage communities to form "self-protection" units in accordance with the national peace accord.

In a resolution adopted at its annual general conference yesterday, Inkatha said it would inform its members that political parties and organisations were precluded from establishing these units. Instead the units had to come from within communities

Inkatha would embark on a public awareness campaign to inform people that it was legal to form self-protection units and it would seek the "maximum degree of training" to ensure they were efficient.

Communities could call on Inkatha for training

The conference also called for Umkhonto we

Sizwe (MK) to be disbanded by September 14 — the anniversary of the signing of the national peace accord — and said the IFP would do all it could to ensure this happened

Inkatha said MK was a common denominator in all political violence

Inkatha further called for the peace accord to be given "teeth" so that punitive action could be taken against those who violated its terms

In the same resolution, Inkatha said it would instruct its national chairman to lay a charge with the national peace committee against ANC president Nelson Mandela for violating the accord

Because of Mandela's alleged violations, a planned meeting of signatories to

the accord on July 30 had become impossible, Inkatha said

The movement called on members to withdraw membership fees from Cosatu unions in the light of the labour federation's mass action campaign

Inkatha said it was concerned that Cosatu no longer appeared to be serving the interests of workers but had become a political tool to achieve the ANC-SACP's political agenda

The conference further resolved to call on employer organisations to reject any attempt by the ANC and its allies to make them party to economic sabotage as a means of political protest

Instead, Inkatha urged businesses not to close during the mass action campaign — Sapa

# Ruling on held hostel

STAR 20/7/92

## 78 awaited

252  
Crime Staff

Police have said that 78 detained inmates of KwaMadala hostel will appear in court in Vanderbijlpark today in connection with the Boipatong massacre on June 17.

Captain Nina Barkhuizen yesterday said Transvaal Attorney-General Dr Jan D'Olveira would decide before the court appearance whether to prosecute the 78 for public violence, murder or both. This follows a police statement on Friday that cases of murder and public violence against the 78 had been handed to the A-G's office.

Captain Barkhuizen said charges against the 78 under the unrest regulations were dropped on Friday and that they were being held in terms of section 50 of the Criminal Procedure Act, which provides for detention for up to 48 hours.

● In a statement on Friday, Iscor accused the National Union of Metalworkers of SA of a "breach of faith" for making public details of sensitive negotiations being conducted around the closure of KwaMadala hostel and the relocation of its residents. Iscor expressed concern that "incorrect assumptions" could be drawn from the premature release of details before consensus had been reached on all points.

Iscor stressed, however, that it would not allow the "lack of good faith" to jeopardise the process of finding a solution to all aspects of the problem.

"For the record", it had been agreed that the hostel would be divided by a steel wall, that a section of the hostel closest to the road would be closed, and that residents from this section would be moved to the western side of the hostel.

# Tributes paid to murdered advocate

By Brian Sokutu  
and Gien Elsas

252 (16)

Tributes were paid yesterday to well-known Benoni advocate Legwai Pitjie (39), who was found murdered near Kagiso on the West Rand on Friday.

Mr Pitjie served on the Goldstone Commission of Inquiry, the commission's chairman, Mr Justice Goldstone, confirmed yesterday.

STAR 20/7/92

Police have released no motive for the killing, but legal sources do not believe Mr Pitjie's murder is connected to his work on the Goldstone Commission.

Police found the advocate's car abandoned near Kagiso last Monday.

Members of the West Rand Murder and Robbery Squad arrested a man soon after discovering Mr Pitjie's car, according to Witwaters-

rand police spokesman Captain Ida van Zweel

She said the suspect was expected to appear in the Randfontein Magistrate's Court today in connection with the murder.

He is survived by his wife Mary-Jane and two sons, Mpho (11) and Godfrey (1)

The family was still too shocked to speak to the press yesterday

Paying tribute to him, Mr

Justice Goldstone said "I've known him for years as an advocate and am a long-time friend of his parents. Personally I'm extremely upset. Mr Pitjie's death is a loss to the legal profession"

Johannesburg civil rights lawyer Peter Harris said "He was a wonderful person and an excellent advocate who will be sorely missed in the field of human rights law"



**NEWS** Returning displaced families in Alexandra, say 1

# Cops to help evacuees?

■ For permanent peace to prevail in Alexandra, socio-economic problems such as the shortage of housing must first be addressed, according to a police captain:

**S**OCIO-ECONOMIC problems, including overcrowding and lack of essential services, should first be addressed before displaced Alexandra families could return to their homes, the Goldstone Commission was told on Friday

*Sowetan*

20/7/92  
Captain Carel van den Bergh of the Witwatersrand Internal Stability Unit, told the commission police were prepared to help the more than 600 families go back to their homes because the area was now calm "although I do not guarantee people will not be shot at"

He said, however, the area was now

overcrowded, dirty, without essential services and there were sewerage blockages throughout the township

He also proposed that because the area was overcrowded, the authorities should identify a new residential area for displaced families

The chairman of the Goldstone Committee, Mr R Nugent, expressed concern that although police gave assurances that families could return to their houses, they (police) still did not know why these people fled

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# Masa calls for single health ministry to be set up urgently

*Biday 2/7/92*

GERALD REILLY

PRETORIA — The Medical Association of SA has called for the urgent establishment of a single health ministry to get its health care system on a more equitable and efficient basis. Masa secretary-general Dr Henrik Hanekom confirmed yesterday Masa had drawn up a blueprint for a core health service funded by government from general revenue.

Hanekom said the proposals would ensure everyone had access to core health services.

The blueprint was based on co-operation between public and private sectors and was aimed at eliminating the duplication encountered under the existing system, he said.

Masa's plan was appropriate and attainable against a background of the social, political and economic realities facing the country.

Core health services should be defined by government in consultation with a national advisory committee of experts and funds for these services would be allocated to regions on an agreed formula.

The services could be provided by

either private or public sectors.

Hanekom said in terms of Masa's plan individuals would be free to obtain supplementary insurance for additional services.

The role of government in financing services not defined as core services should be reviewed.

Hanekom said it was government's responsibility to ensure that all had reasonable and affordable access to core health services.

Meanwhile, the SA Nursing Association yesterday came out in favour of a so-called Health Maintenance Organisation as opposed to the traditional "fee for service" practice, saying prepayment for medical services would lead to better cost control and efficiency, Sapa reports.

The association said any health maintenance organisation should offer a multi-disciplinary service.

Employers, labour unions, medical schemes, government or private groups should have the freedom to start such an organisation.

## Foreign jurists in SA to draft report

TIM COHEN

*252*

PRETORIA — A group of leading foreign jurists had arrived in SA to draw up guidelines for the orderly conduct of mass action, the Goldstone commission said yesterday. *Biday 2/7/92*

Although the multinational panel was appointed earlier this year, it will make its report in the midst of the ANC's mass action campaign and is expected to influence how the campaign is conducted.

The panel will publicly report back to a committee, established by the Goldstone commission, next week in Cape Town.

After this the committee and representatives of interested parties would be free to debate any relevant issue with the panel, the commission said in a statement yesterday.

The commission will then report to President FW de Klerk and make recommendations about legislation on mass demonstrations.



## No charges put to Boipatong suspects

STEPHANE BOTHMA (252)

SEVENTY-seven KwaMadala hostel residents appeared in the Vanderbijlpark Magistrate's Court yesterday for their alleged part in the killing of at least 39 people.

The 78th suspect was absent because of illness, magistrate G J Reynders was told.

The suspects will be held in custody until their next court appearance on August 10 when they intend to apply for bail.

The court heard they would "remain silent" while in custody and make statements to police only in the presence of their defence team.

No charges were put to the men, but police confirmed that charges of murder and public violence were being investigated. Formal charges were expected to be put to them on August 10.

Police initially arrested 81 suspects who were held and questioned in terms of the unrest regulations. Last week, 78 of the men were detained under Section 50 of the Criminal Procedure Act. 15/04-12/17/92

Three of the initial suspects were released, but police did not give reasons.

Defence advocate As Burger requested yesterday that his clients not be asked to make further statements to the police unless in the presence of their defence team.

He also asked that all 78 suspects be moved to Vereeniging prison until Thursday to allow the defence team easy access to them. The court granted the request, but ordered the suspects back to their former places of detention until August 10.



# Lawyers condemn killing of police

STAR  
2/17/92

Crime Staff

(252)

Lawyers for Human Rights (LHR) has condemned "the current spate of necklacing and killing of police officers".

LHR executive director Brian Currin hit out at ANC Youth League President Peter Mokaba for making "unacceptable" comments on plans to identify and harass the families of policemen.

Mr Currin said the

comments needed to be retracted "before any further police officers lose their lives in senseless and mindless witch-hunts".

While the LHR understood the anger and frustration of the community and the mistrust of the police by so many South Africans, it did not believe the solution would be found in responding to violence with more violence, Mr Currin said.

"Undoubtedly there are rotten apples in the

police but there are also principled and courageous people."

Mr Currin said in the interests of stability and forward movement to a future democratic state, the Government "should co-operate on the control of the security forces, with representations of the majority of South Africans as well as international monitors to prove that they are there to protect all lives regardless of colour, creed or financial status"

# Murder: constable in court

STAR 21/7/92

Pretoria Correspondent  
and West Rand Bureau

252

A special constable stationed in Maraisburg appeared in the Randfontein Magistrate's Court yesterday in connection with the murder of advocate Legwai Pitje, a Goldstone Commission member whose body was found in Kagiso last week.

Constable Seatile Rodney Matlotse (25) of Kagiso Extension 2 did not plead and the case was postponed until today. Christo Hechter was appointed to defend Constable Matlotse.

Mr Pitje's car was found abandoned near his body and Constable Matlotse was arrested soon afterwards.

State sources believe Mr Pitje probably died as a result of multiple stab wounds.

The Goldstone Commission yesterday paid tribute to Mr Pitje (39) but said the motive for the killing was not believed to be linked to his involvement with the commission.

The man heading the commission's inquiry into violence in Alexandra, Rob Nugent, said in a statement that Mr Pitje had contributed significantly to the work of his committee.

"His insight into the problems which we face, and his dedication to assisting in their resolution, were qualities which were greatly valued by this committee," Mr Nugent said.

"On the information presently available to the commission there is no reason to believe that his death was connected to his membership of this committee."

"Nevertheless the commission, in close contact with the police, is monitoring the investigation into his death."

# Hostel 77 in court over massacre

252

STAR 21/7/92

By Melody McDougall and Bronwyn Wilkinson

Seventy-seven KwaMadala inmates — including three minors — appeared in the Vanderbijlpark Magistrate's Court yesterday in connection with 38 murder charges and 38 counts of public disturbance following last month's Boipatong massacre.

No charges were put to the accused and no evidence was led in the packed court before magistrate G J Reynders. As the inmates filed into the courtroom, the people who had packed into the public gallery were forced to leave and the accused — most dressed in green and blue overalls — filled the public seats, overflowing into the front of the court.

A 78th suspect is in hospital and was unable to attend.

Appearing on behalf of all the accused, defence counsel As Burger requested that the group be held at one central prison until Thursday to facilitate consultation with the defence team. Mr Burger said he wished to place on record that a bail application would be filed on behalf of all the ac-

cused on August 10.

He said most had already been in custody under unrest regulations for almost a month. It was also placed on record that the group wanted to make use of the right of silence and did not wish to make any further statements — except in the presence of defence counsel.

After Thursday the suspects will be split up and held at 12 police stations.

The case was postponed to August 10.

Outside the court, armoured police vehicles kept an eye on the small crowd, which was

mostly made up of members of the "Boipatong Boys" — the township's young self-defence unit. The boys crowded around the back gate of the building. "We are angry and we want to see these faces," one said.

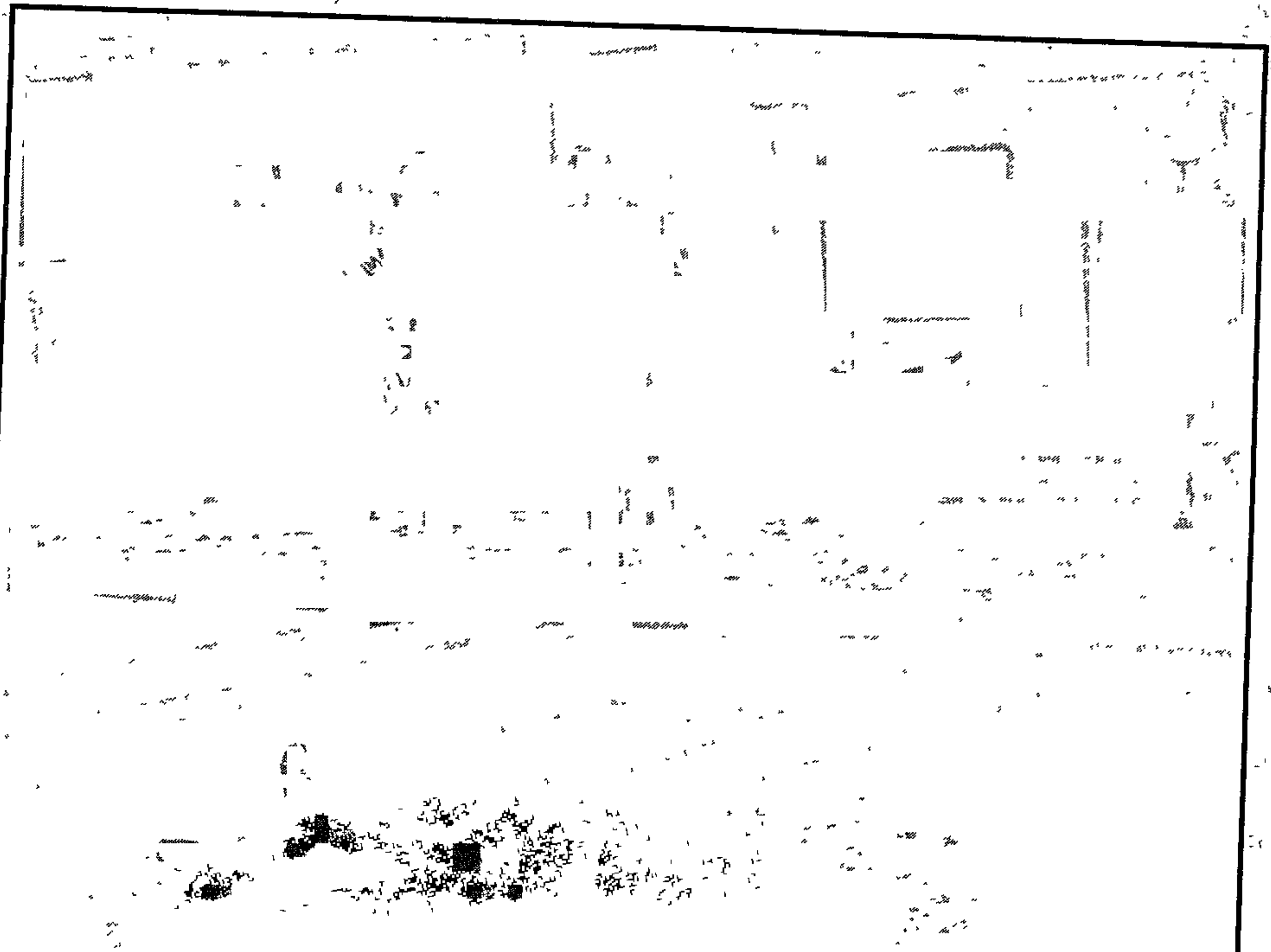
A group of Inkatha Freedom Party supporters arrived and, when one of them pointed a gun at the boys, emotions intensified. The two groups faced each other, and police intervened, calmly asking both groups to restrain themselves. Eventually, the IFP supporters left and the atmosphere calmed.

Computer giant ISM has given R10 000 to the Red Cross

to assist victims of the Boipatong massacre. ISM said in a statement yesterday that the donation was in line with its "commitment to a peaceful and meaningful transition to a new South Africa."

ISM executive chairman Brian Mehl said it had always been known that the path to a democratic settlement might be difficult and result in "trouble-spots." "That we have reached such a hot-spot therefore is regrettable, but predictable. However, we all have a responsibility to continue to participate in dialogue and encourage others to do so," Mr Mehl said.





Police watch over the charred body of an unidentified man believed to be from Mzimhlope Hostel, Soweto. The man was burnt early yesterday morning. PIC PATTY MOENG

# Hostel men in court

**COURT DRAMA** The Vanderbijlpark <sup>252</sup> magistrate's court comes to a near standstill as ~~the~~ police prevent scuffles when suspects appear in connection with the Boipatong massacre:

*Soweto 21/7/92*

By Abbey Makoe

**S**EVENTY-SEVEN KwaMadala hostel dwellers, among them three youths, appeared in the Vanderbijlpark Magistrate's Court yesterday in connection with the massacre of more than 40 people at Boipatong in the Vaal Triangle on June 17.

They were not formally charged, no evidence was led and their second appearance was set for August 10. The magistrate, Mr GJ Reynders, ordered that they be kept in custody.

A 78th suspect did not attend the hearing. The prosecutor, Mr Erik van der Merwe, told the court the suspect was ill and in hospital.

The proceedings started shortly after 10.30am when a police officer shouted "Laat hulle kom" (let them come) and the men entered the court silently from the cells below.

The court proved too small and spectators were ordered out to make room for the 77 suspects.

Almost all wore green and blue overalls and a few were dressed in what looked like prison uniforms and brown boots.

Magistrate Reynders asked the State to provide more details on each individual.

He said, for example, the men's ages were not provided in the papers presented to him.

Outside the court members of the riot squad prevented a potential clash between Vaal residents and a few Inkatha Freedom Party supporters who had arrived in a minibus and a car.

Dressed in T-shirts with slogans such as "Boipatong calls us to action", most of the youths were militant and chanted in Sotho "Ha ba bolawe," (let them be killed) referring to the 77 suspects.

Mr AS Burger, Mrs Anna van der Westhuizen and Advocate B Botha appeared for the 77 men, who have been kept at different jails since their arrest.

Burger requested that the group be held at one central prison until Thursday to facilitate consultation with the defence team.

He said he wished to place on record that a bail application would be filed on behalf of all the accused on August 10.

The majority of the men had already been in custody under emergency regulations for almost one month, he said.

# Boipatong: 77 in court

252 Sowetan 2/17/92

■ **CLASH DEFUSED** Police stopped a potentially violent clash between IFP supporters and residents:

RIOT Police defused a clash between Inkatha Freedom Party supporters and Vaal residents when 77 men appeared in the Vanderbijlpark court yesterday in connection with the Boipatong massacre. The men are due in court again on August 10 when an application for bail will be made. They have been in

detention since their arrest last month and are kept in various police stations in the PWV complex. Outside court yesterday a group of youths shouted that the men should be killed. Their appearance follows the killings of more than 45 people in Boipatong.

See page

2

## Hostellers drop case

An urgent application by 14 KwaMadala residents against the Minister of Law and Order has been dropped following yesterday's court appearance by 77 hostellers on 38 charges of murder and public disturbance, related to the Boipatong massacre. *STAR 22/7/92*

Anna van der Westhuizen, acting for the hostellers, said yesterday's appearance amounted to a concession by the police to the applicants. — Staff Reporter.



# Goldstone set to probe spate of attacks on police

(252) Political Staff

The Goldstone Commission is to investigate the recent spate of attacks on members of the South African Police, following a request from President de Klerk.

Mr Justice Goldstone's announcement yesterday came as police revealed that 117 of its members had been killed since the beginning of the year.

The latest SAP victim was policewoman Jabulile Gumede, shot dead in Umlazi, south of Durban, early yesterday as she was preparing to catch a bus to work.

Judge Goldstone also announced inquiries into renewed violence in Mooi River, Natal, and increased clashes in the

Vosloorus area, asking interested parties for information

He said his commission fully shared Mr de Klerk's concern, expressed last week, arising from the high number of policemen killed and injured recently

The commission requested anyone with information to furnish details to the commission.

Judge Goldstone also requested the police to furnish the commission with all relevant information and statistics concerning the murder and injury of policemen

Information may be submitted to the secretary of the commission at Private Bag X858, Pretoria 0001, or individuals may telephone Advocate du Toit or Advocate Pretorius at (012) 320-4640/1/2

STAR 22/7/92

Argus can  
challenge  
judge's claim

BLOEMFONTEIN —  
The Appeal Court has granted the Argus Company, publishers of The Star, the newspaper's former editor-in-chief Harvey Tyson, and Lawyers for Human Rights director Brian Currin leave to appeal against the dismissal of an exception by them to a claim for damages by the late Mr Justice L.L. Esselen. STAR

The judge claimed he had been defamed in an article written by Mr Currin and published in The Star on March 27 1990. He claimed damages of R120 000. The exception was that the claim disclosed no cause of action. 22/7/92.

Mr Justice Esselen died in February.

The exception issue is relevant to costs, as the judge's widow is not pursuing the claim.

The article suggested that racial prejudice was a factor in the administration of justice. It dealt with two cases.

In the "Witbank tree murder", heard by Mr Justice Esselen, two black men were sentenced to death for the murder of a white woman. In the "Louis Trichardt tree murder", two white men, charged with the murder of a black man, pleaded guilty to culpable homicide and were fined — Sapa.

**Go-slow:**

**interim**

**order**

**granted**

By Susan Smuts

An interim order restraining 150 National Union of Metalworkers workers from an illegal go-slow at Trident Steel's Germiston plant was yesterday granted in the Rand Supreme Court.

Before the hearing, the workers named in the interdict and their supporters sang and chanted outside the court.

The workers, who opposed the matter, had no legal representation.

Mr Justice R T van Schalkwyk postponed the case to August 18 to allow the workers to file answering affidavits.

Granting the order, he said if any unlawful conduct was taking place, it should be stopped, and if no unlawful conduct was taking place, the workers could not be prejudiced.

Trident sought the interdict to declare the go-slow, said to have started on June 29, illegal and restrain workers from instigating or taking part in it.

Trident claims workers have embarked on a go-slow but workers say they have merely refused to work overtime.

It was agreed that workers would be represented by a few shop stewards as the court was too small for all.



## Application dropped

AN URGENT application by 14 KwaMadala residents against the Minister of Law and Order has been dropped following Monday's court appearance by 77 hostel residents on 38 charges of murder and public disturbance

Fourteen of the hostel dwellers brought an application in the Rand Supreme Court last week, saying they had been in custody since June 30 but had not yet appeared in court.

The case was postponed to give the police time to file replying affidavits

The charges arise from the Boipatong massacre last month when 38 people were killed and 30 injured

- Sowetan Correspondent

Sowetan 22/7/92

NEWS Appeal court rules on case involving two 'tree murders' • Goldstone probes police death

# Twist in libel case

DEFAMATION CLAIM Ruling in libel case brought by

*Goldstone 22/7/92 252*

the late Mr Justice Esselen overturned by Appeal Court:

**T**HE Appeal Court has granted the Argus Printing and Publishing Co Ltd, the former editor of *The Star*, Mr Harvey Tyson, and a

prominent civil rights lawyer leave to appeal against the dismissal of an exception by the late Mr Justice L L Esselen

Mr Justice Esselen claimed that he had been defamed in an article written by the director of the Lawyers for Human Rights, Mr Brian Curran, and published in *The Star* of March 27 1990. The judge claimed damages of R120 000. The exception was to the effect that the claim disclosed no

cause of action. The exception was dismissed with costs by Mr Justice G A Hatching in the Transvaal Supreme Court on February 28 1992.

Mr Justice Esselen died on February 3 1992 before the judgment was delivered.

### Rightly dismissed

The issue as to whether the exception was rightly dismissed is relevant to the question of costs as it is stated in the papers that the late judge's widow and executrix, Mrs P E Esselen, is not pursuing the claim.

The article suggested that racial prejudice was a factor in the administration of justice in South Africa

If dealt with two cases in which the victims had died while tied to trees. In the one case, referred to as the "Witbank tree murder", the presiding judge was Mr Justice Esselen, while in the other, referred to as the "Louis Trichardt tree murder", the judge was Mr Justice Strydom although this did not emerge from the article.

In the Witbank case, two black men were sentenced to death for the murder of a white woman.

Their convictions were later set aside on appeal. In the Louis Trichardt case, two white men charged with the murder of a black man pleaded guilty to culpable homicide and were "given nominal fines". - *Sapa*.

# Victim files

## R5,3m suit

So welan 22/7/92 (252)   
■ VEHICLE CHASE

Needham alleges

that he was put in a dangerous situation:

**O**NE of the victims of the Ladysmith massacre is suing the Minister of Law and Order and a local policeman for R5,3 million

Mr Marius Needham, who is paralysed from the waist down, has served papers on the State Attorney, according to his lawyer, Mr Dion Roder

Needham claims that the bullet which turned him into a paraplegic could have been fired by the police constable, who requested his help in the car chase after alleged mass killer Kallie Delport

Needham was shot when they passed Delport on the Newcastle Road. The

constable allegedly started shooting and, in the confusion, it is not known whether the bullet came from the constable's or Delport's gun

It is contended that the constable was negligent in placing the unarmed Needham, a former policeman who was working for a security firm, in danger by requesting his assistance and also by not taking sufficient care during the chase, knowing Delport was armed and dangerous

Amounts being claimed include R3,7 million for medical expenses, R1,4 million for loss of income and R75 000 for permanent disability





The Meadowlands Youth Club began their "Keep Our Township Clean Campaign" yesterday.

# 'Probe killing of police'

PRESIDENT FW de Klerk has requested the Goldstone Commission to investigate attacks on the South African Police.

Mr Justice Goldstone said yesterday that the Commission fully shared Mr de Klerk's concern arising from the attacks and the high number of policemen killed and injured in recent months.

The Commission requested any person with information concerning the subject to furnish details to the

*Sowetan 22/7/92*  
■ De Klerk wants Goldstone Commission to investigate attacks on SAP members following the killing of 112 police so far this year:

Commission, either in writing or orally and in confidence if desired.

The Commission would decide on any appropriate further action after consideration of the submissions.

Mr Justice Goldstone also requested the police to furnish the Commission with all relevant information

and statistics in their possession concerning the murder and injury of policemen.

People may submit information to the Secretary of the Commission at Private Bag X858, Pretoria, 0001, or telephone Advocate du Toit or Advocate Pretorius at (012) 320 4640/1/2

*(252)*

## Goldstone adopts strong line on leak

STAR 237192

Mr Justice Richard Goldstone, chairman of the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, yesterday issued a statement about the leaking of the Waddington Report to the media. The statement reads:

"To my regret I learnt this morning that aspects of the report of Dr P A J Waddington on the SA Police investigation into the Boipatong massacre were leaked to the BBC.

"On past occasions the commission has been concerned that public statements have been made, not on the context of its reports and statements, but on second and third hand reports on them.

"This has resulted in misrepresenting the commission's statements and reports and their being used out of context.

"In order that considered responses be made to the Waddington Report, copies were

given (on Tuesday) to appropriate parties on their assurance that the embargo until 10 am (today) would be respected. The source of the leaked report is not known to me.

"I request that no comment be made on the basis of the incomplete leaked information, which is out of context, and that interested parties reserve comment until the full report has been made available tomorrow."

# Taxi permits 'key to violence'

252

23/7/92

Staff Reporter

ISSUING permits on a "willy-nilly" basis after the taxi industry had been deregulated was a prime cause of the taxi war, the Goldstone Commission heard yesterday

Mr Jabulani Mabuza, chief executive officer of the South African Black Taxi Owners' Association (Sabta), told the commission the Local Transportation Board issued 300 permits where there were ranking facilities for only 50 taxis

Before deregulation Soweto, with its 8 000 taxis, was governed by a self-regulatory process and did not experience any taxi wars. That, however, changed when the self-regulatory process was interfered with, Mr Mabuza told the committee investigating the taxi conflict in the Western Cape

Sabta favoured a national Taxi Control Board with statutory powers to take over the issuing of permits, the control and discipline of the industry, the withdrawal of permits where appropriate and to address ranking facilities

Another reason for the violence was the lack of visible law enforcement which led to anarchy, he said

Mr Mabuza criticised the subsidy system which created unfair competition from subsidised bus companies

He said Sabta saw no reason why, if it was the commuter who was being subsidised, the subsidy should not be applicable to any form of transport of the user's choice

Other reasons for the violence were that after the unbanning of certain political organisations on February 2, 1990, they had tried to influence events in the taxi industry by politicising it, he said

Individual policemen who owned taxis were also perceived as being unable to enforce the law impartially, Mr Mabuza said, adding that he knew of policemen in Daveyton on the East Rand who owned taxis

## Tip of iceberg

"Sabta has over a period of time attempted to put forward its case in various forms. It has been ignored and today we are paying the price for it being ignored," he said

The violence and intimidation in the Western Cape was the tip of the iceberg and unless it was stopped immediately, it had the potential to threaten the future of the state, Mr Mabuza said

He said he hoped the peace in the Western Cape — which was "very shaky" — would last

The hearing continues today



# Government briefs

## Vance delegation

PRETORIA — UN envoy Cyrus Vance spent all of yesterday at the Union Buildings being briefed by a full panel of Ministers involved in the negotiations

Meanwhile the Vance delegation, which is rapidly becoming the focus of the negotiations process, has been inundated with requests for meetings from organisations, including two unnamed right-wing groups. Vance and three advisers met President F W de Klerk and several foreign officials and constitutional development officials early yesterday morning.

A lunch with De Klerk developed into an extended working session.

Also present were Foreign Minister Piik Botha, Public Enterprises Minister Dawide de Villiers, Justice Minister Kobie Coetsee, Law and Order Minister Hennus Kriel and Constitutional Development Minister Roelf Meyer.

Vance, accompanied by UN Secretary General staff member Virendra Dayal and UN political affairs department members Hisham Omayad and Shola Omoregie, also met Finance Minister Derek Keys and Health Minister Rina Venter.

No official government comment followed the discussions, although it is understood that no concrete proposals for a physical UN presence in SA were discussed.

Government sources said yesterday they gained the impression that Vance intended to discuss the SA situation in broad terms

before coming to a conclusion about any possible UN involvement.

Vance made it clear that the measures envisaged in the UN resolution were positive. The resolution calls for the special representative to recommend measures which would assist in ending violence and encourage negotiations.

The discussions included an exchange of ideas on the SA economy.

There are increasing indications that possible UN involvement in SA will be more modest than has been suggested, particularly because of the UN's unhappy experiences in Bosnia-Herzegovina.

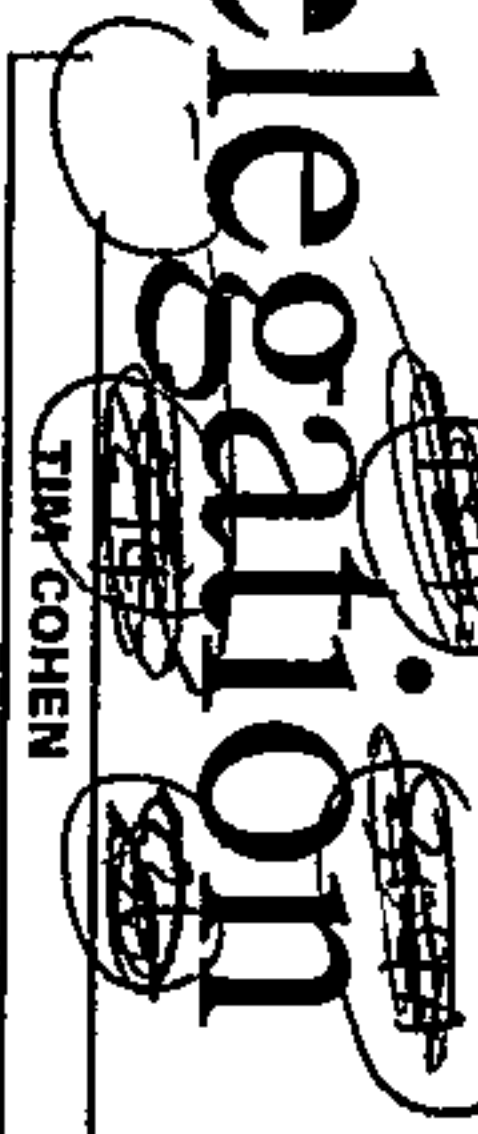
Although this was not directly discussed yesterday, the former Yugoslavian states, which Vance visited recently, have involved the UN in a seemingly intractable and expensive commitment.

Vance will meet the ANC, the PAC and Inkatha today and members of the Goldstone commission tomorrow.

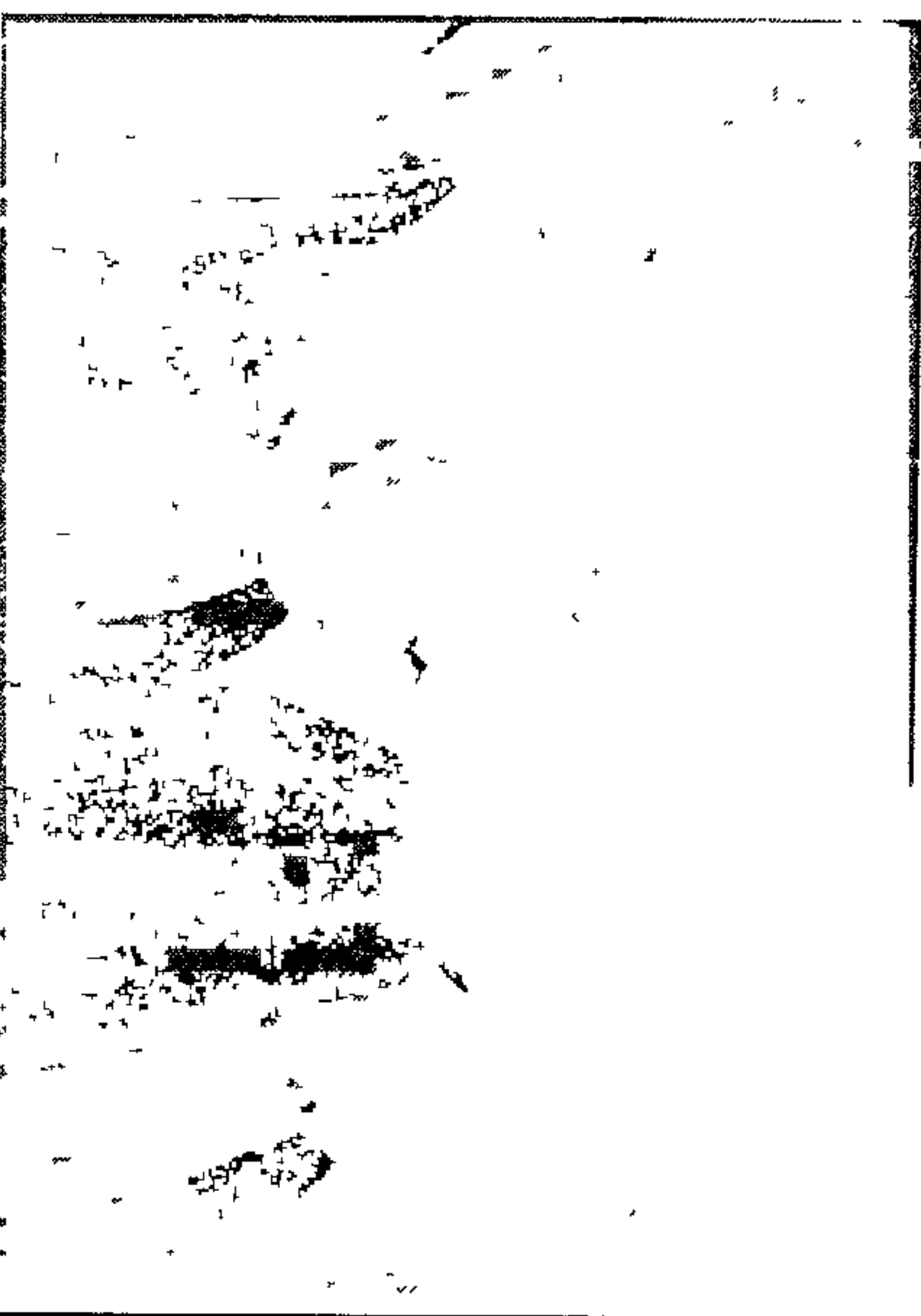
Our Durban correspondent reports that PAC president Clarence Makwetu warned yesterday that any attempt by Vance to revive Codesa would be futile and would be rejected out of hand by the PAC.

Makwetu told an Idasa forum "Our message to Vance is that negotiations should be held at a neutral venue and must be conducted under the chairmanship of a neutral person."

● Comment. Page 6



TIM COHEN



UN special envoy Cyrus Vance, left, President F W de Klerk and Foreign Minister Piik Botha at the Union Buildings in Pretoria yesterday. Picture AP

### Riotous Assemblies Act alive and well

STEPHANE BOTHMA

PROSECUTIONS under the Riotous Assemblies Act continued, despite pending recommendations on illegal gatherings and demonstrations by the Goldstone commission, police confirmed yesterday.

Although most of those arrested this week for taking part in the ANC's campaign to occupy government buildings were charged with trespassing, several protesters were charged with staging illegal demonstrations.

Perpetrators were charged in terms of the Riotous Assemblies Act of 1956 was still in force, and was used if demonstrators caused disturbances or refused to disperse. In January, commission chairman Judge Richard Goldstone established a special committee to look into mass demonstrations.

Sapa reports that Goldstone said yesterday the Justice Department would promulgate regulations within days to give the commission powers to offer adequate witness protection.

(252)

# Experts

## slam SAP

### actions at Boipatong

STAR 23/7/92

By Peter Fabricius  
Political Correspondent

British experts on the Goldstone Commission have criticised the SAP's handling and response to the Boipatong massacre as "woefully inadequate" and "seriously incompetent".

A damning report to be released by the commission today blames a "failure of leadership at all levels" and the "incompetence" of the SAP's general systems and organisation structures.

It rejects widespread accusations of police complicity in the massacre.

"Omissions arose, not from deliberation, but from incompetence," it says.

The report also criticises the ANC for encouraging Boipatong residents not to co-operate with the police investigation and urges it to reverse its stance.

It criticises the police handling and investigation of the massacre for.

- Inadequate command and control of officers
- A lack of effective intelligence and contingency planning
- Unstructured, investigative procedures which inhibited the gathering of evidence
- Poor community relations

"If the defects are to be addressed, it will require thorough reappraisal of the entire organisation, backed by the political will to ensure sufficient funding"

The comprehensive 50-page report was written by Dr P.A.J. Waddington, director of Criminal Justice Studies at the University of Reading, England, who was commissioned, along with two senior British police officers, to investigate the SA Police's handling of Boipatong.

Their inquiry began on July 2.

The report identifies several specific failures in the police handling of Boipatong.

● To Page 3

# British experts slam SAP actions at Boipatong massacre

● From Page 1

● No cover shift on the night of the massacre, so no effective or immediate response was made to Boipatong residents' calls for help

● Too few officers to protect the many scenes of crime so that proper detective work could be done

● Inadequate intelligence systems failed to discover the intention to attack

● No contingency plan to deal with a possible attack by the hostel dwellers

● During President de Klerk's visit to Boipatong, police made no effort to control crowds and secure road junctions

● In the subsequent police shooting on crowds, the report criticises the SAP for "lining police officers in front of hostile crowds, unprotected and holding a lethal weapon in both hands". This "seems to be a recipe designed for over-reaction".

● No system for deploying rapid reinforcements and alerting senior officers on the night of the massacre. Two police sergeants were in command.

● Only limited efforts were made to contact members of the community who could use influence to calm the situation.

● Suggesting discrimination, the report says police investigators negotiated with the Kwa-Madala hostel dwellers but used tear smoke, bullets and birdshot on Boipatong residents

● The "confession-oriented" investigation, without sufficient supporting forensic evidence, was doomed to failure

● There was no system for making individual policemen accountable for their action in the handling of the investigation of the incident.

● When police seized weapons from suspects in KwaMadala, hostel they threw them on one heap which made it impossible to link individual weapons with individual suspects.

● Throughout the Vaal Triangle and northern Free State there are only 10 forensic investigators.

● The "confession-oriented" investigation, without sufficient supporting forensic evidence, was doomed to failure

● There was no system for making individual policemen accountable for their action in the handling of the investigation of the incident.

● The "confession-oriented" investigation, without sufficient supporting forensic evidence, was doomed to failure

● There was no system for making individual policemen accountable for their action in the handling of the investigation of the incident.

● The "confession-oriented" investigation, without sufficient supporting forensic evidence, was doomed to failure



# Laws soon to protect witnesses

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CT 23/1/92  
JOHANNESBURG —  
The Department of Justice will promulgate regulations within days to give the Goldstone Commission of Inquiry powers to offer adequate witness protection.

This was revealed yesterday by commission chairman Mr Justice Richard Goldstone in an interview with a foreign television crew.

Lawyers had often told the commission that some witnesses feared reprisal if they testified, Mr Justice Goldstone said.

"I think it is important that the public must be reassured, apart from the witnesses own reassurance, that anybody who has relevant evidence to give to the commission must not fear," he said.

He did not reveal the nature of the regulations — Sapa

## Goldstone witnesses to receive protection

The Department of Justice will promulgate regulations within days to give the Goldstone Commission powers to offer adequate witness protection.

Mr. Justice Richard Goldstone said yesterday that lawyers had often told the commission that witnesses feared reprisal. "I think it is important that the public must be reassured, apart from the witnesses' own reassurance, that anybody who has relevant evidence to give to the commission must not fear. We must take all reasonable steps to ensure witnesses receive adequate protection."

The judge did not reveal the nature of the regulations.

Asked whether some of the commission's findings were even-handed to ensure political objectivity, the judge said there was no conscious effort to maintain no bias. "I hope I have not been sensitive for political reasons. As far as I am concerned, there is only one main item on the commission's agenda, and that is to expose the truth."

"It is that makes any particular party uncomfortable or unhappy, so be it. But one aspect I have found depressing and regrettable is the use some political organisations and parties have made of simply latching on to what is in their interests and using it either out of context or without reference to criticism of them contained in the report. But that is the nature of political life."

Asked if he was hopeful the violence would end, the judge replied that he was an optimist.

— Sapa

# I killed Goldstone lawyer, former policeman admits

STAR 23/7/92

By Gien Elsas  
West Rand Bureau

(252)

A 35-year-old former policeman has pleaded guilty to a charge of murdering Goldstone Commission advocate Legwai Pitje by stabbing him on July 12.

Seatile Rodney Matlotse, testifying in the Randfontein Magistrate's Court yesterday, admitted he had stabbed Mr Pitje (40) with the intention of killing him.

Mr Matlotse was a special constable before his arrest for the murder.

In a statement read to the court by his defence attorney Christo Hechter, Mr Matlotse acknowledged that he had used a knife to stab Mr Pitje in Tokomsrus, Randfontein.

Mr Pitje's body and his car were found in Kagiso.

Mr Matlotse said in his statement that he was aware Mr Pitje would die as a result of the stabbing, but gave no reason for his actions.

A bail application was made by Mr Hechter but refused by magistrate H P Holtzhausen.

During questioning by Mr Hechter in support of the bail application, Mr Matlotse promised to attend his trial. He further said he would "take the punishment I will get" and that he had no reason to want to flee. He had lived in Krugersdorp his whole life and had never been overseas or to the homelands.

Acting for the State, Hein Louw, opposing the bail application, said that, among other things, Mr Matlotse had influenced witnesses during the investigation.

Asked whether he was not afraid of being eliminated, Mr Matlotse replied that the mur-

dered man's family and friends lived "far away" and he would "remain alert".

Investigating officer Detective-Sergeant Rudolph Mulder said he believed Mr Matlotse would not attend his trial if bail were granted.

Mr Matlotse had pleaded guilty to a very serious crime and he knew there was a strong possibility of a heavy sentence. "If it were me, I would probably flee," Sergeant Mulder said.

The investigation itself was not yet complete and the police were hoping to arrest a second suspect who could be identified only by the accused.

Mr Matlotse had also tried to distance himself from the crime. He had left evidence — a watch and ring which belonged to the advocate — at a shebeen and had also washed the clothes he had worn when the murder took place. The case was postponed to August 26.



# Squatters not natural criminals, court told

STAR 23/7/92

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SP

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To suggest that indigent people who could only be accommodated informally were inherently lawless was a startling proposition which had no foundation whatsoever, a senior advocate argued in the Pretoria Supreme Court yesterday

Sam Maritz, acting for the Transvaal Administrator, was opposing an application to stop the resettlement of the Zevenfontein community at Diepsloot

Mr Maritz said the application by the Diepsloot Residents and Landowners Association

had not established a reasonable apprehension of harm resulting from an increased crime rate.

Police intended to erect satellite stations at Nietgedacht and Laezonia. A permanent police station was planned for Fourways

The Administrator also intended to take reasonable precautions to prevent interference with the rights of surrounding landowners by implementing a proper town-planning scheme at Diepsloot. There was no question of uncontrolled squatting being allowed

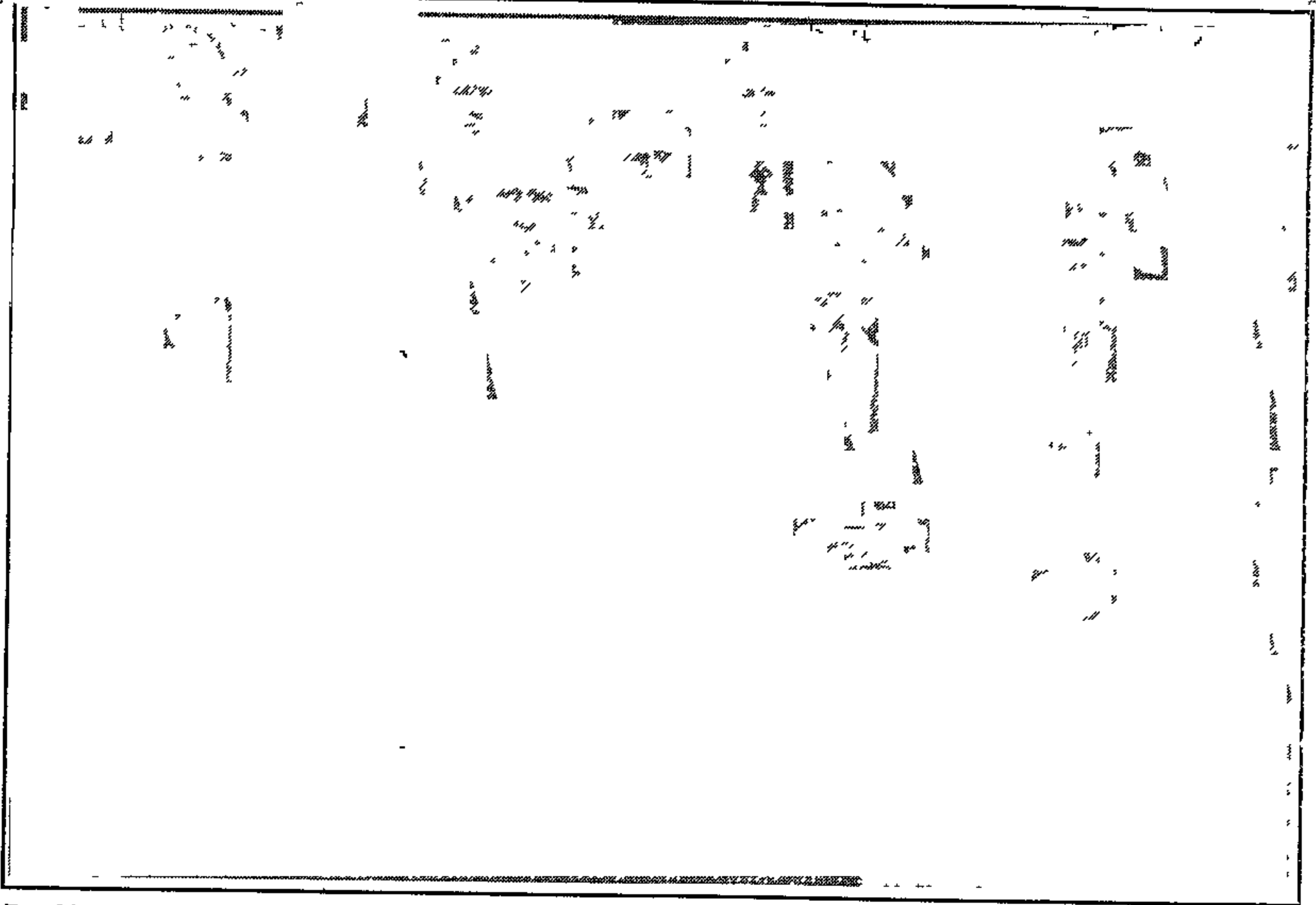
H Steyn, for the residents' association, argued on Tuesday that the Administrator had, in deciding to move the squatters to Diepsloot, not exercised his discretion properly

He said the move would unlawfully interfere with the rights of Diepsloot residents and landowners

The squatters would create a nuisance, and landowners in the area feared they would contaminate the groundwater supply. This would create a health risk to the community

The hearing continues — Sapa

NEWS Expert evaluation into Boipatong massacre completed • Strike settlement on hold



President FW de Klerk (second from right) and Foreign Minister Mr Pik Botha welcome US special envoy Mr Cyrus Vance and United Nations delegates at the Union Buildings.

# Expert analysis ready

■ Report by Dr Waddington of England on police investigation into Boipatong now open to scrutiny:

252  
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**T**HE chairman of the Goldstone Commission announced yesterday that an independent expert evaluation of police investigations into the Boipatong massacre had been completed

The evaluation, headed by Dr PAJ Waddington of Reading University in England, was available in Pretoria for any party wishing to challenge material or the relevant findings

The committee, on request, would

hear such contrary evidence

Mr Justice Richard Goldstone said in Pretoria the report was being made public to allow parties appearing at the Boipatong Inquiry on August 5 to prepare adequately

Sketching the background to the report, Goldstone said he was requested by President FW de Klerk on June 24, at the suggestion of the SA Police, to appoint one or more experts to evaluate the police investigation into the massacre

However, the report was not one in which the commission or any staff member participated

"It (the report) does not represent or reflect any findings or opinions of the commission or committee investigating the Boipatong massacre, whether in general or in relation to the conduct of the South African Police," said Justice Goldstone

He added the findings and opinions in the report were those of experts appointed by the commission and were based on untested information given to them. Thus, the commission, the Committee of Inquiry into the Boipatong massacre and the SAP were in no way bound by the report

*Sowetan 23/7/92*

# 'Boipatong report raps police'

LONDON — The Boipatong report commissioned by Judge Richard Goldstone will say the SAP failed to prevent the massacre because of a shortage of manpower, the BBC reports

The report, compiled by British academic Peter Waddington and two Metropolitan police officers, will be published today. Goldstone says the report on the June 17 killings was leaked to the BBC

It is believed to contain "a catalogue of shortcomings and failures" in the police planning and command, but provides no evidence that the SAP was directly involved in the attack

Goldstone yesterday appealed to all parties to refrain from commenting on the leaked report until today, Sapa reports

The most damning evidence cited yesterday by the BBC was the unavailability

VICTORIA HOLDSWORTH

of manpower, "which allowed the massacre to be perpetrated unhindered"

The police are accused of relying on "forceful suppression" instead of negotiations with community leaders, and criticised for having no contingency plan to deal with emergencies such as Boipatong

More than 40 people died in the attack, which resulted in the suspension of talks between government and the ANC.

Goldstone was also requested by government to evaluate the police investigation of the massacre. The task was handed to Waddington, of Reading University, and two British police officers

Waddington's findings disclosed yesterday that police allowed attack weapons to

□ To Page 2

## Boipatong

be piled together — making it impossible to link individuals to their weapons

But police efforts were also "frustrated" by township residents' unwillingness to cooperate with the police — apparently at the behest of the ANC, said the BBC

In what was described as a "badly handled investigation", the BBC reported that the SAP "seemed unable or unwilling to establish what action was taken by whom with what result" They were neither trained nor equipped for the task

Yesterday, a spokesman for Waddington said he had been asked not talk about his

findings until the report was officially released, but the impression gauged by the BBC was that SAP activity was "less a conspiracy and more a crisis of organisation at the highest level"

Goldstone told the BBC in an interview yesterday the initial findings do not amount to a final verdict He said the issues raised would be investigated

"There is only one main item on the commission's agenda — to expose the truth If that makes any party uncomfortable so be it," he said

□ From Page 1



NEWS Union tells Goldstone Commission that it knows nothing about pamphlet

# Teachers join mass action

*Souefan* 23/7/92  
In solidarity with colleagues suspended by Ciskei:

FOUR months before the final examinations, there is no proper schooling in the Ciskei after teachers joined the ANC-led mass action

The teachers are demanding the reinstatement of colleagues suspended by the Ciskei education department. The SA reopened on July 14.

Democratic Teachers Union (Sadu) said 29 teachers were suspended in Mdantsane alone

The teachers have the support of pupils and local community organisations. Pupils said they have had no teachers since schools reopened on July 14.

# Nehawu denies an intimidatory pamphlet

*Souefan* 23/7/92  
INTIMIDATORY LETTER

TPA asks Goldstone Commission to investigate: *(252)*

TWO SENIOR OFFICIALS of the National Education, Health and Allied Workers Union have denied before the Goldstone Commission that an intimidatory pamphlet had been issued by the union

The chairman of the commission, Mr Justice Richard Goldstone, said yesterday that the Transvaal Provincial Administration had furnished the commission with a pamphlet in Northern Sotho, which purported to have been published by Nehawu's Pietersburg branch

"The pamphlet contains unambiguous threats to take the lives of workers who do not participate in the hospital workers strike," said Mr Justice Goldstone

The contents of the pamphlet amounted to serious and unlawful intimidation and the commission decided to ascertain from Nehawu whether it was responsible for the pamphlet and its attitude to it

At the request of the commission, Nehawu's general secretary, Mr Philip Dexter, and the organiser of the Pietersburg branch, Mr CP Mahlo, met the commission on Tuesday

"The commission was informed by Messrs Dexter and Mahlo that Nehawu did not publish the pamphlet and that the letterhead on which it was typed did not come from a Nehawu office. They are unaware of its origin"

Dexter and Mahlo informed the commission further that neither they nor Nehawu supported violence or intimidation of workers

The contents of the pamphlet were contrary to the policy of Nehawu and they disassociated themselves and Nehawu from the pamphlet. - *Sapa*

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# BENCHMARKS

CARMEL RICKARD'S weekly look at  
the law, the lawyers and the courts

## Mediate - but not just yet

W/Mon 24/7-30/7/92

**A**FTER 10 months in the United States, we came back to find our house afflicted by that common travellers' disease, tenant damage. Weeks of unsatisfactory correspondence and phone calls followed before we decided to try mediation, theoretically a good idea but difficult in practice.

Community and privatised mediation centres flourish throughout the US, providing an essential, affordable service for every member of society. A vast network of ordinary people, including schoolchildren, train as mediators and offer their skills to the community as volunteers or full-time. This service helps individuals in dispute and the community when conflicts are defused before becoming violent. A culture of conciliation can emerge if people experience how mediated discussions can resolve disputes.

The Illinois law setting up community mediation centres underscores this potential: "Unresolved disputes which individually may be of small social or economic magnitude are collectively of enormous social and economic consequence. Many seemingly minor conflicts between individuals may escalate into major social problems unless resolved early in an atmosphere in which disputants can discuss their differences."

Suppose our problem had arisen in the US. What would we have done? First, called the local community mediation centre to explain the dispute in general terms and ask that they try to arrange mediation. If we had not yet suggested mediation to the other side, officials at the centre would. They would outline how mediation worked, explain it was voluntary and ask the other party if he or she was willing to try this method. Given the go-ahead, they would arrange a time, a neutral venue and a mediator.

In South Africa it takes far more effort, unless you can pay the rates for the skills of professional mediators (usually lawyers with special training) through an agency like the Independent Mediation Service of South Africa or the Alternative Dispute Resolution Association of South Africa.

If you live in Johannesburg's Alexandra township it might be easier. The Community Dispute Resolution Trust has helped the local community establish the Alex Justice Centre, which has many features of the typical US community mediation centre. The mediators come from the community. They have training in skills and ethics to deal with a wide range of problems, and to decide whether a dispute is suitable for resolution through mediation. A similar project will start soon in Hillbrow, and CDT officials hope a pilot centre in the Cape and Natal will follow.

Several other schemes sound promising but are inappropriate to small community disputes. The Short Process Courts and Mediation in Certain Civil Cases Act, which came into effect last weekend, could play an important role in the whole legal scene, but is far from what is needed to bring mediation to every community.

Everyone seriously trying to end the conflict and create a more tolerant society in South Africa would agree on the urgent need for thousands of well-trained "grassroots" mediators throughout the country. But although hundreds of such mediation centres are desperately needed, it would be fatal for the government to rush through enabling legislation. Until a widely accepted new constitution and Bill of Rights is in place, the legal system had best keep its hands off.

Lawyers can contribute by helping train mediators and setting up mediation centres through, for example, the Community Dispute Resolution Trust. And imagine how it would help restore confidence in the legal profession if, once centres are established, members of the community who happened to be lawyers joined their neighbours in volunteering for training and then offered their services (for the same nominal fee paid any other community mediator) to help resolve disputes in their neighbourhood.

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## Boesak to sue Kriel over arrest

CAPE TOWN — The western Cape chairman of the ANC, Dr Allan Boesak, is to sue the Minister of Law and Order, Hérnus Kriel, for R20 000 for unlawful arrest during a protest last year. *STAR 24/7/92*

Dr Boesak claims he was arrested on the corner of Mostert and Corporation streets, near the Cape Town Magistrate's Court, on July 30 1991 and held for eight hours at the Kensington police station.

He claims his dignity and freedom were impaired.

A spokesman for his attorneys confirmed that papers had been served on the minister and they were awaiting a court date. — Sapa.



REPUBLIEK  
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SOUTH AFRICA

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Vol. 325

PRETORIA, 24 JULIE  
JULY 1992

No. 14167

## PROKLAMASIE

*van die*  
**Staatspresident**  
*van die Republiek van Suid-Afrika*

No 75, 1992

### BESOLDIGING VAN REGTERS

Kragtens die bevoegdheid my verleen by artikel 2 van die Wet op Besoldiging en Diensvoorwaardes van Regters, 1989 (Wet No 88 van 1989), bepaal ek hiermee die skaal, soos in die meegaande Bylae aangedui, waarteen salarisse met ingang van 1 Augustus 1992 aan regters betaalbaar is.

Gegee onder my hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die Negende dag van Julie Eenduisend Negehoenderd Twee-en-negentig

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**  
Minister van die Kabinet

### BYLAE

Naam van amp	Salaris per jaar
Hoofregter van Suid-Afrika	R249 000
Appelregter	R233 000
Regter-president	R231 500
Adjunk-regter-president	R227 500
Regter	R225 500

423—A

## PROCLAMATION

*by the*  
**State President**  
*of the Republic of South Africa*

No. 75, 1992

(252)

### REMUNERATION OF JUDGES

Under the powers vested in me by section 2 of the Judges' Remuneration and Conditions of Employment Act, 1989 (Act No. 88 of 1989), I hereby determine the rate, as indicated in the attached Schedule, at which salaries are payable to Judges with effect from 1 August 1992.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Ninth day of July, One thousand Nine hundred and Ninety-two

**F. W. DE KLERK,**  
State President

By Order of the State President-in-Cabinet

**H. J. COETSEE,**  
Minister of the Cabinet

### SCHEDULE

Designation of Office	Salary per annum
Chief Justice of South Africa.	R249 000
Judge of Appeal . . .	R233 000
Judge President . . .	R231 500
Deputy Judge President . . .	R227 500
Judge	R225 500

14167—1

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Christoffel Johannes Lotter (Id. No 450629 5035 002), van die plaas/of the farm Taarbosch, Posbus/P O Box 567, Heilbron, 9650	Kantoor van die Landdros/Magistrate's Office, Heilbron	8 September 1992 om/at 09 00

(24 Julie 1992)/(24 July 1992)

**KENNISGEWING 654 VAN 1992**  
**ADMINISTRASIE: VOLKSRAAD**  
**DEPARTEMENT VAN LANDBOU-  
ONTWIKKELING**

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergenoemde ap-  
plikant en sy skuldeisers op die plek en datum hier-  
onder genoem, belê, met die doel om skuldeisers in  
staat te stel om hul vorderings teen die applikant te  
bewys en 'n skikkingsvoorstel van die Landboukrediet-  
raad te oorweeg

**J. H. SMIT,**

Direkteur: Direktoraat Finansiële Bystand,  
Departement van Landbou-ontwikkeling

**NOTICE 654 OF 1992**  
**ADMINISTRATION: HOUSE OF ASSEMBLY**  
**DEPARTMENT OF AGRICULTURAL  
DEVELOPMENT**

NOTICE OF MEETING OF CREDITORS IN TERMS  
OF SECTION 22 (1) OF THE AGRICULTURAL  
CREDIT ACT, 1966

A meeting of the undermentioned applicant and his  
creditors is hereby convened at the place and date  
mentioned hereunder for the purpose of enabling  
creditors to prove their claims against the applicant and  
of considering a proposal for a compromise by the  
Agricultural Credit Board

**J. H. SMIT,**

Director. Directorate Financial Assistance,  
Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Christoffel Francois van der Berg (Id. No. 530404 5072 007), van die plaas/of the farm Witkraal, Posbus/P O Box 79, Petrusburg, 9932	Kantoor van die Landdros/Magistrate's Office, Petrusburg	26 Augustus/August 1992 om/at 09 00

(24 Julie 1992)/(24 July 1992)

**KENNISGEWING 655 VAN 1992**  
**SUID-AFRIKAANSE REGSKOMMISSIE**

Die Suid-Afrikaanse Regskommissie stel hiermee sy  
eerste werkstuk onder die titel "**Vereenvoudiging van  
die Strafprosedure**" vry. Die werkstuk handel oor die  
appelprosedure in strafsake en maak deel uit van die  
Kommissie se breetonderzoek na die vereenvoudiging  
van die strafprosedure. In hierdie werkstuk beveel die  
Kommissie aan dat voorsiening gemaak word vir die  
instelling van vorme van verloop tot appel teen die  
beslissings van laer hof, dat 'n hof die bevoegdheid  
verleen word om in gepaste gevalle 'n aparte verhoor  
van geskildpunte te gelas en dat aan die Hooggeregshof  
en streekhof die bevoegdheid verleen word om na die  
aanhoor van verdere getuies 'n skuldigbevinding,  
vonnis of bevel ter syde te stel of te wysig sonder dat 'n  
hof van appel genader hoef te word.

Die Kommissie nooi alle belanghebbende persone  
en instansies uit om kommentaar te lewer op die on-  
derhawige werkstuk of om voorstelle te doen vir die  
ontwikkeling, verbetering, modernisering of hervorming  
van hierdie faset van die reg. Werkstukke wat oor  
ander aspekte van die hervorming van die Strafprose-  
dure handel, sal later gepubliseer word.

**NOTICE 655 OF 1992** (252)  
**SOUTH AFRICAN LAW COMMISSION**

The South African Law Commission hereby releases  
its first working paper under the title "**Simplification of  
Criminal Procedure**". The working paper deals with  
the appellate procedure in criminal cases and forms  
part of the Commission's broad investigation into the  
simplification of criminal procedure. In this working  
paper the Commission recommends that provision be  
made for the institution of forms of leave to appeal  
against the decisions of lower courts, that a court be  
empowered to order a separate hearing of issues in  
suitable cases and that the Supreme Court and the  
regional court be empowered to set aside or alter a  
conviction, sentence or order after the hearing of further  
evidence without the need to approach a court of  
appeal.

The Commission invites all interested persons and  
bodies to comment on the working paper in question or  
to make suggestions for the development, improve-  
ment, modernisation or reform of this branch of the law.  
Working papers which deal with other matters concern-  
ing the reform of criminal procedure will be published  
later.



Dit sal waardeer word indien skriftelike kommentaar of voorstelle die Kommissie teen **30 September 1992** by onderstaande adres bereik.

Die werkstuk is op aanvraag gratis van die Kommissie verkrygbaar

Die Kommissie se kantore is op die Agste Verdieping, NG Kerk Sinodale Sentrum, Visagiestraat 228, Pretoria. Korrespondensie moet asseblief geng word aan

Die Sekretaris  
Suid-Afrikaanse Regskommissie  
Privaatsak X668  
PRETORIA  
0001

Telefoon. (012) 322-6440 (Mev P Kotze)

Datum 24 Julie 1992.

(24 Julie 1992)

#### KENNISGEWING 656 VAN 1992

##### VERGADERINGS VAN PARLEMENTÊRE KOMITEES GEDURENDE RESES

MAANDAG, 27 tot WOENSDAG, 29 JULIE 1992

Gesamentlike Komitee oor Justisie, Tweede Strafproueswysigingswetsontwerp [W 123-91 (AS)], Wysigingswetsontwerp op die Toelating van Advokate [W 3-92 (AS)] en Wysigingswetsontwerp op Dobbelay [W 126-92 (AS)]

MAANDAG, 3 tot VRYDAG, 7 AUGUSTUS 1992

Gesamentlike Komitee oor Gesondheid, Wysigingswetsontwerp op Mediese Skemas [W 115-92 (AS)]

Navrae W Fourie, Hoof Komitee-afdeling, Tel (021) 403-2568 Beltel Bladsyno 3199

(24 Julie 1992)

#### KENNISGEWING 657 VAN 1992

##### DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

##### AANSOEK OM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENIGING

Ek, David William James, Nywerheidsregistrator, maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die Suid-Afrikaanse Voetplaatpersoneelvereniging. Besonderhede van die aansoek word in onderstaande tabel verstrek.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres Privaat Sak X117, Pretoria, 0001)

It would be appreciated if written comments or suggestions could reach the Commission by **30 September 1992** at the address given below (252)

The working paper is obtainable free of charge from the Commission on request

The Commission's offices are on the Eighth Floor, NG Kerk Sinodale Sentrum, 228 Visagie Street, Pretoria. Correspondence should be addressed to

The Secretary  
South African Law Commission  
Private Bag X668  
PRETORIA  
0001

Telephone (012) 322-6440 (Mrs P. Kotze).

Date 24 July 1992

(24 July 1992)

#### NOTICE 656 OF 1992

##### MEETINGS OF PARLIAMENTARY COMMITTEES DURING RECESS

MONDAY, 27 to WEDNESDAY, 29 JULY 1992

Joint Committee on Justice, Criminal Procedure Second Amendment Bill [B 123-91 (GA)], Admission of Advocates Amendment Bill [B 3-92 (GA)] and Gambling Amendment Bill [B 126-92 (GA)]

MONDAY, 3 to FRIDAY, 7 AUGUST 1992

Joint Committee on Health, (Medical Schemes Amendment Bill [B 115-92 (GA)])

Enquiries W Fourie, Head: Committee Section, Tel. (021) 403-2568 Beltel Page No 3199

(24 July 1992)

#### NOTICE 657 OF 1992

##### DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

##### APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF TRADE UNION

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act, 1956, give notice that an application for the variation of its scope of registration has been received from the Suid-Afrikaanse Voetplaatpersoneelvereniging. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice



# SAP in dock over Boipatong bungles

STAR 24/7/92

Top brass in the SAP are furious because, although an expert has cleared them of negligence or complicity in the Boipatong massacre, he has harshly criticised them for incompetence, writes PETER FABRICIUS



**A**N EMINENT former ambassador to South Africa once observed that most government failures were due to bungling (he used a stronger expression) rather than conspiracy. Nothing could more forcibly illustrate this observation than Dr Peter Waddington's report for the Goldstone Commission of the police handling and investigation of the Boipatong massacre on June 17.

The most striking thing about the 50-page report by Dr Waddington, director of criminal justice studies at Reading University in England, is the high contrast between his exonerating of the police for any moral blameworthiness and his total indictment of them for professional incompetence.

Not only does he clear the police of charges of complicity, but also of indifference and negligence. Nor does he find evidence that the police had any forewarning of the attack, as alleged by the ANC and other critics.

Amid all this gloom and negative appraisal, there is an important source of relief to the SAP, and that is that this inquiry has uncovered no information that suggests any complicity on the part of the SAP in the attack.

Indeed, all the evidence suggests a genuine desire to identify the perpetrators and prosecute them.

But what thwarted the individual policeman trying to do his job was the system he was obliged to work in.

There is no doubting the commitment and dedication of individual officers, especially those in lower ranks. "They have been hindered by



Recipe designed for disaster Dr Waddington's report for the Goldstone Commission criticises the SAP for "lining police officers in front of hostile crowds, unprotected and holding a lethal weapon in both hands"

the absence of effective systems.

No wonder that the Commissioner of Police and his generals are hopping mad.

It is they, rather than errant rogue elements, who are fingered here.

If they missed the point, Dr Waddington underscores it heavily with the observation that the Boipatong operation betrayed a "failure of leadership at all levels." In general he

lists the systemic failures as:

- Inadequate command and control of officers
  - A lack of effective intelligence and contingency planning
  - Unstructured investigative procedures which inhibit the gathering of evidence
  - Poor community relations
- And, seeking the cause of the specific problem in the whole history and ethos of the SAP, he says: "It was not a lack of will

that plagued this operation but a failure of imagination

"Perhaps after decades of enforcing apartheid laws the SAP must learn afresh how to cultivate relationships and adapt their tactics in order to achieve public responsibility."

He makes it clear that the solution will have to be fundamental.

"If the defects are to be addressed, it will require thorough reappraisal of the entire organisation, backed by the political will to ensure sufficient funding," he said.

Dr Waddington — who was assisted by two senior officers of the British police — then goes on to offer a detailed critique of the systems and methods which failed in Boipatong — and which will, by implication, fail elsewhere.

In so doing, he offers the SAP the foundation on which to start restructuring itself if it desires

crime and allow proper forensic examinations to be done.

- Inadequate intelligence systems failed to discover the intention to attack.
- No contingency plan was made to deal with a possible attack by hostel dwellers which ought to have been expected, given the history of such attacks.
- The police failure to prepare operations was made "embarrassingly clear" when President

STAR 24/7/92  
de Klerk visited Boipatong days after the massacre to show sympathy

Police failed to control crowds and allowed people to "mass in an uncontrolled and ultimately uncontrollable melee" Junctions on Mr de Klerk's route were not secured, which allowed residents to block them with barriers.

"As a result there was a hasty, ill-prepared and ignominious retreat with disastrous political consequences for the Government"

● In the subsequent police actions, the report criticises the SAP for "lining police officers in front of hostile crowds unprotected and holding a lethal weapon in both hands." This "seems to be a recipe designed for overreaction"

● No system for deploying rapid reinforcements and alerting senior officers on the night of the massacre. Two police sergeants were left in command

● Only limited efforts were made to contact members of the community who could use influence to calm the situation.

● Suggesting discrimination, the report says police investigators negotiated with the Kwa-Madala hostel dwellers but used tear smoke, bullets and birdshot on Boipatong residents

Probing the investigation of the massacre, the report identifies many mistakes.

● When police seized weapons from suspects in KwaMadala hostel they threw them on to one heap which made it impossible to link individual weapons with individual suspects.

● Throughout the Vaal Triangle and northern Free State there are only 10 forensic investigators

● The "confession oriented" investigation method — which did not place enough stress on gathering supporting forensic evidence — was doomed to failure in the courts

Dr Waddington ends on a hopeful note. Just because the problems identified are so fundamental, they are also remediable since they entail not the replacement of individuals but the establishment of structures and methods of policing that are "familiar elsewhere in the world" □

## Advocates appointed to Bench (252)

Advocates Lewis Goldblatt and Percy Bheden, have been appointed judges of the Supreme Court in the Witwatersrand Local Division, Justice Minister Kobie Coetsee has announced.

Both advocates are members of the Bar Council and

Mr Goldblatt is a former chairman

Mr Bheden, a one-time journalist, recently appeared for the Department of Manpower in a fact-finding investigation which the International Labour Organisation held in South Africa

STAR 24/7/92

# Probe stands fast on dangerous weapons

By Bronwyn Wilkinson

STAR 24/7/92

The Goldstone Commission yesterday again recommended that dangerous weapons should not be carried in public — and expressed regret that the Inkatha Freedom Party refused to accept the guideline

The commission released a draft interim agreement on mass demonstrations reached between the police, the ANC-SACP-Cosatu alliance and the IFP

In a statement on the agreement, Mr Justice Goldstone expressed the commission's regret that the IFP — despite being a signatory — could not

agree to the one recommendation that participants in public demonstrations should not carry dangerous weapons

"The commission cannot accept the necessity, let alone the right, to carry dangerous weapons," he said.

IFP representatives had rejected the clause and requested that "a search be made for compromise wording"

Mr Justice Goldstone said the commission "cannot hold back on an agreement as important as this in order to 'search' for compromise wording".

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# IFP's stance under attack

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Sowetan 24/7/92  
■The Goldstone Commission again slams  
the carrying of dangerous weapons:

EXPRESSING its regret that the IFP was refusing to accept its guideline, the Goldstone Commission yesterday again recommended that dangerous weapons not be carried in public

The commission yesterday released a draft interim agreement on mass demonstrations reached between the police, the ANC/SACP/Cosatu alliance and the IFP

Mr Justice Richard Goldstone expressed the commission's "regret" that the IFP, despite being a signatory to the agreement, could not agree to the one recommendation that participants in public demonstrations should not carry dangerous weapons

He said IFP representatives had rejected the clause and requested "a search be made for compromise wording to replace the wording of clause 3" - *Own Correspondent.*

*Soudan 24/7/92*  
**Order on workers**

DISMISSED workers at Steers Midrand office have been interdicted from intimidating other workers and interfering with the company's operation. Mr Theofanis Halamandaris, a member of the Steers closed corpora-

*Soudan 24/7/92 (252)*

tion, said in an affidavit to the Rand Supreme Court yesterday that 31 workers had gathered outside Steers premises daily since their dismissal on July 13. They were armed with sticks, bricks and pipes, and threatened to kill other workers. The workers, all members of the African Mine Workers and Allied Workers Union, went on strike on July 10 following the dismissal of a driver and were in turn dismissed.

# Weapons ban: IFP rebuked

By PAUL STOBER

W/M 24/7-30/7/92.  
THE Inkatha Freedom Party was rebuked, surprisingly sharply, by Judge Richard Goldstone after refusing to agree to the banning of the carrying of weapons in public.

"The commission cannot accept the necessity, let alone the right, to carry dangerous weapons in demonstrations," said Justice Goldstone in a statement yesterday.

The rebuke followed an announcement that an interim agreement had been reached on the conduct of public demonstrations between the South African Police, the African National Congress, Cosatu and the South African Communist Party. In a letter to the commission, the IFP said they endorsed all aspects of the agreement except for clause three which could be interpreted to ban the carrying of cultural weapons.

Ignoring pleas by the IFP for a search for a compromise wording, Justice Goldstone said: "Having regard for the present political climate in South Africa, the commission cannot hold back on an agreement as important as this in order to search for a compromise wording. The display in public of any dangerous weapons is unacceptable. On that broad principle it is unable to compromise."

The agreement states that the public has the right to demonstrate peacefully and that the SAP has a duty to protect this right and to ensure that demonstrations are peaceful. It also outlines procedures to be followed by the organisers of protest action before the start of demonstrations.

The agreement is based on a report by an international panel appointed to advise the Commission on rules and regulations to govern mass actions.



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# New law to cut <sup>(182)</sup> expense of civil actions <sup>ARG 25/1/92</sup>

■ Magistrates' workloads could be relieved with the introduction of short process courts which will make for speedy litigation in civil disputes, say the designers of some unique new laws.

**DALE KNEEN**  
Weekend Argus Reporter

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Pilot project starts soon

# New Act makes law accessible

STAR 25/7/92

(252)

LEGISLATION intended to slash the cost of court proceedings is set to revolutionise the settlement of civil disputes and make the law more accessible to the public.

Low-budget courts run by retired lawyers will be launched to solve disputes which cannot be settled out of court.

A pilot project will operate in Pretoria in September. Other courts will be opened "as soon as possible" after that.

The legislation, called the Short Process Courts and Mediation in Certain Civil Cases Act, was published in the Government Gazette last week.

Department of Justice spokesman Werner Krull said the South African civil process was too thorough and time-consuming in some less-complex disputes involving substantial sums of money. Potential litigants, sometimes not able to afford the legal remedies at their disposal, were in effect denied the legal process.

## Out-of-court settlements

The Act provides for mediation procedures intended to encourage people to try to reach settlement out of court or to expedite a subsequent trial.

Mediators will be appointed mainly from the ranks of retired magistrates, attorneys, advocates and legal academics.

The cost of mediation will be borne jointly by the litigant and the State.

The Act also provides for the establishment of a short process court to handle civil cases which would otherwise be heard in a magistrate's court.

Krull said amounts of up to R20 000 in respect of unliquidated claims and R50 000 in liquidation claims could be heard in the court. The small claims court had a ceiling of R2 000.

**NOTE:** Though the short process court is legally classified as a magistrate's court, its procedure is less formal.

Adjudicators are appointed on the same basis as mediators and a person can be appointed in both capacities. Litigants are allowed legal representation.

# Judges' pay 252

JUDGES will earn R18 792 a month from August, says a proclamation signed by President De Klerk and gazetted on Friday. The Chief Justice will receive R20 750 a month.

Judge-presidents, their deputies and Appeal Court judges will be paid on a scale between these two amounts 267192

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# Prosecution boom

Clarens 26/7/92  
by DESMOND BLOW

THE Waddington report on the Boipatong massacre concludes that the prosecution of suspects from the KwaMadala hostel seems doomed to failure because of the poor structure of investigation by the SAP.

The report said the police seemed to rely on confession-oriented evidence and that hostel dwellers and representatives of the FP have alleged that some of the suspects have been tortured to extract confessions.

It said SA law did not allow reliance on uncorroborated confessions and the SAP method of obtaining confessions and then seeking corroborating evidence was not a sound investigative technique.

This type of investigation was opposite to that sought in Western countries.

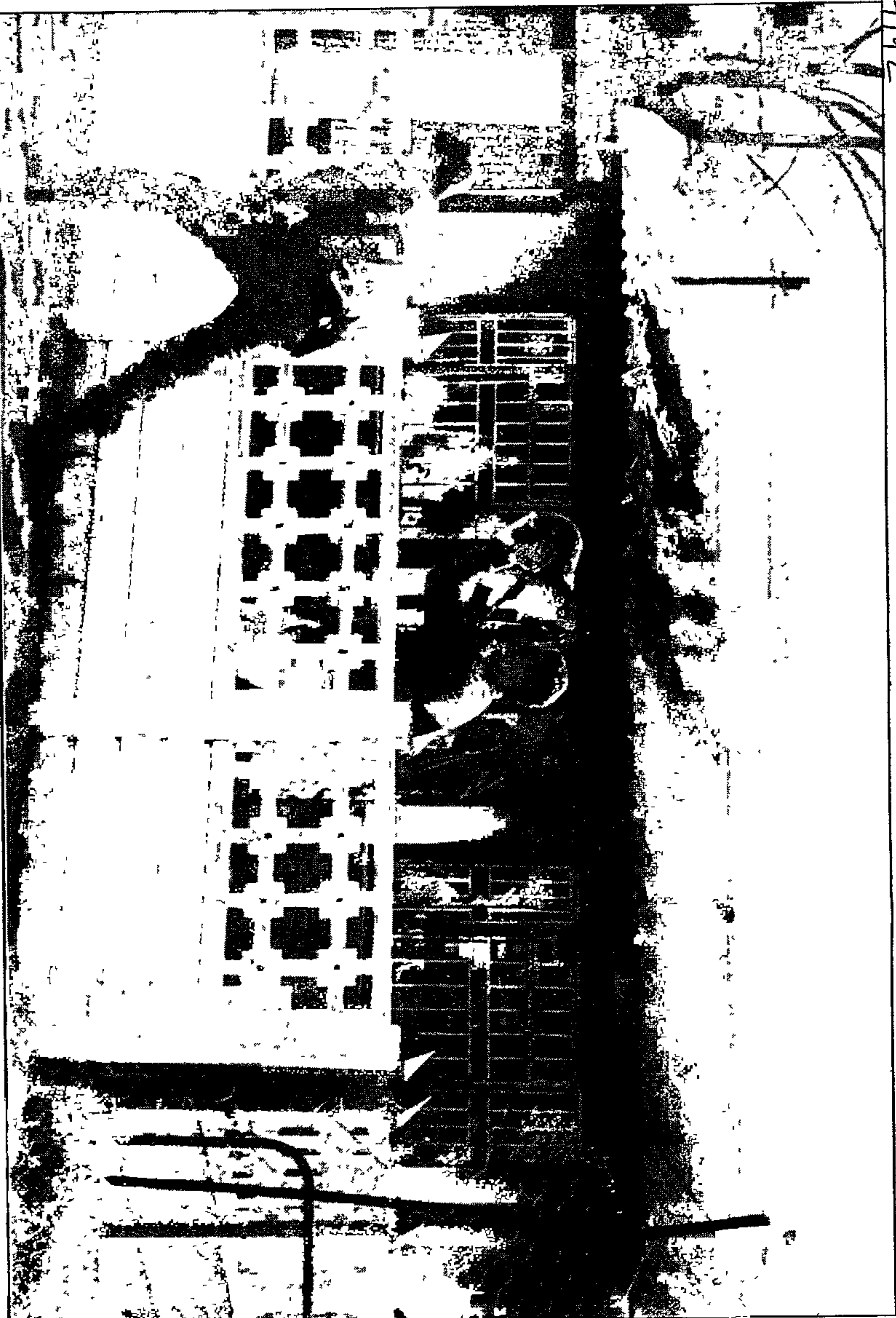
Without supporting evidence only obtainable from Boipatong residents, who have been persuaded by the ANC not to cooperate with the police, and without thorough forensic examinations (which were not made) the investigation seemed doomed.

Although the non-cooperation of the township residents had frustrated part of the investigation, the investigating officers seemed remarkably unconcerned about such a serious hindrance, concluded Dr Peter Waddington.

The report also found that immediately after the massacre the community of Boipatong was not hostile to the police and were prepared to cooperate, but when few policemen arrived and little investigation was done by the following day, they became angry.

Their anger was fuelled by rumours that the police were implicated in the massacre.

But the Waddington report found there was no evidence to substantiate the rumours and found that certain lower-ranking



FLASHBACK... Police at the scene of turmoil in Boipatong last month. British experts have condemned the SAP's investigation procedures.

## Boipatong murderers likely to walk free

252

officers did their duties well, but that the whole structure of the police operation was superficial and inadequate.

The investigation concentrated on the KwaMadala hostel and the police made several visits to it and weapons were seized. However, they cannot be linked to individual hostel-dwellers because of the police decision to allow weapons to be placed in a pile.

The Waddington report, which does not represent or reflect any findings or opinions of the Goldstone Commission and is based on untested information given to

Waddington, director of Criminal Justice Studies at Reading University, England, and two British police officers.

The report slams the SAP system of responding to the massacre and the subsequent investigation.

The report found that the response was woefully inadequate, mostly because of the absence of suitable organisational structures to effect suitable policing of the unrest area.

It found that there was inadequate command and control of officers patrolling and responding to incidents in Boipatong and

surrounding areas.

Other criticisms were a lack of effective intelligence and contingency plans, unstructured investigative procedures which inhibited the gathering of evidence, a lack of awareness of sound community relations with all sections of the population which could assist in both maintaining the peace and investigating crime.

The report was woefully inadequate, mostly because of the absence of suitable organisational structures to effect suitable policing of the unrest area.

It found that there was inadequate command and control of officers patrolling and responding to incidents in Boipatong and

there was no doubting the commitment and dedication of individual officers, especially those in lower ranks, but they were hindered by the absence of effective systems.

These systems did not necessarily require more manpower, but what was required was that the heavy commitment of manpower was used to the best effect.

The report said there was no evidence to suggest that the police had any forewarning of an attack on Boipatong. There were suggestions that some serious event would take place somewhere in the Vaal triangle, but if

anywhere was specifically mentioned it was Sebokeng, not Boipatong.

However, when, at about 10pm on June 17, police began receiving calls reporting shootings, assault and damage from the Boipatong township, only two Casspirs under the command of sergeants were sent to the township.

The sergeants discovered evidence of murder and arranged for ambulances and asked for detectives to investigate.

One detective was sent who made a superficial examination of the murder scenes during two visits lasting, from midnight

to 3 am and from 7.30 am to mid-morning.

Had a thorough investigation been launched immediately, statements taken and attempts made to communicate with residents to get their co-operation, the community may not have turned hostile.

"Police failed to grasp the community relations initiative by demonstrating their commitment to the investigation of the crime and the identification of suspects," the report said.

"When the mood of residents became hostile the police relied on force-

ful suppression rather than negotiating with representatives of the township."

However the police did communicate with the hostel dwellers when raiding the hostel and this more accommodating approach towards them might have created the understandable suspicion, however false, of favouritism.

There has been criticism that the SAP should have had forewarning of the attack on Boipatong through their intelligence, but intelligence officers interviewed by the Waddington committee said their system of covert surveillance had been seriously compromised by an expose published by the Weekly Mail during May.

"There is no doubt that the officers investigating this crime have faced enormous difficulties in securing the co-operation and assistance of residents of Boipatong.

"Press reports confirm that the ANC and its allies have orchestrated a campaign of non-cooperation which must have been designed to frustrate the investigation.

"This is surely an ultimately self-defeating course of action, even if it is merely symptomatic of the deep distrust of the SAP endemic in the township.

"Equally the press can and should be censured for what seems to have been mischievously inaccurate or precipitate reporting of gossip, titillation and unsubstantiated rumour (that the police were involved in the massacre)."

After a long discussion with senior police officers Waddington is of the opinion that it was not the lack of will that plagued the operation, but a failure of imagination.

"Perhaps after decades of enforcing apartheid laws the SAP must learn fresh how to cultivate relationships and adapt their tactics in order to achieve public acceptability."



# Policemen charged with murder plot

SI Times 26/7/77

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THREE policemen have been charged with conspiracy to commit murder after the Goldstone commission asked the Transvaal attorney-general, Dr Jan d'Oliviera, to investigate the attempted murder of three Schweizer-Reneke activists

The case will be the first arising from the commission's inquiry into public violence and intimidation.

## Commission

Two weeks after Dr d'Oliviera made his decision, and almost eight months after the commission referred the case for investigation, summonses were served on the three policemen.

Western Transvaal police spokesman Colonel Ben van Heerden refused to divulge the names or ranks of the policemen to the Sunday Times and

By CHARLENE SMITH

said they had not been suspended.

"They are still on active duty," he said.

However, the Sunday Times has established that the men are Jacobus Lukas Marthinus Brits, Jurie Hendrik Albertus Grobler and Anton Kotzee.

They have been charged under the Riotous Assemblies Act for conspiring to commit murder or attempting to commit murder. They allegedly offered to pay R40 for each assassination.

They will appear in the Klerksdorp regional court on August 10.

This month Mr Justice Richard Goldstone criticised the police for taking an "unacceptably long time" to investigate the case.

The case is a sequel to an

exposé in New Nation last year.

The newspaper claimed it had tape-recordings of evidence that five policemen from the Schweizer-Reneke police station hired two Johannesburg men to kidnap and kill Ipelegeng Civic Association chairman Jerry Maine, ANC Youth League leader Boyce Mpempe and taxi owner Bajula Kanjee in November last year.

## Assassins

The alleged hired assassins supplied the newspaper with recordings of conversations they had had with the policemen. Evidence was given to the commission after a fake abduction of Mr Maine.

The Goldstone commission determined that there was a prima facie case of police involvement in the plot.

# Delay in Webster inquest upsets lawyers

SI Times 26/7/92  
By CHARLES LEONARD

LAWYERS representing the Webster Family Trust fear that the judicial inquest into the death of human rights campaigner Dr David Webster, killed more than three years ago, may not take place before next year.

The inquest, announced by Witwatersrand Attorney-General Klaus von Lieres on April 28, will follow unsuccessful attempts by the police and the Harms commission of inquiry to track down Dr Webster's murderers.

The Wits University anthropologist was shot dead in front of his Troyeville home on May 1 1989.

Webster Trust lawyer Greg Knott said this week no date had yet been set for the inquest and no judge appointed.

Mr Von Lieres confirmed that there had been "no change" in the status of the inquest since he submitted a request for a judicial inquest to the Minister of Justice three months ago.

## Concerned

A Justice Ministry spokesman attributed the delay to the fact that the Supreme Court was in recess until the end of the month.

"The Minister will refer the request to the Judge President of the Transvaal who, in turn, will appoint a judge to preside over the inquest," he added.

Trust lawyers are concerned over the delay.

"We have made several inquiries but are none the wiser," said Mr Knott.

"The courts are full and since no date has yet been set, we fear the inquest will not be held before next year."

The inquiry found no proof that the CCB killed Dr Webster although the names of various agents have subsequently been linked to the assassination.



# Zevenfontein relocation put on hold by court's interdict

THE relocation of several hundred Zevenfontein squatter families was temporarily halted this weekend when residents of the Nietgedacht area obtained an urgent interim interdict against the TPA (252)

Pretoria Supreme Court Judge Isak de Villiers also temporarily prohibited the TPA from continuing with the development of the Nietgedacht site for the resettlement of the Zevenfontein community

De Villiers gave the TPA and eight other respondents — including the owner of Zevenfontein farm, the Chartwell community and JCI — until September 8 to show cause why the order should not be made permanent

A TPA spokesman yesterday said that it would strongly oppose the court's interim order, and expressed regret about the inconvenience the legal action had caused the squatter community

"The Zevenfontein community currently lives under extremely undesirable conditions and we regret that they have to now suffer further inconvenience," TPA spokesman Piet Wilken said

The urgent application was launched by the Jukskei Crocodile Catchment Area

Land Owners' and Residents' Association (JCCA)

The interdict also affected the agreement signed between the owner of the farm Zevenfontein, the Chartwell community and JCI, which stipulated that the squatters would be relocated by July 31

The TPA's proposed site, north of Johannesburg, was technically and socio-economically unsuitable for low-cost housing settlement, the JCCA said in a statement

The area was strategically very important to the PWV as a major agricultural area for vegetables, flowers, fruit and other farm produce being supplied for export and the Johannesburg and Pretoria markets, the statement said

The two landowners who had been served expropriation orders by the TPA had not yet moved and had accepted the expropriation money without prejudice to their legal rights, JCCA spokesman Wessel Swart said yesterday

"The expropriated parties were extremely pleased about the successful court application," he said

## Protecting workforce

CHARLIE PRETZLIK

THE Inkatha-aligned United Workers' Union of SA (Uwusa) and the newly formed United Independent Trade Unions' Adhoc Committee for SA, which together represent 70 000 workers, say members will defend themselves against anyone trying to prevent them from going to work during the mass action campaign **BIDAM**

Uwusa and new union chairman Jabulani Dlamini last week warned of the effects of a general strike on the economy, saying many workers would lose their jobs and many might be killed in confrontations with police **27/7/92**

"As trade unions our main task is to protect workers' interests in the workplace. We appeal to the ANC/Cosatu alliance not to involve workers in any political actions"



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# Gluckman gets death threats after exposé

By Zingisa Mkhuma (252) and Peter Fabricius

Top forensic pathologist Dr Jonathan Gluckman yesterday received two death threats hours after he had gone public with allegations of ongoing torture and killing of prisoners in police custody. STAR 27/7/92

Dr Gluckman telephoned The Star and said "I've had five threatening calls this morning, two on my life. The strangest thing is that the death threat calls were obviously from blacks. It is important that the world know what is happening".

Asked if he had reported the threats to the police, Dr Gluckman said: "I don't know who to tell in the police, who would you tell?"

Witwatersrand police spokesman Lieutenant Wikus Weber advised Dr Gluckman to contact his nearest police station to make a statement.

Dr Gluckman opened his files to a Sunday newspaper in what he termed a bid to stop the continuing killing of prisoners in police custody.

Law and Order Minister Hernus Kriel has ordered a full report from the police,

within 14 days, on the facts surrounding all deaths of people in police custody over the last two years, Law and Order spokesman Craig Kotze said yesterday.

Dr Gluckman said Mr Kriel and other members of the Government, including President de Klerk, had failed to respond to past pleas for action.

The death of a 19-year-old Sebokeng boy, whose body was found in the veld 12 hours after he was arrested on July 14, prompted the pathologist — who has performed over 200 post-mortems on people who have died in police custody — to "go public".

According to Dr Gluckman, the boy's injuries were consistent with eyewitness claims that he had been brutally beaten by the police.

Referring to deaths in custody, Dr Gluckman said: "It goes on and on and on. I don't know how to stop it I don't think the Government knows how to stop it."

Democratic Party Law and Order spokesman Peter Gastrow called for "credible" outsiders to be part of an open investigation into the matter.

Sowetan 27/7/92  
**Human rights probe**

**HARARE** - A United Nations human rights team is operating from Harare to monitor the observance of human rights in South Africa as it was refused permission to enter South Africa. - Sapa-Reuter-AP-

AFP 252



# No evidence hostel inmates involved in killings - major

By Peter Wellman

MOOI RIVER — Police investigations into the alleged involvement of 172 hostel dwellers arrested in connection with the butchering of 19 Bruntville residents in December have been dropped, a police witness told a Goldstone committee of inquiry yesterday.

Major Rowan Hendrikz of the Criminal Intelligence Services in Maritzburg said there was no evidence linking any of the arrested hostel dwellers to the Bruntville massacre.

He was testifying before the committee, which is hearing evidence in the Mooi River Town Hall.

The 19 Bruntville deaths first came under the spotlight at a previous Goldstone Committee hearing at the same venue in January.

Major Hendrikz stated he

STAR 28/7/92  
did not dispute that Inkatha members from Anglovaal's Mooi River Textiles hostel launched the December attack, but said the ANC had "started it all".

He said he understood that 13 Inkatha members had been killed since January in the area, compared with six township residents, probably ANC supporters.

"It seems the ANC, from the information at my disposal, are the instigators of the violence, and the attacks on the Inkatha side are largely retaliatory."

He said the hostel was not a primary source of violence. It had merely become a stronghold for Inkatha supporters in the area.

The ANC was trying to build a power base around Maritzburg, often violently. He denied he was biased against the organisation.

Major Hendrikz was criticised by lawyer Howard Varney, representing the Brunt-

ville community, for not saying in his written statements that the ANC had wanted a peace committee to continue operating in the area.

He had also not mentioned that Inkatha members were armed on arriving at an ANC peace meeting.

Major Hendrikz conceded he had done nothing personally to help make the peace process work in Bruntville, but said it was necessary for all parties to thrash out problems.

He agreed with Mr Varney that a police Casspir should be returned to the area to observe activities at the hostel.

He also agreed that if hostel dwellers were escorted to work and back, there would be no need for them to carry spears.

The commission has already made several recommendations concerning the Mooi River area, including the monitoring of the hostel and putting an end to the carrying of weapons.

Whether or not these have been implemented is going to be a constant theme during the three-day hearing.

The SADF's Commandant Dudley Wall, also testifying to the Goldstone Committee yesterday, stressed that the army was trying to meet security force recommendation by the commission and said troops had signed a pledge of neutrality.

He said lines of command had been sharpened (another Goldstone recommendation), and the fact that the army had been criticised by both sides showed its impartiality.

Asked what could be done to defuse tensions at Bruntville, he said the person with the answer could solve all the country's problems.

Mr Varney said residents were close to not taking part in a hearing at all. Unless the issue of implementing the Goldstone recommendations was dealt with in detail, he would withdraw from the hearing, he said.

# 'I admitted necklacing after indemnity offer'

DURBAN — A young Pinetown policeman, one of five charged with the alleged necklacing of a man, told a Durban magistrate yesterday he had confessed to the crime because he was promised indemnity from prosecution and would be made a State witness

Lance-Sergeant Simon Gerald Coetzee and four other policemen are alleged to have necklaced Vusi Phiri at Mariannahill in January

They have pleaded not guilty to the charge

Sergeant Coetzee said he had confessed to a magistrate that he was involved in the crime,

but would not have done so if the investigating officer had not promised to indemnify him. The police had the facts of the case when they met him.

Sergeant Coetzee said that when he left the scene on the night of the crime, the victim was still alive

The others before the court are Sergeant Mark Allen Lucy, Constable Daniel Wilhelmus Potgieter and constables Pieter Loubscher and Bradford Brown

The trial-within-a-trial on the admissibility of Sergeant Coetzee's statement continues today

Sapa



# Cell death claims still pouring in

STAR 28/7/92

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**F**ORENSIC pathologist Dr Jonathan Gluckman is by no means a lone voice levelling the accusation that members of the police force appear to continue to inflict torture and death with disturbing regularity.

A chorus of support for his position has issued from monitoring groups and lawyers. Like Dr Gluckman, they deal with deaths in custody and deaths due to allegedly unjustifiable use of force by the police. But lawyers also deal with numerous living victims of alleged police torture and assault.

According to the Human Rights Commission (HRC), "politically related" deaths in custody have occurred twice as frequently during the era of negotiations as they did during that of the "total onslaught". Figures compiled by the HRC put the total number of deaths for 1984 to 1989 at 29, and that from January 1990 to date at 28.

The HRC records 12 deaths in custody in the first six months of this year alone, comparing unfavourably with the worst periods on record — 1976 and 1977 — when 13 deaths were counted in each year.

Mohamed Navsa, director of the Johannesburg office of the Legal Resources Centre (LRC), said his staff were concerned about the number of requests they were getting from families to represent them at inquests. "We strongly support Dr Gluckman's position that there should be an inquest in open court for every death in custody," Mr Navsa said.

He added that the LRC still saw numerous cases of alleged police assault.

"I don't think this is related to an orchestrated police effort. It just seems that a Rambo-istic psyche prevails. We don't have many political cases, assault seems to be prevalent even in criminal matters," he said.

The HRC ascribed ongoing deaths in custody largely to a police culture which "is such as to hold black life in low regard. Throughout the police force, not only within the ranks of the security police, there is an attitude which justifies the use of torture and other brutal methods carrying a high risk of death in waging a war against a perceived enemy."

Only the ending of minority

Torture and deaths in custody have not waned in the age of negotiations, lawyers say in the wake of Dr Jonathan Gluckman's claims of police culpability.

By JO-ANNE COLLINGE.

rule could break this culture, the HRC argued, adding the warning that the retention of detention without trial legislation was "a sure recipe for torture and for the inevitability of deaths as a consequence of such torture".

However, according to lawyers and press files, many of those who die in custody or who allege torture were not held under security laws, but as suspects or potential informants in criminal matters.

For instance, in May this year Johannesburg wage clerk Kathleen Brookstein laid charges against three members of the Soweto Murder and Robbery Squad who allegedly stripped her naked and subjected her to sexual assault, electric shocks and suffocation during interrogation about the theft of money. No charges were laid against her.

## Drowned

One of the men she accused is Sergeant Stephen Bouwer, who was allegedly involved in the June 1990 interrogation of two Soweto women, Vivienne Makgobe and Sibongile Zamisa. They also alleged that they were electrically shocked at Protea police station and instituted a large civil claim.

Bethuel Maphumulo, arrested on December 11 last year for robbery, died two days later. Police said he had drowned in the pool at Soweto's Protea police station while trying to escape. Post-mortem results indicated multiple injuries and strangulation as the likely cause of death.

Attorney Norman Manom said Cheadle, Thompson and Hayson indicated that these types of allegations were by no means rare. His firm still received regular complaints of severe assault by the police.

Typically, he said, assault was alleged to take place soon

after arrest under the Criminal Procedure Act, not during security law detention as in the past. The drop in the use of security law detention explained the virtual disappearance of publicity-generating court action to restrain the police from unlawful assault.

"Urgent applications were made because people were in detention, often incommunicado, and didn't have access to the outside world for help," Mr Manom said.

An attorney with a law firm doing extensive work in the Vaal Triangle stated that virtually every client who was arrested in that area had reported assault by the police.

"In March I had seven youths for whom I did an after-hours bail application. They were in a complete state — blood dripping down them, blood on their clothes, one with a damaged jaw, another had been painted white," the attorney said.

The cloak of secrecy that surrounds interrogation and the absence of disinterested witnesses inevitably hinders judicial inquiries into individual cases of torture and death in custody. But the difficulties of inquiry are scarcely reduced in cases such as that of Thumani Padi and his girlfriend, Nokuzola Ncalo, who were shot dead by police in Phiri, Soweto, just over a year ago.

The question is whether the police use of force was justifiable. The police statement at the time of the Padi case was that they had acted in self-defence when Mr Padi, a former detainee, attacked them with a hand grenade. But family members claim the pair were shot dead in bed.

The inquest has not yet been concluded.

The controversy in the Padi case finds echoes in the deaths of other political activists, such as former MK members Rangoane Lefhedi of the Vaal and George Mashale of Vosloorus — both of whom died during police action at their homes.

When Dr Gluckman decided to "go public" on the implications of the physical battery he had seen, he had in mind a pattern formed by about 200 cases.

Law and Order Minister Hernus Kriel has responded by promising a "full-scale" investigation of deaths in custody. □



# Man dies at police station as row rages

STAR 28/7/92

By Bronwyn Wilkinson

A storm of controversy continues to rage around pathologist Dr Jonathan Gluckman's allegations that police have been killing people in their custody

While medical, legal and political organisations demanded an independent inquiry into custody deaths, a man "collapsed and died" in custody in Vosloorus police station, police said.

The 20-year-old man who died on Sunday had been arrested for stealing a firearm and police promised a full investigation into his death.

The Medical Association of SA (Masa) yesterday demanded an independent inquiry into deaths in police custody and said doctors should be bound by the Tokyo Declaration guideline that doctors "shall not coun-

tenance, condone or participate" in torture

Masa called on all members of the medical fraternity to support doctors who were threatened because they abided by the principles of the Tokyo Declaration

Dr Gluckman's allegations — he said that about 90 per cent of 200 deaths in police custody he had investigated had been caused by the po-

● Cell death claims pouring in — Page 19

lice — caused an outcry from legal, human rights and political groups yesterday.

Since going public with his allegations on Sunday, Dr Gluckman has received at least five death threats

While organisations demanded an independent inquiry into deaths in custody, Dr Gluckman said he had faith in the men in the top echelons of the police force and would be satisfied with a police investigation.

"The problem is on the ground. The lower rungs of the police are totally out of control," said Dr Gluckman, who conducted a post-mortem on Steve Biko in 1977.

Minister of Law and Order Hennis Kriel on Sunday promised that the allegations would be investigated. He ordered a full report from the police, within 14 days, on the facts surrounding all deaths of people in police custody over the past two years.

Two top State pathologists said yesterday they had personally never seen cases where police had killed people in custody

Chief State pathologist

● To Page 3

## break-ins: s arrested

burg Regional Court today

The guards have been linked to 11 break-ins in Johannesburg's northern suburbs, Lieutenant Wikus Weber said yesterday

Lieutenant Weber said stolen goods including office equipment and video recorders worth R50 000 had been recovered. More arrests were expected. He denied that a policeman was also involved.

Last night, Armed Response managing director Errol Feldman described the arrests as "a breakthrough"

## Outcry after allegations by pathologist

● From Page 1

Professor Johan Laubscher said he had never worked on a case where the police had been responsible for a death in custody. Sapa quoted him as saying that many people committed suicide in police custody

"It happens in all legal systems round the world that prisoners die in detention, but South Africa is specifically sensitive to the problem"

Another State pathologist, who asked not to be named, told The Star he was aware that people died in custody, "but that does not mean they were killed

by the police"

The doctor said he had come across "one or two" cases where police had assaulted detainees who later died. "But they did not actually die at the hands of the police"

The Department of National Health said in a statement it was not the duty of a pathologist to decide who was responsible for a death. "The only task of the pathologist is to determine the cause of death"

The SA Council of Churches said Dr Gluckman's revelations confirmed its own observations and commended him for his

courage in going public.

The ANC called for an independent public investigation into the allegations

The PAC said State violence was fuelling a deep distrust of the security forces

The Black Sash questioned the effectiveness of an internal inquiry, saying it could be manipulated by the State

The Legal Resources Centre called for "an inquest in open court in relation to every death in custody"

● Cell death claims pour in — Page 19.

# Call for probe into legal profession

THE General Council of the Bar of SA has called for a commission of inquiry to investigate the structure and role of the courts and the legal profession. **51089/28/7/92**

The council, which held its 47th AGM in Johannesburg last week, said yesterday it was concerned about the lack of progress made to accommodate into the profession returning exiles with legal qualifications.

"The council's proposals in this regard were submitted to the Minister of Justice during February 1991 and all justice groups in Parliament have been furnished with these proposals,"

SUSAN RUSSELL (252)

the council said

It said the commission of inquiry should investigate the quality of legal services and the establishment of a comprehensive legal aid system, the qualifications and requirements for entry into the profession and the restructuring of the Supreme Court.

The council "noted with concern the apparent readiness" of the parties at Codesa to accept the principle of detention without trial, and restated its opposition to provide for such detention in any future dispensation.

# Probe told of lack of prosecutions

By Peter Wellman

MOOI RIVER — More tales were told of failed court actions by police on the second day yesterday of a Goldstone Committee of Inquiry into renewed violence in Bruntville township.

Colonel Geoff Barbour, district commandant in Lady-smith, said the Attorney-General had refused to prosecute policemen for using false vehicle plates in Bruntville.

There had been no departmental action yet, because he had heard only five days ago of the Goldstone Commission's recommendation that false number plates should be illegal in police work. And departmental action came only after criminal action, he added.

Mooi River station commander Captain John Dewing said the Mooi River prosecutor had withdrawn charges against four Inkatha Freedom Party members for carrying dangerous

weapons. The Deputy Attorney-General had written to tell police there had been a misunderstanding over the charges.

However, another similar case was also thrown out.

Captain Dewing and Colonel Barbour were outlining what the police had done to comply with recommendations made by the Goldstone Commission in February.

On Monday, the committee heard that a case against 172 men arrested for the December massacre of 19 Bruntville residents had also been withdrawn.

Yesterday, Gideon Lotz, SC, for the Minister of Law and Order, said the case had been provisionally withdrawn, meaning it might yet go ahead.

The police had also misunderstood a recommendation to appoint a senior police officer at Mooi River with clear lines of command.

Colonel Barbour had not realised that Mr Justice Goldstone was talking about the officer

currently co-ordinating police handling of unrest. And Captain Dewing thought it meant this officer should be sacked.

Colonel Barbour said a special "internal stability unit" of about 80 men would be formed at Colenso to co-ordinate police work in the whole area.

He produced a new form for policemen to use in townships, but Goldstone committee members and the lawyer for the Bruntville community questioned whether the form went far enough to secure a better prosecution record — which Judge Goldstone has urged.

Captain Dewing became the third police witness to say he thought the ANC was primarily responsible for violence in the area. But he also said the police had to be unbiased to regain the trust of the community.

SADF captain Christiaan Botha read a statement denying the army had absented itself from Bruntville on the night of the December massacre. He will be cross-examined today.

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# Gluckman 'not called for evidence'

By Bronwyn Wilkinson

Dr Jonathan Gluckman, who caused a storm with allegations that police were killing people in their custody, has not been called to give evidence at an inquest for 18 months.

That was in spite of having given lawyers several complete reports of his findings from post-mortems on people who had died in custody.

"If a family came to

me and told me someone had been beaten over the head with a rifle butt or had been severely assaulted, my report would state the injuries I found and that they were consistent with the story I had been given," Dr Gluckman told The Star

He did not know the outcome of the inquests

"But I presume that if I was never called to give evidence and the outcome was still suicide, the magistrates

never saw my reports, and the report of the State pathologist must have differed from mine," he said.

Dr Gluckman said he had decided to make his allegations public after he had contacted the State President, the Commissioner of Police and the Minister of Law and Order, and no action was taken.

A statement from President De Klerk's office yesterday said Law

and Order Minister Hernus Kriel had already given preliminary explanations regarding the lapse of time.

The Government was addressing the allegations urgently and on a co-ordinated basis, and a full statement would be released later

The Inkatha Freedom Party yesterday joined other in demanding an independent inquiry into the deaths of people in custody.

cy of buses was expected on some routes. — Sapa-Staff Reporter.

## Action on camp urged

STAR 29/7/92  
The Goldstone Commission has recommended that the Ivory Park squatter camp at Midrand be proclaimed a township, and policing be improved to help curb the taxi war there.

An interim report of the committee probing taxi violence found that Midrand municipal enforcement agencies enjoyed no official recognition in the camp because it was not an official township.

The Midrand municipality's application for it to become a township had not been approved after eight months.

The committee found the cause of the violence was competition between two taxi associations for the new market among the 70 000 residents of Ivory Park. — Political Correspondent

## Transkei mass action

STAR 29/7/92  
Transkei's capital, Umtata, and Butterworth, the main industrial centre, were brought to a halt yesterday by a mass action stayaway in which thousands of people marched on the two towns

## Trade boycott to start

STAR 29/7/92  
A two-day consumer boycott of white businesses in the northern Transvaal towns of Louis Trichardt, Levubu and Messina begins tomorrow.

## Telkom exhibits in Zambia

Telkom SA will exhibit its products at a show in Lusaka this month. Telkom said in a statement yesterday it would show the Magnolia telephone and the T1000 telex machine at Zambex '92 from tomorrow to Monday.

## Mother: I killed my child

A woman admitted in Durban Regional Court yesterday she killed her 22-month-old daughter by driving into the harbour with the child in the vehicle. Pamela Anne Drennan (36) of Pinetown was nearly inaudible as she pleaded guilty before Mr G J Maree to culpable homicide

# Train deaths baffle Goldstone

*Sowetan 29/7/92*  
■ ANCYL voices its concern and is unhappy with the ANC's 'inconsistency' in handling the negotiations: *252*

## Sowetan Correspondent

A COMMITTEE of the Goldstone Commission has found that it cannot be determined who is to blame for the violence on trains on the Reef, with the killings being seen as a spill-over of the unrest in black townships

The committee, which released its findings in Pretoria yesterday, was appointed to investigate the train violence that claimed 138 lives between July last year and April this year

The committee said, however, that secondary causes had been identified

These included poor entrance control at stations, packed trains and the carrying of weapons in public

The committee said there was a decided lack of control over entrance to stations

Overloaded trains during peak periods also made it impossible to maintain law and order, while the absence of interleading doors between carriages made it impossible for passengers to flee from attackers, causing them to

leap from doorways and out of windows. Moreover, poor control at exit points made it possible for assailants to escape easily, the committee found

The committee said although witnesses frequently blamed hostel dwellers for the violence, other unidentified groups had also been involved

In a separate interim report, the commission said the most obvious steps to alleviate violence in the taxi industry in the Midrand area between Johannesburg and Pretoria would be to recognise Ivory Park as a township. The roots of the discord were to be found in the commercial competition between rival taxi organisations



mal inquest."  
However, if the documentation

Another letter from Gluckman, which De Klerk received early last

stances surrounding the death of prisoners," the SACC said.

● Comment: Page 10

## Pupils warned about stayaway

LAST year's disastrous matric results could be repeated if pupils heeded the call to join the campaign for mass action, the Department of Education and Training (DET) said yesterday

The warning followed a call by the ANC-aligned Congress of SA Students (Cosas) earlier this week for pupils to boycott classes in support of the general strike scheduled to begin next week

At a news conference yesterday the DET's Johannesburg regional chief director Richard Motau said there were many teachers and officials in his department who looked towards the end of the year "with feelings of fear and trepidation".

ANC education department spokesman Lindelwa Mabandla said his organisation had concluded at its national conference earlier this year that education had suffered greatly as a result of pupil participation in mass action

KATHRYN STRACHAN  
and RAY HARTLEY

While the ANC would not actively go against the call made by Cosas, his department believed that it was the role of pupils to learn

The Inkatha Youth Brigade condemned the boycott as unrealistic

Other mass action plans aimed at reviving the flagging campaign in the PWV included a call on traders to close shops on Monday and numerous rallies across the Reef early next week, ANC regional spokesman Ronny Mamoepa said yesterday

CHARLIE PRETZLIK reports that the National Education, Health and Allied Workers' Union (Nehawu) yesterday said it would start occupying private institutions this week

Nehawu general secretary Phillip Dexter said last night that this would affect private hospitals as well as shops and factories. The action would form part of mass action as well as being in support of the hospital strike.

## Trials may be held on camera

Political Staff

CAPE TOWN — Trial by television is poised to become a feature of the SA legal system early next year, following this week's approval of proposed legislation by the Parliamentary standing committee on justice.

The time-saving system will use video linkups between courts and prisons and will be used to facilitate petty cases where the accused plans to plead guilty, and remands

It will be used for people in custody who plead guilty to charges carrying a fine of not more than R1 000 or imprisonment of not more than three months

TV courtrooms will be installed in prisons around the country and linked to magistrates' courts

The magistrate will be able to see the prisoner on his monitor while the prisoner will be confronted by the presiding officer on his screen

# Gluckman not called to inquests for 18 months

BIDAY 29/7/92

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STEPHANE BOTHMA

INDEPENDENT pathologist Dr Jonathan Gluckman, who claims his post mortems showed multiple deaths of detainees at the hands of policemen, has not been called to testify in an inquest during the past 18 months

Gluckman said he received briefs from attorneys representing families of the deceased or organisations such as Lawyers for Human Rights

Reports were handed to clients and after that Gluckman had no control over what happened to his findings

Gluckman said informal inquests were not held in an open court

A Justice Department spokesman said last night all deaths in police custody were subject to an inquest. Every inquest finding was available to the public and was referred to the attorney-general

All documents, including independent post mortem reports, were referred to a presiding officer — a judge or a magistrate — who decided whether the inquest would be formal or informal, the spokesman said

"If the circumstances of death are cut and dried, the presiding officer makes a final decision there and then. This procedure constitutes an informal inquest"

However, if the documentation

raised questions, the presiding officer called for a formal inquest where witnesses would be called to testify. The presiding officer did not have complete discretion and was bound by strict guidelines.

An attorney-general had the power to prosecute, reopen the inquest or accept the findings

Meanwhile, President F W de Klerk said last night independent pathologist Dr Jonathan Gluckman was "unfortunately" not informed about a comprehensive investigation into his claims of detainees dying at the hands of policemen

De Klerk said this fact had apparently created the impression that government had not given the allegations the urgent attention they deserved

De Klerk said that on receiving allegations from Gluckman he arranged for the Law and Order and Correctional Services Ministers to discuss the allegations with the pathologist

"Gluckman expressed his satisfaction with the procedure that was followed"

Another letter from Gluckman, which De Klerk received early last

month, was given to Law and Order Minister Hennis Kriel for urgent investigation and a report-back to De Klerk. A more comprehensive investigation was ordered, but Gluckman was not told of its progress

In London, Archbishop Desmond Tutu said the SAP needed to carry out a "massive purge", Sapa-Reuter reports

Tutu, on a six-day private visit, described Gluckman as "exceedingly courageous. These are some of the things we have always suspected"

Inkatha yesterday joined the call for an independent judicial inquiry into the claims.

Spokesman Ed Tillet said Inkatha rejected an internal police probe because of the suspicion that this would amount to a police cover-up or manipulation by the state

The SA Council of Churches called on security force members who had information on practices which they had reason to believe were not consonant to their duty, to come forward

"Police as well as prison warders must be accorded some form of protection which will enable them to testify to the truth on the circumstances surrounding the death of prisoners," the SACC said

● Comment Page 10

**Police respond  
to criticism**

by Goldstone

MOOI RIVER — The police

yesterday stressed they had done all they could to implement the Goldstone commission's recommendations aimed at ending violence, although they had misinterpreted one and had difficulties with others.

Ladysmith district police commissioner Col Geoffrey Barbour and Mooi River police station commander Capt Jonathan Dewing were giving evidence before a Goldstone commission committee investigating the failure of peace efforts in Bruntville.

Goldstone's recommendations included stricter action on the carrying of dangerous weapons, the appointment of a senior police officer to oversee unrest policing in Bruntville, improved ways of gathering information on crimes and violence, the ending of searches without warrants and the use of police vehicles with false numberplates, and the implementation of peace structures.

The police counsel conceded that the recommendation on dispatching a police officer to Mooi River police station to oversee unrest policing had been "misinterpreted".

Dewing had taken over this role, while remaining the station commander.

The issue of dangerous weapons in public had also posed problems as police had arrested people carrying spears soon after January's commission, but the attorney-general had failed to prosecute.

The practice of using false numberplates had ceased, as had searches without warrants.

This was contested by the ANC's legal representative John Jeffrey, who named three houses and dates on which they had been searched without the necessary documentation.

Dewing said police had attempted to assist in peace structures but these had failed dismally.

Responding to questions from Jeffrey, Barbour said police regarded the ANC as the aggressors.

He added the perception that police favoured and collaborated with Inkatha hostel dwellers was incorrect.

Jeffrey questioned Barbour on what his view was of ANC supporters' reaction to the recent dropping of charges against about 170 hostel dwellers implicated in a massacre in Bruntville last December.

Barbour conceded they must have felt "negative" towards police, but added that evidence on this issue would be led later. — Sapa

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Wednesday July 29 1992

# NEWS 27 arrested

## News inbrief

### 'People's justice'

People's Justice Party (PJP) was formed in 1988 as a political party to represent the interests of the poor and the oppressed. It has been active in various social and political movements. The party's platform includes social justice, economic reform, and political participation. It has been a significant force in the political arena, particularly in the context of the 1992 elections. The party's activities have been characterized by its commitment to the welfare of the common people and its opposition to the established political order.

*Swejan 29/7/92*

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# No tests done after massacre, probe told

By Peter Wellman

MOOI RIVER — No forensic tests were carried out after the December massacre of Bruntville residents by hostel inmates, a Goldstone Commission committee was told here yesterday.

And no useful eye-witness reports were obtained either, said Warrant-Officer Johan Benade, investigating officer for 15 murders on December 4.

Four other residents were killed the previous night, but another policeman was investigating those.

Warrant-Officer Benade said under cross-examination by Howard Varney, of the Legal Resources Centre in Durban, representing the Bruntville community, that photographs had been taken at the 15 death scenes, but nothing else was done. No fingerprints, blood samples, clothing, broken glass, or other evidence was collected for forensic testing, he said.

He knew that 172 inmates of the Bruntville hostel had been arrested — but he did not send

their clothing or weapons for forensic testing

He had inspected their clothing and seen no bloodstains, but agreed with Mr Varney that forensic clues were sometimes microscopically small

Warrant-Officer Benade said the weapons of the 172 men had been placed in a bakkie when police and troops arrested them, and the weapons could therefore not be linked to any particular individuals

He said neither police nor troops could identify any one man, or any crime committed by an individual, apparently because it was too dark to see clearly when the men were arrested. For that reason, he had not held an identity parade

And although he knew that possibly hundreds of other hostel inmates had escaped arrest, no attempt was made to check either weapons or clothing at the hostel for forensic clues

Warrant-Officer Benade said he had a task force of 12 men but had not assigned any of them on the day of the massacre to gathering eye-witness or forensic evidence.

He agreed with Mr Varney that he could have done with more help, but had not asked his superiors for assistance.

He told the inquiry he knew that an earlier Goldstone inquiry in January had begun investigating the December massacre, but he had made no attempt to get the information that had been presented there.

"I saw no reason at the time to approach the staff of the Goldstone Commission" he said.

Asked to explain this, he said. "I thought that when the commission broke up, they all left."

He agreed with John Jefferey, representing the ANC's Mooi River branch, that the "common-purpose rule" did not mean that individuals had to be linked to individual weapons, and that on that basis, forensic tests might have been useful.

"It could have been done," he said.

● Reference had often been made in evidence to "The Moor-tex Hostel". Moorriver Textiles is owned by Anglovaal, but the hostel is owned by the Natal Provincial Administration

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# Editor let off hook over memo

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STAR 30/7/92  
By Susan Smuts

Vrye Weekblad editor Max du Preez yesterday had a conviction under the Protection of Information Act overturned in the Rand Supreme Court.

Mr du Preez and the Vrye Weekblad's publishers, Wending Publications, were appealing against a conviction for the possession of — and published reference to — a memorandum written by the former director of the Institute of Soviet Studies at Stellenbosch University, Professor P. Nel, to the National Intelligence Service.

Overturning the conviction for possession of the document, Mr Justice J P Rous, with Mr Justice MacArthur concurring, said the memorandum was "innocent stuff" which "would not have inspired author John le Carre to write a thriller".

The judge however agreed with the conviction for publishing the information, but set aside a fine of R5 000 for Wending Publications and R2 000 for Mr du Preez.

Under the Act, anyone who knowingly receives a document protected by the Act is guilty of an offence. The State had not shown who had given the document to Mr du Preez.



**NEWS** How the police infiltrated the ANC • The strikes continue, according to Nehawu

# ANC members lissed by cops, says Colonel

Sowetan 30/7/92

Sowetan Correspondent

INSIDE MOVES Committee told

they helped uncover secret operations:

**P**OLICE ARRANGED for intelligence operatives within the ANC's department of security and intelligence and was aware of efforts to expose its undercover operations, the Goldstone Commission heard yesterday

Giving evidence yesterday before a committee of the commission investigating police safe houses, Lieutenant-Colonel Jan Daniel Potgieter of the WITS-Crime Information Service said it was a well known strategy of the DIS to identify police agents and recruit them in order to expose undercover operations

Potgieter alleged the exposé by the *Weekly Mail* of certain SAP undercover operations was part of the strategy of the DIS. He said the *Weekly*

*Mail* claimed the covert police units were involved in the instigation of violence

On February 21 1992, the colonel said, he interviewed one Solly Mngomezulu in Randfontein to evaluate his suitability as an intelligence agent for the police. This Mngomezulu was a former ANC member who had been detained for eight years by the movement on allegations of being a police agent

Mngomezulu wanted revenge against the ANC, and Potgieter said he told him he could not use the South African Police for a personal vendetta against the ANC

The interview took place at a safe

house in Randfontein Estates, and the colonel decided to employ Mngomezulu as a "spotter" who could identify potential informants for the SAP. He could also gather information about the illegal smuggling of arms

Potgieter denied Mngomezulu had been given training by the police which he could use to murder anyone. He also denied that a woman called "Granny" was known to members of his unit

He also denied knowledge of the farm Klemmadel in Parys. He said it was the first time he saw the farm when he visited it with members of the Commission on June 2 this year. Mngomezulu's services to the SAP were officially ended on March 31

Potgieter told the committee that in December 1991 a Sergeant Steenkamp told him one of his informants had been recruited by the ANC Youth League to undergo a three-week training course in the Phola Park self defence unit

He instructed Steenkamp to let the informant join the defence unit with a view to obtaining inside information on the defence units. In January 1992 Potgieter received information that the informant had broken contact with his handler

Shortly thereafter he received information that a person with the name Kolsang had confessed to the ANC in the Vaal Triangle that he was a police agent. The *Weekly Mail* published this information on May 18. Potgieter confirmed Kolsang was a police agent who had received a total of R1 450 from the SAP

Potgieter denied allegations in the *Weekly Mail* of May 15 and 18 that the SAP were involved in the instigation of violence

# Cops did not use evidence

## BRUNTVILLE MASSACRE Officer says very little forensic tests were done

Sowetan 30/7/92

THE officer investigating the Mooi River massacre yesterday told a Goldstone Commission inquiry he had not seen or acted on evidence on the killings presented to a commission in January.

"No statements from the January sitting were given to me and no statements came to my knowledge," said W/O Johan Benade.

Benade was responding to questions by advocate Mr JJ du Toit on his investigations into the December massacre which had also been investigated by a Goldstone inquiry in January.

Charges against 172 Bruntville hostel dwellers have since been dropped due to insufficient evidence.

(152)

"It (the Goldstone report) wasn't discussed with me. I didn't think anything could have helped me," said Benade.

Under cross-examination by members of the committee, Benade further revealed that:

● He had been unable to link any of those arrested to weapons confiscated during and after the massacre;

● He had still not received a single statement from Bruntville residents who came under attack;

● He could not prove that 14 bodies at the scene of the massacre were directly linked to those arrested, despite arrests taking place during the killing spree - Sapa

# TPA to delay pensions pay

## Mass action forces delays:

THE PAYMENT of social pensions to 22 black townships on the East Rand, Vaal Triangle and West Rand has been postponed for a week.

The mass action spearheaded by the African National Congress next week was given as the reason for the delay by the Transvaal Provincial Administration.

The TPA said transport to pay points might not be readily available to the elderly during this period and there was no guarantee that the necessary staff would be available, and it feared the areas might be inaccessible.

The areas affected are Soweto, Sebokeng, Boipatong, Bophelong, Sharpeville, Orange Farm, Poortjie, Tokoza, Kallehong, Vosloorus, Tembisa, Daveyton, Watville Kwathema, Duduza, Ratanda, Syathemba, Ntorwane, Boteng, Impumelela, Zonk'izizwe, Ivory Park and Tsakane.

Payments usually made from the third to the seventh of each month will now be paid out from August 10 to 14, while payments usually paid out from the 10th to the 14th day of the month will now be paid out from August 17 to 21 - Sapa.

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## Township youths kill ANC leader

AN ANC member in Naledi, Soweto, died after being attacked by youths on Tuesday night, the ANC said yesterday.

Soweto police liaison officer Capt Joseph Ngobeni confirmed Shasha Merohle's death, but could not verify the ANC's claim that there was a link between the killing and an earlier arson attack on another ANC member's home. "At this stage a case of murder is being investigated. The motive has not been established," Ngobeni said.

ANC PWV spokesman Ronnie Mamoepa said Merohle, the Naledi branch secretary, was shot by youths when he went to investigate an arson attack at the home of Katang Masemola. Two ANC members with Merohle escaped unhurt. The youths were allegedly pupils at the Thomas Mofolo Secondary School.

Mamoepa said the attack seemed to stem from a weekend incident in which two Thomas Mofolo schoolboys tried to rape a girl at Masemola's home. The girl was rescued by Masemola's brother, but the boys returned with a group of friends and allegedly attacked the Masemola family with beer bottles. Two schoolboys were killed in the confrontation. Masemola, his father and "other children" were injured, Mamoepa said.

He said the boys had returned on Tuesday night "and set alight Mr Masemola's home and another house nearby".

An ANC team of regional organisers is investigating the incident. Mamoepa appealed to Naledi residents "not to engage in acts of revenge as this can only lead to a cycle of violence." — Sapa

## Coetsee's invitation to Gluckman

30/7/92  
JUSTICE Minister Kobie Coetsee said yesterday he had invited independent pathologist Dr Martin Gluckman to supply him with a list of inquests Gluckman considered contentious.

Coetsee said such a list and any evidence Gluckman might have which would not have been available to the presiding judicial officers at the time of the inquests would be forwarded immediately to the attorney-general of the region concerned.

The attorneys-general could decide to have any inquests reopened, Coetsee said. Meanwhile another robbery suspect died while in police custody yesterday "by jumping to his death" from the eighth floor of a Hillbrow flat, police said.

30/7/92  
STEPHANE BOTHA

The death of the 29-year-old suspect was the second this week in police custody and came in the wake of the storm caused by Gluckman, who claimed regular killing of detainees continued.

Witwatersrand police liaison officer W/O Andy Preke said the suspect, taken to a block of flats in Hillbrow by detectives, allegedly jumped over the banister on the eighth floor to his death.

Meanwhile, the National Association of Democratic Lawyers yesterday joined the call for an independent investigation into Gluckman's allegations.

## Massacre probe by police is under fire

30/7/92  
MOOI RIVER — Police investigations into the massacre of 18 people in Mooi River's Bruntville township in December last year came under severe criticism at a Goldstone commission inquiry yesterday.

A legal representative for the Bruntville peace committee described as "a monumental blunder" omissions in the investigation that led to the withdrawal of charges against 172 suspects.

30/7/92  
At the commission's second sitting in Mooi River this year to investigate political violence in nearby Bruntville, the investigating officer into the massacre said he had not seen or acted on evidence led during the first Goldstone inquiry into the December 3 and 4 killings as he did not think it would have relevance.

It was pointed out to W/O Johan Benade, by Howard Varney representing the Bruntville peace committee, that 24 affidavits had been presented to the first commission's sitting in January that would have helped his investigation since he had been unable to obtain statements from ANC supporters.

Lack of evidence caused violence charges against 172 Bruntville hostel dwellers to be provisionally withdrawn. Benade at first said he was unaware what the January Goldstone sitting was investigating, but under stern cross-examination by the commission's J J du Toit he conceded he knew it would be looking into the massacre. Several other flaws in his investigation were highlighted during cross examination, many of which Benade agreed should have been better attended to.

Among others he failed to take blood samples, collect evidence at the scene or carry out forensic tests in an attempt to identify the killers. His investigations at the scene were confined to taking photographs.

Benade said investigations were continuing and he would make the necessary adjustments.

The three-day inquiry ended uncompleted with chairman Prof Dirk van Zyl Smit adjourning proceedings until September 2 — Sapa



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# Vrye Weekblad wins case

SUSAN RUSSELL (252)

FINES totalling R7 000 imposed on Vrye Weekblad editor Max du Preez and the newspaper's publishers Wending Publications by a Johannesburg magistrate for contravening the Protection of Information Act were set aside on appeal in the Rand Supreme Court yesterday

Du Preez and Wending Publications were found guilty in October 1990 on two counts of contravening the Act

The charges arose from an article published in Vrye Weekblad in February 1990 which contained extracts from a memo sent to the National Intelligence Service (NIS) by Stellenbosch University's Institute of Soviet Studies director Prof P Nel *BIDAM 30/7/92*

Both yesterday appealed against the first conviction for receiving a document in contravention of the Act. They did not appeal against conviction on the second count, which was for publishing the offending material.

Judge J P Roux, with Judge N MacArthur concurring, upheld their appeal against the first conviction

The judges also set aside the fines imposed in respect of both convictions. Du Preez and Wending Publications were cautioned and discharged

The judge said it was his impression that the document dated July 31 1987 was "innocent stuff"

According to Prof Nel the object of the memo was to counter the naive views the intelligence services had of the Soviet Union at the time.

He described the state's response to the Vrye Weekblad article as "almost hysterical"

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INCE

## African students to debate human rights

STUDENTS from universities all over Africa will meet for the first time to discuss human rights issues in southern Africa later this year

The meeting — organised by the Pretoria University's Centre for Human Rights Studies — will be held in Harare in September and will take the form of a moot court competition

Pretoria University spokesman Tessa Wessels said the purpose of the competition, entitled "Southern Africa — From human wrongs to human rights", was to

KATHRYN STRACHAN

BIDAM 311192.  
encourage communication between the various law faculties and to create an awareness of human rights (252)

The finalists will argue a typical bill of rights case before a panel comprising the chief justices of seven African countries.

Students from the universities of Botswana, Lesotho, Madagascar, Mauritius, Rwanda, Tanzania, Uganda, Zambia, Zimbabwe and all SA universities have indicated they will take part

# Kriel details probe progress as third prisoner

A THIRD death in police custody was reported this week as Law and Order Minister Hernus Kriel denied pathologist Dr Jonathan Gluckman's claims of government indifference to reports of the killing of detainees by policemen.

Ambrose Xola Macakathi, 30, was found hanging from a cell window at the Protea police station in Soweto yesterday. He had allegedly torn his pillow into strips, which he used to hang himself. Police said no foul play was suspected at this stage.

On Wednesday a suspect fell to his death from the eighth floor of a Hillbrow block of

flats, while allegedly leading police to an accomplice. Another suspect died at the Vosloorus police station on Sunday.

Kriel yesterday listed the progress made in investigations into seven deaths in custody mentioned by Gluckman, but said only in two cases had findings been made by an inquest. These findings were being reviewed by the attorney-general.

Kriel said in another case — the death in detention of Daniel Mokgalaka on November 1 last year — two policemen had already been charged with murder and their trial would be heard on August 25.

BIDAY 31/7/92

STEPHANE BOTHMA

The decision of the attorney-general was being awaited in the alleged murder in detention of Duke Sene, who was arrested on January 15 this year on a charge of resisting arrest. A murder docket was opened and submitted to the attorney-general on May 26, Kriel said.

Three cases — the deaths of Joseph Koetz on January 18, Simon Sieema on May 14 and Simon Mthimkulu on July 15 — were still being investigated and evidence would be made available to the attorney-

general as "quickly as possible"

On the two inquests, Kriel said Columbus Maqobo was arrested in Vanderbijlpark on a charge of armed robbery on July 23 last year. On the way to a magistrate, where Maqobo was to make a voluntary statement, he complained of a pain in his chest and died shortly afterwards.

A state pathologist could not find external signs of assault or injury and could not determine the cause of death. The magistrate who conducted a formal inquest could not make a finding and the docket was referred to the Transvaal attorney-

(252) general

Only then did an attorney representing the family of Maqobo contact the attorney-general with claims he had evidence that Maqobo had been assaulted.

"Four months have elapsed since the inquest, and despite repeated requests statements have still not been given to the attorney-general by the attorney," he said.

The second inquest — where a finding was made that Armstrong Yisake had committed suicide by hanging himself with a belt on August 22 last year — had

□ To Page 2

## Kriel

BIDAY 31/7/92

been reopened by the attorney-general

In the case of Yikase, Gluckman had performed a second autopsy at the family's request. His findings were sent to their lawyer. Only after the formal inquest was concluded and Gluckman informed of the finding, was Gluckman's post mortem report made available to the state, said Kriel.

"It is now up to the attorney-general, in the light of further evidence, to decide whether the inquest should be reopened."

About Gluckman's claim that authorities did not pay attention to his requests to look into the death of detainees, Kriel said after receiving an SAP report on the cases

mentioned by Gluckman, he decided to have a more comprehensive investigation launched into deaths in police custody since January 1 1991.

As a result of this, and further investigations which exceeded Gluckman's original requests, an unavoidable delay resulted which gave him the impression that proper attention was not given to his request.

Kriel said this wider investigation would be completed shortly. He invited Gluckman to bring forward other cases.

Last night the Johannesburg Bar Council called for an immediate public inquiry into Gluckman's allegations.

From Page 1

in a week is found dead



# ANC endorses conduct code

THE ANC/Cosatu/SACP alliance has endorsed a code of conduct drawn up by church leaders and aimed at ending violence during next week's general strike

The code, released yesterday, calls for an absence of weapons and intimidation, with an appeal to the security forces to uphold the right to peaceful protest

Other clauses of the code suggest protest organisers make their plans public, employers deal sensitively with the stayaway, and journalists and emergency workers be allowed to operate without interference

At a media conference yesterday, ANC general secretary Cyril Ramaphosa said copies of the code would be sent to every regional and local branch of the ANC, SACP and Cosatu

"Our participation should reflect the values and principles we are striving for — peaceful, disciplined and with respect for the right of free choice," Ramaphosa called on government to adopt a similar code, instructing security forces how to handle next week's mass action

A delegation of church leaders pre-

**ADRIAN HADLAND**

sented proposals on ways of ending the constitutional impasse and preventing violence to senior constitutional negotiator Gerrit Viljoen and Constitutional Development Minister Roelf Meyer yesterday

The meeting was one of a series this week between church leaders and business, union, government and political representatives aimed at getting negotiations back on track

SA Council of Churches communications head Bernard Spong said the delegation had come away from yesterday's meeting with Meyer and Viljoen expecting a "positive response" to the proposals

It is believed the church leaders called for the creation of an elected constitution-making body and a commitment by government to act on the resolutions of the Goldstone commission. In a church leaders' statement this week, the State President was urged "to take bold action to avert what could be a national disaster"

## Right-wing pair refused bail by judge

TWO right-wingers wanted in Namibia on charges of murder, arson and sabotage were refused bail by a Rand Supreme Court judge yesterday, pending a decision by Justice Minister Kobie Coetsee on whether to extradite them

Dismissing their bail application, Judge M J Strydom held that Orde Boerelvolk members Darryl Stopforth and Leonard

**SUSAN RUSSELL**

Veenendal had failed to make out a prima facie case that the ends of justice would not be defeated if they were granted bail

The pair, who have been in custody in SA since April, are wanted by the Namibian authorities to stand trial for a machine-gun attack on the UN office in Outjo in August 1989. A security guard was killed

They are also wanted in connection with the death of a policeman who was shot when they escaped from Namibian police custody and fled to SA

Bail was opposed by Witwatersrand Attorney-General Klaus von Lieres and his Namibian counterpart

The judge said it was clear that Stopforth and Veenendal had no intention of standing trial



BRIEFING

The Star Friday July 31 1992



Dr. Jonathan Gluckman an "incremental horror" led him to speak out about what he had seen

# An ethical cry from the heart

STAR 3/1/7/92

252

252

STAR 3/1/7/92

Something other than politics prompted Dr Jonathan Gluckman's appeal for action to check police brutality, writes JO-ANNE COLLINGE

**PATHOLOGIST** Jonathan Gluckman, who has caused the Government untold discomfort by disclosing that his files contained weighty evidence of police torture, speaks precisely into the telephone receiver. "Incidentally, I'm a great supporter of the State President."

The reaction of the interviewer at the other end of the line in the United States is unknown. What is clear to The Star reporter, seated in Dr Gluckman's office, is that something other than politics prompted his impassioned appeal in the media

for action to check police brutality against those in custody. The 77-year-old expert has performed or observed more than 200 autopsies at the request of lawyers and families who suspect that the police caused the death of their loved ones.

Asked what drives him to this specialisation, he answers "Nobody else is prepared to do it." The evasion in this answer is betrayed by the terms in which Dr Gluckman speaks of the damage he has seen wreaked on the bodies he inherits for examination. "It's just uncontrolled savagery," he snaps, adding that an "incremental horror" prompted him to publish the contents of his files.

These plain, emotive words are the kind he used when he turned to President de Klerk some months ago in a bid to end physical abuse in custody. The actions speak of a deeply moral and intrinsically conservative man who will do his utmost to make the system work before resorting to the unorthodox.

Indeed, he has been repeatedly asked why he waited so long before "going public". Dr Gluckman proceeded from being a senior partner in a highly successful general pathology laboratory in an ever-more specialised direction, honing in on forensics.

Although he combines his role of consultant pathologist with that of executive director of Medical Rescue International, he can fairly be described as a "morbid anatomist", he concedes with an unexpected smile. Colleagues point to Dr Gluckman's vital interest in the ethics of his profession and his concern with the questions of socialised medicine.

Dr Gluckman was a co-founder of the Medical Services Plan, the first medical assistance scheme in SA targeted at those who could not afford to buy medical care directly.

Perhaps best known for his involvement in the Steve Biko inquest, Dr Gluckman has demonstrated an ongoing concern for the treatment of detainees, at one point urging district surgeons to refuse to administer to detainees if proper treatment was made impossible.

But there has never been any doubt that the sympathy Dr Gluckman shows for detained patients stems from ethical and human rights considerations. Politically, he was miles apart from the United Democratic Front whose members

cramped the cells in the 1980s. When the Harare Children's Conference of 1987 called for the international isolation of doctors who collaborated in repression and for only the alternative professional bodies to be recognised internationally, Dr Gluckman hit back in the name of the Medical Association of SA, defending its development of a code for the treatment of children in detention and branding the "alternative" medical association as a small medico-political body more directed towards the undermining of the medical profession.

Abrupt in his speech, ever-ready to challenge a concept or rephrase a question, there is yet something extra-scientific in Dr Gluckman's vision of medical

practice. At a graduation ceremony at Wits University, shortly before he became Masasa president in 1978, he reflected how medical insurance had encouraged the money making propensity of doctors.

"From being a group of professional men inspired by a sense of vocation and idealism, we seem to have become a group of people involved in the universal rat race," he said. "We have lost our collective soul."

Few pathologists speak publicly of the soul. Even fewer decorate their walls with photographs of the key players in the inquests of detainees they have created. Dr Gluckman does all of these. And promises to write his memoirs on putting. They will be most enlightening. □

# Man can rest in peace - at last

By CARMEL RICKARD

252

Wilmant 3117-618192

IN a landmark judgment yesterday, the Natal Supreme Court has agreed to allow the withdrawal of the medical treatment keeping former provincial MEC Fred Clarke alive. It is the first time in South Africa that a court has given authorisation for such a step to be taken.

The judgment, by Mr Justice Thirion, was handed down four years to the day after Clarke suffered cardiac arrest while undergoing treatment in hospital. By the time his heartbeat was restored, he had suffered irreparable brain damage, and has been in a coma since then.

His wife brought an application to the supreme court in March this year. She asked that she be appoint-

ed curatrix of her husband and that she be allowed to decide whether to continue or terminate any medical treatment, even if this decision would hasten his death.

A number of medical experts confirmed that the damage to his brain was irreparable and the judge heard the results of detailed and extensive tests.

The attorney general of Natal opposed the application and said he reserved his right to decide whether to prosecute should steps be taken to stop medical treatment.

However, in his judgment, Mr Justice Thirion specifically stated that a decision to stop treatment would not be unlawful. He said the damage to the brain was so great that the patient's physical and men-

tal existence no longer qualified as "a human life". And he said the steps being considered would not "in law" be the cause of the patient's death.

Clarke had signed a "living will" stating that he did not wish to be kept alive by artificial means if there was no reasonable expectation that he would recover from an extreme physical or mental disability. He was also a member of the South African Voluntary Euthanasia Society.

Lawyers said last night that within a month the AG would have to decide whether to appeal or give notice that he does not intend appealing.

This will then allow the judgment to be put into effect.





# Train killers remain nameless

**T**HE Goldstone Commission has again failed to identify those responsible for the violence wracking South Africa

In an interim report, issued by the committee of the commission investigating the causes of train violence, says "The primary causes and participants appear to be the same in the train violence", yet it is unable "to apportion blame".

It reports that the violence on the trains cannot be separated from the ongoing violence in the township

The Goldstone Commission's interim report points a finger at the South African Police for its "failure to demonstrate to the community with effective prosecutions, that justice is being done".

Consequently, the community has lost confidence in the police and this has resulted in witnesses not coming forward with information on violence. It then — cushioning the blow in a way that has become the mark of the Goldstone Commission — adds that due to overcrowding in peak hours "maintenance of law and order" is rendered impossible

The interim report

acknowledges that the violence has spilled over into the trains "in those areas where the railways run adjacent to hostels and emerging squatter camps"

However, the report points out that "owing to the atmosphere of violence, commuters panic easily" with "disastrous results"

The mention of "Zulus" or "Inkatha" causes people to be unnerved and disembark in frantic fear, is the closest the commission gets to identifying the political tendencies of those implicated in the violent attacks

*Terror on the trains and violence in the townships is inseparable, the Goldstone Commission has found.*

*But the perpetrators stay faceless.*

By **JACQUE GOLDING**

Wend 31/7-6/8/92 (252)

The report concentrates on the nature of the attackers but remains careful of politically identifying the attackers

It does mention that whenever a "group of attackers was identified they turned out to be hostel-dwellers" but then resort to saying that "the victims were members of various ethnic groups"

The report sees it as "common cause that criminals take advantage of political instability" but states that it is "not easy to distinguish between criminal and political violence".

It continues in the vein of "coach doors not closing", resulting in commuters being "thrown out" or "falling". The cause of death or injury is difficult

to establish and is exacerbated by the reluctance of witnesses to come forward

The report further points out that "to exclude weapons effectively is not the only problem"

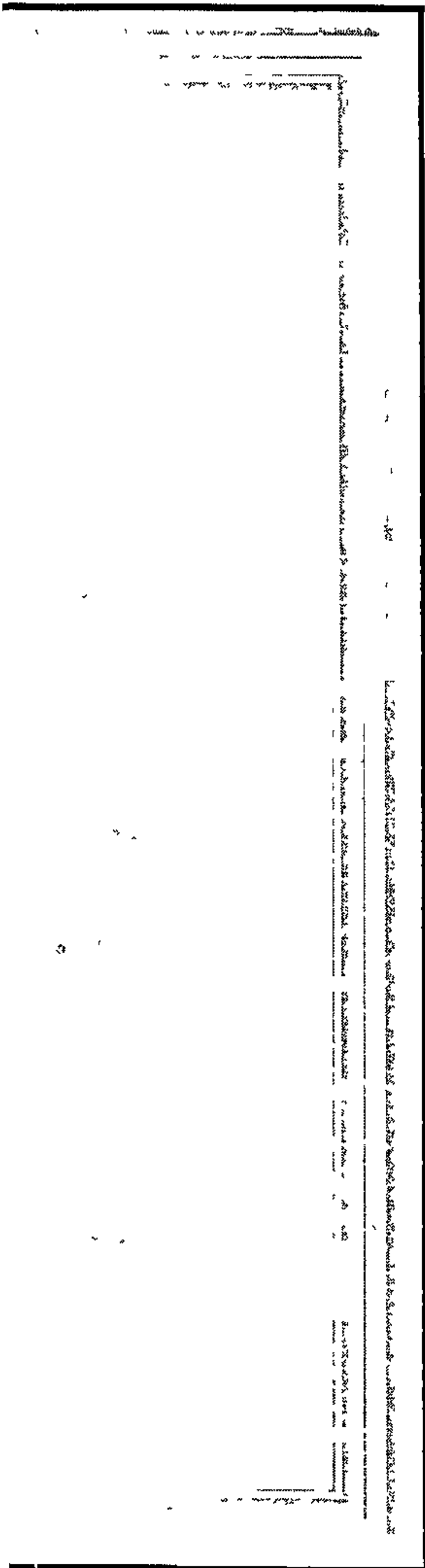
The fact that "commuters fall from trains accidentally, others are thrown out without the use of weapons" makes it "naive to expect that the total exclusion of weapons would completely stop the violence".

The upgrading of railway stations is to be embarked upon together with increased security. The desirability of doors connecting passenger coaches

was urgently being investigated by the South African Rail Commuter Co-operation Limited (SARCC) in collaboration with the community but the disadvantage regarding this, was that violence could then overflow from one coach to the other.

It supported the proposal by Major-General Bester that the creation of a guards corps, recruited from the community and employed by the SARCC should be employed to "secure access to the stations"

The committee notes that the SARCC and the South African Police have implemented changes which so far seem to be "bearing fruit" — further assessment will appear in the final report



# Vaal 'safe house' denial

■ **Widow says she did not rent her house to police:**

Sowetan 31/7/92

252

IT was not true that her property was used as a "safe house" by police intent on eliminating activists in nearby townships, a middle-aged widow from a Vaal Triangle smallholding said yesterday.

Mrs W van der Westhuizen told a Goldstone Commission inquiry into the *Weekly Mail's* allegations of police underground operations that at no stage had she rented part of her property to people other than staffers from Tolkom.

She said she had been living at the smallholding - which cannot be identified - on her own since her husband died in 1979, except for an apartment she let to Tolkom company staffers who worked on the nearby toll road's ambu-

lance service.

In earlier evidence, a former exile, Mr Solly Mngomezulu, said that the police, on the pretext of finding him employment with a certain cosmetics company, took him to Van der Westhuizen's plot where he was told he would be trained to kill ANC activists.

He said that at one stage while being kept at the plot he saw Van der Westhuizen - who was then referred to as "granny or ouma" by people at the house - with her back to him.

Another witness, Sgt Andre Steenkamp, told the hearing that police informers could not be brought to give evidence before the committee because

of fear for their lives.

Counsel for the police and for the Minister of Law and Order, Advocate Phillip Hattingh, said that if police informers were called to give evidence they could be recognised and killed or attacked.

He said that one person who was due to give evidence to the committee on violence in Tokoza, Mr Luther Magwaza, was killed before his testimony could be heard.

The chairman of the committee, Mr R Wise, announced that he would reserve his ruling on the matter until a later date.

- Sapa

## Africa — Report on Violence

# massacres

Sowetan 31/7/92 (252)

In a statement responding to the findings, the IFP said "The recent report on massacres compiled by the pretentiously-titled HRC amounts to a serious distortion of facts

"It is only on close examination that the skull beneath the flesh can be seen. Their sources remain nameless, their statistics suspect, their methodologies fatally flawed and the whole flimsy edifice is resting on a foundation of ANC strategy

"The number of deaths in political violence seem to depend on which political spectrum one belongs. And this gives a clear indication of the political agenda behind the supposedly neutral and factual information that the HRC disseminates

"The report on the massacres is flawed, unreliable and biased," the IFP said

"It makes sweeping generalisations, attributing almost all the violence to so-called Inkatha members while grudgingly admitting, in very few cases, the culpability of ANC-supporting residents"

The IFP accused the HRC of deliberately leaving out the massacres in which 23 IFP supporters were killed while en route to a prayer meeting at Tokoza Stadium on September 8 1991 and the deaths of 24 IFP members at Crossroads, including women and children allegedly murdered by ANC members near Katilehong

### Mass killings

According to the HRC, a breakdown of the massacres is as follows:

**NATAL:** Eleven massacres which claimed the lives of 167 people were recorded in the province in the past two years. These, however, do not include other mass killings in the region five or more years back

**Midlands** - Five massacres (476 lives)

**North Coast** - Three massacres (33 lives)

**South Coast** - Two massacres (37 lives)

**Durban** - One massacre (18 lives)

**THE PWV AREA:** There have been 38 massacres claiming the lives of 1 083 people in the area since July 1990

**East Rand** - 14 massacres (476 lives)

**Soweto** - Nine massacres (245 lives)

**The Vaal** - Eight massacres (195 lives)

**Alexandra** - Four massacres (89 lives)

**West Rand** - Two massacres (57 lives)

**Johannesburg** - One massacre (21 lives)

An analysis of the HRC's report yields the following

IFP (members, supporter, elements) were responsible for 34 massacres (69 per cent)

Vigilantes of unspecified affiliation, but certainly aligned with the IFP were responsible for three massacres (six per cent)

Security forces (SAP, SADF and KwaZulu Police) were directly responsible for four massacres (eight per cent)

Township residents and ANC supporters had a responsibility in six massacres (12 per cent)

No clue as to the identity of the attackers was available in 10 massacres.

There was a shared responsibility in eight massacres, either in the case of two parties openly attacking each other or in the case of opposing parties being equally responsible

### Joint responsibility

Township residents were the victims in 36 massacres (73 per cent)

Residents specifically identified as ANC supporters were additionally victims in 10 massacres (20 per cent)

IFP members and supporters were victims in nine massacres (18 per cent)

In six massacres both opposing parties were assessed to be victims of one another and having joint responsibility.

Funerals and vigils were attacked on three occasions. Places of public recreation (beer halls and taverns) were attacked on two occasions. Commuters (trains and buses - more than 10 people killed in an attack) were attacked three times.

The character of the massacres

A number of points emerge very strongly about the nature and objectives of the massacres. They are

- The drive by Inkatha to establish political influence, membership and even territory is the dominant theme
- The use of hostels as bases to plan and launch attacks on residents
- The persistent reports of police complicity in these massacres as well as the involvement of unidentified whites
- Retaliation which sometimes produces its own massacres



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Vol 325

PRETORIA, 31 JULIE  
JULY 1992

No. 14207

## GOEWERMENSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. 2243 31 Julie 1992

KENNISGEWING VAN DIE STAATSPRESIDENT  
VAN DIE REPUBLIEK VAN SUID-AFRIKA

KENNISGEWING VAN TYDELIKE VRYSTELLING  
KRAGTENS DIE WET OP VRYWARING, 1990 (WET  
No 35 VAN 1990)

Nademaal ek van oordeel is dat dit nodig is vir die bevordering van vreedsame konstitusionele oplossings in Suid-Afrika, verleen ek hierby kragtens die bevoegdheid my verleen by artikel 1 (1) van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), onvoorwaardelik vrystelling soos vermeld in artikel 1 (2) van voormelde Wet aan die persone in die Bylae vermeld, gedurende die tydperk vanaf die datum van publikasie hiervan tot en met 31 Augustus 1992

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die Een-en-dertigste dag van Julie Eenduisend Negehoenderd Twee-en-negentig

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet

**L. PIENAAR,**  
Minister van die Kabinet

## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. 2243 **252** 31 July 1992

NOTICE BY THE STATE PRESIDENT OF THE  
REPUBLIC OF SOUTH AFRICA

NOTICE OF TEMPORARY IMMUNITY UNDER THE  
INDEMNITY ACT, 1990 (ACT No 35 OF  
1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the power vested in me by section 1 (1) of the Indemnity Act, 1990 (Act No 35 of 1990), unconditionally grant to the persons specified in the Schedule, immunity referred to in section 1 (2) of the aforementioned Act for the period from the date of publication hereof up to and including 31 August 1992

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Thirty-first day of July, One thousand Nine hundred and Ninety-two

**F. W. DE KLERK,**  
State President

By Order of the State President-in-Cabinet

**L. PIENAAR,**  
Minister of the Cabinet

## BYLAE • SCHEDULE

ANDREWS, Graham Douglas  
BUTHELEZI, Bongani  
CHAUKE, Andrew  
DIDISHE, Ernest Mboneli  
FARO, Christopher Sitsoto  
HLONGWANE, Pule Edward

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MABUZA, Ruben  
 MALAZA, Jackie Mthandi  
 MNDawe, Clement Dumisane  
 MNISI, Nkosiyabo.  
 MOTSEPE, Joseph  
 MZIMELI, Siphoh  
 SEAGODIMO, Thomas Mabowa  
 SIMELANE, Reginald Jabu  
 SIMELANE, Alfred

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**FOCUS ON VIOLENCE** More than 1250 people have been killed in 49 massacres in South

# Finger points at cops in 8% of



Boipatong experienced one of the worst massacres with 49 people being killed.

**■ KILLING OUTRAGE** Human Rights Commission reports on the escalating violence during past two years:

*Sowetan 31/7/92*  
**By Kenosi Modisane**

**E**IGHT PERCENT of the killings in massacres in the past two years are attributed to the police by a recent report of the Human Rights Commission. The report says more than 1 250 people died in 49 massacres which include last month's Boipatong incident in which 49 people were killed. The HRC puts 69 percent of the blame on the Inkatha Freedom Party (IFP), its members, supporters and other elements. The IFP has dismissed the report as the HRC's "deliberate attempt of trying to whip up a storm of outrage against the IFP using the pretence of being a neutral panel of experts". Captain J van Roooyen of police headquarters in Pretoria said "We can not respond to the HRC's accusations until we get all the facts. But I can assure you that the SAP are used to these unfounded accusations". Van Roooyen promised to respond at a later stage. The HRC's report links the formation of the IFP as a political organisation in July 1990 to the frequency of the massacres. The massacres recorded included only those incidents where more than 10 people were killed in a single attack

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DIDS 3117

# LAW STUDENTS TO DISCUSS HUMAN RIGHTS ISSUES

Law students from universities in southern Africa will meet in Harare, Zimbabwe, in September to discuss human rights issues. N/Nation [Pupils Forum]

Tessa Wessels of the University of Pretoria said the objective of the meeting was to encourage communication and co-operation between the different law faculties, and to promote an awareness of human rights

This will lay the foundation for present and future generations of legal academics and practitioners to pool their resources and resourcefulness and to find answers to common problems through co-operation, said Wessels.

**Trial** 252

The meeting to be held from September 11 to 13, would be on mock trials. It has also been organised by the Centre for Human Rights Studies of the University at Pretoria

Wessels said that the competition would be held in two sessions. In the first session, a typical bill of rights case would be argued before a panel of judges consisting of the deans of the various law faculties.

In the final session, the students would argue another case before a panel comprising the chief justices of various southern African countries, she said

Many students from the universities of southern African countries had already indicated that they would take part, added Wessels

Note: Interested people should contact Tessa Wessels at tel (012) 420-2276

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# Nuremberg trials 'not policy'

252 CT30/1/92  
By ANTHONY JOHNSON

THE ANC yesterday dismissed charges by the government that it was intent on conducting Nuremberg-style trials once South Africa has a democratically elected government.

However, the ANC stressed its stand should not be interpreted by members of the South African Police and Defence Force as giving them "carte blanche to continue with their brutal and often

murderous behaviour".

A future government would use ordinary legislation to charge anyone who had abused their powers and committed crimes, the ANC's department of information and publicity said in a statement.

The ANC has in the past sent out mixed signals on the issue of Nuremberg-style trials.

SA Communist Party boss Mr Chris Hani recently told a Cape Town court that the ANC did not

support such trials, but he was contradicted by the ANC's Western Cape secretary, Mr Tony Yengeni, who supported the idea.

ANC spokesman Mr Saki Macozoma said subsequently that such trials were not official ANC policy but this could change.

While the ANC statement rejected Nuremberg-style trials, it emphasized that it was the responsibility of all governments to charge those security force members who committed crimes.

PUBLIC SECTOR GOVT. - JUSTICE

1992

AUGUST - SEPTEMBER



# A dismal dossier of death in police custody

Following the furore created by the accusations by pathologist Dr Jonathan Gluckman that police are responsible for killing prisoners in custody, the Human Rights Commis-

sion (HRC) has drawn up a list of people who have died in police "care" "It has always been our belief that the powers conferred on security police by legislation are a sure recipe for torture and for the

inevitability of deaths as a consequence of such torture," the HRC said "In addition, the police culture engendered by the system of apartheid is such as to hold black lives in low regard and throughout the

police force, not only within the ranks of the security police, there is an attitude which justifies the use of torture and other brutal methods carrying a high risk of death in waging war against a perceived enemy

This culture will not change until minority rule is abandoned " The HRC has records of 73 deaths in detention without trial during 1963 to 1990 and a further 57 deaths in custody from 1984 to 1992

SOUTH 118-5/8/92

(251) (329) (252)

## DEATHS IN CUSTODY

Name	Place	Date	Official/alleged cause	Name	Place	Date	Official/alleged cause
Mbuyiselo Phiri	Welverdiend police station	16/1/90	died during interrogation	Kumbuni Ngwedu	Jeffrey's Bay	15/11/91	reported to have hanged himself, though it is claimed he was badly beaten before his death
Michael Zungu	Matubatuba	29/1/90	hanged with shoe laces in police van	Fredenck Cardinal	Nedersetting	23/11/91	found dead after he was reportedly assaulted
Eugene Mbulawa	Leratong hospital	13/7/90	died after alleged assault	Duke Senne	Baragwanath	15/1/92	allegedly assaulted by policeman
Japie Mataboga	Thsepong hospital	23/7/90	alleged assault	Joseph Koetz	Hertzogville (OFS)	25/1/92	allegedly assaulted by policemen
Petrus Masuku	Welkom	5/9/90	died soon after arrest	Tsepo Legwati	Sharpeville	28/1/92	shot dead as he sat, handcuffed, at the back of a police vehicle
Enock Tsoene	Transkei	25/9/90	found dead in a police cell	Philemon Xheko	Potchefstroom	31/1/92	allegedly assaulted by policeman
Solly Mogashoa	Phalaborwa	7/7/91	alleged assault by police	Steven Dibetso	Tomburke	1/2/92	allegedly assaulted by policeman
Cornelius Maqoma	Sebokeng	23/7/91	died a few hours after arrest	Mbululo Kitchen	Tarkastad	7/9/92	died a few hours after his arrest
Peter Masilo	Sharpeville	23/7/91	died after alleged police force during his arrest	Londi Ntombela & Mbuyi Zondi	Imbali	7/2/92	shot when they allegedly tried to escape
Aaron Mahlangu	Belfast	7/8/91	reportedly died of diabetes after a struggle at a police station	Zinakele Tafani	Glen Hill	1/3/92	allegedly assaulted by policeman
3 unnamed people	Hazyview police station	25/8/91	shot during a struggle in police station	Samuel Seema	Klipspruit	15/5/92	died a few hours after his arrest
Thandile Mtya	Punzana (Ciskei)	12/9/91	reported to have hanged himself	Andreas Joubert	Graafwater	23/5/92	found dead in his cell
Peter Thaele	Odendaalsrus	26/9/91	reported to have hanged himself after quarrelling with the police	Reuben Nkosi	KwaDela	9/6/92	shot dead during a house search

## DEATHS IN DETENTION

Name	Place	Date	Official/alleged cause	Name	Place	Date	Official/alleged cause
Solwandle Ngudle	Compol, Pretoria	5/9/63	suicide by hanging	Elmon Malele	John Vorster Sq	20/1/77	haemorrhage after hitting his head on a desk during interrogation
Bellington Mampe	Worcester	7/9/63	undisclosed	Mathews Mabelane	John Vorster Sq	15/2/77	fell from the 10th floor
James Tyita	Port Elizabeth	24/1/64	suicide by hanging	Twasigeni Joyi	Idutywa, Transkei	15/2/77	undisclosed
Sulman Saloojee	Johannesburg	9/9/64	suicide, jumped from the 7th floor	Samuel Malinga	Pietermaritzburg	22/2/77	heart disease, pneumonia
Ngeni Gaga	Transkei	9/5/65	natural causes	Arend Khoza	Pietermaritzburg	22/3/77	suicide by hanging
Pongolasha Hoye	Transkei	9/5/65	natural causes	Phakamile Mabija	Kimberley	7/7/77	suicide, jumped from the 6th floor
James Hamakwayo	Pretoria prison	9/10/66	suicide by hanging	Elijah Loza	Paarl	1/8/77	stroke
Hangula Shonyeka	Pretoria prison	9/10/66	suicide	Hoosen Haffajee	Durban	3/8/77	suicide by hanging
Leong Pin	Leeuwkop prison	19/11/66	suicide by hanging	Bayempun Mziza	Durban	13/8/77	suicide by hanging
Ah Yan	Silverton	5/1/67	suicide by hanging	Steve Biko	Port Elizabeth	12/9/77	brain injury during scuffle with police
Alpheus Madiba	Namibia	9/9/67	suicide by hanging	Sipho Malaza	Krugersdorp	16/11/77	suicide by hanging
Jundea Tubakwa	Pretoria prison	11/9/68	suicide by hanging	Lungile Tabalaza	Port Elizabeth	10/7/78	suicide, jumped from 5th floor
unnamed person	???	7/7/68	reported by the Minister of Police	Saul Ndzumbe	Umtata	10/9/80	heart trouble, diabetes, blood pressure
Nicodemus Kgoathe	Silverton	4/2/69	pneumonia after slipping in the shower	Manana Mqgweto	Engcobo	17/9/81	unknown
Solomon Modipane	Silverton	28/2/69	fatal injuries after slipping on soap	Tsithuwa Muofhe	Venda	12/11/81	assault by police
James Lenkoe	Pretoria prison	10/3/69	suicide by hanging	Neil Aggett	John Vorster Sq	5/2/82	suicide by hanging
Caleb Mayekiso	Port Elizabeth	1/6/69	natural causes	Ernest Dipale	John Vorster Sq	8/8/82	suicide by hanging
Michael Shuvute	Ondangwa	17/6/69	suicide	Simon Mindawe	Nelspruit prison	8/3/83	suicide by hanging
Jacob Monakgotla	Pretoria prison	10/9/69	thrombosis	Pans Malatji	Protea police station	5/7/83	culpable homicide, shot by police
Abdullah Haroon	Matland	27/9/69	heart trouble caused by a fall down the stairs	Sam Tshikudu	Venda	20/1/84	natural causes
Mithayeni Cuthsela	Pondoland	21/1/71	brain haemorrhage	Mxolisi Sipele	Transkei	7/6/84	police claim he died in hospital after release
Ahmed Timol	John Vorster Sq	27/10/71	suicide by jumping from the 10th floor	Ephraim Mithethwa	Durban	25/8/84	suicide by hanging
Joseph Mdluli	Durban	19/3/76	injury to neck after falling against a chair	Andres Raditsela	Baragwanath	6/5/85	fatal head injury, fell from a Casspir
William Tshwane	Modderbee prison	25/7/76	shot while trying to escape	Bathandwa Ndondo	Cala, Transkei	24/9/85	shot by police
Mapeta Mohape	East London	5/8/76	suffocation after hanging	Makompe Kutzumela	Lebowa	5/4/86	police assault
Luke Mazwembe	Cape Town	2/9/76	suicide by hanging	Peter Nchabaleng	Lebowa	11/4/86	police assault
Dumisane Mbatha	Modderbee prison	25/9/76	auricular fibrillation of the heart	Xoliso Jacobs	Upington	22/10/86	suicide by hanging
Fenuel Mogatusi	Johannesburg Fort	28/9/76	suffocation during a fit	Simon Marule	Modderbee	23/12/86	kidney failure
Jacob Mashabane	Johannesburg Fort	5/10/76	suicide by hanging	Benedict Mashoke	Burgersfort	26/3/87	suicide by hanging
Unknown man	Carletonville	5/10/76	alleged assault in police cells	Enc Mntonga	Mdantsane	24/7/87	police assault
Edward Mzolo	Johannesburg Fort	9/10/76	undisclosed	Nobandla Bani	Port Elizabeth	29/7/87	stroke
Thalo Mosala	Butterworth	26/11/76	internal bleeding	Sithembele Zokwe	Butterworth	12/1/88	police shooting
Wellington Tshazibane	John Vorster Sq	11/12/76	suicide by hanging	Alfred Makaleng	Nylstroom	26/8/88	fluid on the brain
George Botha	Port Elizabeth	15/12/76	suicide, jumped six floors	Sizwe Sithole	John Vorster Sq	30/1/90	suicide by hanging
Lawrence Ndzanga	Johannesburg	8/1/77	heart failure	Lucas Thhomisang	Klerksdorp	26/3/90	meningitis
Nanaoth Ntshunsha	Leslie police station	9/1/77	hanging, probably suicide	Tabela Madisha	Potgietersrus	1/6/90	suicide by hanging



# Wendy blew the whistle 7 years ago

STAR 252  
1892  
JOHN PERLMAN

WHEN Dr Jonathan Gluckman decided to go public with his allegations of police brutality, one young doctor a thousand miles away had a good idea of what he was going through

Seven years ago Dr Wendy Orr, then employed in the district-surgeon's office in Port Elizabeth, successfully applied for an interdict against the police to stop them torturing and assaulting detainees

"It was a life-changing experience," she recalls "I was 25 year and for the first time I was forced to take a public stand on things I had personal private views about"

Just before she decided to go public, Orr called Gluckman for his advice. "Jonathan was very supportive. He said this is precisely what the medical profession should be doing"

In court Orr, whose daily work brought her into contact with detainees, said police were "quite unrestrained in the abuses they inflict upon the detainees" She said she was instructed "not to endorse the medical records requesting an investigation of the alleged assault"

The Supreme Court subsequently granted an interdict restraining 20 policemen from assaulting detainees

Orr says she, like Gluckman, got "some death threats but also a surprising amount of support, some of it from unexpected quarters. There were individual policemen who in a quiet way indicated support."

Of the 20 policemen named in her court action, 16 are still in the force, according to an answer given by Law and Order Minister Hernus Kriel in Parliament this year. Of these, nine had been promoted. "A departmental investigation is still pending," Kriel said

Even so, Orr does believe her court action did help to stay the hand of the police. "In PE, in the months immediately following, there was a definite difference. Detainees coming out said it was like chalk and cheese. Even if police in the rest of the country didn't change, detainees were still given hope because there were people out there who cared what happened to them"

"I believe it was worthwhile and I would do it again"

She now works in the student health section at the University of Cape Town

## 29 on list going back 30 months

THE Human Rights Commission lists 29 people by name who died in custody between January 1990 and June this year. Newspaper records however indicate three others died during that time but were not in the HRC list (252) (1991)

Dr Jonathan Gluckman says he has files on more than 200 deaths in police custody, and claims that about 90 percent died as a result of police actions.

In response to the allegations, Law and Order Minister Hennis Kriel has ordered an investigation into all deaths in detention since January 1991.

But yesterday his ministry was unable to say how many such deaths have occurred, despite the fact that Kriel met Gluckman five months ago. Ministry spokesman Captain Craig Kotze said Kriel's investigation was aimed at determining the exact dimensions of the problem.

It's an enormous amount of work, he said.



TOP Johannesburg pathologist Dr Jonathan Gluckman hopes some good will come of his appeal to the State President and Minister of Justice over prisoners' deaths in custody. By JOHN PERLMAN, Chief Reporter (252)

THERE are two square marks in the carpet in Dr Jonathan Gluckman's Braamfontein office, imprinted into the fabric by a pair of heavy filing cabinets that have stood there for ages, until this week

"I've moved them somewhere for safekeeping," he says "I had all my files in the Biko case stolen and I don't want to lose any more"

The movers of the two cabinets could quite justifiably have labelled them "Explosive - handle with care"

They contain records of more than 200 post-mortems conducted on people who died in police custody

This week Gluckman, one of South Africa's top pathologists, charged the SAP with responsibility for "90 percent" of the deaths and urged the Government to conduct public inquests into each one

"When I sat in front of HERNUS KRIEL and ADRIAAN VLOK and told them about this, they were shocked and said 'What do you think we should do,'" Gluckman says

#### Missed point

"I said you must have an inquest in every case, in open court, and preferably in front of a judge"

The response from the Department of Justice, via Minister KOBIE COETSEE, had Gluckman shaking his head in what was either disbelief or dismay "The whole point has been missed," Gluckman said, in response to Coetsee's invitation to him to submit a list of inquests the doctor considered to be "contentious"

"There have been no inquests in these cases," says Gluckman "That's the problem Nothing happens I have not been called to give my evidence I don't know why no inquests have been called So I certainly can't say which inquests were contentious"

On the walls of Gluckman's offices are photographs from

1/8/92 STAFF  
past trials in which he has testified One is dated 1972, and shows Gluckman together with human rights lawyers George BIZOS and ISSY MAISELS Gluckman also gave inquest evidence for the family of Black Consciousness leader STEVE BIKO, who died in custody in 1977

"The Biko case will never lie down," he says "Everybody who was involved with it has thought about these things ever since" Yet despite this history, Gluckman says that taking the stand that he has was "not really my job I am an objective scientist I report to lawyers - they are officers of the court"

"But when I came to realise the extent of this problem, I became progressively more worried I continuously thought about what I could do about it. It was not my job, but when nothing happened I decided to address the State President"

Gluckman's letter to F W de KLERK led to a meeting with Law and Order Minister HERNUS KRIEL and Minister of Prisons ADRIAAN VLOK "I did believe they would take the matter further," he says "I presented five cases to them and in February a police brigadier came to see me and took away the files After that I never heard another word"

Gluckman decided to speak out after SIMON MTHIMKULU (19) was found lying dead in a field in Sebokeng 12 hours after he was taken into custody "It filled me with horror that this was still going on," he says

Gluckman is confident that good will come out of his disclosures "It must change," he says

"From my experience I have confidence in senior police officers, both commissioned and non-commissioned I am also satisfied that President de Klerk, in our correspondence, has shown ample concern I can't fault what he has done - he's got other things to do besides follow up my cases I believe he will ensure that proper procedures are followed There has been far too much silence already"

# Gluckman stirs hornets' nest

No responsible government can ignore this, says pathologist

# Judge appointed for Webster inquest

STAR 11/8/92 (252)

**JOHN PERLMAN**  
Chief Reporter

A JUDGE has been appointed and a date set for a judicial inquest into the death of Wits academic Dr David Webster, who was killed by unknown gunmen outside his Johannesburg home on May 1, 1989.

The Ministry of Justice announced that following a request by Justice Minister Kobie Coetsee, Mr Justice MS Stegmann would hold a judicial inquest into the cause of death of Webster on October 14 in the Rand Supreme Court.

## Harms

"This is the best chance we have had so far," said Maggie Friedman, Webster's common-law wife who was there when he was gunned down. "We still don't have guarantees that they will act on the findings of the inquest. There were no follow-ups on the recommendations of the Harms Commission. But it is certainly better than Harms was with all the limits on that."



**SHOT DEAD:** Activist David Webster.

Friedman said the inquest would open old wounds but said: "I welcome anything that will get to the bottom of this."

"Until it is resolved it leaves me hanging. There will always be the possibility of something coming to light, and I would have to live forever with that."

Friedman said that other inquiries which shed some light on who might have called Webster, such as the Harms Commission and the inquiry into the security arm of the Johannesburg City Council, did not "go far enough — they uncovered bits and pieces but no effort was made to follow things to their source."

"There were all those CCB files that went missing and that just seem to be accepted, that we wouldn't get to see these. And no one was held responsible."

Whenever questions were asked afresh about Webster's death, Friedman said, "people come forward with something."

"We are hoping that will happen with the inquest. There must be a

● TO PAGE 2.

## Monster-watcher

**DRUMNADROCHIT (Scotland)** — Scientists using sonar equipment to try to solve the riddle of Scotland's Loch Ness monster said yesterday they had made underwater contact with a mysterious object.

A submarine used by the Project Urquhart expedition probing the loch in search of the enigmatic creature affectionately known as Nessie tracked the unexplained object for two minutes before losing contact.

Expedition official Robert Manson said "We found an underwater target which cannot be explained. It was loud and solid sounding and in the opinion of

the sonar operator mid-water echolocation of the loch."

A Norwegian Simrad, is believed to be the first detailed sonar scan of the inland lake since the existence of

Nessie's favourite Scotch whisky, that has spawned a multi-industry attraction hoping to catch the monster and have p

## Webster (252)

● FROM PAGE 1.

lot of people who know something.

"I hope that at the end people are seen to be held responsible for this, as far up as it goes, and not just the person who pulled the trigger,"

Friedman said.

Webster, a Five Freedoms Forum member, was said to have uncovered an arms smuggling operation from South Africa to Mozambique's Renamo rebels and was also believed to have been investigating hit squads at the time of his assassination.

According to the Harms Commission report, Brixton Murder and Robbery head Brigadier Floris Mostert said that a secret organisation — identified as the SADF's Civil Cooperation Bureau (CCB) — existed with the purpose of sowing fear among leftist radicals in South Africa.

According to the information Mostert claimed to have had, this organisation was responsible for the murder of Webster and Swapo executive member Advocate Anton Lubowski. The Harms Commission did not however make any recommendations regarding the CCB.



ON JANUARY 19, 1990 Dr Jonathan Gluckman went to the Government mortuary in Johannesburg to examine the body of Nickson Phiri, a 16-year-old Khutsong boy who had died in police custody after "suffering a fit and hitting his head against a cupboard"

Gluckman found that Phiri had abrasions on his wrists, forearms, elbows, shoulder, back and right shin. There was also damage to his skull, right eye and mouth. Under "cause of death" Gluckman wrote "Cerebral haemorrhage associated with external injuries"

Six months later, Gluckman returned to the same mortuary to examine the body of Leshe Majola, a black male who police said had drowned in the Vaal River four days earlier while trying to escape from the custody of the Vanderbijlpark Murder and Robbery Unit.

Gluckman found that Majola had indeed drowned, but noted that the dead man's "hands and arms were very tightly secured behind the back to a degree, in my view, that virtually no movement was possible". Also, Majola's legs were clamped in irons, Gluckman reported

## 'Drowned man' may have been strangled

STAR 1/18/92  
Later that year, on December 18, Gluckman was called to the Diepkloof mortuary to examine the body of Bethuel Maphumulo who had handed himself over to the Soweto Murder and Robbery Squad at Protea for questioning in connection with a cashbox robbery.

A police statement said Maphumulo had tried to escape while handcuffed and had attacked a policeman near the station swimming pool. Both men had fallen into the pool and Maphumulo drowned.

Gluckman, in his post-mortem report, wrote this under "cause of death": "Multiple injuries. The demonstration of fracture of the hyoid bone is highly suggestive of manual strangulation."

In none of these cases has Gluckman ever had an opportunity to present his evidence to an inquest court.

With Majola, an inquest was held in December 1990, but

without the dead man's legal representatives being notified.

The Majola family's attorney, Lawley Shein — who called Gluckman in for the post-mortem — had written six letters to the police inquiring about the inquest date and received two replies from senior officers assuring him he would be notified.

Three of Shein's letters were sent after the inquest had already been held, but the police never contacted the lawyer to convey this to the family. The fact that the inquest had been held only emerged after a press inquiry into progress on the Majola case produced this terse reply: "The magistrate's verdict at an inquest reads 'Ooreenstemmend met verdrinking — Selfmoord'."

Last August, the Majola family petitioned the Attorney-General to reopen the case. Nearly eight months later, the A-G replied that the matter

had been "thoroughly investigated" and that the inquest would not be reopened.

No inquest into the death of Maphumulo has yet been held, 18 months after his death. Repeated inquiries from Shein — who also acts for the Maphumulo family — prompted a letter from the Ministry of Law and Order last September, which said "the matter is receiving urgent attention" and finally produced an answer from the police two weeks ago: "The Attorney-General has instructed that an inquest must be held. The date has not yet been decided."

Law and Order Minister Hernus Kriel has said he will examine all cases on deaths in custody.

Kriel said the investigation into Maphumulo's death was complete and that the docket had been forwarded to the Attorney-General.

He ruled out the suspension of any policeman as a result of the incident, saying such steps were only taken "if the seriousness of the allegation is of such a nature that the continuation of his services are to the detriment of the good order and discipline of the SAP."



BY DESMOND BLOW

# Gluckman files to probe police secrets?

**PATHOLOGIST** Dr Jonathan Gluckman's revelations last weekend about police responsibility for close on 200 deaths in police detention may at last force the government to hold formal judicial inquests of people who die in police custody instead of informal inquests.

Lawyers for Human Rights have long complained about the two systems of court inquests in SA.

One is a formal inquest at which witnesses are called and cross-examined; the other is informal - statements are submitted to the court and no other evidence is heard.

It would appear that all deaths of prisoners in police custody have been treated as

informal inquests with usually only the police statements available to the courts, which must then make a finding on these statements.

The post-mortem examinations are usually carried out by the local district surgeon who often works closely with the police and is open to being guided by what the investigation officer says.

The findings of the inquest court are usually that no one was to blame for the prisoner death.

Gluckman revealed that he has 200 files on people who died in police custody over the past few years which should have gone

through a formal inquest.

Gluckman's revelations can be added to the protesting voices of LHR, the SA Council of Churches and other organisations.

Will this influential expert's concern, like the protests of the rights organisations, fall on deaf ears?

Six months ago Gluckman took his misgivings to President FW de Klerk and is still waiting for a reply.

Last weekend, out of sheer frustration, he went public on the issue.

The final straw, he said, came when he examined the body of 19-year-old Simon

Mthimkulu whose "post mortem" carried out by a district surgeon had consisted, according to medical sources, of merely cutting open the chest and sewing it up again.

Gluckman, who became internationally known as the pathologist who examined the body of Steve Biko, said of Mthimkulu: "He had injuries all over his body. It was the last straw that broke the camel's back. This was a young boy of 19. He could have been my son."

On Friday Brian Currin of LHR told City Press that they would examine all 200 of the Gluckman files.

Currin also objected strongly to the announcement by Law and Order Minister Hennus Kriel on Friday that every death in police custody would in future be probed by an SAP general.

"You will have the police investigating themselves. What we demand is an independent judicial inquiry," he said.

Other organisations this week also came out in support of Gluckman's allegations. The Human Rights Commission said in a press statement this week that Gluckman's allegations supported their findings.

The commission's files recorded 130 deaths in police cells, of which 50 percent died in the first week inside, half were found at inquests to be "suicides" and most victims died in "mysterious circumstances".

...would continue to protect an unprofitable farming sector, and those farmers dependent on protectionism should speedily reassess their opposition to the market system. Productive and competitive farmers, however, had little to fear from a new government.

A less constrained market system was

ducers received only 45% of the consumer's rand.

Meyer said average dam levels throughout the country had decreased by 20% over the past year. The number of districts partly or totally under the drought assistance scheme increased from 31 in July last year to 130.

## 'Urgent legal issues cannot wait'

PRETORIA — Urgent legal issues, including the right of attorneys to appear in the Supreme Court, could be addressed without waiting for the findings of a commission of inquiry which might never be implemented, according to the Association of Law Societies.

Association president Mervyn Slith said this in reaction to a General Council of the Bar statement proposing a commission of

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GERALD REILLY

inquiry to investigate structures and roles of the courts.

"Such a commission would take years and would have to cross political divides and its recommendations might never be implemented," Smith said.

On the question of attorneys having the right to appear in the supreme court, there was no need to hold a commission of enquiry as

both public and professional requirements demanded that it be implemented without delay.

The association met different interest groups in June to discuss the issue of returning exiles. Proposals were made that would enable South Africans with overseas academic and practical qualifications to obtain recognition. The proposals were currently under consideration by all interested parties, he said.

By Charles Schulz

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## New legislation on intimidation

TIM COHEN

PRETORIA — Tough legislation aimed at curbing intimidation, banning private armies and providing harsh sentences for the illegal use of certain weapons came into effect at the weekend

A notice in the Government Gazette published on Friday brought into effect the Criminal Law Second Amendment Act and a separate schedule defined the classes of weaponry prescribed under the Act.

The schedule effectively includes AK-47s, hand grenades, rocket launchers, mortars and mines. A minimum five-year prison term will be imposed if a person is convicted of committing an offence with a weapon possessed unlawfully.

A magistrate may also authorise the detention of people withholding information from the police about such weapons, subject to certain regulations

The Act criminalises the training or equipping of military or quasi-military organisations which could usurp the functions of the SAP or SADF

The Intimidation Act is also extended to criminalise indirect forms of intimidation.

Previously it was an offence if someone had been persuaded, with threats, to do something. Now it is an offence if the intimidator fills someone with fear.

# Numsa workers jump strike gun

NUMSA members at several factories in Benoni jumped the gun on the union's national strike — officially due to begin today — and started striking on Friday

Several Seifsa members have already given notice to the union they intend to lock out workers next week. Numsa is striking in the motor, tyre and rubber, and metal and engineering industries.

It will be impossible to gauge the support for the strike before Wednesday, because of the general strike. Even after that it could be difficult — depending on the extent of the mass action programme.

In the motor manufacturing sector, for example, Samcor has closed for the entire week by arrangement with Numsa shop stewards. So it is not actually clear if the workers are on strike or not.

If all Numsa's 250 000 members in the affected sectors come out, it will be the biggest industrial strike in SA's history.

Meanwhile, Seifsa denied last week that it had "bugged or made use of dishonest means" to get information on Numsa's strike

Seifsa spokesman Hendrik van der Heever said the suggestion was laughable

DIRK HARTFORD

He said Seifsa had learnt of the strike plans through its members, who had received written notice that the strike would start today.

Seifsa also said Numsa was "lying" in alleging that Seifsa had not responded to its inquiries on irregularities in the Seifsa ballot. Seifsa is going ahead with an interdict against Numsa for ballot irregularities.

Sources in the motor manufacturing, and tyre and rubber, industries said they expected to meet Numsa this week to continue negotiation.

Sapa reports from East London that more than 2 000 workers at Mercedes-Benz in East London will strike from today, Numsa said on Friday.

A further 1 300 Numsa members in the region involved in the engineering sector would also go on strike over an industrial dispute concerning wages and working conditions, said Numsa's Border secretary Enoch Godongwana. Godongwana said the strike was separate from the two-day stayaway beginning today and would continue beyond that.

A Mercedes spokesman said the company could not comment on the situation as the dispute had developed in the national bargaining forum representing the seven motor manufacturers.



# Protection plan for witnesses

STAR 4/8/92

By Peter Fabricius  
Political Correspondent

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Witnesses in court cases and Goldstone Commission hearings are to be offered safe houses, allowances and other safeguards under a witness protection scheme announced by Justice Minister Kobie Coetsee yesterday

The scheme is embodied in

regulations published in the Government Gazette on Friday which Mr Coetsee described as a "decisive blow against intimidation of and interference with witnesses"

The aim was to ensure witnesses remained safe and appeared in court

The main features of the court witness regulations — issued under the Criminal Law Amendment Act — are

● A witness or prospective

witness may apply for protection for himself or herself or any member of his or her family at the nearest police station, correctional facility or via the public prosecutor

● A witness may be held in a "protective environment" after consultation with him

● The protected witness may be entitled to allowances

● The identity and whereabouts of a protected witness may not be disclosed

● The disclosure of a protected witness's identity may be punished with a R10 000 fine or six months in prison

Much the same protection measures for witnesses in hearings of the Goldstone Commission investigating political violence were issued on Friday under the Prevention of Public Violence and Intimidation Act

These witnesses have to apply to a security director of the commission for protection

by the Farquhar coconut

afraid" He would return to Cerf and start again if

oaguettes filled with honey and banana, he said.

# Law Society trains new officials

Staff Reporter

STAR 4/8/92

The Law Society of Transvaal (LST) says it has taken the lead in training presiding officers and arbitrators for the short procedures civil court, which is to be established as a pilot project on September 1.

LST president A C Hutchinson said the first courts of the project would be set up in Pretoria Central and Won-

derboom, Pretoria. Since the short procedures court would not be subject to the rules and formalities of regular courts, cases would be resolved far quicker with greater efficiency and less expense for parties involved, Mr Hutchinson said.

The court would provide arbitration on disputes when possible. Otherwise, it would attempt to isolate legal points of

difference between parties in order to promote efficient litigation, he said.

Although the short procedures court will have the same jurisdiction as magistrate's courts, the presiding officials would be former magistrates and academics.

Parties would also be entitled to employ attorneys or advocates, Mr Hutchinson said.

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## Seifsa court bid delayed

COURT action to have a threatened strike in the metal industry declared illegal has been delayed until tomorrow, Steel and Engineering Industries Federation of SA (Seifsa) spokesman Mr Hendrik van der Heever said yesterday ~~5/18/92~~

Seifsa, representing over 5-200 companies, launched the application against the 170 000-member National Union of Metalworkers of SA (Numsa) in Pretoria on Monday *Sowetan 5/18/92*

"We are in the process of seeking to have the strike declared illegal. There appears to have been major irregularities (in balloting), we were not informed of the ballot outcome and we have good reason to believe that the ballot was unsuccessful."

## Cape motorists warned

MOTORISTS have been warned by Cape Town deputy administrator Mr Alan Dolby to stay out of town today if possible.

Supporters of the ANC alliance are expected to take to the freeways to march from Langa to the Grand Parade in Cape Town.

Dolby said the city council had reluctantly agreed to the march because the alternative would have been a confrontation between police and marchers.

## 'Emergency by stealth'

BY using its powers to declare unrest areas, the Government has effectively achieved a "state of emergency by stealth" in the PWV townships where 5 000 police and soldiers have been deployed, the Human Rights Commission has charged.

"This achieves much the same purpose as an open declaration. It is equally to be condemned and rejected as a violation of basic human rights," the HRC said yesterday *Sowetan 5/18/92*.

## Boipatong probe starts

THE Goldstone Commission of Inquiry into public violence and intimidation today begins its investigation into the June 17 Boipatong massacre *(252)*

The commission will be sitting at the Vereeniging Civic Centre from 10am and will be chaired by Mr Justice Richard Goldstone, who will be assisted by, among others, Mr Justice PM Bagwati, former chief Justice of India *Sowetan 5/18/92*

Forty nine people died in the Boipatong massacre when a large group of armed men attacked the township.

## Squatters stage sit-in

ABOUT 500 ANC members from the Mandela Park squatter settlement at Hout Bay yesterday staged a sit-in in front of the Hout Bay Forest Station, demanding a meeting with a senior Regional Services Council official *Sowetan 5/18/92*

This follows the refusal by the chief forester at Hout Bay to accept a memorandum from the squatters demanding more land for Mandela Park - *Sowetan Reporters, Correspondents and Sapa*



# Don't just accept sudden death clauses — attorney

Reports by  
PETER GALLI

WHILE most "sudden death" clauses in property offer to purchase or deed of sale documents are legally enforceable, people should be aware of the need to negotiate changes in the contract and understand the implications of the document they are signing, says Werksmans Attorneys partner Stan Brasg.

"People believe that if the contract is a pre-printed document it is inviolate. This is not so, and people should not hesitate to negotiate its terms and amend clauses they find unacceptable," he says.

Sudden death clauses are those which give the buyer no period of grace to perform a contractual obligation once the period allowed for this has passed.

"Before he signs, the buyer needs to ensure he fully understands his responsibilities and the consequences of failing to perform.

"While the courts are increasingly examining the moral implications of contracts, the maxim of 'let the signer beware' is still most often applied," Brasg says.

While many clauses seem unduly harsh, there are often reasons for this, such as provisions for compensation.

In many cases, the purchaser is aware of what he is signing as he

obtains some form of benefit.

"If he is in default and litigation ensues, he then tries to use the doctrine of public policy as an escape from his obligations in terms of the contract."

Most of these contracts have evolved over the years, Brasg says.

However, attorneys Moss, Morris, Mendelow, Browde partner Selwyn Cohen says the doctrine of *contra bonus mores*, which enables courts to declare a contract invalid on the grounds that it is contrary to public policy, is making itself increasingly felt.

"While local courts uphold the principle of sanctity of contract — that contracts entered into freely and voluntarily should be enforced — there is an increasing tendency to hold that agreements which are clearly detrimental to the interests of the community will not be enforced." This could be because they are contrary to law or morality, or run counter to social or economic experience.

Cohen says many contract clauses are unfair, but work in practice. Unfairness or prejudice itself were not grounds for holding that a provision was contrary to public policy.

Brasg says the courts are not keen to interfere with contracts

Public policy is applied by the courts only if the contract or clause is clearly unfair and prejudicial, usually where the contracting parties contracted on an unequal footing."

Cohen says clauses that have been used for many years — like the sudden death clause in the offer to purchase document — are now being found unacceptable and set aside.

"The difficulty is that the question of whether a document or clause is contrary to public policy is subjectively decided according to the public policy as it exists when the matter is heard in court. This may be many years after the document was created.

"This can result in uncertainty for contracting parties, particularly creditors who may suddenly, because of a change in public policy, find their documents or portions of them unenforceable."

However, Brasg says the courts are generally unwilling to interfere in the contractual process.

He says the Conventional Penalties Act is in place to alleviate hardships and protect the public.

It states that compensation cannot be claimed which is more than the loss that would have been suffered had the contract proceeded.

"The courts have held that the sanctity of contract is equally in the public interest," he says.



# Statutes purged to make way for a bill of rights

BIDA 4 5/18/92  
GOVERNMENT was purging the statute book of laws and restrictions which contradicted the formation of a constitutional state with an enshrined bill of rights, President F W de Klerk said yesterday.

Speaking at the official opening of the new magistrate's court in Vereeniging, he said government was committed to a constitutional state

Justice Minister Kobie Coetsee was busy working through the statute book

The bill of rights was another important task that had to be tackled before there could be an independent and sovereign judiciary

De Klerk believed it was necessary for all those involved in the judicial system to acquire the proper orientation required for exercising justice in a constitutional state.

This was already being done through symposiums nationally where discussions were being held on the establishment of a bill of rights for SA.

Government was constantly watching the increasing pressure being put on the courts, whose workload had increased during the past few years.

De Klerk said that from December 1990 to May 1991 there was an increase of 45,5% in the work of district courts

Regional courts' workload had increased 28,5%

In the past year the workload in district courts had increased so dramatically that nationally the total extra court time was 54 411 hours

252  
BILLY PADDOCK

There were an extra 4 000 criminal cases and 110 000 admission of guilt fines paid.

The current economic climate had also put extra strain on the court, with 80 000 civil cases and 98 000 civil motions dealt with in that time

The courts were also a major source of revenue for the state, with the system accounting for R5,233bn over the past year, De Klerk said

However, he warned that pressure on the courts would increase with rising crime and the development of a broader policing function for the SA Police.

## Specialise

In order to lessen the pressure on the higher courts and make justice more accessible to the community, government was investigating broadening the jurisdiction of the lower courts

Proposals emanating from the investigation included that senior civil magistrates be established along the lines of regional magistrates and that they have a higher level of jurisdiction

This would lessen the load on the Supreme Courts and at the same time offer magistrates the opportunity to specialise in civil matters.

Another issue receiving attention was the independence of magistrates, De Klerk said. He added quickly that there was no suggestion that they were not conducting their work in an independent fashion

AP

Who's WHO



the

A woman adds a tyre to a burning barricade in Khayelitsha, near Cape Town, as hundreds of thousands continued a nationwide strike yesterday. Picture AP

tionally the total extra court hours

# Witnesses 'were informers'

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PRETORIA — Counsel for the Weekly Mail and the ANC conceded yesterday that two witnesses who testified against the police on "safe houses" gave unreliable evidence to the Goldstone Commission.

Frans Rautenbach in his argument told the Goldstone Commission committee inquiry into allegations of police involvement in underground operations to kill ANC activists that the committee should accept part of the evidence of Solly Mngomezulu while that of Daniel Kolisang was totally unreliable.

Kolisang told the committee he first had contact with the police on December 7 last year before he was promised a job with the Transvaal Provincial Administration by Sgt J Seago 8/04/92 5/8/92.

On January 2 1992 he was taken to a police safe house in the Vaal Triangle where he was interviewed by a white policeman called Brian who told him he (Kolisang) would be employed as an informer and he was to kill certain activists.

Kolisang said he reported the matter to

ANC officials in Sebokeng But police argued that the man was an informer on their payroll who seemed to have got scared and decided to report the matter to the organisation

Mngomezulu claimed that after he returned from exile he was approached by a policeman known as Robert who promised him employment with a cosmetics company, but he was taken to a safe house near Parys where he was told to be an informer

He said he was kept at the smallholding for several days until he escaped He reported to the ANC and later pointed out the house to Weekly Mail reporters Police denied the house was a safe house.

Police said Mngomezulu had agreed to work as an informer and had told them he was connected to the police before he went into exile

Following the submission of counsel for the police, Flip Hattingh, on Monday, Rautenbach agreed the witnesses were unreliable in many instances — Sapa.

# Who's WHO in health

KATHRYN STRACHAN

FOUR UN World Health Organisation (WHO) officials are to speak at a local health conference which begins outside Johannesburg today, for the first time since the organisation broke off relations with SA

The four-day conference has been organised by the Community Health Association of SA (Chasa)

The event will include an exhibition of medical equipment at Nasrec Centre near Soweto

Conference organiser Jackie Swart said the conference would be addressed by more than 100 speakers, including 12 international experts 8/04/92 5/8/92

It was intended to bring about a unified strategy for improving health in southern Africa

# Truth on violence





## Magistrates' place to be entrenched

Political Staff

THE independence of magistrates is to be entrenched in law, President De Klerk has announced.

Opening a new magistrate's court in Vereeniging yesterday, he said this was one of many government measures planned in pursuit of its ideal of a state based on law.

The move, however, did not imply they were not independent now.

The Hoexter Commission of Inquiry had found in its 1983 report that the independence of magistrates was beyond doubt.

# NEWS SAIDF troops accused of inaction during Boipatong massacre ● Quick news

## Vaal inquiry opens

■ Alleged police involvement in killing of 49 probed:

EVIDENCE that security forces on June 17 did nothing to prevent the Boipatong massacre will be heard during the next two weeks by a committee of the Goldstone Commission.

Senior counsel for the African National Congress, Mr Arthur Chaskelson, also told the commission in his opening statement yesterday he would produce witnesses who would indicate that attackers had been 'dropped off' at the Vaal township by armoured vehicles

### White men

Witnesses had also seen white men in the ranks of the attackers, he said

Commission chairman Mr Justice Richard Goldstone said the commission had decided to initially concentrate on allegations of security force involvement

in the massacre before turning to other aspects of the attack.

He alleged that reports of the attack began to flow into the Vanderbijlpark police station about 10pm.

Witnesses would testify that SAIDF vehicles present in the township had not intervened.

Counsel for the SAP, Mr PD Hattingh, categorically denied the SAP had participated in, or facilitated the attack

He admitted that on the evening of June 17 there had been several members of the SAP in and around the area, but at no stage during the attack were they present at Boipatong.

There was also no evidence to substantiate allegations of whites being among the attackers - *Sapa*



Back to the grindstone ... these fun-filled toddlers at a creche in Mzimhlope, Soweto, are back behind bars - so to speak - after two days of freedom given to them courtesy of mass action. Pic: LEN KHUMALO

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Back to the grindstone ... these fun-filled toddlers at a creche in Mzimhlope, Soweto, are back behind bars - so to speak - after two days of freedom given to them courtesy of mass action. Pic: LEN KHUMALO



# Showdown for CP faction today

BILLY PADDOCK

THE showdown in the CP between the five prominent "new right" members and the old guard takes place today when the five meet to decide whether they will resign

Bethal MP Chris de Jager yesterday said the five would have discussions with the Transvaal executive.

"If the party does not shift its policy closer to where we stand then we must decide whether to abide by the party line or do the honourable thing and resign," he said.

The other four are Moolman Mentz (Ermelo), Free State leader Cehill Pienaar, Rosier de Ville (Standerton) and Potchefstroom MP Andries Beyers, who brought the imminent split in the party to a head at the weekend by calling for talks to negotiate a smaller Afrikaner homeland.

The old guard, led by CP deputy leader Ferdi Hartzenburg, is calling for the five to be expelled, and attempts this week by leader Andries Treurnicht to reconcile the two factions are understood to have failed.

According to one of the five, it had become impossible to remain in the CP "which had no policy and is not prepared to shift its position to accommodate changes".

The members had the support of about another 10 MPs but they were unlikely to leave the party as they hoped to reform it from within. However, numerous councillors and officials were behind the five, as was as the Transvaal Youth Congress

# 'Police alerted before massacre'

KATHRYN STRACHAN

THE Goldstone Commission of Inquiry into the Boipatong massacre of June 16 yesterday heard that evidence would be presented during the next eight days claiming security forces in the area had facilitated the attack and that police had been negligent in their investigations.

Senior counsel for the ANC and the Vaal Council of Churches, Arthur Chaskelson, told the commission in his opening statement a number of witnesses made reference to the participation of "white men" in the actual attacks on residents

None of these men were identified as policemen, but there were numerous statements which confirmed the presence of security force vehicles in the area during the massacre, and in some cases, these vehicles were perceived as accompanying and possibly assisting the attackers, he said

"Despite numerous and persistent complaints and the presence of armoured vehicles in the township and nearby, none of the attackers was apprehended. The obvious suspects were allowed more than 16 hours to cover their tracks before police entered the hostel," he said

The ANC's first witness, Meshack Theoane, a petrol attendant at a filling station on Frikkie Meyer Boule-

vard, testified he alerted police when he saw armed men crossing the road toward Boipatong.

Shortly afterwards two policemen arrived, but appeared disinterested in his report and left the area, he said.

With him at the filling station that night was a security guard who radioed his employers. Two white security guards arrived. They said the police had instructed them to take the two men away because it was not safe.

Counsel for the SAP Flip Hattingsh denied police had participated in or facilitated the attack, and added any allegation they were informed before the attack of the possibility of it taking place would be denied. He admitted that on the evening of June 16 there had been several police in the area, but at no stage during the attack were they in Boipatong.

Anton Mostert, representing the SADF, said the only SADF members in the township at the time of the attack were members of the Vaal Commando.

He said members had seen large numbers of people moving towards the Kwamadala hostel and had concluded that it was the hostel which was under attack. They later tried to locate the group but failed.

B1 DAY 6/8/92 252



# Police ignored warnings - witness

By Philip Zoloto

(252) (278)

A petrol pump attendant yesterday told the Goldstone Commission in Vereeniging how police apparently ignored warnings of an impending attack in Boipatong, where more than 40 people were massacred on June 17.

He was giving evidence on the first day of the Goldstone Commission inquiry into the massacre, chaired by Mr Justice Goldstone.

Earlier yesterday, the commission was told by ANC counsel Mr Arthur Chaskelson, SC that evidence would be heard to support

claims that security forces were involved in the massacre.

Petrol pump attendant Meshak Theoane told the commission he had been working at a petrol station on Boulevard Frikkie Meyer, the main road between Kwa-Madala Hostel and Boipatong, when he saw two Casspirs chase after youths.

The Casspirs returned and parked on a soccer field.

Between 9 30 pm and 10 pm a security guard drew Mr Theoane's attention to a crowd of about 300 to 400 on the KwaMadala Hostel side of Boulevard Frikkie Meyer.

As they headed for Boipatong, they passed not far from the Casspirs.

He then pressed an alarm button at the garage. A police van arrived 10 to 15 minutes later. Mr Theoane said he pointed out the crowd, which was by then on the edge of Boipatong, to one of the policemen.

Counsel for the SAP Mr F Hattingh, SC, disputed the evidence by putting the police versions to Mr Theoane. In his opening address, Mr Hattingh said the SAP would "categorically deny" that the police in any way facilitated or took part in the massacre.

STAR 6/8/92



# 'Nothing done for 16 hours after massacre'

STAR 6/18/92

252

Evidence that security forces present in Boipatong on June 17 did nothing to prevent the massacre of more than 40 people will be heard during the next two weeks by a committee of the Goldstone Commission hearing evidence on the issue

Senior counsel for the ANC, Arthur Chaskelson, also told the commission in his opening statement yesterday that he would produce witnesses who would indicate that attackers had been "dropped off" in Boipatong by armoured vehicles

Witnesses had also seen white men in the ranks of the attackers, he said

Commission chairman Mr Justice Richard Goldstone said the commission had decided to concentrate initially on allegations of security force involvement in the massacre before turning to other aspects of the attack

The commission has also been charged with identifying those responsible for the massacre, the role played by the SA Defence Force and the police before, during and after the attack, and steps which could be taken to prevent the recurrence of such an incident

Mr Chaskelson said the KwaMadala Hostel from where the attackers had come had been a focus of

conflict for a long time before the attack and was known to be a stronghold of the Inkatha Freedom Party

He alleged that reports of the attack began to flow into the Vanderbijlpark police station about 10 pm

"Between 10 and 10 10 pm, 10 complaints were recorded by police of shootings, damage to property and assaults in the Boipatong area"

Witnesses would testify that SADF vehicles present in the township had not intervened

Mr Chaskelson said the attackers had clearly been confident they would not be apprehended. At least 16 hours elapsed after the attack before police decided to enter KwaMadala Hostel for the first time

He said urgent questions had to be answered in the findings of the commission. These included

- Was the policing in Boipatong inefficient?
- Were there reasons, other than complicity or reluctance to bring attackers to account, for the slowness of security force response?
- Why were the obvious suspects given 16 hours before attempts were made to search their premises and gather evidence?

Counsel for the SAP, PD Hattingh, denied that the SAP had taken part in or facilitated the attack. He ad-

mitted that on the evening of June 17 there had been several members of the SAP in and around the area, but at no stage during the attack were they present in Boipatong

"Any allegations that the SAP were informed before the attack of the possibility of it taking place will be denied"

There was no evidence to substantiate allegations of whites being among the attackers. Police had also not transported attackers from KwaMadala to Boipatong

A W Mostert, for the SADF, said the only Defence Force members in the township at the time of the attack were members of the Vaal Commando, an active Citizen Force unit

The unit had a limited jurisdiction and its primary function was to guard Iscor, which had been designated a national key point

On the night of the attack there had been two "soft skin" (not armoured) vehicles and two Buffels (armoured vehicles) in and around Boipatong

Members of the Vaal Commando had spotted large numbers of people moving towards KwaMadala Hostel and had drawn the conclusion that the hostel was being attacked

They later tried to locate the group but failed

A dispute arose in the commission's proceedings yesterday around the issue of secret documents which Mr Mostert said would not be made available to the commission in spite of a request to this effect from Mr Chaskelson

He said the documents, including briefing documents reflecting SADF instructions on or before June 17, and general documents dealing with secret standing orders and operational planning, were secret and irrelevant to the commission

He was prepared to make them available only to Mr Justice Goldstone

The judge said he was not prepared to accept documents he could not make available to the committee

"Well, that is the only basis on which I am prepared to give them to you," replied Mr Mostert

Mr Justice Goldstone said the commission's powers of search and seizure might have to be tested against the power of the secret document

The four-person committee of the commission — which includes an international assessor, Mr Justice P N Bhagwati, a former Chief Justice in India — is to decide when to visit KwaMadala Hostel, which has been partly demolished by Iscor since the massacre — Sapa



# Gonwiwe probe: State wants amnesty deal



Weekly Mail Reporters

Investigators uncover the trail of the killers of activist Matthew Goniwe, the government has started pushing hard for a general amnesty for all political offenders

The idea of a general amnesty — which would let off the hook members of the security forces involved in crimes against the African National Congress — has been discussed in meetings during the past two weeks between the government and the ANC over the release of political prisoners

According to diplomats, a general amnesty has the backing of the United States and Britain and was promoted by UN special envoy Cyrus Vance during his visit to South Africa which ended last week.

“Mr Vance’s idea was that there needs to be a clean break with the past that would enable a gear-change to a future-directed dialogue,” said a Western diplomat close to the UN initiative

The talks about a possible amnesty have been held over the past two weeks in the context of a securing the release of 420 remaining prisoners who the ANC insist fall in the political category

As a result of Vance’s intervention, government and the ANC have held two high-level meetings over the past two weeks to discuss the issue. The government delegations have been headed by Justice Minister Kobie Coetsee

ANC spokesman Carl Niehaus said both ANC delegations had been headed by ANC international department director Thabo Mbeki, who had been mandated by the ANC’s national work-

Continued on PAGE 2

**Trail leads too close for comfort**  
w/mad 7/8-13/8/92

By EDDIE KOCH  
RESIDENT FW de Klerk is under severe pressure to put an amnesty in place as the official investigation into the Goniwe murders accumulates potentially explosive evidence about the identities of those who ordered the assassinations and carried them out.  
Michael Hodggen, a senior law officer

Investigating the Goniwe murders, has received vital evidence about the identity of the men involved in the killings.  
The Weekly Mail is in possession of the names of the operatives who are alleged to have killed Matthew Goniwe but is withholding these while the Attorney General’s investigations continue.  
Hodggen visited London in the past two

months to interview and re-debate policemen Dirk Coetzee as well as John Horak, a former security police officer, in connection with indications that current members of De Klerk’s cabinet served on a committee of the State Security Council which processed the signal message.

Continued on PAGE 3

Despite ominous predictions, mass action proved largely peaceful. Here a Soweto basketball game goes on under the intense scrutiny of a group of Casspirs  
Full details of the week of strikes PAGES 4 to 7  
Photo KEVIN CARTER

P.T.O.

P.T.O.

# State in push for amnesty

W/Mail 7/8/92 - 13/8/92

●From PAGE 1

ing committee to "negotiate the release of political prisoners"

Niehaus said it was possible that the question of a general amnesty had been "touched on" at these meetings but that the ANC had no "firm position" on a general amnesty

However, other ANC sources confirm that the matter had been discussed internally. The ANC's position on the issue is much the same as its hands-off attitude to the government's desire to release rightwing political prisoners: we will have nothing to do with it and anyway we don't have the power to do it.

It is understood that there are differences of opinion within the ANC on the wisdom of a general amnesty. A number of members strongly oppose letting the security forces off the hook at this early stage — at least without finding out what they did and who was involved. And the ANC would have difficulty in getting its general membership to accept, particularly since they have recently been calling for the culprits in the security forces to be punished.

In terms of the amnesty, security force members who had taken part in clandestine operations against anti-apartheid activists and in the covert destabilisation of the ANC would be granted blanket immunity. In return, the ANC would secure the release of the 420 remaining prisoners who they insist are political.

A general amnesty could also resolve the question of the status of several thousand Umkhonto we Sizwe cadres who remain outside the country until the ANC formally terminates its armed struggle.

It would also assist President FW de Klerk in dealing with the mounting problems within his security forces, particularly among those elements undermining his political initiatives.

The idea of a general amnesty was also promoted by US Assistant Secretary of State for African Affairs Herman Cohen during meetings with government officials earlier this week, according to diplomats.

The Western diplomat was adamant that the government and the ANC were keen on the idea of a general amnesty as a mechanism for making a clean break with the past. The idea of cleaning the slate to make way for progress was pushed by Vance.

The proposed amnesty would create a new cut-off date for immunity against prosecution for agents of the state and the liberation movements who were acting under instructions or in line with the official policy of their organisations. The current agreement allows only for a selective amnesty — excluding security force members — for certain categories of exiles for acts committed before October 8 1990.

Justice Ministry spokesman Nic Grobler said that talks between government and the ANC were "too sensitive" to disclose details. "But I can say that the question of a general amnesty was raised by the ANC earlier in the negotiating process and it remains on the table for discussion," he said.

# Honing in on Goniwe killers

●From PAGE 1

According to Coetzee, Hodgen was interested in finding out which committees Minister of Prisons Adnaan Vlok sat on in the State Security Council at the time of the Goniwe murders.

And information supplied to Hodgen, the acting attorney general for the eastern Cape, suggests that the assassinations were carried out by members of the Civil Co-operation Bureau, a South African Defence Force unit known as "The Hammer Forces" and members of the South African Police.

The Hammer Forces was an irregular unit founded by General Christoffel van der Westhuizen, the powerful head of military intelligence, to carry out dirty tricks against anti-apartheid groups in the eastern Cape.

There has been a flurry of activity in military intelligence circles to establish who leaked a secret document implicating Van der Westhuizen in the operation to eliminate Goniwe and his colleagues.

De Klerk is being pressed to take action against the general in the wake of reports that Van der Westhuizen's personal assistant, Lieutenant Pamela du Rand, was deported from England this year on suspicion of plotting Coetzee's murder.

Indications are that De Klerk faces an explosive political situation as his investigators close in on those responsible for the Goniwe killings. He will have to deal with the humiliating prospect of acknowledging that at least one of his current ministers was implicated in the killings and runs the risk of a showdown with his security chiefs if he takes action against Van der Westhuizen.

He could try to defuse the situation by ensuring that junior operatives involved in the actual assassinations are prosecuted but this is likely to generate antagonism and further leaks about the involvement of senior officials.

The safest way for De Klerk to deal with the looming crisis is to set in place a general amnesty, exonerate everyone involved in the murders, and ask the ANC to let bygones be bygones.



# NEWS Police took march in Boipatong massacre, commission is told ● News in brief

## 'Whites in massacre'

■ Goldstone Commission told that armed men travelled in armoured vehicles: *Soweto 7/18/92*

By Ruth Bhengu

WHITE policemen took part in the attack on the residents of Boipatong on the night of June 17, witnesses told the Goldstone Commission in Vereeniging yesterday

Two witnesses from Slovo Park, a shantytown near Boipatong, claimed that

● Whites were involved in the massacre,

● Police were present on that night and that the attackers were dropped off from armoured vehicles. After the attack, the policemen escorted them back to Kwamadala Hostel

Miss A told the commission how her mother and brother were stabbed to death with "spears and other weapons I

*cannot describe"* *252*

Three of the attackers were white, she said

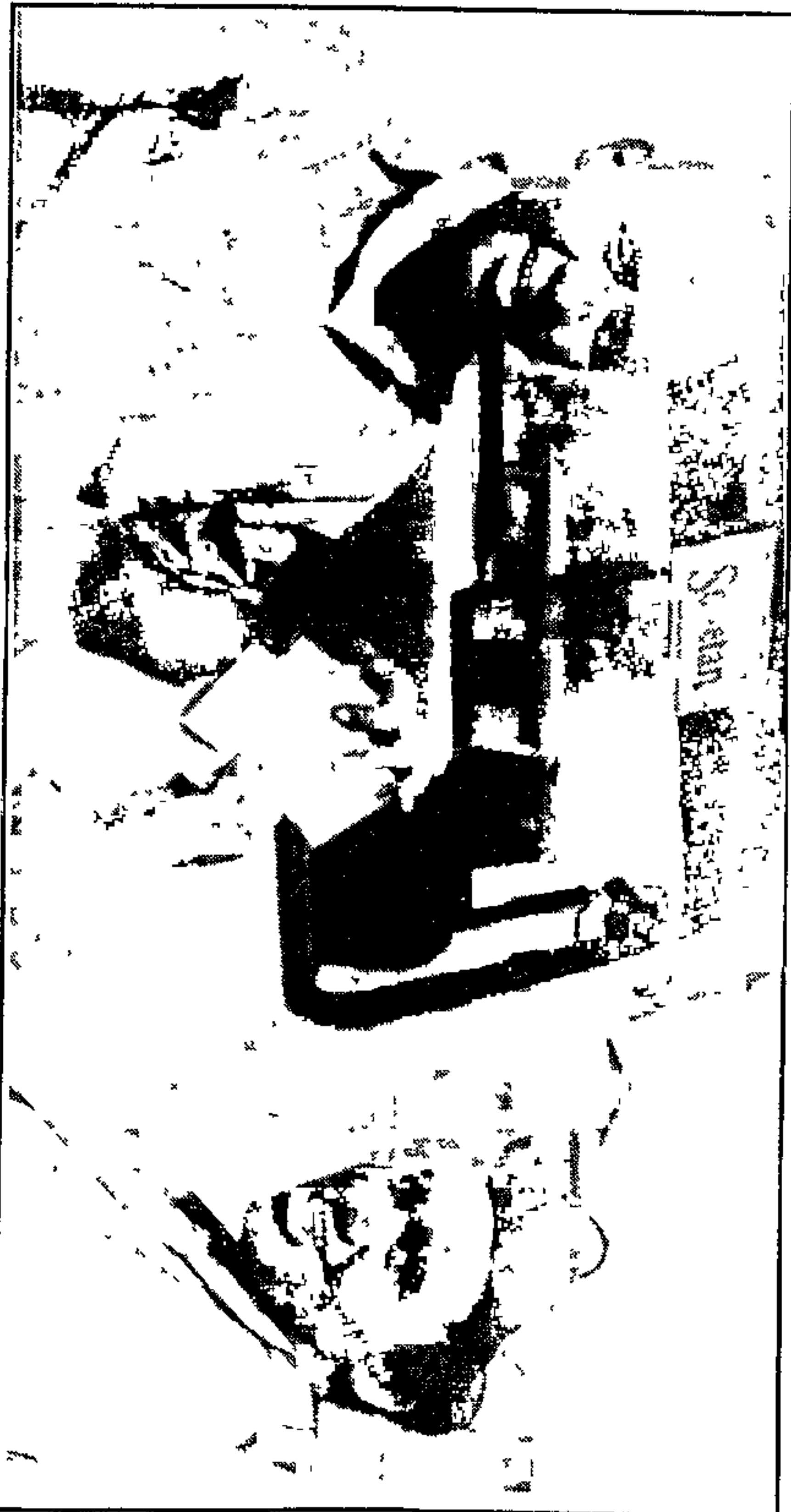
"I could see they were white because they were not standing far from where we were hiding outside our shack

"Parts of their faces that were not covered by their balaclavas were clearly visible"

Mr Themba Koti (28) said he saw uniformed white policemen taking part in the attacks

He had earlier seen a group of men being off-loaded from an armoured vehicle

"The group of people were carrying TV sets and various items and were escorted by two "Hippos" as they moved towards Kwamadala Hostel, Koti said



Themba Koti of Soweto is the latest winner of Sowetan's bumper-sticker contest. He was spotted at Mountain View garage in Phelent. Presenting him with his R200 prize is Augustine Mlambo, who works at the garage.



# Laws on interim rule may be ready

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Aug 7/8/92

**MICHAEL MORRIS**  
Political Correspondent

VARIOUS far-reaching "dummy" Bills to pave the way for an interim government are believed to have been drawn up and to be capable of adaptation at short notice to match negotiated agreements among the major parties.

Speculation is that if agreement on an interim government is reached before the brief October session of parliament, the government will be in a position to present legislation almost immediately and have it ratified in the shortest possible time.

The government is known to be entering the next phase of negotiations in a high state of readiness, but sensitivity surrounds its own strategy and the steps it has taken or intends taking to ease negotiations.

The ANC has demanded concessions and it is clear the government has used the present hiatus in negotiations to formulate a strategy to get the process moving again.

The brief session of parliament starting on October 12 — and probably lasting about 10 days — is a key period on the 1992 political calendar.

President De Klerk heightened speculation about legislative preparations when he answered questions from the steps of the Union Buildings in Pretoria on Wednesday

He said "The government is not working on a go-it-alone option but you can expect at least some basic legislation to be put before parliament.

"It is not just general legislation. It will be constructive and aimed at assisting progress, without us in any way trying to act unilaterally"

The government had been working hard to prepare for the session, at which it hoped to "present ... the results and the fruits of negotiations"

The strongest speculation is that government law writers have been hard at work producing a range of optional legislation — like "dummy" Bills — which can be easily and speedily adapted to negotiated agreements.

This would cut delays in ratifying the results of negotiations.

Already there has been confirmation of fresh dialogue between the ANC and the government and optimism about the resumption of negotiations is growing.

# 'Lied to protect himself'

By JACQUIE GOLDING

THE outcome of the one-man commission of inquiry into a *Weekly Mail* exposé of police covert operations in the Vaal is expected to be released today — and is certain to cause controversy. *W/Mail* 7/8-13/8/92

The commission has heard evidence from African National Congress members Daniel Kolisang and Solly Ngomezulu that the police had abducted them, held them in a "safe house" in the Vaal and offered them money to carry out attacks on ANC members. 7/8-13/8/92

The inquiry has focused on the two witnesses, one of whom was described at the commission this week as "a liar and fabricator".

*The Weekly Mail's* counsel, Frans Rautenbach, admitted that this witness had lied, but maintained that the claim by police that "safe houses" were a necessity for investigations into crime "provides the ideal cover for various assassinations".

Kolisang had fabricated some aspects of his testimony "for his own protection", Rautenbach said. It was accepted that Kolisang had acted as a police informer, but he could also have been instructed by the police to assassinate ANC activists, he argued.

Commissioner R Wise commented

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that he found it difficult to "selectively believe versions of untruthful witnesses".

Counsel for the South African Police, Phillip Hattingh SC, argued that there was no proof to justify *The Weekly Mail's* reports about police "plotting violence". He asked the commission to find that a report on secret bases and the planning of violence from them was "untrue and unsubstantiated".

Hattingh requested that *The Weekly Mail* give equal prominence to the commission's findings as it had to the original exposé.

Referring to *The Weekly Mail's* front-page photographs of policemen allegedly involved in operations from the secret base, Hattingh said the manner in which the exposé had been presented was a problem.

Hattingh argued that *The Weekly Mail's* editor, Anton Harber, had not given Minister of Law and Order spokesman Captain Craig Kotze sufficient time to respond to the allegations.

It had been made clear to *The Weekly Mail* that "police were involved in covert operations", but the newspaper had nonetheless published the allegations that this was linked to violence, he added.

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# White men murdered my brother — witness

BIDAM 7/18/92

(252) ~~252~~  
KATHRYN STRACHAN

RESIDENTS of the Slovo Park squatter camp yesterday told the Goldstone commission of inquiry into the Boipatong massacre they had seen white men taking part in the killing and security force vehicles "dropping off" the attackers.

An unnamed woman told the commission she watched her brother being stabbed to death by three white men wearing balaclavas. Four black men took part in the killing, she said.

She was hiding in a storage box with her nine-year-old brother and her mother less than a metre from the scene.

"My brother died in a pool of blood and they left him," she said. Her mother was spotted and stabbed to death.

Later that night men dressed in camouflage looked at the bodies, but left without asking questions. Policemen arrived in the morning to take statements. The woman said she did not want to co-operate because she did not trust the police.

The massacre of Boipatong township and squatter camp residents on the night of June 17 left 41 people dead.

Another Slovo Park resident, Edison Themba Koti, testified that he was outside his home on the night of the attack when he heard gunshots and windows shattering. He saw two white men wearing camouflage clothes, armed with "long guns", standing with three black men about 30m from his house.

"My understanding was that they were policemen. My understanding is based on the uniforms they were wearing and the

long guns they were carrying," said Koti.

The six were joined by a large group of men, who attacked a neighbouring home. When Koti was spotted, a black man rushed at him with an axe and chased him into the house. Koti escaped, locking the door. When he re-emerged to check on his parents, who lived nearby, he saw a security force Hippo vehicle dropping off about 15 men. They were wearing headbands. They began to attack residents.

Koti, who hid in the vehicle, later saw men moving in the direction of KwaMadala Hostel, carrying television sets. They were closely followed by two Hippos.

Counsel for the Hostel Jewellers' Association, Vic Botha, said he had been instructed not to cross-examine witnesses or to present evidence but to take part in the commission as an observer.

Counsel for the ANC, Arthur Chaskelson, told the judge policeman had yesterday called at the homes of both of yesterday's witnesses, but had not found them there. Counsel for the SAP undertook to investigate the matter.

CHARLIE PRETZLIK reports that 94 KwaMadala Hostel residents will appear in the Vanderbijlpark Magistrate's Court on Monday in connection with the Boipatong killings. Police spokesman W/O Andy Pieke said yesterday that another 16 hostel residents were arrested on Monday. One had been released. They were charged with murder and public violence.



# Court pays tribute to Ogilvie Thompson

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ALL 7/18/92

**LIBBY PEACOCK**  
Supreme Court Reporter

THE Judge President of the Cape, Mr Justice Gerald Friedman, paid tribute to former Chief Justice Ogilvie Thompson, who died on June 30 aged 88, describing him as one of South Africa's most distinguished and respected judges.

Mr Justice Thompson would be remembered as a "great judge and a great personality", Mr Justice Friedman told judges, registrars, members of the Cape Bar, attorneys, and friends and family of the late judge.

The tribute, in a Supreme Court room, was also attended by the Chief Justice of Lesotho, Mr Justice Cullinan.

Mr Justice Friedman said Mr Justice Thompson was a kind and caring person with a great love for the English lan-

## Mr Justice Thompson

guage and a fine sense of humour. He was "a formidable opponent as well as a hard taskmaster".

He added "No tribute to Ogilvie would be complete without a reference to his absolute fetish for punctuality to be late for an appointment was totally unacceptable but to arrive early was equally frowned upon."

Mr Justice Thompson was admitted as an advocate in 1926. He became a judge in 1946 and a Judge of Appeal in 1958. In 1971 he became the country's 13th Chief Justice, a post he held until his retirement in May 1974.

The Judge President expressed his sympathy to Mr Justice Thompson's widow, Eve, and his children, Julian and Virginia.

# 'Concern' after policemen visit homes

STAR 7/8/92

Policemen yesterday visited the homes of two Boipatong residents who were giving evidence to the Goldstone Commission on the June 17 Boipatong massacre, according to counsel for the African National Congress, Arthur Chaskalson.

He told the commission yesterday that the policemen had visited the home of two witnesses while the witnesses were

in Vereeniging giving evidence or waiting to do so.

He requested that the SAP give the assurance that this would not happen again without warning. The visits had apparently caused the witnesses some concern.

Commission chairman Mr Justice Richard Goldstone requested that counsel for the SAP, Mr P Hattingh, inquire

into the matter.

He said it would be a good idea if in future the counsel informed the commission if the police intended visiting witnesses as this would prevent undue alarm.

Mr Hattingh said he had requested the police to "measure certain distances" in the township but had not asked them to visit any witnesses — Sapa

**NEWS** Indian teachers on duty ● New turn in Goniwe probe

# Minister linked to the Goniwe probe

■ Attorney-General tells Vlok he's "going to bleed" in light of probe:

*Sowetan 7/8/92,*

## Sowetan Correspondent

EASTERN Cape Attorney-General Michael Hodgen has discovered a potentially explosive document which shows that before the death of Cradock activist Matthew Goniwe, a Government minister chaired a sub-committee meeting of the State Security Council dealing with Goniwe

An investigation has revealed that as a result of the discovery of the document, Eastern Cape Deputy Attorney General Malherbe Marais allegedly told Minister Adriaan Vlok in a telephone conversation at the beginning of June that he (Vlok) "is going to bleed"

Contacted last night, Vlok refused to comment on any of the allegation "because the Goniwe murders are being investigated by the Attorney General, and it would be improper to comment at this stage"

Hodgen was appointed by President FW de Klerk in May this year to investigate an alleged "death warrant" signal sent to the State Security Council by the SADF's Eastern Province Command on June 7 1985 - three weeks before Goniwe and three other anti-apartheid

activists were murdered

The alleged signal called for the "permanent removal from society" of Goniwe and two of his colleagues

The sub-committee, according to the document, was charged with discussing Goniwe's future as a teacher - in State employ - in Cradock

Vlok, now Minister of Correctional Services, was at the time Deputy Minister of Law and Order and Defence

The document will be produced as evidence in the reopened inquest into the Goniwe killings. No date has been set for the inquest

After its discovery in early June, Hodgen and Marais flew to London to interview former security police colonel John Horak about the document, and the structures and workings of the State Security Council

Horak had formerly been employed in the secretariat of the SSC

Hodgen is scheduled to travel to Pretoria next week to investigate the document further

Sources close to the investigation believe that the telephone conversation was tapped

Hodgen has refused to comment on his investigation or the discovery of the document



**Adriaan Vlok ... "going to bleed"**

The journal *Africa Confidential* reports in its issue of July 31 that Hodgen is understood to have been persuaded in the course of his investigation that the "Goniwe signal" was approved by the State Security Council

*Africa Confidential* says such a meeting would have been attended by at least three Cabinet ministers who are still serving: Foreign Minister Pik Botha, Justice Minister Kobie Coetsee, and Environment and Forestry Minister Magnus Malan, the former defence supremo



# Forgetting follows forgiving, but first we must have truth

STAR 8/8/92

UNDERCURRENT  
AFFAIRS

SHAUN

JOHNSON

RS2

SOME time ago, this column reported that powerful voices in the British government were floating the idea of a general amnesty in South Africa. Now the talk is taking place much closer to home: our own government has warmed to the idea quite markedly, and discussions are being held with the ANC.

The issue of a general amnesty is not a constitutional technicality or negotiating nicety. It has to do with the soul of our nation, of remembrance of things passed, of forgetting for the sake of the future.

At its simplest, a general amnesty would mean erasing the national memory. Political offenders on all sides would be absolved; there would be no prosecutions for crimes committed in the past. But it is important to understand the context in which interested international parties are promoting the notion.

In the corridors of Western power — and this is in sharp contrast to the sitting rooms of white South African suburbia — it is accepted as a fact that powerful elements within our security forces are guilty of complicity in the violence. Terrifyingly, it is believed they are operating outside the Government's aegis, that President F W de Klerk cannot purge them without risking an uncontrollable backlash. These are experienced, highly trained, resourceful, determined and ruthless elements who fear retribution if De Klerk is forced to negotiate a settlement which cedes considerable power to the ANC.

The only way to stop them from continuing to act beyond De Klerk's control, so the reasoning goes, is to offer them an escape route from their past and present. The *quid pro quo* for the ANC would be the release of the more than 400 people the organisation regards as political prisoners.

The idea has much merit — anything that might stop the spiral of violence must be consid-

**THERE is good reason to be suspicious of the Government's motivation in going along with an amnesty now.**

ered — but it is such a big idea, and one whose consequences we will live with for so long, that it cannot be entertained lightly.

The means to justify the end of renning in the maverick killers would have several major implications. It would virtually ensure that the huge book of unsolved political murders remains shut. South Africans would never know who killed whom, whether the State was directly involved or not, and what form the intervention by security force mavericks was taking.

It is one thing to free convicted prisoners under an amnesty — one knows of their misdeeds and can therefore offer forgiveness — but entirely another to book that they are as never been brought to book that they are assured of getting away with their crimes.

There is good reason, also, to be suspicious about the Government's motivation in going along with an amnesty. The investigation into the Goniwe murders is throwing up new evidence, the SADF's involvement in a covert mission in London *this year* still has to be explained — and as a negotiated settlement draws

closer, rats are increasingly deserting the sinking dirty-trucks ship. On balance — or rather imbalance — it appears that the State would do much better out of a general amnesty than its opponents would.

Nevertheless, this is not the central issue. The aim is to do away with a key cause of the bloodshed in which our country is drowning, and if that aim could be achieved, it hardly matters which party gets the better deal. But the question must be asked: Would a general amnesty necessarily persuade the "third forces" to put away their guns and become decent citizens?

Some, perhaps. Others, horrifying as the idea might be, could well decide that they like what they're doing and believe it to be the right thing. An amnesty will not in itself shut them down. Many are self-financing — a legacy of the necessary deceptions of the CCB *et al* — and they appear to have support in at least some high echelons.

A general amnesty is potentially a noble instrument of forgiveness and reconciliation. But it should be considered only when the State has proved beyond doubt that it has done all it can to bring criminals within its own ranks to book. We must have finality from De Klerk on the authenticity or otherwise of the Goniwe "death signal". We must see the results of the internal investigation into the SADF agents caught in London. We must know whether the rot goes right up into the General Staff.

There is a risk in De Klerk confronting the monster his party has created, but the risk of not confronting it is infinitely greater. People who murdered in the name of apartheid might qualify for amnesty along with those who murdered in the name of the liberation struggle. But we must first know who they are and what they did — and be assured that they will never do it again. Forgetting comes after forgiveness, not the other way around.

# White man hacked child, probe told

STAR 8/8/92.

PHILIP ZOIO

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VEREENIGING — A 39-year-old woman from Slovo Park yesterday told the Goldstone Commission inquiry on the Boipatong massacre that during the attack a white man wearing a balaclava hacked her three-year-old niece's head open with a panga.

According to an ANC document submitted to the commission on Wednesday, the child is now in hospital waiting to undergo brain surgery.

Florence Molete told the commission that she was about to go to bed at about 10 pm on June 17 when she heard loud noises outside her shack. She looked outside and saw a large group of men attacking a neighbouring property.

Shortly afterwards, her kitchen door and bedroom windows were smashed. A black man, wearing a white headband and carrying a spear, came inside and said in Zulu "Get out, you dogs."

He was joined by men who began to hit and kick Molete. Another group broke the shack from behind. Molete said her brother-in-law, Pule Lekabe, was stabbed as he fled through that opening. He died outside the shack.

Molete said attackers continued to assault her, her sister Miriam, and Miriam's daughter Mita. The white man then "hacked Mita's head open", she said.

After shouting for Pule, Molete heard someone say in Zulu with a "white" accent "The dog is dead."

She then looked through the kitchen door and saw another white man wearing a balaclava standing at the doorway. He was carrying a "long gun".

Shortly after the attackers left, Molete, her sister and her niece hid in a rubbish dump behind the township from where she saw two Casspir armoured vehicles close to where other attackers were breaking windows and destroying houses.

Earlier, Boipatong resident Joseph Nthombeni testified that he saw a camouflage-coloured Casspir slowly following men who were breaking down doors and smashing windows of houses on his street.

## Shields

The attackers, wearing headbands and carrying shields and other weapons, had just passed his house and tried to break down his door, he said.

Nthombeni said he noticed the Casspir had a white "T2" marking on its back doors. He said that three days later he saw a Casspir, with the same marking and colour, near the Boipatong shops.

Counsel for the police, advocate P Hattingh, said a plain-coloured Casspir, marked "T2" in orange and commanded by a Sergeant Schibusch, had gone to Boipatong on June 17 after receiving reports of violence there. The Casspir had not been present during the attack, he said.

Hattingh earlier denied any police involvement in the massacre.

The hearing continues on Monday.



# SADF inquiry

STimes 9/18/92

From Page 1

about deaths in African training camps, torture, and the activities of township self-defence units

Both the SAP and the Kwazulu police, often called the armed wing of the Inkatha Freedom Party, have been targets of many accusations of illegal actions, brutality and misuse of force

Judge Goldstone called on the government, the Kwazulu government, the ANC and the PAC to immediately support the UN recommendation "Without their active support and encouragement this recommendation would not be capable of implementation," he said

He said that for some years there had been widespread and serious allegations concerning unlawful activities by members of the security forces and political armies

"The commission is of the unanimous and firm view that further piecemeal investigations into specific incidents of violence will not do more than scratch the surface of the widespread perceptions which make all of these agencies the object of mistrust, distrust and suspicion"

The commission believes that, if it is not able to investigate fully the operations of these agencies, it will not be able to carry out its mandate of making recommendations for curbing the violence"

Judge Goldstone also asked that the commission be given the right to visit the camps of the resistance groups and search for arms caches with the assistance of international groups. At the same time, he appealed for a general amnesty to help the commission in its task.

## Crisis

A cabinet source said he personally supported the recommendation that all military formations be investigated, "but there might be elements in my ranks who will think he is going too far"

"I think such an inquiry will allow the police and the army to move out of the present crisis."

Among recent conflicts between the Goldstone commission and the security forces have been a rejection by the SADF of a Goldstone committee recommendation that 32

Battalion, implicated in widespread complaints of misconduct, be removed from Phola Park and never be deployed in townships again

Only after Judge Goldstone publicly complained about the government ignoring his findings did State President FW de Klerk demobilise 32 Battalion

In another instance, Judge Goldstone ordered investigations in December into the role of five policemen implicated in alleged attempts to kill community leaders in Schweizer Reneke

Again, only after he took the police to task were charges finally laid against three policemen for conspiracy to commit murder. They will appear in court on August 10.

The main thrust of the secretary general's proposals is to strengthen both the Goldstone commission and the National Peace Committee.

Both the government and the ANC welcomed the UN recommendations yesterday but did not commit themselves on detail

hand... Africa's Golden Girls!

# JUDGMENT ON PROGRESS



STimes 9/18/92

Sunday Times Reporters

The Goldstone commission yesterday declared itself ready to carry out a full-scale inquiry into the security forces and political armies, as demanded by UN secretary general Boutros Boutros-Ghali.

A top cabinet source described the UN proposal as "constructive" but warned that the security forces, especially the SADF, would resist a full-scale probe.

The SADF's hostility to probing by the Goldstone commission came to the surface this week during the Polokwane massacre when counsel for the SADF refused to hand over a file demanded by Mr Justice Richard Goldstone. The file was eventually surrendered after Judge Goldstone raised the possibility of holding the advocate in contempt.

## Actions

In a statement welcoming the UN proposal, Judge Goldstone said yesterday "Unless the SADF and SAP are fully investigated by a neutral and reliable body, they will have no prospect of receiving the trust, confidence and co-operation of the South African public."

Aspects of security force activities, which remain hidden are the CCB, police dirty tricks, special forces actions, and the possible existence of so-called "hit squads".

On the ANC side, unanswered questions remain

To Page 2

## Naas to captain Boks

By DAN RETIEF  
NAAS BOTHA was last night named captain of the Springbok rugby team for the Test against the All Blacks at Ellis Park on Saturday.

Also in the side is veteran centre Danie Gerber who will partner new cap Pieter Muller after Kye State's Brendan Venner, a near-certain choice, broke a leg while playing against the Kiwis on Wednesday.

There is plenty of youthful talent with eight new caps - Theo van Rensburg, Pieter Hendriks, Maithe, James Small, Robert du Preez, Loed Muller, Adria Geldenhuys and Ian McDonald.

The All Blacks beat the Junior Springboks 25-10 at Loftus Versfeld yesterday

See page 21



# Lawyers under spotlight in funds scandal

By FRED KHUMALO

LEGISLATION could soon be passed that would compel bank managers to report any irregularities in a lawyer's trust account to the Association of Law Societies.

This week, Maritzburg attorney Younus Bayat was struck off the roll after the Supreme Court found a "massive" shortfall in his trust account, bringing to 10 the number of lawyers - most of them black - getting the axe in the same number of months in Natal alone.

Bayat's case has turned the spotlight on the law fraternity - showing what Natal Law Society spokesman David Randolph recently called a "marked increase" in the number of lawyers finding themselves on the wrong side of the law.

Randolph said the society had noted with concern that lawyers were "cunning and clever" and with the aid of their bank managers had been able to conceal irregularities in their trust accounts.

To counter the trend the society had recommended to the govern-

ment a law which would force banks to divulge information about lawyers' trust accounts.

Bayat has reportedly fled overseas and Randolph said the Attorneys' Fidelity Fund would now reimburse clients "whose money was stolen".

In 1989 the Fidelity Fund forked out R3,6-million to reimburse cheated clients.

Meanwhile, two prominent lawyers' trust accounts are under intense scrutiny following allegations of irregularities in the accounts.

The Natal Law Society has applied to the Supreme Court to have Stephen Dawson, a prominent Durban lawyer, struck from the roll of attorneys because he allegedly misappropriated funds.

Dawson has denied the charge, saying he had been sick and unable to check the bank statements.

Durban attorney Kwanza Mlaba is also alleged to have received stolen funds which were deposited into his trust account.

## The recommendations

ON the Goldstone commission on public violence

- The commission should investigate the operations of the army, police, Kwazulu police, Umkhonto we Sizwe, Azanian People's Liberation Army and certain private security companies,

- The UN should provide help to the commission, including secondment of jurists, etc;

- All Goldstone reports should be released to signatories to the National Peace Accord within 24 hours *(Times 9/8/92)*

On the National Peace Committee

- Thirty UN observers should serve with the National Peace Secretariat in different parts of the country,

- Twenty-four-hour offices should be established at flashpoints throughout

the country, staffed by representatives of all parties to prevent violence

On negotiations ~~30/9/92~~

- All parties should return to negotiations as soon as possible. Remaining political prisoners should be released and the state broadcasting services should be impartial,

- Codesa should consider the appointment of an eminent and impartial person (not necessarily a foreigner) to provide cohesion, *(252)*

- A deadlock-breaking mechanism should be established at the highest political level ~~30/9/92~~

On a future role for the United Nations

- The UN should dispatch emissaries to assess progress on a quarterly basis — or more often if required

# SADF hid suspects in Webster probe

ST Times 9/8/92

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THE SA Defence Force hid two members of the Johannesburg city council spy ring for months to prevent them being questioned by police in connection with Dr David Webster's murder.

The men were whisked away from a Hillbrow hotel just minutes before investigating officer Brigadier Floris Mostert arrived to question them in April 1990.

The cloak-and-dagger operation emerged after a month-long Sunday Times investigation into operations carried out by members of the spy ring.

The agents — Dick Greyling and Paul de Swardt — were told by an SADF legal adviser and a senior intelligence officer, Commandant PJ van der Berg, that they should "disappear" after evidence to the commission by fellow spy ring member Hannes Gouws on April 27 1990.

Mr Gouws testified that Mr Greyling had told him two days earlier that the SADF's shadowy Civil Co-operation Bureau had been responsible for the assassination of Dr Webster outside his Troyeville house on May 1 1989, and that Mr De Swardt had been the "hit man".

## Secret

At the time Mr Greyling was working at the Cardiff Arms Hotel, owned by Johannesburg city councillor Desiree Simpson.

Shortly after Mr Gouws named the two agents, Mr Greyling was picked up at the hotel by Commandant Van der Berg and Mr De Swardt in a white Mercedes.

After a meeting with a SADF lawyer, the two men went to Nelspruit, where they stayed with friends.

Later, they returned to Boksburg to discuss future strategy

## 'Dirty tricks' training

MEMBERS of a "dirty tricks" squad attached to the Johannesburg City Council were trained at a smallholding north of Johannesburg from August 1987 to February 1988.

When the state of emergency was introduced in June 1986, all military intelligence operatives from the Johannesburg and Soweto areas were drafted to the Fontana base at Murray Hill, outside Pretoria, for a crash course in interrogation.

They were transferred to police stations in unrest areas as part of Operation Xenon, but the operation was abandoned.

When agents had to be trained for the council spy ring, SADF

intelligence officer Cmdt PJ van der Berg, of Wits Command, instructed Major Johan Loubser to find suitable premises.

He rented a smallholding, No 17, Diepsloot, for six months — at R900 a month — from Mr Michael Cox, former owner of the Courier restaurant, Kyalami.

On completion of the programme, agents began operating from their own homes.

SADF chief General Kat Liebenberg denied all knowledge of a "dirty tricks" squad this week, but confirmed the crash-course for agents at the Fontana base, and said the Diepsloot smallholding had been used to train agents in "intelligence gathering".

## SUNDAY TIMES INVESTIGATION by DE WET POTGIETER

with Commandant Van der Berg and were sent into hiding at Mopan, a desolate railway siding between Messina and Louis Trichardt.

Two months later, when plans to set up a tomato transporting business fell through, the men returned to Johannesburg and went their separate ways.

Mr De Swardt subsequently went into business as a fruit wholesaler, operating from Johannesburg's City Deep market, while Mr Greyling found work at another Hillbrow hotel.

Several months later, they were questioned by Brigadier Mostert, who said yesterday he had found no evidence that they were linked to Dr Webster's assassination.

SADF chief General Kat Liebenberg confirmed this week that Mr Greyling and Mr De Swardt were former members of Mil-

tary Intelligence at Witwatersrand Command. He said they had resigned from the SADF "towards the end of the 80s".

Commandant van der Berg was now stationed at army headquarters in Pretoria, he said.

However, General Liebenberg denied all knowledge of a "dirty tricks" squad, formed in 1987.

## Beating

The Sunday Times investigation shows that Commandant Van den Berg — senior staff officer, intelligence, at Wits Command at the time — instructed a Major Johan Loubser to find a suitable secret training base for agents.

Among the projects carried out by members of the unit was an attack on actors Andre-Jacques van der Merwe and Andre Lombard while they were taking part

in the anti-war play *Somewhere on the Border*.

Mr Johan Loubser — formerly an SADF major — told the Sunday Times he and Commandant Van der Berg received orders for the attack "from defence headquarters in Pretoria".

"It was a time when anti-conscription fever was mounting, and the play was negative towards national service. The unit's objective was to get the play stopped," said Mr Loubser.

"The original plan was to tar and feather one of the actors, but they resisted heavily, the situation got out of hand, and the unit agents ended up beating them with batons and fists and kicking them."

The unit was also responsible for disrupting and teargassing a concert by singer Jennifer Fergusson at the Market Theatre, burning two vehicles owned by Mrs Albertina Sisulu, the surveillance of Mr Nelson Mandela's house in Soweto while it was under construction; a petrol bomb and hand grenade attack on a house and garage in Soweto, the petrol bombing of a house in Orange Grove and a handgrenade attack on two Israeli businessmen who had offices at Armadale Place in Johannesburg.

## Serious

General Liebenberg said that, although the allegations were viewed in "a serious light", many of them were old and had been made during the Hiemstra commission.

"I will not tolerate misconduct or illegal actions by members of the defence force," he said. "I appeal to anyone with information about these allegedly illegal activities to contact the police or myself so it can be properly investigated."



# Witnesses throw new light on massacre

# WHITE PAN

By SOPHIE TEMA

CLEAR visibility and moonlight enabled a Slovo Park woman to identify a white man who participated in the Boipatong massacre.

Florence Molete, 39, who gave evidence before the Goldstone Commission in Vereeniging, said she realised that a man who had covered his face with a balaclava and had stabbed her brother-in-law Pule Lekaba, was white.

She said she became aware of his race after he spoke to her in Zulu with a "white" accent and then she also noticed that his face was exposed.

Molete was the third witness to allege in her testimony that whites had participated in the killing of residents in Slovo Park and Boipatong on June 17.

Earlier in the week a young woman, whom commission chairman Judge Richard Goldstone ruled could not be identified, gave a heart-rending account of how she and her younger brother witnessed the murder of her mother and older brother by a group of seven men - four blacks and three whites.

The woman, who was identified as Miss A, told the commission on the night of June 17 that she heard men shouting in Zulu: "Bulalani lezi zinja" (Kill these dogs).

Her mother then told them that the Zulus were attacking.

Her mother and nine year-old brother ran into a storage box which was opened on the one side and covered with wire-

**'He was standing in**

**the door**

**with a gun in**

**his hand**

**and I took**

**note of his**

*CIP no 918/92*  
**white skin'**

mesh on the other.

She followed her mother to the box and later her older brother followed with his wife.

The men saw him and followed him to the box where they stabbed him several times with a spear, leaving him dead in a pool of blood.

At this point Miss A noticed that three of the seven men were whites dressed in camouflage and wore balaclavas which exposed their faces.

As the man left, one of them noticed her mother in the box.

Three of them returned and stabbed her mother to death. She and her younger brother managed to escape and hid under a bed in their house until the attack was over.

In her evidence Molete said although Slovo Park is not electrified, clear visibility, moonlight and a candle burning in her shack enabled her to see

the two men clearly.

Molete said she was home with her sister, her brother-in-law and her sister's three-year-old daughter, Midah. They were all preparing to go to bed when they heard a noise in the street.

"I peeped through a hole in my shack when I saw a large crowd of people - all of them men - armed with weapons and breaking a neighbour's shack. Suddenly I heard heavy bangs on my door and the breaking of glass in my bedroom.

"The door of my shack broke down and a man carrying a spear walked in and said in Zulu "Phu-manu zinja" (Come out you dogs).

He was followed by other men and one of them stabbed her brother-in-law who managed to escape through an opening in the shack caused by the attackers.

"During the assault a man hacked Midah's head open with a panga and injured my mother's arm. I then called my brother-in-law Pule, and someone from outside replied in Zulu with a white accent "Ifile inja" (The dog is dead).

"I paid particular attention to his accent and noticed that he was standing in the kitchen door with a gun in his hand and wearing a balaclava but his eyes and mouth were exposed and I also took note of his white complexion."

After the men left, Molete said she hid at a dump site and from there she could see two casspirs moving into Sekhukhuni Street.

The commission proceeds tomorrow.

# GAMMERS

Conditions laid down for amnesty

# ANC calls for full disclosure of state crimes

*BIDAY 10/8/92*  
THE ANC would not accept a general amnesty for security force members, government officials and Ministers unless there was full disclosure of the activities for which amnesty was required, the ANC has said.

It was also opposed to government's linking of a general amnesty to the release of remaining political prisoners

Judge Richard Goldstone at the weekend called for an amnesty to enable him to investigate fully the activities of the SADF, the SAP, the KwaZulu Police and the military wings of the ANC and PAC. This was in response to the UN recommendations on violence.

Speaking on the amnesty issue on Friday before Goldstone's statement was released, ANC legal affairs department official Mathews Phosa said the ANC was proposing that government make use of the Indemnity Act which has been used to grant indemnity to senior ANC officials and thousands of ordinary members.

"The Indemnity Act provides for how one gets indemnity. We complied with the Act and expect that what was good for us will also be good for them," he said.

The Act requires that people seeking indemnity state for what offence they are seeking that indemnity. Offences which the Act fails to mention are not covered by any indemnity granted.

"They (government) have been getting worried about all the uncontrolled disclosures — such as the Vlok affair," another ANC source said.

In response to allegations that he had been involved in discussions about Crad-

*(252) (227)*  
dock UDF leader Matthew Goniwe prior to his death, Vlok has said the only discussions about Goniwe he participated in were regarding the man's appointment as a school teacher.

Another ANC source said Goldstone's call for a general amnesty had "muddied the water" after the matter had been discussed earlier during bilateral talks. However, the basis of the ANC position would apply to Goldstone's call as well — full disclosure at the very least.

Amnesty should not be seen as a cover-up, the source said.

Any amnesty should also have a cut-off date that would have to be negotiated. Any crimes committed after that date should not be subject to amnesty.

He said the prisoner issue had to be separated from the amnesty call, as government had committed itself to this a while ago and the release of the remaining prisoners was creating serious problems in constitutional negotiations.

In the bilateral talks government had linked the release of the remaining 450 prisoners — whom it does not classify as political — to a comprehensive package involving Makondo we Sizwe and what Justice Minister Kobie Coetsee has described as "one single agreement with multilateral effect" — in effect a general amnesty which would also cover previous activities of government officials.

Draft legislation on these matters could

□ To Page 2

## State crimes

*BIDAY 10/8/92*  
be ready for the short October Parliamentary sitting if the politicians resumed constitutional negotiations in time.

Phosa denied a recent report that the ANC had compiled a list of government personnel the ANC believed had committed crimes in the service of the State. However, the ANC was aware of the identities of some offenders on government's side, he said.

It appeared that the only way forward to the resumption of constitutional talks would be agreement on a broad package deal which included amnesty.

Meanwhile, an informed source said President F W de Klerk and ANC president Nelson Mandela's telephonic discussion on Friday night related specifically to the Ciskei and allegations that SA Communist

*(252) (227)* □ From Page 1  
Party secretary-general Chris Hani had ordered a Ciskeian chief's death.

Speaking in Ciskei on Saturday, Mandela disclosed that he had telephoned De Klerk on Friday night. He did not disclose details of the conversation, which led to speculation that it was related to negotiations.

It appeared that De Klerk had received a report claiming Hani had ordered the death of a Ciskei chief, and De Klerk wanted Mandela to deal with it.

Mandela had spoken to Hani about the report and was assured that "there was absolutely no truth in the allegation".

Apparently no other matters were discussed, but the fact that the two leaders were speaking to each other informally was fuelling expectations of an imminent resumption of constitutional talks.



# No amnesty unless 'full disclosure'

CT 10/8/92 252

## Own Correspondents

JOHANNESBURG — The ANC would not accept a general amnesty for security forces, government officials and ministers unless, at the very least, there was a full disclosure of their activities, a senior ANC source said yesterday.

At the same time government's linking of a general amnesty to the release of prisoners was unacceptable, as the release of political prisoners was a clear commitment by it in the Groote Schuur and Pretoria Accords during 1990, he said

Mr Justice Richard Goldstone at the weekend called for an amnesty to allow him to fully investigate the activities of the SA Defence Force, the SA Police and the military wings of the anti-apartheid movements

## Prisoner link rejected by ANC

His call expresses the frustration the commission is having in getting to the causes of violence around the country

The ANC source was not specifically discussing Mr Goldstone's call for a general amnesty, which he said muddied the water after government had proposed this during bilateral talks with the ANC on the prisoner issue

Mr Goldstone was reacting to UN Secretary-General Mr Boutros Boutros-Ghali's

call on all parties to accept a general amnesty to resolve the violence crisis

The ANC source said amnesty, which the ANC did not oppose in principle, should also have a cut-off date, to be negotiated, after which any crimes committed would not be subject to amnesty

However, a Justice Ministry spokesman said the ANC had proposed a general amnesty several months ago. The government was willing to discuss it

According to another ANC source, Mr Coetsee has mentioned defining a new category of political offender, as the government argues that offences like murder are common law crimes

It is expected that draft legislation helping to resolve the amnesty/political prisoners issue will be ready for the short October parliamentary sitting if the politicians have resumed full-blown constitutional negotiations by then



# NEWS ANC welcomes probe into Umkhonto we Sizwe ● News in brief



About 200 people took part in the Women's Day celebration organised by the ANC Women League in Alexandra Township yesterday.

## SADF probe hailed

*Sowetan*

10/8/92

■ No problem with recommendations by both Judge Goldstone and UN Secretary-General:

**By Ismail Lagardien  
Political Correspondent**

THE ANC has "no problem in principle" with Goldstone Commission and United Nations recommendations for an impartial international investigation into South African "armies and police forces" - including Umkhonto we Sizwe

Mr Justice Richard Goldstone and the UN Secretary-General Mr Boutros Boutros-Ghali last week strongly recommended the inquiry into the SAP, SADF, Kwazulu Police and the PAC's armed wing, the Azanian People's Liberation Army and MK

The ANC's Mr Aziz Pahad said the

SADF and SAP had repeatedly been implicated "by omission or by commission" in continuous violence over the years

The ANC would like to study the recommendations  
"We have nothing in principle against our people's army being investigated," Pahad said

The UN recommendations follows the recent fact-finding mission by special envoy Mr Cyrus Vance

Pahad said he was not sure if the UN's recommendation of 30 peace observers would be enough

But it was encouraging that Boutros-Ghali had suggested the involvement of movements like the Organisation for African Unity, he said

# SA set for 'trial by video' system

BIDAY 10/8/92

SA is set to see the introduction of a revolutionary new court procedure whereby criminals will be tried and sentenced by video rather than in court appearances, DP Justice spokesman Tony Leon said yesterday.

The Parliamentary committee on justice recently unanimously passed the Criminal Laws Second Amendment Bill which is almost certain to be passed in the next ordinary session of Parliament.

At the end of the last session of Parliament, the justice committee travelled to Reno in the US to study the innovative system which uses fibre optics, and was convinced of the system's efficiency and economy.

Using fibre optics and the telecom-

BILLY PADDOCK

munications system, a magistrate sits in court with a video screen linked to a special "courtroom" in the awaiting trial section at the prison, and conducts the trial.

Only prisoners prepared to plead guilty would be tried in this way SA had been assured it had the technology and it would not be a problem to implement the system, Leon said.

The new technology would dramatically expedite the adjudication of criminals for less serious offences.

"About 40% of our prison population are awaiting trial prisoners and many of them are held there for extremely long periods — sometimes, in the case of minor crimes, longer

than the sentence they would get in the end," he said.

This was costly for the taxpayer, especially as jails were already overcrowded. The system would only be used for those crimes carrying a maximum fine of R1 000 or a prison term of three months.

Leon hoped the disturbing practice of prisoners bribing themselves out of jail or having other prisoners substituting for them would be averted.

He said it had cost Reno \$254 000 to install the system and within six months this cost was wiped away.

"There is no need to spend loads of money transporting prisoners, protecting the public and the prisoner and tying up four guards for such minor crimes," he said.

# Holomisa in army training offer

TRANSKEI military leader Maj-Gen Bantu Holomisa is ready to step up military training in his country — as long as volunteers forego pay and supply their own food and accommodation. BIDAY 10/8/92.

Civilians who want to receive training can report to Umtata military garrison from today.

Holomisa said in a policy speech at the weekend that he was responding to "calls to the government for voluntary military training for civilians".

The Transkei Defence Force had no objection, he said.

A committee comprising the ANC, the SACP and other organisations had demanded military training during the week of mass action.

PATRICK BULGER

Holomisa said all volunteers would have to be subject to the Military Disciplinary Code, and would go through all administrative requirements in conjunction with the committee that called for the training.

In a major policy speech to the Transkei Legislative Assembly, Holomisa said even though his police had transport problems and lacked the necessary equipment, "we have managed to bring things under control as compared to other parts of SA". He said the equipment of Transkei's security forces was far behind that of SA and the other homelands.

# Transkei deadline

UMTATA — Transkei's business community had issued an ultimatum to the Transkeian government to restore law and order, SABC radio reported on Saturday.

The Umtata Chamber of Commerce called more than 200 of its members to crisis talks on Friday following last week's mass action.

A list of demands was sent to the Transkei government on Saturday and must be met by Wednesday or the chamber could take action including a tax boycott and business closures.

Transkei military leader Maj-Gen Bantu Holomisa said the mass action campaign was being conducted peacefully, the government would not meet the deadline, and the chamber was overreacting. — Sapa

BIDAY 10/8/92



'Sensitive' implications in call for probe into security forces

# Push for general amnesty

STAR 10/8/92

By Helen Grange and Peter Fabricius

President de Klerk will hold discussions with top security bosses this week on the "sensitive" question of having Government security forces subjected to a full-scale inquiry by the Goldstone Commission.

The inquiry, proposed by UN Secretary-General Boutros Boutros-Ghali, has reinforced moves towards a general amnesty, which Mr Justice Goldstone says would assist a probe by his commission.

The Government and ANC discussed the question of an amnesty last week, and it is understood that the Government is ready — albeit grudgingly — to release virtually all remaining political prisoners.

● Boutros wants to boost Peace Accord — Page 3

However, the ANC is concerned that a pre-emptive amnesty might mean that alleged crimes involving security force and State personnel would never be disclosed.

The ANC wants the Government to abide by the existing Indemnity Act, which means persons can be indemnified only once they have stated their offences.

The latest developments are interpreted to be a no-holds-barred attempt by the Government to get the negotiations process under way as soon as possible, opening the way for the Cabinet to submit legislation to Parliament as soon as October to enact the first phase of a transitional government.

Constitutional Development Minister Roelf Meyer said last night that if agreement could be reached in negotiations, legislation could be tabled at the short session of Parliament for a multi-party transitional executive committee.

As agreed at Codesa, this committee would oversee preparations for elections for a constitution-making body — and perhaps also an interim legislature.

Codesa agreed that the transitional executive committee would control various specialised committees dealing with elections, the joint control of security forces and State-controlled media.

Mr Meyer emphasised that the legislation would not be tabled unless the Government's negotiation partners agreed.

Both the Government and the ANC will be holding top-level discussions this week over the call for the probe into the security forces and private armies.

The South African Defence Force, the South African Police, KwaZulu Police, the ANC's Umkhonto we Sizwe and the Azanian People's Liberation Army, as well as "certain security firms", have all been targeted for investigation.

One Government security source indicated concern yesterday that the UN was no longer adhering to the principle of monitoring.



BILLY PADDOCK

## Goldstone offers aid on amnesty details

JUDGE Richard Goldstone yesterday made his commission available to assist political parties in working out the details of any amnesty that would lead to full disclosure and combat violence

He said the commission had not considered the details of any amnesty when it made the call for one at the weekend, but had raised it as a way of getting to the bottom of the violence and starting the process of reconciliation

The ANC has said while it was not against an amnesty in principle, this had to be accompanied by full disclosure and there should be a negotiated cut-off date

Goldstone said, "The persons to whom such an amnesty should apply and the pro-

cedure by which it should be made available to them are matters which will obviously require detailed and careful consideration by all of the parties involved" The commission would be happy to assist in working out such details.

Goldstone said the commission "raised this issue because it is of the view that members of all the relevant organisations (viz the SADF, the SAP, MK, Apla and the KwaZulu Police) should be encouraged to come forward and make full disclosure of any unlawful conduct in which they may have been involved".

● Comment: Page 8

(252)  
SIDA 11/8/87

# Domicile Act improves the legal status of women

BILLY PADDOCK

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JUSTICE Minister Kobie Coetsee said yesterday the new Domicile Act had come into effect, marking a further step in government's commitment to "acknowledge the equal status of women in society"

The Act, which was passed during the last session of Parliament, came into effect on August 1. It provides that every person older than 18, regardless of sex or marital status, can establish a domicile of their own choice

Formerly, all women who married took on the domicile of their husbands and had no choice in the matter. This had severe implications, especially for women separated from their husbands.

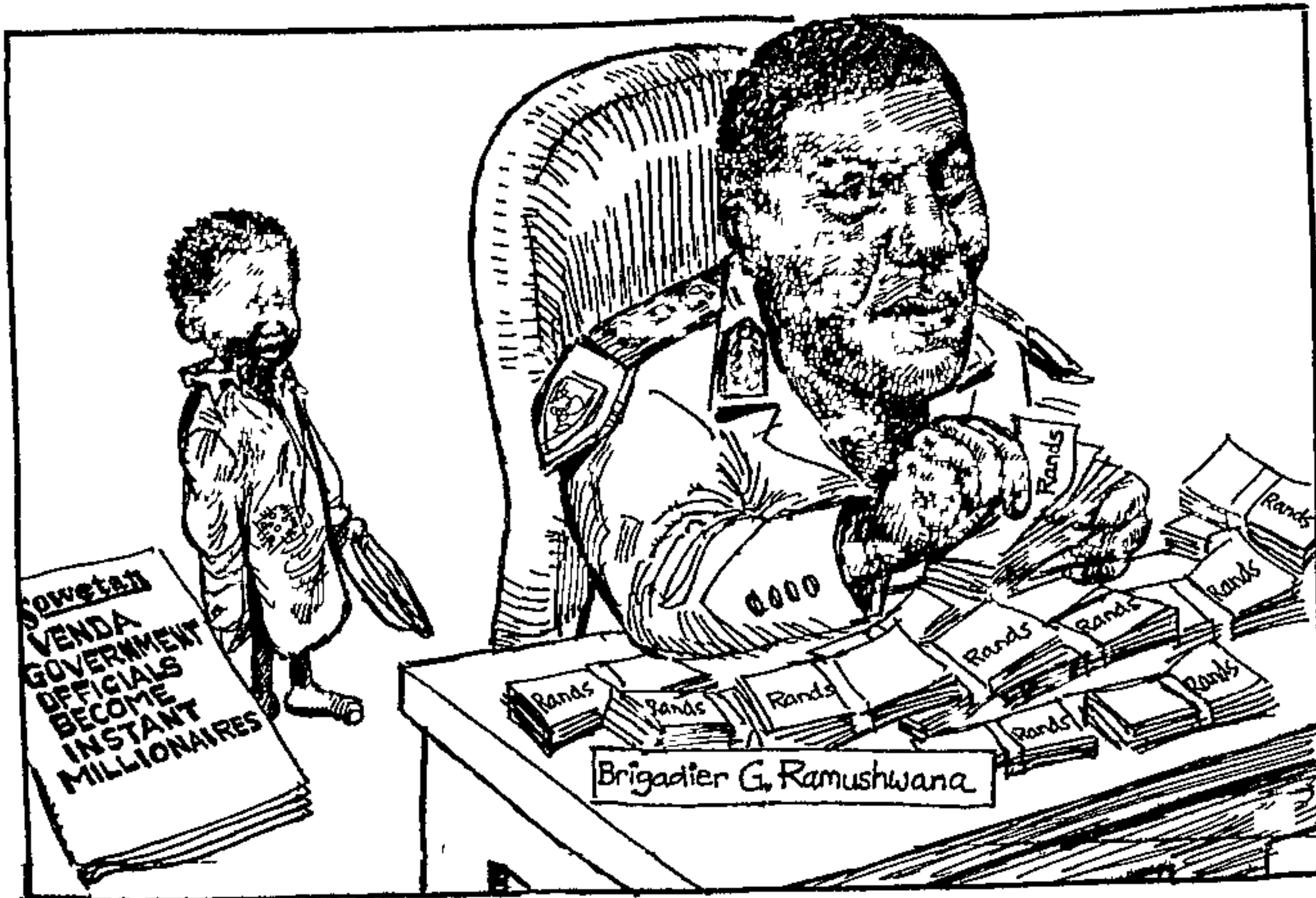
The domicile of any person unable to establish one of their own, such as dependent children, will be determined by the place with which that person is most clearly associated

The Act also provides that a court will acquire jurisdiction in divorce proceedings if any of the parties ordinarily resides in the area of jurisdiction of that court and the person has been resident in the country for more than a year.

Coetsee said the measure emphasised government's view that individuals' happiness and salvation in life should be determined by their own merit and distinction

"I trust that equality brought about by this initiative in respect of the legal status of women will also be emulated in the social and economic spheres of life," he said

**FOCUS** Release of all political prisoners possible to get talks going



*focus on* **Africa**

**A** GENERAL amnesty is on the cards after a weekend of recommendations and commendations, all of which were aimed primarily at re-suscitating the dormant negotiations process in the country

The United Nations secretary-general, Mr Boutros Boutros Ghali, late last week recommended that 30 peace observers be sent to South Africa, and that an inquiry, by the Goldstone Commission, be held into the various police, military and paramilitary forces in the country

In a report to the United Nations Security Council, based on the report of Mr Cyrus Vance, who recently completed a two-week study tour of South Africa, Boutros Ghali said the observers should serve in various parts of the country and work closely with the National Peace Secretariat to support the National Peace Accord

Boutros-Ghali also recommended that Government, as a matter of urgency, appoint justices of the peace and establish special criminal courts in terms of the National Peace Accord

In response to the UN recommendation, Mr Justice Goldstone suggested that a general amnesty be considered to enable his Commission to investigate fully the activities of the SAP, SADF, the KwaZulu police as well as the military wings of the ANC and PAC

And in a conciliatory speech in East London at the weekend, the president of the ANC, Mr Nelson Mandela, lauded State President Mr FW de Klerk, and bolstered the notion of a general amnesty as a means of breaking the deadlock

"For an Afrikaans politician we must commend his courage, his vision and his foresight," Mandela said of De Klerk

The ANC leader also appealed to all South Africans to concentrate on building a future and to "let bygones be bygones"

Although tacitly, Mandela underscored Goldstone's remarks at the weekend that "unless the SADF and SAP are fully investigated by a neutral and reliable body, they will have little prospect of receiving the trust, confidence and co-operation of the South African public" in future developments in the country

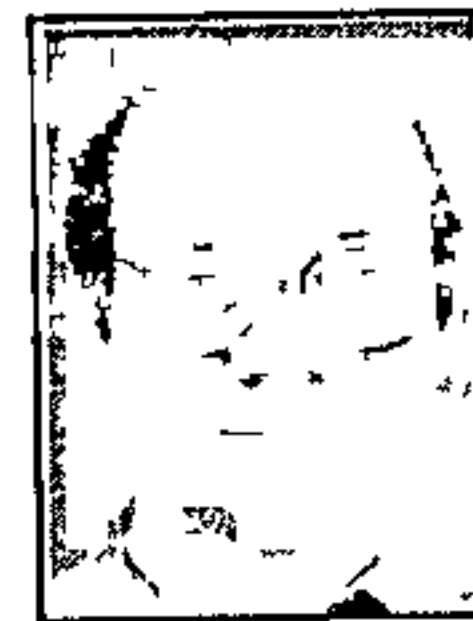
A flurry of meetings between the Government, the ANC and the State Security apparatus are expected this week to discuss and work out details of a possible indemnity

While the Government is understood not to be particularly enamoured by the idea of releasing all remaining political prisoners, it may be forced to do so as a quid pro quo for indemnity for its security apparatus, who over the years and months have come under fire consistently for alleged involvement in heinous acts of violence and for the alleged murder of Government opponents

A particular case in point is the recent allegation that the then deputy Minister of Law and

Indemnity suggested to cover liberation movements and security forces is on the cards and soon all political prisoners may be released to get talks going,

*Sowetan* political correspondent **Ismail Lagardien** looks at the implications:



United Nations envoy Cyrus Vance reported to the UN on his visit to SA

*Sowetan 11/8/92*

Order, Mr Adriaan Vlok, partly to was part of the decision that led to the assassination of Mr Matthew Goniwe and his colleagues in 1985

The ANC is, however, not altogether happy with the unconditional granting of amnesty for the security forces

The ANC's Mr Mathews Phosa has recommended that the Government make use of the same legislation which indemnified the movement's members for indemnity

One of the conditions of the Indemnity Act is that those who apply for indemnity, have to state their offences, and offences not listed are then not covered by the indemnity

"They (Government) have been getting worried about all the uncontrolled disclosures - such as the Vlok affair," Phosa said

While most parties supported, or in the least

registered the significance of the proposed investigation into all the security forces in the country, only the Inkatha Freedom Party responded in a guarded manner

Mr Walter Felgate, speaking on behalf of the IFP, said that the Goldstone Commission had "no real grounds for seeking such an inquiry (into the KwaZulu Police) but the KwaZulu government will not refuse to co-operate"

The inquiry, which in terms of the expressed ideals of Goldstone, would flow from a general amnesty and would be supported by the international community both in principle and actively

The UN secretary-general has recommended that the powers and scope of the Goldstone Commission be increased - with outside help if necessary



# Amnesty: Goldstone offers help

Political Staff  
25  
CT 11/8/92

JOHANNESBURG — Mr Justice Richard Goldstone yesterday made his commission available to assist political parties in working out the details of any amnesty that would lead to full disclosure and combat violence

The commission had not considered the detail of any amnesty when it made the call for one at the weekend but had raised it as a way to get to the bottom of the violence and start the process of reconciliation

It had "raised this issue because it is of the view that members of all the relevant organisations should be encouraged to come forward and make full disclosure of any unlawful conduct in which they may have been involved", Mr Goldstone said

The ANC said that while it was not against an amnesty in principle, this had to be accompanied by full disclosure

## Police lied in murder trial, judge finds

BIDAY 11/8/92 SUSAN RUSSELL 252

THE police team investigating the murder of 12 people during a vigil at Alexandra in March last year lied and fabricated evidence in the trial of five suspects, a Rand Supreme Court judge found yesterday.

Judge H Daniels made this finding when he acquitted Gibson Mbata, 28, Derick Majosi, 21, Christopher Mbata, 30, and Petrus Buthelezi, 31, on 12 counts of murder, 16 counts of attempted murder, housebreaking and unlawful possession of a firearm and ammunition.

A fifth man, John Zakwe, was found not guilty and discharged earlier in the trial.

The five men were alleged to have burst into an Alexandra home early on March 27 last year and sprayed mourners with gunfire from an AK-47 and a revolver.

Counsel for the defence applied for the acquittal of the four remaining accused at the end of the State case.

The judge held that the State had failed to make a case against the four on the evidence given by the police or the contradictory testimony of other State witnesses who were at the vigil.

The judge found the police evidence given during earlier bail proceedings, the trial itself and statements made by members of the investigating team contained fabrications and contradictions.

He said evidence by the four junior members of the investigation team relating to the arrest of the suspects and recovery of an AK-47 in an Alexandra hostel room was "almost too bizarre to be true".

□ To Page 2

## Police BIDAY 11/8/92

One was struck, Daniels said, by the inherent improbabilities and the number of inconsistencies and discrepancies in the evidence of the police witnesses involved.

He said the senior investigating officers, Maj Johannes Jacobus Barnard and Det-Sgt Stephanus Crous, had taken statements, which put themselves at the scene of the fabricated recovery of the AK-47. Neither were called to testify in court.

"To my way of thinking these two witnesses could perhaps be seen as most im-

portant witnesses," Daniels said. "Having decided not to call them, the State left itself open to the drawing of inferences adverse to its case."

Daniels also found the State had failed to make a case against the accused based on the testimony of the witnesses who survived the attack. According to the evidence, the only firearms used in the attack were an AK-47 and a revolver. Therefore those witnesses who said there were three gunmen were incorrect, he said.

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# UN call for inquiry gets wide backing

By Peter Fabricius and Helen Grange

STAR 11/8/92

The National Party and other major political players have backed the United Nations' call for a probe by the Goldstone Commission into the security forces, the KwaZulu Police and the ANC and PAC's military wings.

But it emerged yesterday that Mr Justice Richard Goldstone's call for a general amnesty to encourage members of these organisations to testify about unlawful conduct would be controversial.

Concern has been expressed that a pre-emptive amnesty would provide an escape route for those responsible for the killing of high-profile activists such as the Cradock UDF leader Matthew Goniwe.

The ANC and Democratic Party want full disclosure of the detail of any crimes by members of the security forces who may receive amnesty or indemnity.

Backing recommendations in a report by UN Secretary-General Boutros Boutros-Ghali, Judge Goldstone said in a weekend statement that unless the SA Police and SA Defence Force were fully investigated "they will have no prospect of receiving the trust of the South African public".

Yesterday National Party security spokesman Hennie Smit said the NP supported in principle

Mr Boutros-Ghali's call for a probe

ANC spokesman Carl Niehaus said the ANC national working committee would study the proposals before reacting

PAC foreign secretary Gora Ebrahim said yesterday that the PAC would react fully once it had read Mr Boutros-Ghali's report

DP leader Dr Zach de Beer welcomed Mr Justice Goldstone's call for a probe

He said that a finding by a person of Judge Goldstone's "high authority" would convincingly settle the issue of alleged security force involvement in violence.

IFP spokesman Walter Felgate said that although the Goldstone Commission had no real grounds for probing the KwaZulu Police, the KwaZulu government would not refuse to co-operate.

In another statement yesterday, Judge Goldstone explained his weekend statement that a general amnesty would assist an inquiry into security forces and political armies

He said amnesty for political prisoners would encourage members of all organisations to come forward and disclose any unlawful conduct in which they may have been involved.

Mr Justice Goldstone offered his assistance in working out the amnesty details

The ANC and the Government have already held discussions on the issue of political prisoners, where the idea of a general amnesty has been raised





Public relations officer Connie Nkosi and MD Wynand Burger at a news briefing to announce the results of the commission of inquiry into the Boipatong township and train violence yesterday. Picture: BRIAN HENDLER

# Security forces 'were alerted to Boipatong'

*BIDAM 11/8/92*  
THE security forces had been alerted to the attack on Boipatong on the night of June 17 but had failed to respond, a resident told the Goldstone commission in Vereeniging yesterday. *11/8/92*

Ishmael Mahasella said he and his co-workers had alerted the police to what was happening in the township

Mahasella told the commission they were on their way home from the factory at about 10pm when they were shot at by a group of men wearing white headbands. The workers ran back to the factory.

He said the workers had stopped an SADF vehicle to ask for help, but the six occupants said their vehicle was not bullet-proof. One of the workers who had been injured during the attack told the SADF members what was happening in the township, and asked them to help him find his wife. His wife was later found dead.

When an armed SADF vehicle arrived minutes later the driver, a Mr Pienaar, told the workers there was nothing going on in the township, despite the fact that shots could be heard while they talked.

The Buffel then escorted the factory's

*252*  
*178*  
KATHRYN STRACHAN

white employees out of the area.

Later, when the workers entered the township together with two ambulances, policemen armed with rifles tried to prevent them from entering a house in which two children had been killed, Mahasella alleged.

Another witness, who did not want her name disclosed, said she was woken by the sounds of breaking glass and heard a group of men trying to kick in her front door.

The woman alleged she heard automatic gunfire and then looked out her window to see a Casspir moving down the street.

STEPHANE BOTHMA reports 82 Kwa-Madala hostel residents allegedly responsible for the Boipatong massacre were refused bail by a Vanderbijlpark magistrate yesterday.

They face charges of murder and public violence.

Magistrate GJ Reynders did not ask them to plead, but refused an application for bail. The matter was postponed to August 28 for trial.

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Money was held...

STAR  
**'Nothing going on in Boipatong'**

By Philip Zoio

VEREENIGING — A factory clerk yesterday told the Goldstone Commission of Inquiry into the Boipatong massacre that an SADF member had told him during the attack there was "nothing going on" in the township, despite the fact that both could hear gunshots and glass breaking in the distance.

Ismael Mahasella told the commission that a Mr Pienaar — a Citizen Force member and colleague at Cape Gate factory — also told him the SADF could not arrest any attacker, only take them out of the township.

SADF counsel Anton Mostert, SC, said Mr Pienaar would deny speaking to Mr Mahasella.

During the attack, Mr Mahasella said, he had gone into the township with co-workers. They were shot at twice by a group of about 200 men. Later he and colleagues accompanied ambulance personnel. Police tried to stop them entering a house in which two children had died and whose mother lay injured.

"Miss B", whose name was withheld to protect her, told the commission she had seen a large group of armed men shouting "Usuthu". Shortly after she saw an SAP Casspir.

● Mr Justice Goldstone yesterday requested the Sunday Times to publish a correction to false reports on Sunday which alleged the SADF had attempted to conceal information from the commission. He said the newspaper's inference that SADF officers saw themselves "above the State and outside the law" was not justified.

The front-page headline, "Judge urges SADF inquiry", had also been misleading. The judge said he had simply supported recommendations that various agencies, including the SADF, be fully investigated.

# SOUNDS OF SILENCE

STAR 12/18/92

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By Philip Zoio and Sapa

## SAP's Boipatong massacre tapes erased

Tape-recordings of about 13 hours of radio calls to the police Internal Stability Unit (ISU) on the night of the Boipatong massacre in June have been erased, the Goldstone Commission of Inquiry into the killings was told in Vereeniging yesterday.

The calls, from 2 pm on June 17 to 3 am the following day, included ISU conversations with its patrols, other South African Police units and the SA Defence Force, the commission heard. The massacre occurred between 10 pm and 11 pm.

During cross-examination by Arthur Chaskalson, SC, counsel for the ANC and the Vaal Council of Churches, Major Christo Davidson of the SAP said the calls taped as a matter of procedure might have been accidentally wiped out by the person on duty.

Major Davidson said he had been told on the telephone by a police technician in Pretoria that the recordings could have been lost because both sides of the tape had been used by mistake. "The tapes sounded blank in parts, while other segments of conversations had been preserved, he said. Mr Chaskalson asked whether this could happen if someone had erased the tapes. Major Davidson said this was possible. He could not say off-hand how many tapes were involved.

Mr Chaskalson put it to Major Davidson that the information had been deliberately erased. Major Davidson denied this and said his investigations had shown the erasure had resulted from "a technical problem I am unable to explain". Mr Justice Richard Goldstone asked that the relevant tapes be fetched and submitted to the commission immediately, and Major Davidson said this would be done.

Major Davidson also told the commission that only three police vehicles went into Boipatong on the night of the attack, and that their occupants saw none of the attackers.

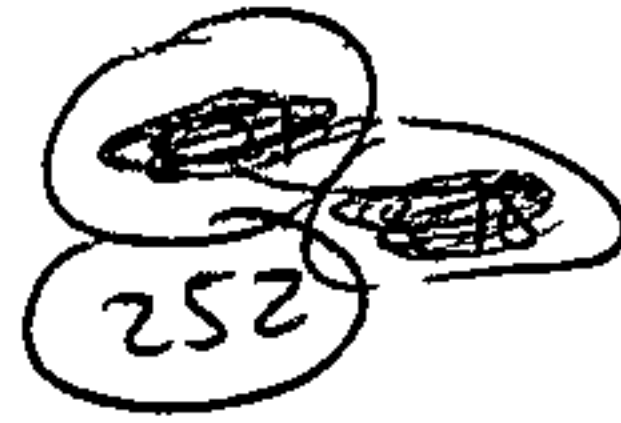
Police had received the first reports of a sabbotage attack at 9.55 pm after two factory employees had seen 200 to 300 people crossing a major road between Kwa-Madala hostel and Boipatong, he said. From 10 pm, police had received many reports of people attacking houses and killing residents in the township, Major Davidson said. A single ISU Casspir left Vereeniging at 10.10 pm, but stopped to investigate a reported shooting in Sharpeville and arrived at 10.35 pm, said Major Davidson.

Another Casspir had by then arrived in Boipatong from the Sebokeng municipal police station. An ISU Nyalala vehicle followed shortly afterwards. The police discovered that people had been killed and houses damaged, said Major Davidson. "They didn't see anybody at all who could have been attackers." He said the ISU had asked the SADF for reinforcements after a Sergeant Schlebusch, the ISU Casspir commander, reported that a group of about 200 people had gathered to prepare an attack on KwaMadala hostel. Questioned by Mr Chaskalson, Major Davidson said this was the first occasion that the Vereeniging ISU commander, a Captain Roos, had been contacted.



# Cops face a new storm

Sowetan 12/8/92



**EVIDENCE ERASED** Crucial police recordings  
on Boipatong massacre accidentally 'wiped' out:

THE police's tape recordings of radio calls to the Internal Stability Unit in Vereeniging on the night of the Boipatong massacre were "accidentally wiped off". This shock disclosure was made to the Goldstone Commission of Inquiry by the SAP's Major Christo Davidson. Counsel for

the African National Congress suggested to Davidson that the tape recordings were deliberately erased.

The wiping out of the recordings is bound to add to criticism of the police.

**See story page 2**

s SA ● Witnesses influenced before giving evidence

# Cops lied in court - judge

POLICEMEN investigating the Alexandra night vigil massacre secretly gave information to witnesses before an identity parade, a Rand Supreme Court judge said this week

They had also lied in court during a bail application, Mr Justice H Daniels said as he acquitted four men of 13 counts of murder

He found Mr Gibson Mbatha (28), Mr Derick Majozi (21), Mr Christopher Mbatha (30) and Mr Petrus Buthelezi (31) had no case to answer at the end of

*Sowetan 12/8/92* (252) (92)

## Information about suspects in Alexandra vigil massacre leaked to witnesses before identity parade:

the State's case

The judge had earlier found the State had no case against a fifth accused, Mr John Zwane

The men had pleaded not guilty to 13 counts of murder, 17 of attempted murder, one of housebreaking with intent to murder and illegal possession of a machinegun, firearms and ammunition

The charges arose from an attack on a

vigil in Alexandra on March 27 last year

In a judgment highly critical of the investigation, the judge said the State's case had been riddled with "inconsistencies, contradictions and fabrications".

Witnesses had been encouraged to give evidence to suit the State's case.

**BILLY PADDOCK**

CABINET and the ANC's national working committee are to consider a proposal emanating from bilateral talks on the release of prisoners which would address the issue of an amnesty

The proposal may result in the remaining political prisoners being freed and some form of amnesty for security forces and state officials

This, in turn, would pave the way for the first bilateral meeting to discuss constitutional negotiations since the ANC broke off talks after Codesa II. These talks could take place within the next two weeks

The comprehensive package involves Umkhonto we Sizwe and could be broadened to take in the PAC's armed wing Apla

## Proposal may pave way for amnesty

It includes amnesty for state organs on similar lines to the Indemnity Act

Cabinet meets today and is expected to give the nod to the plan, while the working committee will meet tomorrow

Sources on both sides said yesterday that if the proposal was accepted, it could serve to meet Judge Richard Goldstone's call for an amnesty for the SA Defence Force, the SA Police, the KwaZulu Police, MK and Apla. Full disclosure would help the commission get to the root of the violence

The proposal would facilitate reconciliation and meet the UN call for an efficient investigation of the security forces

BIDAY 12/8/92

(252)



# Massacre night tapes erased

Sowetan 12/8/92

■ TECHNICAL POINT Judge demands that

damaged tapes be handed to the commission:

**T**APE RECORDINGS of radio calls made to the SAP Internal Stability Unit in Vereeniging on the night of the Boipatong massacre were accidentally erased the next day, the Goldstone Commission was told yesterday

The SA Police officer investigating allegations of security force complicity in the matter, Major Christo Davidson, told the commission, which is hearing evidence on the massacre, that the erasure of about 13 hours of radio calls on the day and night of June 17 had occurred accidentally

During cross-examination by Mr. Arthur Chaskelson, counsel for the African National Congress, Davidson said all calls made between 2pm on June 17 and 3am on June 18 had been accidentally erased by the person on duty.

Asked by Chaskelson how this could occur, Davidson said it was a technical problem he could not explain

Chaskelson put it to Davidson that the tape had been deliberately erased

Mr Justice Richard Goldstone ordered that the relevant tapes be immediately fetched and submitted to the commission. Davidson agreed to this

During cross-examination, Davidson also revealed yesterday that only three SAP armoured vehicles had been in the Boipatong area on June 17. These were a camouflaged Casspir from the Sebokeng municipal police, a yellow SAP Casspir and a yellow SAP Nyala

He said they had only entered the township after reports had been received of violence in the area

Witnesses from the township who have appeared before the commission have alleged that camouflaged Casspirs were present in Boipatong during the massacre, dropping off attackers from the KwaMadala Hostel and escorting them back to the hostel. - Sapa

# Govt, ANC to study amnesty plan (252)

## Political Staff

JOHANNESBURG — The cabinet and the ANC's national working committee (NWC) will be considering a proposal emanating from bilateral talks on the release of prisoners that would address the UN and the Goldstone Commission call for an amnesty

The proposal, which has been described as a single agreement with multilateral effect, may result in the remaining political prisoners being freed and some form of amnesty for security forces and state

officials

Should the proposal be accepted and the prisoners freed, it would pave the way for the first bilateral meeting to discuss constitutional negotiations since the ANC broke off talks after Codesa II. It is expected that these talks would happen within the next two weeks

## Cabinet meeting

The comprehensive package involves uMkhonto weSizwe and could be broadened to take in the PAC's armed wing Apla

with an amnesty, following a procedure similar to the Indemnity Act, for state organs

CT 12/18/92  
The cabinet meets today and is expected to give the nod to the plan while the NWC will now meet tomorrow to decide on the proposal

Sources on both sides said that if the proposal, which was carefully drafted, was accepted it could serve to meet Mr Justice Goldstone's call for an amnesty for the SA Defence Force, the police, the KwaZulu police, MK and Apla

# Boipatong death: officer suspended

B/DAY 12/8/92.

(252) (252)  
RAY HARTLEY

A MURDER charge is being investigated against a policeman who allegedly shot dead a panga-wielding man in Boipatong on June 20 — the day of President F W de Klerk's aborted visit to the township — police spokesman Col David Bruce said yesterday.

Bruce said the incident happened at 12.30pm, a few hours after De Klerk's visit.

The policeman has been suspended from duty and a murder docket has been forwarded to the attorney-general to decide whether to press charges.

The incident happened three days after the June 17 massacre of more than 40 people in the township.

In unrest incidents yesterday, two more people died in political fighting in Port Shepstone's Murchison township. Police said this brought the death toll in the area to at least 12 since the weekend began.

Delegations from the ANC, Inkatha, churches and police were scheduled to visit the area today to try to end the killings. More than 50 people have been killed in fighting between the ANC and Inkatha in Murchison since mid-June.

Sapa reports the director of church-based human rights organisation, Practical Ministries, the Rev Danny Chetty, said the situation was "very tense and very violent".

This had prompted him to arrange today's meeting.

Inkatha had yet to confirm its attendance at the meeting, although national chairman Frank Mdlalose had indicated a delegation would be sent, said Chetty.

He said everything depended on Inkatha now, explaining that the ANC and SA Police had said they would attend the meeting only if an Inkatha delegation arrived.

Chetty said the latest spate of killings had again created a refugee crisis, with more than 1 000 people having fled their homes in Murchison. People were still fleeing the township yesterday.

Most refugees were taking shelter at Murchison's hospital and at Port Shepstone churches and were being assisted by the Red Cross, he said.

"Everything has come to a standstill in these areas," he said, referring to daily schooling and usual community activity.

Meanwhile, a caller to the police, identifying himself as the "Lion of the Apla forces", yesterday claimed responsibility for killing a municipal policeman at Katlehong on the East Rand on Monday.

The caller also claimed responsibility for the killing of policemen in other areas, such as Kagiso. He did not elaborate. Apla is the PAC's military wing.

Sapa reports a municipal policeman was killed by unknown gunmen in Katlehong on Monday, Witwatersrand police said yesterday.

W/O Andy Pieke said Const J de Wet Molo, 55, was walking in Khumalo Street at 12.20pm when two men shot him and took his 9mm pistol.

The Goldstone commission of inquiry into violence between ANC and Inkatha members at Wesselson, near Ermelo in August 1990, will resume its sitting in Pretoria today.

The hearing stems from reports in the Weekly Mail that members of a local gang known as the Black Cats, with the help of Inkatha members, attacked ANC supporters in a funeral procession.

Former Black Cats members gave evidence that Inkatha members armed with firearms, including automatic rifles, were involved in the attack on ANC supporters. On the other hand, IFP witnesses said the violence started when ANC supporters fired at Inkatha's funeral procession.

The Black Cats are alleged to be members of the Inkatha Youth Brigade branch at Wesselson.



Participants are playing in the ongoing violence". The Senate is expected to approve the same text soon

The summit was scheduled for July 30 but was postponed after Buthelezi refused to attend, citing the ANC statements and the continued existence of the ANC's armed wing Umkhonto we Sizwe as rea-

Meanwhile, Sapa reports that Qwa Qwa's ruling Dikwankwela Party has withdrawn from the committee Party leader Kenneth Mopeli said some committee members, especially the ANC, "make a mockery of the whole spirit of the accord"

# Sasol agrees to probe of 'hit squad' claims

BIDAY 12/8/92

DIRK HARTFORD

SASOL has agreed to an independent commission of inquiry — possibly the Goldstone commission — to investigate Chemical Workers' Industrial Union (CWIU) allegations of CCB and Inkatha hit squad involvement in the deaths of its members at Sasol.

Sasol executive director Dirk Mostert yesterday rejected "with utter contempt the untruthful, vicious, malicious and unfounded allegations" of the CWIU that Sasol management was behind attacks and killings.

Two CWIU members were killed and one was seriously injured last Friday night after an attack allegedly by Inkatha supporters who worked during a week-long strike at Sasol's Secunda Colliery last week.

Mostert said Sasol was prepared to have an independent inquiry to get to the truth.

The CWIU has been demanding for some time that the Goldstone commission investigate its allegations.

CWIU and Sasol have different versions of the events — which occurred after a strike by 5 000 CWIU members had ended — leading to last week's murders.

The union says its members asked security to search a room allegedly occupied by Inkatha-supporting non-strikers and "outside people" but they refused. Instead, the CWIU says, three workers were attacked by the guards while a shaft steward was killed at the security office by "Inkatha and outside people".

The following day another worker was found dead near the security gate of the hostel.

Sasol confirmed the deaths, but gave no details. It also confirmed — as the union alleged — that a manager had met a delegation from the KwaZulu government and Uwusa last Friday.

The CWIU said a security guard called Moolman pointed a gun at a worker during the attack. Sasol said he had been suspended.

Sasol will meet the CWIU tomorrow for further talks.

Meanwhile, the CWIU says the agreement to settle the strike was that Secunda Colliery workers get three weeks' severance pay for every year of service and an 11,5% increase.

More than 90% of CWIU's 1 200 members at Consol Glass have voted to strike at five plants countrywide.

NEWS Officers waiting for full text of j

# Cops to act on remarks

*Sowetan 13/8/92* (252)  
**LYING POLICEMEN** Information

leaked about Alexandra massacre trial:

**P**OLICE HAVE NOTED that a Rand Supreme Court Judge accused them of lying during the run-up to a multiple murder trial, Witwatersrand police spokesman Captain Eugene Opperman said.

Policemen investigating the Alexandra vigil massacre had surreptitiously leaked information to witnesses before an identity parade and lied during a bail application, Mr Justice H Daniels said on Monday as he acquitted four men on 13 counts of murder.

The judge had earlier found the State had no case against a fifth accused, Mr John Zwane. They pleaded not guilty to

13 counts of murder, 17 of attempted murder, one of housebreaking with intent to murder and illegal possession of a firearms and ammunition.

Charges arose from an attack on a funeral vigil on March 27 last year to mourn the death of Ms Jane Ramokgola, who died on March 20 after being shot.

The judge said the State's case had been riddled with "inconsistencies, contradictions and fabrications".

Opperman said police had taken note of the remarks and were awaiting the full trial record before a decision was taken on what steps to take - *Sapa*

● See story on page 11

# Experts to probe tapes

■ **TAMPERING ALLEGATIONS** Kriel perturbed

by 'wrong impressions' over erasure of recordings:

*Sowetan 13/8/92*

*(252)*

PRIVATE experts are to investigate allegations that tape recordings, crucial to the inquiry into the Boipatong massacre, had been tampered with. Mr Justice Richard Goldstone yesterday took possession of the tapes and agreed to allow both police and

private experts to examine them. The Minister of Law and Order, Mr Hernus Kriel, and the Commissioner of Police, told the commission there was an "explanation" for the erasure.

**See story page 2**





## ■ FALLING FILES *Cases collapse because*

*of growing incompetence in the security forces:*

252



Sowetan 13/8/92

**By Mathatha Tsedu**  
Investigations Editor

**R**EMEMBER the time when judges and magistrates used to compliment the police for their diligence and professionalism in investigating cases?

Do you remember how the compliments always prefaced heavy sentences that would send mostly political activists to Robben Island and similar dungeons?

The police then were proud of their record and bandied statistics about, showing their success rate

That was in the "old" South Africa

The advent of the "new" South Africa, and its violence and horrible killings has, however, changed all that

The violence, which comes in all manners, has been blamed on the State, and police have been found wanting in both the efforts to curb the phenomenon, and in attempts to track the killers

The advent of the "new" South Africa and the liberalisation of politics seems to have taken away the professionalism of the police that successive police ministers used to boast about

Only this week, police disclosed that they had wiped out 13 hours of tape recordings relating to the Borpatong massacre

It is now also a common occurrence for judges to lament the sloppiness of police investigations into massacres that have left many black people dead and thousands more maimed

This week Rand Supreme Court judge, Mr Justice H Daniels, joined a growing list of judges who have found reason to publicly rap police on the knuckles

Presiding over the trial of four men charged with the slaying of 15 people who were attending a night vigil in Alexandra township on March 27 last year, Daniels found that police

- Leaked information to witnesses before an identity parade,

- Encouraged witnesses to give evidence to suit the State's case,

- Had allowed witnesses going for an identity parade to discuss the suspects,

- Held two identity parades after the suspects had been charged and their names widely publicised,

- Failed to bring an informer whose sole information had been used to arrest one of the accused

Daniels said the State's case had therefore been riddled with inconsistencies, contradictions and fabrications, leaving him with no option but to discharge the four men as they had no case to answer to

He found that a policeman had changed his evidence, rendering it useless and that of other witnesses suspect.

As a result, Mr Gibson Mbatha (28) Mr Derrick Majosi (21) Mr Christopher Mbatha (30) and Mr Petrus Buthelezi (31) walked out of the Rand Supreme Court free

In previous cases, such as the discharge of the seven men last month charged with the massacre of 42 people in Sebokeng, police were found to have shown less than expected zeal in their investigations

In the Alexandra case, they were found to have gone overboard in trying to secure a conviction, thus again rendering the process of justice ineffective

### **Attack on a vigil**

The trial followed the attack on a vigil of a student who had been killed in violence. At dawn, a group of armed men stormed into a tent where mourners were singing hymns and freedom songs, and opened fire with rifles and pistols

Arrests of the four men followed information gathered from survivors and an informer. Now the men have been released, joining other similar accused who have been discharged because police investigations were found wanting

But the question hanging in the air now is what will happen to these cases where police incompetence has led to discharge by default?

Is it the end of the road? Will the perpetrators of the killings in Sebokeng, Jeppe station, Kliptown station and many other places never pay for their crimes?

ANC nod  
STAR  
to camps  
.13/8/92  
inquiry  
252

Own Correspondent

UMTATA — The ANC has given the Goldstone Commission and the South African Council of Churches permission to investigate its camps outside South Africa.

ANC leader Nelson Mandela disclosed this on Tuesday night while speaking in Umtata.

He said the ANC had undertaken to approach the governments of countries where ANC camps are based so that the commission could investigate them.

He welcomed a call by Mr Justice Goldstone for a thorough probe of the South African Police, SA Defence Force and liberation movements' military wings.

The National Party and Democratic Party have already welcomed the call for a probe.

In an apparent attempt to reassure the businessmen who filled the hall, Mr Mandela promised that the establishment of an interim government would end mass action.

# 'I saw Casspir during attack'

By Philip Zois (252) (12)

**VEREENIGING** — An SAP constable yesterday told the Goldstone Commission inquiry into the Boipatong massacre that during the attack he saw a police Casspir apparently accompany two men wearing black headbands and carrying machine-guns.

Constable Ntsetsa Xaba, who lives in Boipatong and is stationed at the Evaton Internal Stability Unit (ISU), said he saw the Casspir after waking up at about 11 pm on June 17 to the sound of gunfire.

Two armed men were walking in front of the vehicle, shouting "This is our day", in Zulu and firing shots in the air, he said. He said another two men who wore camouflage clothes were walking behind the Casspir.

After the Casspir disappeared from view, he saw a group of about 50 people. Gunshots and shouts of "This is our day" came from the group, he said.

Asked if the Casspir was chasing the men, Constable Xaba said "According to its movements it was not."

Constable Xaba said he then saw three more Cas-

spir moving in another street. He then went to his shack and slept.

After waking at about 7 am on June 18, he saw that a crowd of youths had gathered outside a house. A woman inside had been shot dead during the attack, Constable Xaba said.

Earlier, the commission was told that up to half of the Vereeniging ISU's recordings of radio calls between March and June — including all those taped during the Boipatong massacre — were erased or damaged.

● To Page 3

# Casspir (252) seen at (12) Boipatong

● From Page 1

because of a technical misunderstanding.

Sergeant Ilse O'Reilly, the ISU's control room commander, said she had been given false operating instructions for a recording device that was installed on March 24.

Police technician Warrant-Officer Johan van Vuuren told her that both sides of tapes were to be used on the machine, she said. After the massacre, she was told by an officer investigating the killings that only one of the sides should have been used.

Sergeant O'Reilly said she then found out that the device recorded on four channels simultaneously. The entire strip of the tape was used, in contrast with regular recorders which record only on half the strip.

This meant that when the tape was turned over and its second side used, the material recorded on the first side was erased or damaged, she said.

She said that according to procedure she would have put in a new tape at about 4 pm on June 17. Major Christo Davidson said earlier that the recordings of that evening were probably erased the next day. Recordings between 2 pm on June 17 and 3 am on June 18 were damaged or wiped out, he said.

Sergeant O'Reilly said she had not listened to the tapes to ensure that their recordings were undamaged because the ISU did not have any other equipment (apart from the new recorder) to play the tapes on.

She had not received any complaints before the massacre that recordings of any other important conversations had been erased, she added.

The hearing continues.



# SAP Casspirs trailed Boipatong killers,

A POLICEMAN living in Boipatong told the Goldstone commission yesterday he had seen police Casspirs following attackers on the night of the massacre

Special constable Ntsetsa Xaba, who is stationed at Evaton, told the commission he had seen the Casspir following closely behind two men wearing red headbands and brandishing automatic weapons. They were shouting "This is our day" in Zulu and a shot was fired. The Casspir did nothing to intervene, said Xaba.

Later he had also seen a group of about 50 attackers standing near his house, while

three Casspirs passed down the next street

Xaba said he saw a Hippo dispersing residents who had gathered outside a victim's house the next day. A resident was shot by police during the incident, he said.

Xaba and a colleague who also lived in the township fled Boipatong the day after the attack when they were threatened by "comrades" looking for revenge. He said he initially did not want to report what he had seen to the police because he feared them after the night of the massacre.

Xaba and his colleague were later encouraged by other black policemen to give

KATHRYN STRACHAN

statements at the riot police station in Powerville, Vereeniging. While they were waiting outside the station, two white policemen told them they were lying.

Counsel for the SAP, Flip Hattingh, told the hearing Law and Order Minister Herinus Kriel had expressed concern yesterday at the impression created by the damaged police tapes. Hattingh said the SAP had explained why the calls on the night in question had been erased.

Ilse O'Reilly, a sergeant stationed at the

## policeman tells inquiry

Vereeniging internal stability unit who operated the machine, told the commission the equipment used to record phone and radio calls between security force members had been incorrectly used since its installation in March.

Col Leon Marryatt of the SAP telecommunications unit said the SAP had realised the mistake only after the investigation into the massacre.

W/O Johan van Vuuren, who installed the system, said he had not been told that only one side of the tape could be used, neither was the information contained in the

operator's manual (252)

Commission chairman Judge Richard Goldstone said the tapes would be analysed by private experts and an SAP expert.

□ BILLY PADDOCK reports that foreign diplomats said yesterday the international community was prepared to go a long way with President F W de Klerk, but the SAP's cynical attitude was beginning to taint him. Reacting to evidence that the tapes had been accidentally erased, at least three diplomatic missions complained of government's "lame and cynical attitude".

● Comment Page 6

STAR 13/8/92 (252)  
ANC probe

## results out soon

The internal ANC commission of inquiry appointed by Nelson Mandela to investigate allegations of maltreatment of detainees held in ANC camps has completed the hearing of oral evidence.

The ANC announced yesterday that the commission would present its report and recommendations to Mr Mandela within weeks.

An Amnesty International observer attended several of the sittings — Political Correspondent

● ANC nod to camps inquiry  
Page 3

**NEWS** Goldstone agrees specialists should examine tapes

# Experts to hear tapes

*Sowetan 13/8/92*

*(252) (ESP)*

**Sowetan Correspondent and Sapa**

**■ WE BLUNDERED** Sergeant tells Commission

police had used recording equipment incorrectly:

**T**HE COMMISSION inquiring into the Boipatong massacre agreed that copies of tape recordings between security forces on the night of the killings be heard by both police and private experts

Commission chairman Mr Justice Richard Goldstone said this would prevent "further allegations of tampering with the tapes"

The commission was told at its hearing in Vereeniging on Tuesday and yesterday that information contained in police tape recordings of radio messages between security force units on the night of the massacre had been erased by mistake

Meanwhile, Law and Order Minister Mr Hernus Kriel and the Commissioner of Police have expressed concern at the impression created by the erasure of 13 hours of police radio calls recorded on the day

This was disclosed yesterday by counsel for the police, Mr P Hattingh, SC, who said Kriel and Commissioner of Police General Johan van der Merwe were "perturbed" by the impression created by the reports

Hattingh told the commission "We believe we have an explanation for what happened and we would like to put it to you as soon as possible"

Yesterday the Goldstone Commission was again told that information contained on police tapes and relevant to it had been destroyed due to operational error.

The officer in charge of the operations control room at the Vereeniging Internal Stability Unit, Sergeant Ilse O'Reilly, told the commission that taping equipment which automatically recorded

telephone and radio conversations by security force members had been used incorrectly since its installation in March

The unit had only become aware that it was using the equipment incorrectly after the massacre

Only then had investigations revealed that all conversations between about 2pm on June 17 and 3am on June 18 had been taped over

O'Reilly said the machine used ordinary commercial tapes, but only one side could be used, or information would be taped over

The recording equipment was attached to telephones and to radios, and automatically recorded all conversations by security force members using those particular frequencies or telephones

On June 18, the day after the Boipatong massacre, she had turned over the tapes in the machines. This had resulted in the destruction of all information pertaining to action taken by security forces on the night of June 17

During cross-examination by Mr Denis Kony, SC, for the African National Congress, O'Reilly confirmed that all tapes recorded since March 24 had been similarly affected

She said the Vereeniging ISU had not realised their mistake because only on one occasion had they had cause to play back a tape, and in that particular instance, the required information had not yet been taped over

The commission is in possession of the tapes.

● The outcome of an application for part of the hearing to be held in camera is not yet clear.



FM 14/8/92 (252) ~~(252)~~ ~~(252)~~

chief Mangosuthu Buthelezi, who heads the KwaZulu Police (KZP), thought it would be a waste of time and money

There seems little doubt that a probe is needed and that it could provide a massive boost to the peace process

Institute of Race Relations director John Kane-Berman says something like this is needed to restore public confidence in the security forces. Government has made a similar point. Provided the truth is uncovered, says Kane-Berman, such an investigation should expose the real culprits in the violence

His comments follow the weekend declaration by Mr Justice Richard Goldstone that his commission of inquiry into public violence is willing to undertake such an investigation. Government and the ANC have been slow to respond to the Goldstone offer — they were both due to decide formally whether to submit their forces to independent scrutiny on Wednesday. Not to do so would, by implication, suggest they have something to hide

Furthermore, if one of the parties accepted and the other refused the dissenter would be at a severe moral disadvantage

Kane-Berman points out that both the SAP and KZP have been subjected to systematic campaigns to discredit them. Equally, the ANC's MK has in the past committed itself to making SA ungovernable, and Apla had pledged itself to assassinating and destroying members of the security forces — a subject government intended raising at its meeting with the PAC this week

"A probe into these claims and just which of them are true and currently applicable would go a long way to clearing the air," says Kane-Berman. He stresses, however, that any investigation would have to be independent and should be undertaken by a South African — not an international body

The bottom line, he points out, is that levels of violence have risen since the signing of the National Peace Accord and it is essential to do everything possible to turn the tide

FM 14/8/92 (252) ~~(252)~~ ~~(252)~~  
LAW & ORDER

**To clear the slate**

**UN Secretary-General** Boutros Boutros-Ghali's recommended probe into security forces and political armies has received a largely positive reception by the main players — government and the ANC. While they are now seeking clarification on certain details — including the mandate of such an investigation — the PAC (in exile) seems to have rejected the idea out of hand, and Inkatha's

8/1 DAY  
**Amnesty aim**

14/8/92

PATRICK BULGER

ABOUT 12 right-wing political killers, among them mass murderer Barend Strydom, would qualify for amnesty from prosecution, attorney Wim Cornelius, who represents right-wing political offenders, said yesterday (252)

He said the exact number would depend on what cut-off date was decided on

He said Strydom would be eligible for release on the same basis as ANC bomber Robert McBride, both of whom had admitted to wanting to kill people of another race group



By ANTON HARBER

MOST human rights organisations, local and international, speak out strongly against the idea of a general amnesty, and particularly a blanket amnesty that does not force those who committed crimes to admit to them

Among those who warn against a blanket amnesty are Human Rights Watch of New York, Amnesty International of London and South Africa's Human Rights Commission and Lawyers for Human Rights

As the question of a general amnesty was raised in South Africa, Africa Watch — a branch of Human Rights Watch — this week released a report on human rights abuses in the Namibian independence war, saying "in Namibia today it is clear that the wounds caused by the abuses have not healed".

The report highlights crimes committed by both the South African colonial forces and Swapo during the liberation war and expresses concern that some officials linked to these abuses had been appointed to senior positions in Namibia's current military and security establishment. It recommends that:

●The South African government open its files

# Those who cause pain, should answer for it

W/Mar 14/8-20/8/92

and appoint a commission to publicise the abuses committed by its forces

●The Namibian government appoint a "truth commission" to account for those who disappeared and Swapo publicly acknowledge the treatment of detainees under their control

Africa Watch also recommended that both sides withdraw the appointments of any officials credibly linked to the abuses

Human Rights Watch has a firm policy that "those who commit gross abuses of human rights should be held accountable for their crimes regardless of whether the perpetrators of such abuses are officials of the government itself and its armed forces, or officials of a predecessor government, or members of anti-government forces"

The organisation's statement "recognises the

difficulty some governments may face in holding members of their own armed forces accountable" and that some "military regimes may insist on immunity from accountability as a condition for relinquishing their offices and permitting the establishment of elected civilian governments".

However, it argues these difficulties do not justify disregard for the principle of accountability "We consider that accountability for gross abuses should remain a goal of a government that seeks to promote respect for human rights"

Amnesty International (AI) opposes lenience for human rights abusers "Amnesty laws which prevent the emergence of the truth and accountability before the law are not acceptable. The interests of national reconciliation after a period of violence and confusion may be served by pardons after conviction. AI takes no position on

this. But it does insist that the truth is revealed and the judicial process completed," it says in its 1992 annual report.

"Allowing perpetrators to commit abuses without consequences for themselves perpetuates their crimes. Ensuring that they are brought to justice transmits throughout a society the clear message that violations will not be permitted to continue," Amnesty says

An Amnesty representative this week added that blanket amnesties also override the rights of victims of abuse (to justice or compensation)

"Reconciliation, often the justification given for blanket amnesties, is often a disguise for easing pressures on the political actors involved in political settlements."

The Human Rights Commission in South Africa does not criticise an amnesty per se, only one that does not force full disclosure of past crimes "An amnesty should only apply to crimes that are disclosed

"We would also ask for the granting of amnesty not to be done unilaterally by the government. It should be done by a transitional or new government, or by agreement of all the major parties," an HRC representative said

# Forgiveness belongs not to those who have sinned

W/Mar 14/8-20/8/92

Mercy is a great virtue. It is rather less of a virtue when the sinner chooses to forgive himself. **BRIAN CURRIN** of Lawyers for

Human Rights

**M**INISTER of Justice Kobie Coetsee and his colleagues have in the past couple of weeks presented South Africa with an ingenious proposal, whereby the incumbent government would forgive itself and its security forces for all acts of violence and/or corruption committed during its term of office. In exchange, they say, they would release all political prisoners (the 420 political prisoners they could not find until now) and they would allow an independent probe into the activities of the security forces

If the proposal was not being made with such seriousness, Lawyers for Human Rights would have regarded it as absurd and unworthy of comment. However, according to media reports, the idea has gained very influential backers from, among others, the British and American governments and it is in this light that we feel compelled to speak out

It is entirely inappropriate for the present government to assume the responsibility for forgiving itself, forgetting its past actions and reconciling itself to itself. It will have enough time for that in the future.

The laws currently governing the granting of indemnity are to be found in the Constitution Act, the Prisons Act and the Indemnity Act. All these pieces of legislation grant to the state president the right to decide on issues of both amnesty (post-trial and conviction) or indemnity (pre-trial).

If a general amnesty for security forces were to be introduced now, while political power rests with the National Party government, such decisions would therefore rest with President FW de Klerk. As political head of the security forces and a long-standing member of the NP government, it is not inconceivable that he may be called upon to indemnify himself (and many of his cabinet colleagues) from prosecution — an untenable situation

in anyone's book.

We believe, therefore, that the final decision regarding an amnesty or general offer of indemnity from prosecution can only be decided upon by a democratically elected government. It is only when power has been transferred from the present minority government to a government based on a universal franchise that this phase of reconciliation should begin. If in the transition to full democracy we have a democratically constituted interim government, then these discussions could commence within such a structure

If a decision is taken now, by the present government, it would in our view have no moral or legal force within a new dispensation. It would not be binding upon future administrations and the consequences of this could be disastrous.

Coetsee and others have stated that the amnesty envisaged is part of the process of wiping the slate clean and healing the wounds. Sweet words, but surely as a country we cannot undergo a healing process until we know what it is we are required to forgive. The indecent haste with which the government is now pushing this proposal reveals that the "forgiveness industry" might well be busy for many more years than we first imagined

In addition, the introduction of a blanket indemnity during this period would provide maverick security force members with a licence to kill — whether they do this in detention cells or in the townships — unfettered by fear of consequences from those in power

LHR fully supports the idea ( mooted by, among others, the secretary general of the United Nations) that we require a thorough investigation into the security forces and note that this proposal was not conditional upon a



general amnesty. We would, however, go further than the UN in stating that we require not only full investigation into the security forces, but a thorough cleansing of these forces

This can only happen with full disclosure of all security force actions over the past years and full and thorough independent investigation to test the veracity of disclosures. When such an investigation is established, it should be allowed full access to whatever documentation or records have not by that stage been burnt or wiped out

We would venture to say that security force personnel may well be more enthusiastic about their confessions when seeking amnesty from a democratically elected government than they would be were their fate in the hands of the present government, whom they have served so faithfully. A lack of certainty regarding the outcome of their applications for indemnity could well encourage a little more devotion to the truth

The UN secretary general also made an unequivocal recommendation that the remaining political prisoners should be released immediately. We take no issue with this — it is what we have recommended since the initial agreements regarding political prisoners were entered into by the govern-

ment and the African National Congress

The government, in a breathtaking display of political opportunism, has linked this issue to its call for a general amnesty. For many reasons, we regard this as unacceptable

The release of political prisoners has been used ad nauseam to extract a number of concessions from the ANC during the negotiations process: the suspension of the armed struggle, the release of various members of the kwaZulu Police and security forces, as well as the most recent return to talks after the post-Boipatong massacre withdrawal.

We also find that by a sleight of hand, the government has somehow persuaded sections of the public that political prisoners sentenced for their actions in a struggle for democracy can be equated with those who committed actions to maintain a system of racist oppression long condemned by the world community as a crime against humanity. The world community, at the end of World War II, saw no reason to equate resistance fighters with Hitler's agents — let us not make that mistake

A blanket indemnity against prosecution is a denial of the right of South Africans to their history. We say this is not in retributive ire, but in the belief

# I still wait for Ford to come home

At the centre of the amnesty controversy are the murderers of the three Cradock civic leaders. Widow Nomonde Calata believes they must be punished, she tells **MICHAEL O'RIAN**

W/Mar 14/8-20/8/92  
"The cemetery is where I live," says Nomonde Calata, widow of assassinated activist Fort Calata.

Calata was one of three Cradock civic leaders killed with Matthew Goniwe in the eastern Cape in 1986. He was stabbed 12 times. His skull was punctured and his stomach ripped open in the bloody frenzy. An independent autopsy found he was probably bound by his murderers before his death and his corpse doused with petrol and burnt.

Now his widow speaks out strongly against the killers being granted amnesty. 14/8-20/8/92

"We have sacrificed enough in the past seven years by not knowing. Do they expect us now just to be kind and say forgive and forget? No, we can't. We are punished even if they are not found. I will never forgive them. I think about it each and every day. The cemetery is where I live."

In particular, she wants to see General Christoffel van der Westhuizen, implicated in her husband's murder, brought to justice. "He is said to be the one who gave the orders, why has he not been arrested?"

Van der Westhuizen remains chief of staff military intelligence. He has made no public statement since he was implicated in the four deaths.

"They must go to court and they must be punished. Time has not healed the pain at all. I still feel very bitter. All must be tried, even if that means (FW) De Klerk. I'm not saying they should get the death sentence. Punishment will give me relief, but not if they are sentenced to three months and then walk tall as free men. It is unfair; they took away my married life and left me with three children to bring up." — Elnews

that we have a right to know the nameless and faceless torturers and assassins through whom an unjust system of government has been upheld for the past four decades

We want those who have the instructions for the deeds of terror carried out against South Africans at home and in exile to acknowledge this. The task of extending forgiveness, as in Namibia and Zimbabwe, belongs to the people against whom these crimes were perpetrated — it does not belong to the perpetrators

●Brian Currin is the executive director of Lawyers for Human Rights



**NEWS** State against investigation of employees

# Indemnify officials - Pik

Sowetan 14/8/92

By Ismail Lagardien  
Political Correspondent

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■ **CUMBERSOME EXERCISE** Minister says it will be nit-picking to go back to the past:

**T**HE Government expects Cabinet Ministers and former heads of the State Security establishments to be exempted from investigation for possible human rights abuses and crimes.

Addressing an international media and diplomatic briefing yesterday, Foreign Affairs Minister Mr Pik Botha said the Government also wanted to discuss the scope of probable investigations into the SADF and SAP with Mr Justice Goldstone.

Botha suggested it would be cumbersome and nit-picking to "go back into the past" and investigate the likes of former heads of the National Intelligence Service and National Security Management System, Dr Niel Barnard and Mr Roelf Meyer respectively.

He said they were employed by the State and suggested that they be exempted from investigations for possible human rights violations.

Botha said senior ANC leaders would have to be investigated too because "messages were sent

from Lusaka to necklace people in the country"

The ANC yesterday said that if Botha or anybody had any prima facie evidence to substantiate the claim that "messages to necklace people in the country" were sent by its leaders, then this must be brought to the fore.

Similarly, Mr Sake Macozoma of the ANC said those people in the security establishment and the Government implicated in misuses of power resulting in crimes must be brought to trial.

"We are not interested in Nuremburg trials. Neither are we accusing everybody who was part of the apartheid Government of crime. But they (Government) are wanting to indemnify themselves. That is ridiculous," Macozoma said.

Meyer and Barnard, now Ministers of Constitutional Development and Director General of Constitutional Development respectively, and Justice Minister Mr Kobie Coetsee were at yes-

terday's briefing.

The three Ministers delivered the Government's cautious support for recommendations by United Nations secretary general Mr Boutros Boutros Ghali. They insisted that the recommendations must first be discussed at bilateral and multi-lateral meetings.

Boutros Ghali's recommendations included a return to multi-party negotiations to drag South Africa out of the present political impasse and support for the Goldstone Commission.

Botha said the Government does not support, without first discussing its scope, an investigation into the SADF and SAP, as recommended by both the Goldstone Commission and UN.

"The scope of the investigation, and what it is going to be about - it is clearly violence related (activities that must be investigated)," Botha said.

# Exempt us says PİK

■ **INDEMNITY POSER** The Government seeks

immunity from investigation for Cabinet Ministers.

Soweto 14/8/92

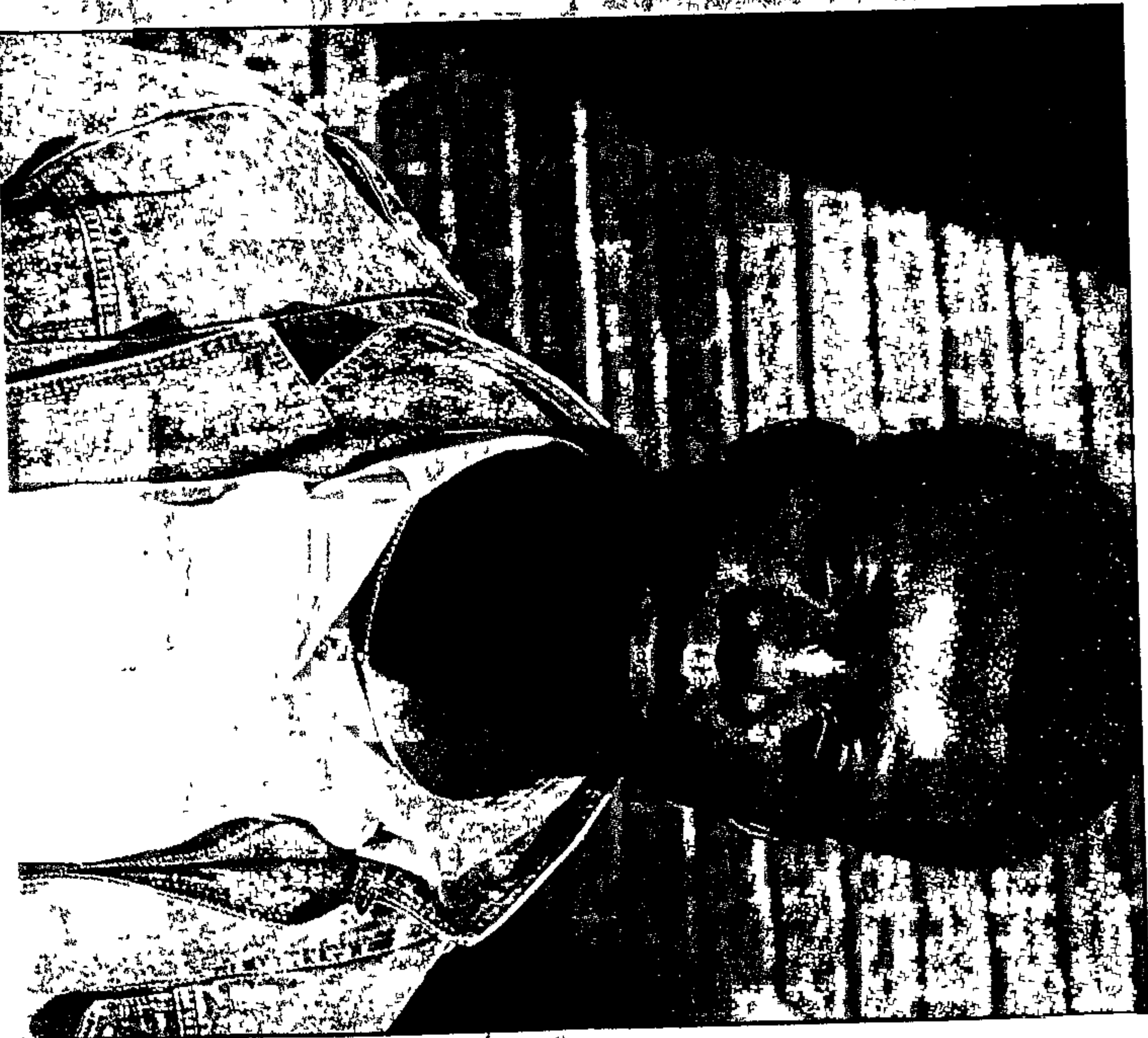
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THE Government expects Cabinet Ministers and former heads of the State security establishment to be exempted from investigation for possible human rights abuses and crimes.

Foreign Minister PİK Botha made this bombshell statement at a media briefing in Pretoria yesterday. It comes in the wake of reports that investigations, like that into the death of Matthew

Goniwe and others, are revealing that orders for the assassination of anti-apartheid activists came from the highest level. Botha suggested it would be "nit-picking" and cumbersome to "go back into the past" and investigate the activities, for instance, of the former head of the National Intelligence Service, Dr Niel Barnard.

See story page 2





# Captain threatened me — Boipatong witness

By Philip Zoro

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An SAP special constable yesterday told the Goldstone Commission inquiry on the Boipatong massacre that police had threatened him with violence after he refused to change a statement alleging police complicity in the attack.

Constable Ntseta Xaba said a police captain threatened to hit him after he insisted that during the attack on June 17 he saw two men, wearing camouflage-uniforms and carrying machine-guns, walking behind a Casspir.

Under cross-examination yesterday, Constable Xaba said the two men were white. The constable said a Vanderpark police captain told him to "correct" a statement — which he had made to police after the massacre — by saying he had seen the Casspir from a greater distance than he had initially indicated.

Constable Xaba said he was also told by the captain to say that he had seen the Casspir at 9 pm, and not at 11 pm. Police counsel P Hattingh put it to the constable that he had deliberately distorted his account of the discussion with the captain. Constable Xaba said he had given a second statement to lawyers.

Mr Hattingh also put it to Constable Xaba that he was wrong when he said he heard shooting at or after 11 pm, since the massacre had finished by then. "Most of the witnesses said the attack started at 10 pm," Mr Hattingh said. Constable Xaba said the wall clock on which he had read the time could have been faulty.

During Mr Hattingh's cross-examination, ANC counsel Arthur Chaskalson, SC, asked how long Mr Hattingh would be given for questions on "collateral" issues.

Mr Hattingh said it was very important to test Constable Xaba's credibility as he was one of two crucial witnesses. The hearing continues.



eral inquiry rather than a search for specific culprits

Mr Coetsee was adamant that the Government would only consider the release of remaining ANC political prisoners — about 400 according to ANC sources — as part of a general amnesty which included offenders from all organisations, including the security forces

Mr Coetsee would not say if the amnesty would include famous prisoners such as ANC bomber Robert McBride and right-wing mass murderer Barend Strydom, but observers believe that it will, as Mr Coetsee indicated that the amnesty would include the last category of crime to be dealt with — murder and serious assault

Mr Coetsee said that the Government still had to negotiate approval of the plan with the ANC and other parties

He also indicated that the Government did not favour the idea of public identification of those who received general amnesty, pointing out that although the ANC offenders who had been indemnified had first to identify their offences, regulations prohibited this information being made public

Mr Botha responded in detail to the recommendations of the Boutros-Ghali report

To the call for a total ban on the public display of dangerous weapons, he said the Government would like to discuss this further with Mr Justice Goldstone because there were "delicate aspects involved"

This meant the UN had no intention of "interfering, prescribing or taking sides"

However, Mr Botha did not express approval of the UN's call for a thorough investigation of the SAP, SADF, KwaZulu Police and the armies of the ANC, PAC and other organisations. He said the Government first wished to discuss this recommendation with Mr Justice Richard Goldstone, chairman of the commission of inquiry into political violence, and other interested parties

He indicated that because of their peculiar official status, the SADF and SAP should perhaps be dealt with differently from private armies, and he and Mr Coetsee also suggested that the probe into these organisations should be a more gen-

The ANC's national working committee last night rejected the Government's plan for a general amnesty for political offences committed by the security forces and all other official and private armies.

Justice Minister Kobie Coetsee announced yesterday that the Government had drafted a general amnesty plan — in an effort to "wipe the slate clean and bury the past"

At the same press conference, Foreign Minister Pik Botha said the Government broadly accepted the United Nations plan to help curb political violence — including a permanent presence of 30 or more UN observers in local peace structures

The head of the UN monitoring team in South Africa, Hisham Omayad, welcomed the Government's response to the UN plan as "positive"

But the ANC said at a press conference yesterday it did not believe the issue of releasing remaining ANC prisoners should be linked to a general amnesty for security forces. There were existing agreements on the unconditional release of political prisoners

Since the Government had not implemented these, there was no relationship between the release of prisoners and a general amnesty

A general amnesty could only be offered by an interim government, and the existing Government had no "moral competence" to grant it, the ANC said

### Welcomed

Mr Botha said the Government accepted UN Secretary-General Boutros Boutros-Ghali's report on SA "in broad outline" and agreed that the UN should send 30 observers to assist National Peace Accord local bodies and the Goldstone Commission in monitoring violence

The Government particularly welcomed this recommendation because it meant that the United Nations representatives would be serving under a structure created by South Africans themselves. The number of 30 could even be "increased marginally"

The Government also welcomed the recommendation that Codesa must be continued, and agreed it should be better co-ordinated

It particularly welcomed Mr Boutros-Ghali's observation that "the task of conducting negotiations is uniquely the responsibility of South Africans themselves"

By Peter Fabricius, Esther Waugh and Michael Sparks

STAR 14/8/92

# ANC rejects amnesty

Govt proposes to 'wipe slate clean'

- To the call for increased security at hostels, the Government fully agreed that this was an urgent matter, but again believed discussions would have to be held through the National Peace Committee because opposing groups were involved
- The Government agreed on a code of conduct for mass action and that all the main political parties should take steps to prevent their followers participating in violence
- The Government supported recommendations that it should provide more money for peace structures and should second extra officials to them
- The Government supported the recommendation that reports of the Goldstone Commission should be supplied to all Peace Accord signatories within 24 hours of receipt by the State President
- It also agreed with the need to establish a special multiparty unit in the National Peace Committee structures able to respond on a 24-hour basis to flashpoints
- On the call for an eminent and "impartial" person to convene negotiations, Mr Botha said the Government accepted the recommendation that this should be considered, but did not say whether the Government approved the idea itself
- On the call for quarterly missions to South Africa by the UN, Mr Botha said that the Government had no objection in principle, but thought this should be less categorical and should depend on circumstances in SA

(252) (300)

**DEATH ROW** (252)  
ONE person was sentenced to death for a criminal offence. This brings the number of people on death row to 301, says the HFC.  
W/11/11/14/8-20/18/92



By PHILIPPA GARSON

In what appears to be the latest flash-point between the government and the African National Congress, the latter has provisionally rejected the government's proposals on a blanket amnesty.

At the time of going to press the ANC had not yet fully responded to the announcements made yesterday by Foreign Minister Pik Botha and Justice Minister Kobie Coetsee at a Pretoria conference. The government has broadly accepted recommendations by United Nations secretary-general Boutros Boutros-Chali on curbing violence and getting negotiations back on track.

Botha said the government agreed in principle to the UN call — backed by Justice R. Goldstone — for the investigation into the security forces and other security agencies and

# ANC rejects blanket amnesty

*The Weekly Mail* 14/8/92

hoped to discuss the nature of proposed investigations with Goldstone. The release of remaining political prisoners was, Coetsee said, linked to the principle accepted in the UN report that it should be left to South Africans "to elaborate a mutually acceptable package to wipe the slate clean and bury the past". This could only happen, added Coetsee, if a blanket amnesty applied multilaterally to all relevant parties was declared. "I can announce today the government has approved the plan and we can proceed in negotiating with the ANC and as far as possible with other parties who have an interest or will benefit from it."

The blanket amnesty — which

would affect prisoners, including those awaiting trial, and exiles who had not yet returned — would cover state officials, rightwingers and the ANC's military wing.

ANC spokesman Saki Macozoma told *The Weekly Mail* the ANC was opposed to a blanket amnesty which presupposed that the perpetration of crimes by the security forces had come to an end. He added: "We have no intention of a witch hunt approach to the crimes of apartheid, but there are prima facie cases that need to be followed up."

Macozoma said agreement had already been reached with the government on the definition of political prisoners and the ANC saw no need

to reopen negotiations on the matter. Lawyers for Human Rights has reacted with anger to the government's general amnesty proposal, viewing it as a "cynical" attempt to exonerate the government for the release of a few hundred political prisoners.

An LHR representative said the organisation welcomed the release of remaining political prisoners which, according to agreements between the ANC and government, should have taken place some time ago.

However, the government's attempts to link this to "wiping the slate clean" and letting security force officials, among others, off the hook, "smacks of political opportunism and

dishonesty. "Wiping the slate clean must be done not by the people who wrote the state but by a democratically elected government. And we can't wipe it clean unless we know what we are wiping."

"For the government to cynically link the release of political prisoners to getting security force members and themselves off the hook is to equate political prisoners — the people who fought for democracy — with those people who upheld racial oppression," the representative said.

The government has also accepted further UN recommendations regarding the need to bolster the National Peace Accord with more funds, offices and staff, bring in 30 international observers and appoint an impartial person to preside over Codesa.



AMNESTY

(252) FM 14/8/92

## Who is our Honecker?

**Mr Justice** Richard Goldstone's suggestion that various security forces should be conceded some form of general amnesty for past misdeeds — in exchange for an opening-up of the records — is one of those tough decisions that emergent democracies must sooner or later make

There is no doubt that people who have killed their political enemies remain at large, if they know they will be hunted down and punished, their actions can be assumed to become wilder with time as they seek to cover their tracks and create the anarchic conditions in which, essentially, they thrive. But — depending on the terms of the amnesty — it is difficult to see them being re-absorbed into a nonracial society, or a decent society of any kind

That is the dilemma. Judge Goldstone — responding to an informed suggestion from UN Secretary-General Boutros Boutros-Ghali — is clearly aware of the problem. That is why he suggested that the terms of an amnesty must be negotiated by the major players. Many technical questions arise — the cut-off date, for example — but the primary issue is a moral one

There are a number of countries — emerging from repression — which are facing this dilemma. One is the former

East Germany, which has clapped its unlovable, ageing ex-dictator Erich Honecker in a Berlin prison to face charges of murder. The secret police files have been opened to all — so that in a population where half the people spied on the other half, you can now find out which half was which

Such a thorough purging may not achieve the social amity it is designed for — it may instead cause lingering bitterness and witch-hunts. In Germany, some illustrious names have been exposed as tainted by association. Many people may simply want to forgive and forget in a climate where moral superiority is in short supply

But it depends on the crime. Our experience with indemnity — the precursor to amnesty — has not been fortunate. The jails have released common criminals into a frightened and insecure society. If the allegations made by various human rights groups over the years have any validity — as they must do — some people will be unearthed with whom no civilised society can live

That lies in the future. For the present, Goldstone is right — the terms must be broadly negotiated. In some ways, his call rests on the pessimistic assumption that there is no other way to clear our stables. There may well not be. ■

# Gonwiwe inquiry shifts to Pretoria

**PATRICK BULGER** (252)

THE focus of the investigation into the murder of Craddock political campaigner Matthew Gonwiwe has moved to Pretoria.

Eastern Cape attorney-general Michael Hodgson said yesterday he was in Pretoria in connection with the Gonwiwe investigation. He would not name those he had questioned. He said only that he was following various leads.

Hodgen confirmed that he had received a file from the SADF on the disappearance of a signal document linking the State Security Council to Gonwiwe.

He said the police had also been given copies of certain documents.

Hodgen said he had yet to come to a decision on whether charges would be pressed in the case of the missing signal document.

He could not comment on the Gonwiwe investigation itself.

Meanwhile, the SADF said yesterday an investigation report on the disappearance of the document had been given to Hodgson.

SADF spokesman Col John Rolt said the SADF was not looking for former Military Intelligence official Col Gert Hugo.

According to an affidavit from a former police agent Jennifer du Plessis, Transkei's military ruler Maj-Gen Bantu Holomisa had acquired the documents from Hugo.

Rolt said that as the SADF had completed its investigation, it had no need to question Hugo now.

Holomisa, who was not available for comment yesterday, has said previously that the document arrived at his office in a plain envelope.

# Boipatong policeman 'threatened by captain'

**KATHRYN STRACHAN** (252)

A POLICEMAN who claimed he saw police in Boipatong during the June 17 massacre in the township told the Goldstone commission yesterday he was intimidated by police who tried to make him change his statement.

Special constable Ntsetsa Xaba, who is also a Boipatong resident, said a captain from the Vanderbylpark police station had tried to make him change some facts on his statement, including the time at which he saw the police Casspirs.

Xaba said the captain became angry when he refused to change the facts, and threatened to assault him.

Counsel for the SAP, Flip Hattingh, put it to Xaba that he feared for his safety in the township and made the allegations to gain the approval of the ANC.

A dispute arose in the inquiry yesterday over Hattingh's cross-examination of the witness, which lasted seven hours.

Commission chairman Judge Richard Gold-

stone said he was concerned about the length of cross-examination, but added Xaba was one of the inquiry's most critical witnesses, and counsel should be given time to test his credibility.

Counsel for the ANC, Arthur Chaskalson, said the tedious cross-examination was ultimately "bludgeoning the witness into a state of confusion and exhaustion", and asked for a time constraint to be placed on questioning.

The first session of the inquiry, which focuses on allegations of security force involvement in the attack on the night of June 17, was expected to end today. But the inquiry has not been able to hear evidence from all the witnesses put forward, and the session is expected to continue in November.

Commission members visited Boipatong late last night to examine the visibility in the area during full moon. Witnesses have claimed they could see events more clearly on the night of the attack because it was full moon.

# Talks stall on reinstatement of hospital workers

**CHARLIE PRETZLIK** (252)

NEGOTIATIONS were stalled yesterday between the Transvaal Provincial Administration (TPA) and the Soweto Action Committee, which includes the National Education, Health and Allied Workers' Union (Nehawu).

The parties failed to agree on the reinstatement of fired Transvaal hospital workers.

Nehawu assistant secretary-general Neal Thobeyane said Nehawu had offered to impose

a temporary moratorium on strike action even though demands on wages and service conditions had still not been addressed by the Commission for Administration.

TPA MEC for Health Services Fanie Ferreira said last night the dismissed workers "cannot be reinstated since vacancies have already been filled by new employees."





# 'Police told me to alter evidence'

W/ Mail 14/8-20/8/92

**A** SPECIAL constable who told the Goldstone Commission he had seen a Hippo in the township on the night of the Boipatong massacre yesterday testified that a week after the killings he was asked by a police captain to change his statement

And in other evidence damaging to the police this week, the commission also heard that a letter by a police technician was sent only last week to 10 "priority" police stations, warning operators not to turn over the cassettes used in a four-channel tape recorder

The message came more than a month too late for the Vereeniging Internal Stability Unit, with police witnesses telling the court that their tapes from the night of June 17 had been "partially erased"

Under cross-examination yesterday Special Constable Nietzsche Xaba said that a week after the massacre a police captain from the Vanderbijlpark police station called him in to "correct mistakes" to a statement he had made

In his statement he described seeing a Hippo moving towards his house in Boipatong at about 11pm on June 17 "I noticed two men in front of the Hippo. They were clothed in strange apparel and had long firearms. They were dressed in white overalls and red headbands

"It seems to me that the Hippo was not chasing them." They screamed "this is our day" in Zulu and fired shots in the air, he said

He also said he noticed another two men in camouflage police uniform behind the Hippo. A week after he had made this statement, the captain told him to change the time that he saw the Hippo from 11pm to 9pm

Xaba said he had refused. The special constable also told the commission that photographs taken after the massacre were inaccurate, not showing the distances he had described

*This week at the Goldstone*

*Commission... First the police*

*tapes were accidentally erased.*

*Then a witness said police asked him*

*to 'correct mistakes' in his statement.*

**By JACQUIE GOLDING**

He told the commission that he had been threatened if he did not change his statement "The police captain threatened to hit me if I did not change certain important aspects of my statement," he said

Earlier this week evidence was led that a recording of all radio messages between security force units taped during the night of June 17 — at the height of the massacre in the Vaal township — were "accidentally erased".

Witnesses testified that calls from 2pm on June 17 to 3am on June 18 had been "accidentally wiped out by the person on duty".

A witness told the inquiry that neither police technicians nor operators from the Vereeniging Internal Stability Unit had been aware that tapes had been accidentally erased for the past six months. A new tape recorder was installed in March this year, the commission heard

Last week Warrant Officer Johan van Vuuren, who installed the recording machine at the Vereeniging Internal Stability Unit, sent a letter warning operators to only use one side of the tape; otherwise the recording would be wiped clean

Many valuable recordings of other incidents were now of no use, the commission heard. Sergeant Ilsa O'Reilly, who was in charge of the Vereeniging operation control room on June 17, said she had unknowingly turned the tape around and wiped two days of relevant recording — by mistake.

O'Reilly turned over the tapes before going off duty at 4pm on June 17. The following morning she contacted a Captain Roos to check whether to turn the tape over. She said she "specifically

remembers turning the cassette around".

Only O'Reilly and Roos have access to the machine, the commission heard

Counsel for the African National Congress, Dennis Kuy SC, asked O'Reilly why she had contacted Roos when she normally turned the tapes around, not knowing of the consequences

O'Reilly testified that she was shown how to use the tape by Van Vuuren, who said she could use both sides of the cassette. According to Van Vuuren and O'Reilly the operator's handbook did not state only one side of the cassette could be used

"I realised that I could not tape on both sides after the Boipatong tapes were with the investigation team of the commission"

Two experts from private firms are to make copies of all the tapes and transcripts will then be given to all the parties involved in the hearing. Counsel for the police, Flip Hattingh SC, expressed concern at media reports of the blank tapes, and asked that the police be given a chance to put their case



# Witness tells of threats

## ■ Special constable says he saw two whites carrying guns:

A SPECIAL police constable yesterday told the Goldstone Commission that police threatened him with violence after he refused to change a statement alleging police complicity in the Boipatong massacre.

Constable Ntsetsa Xaba said a police captain threatened to hit him after he insisted that during the attack on June 17 he saw two men in camouflage carrying machine guns and walking behind a Casspir.

Under cross-examination, Xaba said the two men were white.

The constable said a Vanderbijlpark police captain told him to "correct" a statement - which he had made to police after the massacre - by saying that he had seen the Casspir from a greater distance than he had initially indicated.

Xaba said he was also told by the captain, whose name he did not know, to say that he had seen the Casspir at 9pm, and not at 11pm.

Police counsel Mr Flip Hattingh put to the constable that he had deliberately distorted his account of the discussion with the captain.

Xaba, who was questioned by Hattingh for most of yesterday's session, said he gave a second statement to lawyers.

Hattingh also put to Xaba that he was wrong when he said he heard shooting at or after 11pm, since the massacre was over by then.

"Most of the witnesses said the attack started at 10pm," Hattingh said.

Xaba said the wall clock on which he read the time could have been faulty.

# ANC 'most at risk' if no amnesty

STAR 15/8/72

(252)

**PETER FABRICIUS**  
Political  
Correspondent



**KOBIE COETSEE: ANC**  
"rejected plan without  
glancing at it".

desa's Working Group  
One

The ANC's National  
Working Committee on  
Thursday rejected Coet-  
see's proposal for a gen-

eral amnesty to cover  
offenders in organisa-  
tions across the political  
spectrum, including the  
security forces and polit-  
ical organisations of the  
Left and Right

It said that a general  
amnesty which included  
members of the security  
forces could only be  
granted by an interim  
government and had  
nothing to do with cur-  
rent negotiations for the  
release of remaining  
ANC prisoners.

Coetsee said in re-  
sponse that the Govern-  
ment's proposals were in  
line with ANC/South  
African Communist  
Party proposals at Code-  
sa "where they ex-  
pressed enthusiastic sup-

port for a general am-  
nesty".

The general amnesty  
was more advantageous  
for the ANC than anyone  
else and would deal with  
the disputed cases of  
ANC offenders which did  
not fall under indemnity  
guidelines

It was "ridiculous" to  
suggest that the general  
amnesty was aimed  
solely at serving the in-  
terest of Government  
forces

By accepting general  
amnesty, the ANC would  
avoid the continued ar-  
rest of members of its  
armed wing Umkhonto  
we Sizwe for serious  
crimes which fell out-  
side the agreed guide-  
lines for indemnity

JUSTICE Minister Kobie  
Coetsee warned the ANC  
last night that if it did  
not accept a Govern-  
ment plan for general  
amnesty, some of the  
movement's members  
would risk prosecution  
and jail sentences of up  
to 25 years for offences  
such as illegal arms pos-  
session

Coetsee said the ANC  
alliance had rejected the  
plan without even glanc-  
ing at it

In addition, this was  
after "enthusiastically"  
supporting the idea of a  
general amnesty in Co-

ers would be | **Olympians applauded**

# Dreading township's young men with guns

STAR 15/8/92

PATRICK LAURENCE

JUSTICE Prafullachandra Bhagwati, former Chief Justice of India and an assessor in the Goldstone Commission's inquiry into the Boipatong massacre of June 17, nodded in agreement.

Justice Richard Goldstone had just told counsel for the ANC, Arthur Chaskalson, that he was reluctant to cut short a prolonged cross-examination of a young black policeman on "collateral" issues by Flip Hattingh, for the police. His evidence was very important, Judge Goldstone said, evoking Judge Bhagwati's nodded endorsement.

### Graduate

Nietesa Xaba, a special constable who lives in Boipatong, had earlier told the commission that on the night of the killings he had seen two white men in camouflage uniforms walking behind a slow-moving Casspir. Two black men, with automatic firearms and wearing red bandannas walked in front, fired shots into the air and shouted in Zulu "It is our day", he said.

The testimony of Xaba, a 21-year-old Std 8 "graduate", was more than central to the critical issue of whether or not the police were implicated in the mas-

saque. It gave a detailed account of what it is like to live as a black policeman in a township in South Africa today.

One of the points to come across strongly during his evidence was his constant fear of "young men with guns" from the neighbouring townships of Sebokeng and Sharpeville. Xaba insisted in the face of rigorous cross-examination that these armed men did not live in Boipatong.

Thus, on the morning of June 18, when he went out after the massacre to join a crowd which had gathered around a neighbour's house, he heard people say "Something has got to be done about the police. They kill people."

Xaba ran back to hide in the shack he lived in at the back of his parents' house. While there he was visited by another special constable, Joseph Sello.

They decided to convene a meeting of young policemen to discuss the situation in which they found themselves and to inspect the damage inflicted by the marauders the night before.

While doing so they were intercepted by a minibus "full of boys", some of whom carried guns. The "boys" — who were presumably "comrades" — objected to the continued presence of policemen in Boipatong. The special constables, who did not carry firearms, fled

Xaba jocked himself in his shack. While there, he heard a commotion, which he interpreted as the presence of many people. His sister later told him that the unwinvited visitors had come to fetch him or his gun.

She advised him to flee to his elder brother's house in Sebokeng. He did so, collecting Sello — who had been accused by the young men of killing seven people in Sharpeville — on the way.

Xaba's fear of the "young men with guns" — he told the court he did not know who or what "comrades" were — was matched, or even superseded, by his fear of the "riot police".

### Testify

"I feared the riot police most," he recalled telling Sello's brother, who, like his own elder brother, was a policeman.

Chaskalson asked Xaba whether it had been easy to testify against the police. He replied, "No, it was not because I was afraid. . . I have seen bad treatment from the police."

He told the commission that he had been abused for "talking shit" by a white police officer after making a statement about what he saw on the night of the massacre and that he had been pressed by an SAP captain to alter details of the statement.

Apart from fear of retribution, whether from "comrades" or fellow policemen, two additional interrelated themes ran through Xaba's evidence resent-

ment at the perceived privileged treatment of white policemen and a strong desire for him to be issued with a firearm.

Relating what had happened at a meeting of black policemen at Houkrop, near Boipatong, where they had discussed their grievances, Xaba described the resentment of black policemen at the preferential treatment received by their white counterparts.

"We aren't even issued with guns. Yet white policemen have guns, even up to three guns, which they take home. When a black policeman dies you don't even know (about it) but when a white policeman dies you even see helicopters."

Later in his testimony Xaba quoted a black police sergeant as complaining that black policemen were given Hippos without a covered top — and thus vulnerable to a lobbed hand-grenade — when on patrol in the townships.

Running in tandem with resentment was, judging from Xaba's evidence, a drive by black policemen — or, perhaps more accurately, by special constables — to obtain weapons for themselves.

Later, describing his motivation in reporting an attack on a house in Boipatong, he said "My endeavour was to be furnished with a firearm."

Only after being pressed by Hattingh did he mention a secondary motivation to report an unlawful action

Zelda GRAM



# Tapes erased in error, say experts

INITIAL evaluation by an independent agency investigating the erasure of information from police tapes pertinent to the Goldstone Commission's inquiry into the Boipatong massacre appears to confirm that it was done in error.

A police witness earlier this week told the commission that the taping equipment, which automatically recorded telephone and radio conversations by security force members, had been used incorrectly since its installation in

252  
ADRIENNE CARLISLE

March

STAR 151892

All conversations recorded between about 2 pm on June 17 and 3 am on June 18 had been over-taped. The equipment ran ordinary commercial tapes, but only one side could be used or information would be erased.

On June 18, the day after the Boipatong massacre, police had flipped the tape in the machine, resulting in the destruction of all

information pertaining to action taken by security forces on the night of June 17.

Counsel for the commission, J J du Toit read out the initial findings of Grinaker Electronics Agencies, which was charged with finding out how the information had come to be erased from the tapes.

The company found that the tapes had not been "bulk-erased per se", confirming that on completion of one side the tape was turned over for further recording.

**DEATH ROW**

FOUR people were sentenced to death in the past week, bringing the total number of prisoners on death row to 305. According to HRC records, eight are considered to be political prisoners.

(2/2/20)



**PAINFUL PAST**  
... To help heal the scars of war — such as this SADF commando raid against ANC members in Lesotho — former enemies have to account for their violations of human rights, says Africa Watch a group which monitors human rights abuses throughout Africa.



# FORGET NOT THE

By **SEKOLA SELLO**

**A**S THE government and ANC grapple in private with the issue of amnesty, an important document released by Africa Watch could help the two navigate the many minefields around this problem.

Focusing on Namibia, AW, a human rights group which monitors human rights abuse throughout Africa and is part of the worldwide Human Rights Watch, warns against the ill-considered granting of an amnesty. In fact, HMR says it "opposes amnesties for those responsible for gross abuse" and calls for criminal prosecution for those responsible.

The report, which looks at Namibia during its war of independence, argues that a lot more needs to be done by both SA and Swapo, the two combatants in the war, for the healing process to be real.

Contrary to popular belief, contends AW, two years after the end of the long and bloody war between the SADF and the People's Liberation Army of Namibia, the wounds of the war have not yet healed in that country.

The essential factor for the healing process to work, says AW, is for the former enemies who have committed atrocities (in this case Swapo and the SA government) to account for their gross violations of human rights.

The document makes a telling observation that "when a country moves from repression to a more democratic system that respects human rights, the abuses committed under the previous regime are not forgotten by the victims, their families and their friends."

The report, titled "Accountability in Namibia - Human Rights and the Transition to Democracy", is of equal importance to SA.

## Just like apartheid

The histories of SA and Namibia are interlinked. Swapo, through its military wing, Plan, fought to oust SA from its homeland.

As a colonial power in Namibia, SA introduced a system of government similar to apartheid and committed human rights abuses similar to those which took place inside SA.

Deaths in detention (in our country Steve Biko's tragic end being the prime example) and the curbing of political activities (Pretoria's Stanza Bopape comes to mind) were common

# South Africa needs the truth to help heal the war wounds

features in Namibia.

The SADF launched several attacks into Angola, killing unarmed Swapo members. The SADF carried out similar commando raids in Lesotho and Botswana against ANC members.

And when Namibia gained its independence two years ago, SA was not made to account for its human rights violations. Instead, because of the policy of national reconciliation, those who were responsible for committing crimes retained senior positions in the new government.

Swapo also committed a number of abuses against its members. Members suspected of being agents of Pretoria were held under terrible conditions in dungeons in Angola. Many were tortured. Suspects were rarely given a fair hearing and most were arrested on the flimsiest evidence. Some members died in these dungeons, others disappeared and have not been accounted for.

Similarly, no one in Swapo has been called upon to account for these atrocities. And some Swapo members who were responsible for abusing these people today hold senior positions in government.

The most controversial senior appointment was that of Solomon Hawala as the commander

of the armed forces. Known as "Jesus" or the "Butcher of Lubango", Hawala was accused of having overseen the arrest, interrogation, torture and disappearance of Swapo detainees in southern Angola.

According to AW, experience shows that in nations torn apart by violence, national reconciliation requires a recognition and acknowledgment of "great crimes and great suffering."

"Mere forgetfulness," argues AW, "glosses over but does not heal the damage caused by gross violations of rights."

Victims of abuse and their families have repeatedly emphasised that for reconciliation to be meaningful it is essential that the past should not be forgotten.

The human rights body acknowledges the difficulties if not the dangers inherent in such a policy. AW correctly points out that a newly elected government often has a fragile command over the armed forces and may be reluctant to antagonise the military by pursuing accountability.

As a result of the danger posed by restive forces, the tendency by a new government may be to say it is preferable to forgive a few lest you jeopardise the position of the majority by pursuing accountability.

AW points out, however, the danger exists that those pardoned may then conclude that they are above the law and may commit other violations.

This dilemma is likely to face any future black-dominated government. The security forces are dominated by whites who hold most of the senior positions. This is no mean threat to any future government.

Bringing to book the miscreants would most likely lead to destabilisation of the new government. On the other hand letting them free is no guarantee that they will not repeat the wrongs. And what about the families of the victims?

## Mysterious deaths

The other dilemma is that if an ANC government were to pursue accounting, even some of its members would be in the dock. The organisation has admitted that wrongs were committed in their detention camps in Angola. Among prominent ANC members who died under mysterious circumstances was leading MK commander Thami Ngwenya.

Naming those responsible for human rights violations, says AW, is a way for society to condemn that conduct. In addition, disclosing and acknowledging the truth may help to prevent similar abuses from occurring again.

The report comes at a time when there is talk that the country's armies police forces — such as the PAC's Apla, the ANC's MK and the SADF, the SAP and KwaZulu Police — be probed by the Goldstone Commission.

Last week former MK members who now call themselves the Returned Exiles Committee (REC) threatened to assassinate ANC/MK leaders whom they claim tortured them in exile.

REC chairman Patrick Hlongwane claimed that they had formed a squad to eliminate ANC and MK members unless those responsible for abuses were brought to justice. REC also claims that some MK dissidents have disappeared.

As SA abandons apartheid and moves towards an open and democratic society amid the talk of amnesty for all, the AW report has important lessons for this country.

Granting amnesty, no matter how desirable, may not necessarily be the best way of achieving national reconciliation. And calling for people to account for their misdeeds is not in itself a Nuremberg type trial.



**Steve Biko's spirit lives on**



**PAINFUL PAST**  
... To help heal the scars of war — such as this SADF commando raid against ANC members in Lesotho — former enemies have to account for their violations of human rights, says Africa Watch, a group which monitors human rights abuses throughout Africa.



# NOT THE FALLEN

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**Steve Biko's**

**ALWAYS REMEMBERED ...** "When a country moves from repression to a more democratic system that respects human rights, the abuses committed under the previous regime are not forgotten by the pe-

# Suspect 'necklaced' by policemen

By S'BU MNGADI

252  
A DURBAN youth was taken to a deserted spot, viciously assaulted and set alight while questioned by five policemen.

While Vusi Phiri, 20, sat sobbing in agony, the police drove off and left him by the roadside.

The evidence was given before magistrate DJ du Plessis in the Durban Regional Court this week, where the five policemen face a charge of attempted murder.

The accused are Lance-Sgt Mark Allan Lucy, 24, and constables David Wilhemus Potgieter, 19, Pierre Conrenius Laubscher, 18, and Bradford Brown, 19.

The five have pleaded not guilty. During the hearing this week, Phiri removed his shirt before the court to reveal extensive scarring on his body.

Phiri said he was asleep at home on January 13 when a group of policemen arrived at about midnight. They put him in the back of a police van and drove him to nearby Marianhill Park.

The policemen told him they were looking for an unlicensed pistol.

16/8/92  
Phiri denied ever possessing a

firearm and a black policeman said if he did not give them the pistol, he would hand him over to the white policemen.

The group made him sit down and assaulted him for about 20 minutes.

One of the policemen used a cigarette lighter to burn Phiri's toes, feet, ears and one hand. Phiri told the court he was barefoot and wearing only long trousers.

One of the policemen went to the van and returned with a tyre which he put around Phiri's neck. Another policeman returned with a can of petrol which he poured over Phiri's body. The third man held out a cigarette lighter. The petrol caught fire and the men jumped back.

## Mad

Phiri said the police watched him run away crying.

He told the court that the tyre fell off while he was running and he managed to remove his burning trousers.

He walked to a nearby house, whose occupants took him to Marianhill Hospital.

He spent three months in hospital and was still not perfectly well.

He said he could not identify any of his assailants.

Another witness, Const Barbara Bartels, said she accompanied the five policemen on January 13 in a crime prevention patrol during which they picked up Phiri.

Driving in two vehicles, they took Phiri to a bushy area.

She told the court that someone, who sounded like Phiri, said: "I am talking true."

Bartels then heard a "woof" sound and saw a man, who she later found out was Phiri, run past her, his upper body on fire. She got out of the car and said: "Are you mad?"

She walked towards the group and saw Phiri sitting on the side of the road with his head in his hands.

One of the policemen asked her to return to the car which she did.

They left Phiri sitting by the roadside and drove off.

Const Muziwamandla M Nzi-mande, of Kloof police station, said he drove in a police van with Potgieter and Laubscher.

A third witness, Nkosinathi Paulos Blose, said Lance-Sgt Lucy threatened him with violence if he divulged the evening's events.

The hearing continues.



# 'Factual misstatements' and the 'correct facts'

## Statement by Mr Justice Richard Goldstone, Chairman of the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation

1 Counsel for the South African Defence Force has drawn to the attention of this committee certain factual misstatements concerning the present inquiry which are contained in the Sunday Times of August 9 1992

2.1 On page 1 it is stated that "The SADF's hostility to probing by the Goldstone Commission came to the surface this week during the Boipatong massacre (sic) when counsel for the SADF refused to hand over a file demanded by Mr Justice Richard Goldstone. The file was eventually handed over after

*S/ Times 16/8/92*

Judge Goldstone raised the possibility of holding the advocate in contempt"

22 There was no hostility by the SADF to "probing" by the committee

23 On Wednesday, August 6 1992, counsel for the SADF informed the committee two documents requested by the ANC legal team would be made available only to the chairman. The chairman refused to receive documents which were not open for perusal by all the members of the committee. On the afternoon of August 7 1992, counsel for the SADF informed the committee that the documents were available for all the members of the committee. They were handed to the committee.

24 After careful perusal of the documents, the committee ruled that they were irrelevant to the present inquiry and they were returned to the SADF

counsel <sup>252</sup> ~~252~~  
25 There was a reference by the chairman to contempt proceedings during an exchange with counsel for the SADF. However, it did not relate at all to the issue concerning the production of documents by the SADF.

31 The reference in the editorial on page 16 of the same edition of the Sunday Times to the SADF trying "brazenly to withhold information from the commission" is similarly incorrect.

32 Nothing that has occurred during the present enquiry justifies the further comment in the editorial that "In the past week the SADF trying brazenly to withhold information from the commission has demonstrated that its (the SADF) officers still think they stand above the state and outside the law"

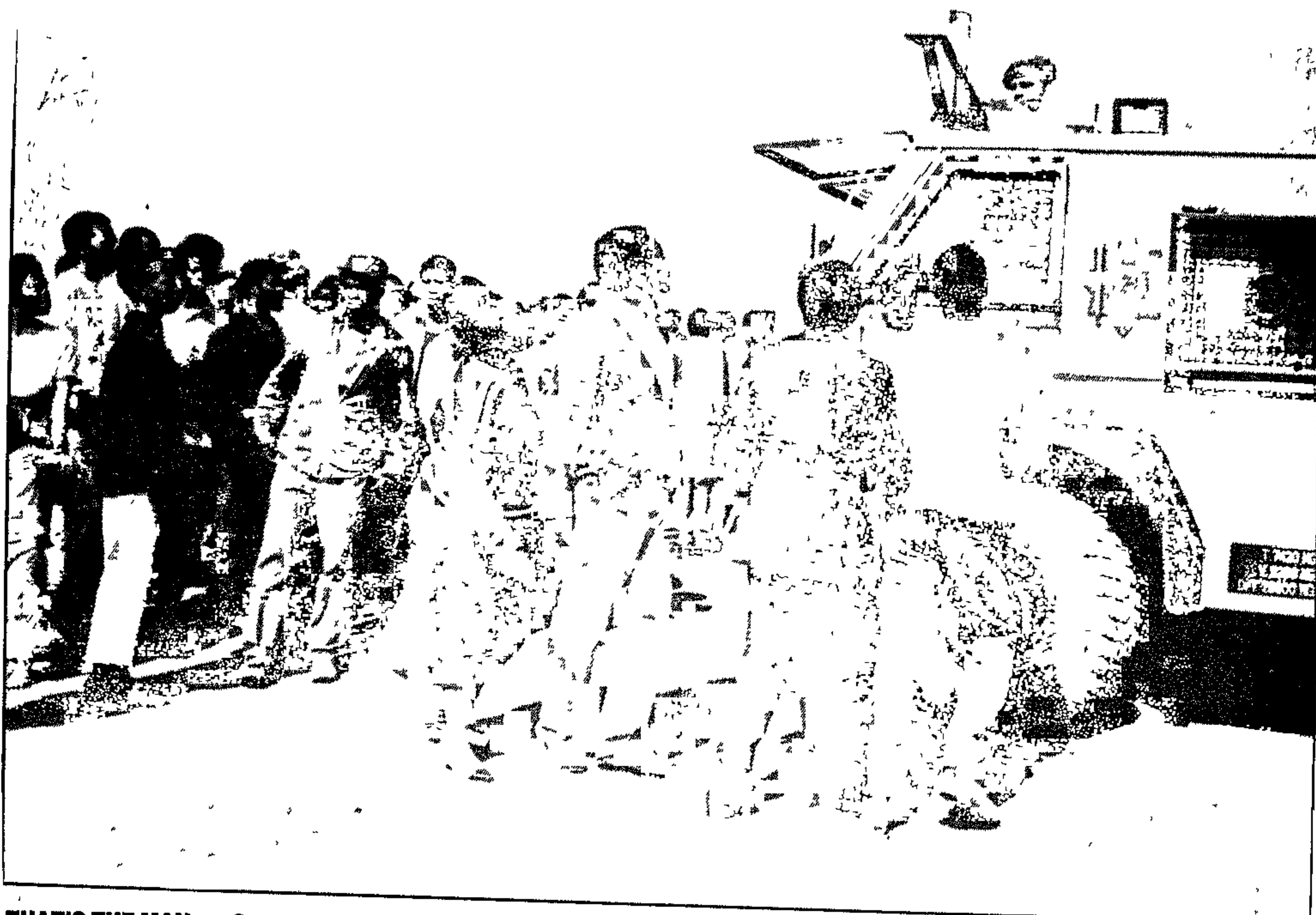
4 I would also draw attention

to the misleading headline in bold lettering on page 1 of the newspaper. It reads "Judge urges SADF inquiry". As the article below the headline correctly states I reacted positively to the recommendation of the United Nations Secretary General that the commission should carry out a full-scale inquiry into a number of agencies. One of them is the SADF.

5 Counsel for the SADF has requested that the editor of the Sunday Times appear to explain the foregoing misstatements. The committee considers that to be unnecessary. However the committee does request the editor of Sunday Times to publish the correct facts as set out in this statement with appropriate prominence in the next edition of the Sunday Times.

— Judge R J Goldstone,  
Vereeniging, August 10 1992





**THAT'S THE MAN . . .** Outraged Ivory Park squatters point out the policeman they allege was involved in an attack last week in which five were shot dead. Police blame the deaths on a taxi war. ■ Pic: TLADI KHUELE

# Government amnesty call harshly condemned by all

By **SEKOLA SELLO** (252)

THE general amnesty proposed by government for political offences committed by security forces and other government officials has been shot down by most anti-apartheid bodies.

Instead, they have called on the government to disclose offences committed by the security force and government officials before any indemnity could even be considered.

This was in reaction to the announcement by Justice Minister Kobie Coetsee this week that the government had drafted a general amnesty plan which would cover offenders from all political organisations, including security forces.

Among those who have voiced their opposition to the amnesty are the ANC, the PAC, Azapo and Lawyers for Human Rights

PAC publicity chief Barney Desai said granting amnesty to people who have not disclosed their offences defeats the purpose of the exercise.

"When you talk about amnesty, you talk about something specific. You identify the crime," he said.

Desai pointed out that political prisoners who were indemnified in the last two years had to disclose their crimes even though these were known to the government.

"Exiles were also required to reveal crimes they had committed which were not known to government. Now, why suddenly the change when it affects the government?"

Azapo secretary-general Don Nkadimeng said the organisation would have difficulty in granting amnesty to people who have committed offences in pur-

suance of oppression - a view also shared by the LHR.

Nkadimeng said Azapo was not opposed to a general amnesty in principle and stated that it is only when such an amnesty is in place that the movement's exiles will return home.

The Azapo leader pointed out that the government's plan could have practical problems. It could mean that Pretoria mass murderer Barend Strydom qualifies for indemnity if his motives could be said to have been political.

"But what if his motives were racist disguised as political?"

"You simply cannot grant amnesty to such people," argued Nkadimeng.

A spokesman for LHR who asked to remain anonymous said the government had "no right to forgive itself". She said it was inappropriate that past actions of the security forces, Cabinet

Ministers and government officials "be bundled into the dustbin of history".

"The actions of these people need to be investigated and exposed," she added.

She also criticised the government attempts to compare the activities of Umkhonto weSizwe and the Azanian People's Liberation Army with those of the government's security forces.

She said people who fought against apartheid could be compared with those whose duty was to maintain it. "It is like comparing World War Two resistance fighters with Nazis," she said.

The ANC said the plan smacked of a "criminal pardoning himself for the crimes he has committed". The organisation said the question of amnesty should be handled by an interim government.

*CIPRES 16/8/92*



# Advocate Anton Mostert and the blue folder 252

Transcript of the exchanges between Mr Justice Richard Goldstone, chairman of the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, Advocate Anton Mostert, counsel for the SADF, and Advocate Arthur Chaskalson, representing the ANC

Mr Mostert informed the three-man committee investigating the massacre at Boipatong on June 17 of the operational and vehicle logs in his possession and said he would submit them to the committee. He then referred to a set of documents in a blue folder.

**MR MOSTERT:** These documents, my instructions are, are secret; I believe the expression is classified and they are not available for handing over to the parties. Also, Mr Chairman, as I see it they are irrelevant, but I may be wrong. I do not believe there is anything in this blue folder which will assist the commission one way or the other.

Now if there is persistence in relation to these documents in order not to be accused of hiding anything or hiding behind the shield of classified, this is perhaps the correct expression, what I will do Mr Chairman, is make them available to you, and to you only; not to members of your committee.

These will be made available only to you for your inspection and, if you find that I am correct that they have no relevancy, that will be the end of the matter.

**CHAIRMAN:** Mr Mostert, I must make it clear. I am not prepared to accept documents which I cannot share with members of the committee.

**MR MOSTERT:** Then, I am afraid, this is the basis and let me tell you why I have suggested this method. You will know where the origin of this idea or this procedure comes from, and it comes

*S/Times*  
16/8/92  
from the procedure of discovery in the courts where there is exactly this sort of dispute from time to time between the parties where one of the parties say it is irrelevant, it is irrelevant and it is not capable or it is not susceptible to discovery. The document is then handed to the judge and he sees it, nobody else sees it.

**CHAIRMAN:** Well, that is the position we are in. The judge here consists of certainly three members of the committee.

**MR MOSTERT:** No, sir, there is one judge on this committee presiding; there is another judge I know in the form of Judge Bhagwati, but that is the basis on which we are prepared to make it available. That is the tender, and if there is a persistence and the tender is not accepted, then I am afraid you are going to have to accept my word that this is irrelevant.

**CHAIRMAN:** Well, what do you say about the powers of search and seizure which this commission has, Mr Mostert?

**MR MOSTERT:** Well, I am not so sure that powers of search and seizure extend to — and then you must exercise it and then the question that would arise is whether those powers are more powerful than the right not to disclose military secrets.

**CHAIRMAN:** We may well have to test that.

**MR MOSTERT:** Well, let's test it. Then I have done my job if it is found in the fullness of time that these things are liable to be subject to search and seizure. Alternatively, if it is found that they are classified and that is more powerful than your power then so be it, but I make it clear. I have instructions that these are military secrets and to protect it, but I am prepared to go to the extent of showing you and showing you only I told you the other day, on Sunday evening when we were discussing it, it is no good over-looking in these procedures the elephants in the room and that is the situation. You may or may not have persons on your commission whom we do not want to see this sort of document for entirely oth-

er reasons not connected with this. That is where we stand at the moment.

So I will let Mr Chaskalson have these documents (the vehicle and operational logs) and anybody else, and for the moment that gives you a brief outline of what participation was by Vaal Commando that evening. One thing is very certain on any version that may come up. Vaal Commando did not transport any attackers and there can never be that evidence. I throw down the gauntlet with complete confidence.

After the tea break there was further discussion about which documents should be brought before the committee.

Mr Mostert described a category of "general documents dealing with secret standing orders with operational planning" which had nothing specifically to do with the inquiry. That, said Mr Mostert, he was not going to make available.

**MR CHASKALSON:** One thing I want to make clear, I am not asking to see irrelevant documents that have nothing to do with the inquiry.

**MR MOSTERT:** And that is exactly what they are.

**CHAIRMAN:** On what basis were they brought here, Mr Mostert?

**MR MOSTERT:** Because they fall within that general description.

**CHAIRMAN:** Of any other material (intervenes)

**MR MOSTERT:** Oh no, no, let me make it quite clear (intervenes)

**CHAIRMAN:** Under which description?

**MR MOSTERT:** The only other material not specified above relating to the inquiry. We treat it as a joke because that is what it is.

**CHAIRMAN:** I do not understand.

**MR MOSTERT:** Before you shake your head let me please — give me an opportunity (intervenes)

**CHAIRMAN:** Mr Mostert, I will shake my head if I wish to and don't tell me how to behave.

**MR MOSTERT:** Well then, will you hear me out.

**CHAIRMAN:** Mr Mostert, I am dealing with one issue. Don't tell me how to behave.

**MR MOSTERT:** Well, then (inter-

venes).

**CHAIRMAN:** I take the gravest exception for it and I warn you there are contempt proceedings available to this committee.

**MR MOSTERT:** Well, then you must apply them if you so choose. **CHAIRMAN:** Well, if you continue behaving in this fashion I may well have to

**MR MOSTERT:** Well, you must do as you think fit.

**CHAIRMAN:** Mr Mostert, just listen to my question now. What are the documents in the blue file and how do they happen to get there?

**MR MOSTERT:** Before I do that, what I take objection to is before I have addressed you and I am half-way through, you will not let me finish and you sit back and you shake your head in an attitude of rejecting before I have finished what I am about to say to you.

**CHAIRMAN:** Mr Mostert, I do not accept your description of my behaviour at all.

**MR MOSTERT:** Well, it is on record and that is how I see you.

**CHAIRMAN:** Well now, will you answer my question?"

Mr Mostert then describes the documents he intends handing to Mr Chaskalson "with the exception of the blue document".

**MR MOSTERT:** We made it clear to you in your room and in his (Chaskalson's) presence we are going to hide nothing and, in fact, we will go well beyond the duties of disclosure in this case — but we were given documents and we do not want to hand those documents in because they are classified, they are secret. I examined them and although they fall within category six (briefing documents or similar documents reflecting or relating to instructions given to members of the SADF before the massacre) I found them not to be discoverable under another head; aside from any question of privilege or state secret I found them to be irrelevant."

● Following further discussions with Judge Goldstone, Mr Mostert handed the documents to the full committee which examined them. It decided they were not relevant and handed them back to Mr Mostert.



JUSTICE  
STONE has criticized what he calls "factual misstatements" in the Sunday Times reports and comments last weekend on the UN proposal for an inquiry into the SADF, the SAP, Umkhonto we Sizwe and Apla, the armed wing of the PAC, and on the aftermath of that proposal. To comply with his request for publication of the "correct acts", the Sunday Times publishes his full statement elsewhere on this page.

However, it is necessary to say that this newspaper differs from Mr Justice Goldstone in its assessment of the matter. What he calls "factual misstatements" are, in our respectful opinion, matters of editorial interpretation and presentation of the news.

## PRACTICE

Mr Goldstone's strictures rest on three issues. The simplest of these is the front page headline, which read "Goldstone backs UN proposals on security forces, private firms", and in bolder type Judge urges SADF inquiry". Mr Goldstone criticises the bold headline, apparently on the grounds that the SADF is singled out from among the various agencies which the UN secretary-general recommended for investigation. He acknowledges that the body of his report correctly stated that the SADF was but one of the agencies to be investigated; however, it is accepted newspaper practice (and we believe it to be established law) that the headlines and the report should be read as one.

There may be a question whether, by supporting the UN

# The Sunday Times, the

# SADF and Judge Goldstone

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recommendation for an inquiry, Mr Justice Goldstone can fairly be said to have "urged" the inquiry. On reflection, it would have been better to say he "backed" the inquiry, but it did not occur to us at the time, and in any event the semantic point, we submit, is trivial.

The more important point is why the headline singled out the SADF, and the answer is simple in our editorial judgment, there exists greater interest in the role of the SADF in past and current violence than in other matters which are to be included in the inquiry. The reasons are various. They include a widespread perception (which we share, and which was reflected in the immediate prediction by a Cabinet source that the SADF would resist inquiry) that the SADF fiercely defends its secrecy. Readers are invited to examine, on the opposite page, some of the evidence on this point. The reasons include also an expectation, fostered by growing confidence in the Goldstone commission itself, that this commission may succeed where others have failed, espe-

cially as it operates with the support of the international community. This raises the second issue on which Mr Justice Goldstone's rebuke rested: the question whether the SADF was hostile to probing by the Goldstone commission, or not. In our view, this too is not a matter of factual accuracy or inaccuracy, but of interpretation of facts.

## ATTITUDE

Mr Justice Goldstone states "There was no 'hostility' by the SADF to 'probing' by the committee." He goes on to say that counsel for the SADF offered to hand certain documents to the chairman (Mr Justice Goldstone himself) but not to other members of the committee. Later the documents were in fact handed to the committee, which found them to be irrelevant and handed them back.

The Sunday Times report adduced different facts, and came to a different conclusion that counsel for the SADF refused to hand to the commission a file, or a folder, but eventually surrendered it after Mr Justice Goldstone had raised the possibility of contempt, and that these events — recorded in the exact sequence in which they occurred — brought to the surface an attitude of hostility on the part of the SADF to the commission's probing.

To enable readers to assess for themselves whether our interpretation of the facts was reasonable, we publish below an extract from the official record of the Goldstone proceedings in which counsel for the SADF, Mr Anton Mostert, puts the issue succinctly: whether the powers of the commission are more powerful than the right of the SADF not to reveal military secrets?

The subsequent exchange on the possibility of contempt proceedings was not, according to Mr Justice Goldstone, relevant to the question of handing over the documents. That is true, but the exchange flowed from the full sharp discussion of the full commission's right to see documents. Besides, the purpose of public inquiries is to allow the public — including newspapers — to make their own observations and come to their own conclusions. In our view, the sharpness of the exchanges in the commission, the reference to contempt, and even Mr Mostert's choice of vivid language all indicate a certain attitude on the part of the SADF. We interpret the facts, against the wider background of public affairs, as indicating that the hostility of the SADF to civilian inquiries persists, and has come to the surface again in this inquiry. It is a matter of interpreting facts, not of misstating them. Readers are invited to judge for themselves.

## RECORD

This raises the third issue Mr Justice Goldstone says that nothing in the proceedings justified our editorial comment that the SADF had brazenly tried to withhold information from the commission, and that this demonstrated that the officers of the SADF still thought

## ISSUE

On none of the three points of criticism can we agree that we have been guilty of "factual errors". On questions of interpretation and opinion, it is plain that the commission and the SADF take a different view, and we therefore accede to Mr Justice Goldstone's request to publish an interpretation of the facts that differs from our own.

## THE EDITOR



# Riddle of the tapes and lights of Boipatong

WHILE the world watches and waits, Judge Richard Goldstone and his committee investigating the Boipatong massacre have begun unearthing serious problems in testimony about the events on the night of June 17.

Two key questions emerged

● Did police deliberately erase the Boipatong tapes, or are they chronically inefficient?

● Are witnesses lying about seeing attackers in camouflage uniforms (similar to those worn by the police instability unit) and others with red headbands accompanying camouflage Hippos into Boipatong?

## Whites

The final answers may not come for many months as the Goldstone Commission into Public Violence and Intimidation plods through hours of often incredibly tedious cross-examination

The hearing, which first sat briefly in July, then for eight days in August, will resume on November 2

The picture that emerged last week of the attack — directed by armed black men wearing white or red headbands, some accompanied by camouflaged Hippos, others by white men in camouflage dress illuminated by a bright moon and the huge township lights — was thrown into doubt by the close of hearings this week

Senior Lieutenant Marthinus Kruger, a patrol officer for Vereeniging Crime Prevention, a private security company which responded to a call by a guard at Unipark motors near Boipatong, said that on the night in question the township lights were off

## Ability

If Lieutenant Kruger's evidence is correct, it throws into doubt the testimony of most township witnesses heard so far, who claimed events were visible under the huge Apollo lights

An on-site examination by legal representatives and members of the Goldstone committee at full moon on Thursday night (the attack took place two days after full moon on June 17), with the township lights on, threw doubt on the ability of witnesses to have seen camouflage on

## CHARLENE SMITH reports on the Goldstone hearing

either uniforms or Hippos, or colours

ANC counsel, Arthur Chaskalson, SC, reported that a witness, Edison Koti, who said he saw a Hippo drop off about 15 men wearing white headbands, would have been unlikely to make out the headbands. It was also not possible to distinguish camouflage in the dark.

Another witness, special Constable Ntsetsa Xaba, who was cross-examined for 10 hours — seven of them by police counsel Flip Hattingh — said he saw a Hippo moving up a street with two white men in camouflage carrying rifles jogging behind and two black men, wearing white overalls with red headbands, in front.

Mr Chaskalson noted that with the Hippo lights on, as Constable Xaba described, the figures in front would have been silhouetted and it would not have been possible to make out their clothes or race

## Agreed

It would have been impossible to see anyone behind the Hippo until it had passed

Nonetheless, advocate Denis Kuny, SC, who visited the scene described by Miss A — who witnessed the killing of her mother and brother by three whites and three blacks — found it was likely she saw all she claimed. The scene was clearly illuminated by bright moonlight and a nearby Apollo light.

Counsel for the police, who did not submit a report of their observations, agreed in essence with the ANC counsel report

In a dramatic development during the hearing, which heard no testimony from military or Inkatha witnesses and only three police witnesses, police admitted erasing tape recordings of all radio and telephone traffic on the night of the massacre in which 45 people died

A preliminary report by Grinaker Electronic Agencies for the commission noted the seven tapes "were not bulk erased on completion of a record-

ing, the tape was turned around for further recording. Under these conditions, recordings made on Side A of a tape, for example, would be erased (by the erase head) before being written over by the new information from the record head"

Investigations are continuing to see if any information can be recovered from the tapes

Testimony about the tapes, primarily by Sergeant Elsa O'Reilly, in charge of the operational room in Vereeniging, and Colonel Leon Maryatt, of police telecommunications in Pretoria, detailed a saga of remarkable ineptitude

In a nutshell, late last year the chief of the Internal Stability Unit put forward an urgent request for units to be supplied with

four-track communications recorders. Ten were bought and assigned to top priority areas. Vereeniging received its recorder on March 24

However, neither telecommunications head office, nor the installers, nor the users received proper training to operate the equipment, according to testimony

What no one apparently knew was that the tapes — identical to those used in

ordinary cassette recorders — could not be turned over, because the four channels use up all the tape space

When new data was recorded on side B, it wiped out information on side A — therefore half of all recordings made since March have been lost.

Even more remarkable, according to Sergeant O'Reilly's evidence, no one listened to the tapes

She said that if there was

a serious incident, the tape was marked and placed in a safe for six months for possible use in court proceedings. Where nothing of significance happened, tapes were sent to CIS (the former security police) for erasure. They, too, apparently never listened to the tapes

Sergeant O'Reilly said no copies of tapes made before June 14 were available, as they had been erased by the CIS

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# Police 'not in the clear yet'

## ■ Erasure reports prove nothing - ANC:

INITIAL findings by experts charged by the Goldstone Commission to study erased police tape recordings in no way exonerated the police, the ANC said at the weekend.

The organisation denied newspaper reports that the initial evaluation of the tapes appeared to confirm the police's claims of accidental erasure.

It said the findings had merely determined that the tapes were erased by recording over the initial information.

"Whether this was done deliberately, or as the police claim, they have since March been systematically recording over previous messages, is a matter for the Goldstone Commission to determine," an ANC spokesman said.

Police told the Commission last week that tapes, which before erasure had recordings of security force radio calls made on the night of June 17, were erased by overtaping.

They denied that it had been deliberate to conceal information which may have proved crucial to the Commission's inquiry into security force complicity in the massacre.

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# Boipatong probe to resume in November

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The Goldstone Commission committee investigating the June 17 Boipatong massacre concluded its sitting on Friday and will resume hearing evidence in November.

During the week-and-a-half sitting, the committee heard allegations of involvement in the massacre by whites and/or security force members from eight witnesses, including an SAP special constable living in Boipatong.

The SA Police and SA Defence Force legal teams stood firm in maintaining that the security forces had not in any way been involved in the massacre, and produced their own witnesses in corroboration.

The policeman charged with investigating allegations of security force involvement, Major Christo Davidson, exonerated the police and defence force, and told the commission he was satisfied the police had acted promptly and satisfactorily in response to reports of the massacre.

The major caused a stir by revealing that the Vereeniging Internal Stability Unit taped incoming and outgoing telephone and radio calls.

Initial excitement by the committee and legal teams was quickly quashed when Major Davidson went on to tell them that by some "operational

error" the tapes of June 17 had been accidentally taped over.

The police claimed they had been using the equipment incorrectly since its installation in March and had consistently destroyed information for three months without being aware of it. They said they could not produce any tapes from before June 14 to corroborate this because they had all been cleaned by the Vereeniging Crime Intelligence Service, which had special equipment for this purpose.

ANC counsel Arthur Chaskalson earlier put it to Major Davidson that the information pertaining to June 17 was possibly damning to the security forces and had been deliberately erased.

On Friday an independent agency said the tapes had not been "bulk erased". Grimaker Electronics confirmed that the tapes had been turned over for further recording, thus erasing previous information.

Police spokesman Colonel Johan Mostert issued a statement saying the lack of training and knowledge regarding recording equipment had been identified, and that steps to rectify this were being taken.

Witnesses have alleged that:

- White men in camouflage uniforms and armoured vehicles were in the township during the attack
- Armoured vehicles escorted

and transported attackers

● Whites took part in the murder and assault of township residents and damage to their property.

In an attempt to find out how much witnesses could have seen on the night of June 17, the committee and legal counsel embarked on a moonlight inspection of the township on Thursday. However, because some of the powerful township lights were not fully functional, and the moon was in a different phase to that of June 17, the inspection was inconclusive.

The commission will resume its public inquiry in Vereeniging on November 2, when it will continue to give its attention to allegations of security force involvement in the massacre.

Other terms of reference include identifying those responsible for the attack, the role played by the SADF and SAP before, during and after the attack; and what steps should be taken to prevent the recurrence of such an incident.

The committee consists of commission chairman Mr Justice Richard Goldstone, deputy chairman Neal Rossouw, MS Sithole, and former Chief Justice of India P N Bhagwati.

The Inkatha Freedom Party, KwaZulu government, SAP, SADF, ANC and KwaMadala hostel residents are all represented by legal teams — Sapa

## Tapes finding 'doesn't exonerate police'

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The initial reports by experts brought in to assess the tapes pertinent to the Goldstone Commission's inquiry into the June 17 Boipatong massacre in no way exonerated the South African Police, the ANC said on Saturday.

Reacting to reports that an initial evaluation of the tapes appeared to confirm the police's claims that tapes were accidentally erased, the ANC said in a statement that the evaluation

had merely determined that the tapes were erased by recording over the initial information.

"Whether this was done deliberately, or as claimed, the police have since March been systematically recording over previous messages, is a matter for the Goldstone Commission to determine."

The tapes, which before erasure had recordings of security force radio calls made on the night of June 17, were erased by

overtaping by the police.

The SAP claimed in evidence before the commission that this had been done by operational error.

"If it is the latter, then the criminal negligence and sheer scale of incompetence defies credulity," said the ANC.

"Accepting this explanation must also entail acknowledgement on the part of the police that no one ever listens to or stores the tape recordings made." — Sapa.



# ANC's no to amnesty

## ■ Government proposals to safeguard the system is

THE ANC yesterday reiterated its rejection of a general amnesty for past wrongdoing, charging that the De Klerk administration did not have the competence to grant such an amnesty

In a statement in Johannesburg, the organisation said a general amnesty for State hit-squads, operatives of the State Security Council, perpetrators of torture, killings and assassinations for undisclosed acts and for unidentified persons could not be confused with the issue of legitimate political prisoners

"Crimes against humanity are the most serious crimes in international law. The way a general amnesty is being presented (by the Government) equates the acts of those who opposed apartheid with the acts carried out to maintain this vile system.

To absolve the South African military or police of capital crimes, torture or ill-treatment through a general amnesty law places its members above the

law. This cripples the principle of equality before the law which must underlie a future democracy. It is an argument against democracy itself, presuming that a non-elected, authoritarian institution, and not a popularly elected body, has the final say in applying the law of the land."

It said indemnity must only be granted to those officials prepared to come forward with information that will provide an understanding of the past and help end the ongoing mayhem.

"The State officials in question acted on behalf of the incumbent Government as its employees.

"For the same Government to now grant them an amnesty would be equivalent to a criminal pardoning himself for the crimes he has committed," the ANC contended.

It added that the whole question of a general amnesty was the domain of an interim government - Sapa

# ANC slams govt on general amnesty

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THE government granting amnesty to guilty state officials would be equivalent to criminals pardoning themselves for their crimes, the ANC said yesterday.

"If a general amnesty simply sweeps all the misdeeds under the carpet, the clamour for justice will only increase from all those who have been harmed.

The judicial process completed, to help ensure a democratic future for South Africa," the ANC said in a statement.

The statement said the sudden promotion by senior government officials of a general amnesty was clearly related to accumulating evidence of senior ministerial and security force involvement in assassinations and violence.

The stability of a democracy was not built on granting concessions to the military for its violent intrusions into civilian life, the ANC said.

"Exonerated will perpetuate the culture of fear and intimidation that is widespread throughout the country.

"As long as governments allow or encourage their forces to act with

contempt for human rights, as long as the agents of repression believe they can kidnap, torture and murder without fear of discovery or punishment, the cycle of violence will never be broken."

The question of an amnesty was properly the province of an interim government of national unity, the ANC said.

# ANC spells out its rejection of amnesty

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By Kaizer Nyatumba  
Political Reporter

The ANC yesterday reiterated its opposition to a general amnesty, saying its "sudden promotion" by the Government related to "accumulating evidence of senior ministerial and security force involvement in assassinations and violence".

Listing five "serious misconceptions about the nature, content and implications of granting a general amnesty to cover all forms of past wrongdoing" in the country, the ANC said the De Klerk government did not have the competence to grant amnesty.

The ANC said crimes against humanity, perpetrated in various forms of apartheid, were "the most serious crimes in international law", and the way a general amnesty was now being presented equated the acts of those who opposed apartheid with those who acted "to maintain this vile system".

"Indemnity must be granted to those who are prepared to come forward with information that will provide an understanding of the past and help put an end to the ongoing mayhem

"But as long as governments allow or encourage their forces to act with contempt for human rights, as long as the agents of repression believe they can kidnap, torture and murder without fear of discovery or punishment, the cycle of violence will never be broken," said the ANC.

The ANC also said:

- The question of political prisoners — who had either served sentences or sought individual indemnity from future prosecution — could not "be muddied with the amnesty issue". The Groote Schuur and Pretoria Minutes of 1990 laid down procedures for dealing with politically motivated activities.

A general amnesty would grant full indemnity "for hit squads, operatives of the State Security Council, perpetrators of torture, killings and assassi-

nations for undisclosed acts and for unidentified persons".

- An integral part of a general amnesty was not only knowledge of past deeds, but also acknowledgement of the past.

- Absolving the military or police of capital crimes, torture or ill-treatment would place its members above the law, and "cripple the principle of equality before the law which underlies a future democracy".

- The stability of a democracy was not built on granting concessions to the military on issues pertaining to "its violent intrusions into civilian life", and exoneration would perpetuate fear and intimidation.

- It could not be assumed that amnesty, "an act of generosity", would bring an end to a tradition of covert activity.

The ANC said the people of South Africa had suffered as victims of apartheid. If a general amnesty simply swept all the misdeeds under the carpet, the clamour for justice would increase "from all those who have been harmed".



STAR 18/8/92

# Minister may testify on hostels

By Peter Fabricius  
Political Correspondent

(252)  
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The Goldstone Commission has asked Local Government and National Housing Minister Leon Wessels to give evidence on the details of the Government's policy on upgrading hostels.

Mr Justice Richard Goldstone, chairman of the commission of inquiry into political violence, announced this yesterday as part of a renewed attempt by the commission to resolve the conflict surrounding hostels.

Mr Goldstone said there was

already some consensus that hostels would have to be changed, so he had instructed the commission committee to address specific issues now

Mr Wessels had been asked to give evidence at a public hearing on August 25 in Pretoria on the following

- The present policy of the Government with regard to the upgrading and/or conversion and/or closing of hostels.
  - The specific issues which the Government thought the commission should look into
- The National Housing Forum

— which is being formally established — had also been asked to give evidence

Other interested groups, including the ANC and the IFP, would also be asked to give evidence.

The chairman of the hostels committee is advocate R W Nugent, SC, and the other members are P Mkhize, an attorney employed by the Industrial Development Corporation, A Geyser, an attorney in private practice in Maritzburg, and D Creighton, who is employed in private enterprise

# The crimes of apartheid must be purged in court

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By CHRISTOPHER MERRETT

THE way former supporters of apartheid and the security state have shrugged off the past and adopted a born-again attitude (appropriating much of the terminology of their democratic opponents) is one of the disturbing features of the "new" South Africa.

The attitudinal baggage which accompanies such conversion suggests that very little, if any, real change is intended. A set of values which suggests that a "clean break" must be made with the past (i.e. the past must be forgotten), and that we must co-exist in a spirit of "forgive and forget", needs serious challenge.

No one can afford to ignore the past we are what we are as individuals, groups and a society because of it. Neither does any society exist in the sort of vacuum implied by the drawing of a national line across South African history at February 2 1990.

## Genocide

It is easy to see why some would want to do this, looking back at the appalling history of our country under decades of colonialism, segregation and apartheid. In particular, the last 20 years have seen the forced relocation of thousands of people, the stripping of citizenship from millions, deten-



DAVID WEBSTER: Murdered in cold blood



COSMAS DESMOND Accuses SA Government of genocide



STEPHEN BIKO Victim of a war fought with no regard to rules

tion, brutal torture and assassination.

In effect, the State declared war on the majority of South Africa's people through the policy of apartheid and enforced it through coercion of various types.

Cosmas Desmond, who saw the effects of forced resettlement at first hand, has no qualms in accusing the South African Government of genocide on account of the physical and psychological wounds inflicted on black citizens.

Apologists for the State often argue that its operatives were merely working under war conditions. This may be so

But this was civil war initiated by the State itself, and more often than not fought with no regard for the rules of war.

The bodies of Matthew Goniwe, Florence and Fabian Ribeiro, Stephen Biko and David Webster attest to this. The State cold-bloodedly murdered peaceful anti-apartheid opponents.

## Case for trials

The damage the authorities have done goes beyond individuals or even communities they have destroyed people's faith in the law, in the role of the State, and in the future.

Should there be no redress of wrongs in the face of this history? Should the perpetrators of human rights abuses be allowed metaphorically to walk away from the scene of the crime with the occasional word of regret?

There are good moral and practical reasons why this should not be so, and why there is a case for trials for crimes against humanity committed during the apartheid era.

Clearly there is no room, or valid purpose, for revenge. On the other hand, walking around as free citizens are those who tortured and murdered in the name of the State, and, even more important, the securocrats who gave the orders and the politicians who framed the political context and policy.

## Corruption

Some individuals are being called to account for their deeds. Brian Mitchell and four other policemen have been sentenced for murders at Trust Feed, but in a sense they are as much victims of the security state system as those who died.

The people who

should also be standing in the dock are the securocrats and architects of Total Strategy who made it all possible but are shielded by layers of bureaucracy, power and privilege.

Without a deliberate programme of war crimes trials these people will never be brought to book. It is not enough that minor functionaries should be prosecuted while the worst of the major actors have to endure limited newspaper publicity.

South Africa is now beginning to learn not only about the civil rights abuses which went on in the name of apartheid but also the consequent financial corruption.

The scale of loss is monumental, even more so when put in the socio-economic context of a Third World society. Millions of South Africans lack housing, medical care, education, jobs and, consequently, hope.

National assets have been stripped while large parts of the population starve. The commandeering of national wealth by the established elite has also masqueraded as "privatisation" which will make the task of achieving economic justice even more difficult.

Societies in general have few problems with prosecuting and punishing individuals responsible for murder and assault, or financial misdemeanour. There is no reason why the position of those acting in the name of the State should be any different. Indeed they carry the responsibility of looking after the best interests of society as a whole.

In countries with a modicum of democracy, government ministers resign readily for failures in their departments as a demonstration of the gravity of this responsibility.

In South Africa this is an unknown concept. Ministers have shown a contempt for the populace as a whole, behaving like arrogant feudal barons while they forced the country down a path of political, social and economic disaster. For this they should be held responsible in law.

## Reparation

There is so much about the "new" South Africa that is a replica of the old. A truly new society needs the cathartic experience of a reckoning with the past. An amnesty for human rights abuses will simply show future rulers that society cares nothing for past victims and that oppressors are likely to get away with similar activity, to be explained away simply as "a mistake".

Some sort of reparation is necessary.

Those who ruled South Africa at the height of apartheid still arrogantly dominate a society which can be characterised as neo-apartheid. Part of their assumption in the negotiation process is that they can bargain for an amnesty for their crimes in the hope that not only will they receive a pardon but the details will remain clouded by the endemic secrecy which shrouds South African affairs.

The signs are that people responsible for crimes against humanity, while they were acting in the name of the State, will achieve just that.

It is the responsibility of individuals and groups holding human rights in high esteem to make sure they do not get away with it.

Christopher Merrett, is deputy university librarian, University of Natal, and a past member of the Detainees Support Committee.

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Doing his bit to help George Bush promote

# Recce kept AKs STAR 20/8/92. (252) 'for CCB friend'

Own Correspondent

CAPE TOWN — A former Recce yesterday told the Supreme Court he kept a crate of 14 AK-47s, confiscated from "the enemy" during the Namibian bush war, for a friend who was a member of the CCB.

Willem Snyders (48) was convicted on Tuesday of several charges of unlawfully possessing arms and ammunition.

Snyders told the court he spent 23 years in the SADF, eight in Special Forces. In 1988 he was in a Military Intelligence section in Namibia. He often delivered weapons, confiscated in operations against the enemy, to Umta. The SADF did not ask for details.

A good friend, Commandant Corrie Meer-

holdz, asked him to get a crate of AK-47s for him

When the Angolan war ended, Snyders resigned and took the crate to his farmhouse near Durbanville.

Commandant Meerholdz was a member of the CCB, and had told him he wanted to "pull a few tricks".

Snyders said the weapons were to be used to fight the enemy he had "fought for 23 years". He thought Commandant Meerholdz wanted to "do something on his own", but he had died in a car crash in 1989.

Two other AK-47s were his personal weapons which he had used in operations and kept as souvenirs.

The hearing resumes today



# Police charged with firing on crowd in packed hall

STAR 20/8/92

(252)

WORCESTER — Riot police under the command of a former Koevoet officer fired teargas into a packed Robertson community hall where residents singing "Nkosi Sikelel' iAfrika" were trapped and had a volley of rubber bullets fired at them when they escaped, the Worcester Regional Court heard yesterday.

Major Johannes Calitz (31) was charged with assault with intent to cause grievous bodily harm and an alternative charge of negligently causing policemen under his command to shoot, causing 125 people to be injured.

Jan van Eck, MP for Claremont and an ANC member, attended the hearing.

Gertruda Adams (52), a Robertson housewife, said the hall was packed on April 11 1990, when the local civic association had called a meeting with residents to discuss high rent, water and electricity rates.

She said the proceedings were calm and peaceful but during the

singing, shots were heard and a Robertson community leader, Frederick Booysen, had appealed for calm and ordered the windows and doors of the hall to be shut.

"My eyes were burning, my lungs were closed and people were stampeding for the doors and screaming. I ran for my life when the teargas was fired," she said.

A side door was kicked in but she landed on top of the door and people trampled her in the rush.

## Shouted

Another housewife, Khalfida Adams (44), said a teargas canister landed in the row of seats behind her, and as she escaped from the hall she was hit by rubber bullets in the thigh and arm and later treated in hospital.

"I ran towards the police but someone shouted 'Lady, turn around, you will be shot'.

"I fell against a wall and felt cartridges hitting the wall around me"

The magistrate, A J van Wyk, said Ms Adams was about 25 m from the police and it was impossible for her to have been shot by cartridges because they fell to the ground after being fired.

Franklin Keyster, the manager of the Cosy Cove Hotel, which is situated across the road from the community hall, said he had watched policemen throw two objects into the hall.

About two minutes later, people were screaming as they ran from the hall and about 10 to 15 policemen fired at them as they fled, Mr Keyster said.

D J Uijs, for Major Calitz, said the basis of the defence would be that a mob that had been smashing windows and vandalising the administration offices next to the hall had run into the hall, and that police had fired only when people had rushed towards them armed with chairs and stools.

The trial was postponed to today — Sapa

# focus on Boipatong

**T**HE GOLDSTONE Commission inquiry into the June 17 Boipatong massacre last week heard evidence that has raised serious questions about the possibility of police tampering with crucial evidence in the form of tape recordings

The four-man committee looking into the incident which claimed more than 40 lives will, when they resume sitting in November, have to consider whether the police are guilty of deliberately deleting information from the tapes or if the erasure was a result of police incompetence

Members of the Vereeniging Internal Stability Unit told the Commission last week that the tape recordings of radio calls between members of the ISU on the night of June 17 were erased because the operator incorrectly used the equipment and had been doing so since its installation in March

The Commission was told that due to inadequate training and an inferior user's manual, the operators of the equipment had consistently erased and recorded over information for three months without realising

However, the police were unable to prove that accidental erasure had taken place for the three-month period prior to the massacre because all tapes recorded before June 14 were sent to the Vereeniging Crime Intelligence Service for cleaning

Initial findings of experts charged by the Commission to examine the tapes confirm that they were not "bulk erased" but had been overtaped

The Commission will have to decide if this happened accidentally or was done to destroy information which could have proved debilitating to the SAP's case

## Involvement of police

The Commission also has been confronted with an overwhelming number of witnesses alleging the involvement of police in the massacre. It is faced with having to sift through witness accounts of the night of June 17 and decide whether they are reliable

The police deny involvement and, of course, have, following "intensive investigations", found themselves innocent of any complicity

The officer who investigated allegations of security force involvement, Maj Christo Davidson, told the commission he was satisfied the security forces had played no part in the attack and had, in fact, responded quickly to reports that it was taking place

But several residents of Boipatong and Slovo Park who gave eye-witness accounts to the Commission alleged that armoured vehicles and armed white men assisted the attackers in their indiscriminate massacre of men, women and children

Most damning of all to the security forces'

As the Goldstone Commission began its three-month break this week, the full truth of the Boipatong massacre remained a mystery. Yet unknown is the credibility of the security forces, especially in light of the row over police tape recordings of that fateful night:

*Sowetan 20/8/92*



The Reverend Ernest Tsotso and Mr Sam Hlobi enjoy a chat with an observer at the Goldstone Commission hearing in Vereeniging.

case is the evidence given by SA Police special constable Mr Ntsetsa Xaba, who described how a Casspir escorted four armed men, two of them white, down the street outside his house

However, the legal team for the police have, in a bulldog fashion, set about destroying the credibility of witnesses, trying to prove them unreliable, liars or cheats

Xaba was subjected to almost seven hours of cross-examination by the SAP's legal team after which senior counsel for the police, Mr Flip Hattingh, concluded he had prepared his testimony for the ANC and those who wished to prove security force complicity in the attack

Hattingh has implied to several witnesses that they could not have seen what they claimed to have in the light on the night of June 17

However, a report obtained by the Commission showed that it was a clear night with no pollution or cloud cover and an almost full moon high above the horizon. The township also has six large Apollo lights that illuminate most of Boipatong

In an attempt to establish how much could be seen at night, Commission members and some of the legal counsel representatives went on a moonlight inspection of the township last week

All that could be established was that in some cases it was difficult to see detail such as race and

clothing as some of the witnesses claimed to have seen. On the night of the inspection, however, visibility conditions were not identical to those of June 17.

## Spotlights were off

One witness, senior Lt Marthinus Kruger, a Vereeniging Crime Prevention patrol officer who was called out on the night of June 17 to investigate an alarm call from the garage situated on the road between Boipatong and the KwaMadala Hostel, claimed the tall township spotlights were off

If true, this could cast doubt on some eyewitness accounts

Commission Chairman Mr Justice Richard Goldstone said two weeks ago that the Commission wanted to complete its inquiry into allegations of security force involvement before its adjournment on Friday because the local and international reputation of the security forces was at stake

The Commission was unable to do this in the time available, and as it enters its almost three-month adjournment, police credibility remains in doubt

The Commission will resume hearing evidence on the massacre in Vereeniging on November 2





**SCENE OF SHOOTING:** The entrance to Mr De Villiers' farm Athelstone where he was gunned down on Monday night.

## Witness protection under spotlight <sup>(252)</sup>

**The Argus Correspondent**  
PRETORIA — Concern is being voiced in human rights circles over the adequacy of measures to protect potential witnesses in cases such as the Goniwe killings.

This comes after the murder of Mr André de Villiers who was giving information to the ANC and the Press about the "Hammer unit"

Sources say the murder will "scare off" others who might be able to shed light on crimes under investigation.

The sources believe witness protection programmes must be looked into again and that a widely publicised call should be made for witnesses to come forward — and it should be accompanied by the promise of full protection

However, judicial sources said yesterday that informants revealing information which placed their lives at risk were not taking advantage of the State's existing witness protection programme

According to Lawyers for Human Rights director Mr Brian Currin, this could be because witnesses feel "uncomfortable" about entrusting their safety to the State. He added he believed the State was not properly implementing its programmes in any case

"Our programme is the only one functioning," he said. LHR funds and runs a witness pro-

tection programme, independently of the State

The Department of Justice disputed this, saying its programme — announced in a Government Gazette earlier this month for the purpose of protecting witnesses in court cases and the Goldstone Commission — is operating.

A departmental spokesman could not give further details, although Goldstone Commission vice chairman Mr Neil Rosseau confirmed the scheme was functional.

He said it was important for the public to know that protection was available in the form of safe houses, allowances and security.

Judicial sources in the eastern Cape, where dramatic evidence is unfolding regarding the SADF "Hammer unit" and its alleged connection with the Goniwe killings, said no informants had applied for witness protection. Mr De Villiers had apparently been advised to apply for protection but declined to do so.

Eastern Cape Attorney-General Michael Hodgen, who is heading a new probe into the Goniwe murders, said he had taken "extraordinary" measures prior to the State's protection scheme to safeguard a witness who supplied him with a list of names of people allegedly involved in murders. But she had "left of her own volition", he said.



**S**OUTH AFRICA, which does not even have a Bill of Rights in its own country, is planning to sign international treaties calling on other countries to sort out their conflicts on gender

President FW de Klerk told a gathering of about 1 000 National Party women at an Amanzimtoti conference on Monday that the government soon planned to endorse four United Nations conventions which aim to secure women's rights. These are:

- The Convention on the Political Rights of Women

- The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

- The Convention on the Nationality of Married Women

- The Convention on the Elimination of All Forms of Discrimination Against Women (Cedaw)

The last — adopted by the United Nations General Assembly in 1979 — is by far the most comprehensive, encompassing elements of the other three. It seeks to achieve de facto equality for women in all areas. By 1988, it had been signed by 94 states, ratified by 74 and acceded to by 20 — among them Iraq, Egypt, China, Turkey, Denmark and most of eastern Europe. By then, Zimbabwe, Mozambique, India and Botswana, among others, had not signed

And, in a parallel development, the Ministry of Justice is investigating all legislation which discriminates against women, with a view to implementing a Bill of Fundamental Rights

But many are not enchanted and say paper signatures will have little impact on women's lives. Neither does the government have the right, in the midst of political negotiations, to take yet another unilateral decision. Although any move to enhance gender equality is welcome, there could be a hidden agenda to woo the female vote (women constitute 53 percent of the population) and to buy international credibility

"I think it's a complete farce," said Democratic Party member Gill Noero, who just last week attended a UN conference on the condition of women and children in South Africa. "This is a government which can't even spell democracy and has an appalling human rights record. Signing these conventions is a gratuitously self-serving ploy which hasn't even been discussed by South African women. The government is using every opportunity to draw on itself the full light of international recognition.

"This is the same government which asked to have it minuted at Codesa that it objected to the call for a gender advisory committee to inform negotiations."

Another theory about the timing is that government is hard-pressed to become more sensitive to women's demands because they are galvanising into a forceful lobby across party-political lines through the National Women's Coalition. This pressure group, which includes

## Treaties won't end women's battles



*It's not enough for the government to sign international treaties on women's rights — South Africans need an active approach to gender equality, reports PORTIA MAURICE*

women from the African National Congress, National Party and Women's Bureau, is committed to a Women's Charter for Equality to secure constitutional rights and protection against discrimination. Activists are gearing up to a year-long campaign to elicit from women the length and breadth of the country their needs and desires

Frene Ginwala, who heads the coalition, reservedly welcomed the signing. "It is important that all UN conventions be ratified, but that is not sufficient to ensure effective equality for South African women," she said.

It does seem that, although useful, signing the compendium of conventions affords political mileage at little cost. They are more statements of intent than indications that a country is gender-sensitive. Said Kathy Albertyn, of the Gender Project at Wits University's Centre for Applied Legal Studies. "It's all in the sphere of politics. There's no real enforcement."

Although signatories are required to submit periodic reports to a 23-member UN monitoring committee, there is no time frame for them to meet the documents' expectations

These are many, and South Africa's gender track record does not really fit the bill anyway

"I think this is one of the most patriarchal societies around," said Albertyn. But, she maintains, discrimination lies less in the letter of the law than in dominant attitudes and values. Legal revision is necessary, but more important is the need for a proactive approach — which may include a Sex Discrimination Act and one ensuring equal pay for work of equal value between men and women

At the moment, a husband can still legally rape his wife in South Africa, men are still regarded as heads of households, women are still subject to marital power and men are still their children's legal guardians in marriage

The law has improved somewhat since the 1980s, but most provisions are prospective. This means, for example, that white women married before 1984 and black women married either under customary law or before 1988 still don't have full legal status. "They can't litigate or enter into independent contracts, and the husband still has full power over the joint estate," Albertyn explained. "If your child wants to open a bank account the wife cannot sign to okay it."

Customary law, she said, is particularly discriminatory as regards the family, property and access to inheritance. Although controversial, polygamy, the payment of *lobola* and rights of access to land through men generally prejudice women

Yet the Cedaw document accords men and women equal rights and responsibilities within the family.

The convention leaves abortion open to interpretation, yet South African law bans it but for exceptional circumstances

Maternity provisions, Albertyn said, are extremely limited. Only workers included in the Basic Conditions of Employment Act and who pay for unemployment benefits are afforded 12 weeks' leave at 45 percent of salary.

Although sexual discrimination is defined as an unfair labour practice, there have been only a handful of test cases in this country. Sexual harassment at work needs to be taken up more vigorously by (mostly male) labour lawyers, Albertyn said.

The "double shift" — women doing devalued housework as well as being economically active — is central. Women will not be equal to men until family responsibilities are shared. With sexual violence too, the ultimate answer lies beyond the law. "Women will not be equal to men until they are safe to walk the streets alone at night," she said.

"Changes in the law have never changed people's lives. There are going to be hard choices in future, and we need a state which is going to be committed to putting money towards promoting gender equality."

# General testifies in probe

By Helen Grange  
Pretoria Bureau

SA Defence Force chief General Kat Liebenberg told a Goldstone Commission committee yesterday that he knew nothing of the military training in 1986 of 200 KwaZulu men in the Caprivi until newspaper reports appeared.

The committee is investigating various events linked to alleged Inkatha-instigated violence in Vaal Triangle townships. The current probe is linked by virtue of evidence that township gangsters known as the Black Cat gang were trained at the same Natal military camp (Mkusi) where members

of the 200-strong KwaZulu unit were at one stage housed.

General Liebenberg was called to give evidence after a heated exchange on Tuesday over the SADF counsel's submission that he saw no reason to call SADF witnesses over the issue.

ANC counsel David Soggot, SC, insisted that an SADF witness testify.

However, the general's short testimony provoked further argument.

"We have been trying for months to get the army here. Now, the general tells us he is as ignorant as the man in the street," Mr Soggot told the committee.

The general said he had ordered his officers

to investigate allegations that the SADF had trained 200 KwaZulu men in 1986, and had been informed that the intelligence division had co-ordinated the training solely for the purposes of training guards for the protection of senior KwaZulu officials and Inkatha leaders.

Mr Soggot asked General Liebenberg to supply the identity of the person who was aware of the project. General Liebenberg supplied the committee with a name written on paper.

Earlier he denied that the SADF front company, Creek Consultants, alleged to have co-ordinated the project, had any links with the training.



By Shaun Johnson  
and Peter Fabricius

# Goniwe: De Klerk predicts prosecutions

President de Klerk believes a breakthrough leading to prosecutions in the Goniwe case is now possible

At a press conference in Pretoria yesterday, Mr de Klerk faced renewed questions about progress in the probe. Following the death on Monday of informant Andre de Villiers, which re-

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focused attention sharply on the Goniwe case.

Asked whether he would meet Democratic Party calls to personally take charge of the Goniwe inquiry, Mr de Klerk said he was already involved.

His latest information was that a lot of people had been

coming forward to give evidence and "a breakthrough is possible" there could be prosecutions.

However, he added, if the reopened investigation he had ordered under eastern Cape Attorney-General Michael Hodgson in May did not make prosecutions possible,

the next option would be a judicial commission of inquiry — or to refer the matter to an existing commission.

Asked whether he still had full confidence in Military Intelligence Chief General C.P. Joffe, van der Westhuizen, whose name appeared on the alleged Gon-

ive "death warrant" signal — Mr de Klerk said every South African was entitled to be judged in terms of the law "of which we are proud. We have a good system. We need evidence to assign some one. We can take steps to do so on the basis of rumours."

Pressed again on whether he retained confidence in General van der Westhuizen the president answered "I have full confidence in the procedures we have applied in this regard."

He said, he believed any one who was guilty would be found, and added that the incident was being dealt with in terms of the established custom for dealing with employees who were accused of wrongdoing.



# I sold AK-47s, gunsmith testifies

STAR 21/8/92

CAPE TOWN — A 58-year-old gun nut yesterday told the Cape Town Supreme Court he did not find it strange when an SADF reconnaissance unit member asked him to sell AK-47 assault rifles.

Ian Neville Bosman, a gunsmith from George, was giving evidence in a trial in which he and former Recces, Willem Snyders and Andre Kloppe, have been convicted on several counts of unlawful possession of arms and ammunition.

Snyders said he had been attached to the army for 23 years. In 1988 he was seconded to

Military Intelligence at Oshakati, Namibia, to liaise with Unita.

In September 1988 a good friend, Commandant Corrie Meerholdz — a member of the Civil Co-operation Bureau — asked him whether he could get AK-47 rifles for "a couple of tricks".

After delivering weapons to Unita, a Unita commander gave him 14 AK-47 rifles.

When the Angolan war ended in 1988, he resigned from the army and brought the guns to Cape Town. Commandant Meerholdz was killed in a car accident in 1989.

Bosman said his son was a Recce, and he had met some of his colleagues. One was Coenraad van der Westhuizen, who offered him AK-47s for R700 each in 1988 for resale. He assumed the rifles came from the operational area.

He sold four of the rifles to friends whom he accepted were responsible people. The court heard that several of the men Bosman had sold AK-47 rifles and ammunition to had been convicted and jailed for varying periods. The trial continues — Sapa.

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# Witness protection plea

STAR 21/8/92

Political Staff (252)

The ANC has called for the urgent implementation of a new witness protection programme, following the murder of eastern Cape farmer and informant on alleged security force misdeeds, Andre de Villiers

In a statement yesterday, the ANC said there were "organised attempts to block — by bureaucratic obstructionism where possible and by murder if necessary — investigations into killings carried out in the name of State security"

The Star reported this week that there was deep concern in human rights circles that, due

to inadequate protective measures, potential witnesses were being "scared off" from giving their testimony

In its statement the ANC called for the "immediate introduction of a witness protection programme to be put under the direct control of the Goldstone Commission and which should not be administered by the South African Police.

## Terror

"Such a witness protection programme should be widely publicised in order to counter the reign of fear and terror that any potential witness is faced with

There was also the need for

a long-term rehabilitation programme for witnesses who have come forward with information, because this act could mean losing a job and having an entire family displaced from a community," the ANC said

"These steps are essential in order to make sure that the murderers of Matthew Goniwe and the many other South African compatriots do not go free," said the statement

The ANC added that events in the past few days had strengthened the organisation's belief that there were highly placed people in the Government as well as its security structures who were desperate to prevent their involvement in murder and political terror being revealed.

# 'Kat' jets nothing out the bag

By PAUL STÖBER

WMM cad 2/1/8 - 2/1/8/92

and kwaZulu leaders

THE South African Defence Force is continuing to stonewall the Goldstone Commission's investigation into the activities of 200 Inkatha members alleged to have been an Inkatha "hit-squad" trained by Military Intelligence (MI).

Hopes that the commission would be able to uncover the full story of the 200 trained at a secret base in the Caprivi Strip received a setback, yesterday, when the "star" witness produced by the military, Commander in Chief General Andries "Kat" Liebenberg, admitted he was ignorant of details of the operation.

Lawyers representing *The Weekly Mail*, the African National Congress and the Congress of South African Trade Unions have struggled for months to bring SADF witnesses to the inquiry to explain the purpose of the Caprivi training. Before finally producing Liebenberg, the military tabled a 28-page memorandum claiming that Inkatha members had been trained as VIP bodyguards because of threats to the safety of Inkatha Freedom Party

and kwaZulu leaders

"I do not know of any approval, I was at no stage aware of their training. When I took over the army I was not even informed of this project. When I took over the project was completed and was a closed book. When I read about it in the newspapers, it was the first time I received confirmation. It might sound strange, but in the army we work on a need-to-know basis."

Counsel for the ANC protested angrily as SADF lawyers blocked attempts to establish who had responsibility for the training camp, so that he could be called before the commission to answer questions about the project.

Liebenberg disclosed that the training project — the name of which he personally did not even know — was run by SADF Intelligence staff, the highest level of MI.

He refused to reveal publicly the name of the officer in charge and wrote it on a piece of paper which was then solemnly carried to the chairman of the commission, Neil Rossouw.

The Chief of Staff Intelligence at the time is believed to have been General

Wilkop Badenhorst. The present incumbent is General "Joffel" van der Westhuizen who has been implicated in the Goniwe murder.

Liebenberg also claimed limited knowledge of the MI front, Adult Education Consultants and its Durban-based offshoot, Creed Consultants, which provided political training at the Caprivi camp and channelled money into the project.

He said the front companies and the training of the 200 were entirely separate matters, adding that they were now "privatised". According to Liebenberg, the SADF employed the companies as "quasi-consultants" to provide its members with "reality training".

This involved providing the citizen and permanent forces with information and training to allow them to understand the reform process.

While admitting the SADF provided personnel and premises for the training, he insisted the SADF did not provide the companies with equipment which could be used to commit violence.

While admitting the SADF provided personnel and premises for the training, he insisted the SADF did not provide the companies with equipment which could be used to commit violence.



General 'Kat' Liebenberg ... Denied knowledge of Caprivi training



**A**MNESTY is neither a new nor an unusual idea — it has been used by many regimes on the way out of power who fear retribution for their past behaviour

But the lesson of the rest of the world is clear those who think that an amnesty will bury their past are deceiving themselves. Invariably, in countries like Uruguay, Chile, Argentina and Nicaragua the finger-pointing, the bitterness and the search for justice and retribution have continued long after any amnesty

So too have the human rights abuses

Consider Uruguay, where in the late 1980s over a quarter of the voting population signed a petition demanding the repeal of an amnesty that had been negotiated with an outgoing military government. The petition led to a referendum, which was lost as only 42 percent of the population voted for repeal. The former military leaders may have seen this as a victory, but it meant that the anger of many victims continued to fester

As did human rights abuses. In its 1992 annual report, Amnesty International (AI) uses Uruguay as an example of the dangers of amnesty. They reported numerous cases of ongoing torture or ill-treatment of police prisoners, many of them unresolved by the authorities. Many of the "disappeared" had still not been accounted for because of the impunity granted to human rights violators under Uruguay's Expiry Law

Uruguay's sore, therefore, is still festering

So is Argentina's. This country started off by setting an example for calling to account human rights violations by former political or military leaders — but rapidly retreated. In 1985, five of the military commanders who formed the juntas which had ruled the country for seven years and waged the "dirty war" in which more than 8 000 "subversives" "disappeared", were convicted. The new Argentinian government also appointed a national commission of inquiry into the "disappeared" which, with its 1984 report, *Never Again*, were described by AI as "pioneering official exposures of the truth of past impunity"

But later amnesty laws put a stop to further prosecutions and gave immunity to those who acted under orders. In 1990, the government gave a mid-trial pardon to General Carlos Mason who was facing 39 murder charges

The result is that thousands of families still do not know what happened to their relatives who "disappeared", continue to seek justice on their behalf — and at least some of the abuses continue

Chile did well in establishing the truth, but less well in prosecuting the accused. In 1991, the Chilean National Commission for Truth and Reconciliation published its report docu-

menting the massive scale of human rights violations under the previous military government. The report criticised the judiciary for failing to grant protection against human rights abuses and for creating an atmosphere "in which the military and police believed they could act with impunity"

But the courts applied an amnesty law passed by the military government before it handed over power to close all investigations of abuses that occurred before 1978

# Amnesty alone won't bury the past

w/m on 2/18 - 27/8/92

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*Amnesty on its own isn't a solution. Unless the truth is published and the accused tried in a fair trial, the victims' desire for justice — and human rights abuses — will continue.*

By **ANTON HARBUR**

In 1991/2, Amnesty reported 20 cases of torture and ill-treatment in Chile and the fact that dozens of political prisoners arrested under the previous regime were still in detention. One journalist, Manuel Cabieses, director of *Punto Final (Full Stop)* magazine, was detained briefly last year and two others faced charges for continuing to criticise the role of the military in past human rights violations

A number of African countries have used amnesty offers to facilitate rapid political settlements. The effect in countries like Benin and Congo, according to AI, "has been to avoid a close examination of the systems which allowed them to commit human rights violations, and to postpone reforms"

The other problem facing African countries is that even after political change enormous pressure is brought to bear to prevent prosecutions, and often evidence has been destroyed. In Ethiopia, for example, hundreds of officials of the previous dictatorship are in detention, but no moves have been made to bring them to court many months later

Chad initiated investigations into human rights abuses after the fall of President Hissain Habre, but there were further disappearances and other abuses in recent months

In some eastern European countries, the problem has been not the desire to punish past leaders, but to protect their right to fair trials. Many have been condemned — and refused jobs or support — on the grounds only of having been a member of the Communist Party or being mentioned in secret police records

The message from organisations like AI is clear: the only way to send a signal that human rights abuses will no longer be tolerated is to investigate and publish the truth, try the accused and ensure these trials are fair. This also forces a society to consider what gave rise to these abuses — and therefore what changes are needed to forestall their repetition

AI suggests that the interests of national reconciliation may be served by pardons after conviction, "we take no position on this", it argues. "But (AI) does insist that the truth is revealed and the judicial process completed"

AI warns in its latest annual report that the human rights rhetoric in world affairs of 1991 was giving way to "a reversal of the vicious spiral of torture, killings and disappearances committed with impunity". A key factor in this was the granting of amnesties

"The protection of human rights requires action, not words. Allowing the perpetrators to commit abuses without consequences for themselves, perpetuates their crimes

"Ensuring that they are brought to justice transmits throughout society the clear message that violations will not be permitted to continue"



**KENNISGEWING 748 VAN 1992**  
**DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT VOLDOEN AAN PARAGRAAF (a) VAN GOEWERMENSKENNISGEWING No R. 936 VAN 24 APRIL 1991 EN DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GENOEMDE GOEWERMENSKENNISGEWING VERSTREK HET

Die Direkteur-generaal. Justisie maak hierby vir algemene inligting, in die Bylae hiervan, bekend die name van persone—

- (a) wat lede van die African National Congress is, of wat, in die geval van persone wat nie sodanige lede is nie, die beginsels van vreedsame oplossings en ontwikkeling ooreenkomstig paragraaf (a) van Goewermentskennisgewing No. R 936 van 24 April 1991 onderskryf het, en
- (b) wat die inligting bedoel in paragraaf (b) van genoemde Goewermentskennisgewing volledig verstrek het,

vir sover sodanige onderskrywing en inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing aan elke sodanige persoon ten opsigte van enige handeling bedoel in paragraaf (c) van genoemde Goewermentskennisgewing 'n Lys van die spesifieke handeling ten opsigte waarvan vrywaring deur elke sodanige persoon verwerf is, is vir inspeksie beskikbaar in die Kantoor van die Direkteur-generaal Justisie.

**NOTICE 748 OF 1992**

**DEPARTMENT OF JUSTICE** 252

ANNOUNCEMENT OF NAMES OF PERSONS WHO HAVE COMPLIED WITH PARAGRAPH (a) OF GOVERNMENT NOTICE No. R 936 OF 24 APRIL 1991 AND WHO HAVE FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF THE SAID GOVERNMENT NOTICE

The Director-General Justice hereby makes known for general information, in the Schedule hereto, the names of persons—

- (a) who are members of the African National Congress, or who, in the case of persons who are not such members, in terms of paragraph (a) of Government Notice No R 936 of 24 April 1991 subscribed to the principles of peaceful solutions and development; and
- (b) who have furnished the information referred to in paragraph (b) of the said Government Notice in full,

in so far as such subscription and information relate to the granting of indemnity in terms of the said Government Notice to each such person in respect of any act referred to in paragraph (c) of the said Government Notice. A list of the specific acts in respect of which indemnity has been acquired by each such person is available for inspection at the Office of the Director-General: Justice.

**BYLAE • SCHEDULE**

Van Surname	Volle voorname Full first names	Geboortedatum Date of birth
Babile . . . . .	Steven Mathibela . . . . .	1930-08-06
Bosoga.. . . . .	Nono Gladwin . . . . .	1978-08-28
Dikobo . . . . .	Makgotha Lindiwe . . . . .	1975-08-02
Kekana. . . . .	Llega Jappie . . . . .	1969-03-03
Kekana . . . . .	Leburu Jankie . . . . .	1972-12-14
Khobo . . . . .	Mpho Reuben . . . . .	1971-06-19
Lekgoathi . . . . .	Amos Victor . . . . .	1978-08-06
Lekgoathi . . . . .	Erick Mathibela . . . . .	1974-02-26
Lekgoathi . . . . .	Lucas Lesiba . . . . .	1977-08-20
Mahlangu . . . . .	Grace Kgaogelo . . . . .	1971-07-25
Maphoso . . . . .	Patricia Refiloe . . . . .	1974-07-04
Maringa . . . . .	Cathrine Ramadimetsa . . . . .	1973-11-10
Maseogane . . . . .	Mfana August . . . . .	1958-03-03
Mmako . . . . .	Nonkie Ramadimetja . . . . .	1972-09-02
Modiba . . . . .	Aretha Topana . . . . .	1974-07-11
Mogotlane . . . . .	Donald Thabo . . . . .	1975-10-28
Mokakati . . . . .	Dinah Tina . . . . .	1974-03-04
Seloane . . . . .	Makhuba Gilbert . . . . .	1966-03-26

# Goniwe's ghost haunts cabinet ministers

**T**HE ghost of assassinated activist Matthew Goniwe has risen to give President FW de Klerk his worst political nightmare in recent times, with five cabinet ministers now linked to the debacle. Yesterday, the president responded to the growing tension surrounding the 1985 assassination of Goniwe and three colleagues by telling reporters that he may appoint an independent inquiry into the murders.

The announcement came hours after Democratic Party (DP) leader Zach de Beer met De Klerk to discuss the murder this week of an informant who had provided evidence to the media about the army's "Hammer" units and their links to political assassinations.

And another three witnesses have gone into hiding in fear of their lives. De Klerk said he was confident an

inquiry led by Michael Hodgen, acting attorney general for the eastern Cape, would lead to the prosecution of the people responsible for the murders, especially as new informants were "coming forward with information".

"This possible breakthrough could result in prosecutions. If it does not, then another option is to appoint a judicial inquiry or refer the matter to an existing commission," De Klerk said.

The president evaded questions about the fate of General CP "Joffel" van der Westhuizen — the army's intelligence chief who masterminded the creation of Hammer units and has been linked to a top-secret message ordering the elimination of Goniwe — by saying "no one is guilty before being proven guilty".

De Klerk was forced to respond publicly to the Goniwe scandal in the

*Five cabinet ministers have now been named in connection with Matthew Goniwe's assassination, and President FW de Klerk has been forced to announce a possible independent inquiry.*

**By EDDIE KOCH**

wake of news that Andre de Villiers, an informant who gave important information linking the eastern Cape Hammer unit to the 1985 killings, was shot dead this week.

The DP mounted intense pressure for an inquiry into the operations of the Hammer unit after reports that government minister Tertius Delpoort had

received information from De Villiers about the unit's activities before the informant was shot.

Delpoort, the deputy minister of constitutional development, has denied speaking to De Villiers about Hammer activities. But ANC activist Vallance Watson, who insists that De Villiers shared his information with Delpoort, has called the deputy minister a "fiar".

Democratic MP Eddie-Trent and a colleague, General Bob Rogers, have submitted a memorandum to the president concerning De Villiers' murder.

"During the beginning of the past parliamentary session, De Villiers visited me. He gave me information concerning the connection between a pan-elbeating business ... and the South African Defence Force. He identified an SADF unit called Hammer," Trent said in a statement released yesterday.

"Throughout our conversation, he was extremely nervous and told me that he was convinced his life was in danger, and made me promise that I would not divulge his name or use the information in any way that would lead to his identity being revealed."

Delpoort's involvement brings to five the members of De Klerk's current cabinet who have been linked to the Goniwe debacle since a top-secret signal message to officers in the now-disbanded State Security Council ordering Goniwe's "permanent removal from society" was leaked to the media.

Minister of Correctional Services Adrian Vlok has been questioned by officials from the attorney general's office in the eastern Cape. The AG's office has a document showing that Vlok headed a committee of the State Security Council which discussed Goniwe's work as a teacher.

Vlok has denied any knowledge of the murders and says that his committee had recommended Goniwe's reinstatement as a school principal.

The journal *Africa Confidential*, which receives information from Western intelligence sources, reports that Foreign Minister Pik Botha, Justice Minister Kobie Coetsee and Water Affairs Minister Magnus Malan all served on the State Security Council at the time the signal message was transmitted to its operatives.

Three witnesses who also provided information about Hammer operations to the media or the AG have gone into hiding in the wake of the De Villiers murder. Information supplied by these sources to

*The Weekly Mail* include claims that:

- Hammer member John Scott personally killed one of Goniwe's colleagues, "Sparrow" Mkhonto

- Scott fears growing publicity about the Goniwe killings could open investigations into other murders carried out by Hammer members.

- Another officer in the eastern Cape Hammer unit, Major Graham Lombard, knows about the Goniwe operation.

- Hodgen has received a grisly report that one of the four assassinated men had his hand severed before the bodies were mutilated and dumped. The hand was allegedly kept in a bottle in Lombard's office — along with a baboon's hand used to terrorise black detainees under interrogation — before it was destroyed.

- A Hammer unit similar to the one that operated in the eastern Cape was set up at SADF headquarters in Johannesburg after Van der Westhuizen left Port Elizabeth to become the commanding officer of Wits Command.



# No absolution without truth

STAR 2/18/92

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Sparks

**F**OR seven years Nyameka Goniwe has lain awake at night trying to imagine her husband Matthew's last moments as the assassins dragged him and three companions from his car after stopping them at a roadblock that dark night outside Port Elizabeth.

The killers took them away, stabbed and hacked them to pieces, dumped the bodies behind some bushes at the roadside, poured petrol over them and set them ablaze. One is said to have cut off a hand and kept it, like a trophy, in a bottle of formalin.

Did Matthew cry out for mercy? Was he tortured, as some reports say? Did they laugh as they did it? Who were these monsters anyway? Where are they now, and what positions do they hold?

Time heals, but it does not obliterate — and for Nyameka, now aged 41, the emotional turmoil was revived three months ago when New Nation published its report disclosing a 1985 military signal from the Commanding Officer of Eastern Cape Command, Brigadier Christoffel van der Westhuizen, to the State Security Coun-

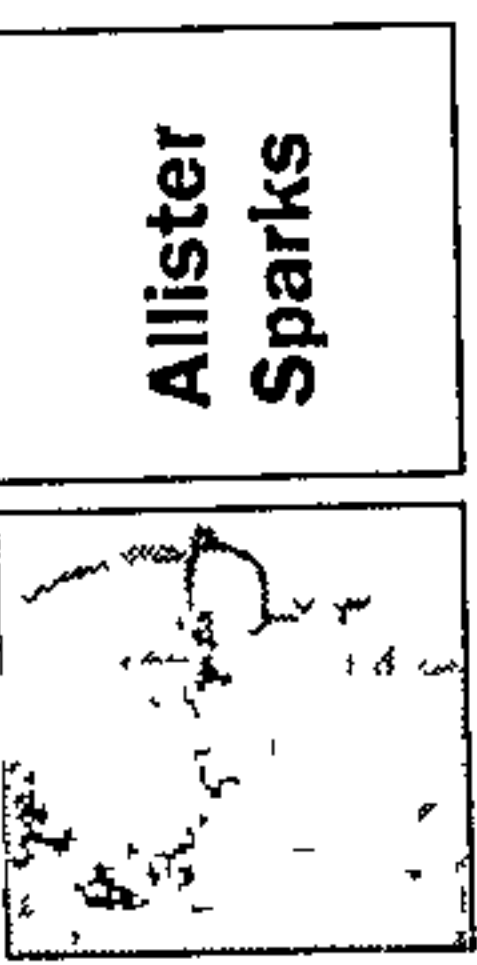
cil requesting permission for the "permanent removal from society" of Matthew Goniwe and two other black activists.

Half the pain has been in not knowing what happened, in having to tell her children, Nobuswa, who was 10 at the time, and little Nyamiso, who was three, and whose name so paradoxically means "truth", that their father had been killed but not being able to tell them how or why.

Then suddenly the newspaper report held out the tantalising, terrifying hope that after all this time the truth might emerge.

But now, as more facts and names have come spilling out of the can of worms that the newspaper report opened, the Government is pushing for a general amnesty for all political offenders. In the interests of national reconciliation, it says, we must "wipe the slate clean and bury the past".

This has plunged Nyameka into turmoil yet again. She is all for racial reconciliation. That, after all, is what Matthew campaigned and died for as one of the leading anti-apartheid activists of the 1980s. But not at the expense of knowing the truth.



Allister Sparks

She wants justice, but not revenge — and she is not quite sure how to separate the two.

"It's all so difficult," she told me in a long conversation the other evening. "Revenge is not for me. Maybe it was three or four years ago when everything was so intense. Now reconciliation is important. But it mustn't come before they account for what they did."

How must they account for it? Can you have a Nuremberg trial after a negotiated settlement?

"All I want is that they should be known," Nyameka replied. "I don't want them to be executed. It is enough that they should be known and that they should say sorry for what they did. That for me would be so liberating, and thereafter I could try to forgive. But I must know the truth."

Truth and confession as precursors to reconciliation is a recurring theme in all the great reli-

gions. Confession and repentance in order to be forgiven. It is fundamental to the Christian faith which our Government professes to uphold yet, with the exception of two junior Ministers, the Government as a whole is not prepared to comply. It refuses to confess its own complicity in apartheid's crimes.

When the Government agreed to let political exiles return it demanded that they specify the crimes for which they sought indemnity. But now that the dirt is coming out on its own top people it wants a general amnesty with no acts specified, one that will "bury the past". It wants absolute truth without confession.

For Nyameka Goniwe that is unacceptable. You can't have reconciliation that way. "Take the case of Gert Coetzee," she said, referring to the death squad captain who confessed to assassinating civil rights lawyer Griffiths Mxenge in Durban in 1981 and taking part in a number of other political killings.

"I'm sure when Griffiths was murdered, and it was a particularly horrible murder, people wanted to see his killer brought to

justice and executed. "But now that Coetzee has confessed, now that he has shown real feelings of remorse, people like me feel differently about him."

At another level, Nyameka feels you can't build a new democracy on the basis of buried truth. "You can't talk about morality and expect people to value life and respect democracy, to be caretakers of these things, if you sweep the truth under the carpet," she says. At the personal level, knowing the truth is for Nyameka, a former nurse, as essential to the healing process as is the lancing of a boil.

"So much gets bottled up," she says. "You feel grief and you feel like you want revenge and you try to picture what happened that night. Then you look at the police and you feel they are rejoicing, they are saying 'We have done it'. It makes you angry."

"You go through an inquest which is like a circus. There is no justice to be expected, and you become more angry and frustrated. Then you go through the same kind of situation again and again. More Matthew Goniwes die. "It would be so liberating to

know what happened. I must know who they are. I must see them. I think that would heal them as well. I don't believe these can be happy people. You can't kill someone and feel that is normal."

Must she also meet them, talk to them? Is that part of the healing, too?

Yes, um, well. Nyameka searched through her emotions to find the right words and admitted to uncertainty.

"It would be important to meet them," she said. "But at this point I don't know. It would still come as a great shock to me."

"The thing that troubles me is what made these people so unfeeling. It doesn't have anything to do with colour. It was so cold-blooded. Not even to allow a person to defend himself, maybe to hear him crying for mercy but still just to go ahead and do it."

"I don't know how I would feel on meeting them. I don't know what impact it would have on me."

"Perhaps at first I could look at the man from far away, and then, who knows." □

● Allister Sparks's column will be back in its regular Wednesday slot next week.

# Breakthrough in the Goniwe case 'imminent'

Sowetan 21/8/92  
Sowetan Correspondent

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■ FW personally involved in probe into activist's death:

PRESIDENT FW de Klerk believes a "breakthrough" leading to prosecutions in the Goniwe case is imminent.

At a Press conference in Pretoria yesterday, where he faced renewed questions about the progress of the probe following the death of informant Mr Andre de Villiers, De Klerk said he was already personally involved in the Goniwe inquiry.

His latest information was that a lot of people had been coming forward to give evidence.

"A breakthrough is possible. there could be prosecutions," he said.

De Klerk added, however, that if the investigation he ordered in May did not end in prosecutions, the next option would be a judi-

cial commission of inquiry, or to refer the matter to a commission of inquiry.

Asked whether he still had full confidence in Military Intelligence chief General CP van der Westhuizen, whose name appeared on the alleged Goniwe "death warrant" signal, De Klerk said every South African was entitled to be judged in terms of the law.

"We have a good system. We need evidence to arraign someone. We can't take steps to do so on the basis of rumours," he said.

Pressed again, De Klerk answered "I have full confidence in the procedures we have applied in this regard."



# 'Amnesty mustn't block the truth'

SOUTH 22/8-26/8/92

By Zubeida Jaffer

**A**S THE net closes on the killers of activist Matthew Goniwe, calls for a general amnesty to cover all forms of past wrong-doing in South Africa are ringing out loudly

Ironically, they come at a time when the August report of the world's most reputed human rights organisation, Amnesty International, warns strongly of the dangers of a general amnesty

The organisation says amnesty laws which prevent the emergence of truth and accountability before the law are not acceptable.

In a number of African and Latin American countries, governments have granted former government and security officials immunity from prosecution in order to speed up political settlements

Professor of Human Rights Law at the University of the Western Cape, Professor Kader Asmal, says a distinction must be made between arrangements for advancing negotiations and for dealing with the past

He says absolving the South African military or police of capital crimes, torture and ill-treatment through a general amnesty law would place them above the law, exempting them from punishment for what would ordinarily be crimes

"The Goldstone Commission or any other agency does not require the introduction of an amnesty to investigate the past or present activities of the South African Defence Force, the South African Police or any regular or irregular military or police force in South Africa. These are two distinct and different activities," Asmal says

He believes it would be a tragic error of judgment if the issue of political prisoners became muddled with the amnesty issue

## Prisoners

Recent press reports suggested the United Nations' secretary-general's representative, Mr Cyrus Vance, has linked the release of remaining political prisoners to the declaration of a general amnesty

Closer examination of the report presented to the Security Council shows no such inference has been made and that Vance in fact called for the expeditious resolution of the problem of political prisoners

"Surely the position of the remaining political prisoners cannot be the subject of fresh negotiations when the matter was agreed to in both the Groote Schuur and Pretoria Minutes?" said Asmal

He argues there is a total lack of symmetry in the efforts of the South African government to declare a general amnesty

"While Umkhonto weSizwe combatants, leaders and prisoners have either served long sentences or sought individual indemnities for previous acts or immunity from prosecution, what is sought for hit squads, operatives of the State Security Council, perpetrators of torture, killings and assassinations is a blanket amnesty for undisclosed acts and for unidentified persons," he says

In countries where general amnesties were declared, ordinary citizens have taken it upon themselves to find ways to challenge and lay bare past crimes.



Kader Asmal

Shortly after Brazilian President Figueiredo declared a general amnesty in 1979, a few citizens closely connected to the church decided to ensure that their country would never revert to earlier atrocities.

Over a five-year period they secretly copied every file in the military archives. They later published horrific records of systematic torture, laying bare to the public the truth of the awful period their country had lived through

It cannot also be assumed that the declaration of a general amnesty will bring to an end covert activities in South Africa

British journalist Dr Joseph Hanlon points out in "Beggars Your Neighbours," his account of South Africa's destabilisation of Southern Africa, that the March 1984 Nkomati Accord did not end covert activity in the region

The Mozambicans, he writes, expelled the ANC and ended guerrilla access to Mozambique. In return, South Africa shut down the radio station of right-wing rebels Renamo

Far from bringing peace, Nkomati brought an escalation of the war, says Hanlon

Based on studies of human rights violations in 142 countries, Amnesty International has outlined three steps to be taken by governments willing to put an end to human rights violations

## Human rights

- There should be thorough investigations into allegations of human rights violations to determine individual and collective responsibility and to provide a full account of the truth to the victims, their relatives and society. Investigations must be undertaken by impartial institutions, independent of the security forces

- Those responsible should be tried and their trials should conclude with a clear verdict of guilty or innocent

- The interests of national reconciliation after a period of violence may be served by pardons after conviction as long as the truth is revealed and the judicial process completed

Despite adoption of human rights declarations in many countries, the report said governments continue to turn a blind eye to gross human rights violations. The phenomenon of impunity — exemption from punishment — fuels this recurring pattern of abuse.

— AIA



# ANC: Probe 'executions'

Political Staff

ALLEGED "summary executions" of suspects by the security forces should be subject to a full, independent inquiry and all security forces should be placed under multi-party control as a matter of urgency, the ANC said yesterday

The ANC said it was convinced that the biggest source of illegal arms in South Africa involved past and serving officers of the security services

"Many of these arms invariably end up in the hands of robbers and gangsters

ET 22/8/92  
In the meanwhile, the government, its spokespersons, and surrogates deliberately create the impression that such weapons are from ANC arms caches

"The ANC demands an immediate end to the campaign of assassination and disinformation directed against the ANC

"It is high time that the real villains are exposed and brought to justice. It is urgent for all security forces to be placed under one command structure, under multi-party control," the ANC said.

# Tapes firm dumped

□ From Page 1

stone, who is in Bloemfontein, said "On Friday evening I was informed by the Sunday Times of its information concerning the business connection between Grinaker and the SADF and its receipt of government grants

"The commission does not question the independence or integrity of Grinaker or their employees regarding their scientific examination of the tapes

"However, any suggestion or appearance of bias, a conflict of interests or an absence of independence could materially affect public confidence in any results furnished by the company to the commission

"If the commission had been aware of the relationship between Grin-

aker and the SADF and government when it sought independent advice, it would not have considered Grinaker suitable

"The commission has no option but to withdraw the mandate from Grinaker and appoint another independent expert in SA or abroad I will instruct the secretary of the commission to collect the tapes on Monday morning

"As the commission has made public, Grinaker has informed it that the tapes had not been bulk-erased but over-recorded. The questions remaining are when, where and why they were over-recorded and whether what was over-recorded can be retrieved

"These are important questions relating to the Boipatong inquiry"

# Goldstone dumps tapes firm over links with SADF

MR JUSTICE Richard Goldstone yesterday ordered that Grinaker Electronic Agencies stop investigating the police erasure of the Boipatong tapes after discovering that the company has business links with the SA Defence Force.

The action was taken after a Sunday Times investigation disclosed that Grinaker, the consultants investigating the wiping of the tapes, was a major defence force contractor and recipient of at least five non-repayable government grants

By CHARLENE SMITH

Judge Goldstone emphasised that he was not questioning the integrity of the company

Grinaker is the major supplier of electronic equipment to the SADF and, according to industry analysts, has been adversely affected by cut-backs in defence spending and arms manufacturing

## Assessment

The company received five non-repayable grants totalling more than R1.3 million in 1990 to assist future developments. It has received other grants but managing director Sybrand Grobbelaar said he did not have the details readily available

The Goldstone commission inquiring into the Boipatong massacre discovered last week that police had erased tapes recording police movements on the night of the massacre, apparently accidentally

Grinaker, distributors for Racal, the British firm which manufactures the recording equipment, was asked to give an independent assessment of whether the tapes had been deliberately erased and whether any recordings could be salvaged. The company has already cast doubt on suggestions that the tapes were deliberately erased

Mr Grobbelaar, who spoke to the Sunday Times before Judge Goldstone

announced that he was withdrawing the tapes, disputed that Grinaker's reliance on government contracts affected the company's independence.

"We are not linking this to contracts we have executed for government. We are in business; we have to be independent. We intend presenting test results that cannot be disputed"

He said there were many suppliers to the defence force, and in terms of the non-repayable grants "that is linked to the electronic industries innovation fund sponsored by government"

"These grants are all public knowledge and are administered by the Industrial Development Corporation"

## Overseas

Mr Grobbelaar said their investigation into the tapes would reveal by late this month whether they could retrieve more information from the tapes, or whether they should go overseas for a more sophisticated battery of tests.

"We are technical people and are not involved in politics. It is very unfortunate what happened with the Boipatong tapes, and we are determined to establish a clear result"

In a statement released yesterday Judge Gold-

□ To Page 2

## Seifsa wins appeal

THE end of a three-week legal strike by about 126,000 Numsa members may be in sight, after a ruling by three Supreme Court judges that the Steel and Engineering Industries Federation (Seifsa) has a right to launch an urgent application to stay the strike.

Earlier this month, Mr Justice MM Joffe dismissed an application launched by Seifsa. He said the federation did not have a direct interest in the strike. *C/Pren 23/8/92* (252)

Seifsa claimed the strike ballot held by Numsa was invalid. Numsa members have been on strike since August 3. (182)

On Friday Seifsa and the 16 employer organisations appealed against Justice Joffe's finding. The judges upheld the appeal, finding that Seifsa did have a legal interest in the strike. - Sapa



# The guilty must be brought to book

In another article on issues facing the New South Africa, international commentator R W JOHNSON looks at the problem of amnesty and the release of political prisoners.

**N**EGOTIATIONS between the government and the ANC are currently stalled over the question of a general amnesty, with the ANC demanding the release of some 400 political prisoners (including such decidedly difficult cases like that of the Magoo's bar bomber, Robert McBride)

This the government seems willing to concede, provided the ANC agrees that amnesty be extended to a dozen or so unnamed state functionaries who have committed unspecified offences in the struggle against the "total onslaught"

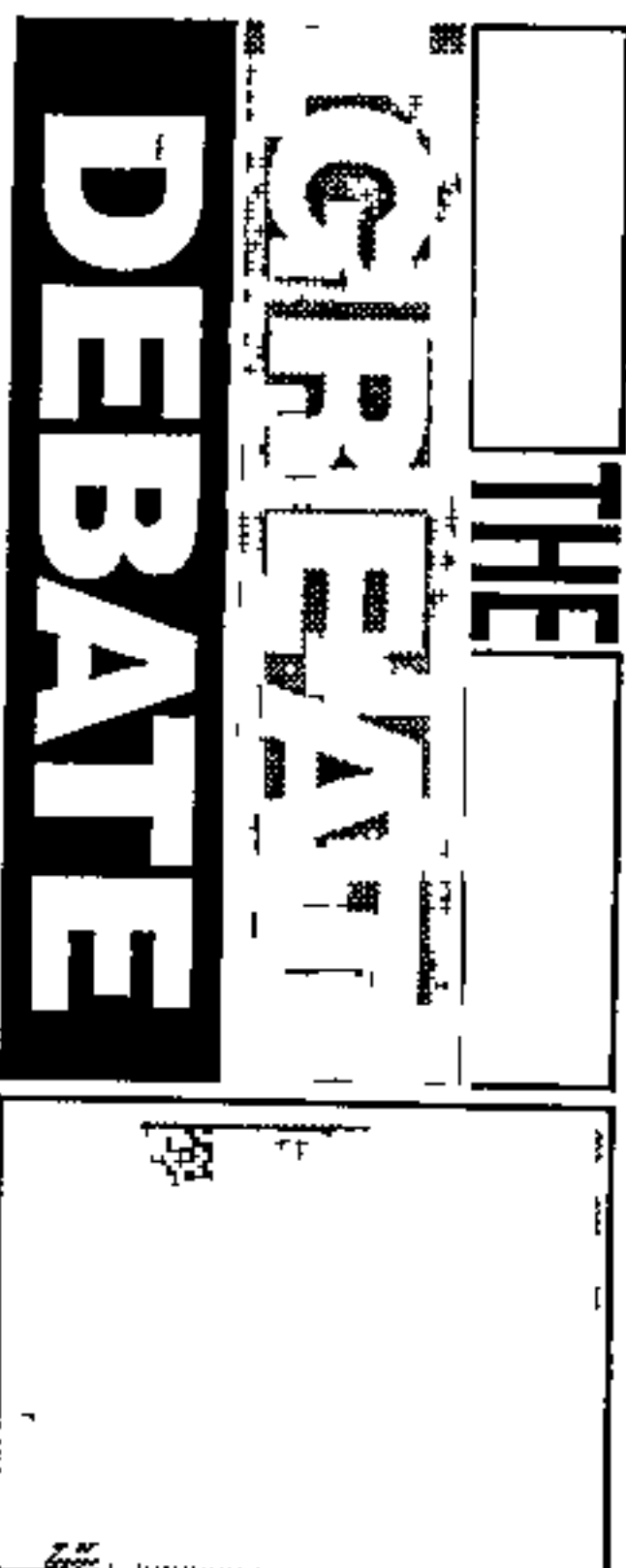
This the ANC refuses to concede. On the face of it this sounds unreasonable. Surely a trade-off of 400 against 12 is not ungenerous?

In fact the ANC is entirely right about this, perhaps even more right than it realises, and one must hope that the movement proves wholly intransigent on this point. The reasons the ANC gives are powerful enough — that amnesty should only be given to named people for specific offences. These are, after all, elementary principles of justice — and justice must be seen to be done.

But even, to follow that thought through is to take a tin-opener to a whole can of worms.

For a start the state is by implication making an admission here which it has never made before not only that serious crimes have been committed in its name, but that the state feels sufficiently responsible for those crimes to want to exculpate those who committed them.

Quite clearly, we are not talking here merely about policemen who, in an excess of zeal, have beaten prisoners to death or applied electrodes to their genitals without checking whether they have weak hearts. Nor are we even talking merely about the lowly hitmen who murdered and murt-



lated the likes of Griffiths and Victoria Mxenge.

The fact is that there are far too many such people to get into the baker's dozen the government is talking about. They will, moreover, all be relatively junior and it will be easy for the state to disclaim all responsibility for them, throwing them, if necessary, to the wolves.

By definition we have to be talking about a smaller number of far more senior men, men who probably never had to dirty their hands murdering anyone directly themselves.

And if figures at that sort of level have been implicated, to pardon them must imply pardons at a lower level for many hundreds, even thousands, who actually carried out the dirty work.

But the real point is that figures at senior level could only get involved in villainy if it was understood to be state policy that they should — indeed they may well have documents to prove it.

So, hidden deep within the government's ploy is at last an apparent admission that major crimes and atrocities have been committed not by accident or by someone overstepping the mark but because it was state policy that they should be committed.

The ANC would doubtless like a full government admission of guilt for its own political purposes, but far wider considerations are at stake.

First, and most obviously, the state had no need to resort to crime. The ANC may have contested the legitimacy of the apartheid regime but there was throughout a legally

constituted, sovereign and universally recognised state. South Africa has not been under the personal rule of a tin-pot Papa Doc (or even Papa Croc).

The state could and did take legal powers to detain without trial, to declare states of emergency, to ban, list, house arrest and all the rest. Everything it wanted to do it could do legally. There can be no excuse for state crime.

Throughout the apartheid nightmare this preservation of a legal, constitutional order was the one saving grace of the National Party.

South Africans of all persuasions desperately need to believe in the majesty and authority of a constitutional state the worse the turmoil and division the more we have to have — and believe in — a state which applies the law without fear or favour, which prosecutes even-handedly. To detract from the majesty and authority is to inflict a terrible loss on us all.

The ANC may wish to argue that there is no moral equivalence between Robert McBride and murderous securocrats because the former killed and maimed innocent people as a freedom fighter. It is not a savoury argument either way.

But there is, all the same, no moral equivalence. State functionaries who committed or authorised crimes did not merely break the law but actually overthrew the rule of law itself.

The upholding of the rule of the law is the state's most sacred duty, a fact which, for all our sakes, must be re-impressed on the present and all future governments.

So while we must indeed "wipe the slate clean" the aim must be to restore the full authority of the rule of law. This cannot be done by means of hole-in-the-corner deals to pardon senior but shadowy men for crimes whose name we dare not speak.

We must have the full truth and those state officials who broke their sacred trust to uphold the rule of law must stand trial. There is no other way.

Only 14 years ago the country's president was forced out because he had broken the law the precedent exists, even at the highest level.

(252)

ARG 24/8/92

### Leave appeal granted

A Johannesburg man has been granted leave by the Appeal Court in Bloemfontein to appeal against his conviction and imprisonment for two years for unlawful possession of two firearms.

He is Zacharia Buthelezi, who was convicted after weapons were found at his flat during a search on June 19, 1991.

Apart from the weapons Buthelezi was also convicted in the Hillbrow regional magistrates court on December 3, 1991 for theft of two car radios.

For the theft he was imprisoned six months.

The Witwatersrand Local Supreme Court dismissed his appeal on April 22, 1992. - Sapa

### 'Witch' back in court

A KWAMASHU woman, Miss Rejoice Busisiwe Khene, has been granted leave by the Appeal Court in Bloemfontein to appeal against her conviction and imprisonment for murder.

The victim was Mrs Annah Khanyile, who was killed at G Section, KwaMashu, on January 3, 1990. Khanyile was shot five times after she had been convicted by a "kangaroo" court of practising witchcraft because she kept a baboon.

Khene and four others were convicted in March. Khene was imprisoned five years. - Sapa

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Sowetan

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### Cop out on R1 000 bail

THE policeman who was arrested in connection with the death of two ANC members at Kwakukhulu near Empangeni a fortnight ago was released on R1 000 bail at the weekend.

Warrant-Officer Hendrik Steyn appeared briefly in the Empangeni Magistrate's Court on Saturday night but was not asked to plead.

His successful bail application followed his arrest last Thursday in connection with the deaths of Mr Michael Mthetwa and Mr Simon Msweli, who were wounded in a shootout with security forces but died en route to hospital.

Three policemen were killed in the shooting. Steyn will appear in court again next month.

*Sowetan 25/8/92*



# I spied on inmates, probe told

(252)  
Pretoria Correspondent

A police reward for information on people with unlicensed firearms prompted a Nancefield hostel resident to spy on other inmates

"Mr 01" yesterday told a Goldstone Commission committee he went to the police in 1990. He also approached the police with information after he learnt that the Sowetan newspaper was offering a reward for information on people who killed train commuters in October last year

His contact was Detective Warrant-Officer Sjula Sithebe, of the

STAR 25/8/92  
Firearms Unit, who introduced him to a Captain Kruger

Acting on Mr 01's information, police raided the hostel, found firearms, and arrested two men

Mr 01 said he was paid for the tip-off, and Captain Kruger told him to continue supplying information

Mr 01 said hostel residents who were Inkatha members were encouraged to attack ANC supporters.

Among Inkatha leaders who addressed hostel meetings were Themba Khoza, Musa Myeni and Humphrey Ndlovu

Mr 01 said he was at a meeting at which plans to attack train passengers were outlined. Armed with a panga, as he could not afford a firearm, he joined the other hostel members the next day at 6 am

At Kliptown station he suggested that he should turn back, as the sight of a panga might frighten commuters

Mr 01 told the committee that he later informed the police about the incident. This led to the arrest of a number of people at the hostel whom he identified as the organisers of the train attack

## Witness <sup>(252)</sup> 'sold out' <sup>25/8/92</sup> by police

PRETORIA — A witness in the Goldstone Commission committee inquiring into violence on trains yesterday described how he was sold out by members of the police to Nancefield hostel dwellers after providing police with information about illegal firearms

The witness, referred to only as Mr 01, said on three occasions he had taken police to the predominantly Inkatha hostel, where he stayed, to point out people in possession of firearms and perpetrators of train attacks, and this had led to arrests

He said he had to leave the hostel after being 'sold out'

"My problem is not with the whole police force, but with Capt Vermaak and his group who told hostel people that I was giving information to the police," he said

# Goldstone holds on to erased police tapes

**The Argus Correspondent**

PRETORIA. — Mr Justice Richard Goldstone has yet to decide who should investigate the police erasure of the Boipatong tapes, following his order that an electronics agency with Defence Force links should stop their probe.

It is understood the tapes are likely to go to an independent expert in Britain, since they were made by Racal, a British firm. Mr Justice Goldstone is keeping the tapes in the meantime.

The judge ordered on Saturday that Grinaker Electronic Agencies should halt its investigation into the wiping of the tapes after finding the company was a major SADF contractor and recipient of at least five non-repayable government grants.

Police told the Goldstone Commission last week that the tapes, which recorded police movements on the night of the June 17 Boipatong massacre, had been accidentally erased.

Local Government Minister Mr Leon Wessels is expected to appear today before a commission committee investigating the role of hostels in township violence.

But a source in his department said "Mr Wessels will not be able to give much more than housing policy and spell out the contents of the document (prepared for the committee)."

This is the second time the commission has had difficulties with government witnesses.

Last week, during a committee hearing into the SADF training of 200 Kwazulu men in the Caprivi, SADF chief General "Kat" Liebenberg said he knew nothing more than details in a document prepared for the committee by his officers.



## Two deaths: W/O gets bail

DURBAN — The warrant officer who was arrested in connection with the death of two ANC members at KwaSukhulu near Empangeni a fortnight ago was released from custody on R1 000 bail at the weekend.

Hendrik Jacobus Steyn appeared briefly in the Empangeni Magistrate's Court on Saturday but was not asked to plead. His successful bail ap-

plication followed his arrest on Thursday in connection with the deaths of Michael Mthetwa and Simon Msweli. (252)

The men were wounded in a shootout with security forces but died on their way to hospital.

Three policemen were killed in the shooting.

W/O Steyn will appear in court again next month — Sapa

26/10/15  
STAR 25/10/15

# SAP tapes may go to UK

By Helen Grange (252)  
Pretoria Bureau

Mr Justice Richard Goldstone is still to decide which experts will investigate the police erasure of the Boipatong tapes — following his order that a local electronic agency with SA Defence Force links stop its probe

It is understood that the tapes are likely to be sent to an independent expert in Britain

On Saturday, the judge ordered that Grinaker Electronic Agencies halt their investigation into the wiping of the tapes after he discovered the

company was a major SADF contractor and recipient of at least five non-repayable Government grants

Police told the Goldstone Commission last week that the tapes recording the conversations of police on the night of the June 17 Boipatong massacre had been accidentally erased

Local Government Minister Leon Wessels is expected to appear today before a Goldstone Commission committee investigating the role of hostels in violence.

His department was sceptical last night that Mr Wessels would be

able to help the committee. A document on housing policy has been prepared for the committee

"Mr Wessels will not be able to give much more than housing policy and spell out the contents of the document," a department source said

Last week, during a Goldstone committee hearing into the SADF training of 200 KwaZulu men in the Caprivi, SADF chief General "Kat" Liebenberg said he knew nothing more than details in a document prepared for the committee by his officers

● I spied on inmates

— Page 8

# Attorney-general plans special team to probe

EASTERN Cape Attorney-General Michael Hodgen said yesterday he would appoint a special team to investigate the killing of Addo farmer Andre de Villiers — despite police saying they had already arrested three men in connection with the murder, and were seeking another

And Goldstone commission chairman Judge Richard Goldstone said he had sent a full-time member of his commission, Col H Heslinga, to Port Elizabeth to observe the police investigation of the murder

Goldstone asked to be kept informed of developments in the investigation, because of "recent developments and the obvious relevance thereof to the commission's

terms of reference" He asked the SAP, the ANC and Hodgen to keep the commission informed of developments

Police said at the weekend they had arrested three men — two of them "trained soldiers of Umkhonto we Sizwe" — in connection with the De Villiers slaying

Our Port Elizabeth correspondent reports that one of the three appeared briefly in court in Kirkwood yesterday The others are expected to appear today

Their names are being withheld until identification parades have been held, so early court appearances will be in camera

A R50 000 reward would be paid out soon to the person who supplied information

STEPHANE BOTHMA (252)

Arrests would not have been made so soon without this information, police said

Before his death, De Villiers was reportedly disclosing information about the activities of the "Hammer" unit mentioned in connection with the killing of eastern Cape activist Matthew Goniwe in 1985

Hodgen said that at this stage he was looking separately at the deaths of Goniwe and De Villiers, but that he would look into anything in the De Villiers case which might assist in other cases

The police statement on the arrest of the three came amid allegations by the ANC that De Villiers had been assassinated to prevent him from making disclosures about security force actions

On Sunday night, eastern Cape regional police commissioner Maj-Gen Koos Calitz said the three suspects had been positively linked to the murder and that a Makarov pistol had been seized

Calitz said the arrests confirmed initial police suspicions that the motive for the killing was robbery

The ANC condemned Calitz's statement, saying he had made presumptions about the guilt of the arrested men before they

had faced trial

The DP yesterday criticised both the SAP and the ANC

DP justice spokesman Tony Leon said "The SAP is not assisting its role as the neutral enforcer of law and order by alleging that MK is responsible for the murder.

"However, if the police are to be criticised for passing judgment on the ANC in this matter and for convicting the arrestees for murder before the trial process is even set in motion, then the ANC must bear a portion of the blame for rushing to judgment before the first facts of recent incidents of violence, killings and massacres had even been established"

Addo farmer's murder



# Russians to aid ANC probe?

Own Correspondent

DURBAN — The International Freedom Foundation (IFF) has approached the Russian Foreign Intelligence Service (successor to the KGB) to assist in the investigation of human rights abuses by the ANC against its members

The IFF has appealed to the chief of the service, General Yevgeniy Primakov, to help returned exiles, including those who are members of the Returned Exile

Co-ordinating Committee (RECC)

The organisation recently placed two full-page advertisements in the Moscow-based daily newspaper Nezavisimaya Gazeta

Mr Mwezi Twala, chairman of the RECC, has asked General Primakov to "make public all information that is available in Russia on the nature and workings of the ANC security apparatus"

Mr Warwick Davies-Webb, IFF research director for Southern Africa, said "As the result of the

ads, journalists at the newspaper themselves are conducting investigations concerning the relationship between the former KGB and the ANC. The findings will be published shortly"

Mr Davie-Webb said the IFF decided to set up its own commission of inquiry

The commission will be conducted by advocate Mr Robert S Douglas, SC. Its findings are expected to be published in November

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25/8/92

# Trespass: 7 in court

Pretoria Correspondent

Seven ANC members, including cultural secretary Wally Serote, yesterday pleaded not guilty to charges of trespassing and contempt in the Pretoria District Court

Mr Serote, Anna Varney, Carol Steinberg, Alex Sadike, Tsepo Bantho, Mathilda Gasela and Sam Mokaanstang exercised their right to silence

They have been charged with entering the State Theatre on August

7 and then failing to adhere to a court order which demanded they leave the building

The seven were warned to ensure they were properly dressed for the next hearing on September 18

Author Nadine Gordimer and pop star Spho "Hotstix" Mabuse attended the hearing in support of the accused

Earlier, a charge of taking part in an illegal gathering outside the theatre was withdrawn against 112 people



# Lawyers criticise cell death inquests

THE objectivity of certain inquest magistrates in dealing with deaths in detention was questioned by a Johannesburg lawyer yesterday.

Speaking at a Lawyers for Human Rights (LHR) news conference, attorney Lawley Shein, who regularly represents the families of deceased prisoners, called for all inquests into deaths in detention to be heard by "at least a Supreme Court judge".

Shein pointed out that magistrates started their careers in the Justice Department as prosecutors, and some retained a "civil servant attitude".

However, LHR attorney David Dison said the current failure of the inquest system could be blamed on an extreme case overload, rather than subjectivity of presiding officers.

The reason cell deaths continued on a regular basis — 80 this year — was because the inquest system simply did not work, Dison said.

He called for a special unit to

## STEPHANE BOTHMA

investigate alleged deaths of detainees at the hands of police.

The LHR called yesterday's news conference after Shein failed in his bid to have the inquest of Bethuel Maphumulo conducted by a judge rather than a magistrate.

Maphumulo, 31, handed himself over to the Soweto Murder and Robbery Unit on December 11 1990, in connection with theft, on the understanding that bail would be granted at his first court appearance.

Three days later he was dead. The police explanation was that Maphumulo had drowned in a swimming pool while attempting to escape.

But two post mortem reports — one by the state pathologist and one by independent pathologist Dr Jonathan Gluckman — indicated the cause of death was "multiple injuries" and the fracture of the hyoid bone in the neck.

At the time, Gluckman said such a

fracture was highly suggestive of manual strangulation.

"Despite Shein having pointed out the contradiction between the police version and the post mortem report, the Attorney-General has left the matter in the hands of a magistrate when there is a prima facie case of murder," said LHR Witwatersrand regional director Ahmed Motala.

LHR claimed that Justice Minister Kobie Coetsee earlier gave an undertaking that a judge would conduct the inquest into every death in detention in respect of which Gluckman had prepared a report, and sufficient evidence existed to warrant it.

However, Witwatersrand Attorney General Klaus von Lieres SC said yesterday he had no knowledge of such an undertaking.

Coetsee's undertaking only extended to four specific files handed to him by Gluckman earlier this year, said Von Lieres.

## FW urged to admit to hit squads

PRESIDENT F.W. de Klerk had to admit publicly to the continued existence of hit squads or continue to face embarrassing revelations about their operations, leading human rights figures said yesterday.

And the ANC called on the Goldstone commission to advertise a witness protection programme.

### RAY HARTLEY

Meanwhile, Lawyers for Human Rights (LHR) director Brian Currin has called former Military Intelligence colonel Gert Hugo — who has claimed first-hand knowledge that hit squads are still operating — a reliable and accurate source.

Hugo told several overseas publications a "third force" was actively fomenting black-on-black violence, sabotaging negotiations and planning an independent power base.

Currin said government was not investigating the third force because it

claimed it did not exist. Human Rights Commission spokesman Max Coleman said more than 100 activists and their family members had been killed in two years, confirming the existence of "highly professional hit squads".

He said it was a well-established fact the CCB was still operating.

ANC spokesman Gill Marcus said past activities of the security forces had to be made public for the political process to go forward.

The Law and Order Ministry was in meetings yesterday and no spokesmen could be reached for comment.

## Nest egg plan by MPs 'is off'

### Political Staff

A MOVE by government MPs to feather their nests before the current Parliament is replaced by an interim government was off, said NP chief whip Keppies Niemann.

Details of a wide range of proposals to change pensions, gratuities, tax and medical aid schemes were in a letter sent by Niemann to other parliamentary parties' chief whips.

But an angry Niemann yesterday said the matter had simply been raised as a matter of routine following representations from MPs.



## Gunmen hurt 8 at Jo'burg station

FOUR people died in unrest yesterday, two of them in an incident that could be related to the taxi war in Alexandra, police said, while eight people were wounded last night when three gunmen armed with AK-47 rifles fired at a train at Park Station, Johannesburg

Police spokesman Lt-Col Dave Bruce said the gunmen then boarded the train and left the station

"Police rushed after the train, stopped it and conducted an extensive search at the New Canada railway station, but no suspects or weapons were found," he said

A man who shot dead a taxi driver at Alexandra yesterday was killed by a policeman moments after the attack, police said

W/O Andy Pieke said Mphimthithi Sokhela, 40, was sitting in a taxi at the Pan African taxi rank, on the corner of 3rd Avenue and Watt Street, when a man walked up to him and fired four shots, killing him

"An assistant constable who was investigating a case in the area saw the attack and followed the gunman who had fled on foot," W/O Pieke said

The suspect ignored warnings to stop and he was fatally wounded

Police were investigating the possibility the attack was linked to a feud between taxi groups in Alexandra

Food and Allied Workers' Union shop steward Julia Sgudla was shot dead on her way to work at Olifantsfontein near Pretoria yesterday, Sapa reports

The body of an elderly man who had been hacked to death was discovered by police next to a railway line between Wadeville and Katlehong

# Wessels testifies about hostel plans

PRETORIA — The first Cabinet Minister to appear before the Goldstone commission did so yesterday after an agreement was reached that he would not be cross-examined or be liable for recall

Agreement was reached just before Local Government and National Housing Minister Leon Wessels gave evidence, mainly about a lengthy report on hostel policy

Wessels told commission chairman Bob Nugent that R324,6m had been allocated for the upgrading or conversion of 177 hostels owned by black local authorities and provincial authorities

Government's policy was that hostel conversion had to be by consensus

Negotiations had been completed at 38 hostels and were proceeding at 65 others. Plans had been finalised at 24 hostels and were being finalised at 14 others. Projects had been approved at five hostels and requested at 13 others. Construction was in progress at one hostel, he said. The first upgraded hostel — in Thokoza — will be officially opened on Friday

Contrary to Goldstone's recommendations, government did not believe that all hostels should be fenced as this sometimes prevented integration with township residents

Wessels rejected demands that hostels be demolished, phased out or converted to family accommodation

Sapa reports that Wessels told the

TIM COHEN

commission the power struggle between the ANC and Inkatha in the Witwatersrand and Vaal Triangle was preventing hostel negotiations

Government's dilemma was that, while it had the capacity, funds and manpower to address community needs, including the hostels issue, "unilateral action, regardless of its good intent, (would) not create stability"

But interim national housing forum committee vice-chairman Khehla Shubane told the commission that the committee was experiencing problems because of government's withdrawal from the forum this year

Shubane said government was party to consensus on guidelines concerning upgrading hostels. Despite this, views on implementation differed

Since government's withdrawal, state funds had been made available to black local authorities without the forum being informed. This was causing concern because the local authorities were highly politicised. In other instances hostels had been destroyed by communities staying near them

Shubane said the forum had commitment from Inkatha, the ANC, Azapo, the PAC, Nactu and Cosatu

The sitting was adjourned until tomorrow, when ANC, Inkatha and Kwa-Zulu government representatives are expected to give evidence

# Sage interdict: appeal judgment reserved

BLOEMFONTEIN — The Appeal Court has reserved judgment in the appeal against a court order which prevented the Financial Mail (FM) from publishing, disclosing or disseminating information illegally and/or unlawfully obtained by means of tapping telephones, owned or used by Sage Holdings Ltd, and from a specific confidential document

The case was brought by Sage and its chairman, Louis Shill, after recordings of telephone conversations and confidential documents came into the FM's possession while speculation was rife regarding the situation in the Allied Group

The case was heard in camera in the Witwatersrand Local Supreme Court in 1990

The FM was also interdicted from publishing, printing or disseminating an article in the FM or any other newspaper

The article formed part of the founding affidavit. The judge found the proposed article was defamatory of Sage Holdings and Shill.

In the Appeal Court counsel for the FM submitted that the lower court had erred in granting the interdict

He said about half the article was not based on the tape-recordings or the confidential document, yet nothing was allowed to be published in terms of the court order.

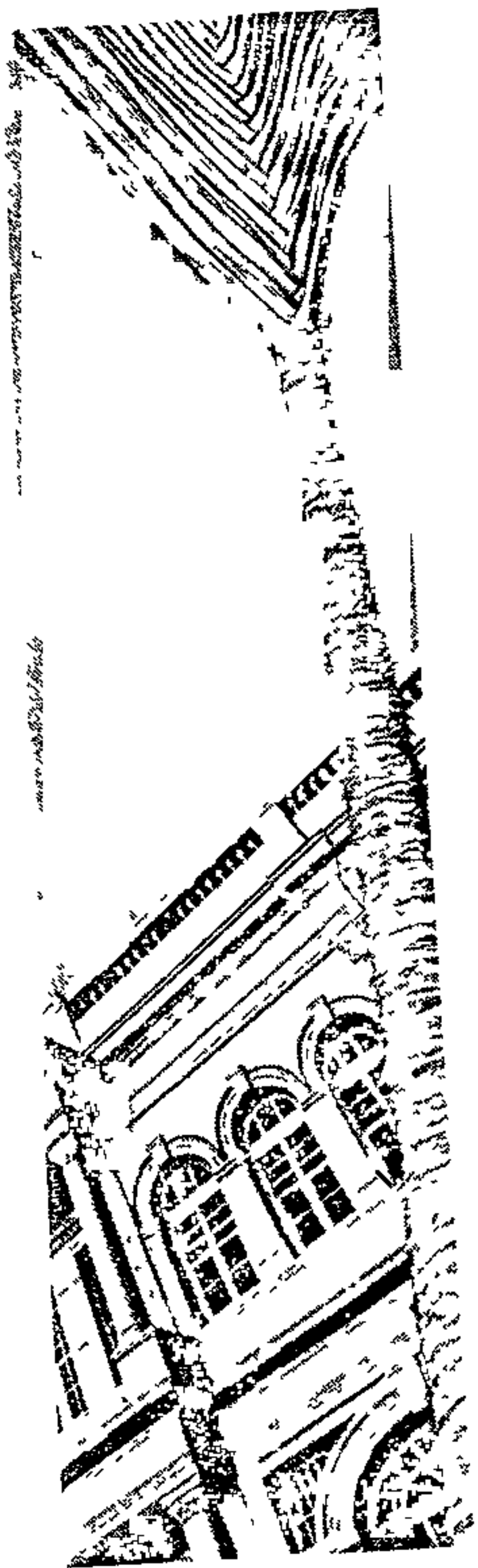
He submitted that a court should be extremely slow to grant an interdict to restrain the publication of an article that clearly had a dimension

of public interest

Counsel for Sage and Shill said the appellants' analysis of the article did not grapple with its sting. It did not justify the article or its contents, did not answer the complaints about breach of confidentiality and privacy and the unlawful interference with Sage business, nor did it detract from the presence of injurious falsehoods

It was submitted that the lower court had correctly applied the principles of unlawful competition to the appellants' unlawful interference in the lawful business of Sage, and that there had been no attempt by the appellants to establish the veracity of the information in the document and that the document was inaccurate — Sapa





...y at 1 45pm, arriving in Singapore  
 ...all key cities in Asia, Australia  
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## DP demands third force probe

B10 BY 26/8/92 BILLY PADDOCK

THE DP called yesterday for an urgent judicial inquiry into all covert activities, because allegations of a third force were becoming increasingly believable.

DP national chairman Ken Andrew said in a statement there were so many inexplicable incidents of politically inspired violence and ample evidence of abuse of power in the security forces that former military intelligence officer Col Gert Hugo's revelations this week made the need for a probe urgent.

Andrew said Hugo's claim that covert units operated independently of the rest of the intelligence community confirmed what the DP's research department had already deduced.

President F W de Klerk needed to grasp the nettle and order a "full investigation and a full disclosure".

## 'Assassins must face trial'

B10 BY 26/8/92

(252)  
 PATRICK BULGER

STATE-backed killers would have to stand trial when a new government was in place, but that government could pardon them, the ANC's official journal Mayibuye says.

"The ANC has said that it is not opposed to a general amnesty in principle. A negotiated resolution of any conflict entails a measure of reconciliation. But this cannot be a pious forgive-and-forget operation.

"What is being forgiven and forgotten has to be fully disclosed. Trials and pardons can (then) follow.

"The criminals cannot forgive themselves. Only a representative government can consider this.

"The decision to have such an amnesty cannot be taken by an elite. It affects those who have lost their loved ones and society as a whole. There are those out in hell already — and they want to pull the rest of

the country with them," Mayibuye says.

Mayibuye also says the ANC and its allies will hold a week of mass action in October.

It quotes ANC campaign head Ronnie Kasrils as saying "We are now in phase four of the campaign for peace and democracy. We must keep the tap open for mass action to continue rolling."

Mayibuye says the next phase of mass action will unfold around the issues of interim government and a constituent assembly, the SABC, hospital workers, homeland repression, food prices and the drought, and political prisoners.

It says a conference of forces which support the demands will be held in October and that a week of mass action will be organised.



# NEWS Education at standstill in Mdantsane since May ● Detention-without-trial against law



It is really hard to grow up among bulles. The young lad on the ground is at the end of a rough kick from an older and stronger fellow at Victoria Park in Kimberley at the weekend.

Pic PHANUEL MAHUNTSI

## Attorneys slam proposed law

■ Codesa plans for detention - without trial

*Duelfen 26/8/92*

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LAWYERS were disturbed by the apparent agreement at the Convention for a Democratic South Africa (Codesa) for the provision of detention-without-trial in states of emergency during a transitional constitutional phase

This is according to the SA attorneys' journal, *De Rebus*, in its August issue

### Detention-without-trial

The journal says "The organised South African attorneys' profession has long spoken out against detention-without-trial which, it believes, is not compatible with the rule of law, a concept which it fully supports," the editorial points out.

While the agreement does allow for certain procedural controls over detention-without-trial, such administrative controls

are insufficient to cure the defects of the system, which has been shown by South Africa's own experience

"We have often expressed our pleasure at the stated commitment of the government and its main negotiating parties to a bill of rights. The agreement about detention-without-trial during states of emergency is puzzling in the light of that commitment," *De Rebus* argues

It continues that the danger is standards set during the transitional stage - nobody knows how long it will last - may become the norm in whatever final constitution is agreed upon

"Likewise, states of emergency imposed initially for limited periods have a habit of being extended, as experience in Zimbabwe, for instance, teaches." - *Sapa*.



# Minister gives evidence

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CT 26/8/72

Own Correspondent

PRETORIA — Housing Minister Mr Leon Wessels became the first cabinet minister to give evidence before the Goldstone Commission yesterday, after it was agreed he would not be cross-examined or be liable for recall.

The agreement was reached just before the presentation of his evidence, which consisted mainly of a lengthy report on the government's hostel policy.

Mr Wessels had earlier expressed reluctance to be cross-examined in circum-

stances resembling an adversarial court proceeding. Instead, questions arising from Mr Wessels's testimony were gathered from the representatives of the groups present and were put by the counsel for the commission.

In his report, Mr Wessels said a sum of R324,6m had been made available for the upgrading or conversion of the 177 hostels owned either by black local authorities or provincial authorities.

The government's approach was that the conversion of the hostels had to be the

result of consensus obtained after negotiations between hostel dwellers, surrounding residents and other interest groups.

The negotiations process had been completed at 38 hostels and was proceeding at 65 others.

Planning proposals had been finalised at 24 hostels and were in the process of being finalised at 14 others.

Projects had been approved at five hostels and had been requested at 13 others. Construction was in progress at one hostel.

## Justice Fagan appointed Deputy Judge President

MR Justice J J Fagan has been appointed Deputy Judge President of the Cape Supreme Court

The appointment has been made by President F W de Klerk, the Minister of Justice, Mr Kobie Coetsee, announced yesterday

Born in Rondebosch in 1927, Mr Justice Fagan is the son of former chief justice Mr H A Fagan

After matriculating at Jan van Riebeeck High School, he obtained a BA LLB at UCT and a BCL (civil law) at University College, Oxford

He was called to the Cape Bar in 1952, made Senior Counsel in 1971 and appointed to the bench in 1977

He and his wife Sheila have three sons



# Policemen accused of aiding escapers

By Rochelle  
Gosling-Hughes

Four policemen charged with bribery and with helping two prisoners to escape pleaded not guilty in a Johannesburg Regional Court yesterday.

Derrick Kriel (22), Ngoako Mohlasedi (55), Khazamula Twala (27) and Rivonga Shikwambana (26) were all stationed at John Vorster Square on September 8 1990 when Francois van Rensburg, who is still at large, and Daniel Maritz allegedly escaped.

In his plea explanation, Mr Shikwambana said he had been on gate duty that day when Mr Twala asked him to accompany him to Fontana (a shop). "I went with Mr Mohlasedi and Mr Twala and two white men I did not know."

He later heard that the two had been prisoners.

Mr Twala denied any involvement in an escape plan. Mr Mohlasedi and Mr Kriel did not give any plea explanations.

Maritz, who turned State witness and is currently serving a 10-year sentence for fraud, said he was arrested on September 7 1990. He had shared a cell at John Vorster with Van Rensburg, who told him he could help him escape.

Maritz said he recognised the four accused as policemen who had been on duty at John Vorster Square on September 8 1990. Van Rensburg told Maritz he could arrange for him to make a phone call.

"He said he could explain how I could reach the front door from the phone area and simply walk away," said Maritz.

The trial continues today.

By Shaun Johnson  
and Jacques Pauw



# Goldstone wants to question Hugo on 'third force'

STAR 26/8/92

The Goldstone Commission would like to question former SADF Colonel Gert Hugo about his allegations of ongoing "third force" activity, and the Democratic Party has called for a full judicial inquiry into all security force covert activities.

These developments follow publication in The Star

this week of dramatic allegations by the former Military Intelligence colonel — the most senior security force-linked source to have spoken out openly about "third force" claims.

Mr Justice Richard Goldstone said yesterday his commission was interested in hearing from Colonel

Hugo. And DP national chairman Ken Andrew, in a strongly worded statement, said there were now so many inexplicable incidences of politically inspired violence and so much evidence of abuse, that allegations of a "third force" were becoming increasingly believable.

Mr Andrew said "Colonel Hugo's claim that the al-

leged covert units operated independently of the rest of the intelligence community bears out what the DP's research department warned during the 1980s — that an elaborate system of cut-outs was applied so that politicians attached to the State Security Council operated on the principle of the "need not to know" basis."

Mr Andrew said that if the allegations were even remotely true, they pointed to a serious breakdown in government accountability and "sapped the confidence of the public in the security establishment."

"The best way of restoring faith would be a full investigation and a full disclosure

of what happened during the total onslaught era," he said. In lengthy interviews Colonel Hugo alleged that a "third force" network was currently operating, stoking violence and bedevilling negotiations. He claimed military elements had a secret contingency plan which would "amount to a coup" if the ANC were on the thresh-

old of a takeover of power

The Star yesterday put detailed questions about Colonel Hugo's allegations to the State President's office and the SADF. The Star asked whether either office was aware of an alleged top-secret military signal sent out shortly after the release of Nelson Mandela, and about Colonel Hugo's claims of a "third force" activity. A reply is expected today.

# Two MK members in court over Addo killing

By Esther Waugh  
Political Reporter

Two men who appeared in the Kirkwood Magistrate's Court yesterday in connection with the murder of Addo farmer Andre de Villiers are members of Umkhonto we Sizwe. The Star has confirmed.

ANC sources said yesterday both men belonged to the organisation's military wing, thus confirming an earlier statement by eastern Cape police.

The Star is in possession of the men's names, but is withholding them while the case is being held in camera.

The appearance of the two men yesterday followed a separate hearing on Monday for a third suspect. The case has been postponed until September 22.

Attorney David Maes, acting for the men, told The

Star that at yesterday's hearing they were not charged or asked to plead, and that the case had been postponed.

He said the men were led into the courtroom "with blankets over their heads". The blankets were removed so that he could consult his clients for the first time.

The fatal shooting, a week ago of Mr. de Villiers, who had been supplying information on the "Hammer" unit, resulted in ANC allegations of a political assassination and a subsequent cover-up. Police have suggested that the motive for the killing was robbery.

The mother of one of the accused confirmed last night that her 22-year-old son was a member of MK. She said he returned to South Africa in August last year and had lived with her since then.



## Students from 10 Africa varsities meeting to discuss human rights

Education Reporter

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Students from more than 10 southern African countries, including South Africa, will meet for the first time to discuss human rights issues in Harare from September 11 to 13.

The meeting is being organised by the Centre for Human Rights Studies of the University of Pretoria and all South African universities have indicated that they will take part in the three-day discussions.

A spokesman for the universi-

ty's centre for human rights, Professor Christof Heyns, said the discussions would be held in the form of a moot court competition. *STAR 26/8/92*

Students from the universities of Botswana, Lesotho, Madagascar, Malawi, Mauritius, Rwanda, Tanzania, Uganda, Zambia and Zimbabwe are expected to attend.

In round one of the competition a typical bill of rights case will be argued before a panel of judges consisting of the deans of the various law faculties.

# Judge declares engineering strike unlawful

A three-week strike in the engineering industry was yesterday declared unlawful by a Pretoria Supreme Court judge, Steel and Engineering Industries Federation of SA (Seifsa) executive director Brian Angus confirmed.

The interim interdict against the National Union of Metalworkers of SA (Numsa) was

STAR 26/8/92  
granted by Mr Justice Myburgh

"The strike has been declared unlawful for the moment. A date will be set for a full hearing."

Yesterday's application by Seifsa was the second attempt to stop Numsa from continuing its countrywide strike, which began on August 3.

The employer federa-

tion sought to have the strike ballot declared invalid and the strike illegal.

Its first application, on August 7, was thwarted by a judgment which ruled Seifsa did not have the *locus standi* to represent its affiliated associations.

This was overturned after an appeal to the

Transvaal Division of the Supreme Court last Friday.

Seifsa has not indicated whether a favourable ruling would be followed by mass dismissals of striking Numsa members in the metal and engineering industries.

The union, which opposed the application, could not be reached for comment — Sapa

# Victims of the horrendous years cry out for justice

THREE decades ago when I was a circuit manager for a group of cinemas in Cape Town, we screened a motion picture called *Judgment at Nuremberg*.

The powerful screenplay revolved around a group of German judges who were themselves on trial for crimes against humanity.

The film had a short run at the white cinemas but we played to packed houses. A close friend, Imam Abdulla Haroun, saw the movie twice and after the second viewing he said "Barney, this is how we are going to deal with our tormenters".

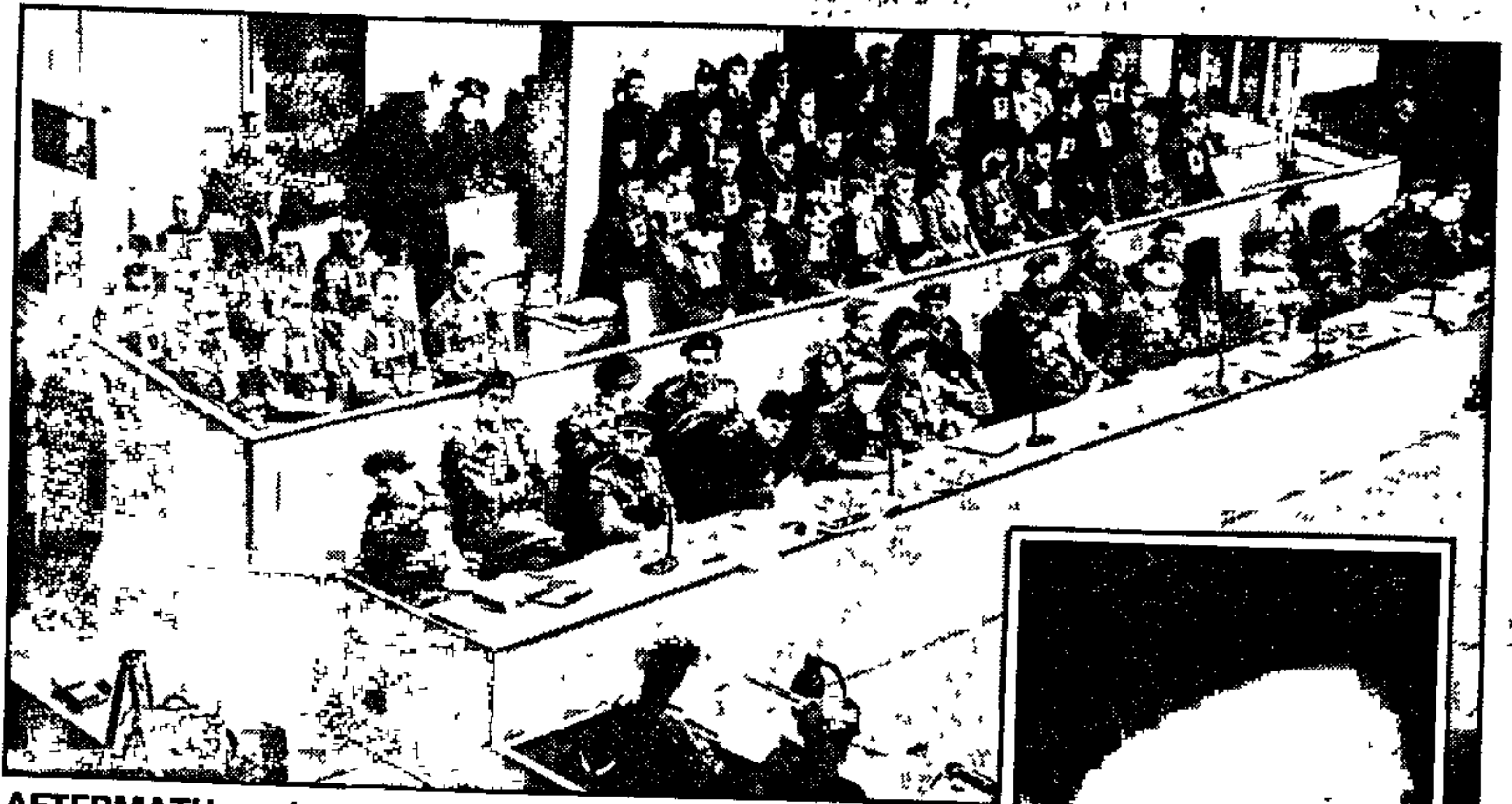
A year or so later I was forced to leave the country and go into exile.

Years later, more precisely on September 27, 1969, Abdulla Haroun was dead after spending 134 days in solitary confinement. He suffered a broken rib and had 26 bruises over his body. His stomach was empty. The police announced that he had "fallen downstairs".

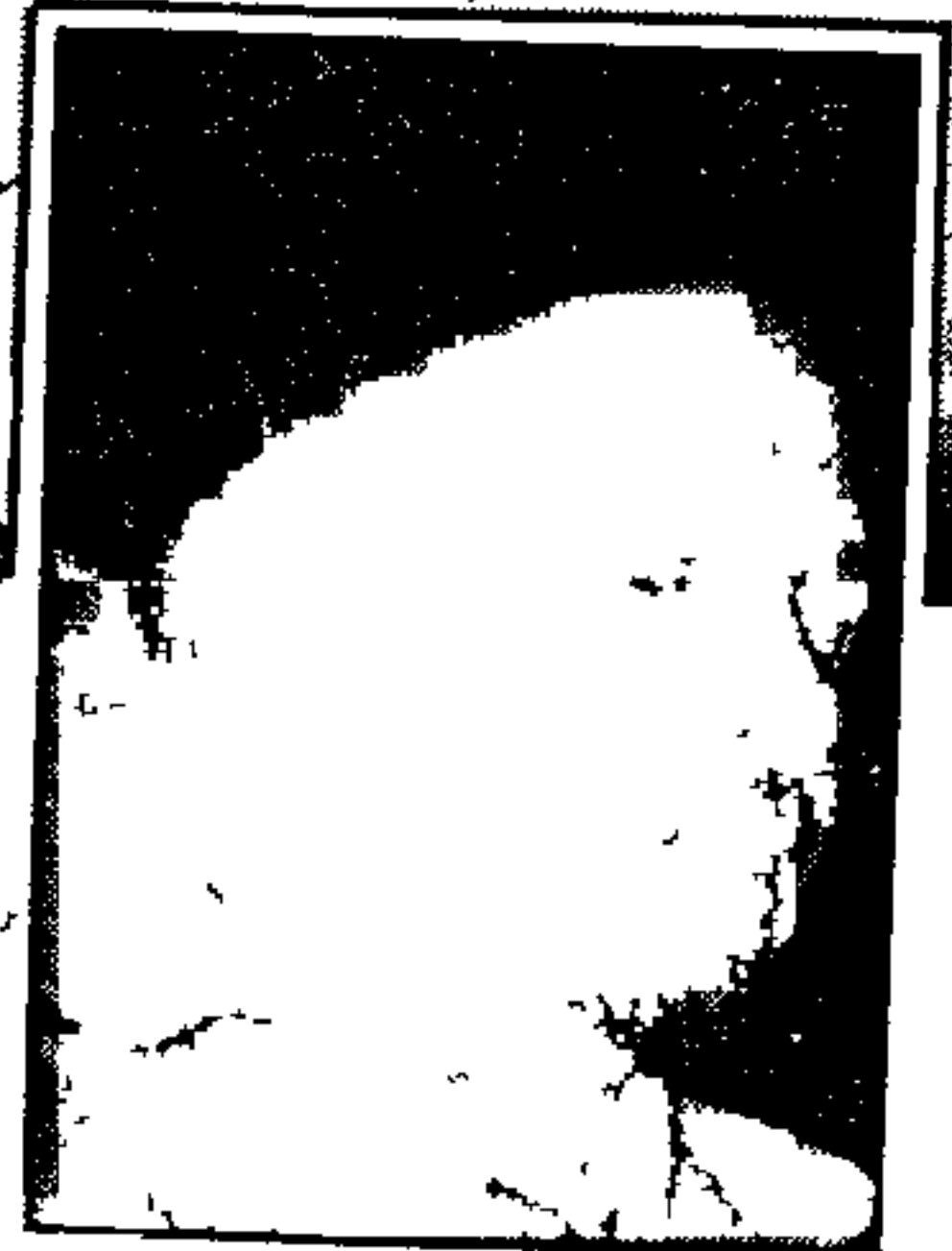
## Settlement

At the inquest there was medical evidence that some wounds were older than others. Counsel for the Haroun family, Advocate now Judge Cooper, asserted that Haroun had been systematically assaulted to extract a confession from him about his PAC activities.

The magistrate found that Haroun had fallen downstairs but that he could not account for the



**AFTERMATH...** A courtroom scene from the Nuremberg trials in 1945. **INSET:** Imam Abdulla Haroun who died of injuries after 134 days of solitary confinement.



**PAC Viewpoint**  
by BARNEY  
DESAI

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CF 27/8/92

balance of his injuries. The Minister of Justice later announced an "ex-gratia settlement" of R4 500 to the Haroun family.

Scores of political detainees died in similar circumstances during the horrendous decades of National Party rule. Was a single policeman ever called on to account

for these heinous crimes?

The proposal for a general amnesty to "clean the slate" cannot, on any reading of the situation, be entertained until our country has a democratic government in place. This regime is morally incompetent to preside over the issue because at the heart of the question is who gave the orders to torture and murder.

Who licensed the assassins who slaughtered political activists? Who shielded them from

prosecution? We are not dealing with sick people who overstepped the bounds of decency, we are, I would submit, dealing with the higher echelons of government who designed policies to deal ruthlessly with their opponents.

Surely these people cannot absolve themselves — whether they confess or not to deeds must foul.

## Smuggled letter

We are on the threshold of democratic rule and good governance, of liberty and respect for the individual. Future generations will be in peril if we pay lip ser-

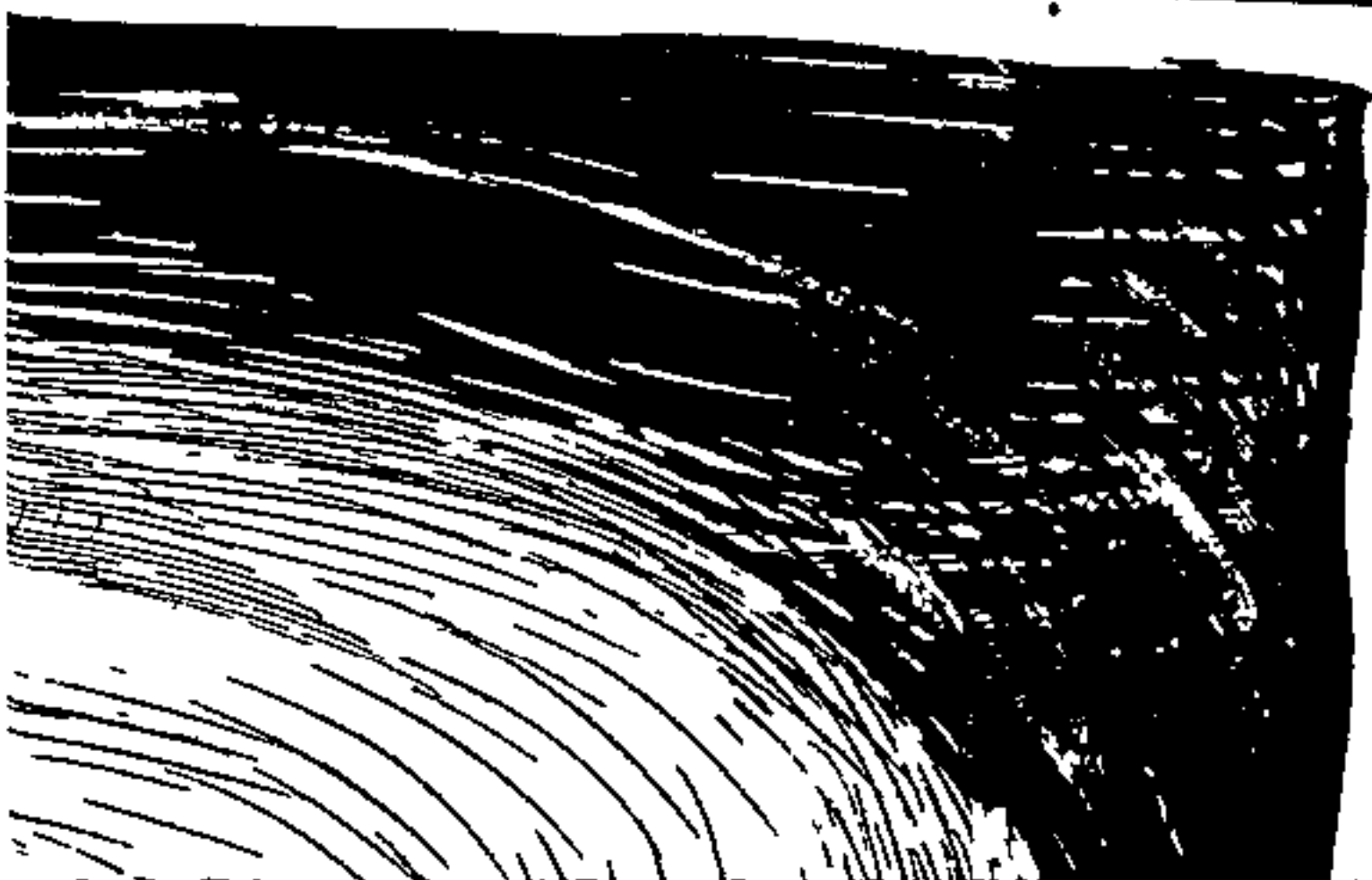
vice to the rule of law. Justice must come before there can be any meaningful reconciliation.

On his 58th day in detention, Haroun smuggled out a letter to me wherein he declared: "They feel I operated Defence and Aid which is banned and I am feeding banned people, creating Poqo (PAC) cells. I will give my life, but never divulge any of my companions."

They took his life. Dare we deny him justice?

□ Barney Desai is the author of the recently unbanned book *The Killing of the Imam*.

# Blending of SADF will be a tricky affair





## NEWS Three-month security blanket for witnesses ●

# Shield for witnesses

Sowetan 27/8/92

**T**HE GOLDSTONE COMMISSION'S witness protection programme is now in operation, the commission announced yesterday

Anyone may apply for protection if he is likely to give material evidence to the commission or has already done so, "and has reason to believe his safety or that of...his family is threatened as a result" of his testimony, said the Goldstone statement

The commission, which is investigating intimidation and violence, has appointed National Peace Secretariat executive director Mr Deon Rudman as the security director for the protection programme

A security officer would be appointed to look after the protected person, the statement said

### ■ VITAL PROTECTION Anyone with

vital information may apply: (252)

"Any suitable person can be appointed as a security officer, whether a public official or private individual"

Rudman would choose the security officer in consultation with Justice Goldstone and police Commissioner However "The identity of the security officer need not be made known to any officer of the South African Police"

The normal period of protection would be a maximum of three months after testimony, but could be extended at Mr Justice Goldstone's discretion

The programme provided for board and lodging, clothing, medical attention

and compensation for lost earnings Complaints by the protected person would be immediately brought to the attention of Rudman or Justice Goldstone

"It is a criminal offence for any person to furnish information concerning the identity or whereabouts of a protected person without the permission of the chairman," said the statement

Protection arrangements would be made in full consultation with the person seeking protection Applications for the programme can be made to Rudman at (012) 320 4640. - Sapa

# Goldstone offers witnesses protection

PRETORIA — The Goldstone commission has announced the start of its witness protection programme (252)

The commission said yesterday that any person who was likely to give material evidence to the commission and who had reason to believe his safety was threatened could apply

A security officer, not necessarily a police officer, would be appointed to look after the protected person, in consultation with the chairman, the commission's newly appointed security officer and the police commissioner. The identity of the officer need not be made known to any SAP officer, the commission said

The normal period of protection would be a maximum of three months after the person had completed his evidence, but the

TIM COHEN

commission chairman had the discretion to extend the period

Provision would be made for payment of board and lodging at a secret location, clothing, medical attention and compensation for lost earnings

The commission pointed out that it was a criminal offence for any person to furnish information concerning the identity or whereabouts of a protected person without the permission of the chairman

The establishment of the programme follows the adoption of similar regulations by the Justice Department, in terms of which prospective witnesses may apply for protection at any police station or through the public prosecutor

27/8/92  
B/009

# Nuremberg trials <sup>(252)</sup> not for SA — ANC

ARG 27/8/92

**DENNIS CRUYWAGEN**  
Political Staff

NUREMBERG-type trials cannot be held in the South African context, according to Professor Kader Asmal, a member of the ANC national executive committee

Writing in the September issue of *Mayibuye*, the ANC's monthly publication, Professor Asmal, professor of human rights law at the University of the Western Cape, said Nuremberg was important for humanity

"But trials of political leaders cannot take place when the political settlement results from negotiations, even though apartheid has been described as 'a crime against humanity,'" he said

Nuremberg-like trials had started or been proposed in Eastern Europe where communist regimes were overthrown

But he argued that South Africa's route to the transfer of power was different, adding there were complex problems about who should be tried

"No Nuremberg can take place in our context. But the guilt of apartheid can be removed only by an acknowl-

edgment of its evil and criminal nature. This provides a proper base for reconciliation"

Professor Asmal said the government could not declare a general amnesty

"Those who are guilty can hardly clear from guilt the perpetrators of murder, torture and disappearances"

This could be done only by a democratic government after full disclosure and "possibly the trial of the most infamous of killers"

Society had to be reconstructed, fundamental human rights had to be recognised and the state reorganised if the crime of apartheid was to be removed.

Giving minorities a constitutional veto as proposed by the National Party would maintain the status quo

"There may, therefore, be a form of democracy, but with the reality of apartheid maintained

"Nuremberg trials are not needed to convince the people that the fruits of apartheid cannot be retained permanently by those who developed this infamous system"

## Council 'has too few green thinkers'

**Municipal Reporter**

THERE is an enormous lack of informed environmental thinking in the city council, said Mrs Joan Kantey

A task group has been given two months to make recommendations on an environmental policy and the environmental advisory committee's future

ARG 27/8/92  
City administrator Mr Gys Hofmeyr was briefed to report on amendments to environmental legislation.

A memorandum from an environmental advisory committee delegation said there was "inconsistent" referral to the committee for advice.

● Keegan to head green task force, page 7.



# It's no easy walk to amnesty

STAR 27/8/92

252

ON THE face of it, a general amnesty in South Africa could well be accepted from the perspective of most religious denominations as a necessary act of forgiveness for the sins of the past

But looking at it in the context of the current political situation, it would be interpreted by a number of religions as a distortion of the objective of spiritual grace

Although there is broad agreement on the need for mercy, the effect of interpretive differences among religious movements is that there is total lack of consensus on the way a political amnesty should be handled

The problem is not with the idea of forgiveness, but with the conditions (or absence of conditions) attached to it and the political landscape in which it has been proposed. Between the two furthest poles are various shades of opinion

For instance, while the SA Council of Churches (SACC) is "alarmed" by proposals of a general amnesty and the reformist Jews would accept "unconditional" political amnesty, some Christian-based denominations, especially the conservative Afrikaans churches, are wary that some prisoners' sins are too overwhelming to be blessed with the Bible's gentle justice

And while some of these movements perceive theological teachings to be directly relevant to the question of a general amnesty, others feel religion has no bearing on a purely socio-political dilemma

The SACC, with a strong po-

Talks between the Government and ANC on a general amnesty for political prisoners seems to have reached a stalemate. Could it be broken by using guidance from above? HELEN GRANGE reports.

litical emphasis, takes a hard line against the Government on the amnesty question

It sees no justice in a general amnesty being declared by an "oppressive government to cover up atrocities committed by its own employees" This act, it warns, would condemn the nation to decades of disturbance

"Oppressors cannot forgive themselves, they must find courage to confess. The victims must find the courage to forgive. This is the spiritual strength which will rebuild the nation," states the SACC

Focusing more on the practicalities, Anglican Archbishop Desmond Tutu says a general amnesty should be carefully designed, by means of negotiation, to ensure that prisoners confess before they are forgiven

He envisages confessions in the form of testimonies before a court or commission without powers of judgment "The country cannot go forward unless the past is known. The facts must come out," he insists

These views are based broadly on the Christian principle of the sinner's reconciliation with God, spelt out more clearly by the Catholics. The process involves repentance (sorrow for doing wrong), confession (naming the wrong), forgiveness (pardoning the wrongdoer) and reparation (making up for the

wrong as far as possible)

The process may take place in any order, but all elements should be included if a Christian reconciliation is to take place

The Jewish faith is not as stringent as this, but also accepts that forgiveness should be preceded by confession. In a political context, however, this principle cannot apply, says Rabbi Ady Assabi of Temple Shalom in Johannesburg

"The individual cannot be accountable to the legislator as if he (the legislator) were God. It is a personal relationship between the individual and his Maker and therefore cannot be applied in the political sense"

Giving his view on the political question alone, then, Rabbi Asabi believes a general amnesty should be unconditional

For the Muslims, however, politics need not be removed from religious guidance

The Muslim Judicial Council has the question of general amnesty high on its discussion agenda, remembering that in early Islam, the prophet Mohammed declared a general amnesty after he liberated Mecca, freeing his former adversaries. A decision on the issue is pending

An obvious troubling factor in the current state of affairs is the position of the Government as both player and referee. The SACC's point that the Govern-

ment cannot forgive itself rings true for many religious leaders

This has inspired a proposal — by the Rhema Church — that an independent amnesty board consisting of clergymen and legal experts should be set up. This would seem to endorse Archbishop Tutu's proposal of a commission or court which could hear confessions

The idea has yet to be debated and decided on in religious circles, but no one has rejected it out of hand

What the spiritual powers do agree about is the need to avoid Nuremberg-style trials in the new South Africa. The task entails finding a workable alternative between "cheap grace" and a time- and money-consuming witchhunt

A blanket amnesty, warns Professor Klippies Kritzinger of the theology department at the University of South Africa, would have the effect of belittling crimes committed

And despite the cathartic effect Nuremberg-style trials might have, it would be "unwise" strategically because "we must build up a new nation", he says

Professor Kritzinger agrees that a board of religious and legal experts could be a possible solution, but not necessarily the best one in the multicultural, multireligious country in which we live

"The question of an amnesty is a bit early. I think we can only have proper healing when we're into the transition more definitely — when it is not being done solely by one of the players" □

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# Goldstone on Leon Wessels

TIM COHEN (252)

PRETORIA — Cabinet  
Ministers would not get  
special treatment when  
they testified before the  
Goldstone commission, the  
commission reaffirmed  
yesterday after speculation  
that behind-the-scenes ne-  
gotiations had exempted  
Housing Minister Leon  
Wessels from cross-  
examination

Judge Richard Goldstone  
said yesterday he was con-  
cerned about news reports  
that an agreement had been  
reached that the Minister  
would not be cross-exam-  
ined and/or recalled

These reports were en-  
tirely incorrect, Goldstone  
said *Blom*

In fact, the proceedings  
conducted into hostels were  
of a preliminary nature in  
which parties explained  
their views and outlined the  
evidence available to them  
No question of recall was  
relevant, he said *27/8/92*

News reports, quoting  
senior government sources,  
said Wessels might have  
been unwilling to submit to  
cross-examination in ad-  
versarial proceedings

In fact, he did testify, ex-  
plaining government's hos-  
tels policy, and he an-  
swered questions put by the  
commission, collected from  
political groups present.

"In so far as it might be  
necessary, I would like to  
emphasise that if any mem-  
ber of the Cabinet has evi-  
dence which is considered  
by the commission to be  
relevant to an inquiry, he or  
she will have no greater or  
lesser rights than any other  
person called to testify,"  
Goldstone said

UNIVERSITY OF CAPE TOWN

10/10/92





NEWS Top IFP bosses instigated violence, commission told ● 5 bodies found in veld

# 'Mr 01' tells of train attacks

TWO senior IFP leaders instigated Nancefield Hostel dwellers to attack ANC followers, a committee of the Goldstone Commission into train violence was told yesterday

Under cross-examination by counsel for the IFP Mr Louis Visser, a witness identified only as "Mr 01" who was a police informer, said the two leaders had addressed several meetings at the hostel

He told the committee that hostel dwellers were told that ANC leader Mr Nelson Mandela had said Zulus should be attacked and forced back to Natal

He said there was tension between the hostel dwellers and township residents, with the former believing that all township residents were ANC supporters or members who had to be attacked

He said the killing of an IFP member had led to the attack on a train at

## TRAIN STRIKES

Witness says IFP leaders instigated hostel dwellers:

Nancefield Station on June 25 last year "Mr 01" said as a hostel resident he was afraid to move about in the townships for fear of being recognised and attacked. He therefore asked for a firearm from a policeman called Dama, but had not received it.

He was among hostel dwellers who went out on an attack on a train but had to turn back because he was armed only with a panga while the rest of the group had firearms. Five had pistols while two had AK-47 rifles, the witness said

"Mr 01" said he had expected to be paid about R40 000 by the police for information he gave concerning train

attacks. However, he did not receive the promised amount.

Instead, after his lawyers had raised the issue on his behalf, he was paid R3 000 by the police. However, he claimed not to know what the R3 000 payment was for.

"Mr 01" said the causes of the violence in the townships and hostels included ethnic conflict between Xhosas and Zulus, slogans sung by ANC supporters and insults against IFP leader Chief Mangosuthu Buthelezi

He was not sure whether political rivalry between the IFP and the ANC was a cause of the violence

# Three policemen die in collision

Five treated at hospital:

By Abbey Makoe and Sapa

THREE policemen were killed and five injured when a Casspir and a private vehicle collided at the intersection of Sebokeng and Vereeniging roads yesterday

Vaal Triangle police spokesman Captain Piet van Deventer said police were investigating the cause of the accident and a possible charge of culpable homicide was being considered

The dead policemen were based at the Vereeniging Internal Stability Unit. The accident occurred about 5.30am, Van Deventer said

He identified those who died as Con-

stable RW Sheepers (20), Constable J Rathebe (25) and Constable TJ Khoahl (30).

The five injured were Constables JTT Visser, who is still being treated at Vereeniging Hospital, G Keogh, GJ Mnuvu, JL Kokamu and KA Maduna, who were all discharged.

Van Deventer said the driver of the car was 28-year-old Mr M Hugo of Vereeniging. He was admitted to Vereeniging Hospital

In another incident, two policemen were injured, one seriously

Police said yesterday that Constable MI Maputa (23) and Constable VB Shubambi (23) were sitting in a guards' room at the hostel when five men kicked the door open and shot them



# Groups unite to combat Aids

STAR 27/8/92

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Medical Reporter

The Government and the ANC have sat down — along with 32 umbrella organisations — to discuss a new national policy on Aids

ANC department of health secretary Ralph Mgiijima yesterday described the initiative as unique and vital.

"This is the first time we have people working together to fight Aids," he said.

"In the past, people working alone on individual programmes often duplicated work, and we hope the National Aids Convention of South Africa (Nacosa) will bring them together to share ideas and identify priorities in fighting the Aids pandemic"

Fledgling details of the new Aids policy emerged from a conference held in Johannesburg on Tuesday — the first time any body other than the Government has been involved in setting

a national agenda for combating the disease.

The conference findings are a precursor to a national Aids conference planned for October at which a formal, national strategy comprising aims, actions and a timetable will be adopted.

The newly formed Nacosa will replace the Government's Aids programme as a policy-making body for Aids

ANC department of health promotion and Aids prevention director Natalie Stockton yesterday said the ANC's commitment to work with the Government in formulating a new national Aids policy, despite political reforms not having yet reached fruition, was a giant leap forward in the battle against the disease

According to Dr Mgiijima the most valuable lesson learnt in the decade since Aids surfaced in South Africa was that all policy decisions taken

should have the approval of the communities they were imposed on

"Aids programmes of the past have been largely ineffectual because it ignored this important lesson," he said

The formulation of a new policy involving a broad spectrum of the community would ensure it survived political changes in the future, he added

● The steering committee of Nacosa comprises delegates from the ANC, the Department of National Health and Population Development, the Congress of South African Trade Unions, the National African Congress of Trade Unions, the National African Federated Chamber of Commerce, the South African Council of Churches, the South African Consultative Committee on Labour Affairs and the SA National Civics Association

## Indemnity sought for political murder

STAR 27/8/92

Pretoria Correspondent

In the first court case of its kind, a fully trained unit commander of the ANC's military wing is attempting to obtain a Pretoria Supreme Court order forcing the State President to grant him unconditional indemnity for a "political murder" and three charges of attempted murder

Jacob Rapholo turned to court yesterday with an application calling President de Klerk and Justice Minister Kobie Goetsee to show cause why the State President's refusal to grant him indemnity should

not be reviewed or set aside

This followed the postponement of his application on June 3 to allow the Attorney-General time for a decision on whether he had an interest in the matter, and whether he should be joined as a respondent.

The A-G had indicated he did not deem it necessary to join the matter.

Mr Rapholo wanted unconditional indemnity for the murder of a security forces police constable, and three charges of attempted murder on two other policemen and a transport worker.

The hearing continues.

## Two murders: pair get bail

Two Johannesburg men, charged with murdering a girl and her companion on August 16, were each granted R5 000 bail in the Johannesburg Magistrate's Court yesterday.

Andrew Mackay (38) and Donevinn Daniels (27) allegedly shot Shayne Fourie and Therisa van der Merwe in Newlands earlier this month.

**WHAT REALLY  
HAPPENED & MORE  
CALL JANI ALLA  
NOW**

**FOR JANI'S VIEWS ON  
FOR JANI'S DIARY**

# NEWS Top IFP bosses instigated violence, commission

## 'Mr 01' tells of train attacks

*Sowetan 27/8/92* **TRAIN STRIKES** Witness says IFP *(252)* *(115)*

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He said the killing of an IFP member had led to the attack on a train at

Nancefield Station on June 25 last year. "Mr 01" said as a hostel resident he was afraid to move about in the townships for fear of being recognised and attacked. He therefore asked for a firearm from a policeman called Danie, but had not received it.

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He was not sure whether political rivalry between the IFP and the ANC was a cause of the violence.

leaders instigated hostel dwellers: *(252)* *(115)*



# 'Torture, beating' in ANC camps

STAR 27/8/92

By David Katz

Allegations of torture and abuse in ANC camps have been made by two former ANC members in affidavits presented to the Douglas Commission of Inquiry, set up by the conservative Washington-based International Freedom Foundation (IFF)

The commission this week began gathering evidence of alleged torture and human rights atrocities in ANC camps in countries such as Angola, Uganda and Tanzania

The commission, under advocate Robert Douglas, SC, yesterday made affidavits available to The Star in which former ANC members detained in the camps describe acts of torture at the ANC's Quatro camp in Angola

In his affidavit David Mak-

hubedu (41) said "torture and beatings were a regular occurrence administered on inmates indiscriminately"

He said he witnessed this during the nearly five years he spent in Quatro before being released on November 16 1988

He said Quatro was initially established for suspected infiltrators but was later used "for any people whom the leadership of the ANC and MK (ANC military wing Umkhonto we Sizwe) regarded as dissidents"

In another affidavit, Robert Shange said that during his stay at Quatro he saw "numerous acts of torture" Once, boiling water had been poured on the head of a prisoner

He said many prisoners — who lived in conditions "shocking beyond belief" — had died of malaria and other tropical diseases, and that complaints were met with more torture

Mr Shange said he was seeking redress "against the ANC-

SACP alliance for all the wrongs done" while he was in detention

The ANC has in the past acknowledged that atrocities took place, and a commission of inquiry appointed by ANC president Nelson Mandela to investigate them finished taking oral evidence last week

An ANC spokesman yesterday said the organisation had full confidence in its own commission, which was due to release its report soon

She said the ANC commission had "sounder motives than the right-wing IFF" and that the ANC was eager to find solutions based on the report

Speaking from Washington yesterday, IFF international chairman Duncan Sellars said the purpose of the commission was "to help the ANC come clean" on its past and "bolster true democrats within the ANC against hardliners aligned with the SACP"





# No privileges for Cabinet

By Helen Grange <sup>STAR</sup> 27/8/92  
Pretoria Bureau

Mr Justice Richard Goldstone yesterday gave the assurance that members of the Cabinet called to give evidence before the Goldstone Commission would have no greater or lesser rights than any other person called to testify (252)

The assurance follows the appearance on Tuesday of Housing Minister Leon Wessels before a Goldstone committee investigating the role of hostels in township violence

Mr Justice Goldstone said he was concerned that reports of Mr Wessels's appearance might have given the impression that Ministers would not be cross-

examined or recalled "That is incorrect," he said

The committee declared after discussions with Mr Wessels and his lawyer that it was not necessary to cross-examine him in the light of the fact that his evidence was part of a preliminary inquiry. Mr Justice Goldstone said that at such a preliminary inquiry, the parties explain their views and outline the evidence available to them

"They do so under oath. Questions are put by members of the commission and by the commission's counsel. This was the procedure which the committee had decided would be followed (in Mr Wessels's case) and which will be followed when representatives of the ANC and IFP will testify," he said

# Goldstone extends witnesses' protection

By Helen Grange  
Pretoria Bureau

(252)

Mr Justice Goldstone yesterday called on potential witnesses to come forward to his commission for protection, raising hopes that witnesses with important information on political crimes will come to light.

Mr Justice Goldstone said that any applicant could take advantage of the protection programme if the judge was satisfied that it was necessary.

The programme also provides for the protection of witnesses' identities from the police, if necessary.

Human rights leaders said they had long been campaigning for comprehensive witness protection, and yesterday welcomed Mr Justice Goldstone's initiatives.

They said they hoped the programme would prompt people with evidence to come forward.

In his statement Mr Justice Goldstone said he had the discretion to extend an initial three-month protection period, thus meeting concerns that witnesses might be left "out in the cold" after giving evidence.

He said any person could "apply for protection if he is likely to give material evidence to the commission or if he has given evidence and has reason to believe that his safety or that of a member of his family is threatened as a result."

Key elements of the programme include the following:

- The chosen "place of safety" will be decided by the commission's security director "in consultation with the chairman (Judge Goldstone) and the person requesting protection"

- A security officer appointed to look after the witness can be

"any suitable person, whether a public official or private individual" The officer will be chosen by the security director in consultation with the chairman and the Commissioner of Police.

- It will be a criminal offence to reveal the identity or whereabouts of the protected person without the permission of the chairman.

- Provision will be made for board and lodging, clothing, medical attention and compensation for lost earnings. Any complaints made by the protected person are "immediately to be brought to the attention of the chairman and the security director".

Mr Justice Goldstone said there would be "full consultation" with the witness, and "every possible precaution will be taken to ensure his or her safety".

Anyone wanting to apply for protection should apply in writing to the commission's security director, Deon Rudman, who is the executive director of the National Peace Secretariat. Information and assistance can be obtained from his office in Pretoria, telephone (012) 320-4640.

- A separate witness protection programme under the Government in terms of the new Criminal Law Amendment Act has elicited concern from Lawyers for Human Rights in view of its failure to guarantee protection of identity from police.

This is a problem which needs to be addressed, LHR director Brian Currin said yesterday. Under the Criminal Law Amendment Act, the witness is asked to apply for protection at the nearest police station, correctional facility or public prosecutor concerned.

# Attorney battles to see MK suspects

STAR 27/8/92

252

The attorney for two Umkhonto we Sizwe members, arrested in connection with the murder of Addo farmer Andre de Villiers, yesterday battled in vain to consult his clients.

David Mias, the attorney for Tamsanqa Mali and Johnny Stimela, said he yesterday faxed the office of the eastern Cape Attorney-General, requesting

permission to see his clients

A message was left yesterday afternoon by the Attorney-General's deputy in Port Elizabeth, saying Mr Mias was free to see his clients

But he was not able to contact the investigating officer

He later telephoned the Attorney-General's office again, and was told that a message

had been left with the police allowing him access to his clients

Mr Mali and Mr Stimela appeared in the Kirkwood Magistrate's Court on Tuesday afternoon in connection with Mr de Villiers's murder

A third man, Xolani Ncinane, appeared in court on Monday in connection with the murder —

Political Reporter



# Time to open up the old boys' club

W/m sat 28/8 - 3/9/92. (252)

**U**NDER a new constitution with a Bill of Rights, South Africa's judges, particularly those on the Constitutional Court, will become enormously powerful

The new constitution will give them the right to overturn laws passed by the people's elected representatives

This concentration of power in judges' hands makes it important to think seriously about the kind of people who should sit on the bench, how they should be selected, and what should happen to the judges already appointed

Apartheid has tainted the whole legal system, including the judiciary. At one time they were listed as targets for elimination by radical opponents of apartheid, because they were symbols of repression. No judge was ever attacked, and the idea moderated into a call that they should all resign so the system of justice could make a fresh start. Now pragmatic considerations appear to over-rule such demands.

Representatives of the African National Congress' legal and constitutional affairs department said wholesale sacking of judges was out. An official of this department, Matthew Phosa, said it was a decision based purely on practical considerations. A new government would be justified in "removing the whole lot of them" if it wanted to, and he would feel quite happy if that were to happen.

However, both Phosa and head of the ANC's constitutional committee Zola Skweyaya said no such action was planned. Instead attention would be focused on finding and training suitable replacements for retiring judges so that the judiciary would better represent the make-up of the population. This would help restore popular confi-

Who should be tomorrow's judges? And what should happen to yesterday's?

**CARMEL RICKARD** speaks to legal experts whose suggestions include widening the pool of judges, active recruiting of blacks and women, special training for new judges and even the impeachment of "apartheid judges"

dence in the courts.

A variety of ideas are being floated by lawyers, legal activists, politicians and academics about how to deal with the transition. Should all judges be asked to take a new oath of allegiance? What if this did not prove self-selecting and "unwanted" judges agreed to swear allegiance? Some feel the appointment of all existing judges should be reconsidered and they should have to undergo the same selection procedures as will be used for any new appointments. There is also a view supporting "private hearings" at which judges are asked to explain their past record.

National Association of Democratic Lawyers (Nadel) publicity secretary Krish Govender goes further. He suggests that, based on these hearings, certain judges might be "impeached", while others might be declared suitable candidates for "re-education programmes".

Many of these suggestions are based on the need to "legitimise" the judiciary, so that from the moment the new constitution begins to operate, people

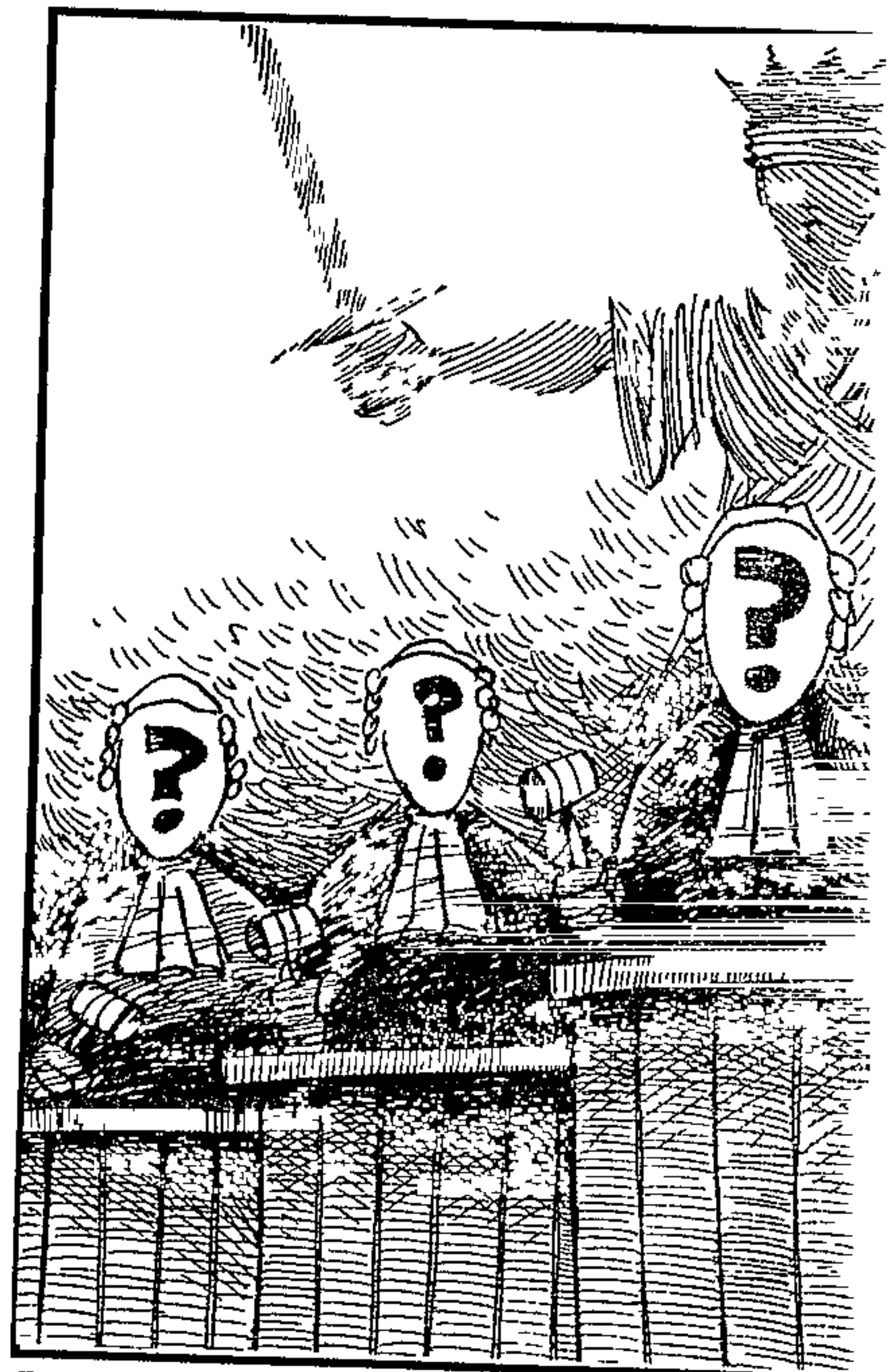
will have confidence in the judges who try them. However, it seems likely a number of judges with a record of strong pro-human rights judgments will refuse to go through a procedure of re-selection and thus would be lost to the bench.

There is also the problem that the independence of the judiciary could be seriously affected if a new government tried to decide which judges may stay on and which not. This could set a dangerous precedent for interference, and undermine judicial independence from the start.

A search for lawyers to be appointed under a new constitution comes up against the old problem: very few candidates except white males. Should the solution be to wait for some years until people from groups now not properly represented are suitably qualified? Or should the rules be changed to increase the pool from whom judges may be chosen?

The almost unanimous feeling is that the days of choosing judges only from the ranks of senior advocates have gone. There appears to be widespread approval even among advocates for the idea of allowing certain experienced attorneys the right of appearance in the supreme court. Once this right has been granted, these attorneys could well be considered for appointment to the bench. The inclusion of legal academics however proves more controversial, with judges and advocates generally against, academics and attorneys generally in favour.

At the same time as widening the pool, however, special efforts will be needed to increase the number of women and black students studying law. This means recruitment at schools, finding bursary money and giving encouragement. Once students have the paper qualifications, more



efforts will also be needed to help graduates enter into articles or pupillage.

Another serious problem needs immediate attention if more black advocates are to be appointed to the bench.

Too few black counsel are briefed by the big firms of attorneys. In the past many black advocates made their living out of political cases. Very little commercial litigation came their way. As a result many black counsel lack the all-round experience required before they can take silk and thus be considered for judicial appointment.

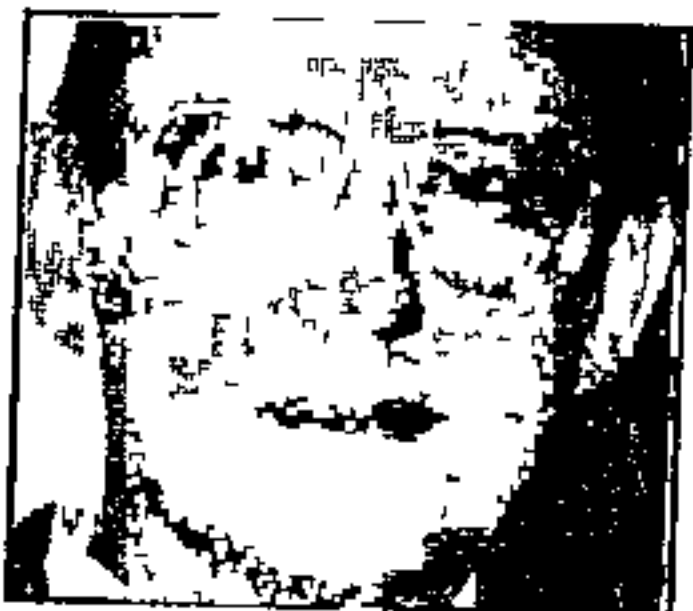
Attorneys, challenged about why they do not brief black advocates, usually reply that their clients "want the best available" and prefer not to be the guinea pigs for untested counsel.

However there seems to be no reason why the deputy state attorney's office should not immediately instruct that a wider range of counsel — including women and black advocates

— be briefed by the state. Several senior (white) advocates, tired of hearing attorneys cite client preference to justify not using black counsel, suggest new ways be tried to deal with the problem. Perhaps clients should be asked directly whether in fact they wish black counsel not to be briefed. Perhaps the mayors of major cities should be probed on whether they would object to their attorneys broadening the range of advocates whom they instruct.

The present old-boys' club selection procedure for judges will also have to go. No one appears to defend the system in which judicial appointments are made in private discussions between a few highly-placed individuals, without significant input by the profession or the community.

Instead, most academics and practitioners would like to see a selection committee to appoint or advise on appointments. Some difference of opinion exists about whether the com-



**Laurie Ackermann**, 58, holds the HF Oppenheimer chair of Human Rights Law at Stellenbosch University where he teaches human rights and comparative constitutional law. After graduating from Stellenbosch and Oxford, he practised at the Pretoria Bar from 1958 to 1980, and took silk in 1975. In 1980 he was appointed to the Transvaal bench but resigned as a judge in 1987 to take up his current post. In 1988 he was appointed to the Lesotho Court of Appeal, and last year as an acting judge of appeal on the Namibian Supreme Court.

**Karen Blum** SC, 54, of the Johannesburg Bar is no longer in active practice as an advocate. In 1966 she was admitted to the Namibian Bar but moved to Johannesburg in 1974 and took silk in 1984. Her practice dealt particularly with family and commercial law. She has been a committee member of the South African Institute of Race Relations and a member of Lawyers for Human Rights and Nicro. She has sat on the bench in Namibia, as well as the Free State and Transvaal Provincial Divisions where she will sit again in October.



**Arthur Chaskalson** SC, 61, is national director of the Legal Resources Centre which he co-founded in 1980. A member of the Johannesburg Bar since 1956, he took silk in 1971. He was elected an honorary member of the Bar Associations of New York and Boston and also has two honorary doctorates. He served for 11 years on the national council of Lawyers for Human Rights. He helped the Namibian Constituent Assembly draft the Namibian constitution. He is a member of the African National Congress constitutional committee.

**John Dugard**, 56, is professor of law at Wits University. He has degrees from Stellenbosch and an LLB and LLD from Cambridge. He practised at the Durban Bar for three years, and in 1965 joined the Wits staff to teach international law. His specialities are international law, human rights law, and jurisprudence. His books include *Human Rights and the South African Legal Order* (1978) and *Recognition and the United Nations* (1987).



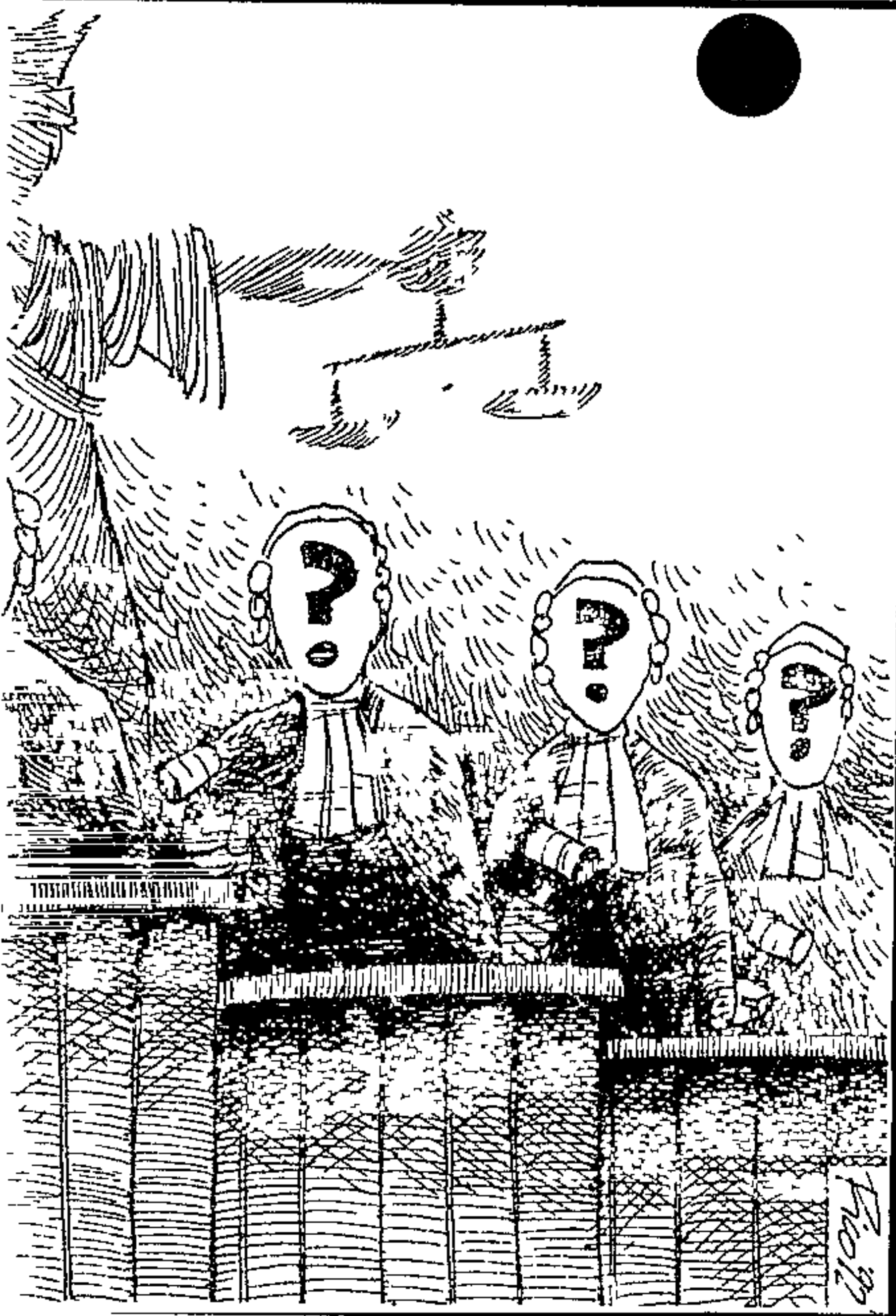
**Pius Langa** 53 is a member of the Durban Bar. He began his career as an interpreter, later becoming first a prosecutor and then a magistrate. He was admitted to the bar in 1977. Langa was a member of the legal team in the Yengeni treason trial, and has been involved in a number of other political and human rights cases. He serves on the ANC's constitution committee, and is also president of the National Association of Democratic Lawyers.



# Waiting in the wings for tomorrow's bench

w/Mail 28/8/92 - 3/9/92

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**P**ITY the judges in a "new" South Africa. Enormous expectations have emerged that these men and women will wield a Bill of Rights like a protecting sword, rescuing civil liberties from all threats and rooting discriminatory practices wherever they lurk.

Highest hopes are pinned on a proposed new Constitutional Court. Either as part of the Appellate Division, or separate from it, a Constitutional Court is seen as having a decisive influence in the country.

Unlike the other courts, this one will be untainted by apartheid, and could be a powerful tool to eradicate racism and sexism.

Its members may be recruited from advocates, legal academics and attorneys. Advocates considered for appointment will obviously include those silks (senior advocates) already in line for provincial bench appointments. Some more adventurous prophets also suggested that a Constitutional Court should follow the German model and appoint non-lawyers such as political scientists.

Prising suggestions of names for immediate appointment to such a court proves a tough job. At the moment the courts do not properly represent the people of South Africa, as judges are almost exclusively white and male. There is a serious shortage of suitable senior lawyers, who meet the current appointment criteria, and who come from under-represented groups. This problem must be solved without dropping the demand for excellence on the bench. The promising group of juniors coming up through the ranks will gradually improve the situation, so would a number of other steps being debated by members of the profession, including a change in the criteria for appointment.

Against the background of these difficulties, *The Weekly Mail* managed to put together a brief list, compiled from ideas heard around the country. Interestingly, many people who were asked to suggest possible members of a Constitutional Court, made their first criterion a commitment to human rights rather than particular skill in constitutional law. Nevertheless, a number of people suggested do have expertise in this field.

During the years of apartheid legislation, prejudice has developed against the courts and members of the

South African legal circles are not short on talent, and there are plenty of people who might have been judges in a different kind of society  
**By CARMEL RICKARD**

judiciary. However, there are a number of existing judges whose appointment to a constitutional court would be widely accepted. These include judges of the Appellate Division like the chief justice, Michael Corbett, John Smalberger, Richard Goldstone and John Milne, on the provincial divisions judges such as John Diddcott, Andrew Wilson, Johann Krieger and Ismail Mahomed (a possible contender for presidency of a Constitutional Court).

The name which tops most people's suggestions of new appointments is that of Arthur Chaskalson SC, described as one of South Africa's

lawyers know his integrity and would probably accept appearing before him despite his strong ANC involvement. It would be a tragedy if he were not appointed.

Among the practising advocates who have not yet taken silk, two other names were mentioned with similar caution. Pan Africanist Congress deputy president Dikgang Moseneke and the president of the National Association of Democratic Lawyers Pius Langa. A number of lawyers speculated that Moseneke's high party political profile would rule out an appointment. They asked whether someone of another political party would feel they had a fair hearing if they appeared before him as a judge.

Langa has a far lower party political profile and is well regarded as counsel, but a couple of people commented on his links with the ANC.

Particular consideration would obviously be given to practising silks from groups so far not properly represented on the bench. Jeanette Traverso SC, of the Cape Town Bar, and Karen Blum SC, from Johannesburg, members of the Natal Bar Hassan Mall SC, Louis Skweyha SC and Zach Yacoob SC.

A number of legal academics seem to be in the running, some with and some without experience at the bar. Some have strong party-political links and therefore were mentioned with caution.

The academics most often tipped for appointment included the University of the Witwatersrand professors John Dugard, who has experience at the bar, and Edwim Cameron, who is a practising advocate, Dennis Davis, who appears regularly in the tax court, June Sinclair and Carol Lewis, neither of whom has practised at the bar. Along with these academics were suggested Tony Mathews and David McQuoid-Mason from Natal University, neither of whom has practised as an advocate, and Stellenbosch University law professor Laurie Ackermann, a former Transvaal judge who continues to sit on the bench of several neighbouring states.

University of the Western Cape political scientist Vincent Maphai was named, so was fellow political scientist Annette Seegers and law professor Hugh Corder (who has not practised at the bar), both from the University of Cape Town, University of Transkei.

Continued overleaf



Highly regarded Ismail Mahomed and Louis Skweyha



mittee should consist of only lawyers, of lawyers and politicians, or of lawyers, politicians and members of the community. The proportions in which these groups should be represented is also contentious, as is the question of whether their work should be done in private or with the public and media present.

Perhaps the most interesting example of this kind of selection procedure comes from Ontario in Canada. A Judicial Appointments Advisory Committee, formed in 1989, advertises vacancies, carries out interviews and makes recommendations for judicial positions in the lower courts. Of the 28 appointees made on the committee's recommendation, 32 percent were women.

The committee has a list of criteria for candidates to meet, which should win widespread approval for use in South Africa. Ontario candidates must combine professional excellence (including

"good writing and communication skills") with community awareness (including "awareness of the social problems that give rise to cases" and an interest in alternative dispute resolution). Their personal characteristics must include politeness, moral courage, patience, punctuality, good health and an absence of pomposity and authoritarian tendencies.

Nadel plans a conference soon on the transformation of the judiciary and a new selection mechanism will be one of the key topics.

In Canada and Namibia, both countries with a new Bill of Rights, judges and other members of the profession stress the importance of training. Canadian and US judges meet regularly to talk about new decisions. Experts lead discussions on difficult issues like gender and racial sensitivity and the role of the bench.

But in South Africa many judges and members of the bar feel they will need

Continued overleaf

## Dikgang Ernest Moseneke

45, is a member of the Pretoria bar and deputy president of the Pan Africanist Congress. He spent 10 years on Robben Island and after his release was banned until 1978. He has a BA and B Lurs degree from Unisa, awarded while he was on Robben Island, and after his release completed a Unisa LLB. He has appeared in a number of political and human rights cases and was co-counsel in the Winnie Mandela kidnapping trial. Moseneke was founding secretary-general of the Black Lawyers Association.



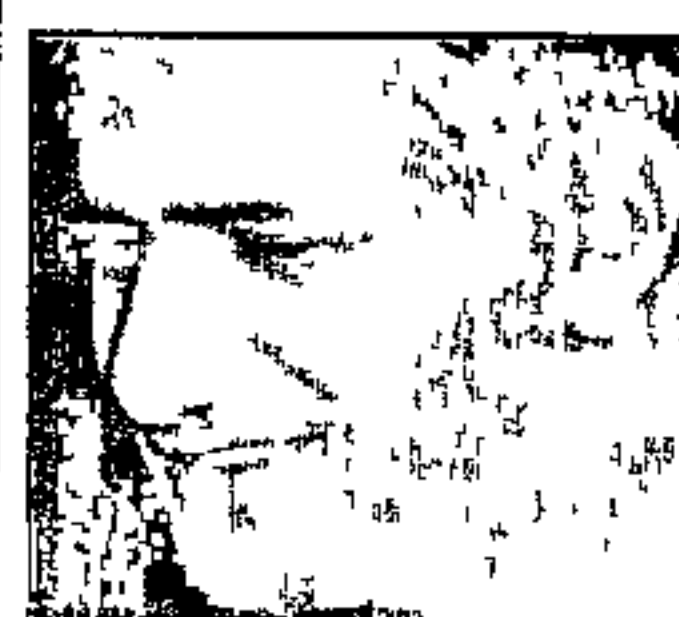
**Tony Mathews**, 62, is James Scott Wylie professor of law at Natal University Pietermaritzburg, and director of the Centre for Criminal Justice. His PhD thesis from Harvard became the basis for his first book *Law, Order and Liberty in South Africa*. Subsequent books reflect a life-long interest in international security and civil liberties. He is co-ordinating an international conference on "Policing in the new South Africa" next month. He was a member of the Liberal Party's national executive.

**June Sinclair**, 45, is deputy vice chancellor of Wits University and honorary professor at the Wits law school. She has taught at the Wits law school since 1970, becoming dean in 1986. Sinclair was an adviser to the Margo Commission on tax in 1985/6. She has been legal adviser to the Women's Legal Status Committee since its founding in 1975. She is currently preparing the sixth edition of Hahlo's *The South African Law of Husband and Wife* which involves a major revision of the work.



**Jeanette Traverso SC**, 46, is a member of the Cape Town Bar, where she is one of only three women and the first woman to take silk. She was admitted to the bar in 1975 and became a senior counsel in May 1991. She began her professional career with a brief stint as prosecutor at the Cape Town magistrate's court, and later joined the attorney general's staff spending nearly four years as a state advocate.

**Zach Yacoob SC**, 45, is a member of the Durban Bar. He was educated at the Arthur Blaxall School for the Blind in Natal. He graduated with a BA LLB from the University of Durban-Westville in 1972. In 1973 he was admitted to the bar and took silk in 1991. He has been active in welfare organisations such as the National Council for the Blind. He has also been politically active in the Natal Indian Congress and was a member of the United Democratic Front Natal executive. Yacoob was part of the legal team in the Delmas Treason Trial.





# They wait in the wings for tomorrow's bench

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●From PAGE 21

law professor John Hlope (strongly tipped despite his lack of trial experience) and law professors Albie Sachs and Kader Asmal from UWC.

Sachs and Asmal both have high ANC profiles and are members of the ANC constitutional committee. Sachs has previous bar experience; Asmal does not.

The name of University of Zululand law professor Charles Dlamini SC also came up. He has been given senior counsel status by the minister of justice although he has not

practised at the bar.

Another interesting suggestion for helping make the judiciary more representative is that of appointing "contract judges": experienced judges with sound reputations from other countries, invited to serve for a limited period until suitable candidates from a broader spectrum become available inside South Africa.

Among the names mentioned under this category was that of retired Zimbabwe chief justice Enoch Dumbutshena and India's former chief justice, PN Bhagwati.

# Time to open the old boys' club

w/m al 28/8 - 3/9/92

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●From PAGE 21

only limited training. They recognise the need for change extends to the legal system, and that a constitutionally enshrined Bill of Rights involves a difference of interpretation from the present system of parliamentary supremacy.

They acknowledge they may well need some initial guidance and assistance. Some are prepared to agree they would benefit from discussions with colleagues. However, few believe in the need for regular training sessions along the Canadian lines, with an emphasis on analysing new judgments and raising sensitivity to gender and race.

Legal academics differ. They say a different mind-set is needed, and that the

law schools have begun the turn around. It will take some time until these new ideas percolate into the profession through the current students. Until then they believe that judges and other lawyers would benefit from ongoing training. And even the LLB class of '92 should continue periodic in-service training after they graduate.

Some universities have arranged conferences for judges and senior members of the profession. This is likely to continue. So are conferences and training for other lawyers. Some universities overseas are offering training and practical experience for women and black lawyers from South Africa. This training will counter-act the lack of opportunity at home.

Perhaps the most surprising discovery

in discussions for this article, however, is the lack of systematic preparation by the legal profession for the great changes and challenges which lie ahead. Cape Town law professor Hugh Corder comments that discussion so far about the composition, structure and functioning of the judiciary under a new constitution, continues to be "at the level of pious pronouncement and wishful thinking". Some lawyers, judges and politicians claim there are more urgent tasks. Until political talks resume, no constitution can emerge, until there is a constitution, no one can prepare for the changes it will bring. However, the experience of other countries which changed to a constitution and Bill of Rights is that preparations cannot begin too early.



# A general speaks out ... and the rule of law suffers

W/ Mail 28/8/92 - 3/9/92  
The right to a fair trial was eroded  
this week by a senior policeman,  
argues **ANTHONY HEARD**

**F**OR years, the bounds of public comment on pending court cases once there is an arrest were clearly laid down. The language could be long-winded, the effect restricting, but the principle clear.

These bounds were set out in the house rules of any reputable newspaper. They are the bounds which are being invaded almost daily, as standards of public life crash down all around us in the troubled false dawn of President FW de Klerk's "new" South Africa.

Culprits even include senior police officers who should know better.

For the traditional guidelines on avoiding contempt of court, let us take, for example, the style book of the *Cape Times*, the country's oldest-established daily. Down the years, it stated: "No reference is permissible to pending or actual cases other than a fair and accurate report of the proceedings themselves. Crimes such as a murder can be reported but once a man has appeared in court nothing further must be published if the additional material is of a kind as to make it likely that it will be presented to the court as evidence."

It is arguable that those norms, scrupulously upheld in the 1950s and 1960s, may sound a trifle strict when applied to robust conditions as they exist in South Africa of the 1990s. But principles do not change, even if circumstances do. And these norms might prove to be desperately necessary in the future.

The principle behind the above restrictive language is of cardinal importance to the conduct of justice: all people have a right to a fair trial, and no one should get in the way of that fundamental right.

Yet the past week has produced yet another example in the litany of departures from the hallowed principle of respect for due process. It came from none other than eastern Cape police chief Major-General Koos Calitz. He showed that whatever skills he might have as an apprehender of criminals, they do not readily extend to an understanding of or respect for the ensuing task of the courts.

The circumstances are pretty well known. Andre de Villiers of Addo was giving informa-



tion to various quarters about official hit-squads. He himself was gunned down, and African National Congress quarters expressed the view that it could well have been a political killing — the sort of speculation that, before an arrest and due court process, is not out of place, even considering the rules above.

The police expressed the view that, no, it was clearly an ordinary murder.

Then came the arrests, including two alleged trained ANC guerrillas. And Calitz came driving a squadron of Casspirs through the contempt of court rule, in the opinion of this writer.

More specifically, he was quoted as saying: "It is now obvious to the SAP why the ANC held a press conference within hours of the murder of Mr De Villiers and maliciously created the perception it was a 'political' murder. The ANC must now explain to the broad community how it is possible that a so-called ANC informer, who had supplied such vital information, and evidently still had such vital information, *should be murdered by members of the ANC's military wing*" (my emphasis).

Out the window goes any respect for the work of the courts where the general's investigating police will have to present evidence. (And on Thursday Calitz was promoted to the rank of full general.)

There are a lot of raised eyebrows and suspicions about the course of events, the identity

and past and present roles of whoever might be appearing in the coming trial. But it's best left to the bench. Let the appropriate quarter find out what the facts are.

To suggest, in advance, that so and so carried out a murder is a gross affront to the bench — and it is hoped that someone who has feelings in this matter and is sufficiently highly placed to do something, will call the major-general to heel. But the malaise goes well beyond the pre-judgments of a major-general.

Too many bastions of good order are being invaded as South Africa heads, reeling from recession and drought and violence, towards its destiny of democracy or chaos.

Enough anti-democratic damage was done in four decades of Nationalist rule — specifically, the erosion of the authority of the courts — to make it vitally necessary now to re-state the great truths on which good government is based — and to seek the dedication of all who are about to share in the future to uphold them.

There is much talk these days about the danger of lowered standards in whatever "new" South Africa is around the corner. At the end of the day, it could be that the courts — respected and independent — will stand between the citizen and tyranny. Let's help them to emerge strong and well-suited to the task.

●Anthony Heard was editor of the *Cape Times*

# Probe into ANC camps

JOHANNESBURG — An independent commission of inquiry to investigate allegations of human rights abuses at ANC detention camps in Southern Africa began hearing evidence at a hotel in Sandton on Wednesday

CT 28/8/92

**DEATH ROW**

ONE person was sentenced to death for criminally related offences in Transkei. This brings to 300 the total number of people on death row, the HRC reported.

According to the organisation, eight people are on death row for politically related offences.

W/M cut 28/8 - 3/9/92



## Lawyers doing deals on clients' case fees

CT 28/8/92

Staff Reporter

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THE POOR are not the only ones feeling the recession's squeeze — now attorneys are taking on cases and only demanding payment if their clients win.

Mr Ian Murray, deputy director for professional affairs of the Law Society of the Cape of Good Hope, says attorneys are now "doing deals and are not charging their clients a cent up front

"Only when they win do they get their fee, together with a surcharge," he said.

Another way to ease the problem was to allow law graduates doing their articles to work for legal aid clinics and legal resource centres, said Mr Murray.

"This measure was adopted recently because of the recession. In the past it was not allowed," Mr Murray said. "In general we have noticed that there has been a drop off in conveyancing. The bond rate for homes is too high and there are simply few buyers"

# Ruling reserved in indemnity plea

STAR 28/8/92

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Pretoria Correspondent

Judgment has been reserved in the Pretoria Supreme Court application of a trained commander of the ANC's military wing, who is seeking an order compelling the State President to grant him unconditional indemnity for a "political murder" and three charges of attempted murder.

Jacob Rapholo, a schoolteacher of Uitkyk, Bochum, turned to court this week with an application calling on President de Klerk and Justice Minister Kobie Coetsee to show cause why the State President's refusal to grant him indemnity should not be reviewed or set aside.

Argument was led before Mr Justice van Dijkhorst, who reserved judgment in the matter.

Mr Rapholo wanted

unconditional indemnity for the murder of a police constable in August 1988, and for three charges of attempted murder on two other policemen and an SA Transport Services employee.

Mr Rapholo said he was arrested in January 1990 and detained under the Internal Security Act. He was charged with committing 17 offences, including the charges for which he was now seeking indemnity.

He was granted unconditional indemnity on 13 charges in July last year, but still faced trial on the remaining charges.

"I submit that even if the State could prove every allegation in the indictment against me, I am nevertheless entitled to unconditional indemnity in respect of the remaining four charges," he submitted.

(252)  
**Boipatong**

**tapes to be  
sent to UK**

The Boipatong tapes, confiscated recently by Mr Justice Richard Goldstone from a local electronic agency investigating them, will be sent to the United Kingdom for analysis by British government experts

They will furnish the commission with their findings in due course, Mr Justice Goldstone said yesterday

The tapes were initially being investigated by Grinaker Electronic Agencies *S. PAC 28/8/92*

However, the probe was stopped after it was discovered the company was a major South African Defence Force contractor and recipient of at least five non-repayable Government grants  
— Pretoria Bureau



# Goldstone asks SAP man to visit flashpoint

DURBAN — The Goldstone Commission of Inquiry has asked senior SAP officer Lieutenant-Colonel H M Hellinga to travel immediately to northern Natal to report on the situation there following renewed killings, particularly in Empangeni's Esikhawini township

The request follows attacks in Esikhawini on Wednesday in which eight people were killed and one person seriously injured

Unrest monitors report the death toll in Esikhawini this month alone has topped 31

KwaZulu Police spokesman Colonel Moses Khanyile said Esikhawini was "quiet but tense" yesterday

● The ANC has expressed concern at threats of an Inkatha attack at the weekend funeral of two activist members killed two weeks ago in Sokhulu near Richards Bay

A Northern Natal policeman, Warrant Officer Jacobus Steyn, was released on R1 000 bail last Saturday in connection with the deaths

● The official police unrest report for the 24-hour period to midnight on Thursday said one man had died of gunshot wounds at Murchison.

In a gun attack on a minibus in Springs, one man was injured

Two men had been found with head wounds between the Driehoek and Geldenhuys stations near Germiston

A policeman was injured by stone-throwers at Phola Park squatter camp

● Transkeian military ruler Major-General Bantu Holomisa said yesterday security would be tightened in Umtata in the wake of riots this week that killed one man and closed down businesses

ET 29/8/92

# Keep on white side of the law

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CIP news 30/8/97  
By SOPHIE TEMA

## Or suffer court bias, say residents



**OUT-OF-COURT SETTLEMENT? . . .** Protesters challenging the impartiality of the Kroonstad judiciary are bundled into a cop van.

PROTESTERS were arrested when more than 1 000 residents took to the streets in Maokeng to challenge the impartiality of the courts this week.

Residents called on Justice Minister Kobie Coetsee to set up a special commission to deal with the Kroonstad Magistrate's Court.

The demonstrators were challenging the impartiality of the courts in dealing with criminal cases involving the notorious Three Million Gang and the police.

They also complained that there was discrimination against blacks in the "white courts".

Protesters were held for almost seven hours before being released.

In a memorandum handed to the chief magistrate, residents complained that members of the Three Million gang were allowed out without bail for serious cases

while ANC members were forced to pay exorbitant bail bonds.

"We doubt the impartiality of the courts in Kroonstad when dealing with cases in which members of the Three Million gang are involved.

"We therefore demand the immediate withdrawal of all charges brought against people who were victims of the gang and were charged for defending themselves," said the memorandum.

The march follows a Three Million Gang attack on 19-year-old schoolboy Nkosana Isaac Mavaleliso, who was stabbed more than 30 times and left for dead.

Mavaleliso said he was attacked by about 16 members of the gang in a Maokeng street while three policemen looked on.

Criticising the police the protesters' memorandum said: "Several people have been targeted by the SAP in the violence that has wrecked the black township.

"Charges against the police have not been brought to the courts although numerous members of the community have laid charges of assault and malicious damage to property."

# ANC to offer services to Goldstone team

THE ANC would offer its services to the Goldstone commission's new investigative team, ANC spokesman Carl Niehaus said yesterday.

How it could become involved is one of the issues expected to be discussed at the ANC national executive committee meeting beginning today. Niehaus said the ANC had not been approached about the plan but would get more details from the commission this week.

Newspapers reported yesterday that the investigative team of policemen and lawyers, to be picked by Goldstone, could help break the two-month deadlock in negotiations by meeting the ANC's demands on

R/DAY 31/8/92  
DIANNA GAMES

violence

KATHRYN STRACHAN reports that Justice Department spokesman Nic Grobler said nothing had been set up yet, but his department would do everything necessary to assist the commission

Although several policemen had been identified for the task, Law and Order spokesman Craig Kotze said details would be released later

The ANC's three-day meeting is also expected to discuss last week's meetings between ANC secretary-general Cyril Ra-

maphosa and Constitutional Development Minister Roelf Meyer

Niehaus said the international community, by sending UN monitors, was helping create the climate in which talks could resume. How the ANC could assist would be discussed at the meeting.

Niehaus rejected a weekend report which quoted diplomatic sources saying the ANC was coming under increasing international pressure to resolve the negotiations stand-off.

An ANC statement at the weekend said the question was not negotiations for their own sake, "but negotiations that will meaningfully address the crisis facing SA."



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Vol. 326

PRETORIA, 31 AUGUSTUS  
AUGUST 1992

No. 14262

## GOEWERMENTSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. 2512 31 Augustus 1992

KENNISGEWING VAN DIE STAATSPRESIDENT  
VAN DIE REPUBLIEK VAN SUID-AFRIKA

KENNISGEWING VAN TYDELIKE VRYSTELLING  
KRAGTENS DIE WET OP VRYWARING, 1990 (WET  
No 35 VAN 1990)

Nademaal ek van oordeel is dat dit nodig is vir die bevordering van vreedsame konstitusionele oplossings in Suid-Afrika, verleen ek hierby kragtens die bevoegdheid my verleen by artikel 1 (1) van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), onvoorwaardelik vrystelling soos vermeld in artikel 1 (2) van voormelde Wet, aan die persone in die Bylae vermeld, gedurende die tydperk vanaf 1 September 1992 tot en met 30 September 1992

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Pretoria, op hede die Een-en-dertigste dag van Augustus Eenduisend Nege-honderd Twee-en-negentig

**F. W. DE KLERK,**  
Staatspresident

Op las van die Staatspresident-in-Kabinet.

**H. J. COETSEE,**  
Minister van die Kabinet

## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. 2512 **252** 31 August 1992

NOTICE BY THE STATE PRESIDENT OF THE  
REPUBLIC OF SOUTH AFRICA

NOTICE OF TEMPORARY IMMUNITY UNDER THE  
INDEMNITY ACT, 1990 (ACT No 35 OF 1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the powers vested in me by section 1 (1) of the Indemnity Act, 1990 (Act No 35 of 1990), unconditionally grant to the persons specified in the Schedule, immunity referred to in section 1 (2) of the aforementioned Act for the period from 1 September 1992 up to and including 30 September 1992

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Thirty-first day of August, One thousand Nine hundred and Ninety-two

**F. W. DE KLERK,**  
State President.

By Order of the State President-in-Cabinet

**H. J. COETSEE,**  
Minister of the Cabinet.

**BYLAE • SCHEDULE**

ANDREWS, Graham Douglas  
 DIDISHE, Ernest Mboneli  
 FARO, Christopher Sitsoto  
 HLONGWANE, Pule Edward  
 MABUZA, Ruben.  
 MALAZA, Jackie Mthandi  
 MNISI, Nkosiyabo  
 MOTSEPE, Joseph.  
 MZIMELI, Siphoh  
 SEAGODIMO, Thomas Mabowa.

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<i>Goewermentskennisgewing</i>			<i>Government Notice</i>		
2512	Wet op Vrywaring (35/1990)	Kennisgewing van tydelike vrystelling	2512	Indemnity Act (35/1990)	Notice of temporary immunity
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**NEWS** If granted bail, they would not flee Parents concerned that he might strike again



Winner of the 1992 Miss Orlando Prates Soweto Region, Ntseleng Makhosi, is flanked by her princesses, Thandi Radebe (right) and Busi Nkosi. The show was held at Club 7071 Escape Club in Johannesburg. PIC: FANI MAHUNTSI

# Hostel men deny

## part in killings

Accused in Boipatong massacre to ask for bail:

By Abbey Makoe

THE 71 Kwamadala inmates arrested in connection with the Boipatong massacre will plead not guilty when their case resumes on September 14

This emerged last Friday when their lawyer, Mr AS Burger, told the magistrate, Mr A Reiders, that the inmates would also apply for bail

He said most of the accused, particularly those who were employed at the time of their arrest, had already lost much income

Burger told the court that he would also request that bail for the employed accused be set at R1 000 each and R500 for the unemployed.

He read a statement made by one of the accused, Barnard Zulu.

Zulu's statement represented all the other accused, Burger said

Burger said Zulu was married and was looking after his children.

If granted bail, Zulu and the other 70 would abide by bail conditions and would not flee to Natal, where most of the accused came from before coming to live at the Kwamadala Hostel

Burger also said he could provide the court with the Natal home addresses of the accused, so that it would be easy to locate them in the event of failure to appear in court

Reiders rejected Zulu's statement because it was not stamped and signed by the commissioner of oaths

*Journalist* 31/8/92

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# Goldstone task force wins ANC backing

7/4 252

ARG 31/8/92

The Argus Correspondent

JOHANNESBURG. — The African National Congress pledged its full support to the new Goldstone Commission strike force but said it would monitor the activities of police officers seconded to the unit.

The ANC has reservations about the lack of independence of the task force and the fact that the police officers, although directly responsible to the commission, will remain SAP members, said spokesman Mr Carl Niehaus.

The task force announced by Mr Justice Richard Goldstone on Saturday will include police officers and lawyers, who will

investigate political violence and intimidation

Members of other State departments and the commission will be called in when necessary. United Nations observers will monitor the task force.

The move has been hailed by the Ministry of Justice, the ANC, Democratic Party and Inkatha Freedom Party as the initiative that could finally control violence and clear the way for the resumption of the negotiation process.

Minister of Justice Mr Kobie Coetsee said the measure was among the most important steps introduced to counter violence

He said the government would be ready today to start

choosing task force members

Mr Niehaus said the force, which is to be deployed in the next few days, was "not as independent as we would like, but we hope the international monitors will be able to inspect the behaviour of the police officers and keep them in check".

The ANC was prepared to adopt a "wait and see" attitude on the inclusion of the police officers, "but we will keep an eye on them as well," he said.

"We are still discussing the ANC's involvement — if any — in this investigation force, and still have to clarify the logistics"

Mr Niehaus said the ANC would try to make the task

force's job as easy as possible and members would be instructed to support investigations. "The ANC pledges its full support here. It would be silly not to."

Democratic Party spokesman on law and order Mr Peter Gastrow said the party was prepared to accept that policemen appointed to the task force would be people of integrity, with a standing and recognition in the community

"There is also the positive factor that they are directly answerable to the commission and not to the SAP as far as the investigations for the commission are concerned," he said.

# Goldstone to investigate Alex taxi wars

By Helen Grange  
Pretoria Bureau

The Goldstone Commission is to hold an inquiry into the taxi wars in Alexandra at the end of this month, following a request from the township's peace committee.

Taxi feuds have claimed dozens of lives in Alexandra and townships on the East Rand in recent months.

Goldstone Commission vice-chairman Neil Rossouw, SC, who has been investigating violence in the western Cape taxi industry, is to chair the Alexandra taxi wars inquiry on September 30 at 2 pm.

The inquiry will focus on establishing the nature and causes of the violence and intimidation, whether it aims at the achievement of any political goal, what persons are involved

and what steps should be taken to curb or prevent it.

The Southern African Black Taxi Association (Sabta) said it welcomed the inquiry, as the organisation itself was "too close to the situation to find solutions to problems".

Sabta spokesman Mike Ntlatleng said the problem areas also included the northern Transvaal, eastern Transvaal and East Rand.

"The taxi violence in Alexandra is very complex, not only because of fighting over ranking facilities, but because of political tensions.

"Taxis seen going in and out of hostels, for instance, become targets," Mr Ntlatleng said.

Anyone who has information which could help the inquiry is requested to furnish it in writing to the Secretary of the Commission, Private Bag X858, Pretoria 0001.

The information should arrive before September 25

# Cell death: family calls in Gluckman

STAR 1/9/92

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Staff Reporters

Pathologist Dr Jonathan Gluckman has been appointed to perform an independent post-mortem on the 20-year-old man who died in a police cell in Witbank last week.

Police announced yesterday the State post-mortem on Kekeletso Samuel Matenjwa, who died within 12 hours of being arrested on suspicion of stock theft and housebreaking, had been completed.

Dr Gluckman said he was waiting for the documents pertaining to Mr Matenjwa's death so he could perform the post-mortem on behalf of Mr Matenjwa's family.

The results of the State post-mortem would only be made public at a judicial inquiry, which could take some months, a police spokesman said.

At the time Mr Matenjwa died, police would not release any details about his death except to say he was found in his cell at the Witbank police sta-



Dr Jonathan Gluckman ... to perform post-mortem.

tion at 3 am last Sunday, and the matter was being investigated.

Dr Gluckman caused a storm on July 26 with allegations that the police were murdering people in their custody.

Since then, 12 people have died in custody. According to police figures, 178 people have died in police detention since January 1 last year.

Human Rights Commission figures show 85 people have died in custody this year.

Pretoria police yesterday announced the name of the dom-

estic worker who had been arrested for stealing batteries worth R6 from a shop, and died 10 hours later in the Wierda Bridge police station on Sunday.

Police said Johanna Patricia Rammutshwana (27) tore her blanket into strips and hanged herself from a bar in her cell.

Democratic Party southern Transvaal chairman Peter Soal yesterday called on President de Klerk to take decisive steps to bring to a quick end deaths in custody.

Addressing the Union of Jewish Women, Mr Soal said the death of people in police custody was "a scandal which requires urgent attention".

He said Law and Order Minister Hernus Kriel had left "a lingering doubt about his intentions" when it came to ending custody deaths, and Mr de Klerk now had to "move quickly in order to reassure the public they (the Government) are serious about the matter".

Lawyers for Human Rights organiser Paula McBride said the organisation was "appalled" that deaths were continuing.



STAR 1/19/92

# '3 danced after killing of cellmate'

(252)   
By Susan Smuts

Three prisoners ate and danced after beating a cellmate to death, the Rand Supreme Court heard yesterday

Rashid Meyers told Mr. Justice J.C. Labuschagne that Samuel Smith (21), Lincoln Davis (28) and Delphian Dutini (21) had hit, kicked and trampled Moegamat Elver van Doorsen on May 6, last year. The attackers also assaulted him with a padlock and a plank, he said.

The men have pleaded not guilty to murder.

Meyers said Dutini stabbed with a sharpened spoon during the incident. He said he (Meyers) broke a window to attract the attention of the warden of the Johannesburg prison, where the men were being held.

He threw an iron at the attackers, but was afraid to defend himself as he thought they might kill him if he hurt them. He added that Smith warned the inmates not to call the wardens unless they wanted to die.

The court heard earlier that the attack had taken place in the late afternoon but Van Doorsen's body had been discovered only the next morning.

Dutini's lawyer, J. Galt, told the court her client would say Van Doorsen had wanted to rape some of the cellmates.

The trial continues.

## Goldstone to meet ANC, PAC armies

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RAY HARTLEY

THE Goldstone commission would meet Umkhonto we Sizwe and the PAC's military wing Apla soon to discuss how they could contribute to the peace process, a commission source said yesterday

The talks follow an ANC offer at the weekend to help the commission, but the source said it was highly unlikely the two guerrilla forces would be co-opted onto the envisaged special investigative unit

The source said Judge Richard Goldstone was likely to release details of the composition and structure of the unit by the end of the week **8/04/92**

It is believed the unit will be headed by a senior police official and be directly accountable to the judge **11/9/92**

Earlier Goldstone had suggested an investigation into the role Umkhonto and Apla could play "in reducing the level of political violence and intimidation"

Centre for Applied Legal Studies lawyer Fink Haysom, an advocate of the need for an independent investigative team, said the unit would probably be made up of policemen who had proved their investigative abilities

"The generals who have been appointed to head such teams up to now have appeared to be pretty ineffective. One hopes they won't simply appoint a tired general"

ANC spokesman Carl Niehaus said his organisation would not try to dictate the composition of the unit because it had to be independent of all parties

# Chaos as prisoner assaulted, trial told

By Susan Smuts

One of three prisoners accused of beating a cellmate to death told the Rand Supreme Court yesterday he wanted to use the court as a platform to voice his grievances on prison life.

Delphian Dutini told Mr Justice J C Labuschagne he had not been worried about his trial because the State witnesses would corroborate his account of life in jail.

Samuel Smith (21), Lincoln Davis (28) and Dutini (21) have pleaded not guilty to murdering Moegamat Elver van Doorsen on May 6 last

year in the Johannesburg prison.

Smith told the court he had been asked to intervene in a fight between a group of prisoners in the cell. He'd asked: "Gents, what's going on?"

Van Doorsen suddenly leapt up brandishing a padlock — a signal among the prisoners for a fight. Smith said he grabbed Van Doorsen around the waist and they struggled. Van Doorsen grabbed his private parts and he punched Van Doorsen in the face. Davis and Dutini were assaulting another prisoner, Rashid Meyers, who then called him for help.

"Pandemonium reigned and prisoners in adjoining cells shouted encouragement."

Smith claimed he rattled the windows to attract the attention of the warders. He bought dagga and shared it among the prisoners to calm them down.

He denied hitting Van Doorsen "except once in self-defence" and denied drinking his blood. He said he and Davis were unarmed but that Dutini carried a padlock.

Dutini claimed he had not taken part in the assault on Van Doorsen as he was "fighting with Meyer".

The trial continues.



# Govt could draft Bill on women's rights

By Peter Fabricius  
Political Correspondent

ventions on women's  
rights

**BLOEMFONTEIN —**  
The Government is considering drafting an omnibus Bill to abolish remaining discrimination against women

Justice Minister Kobie Coetsee, Free State NP leader, announced this yesterday when he opened the annual NP congress of the Free State

It is understood that the Bill might be ready for the short session of Parliament in October

Mr Coetsee pointed out that President de Klerk had said last month that the Government was ready to sign four important UN con-

These conventions bound signatories to:

- Remove all discrimination against women
- Equalise the process of acquiring nationality
- Give equal political rights to women
- Protect women against certain marital situations

Mr Coetsee said signing the conventions would bind the Government not only to eradicate remaining discrimination but also to take positive steps to enable women to take a full place alongside men. His department had drawn up a list of remaining statutory discrimination against women

**M**AJOR disinformation about political violence in SA is being spread worldwide by international organisations and at least one SA monitoring agency. If this intensifying propaganda war continues unchallenged, the beleaguered peace process in the country will suffer further setbacks.

Amnesty International, the International Commission of Jurists (ICJ) and the SA-based Human Rights Commission (HRC) have recently published reports blaming the Inkatha Freedom Party (IFP), the security forces and the SA government for instigating the current political violence.

It is, of course, beyond doubt that the security forces, the IFP and the government are partly to blame. But in seeking to blame them almost exclusively Amnesty, the ICJ and the HRC distort relevant findings of the Goldstone commission and other judicial proceedings and/or ignore information which suggests other parties also have a hand in the conflict.

For example, in commenting on the Bruntriville incident in Natal in December 1991 (in which about 19 ANC supporters were killed by IFP supporters), Amnesty and the ICJ quote selectively from the Goldstone commission findings.

They reproduce Judge Richard Goldstone's criticisms of the police, but ignore key statements exonerating the police from responsibility for the Bruntriville violence.

Both Amnesty and the ICJ also distort the issue of lethal weapons. They make much of Goldstone's strictures against the carrying of sticks and spears. They ignore the acknowledgement by his commission that fear of attack may underline the carrying of these weapons.

The implication of their reports, moreover, is that "traditional" weapons are the only ones at issue. These organisations thus ignore the continued existence of Umkhonto we Sizwe

# Agencies' biased reports on violence increase tension

B/DPM 2/9/92

ANTHEA JEFFERY

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and the hidden arms caches retained by the ANC. They also ignore evidence that it is not "traditional" weapons which are used primarily in violence, but rather guns and petrol bombs.

Thus in 1991, for example, the SA Institute of Race Relations (SAIRR) found that firearms were used in 36% of incidents — the trend through the year showing a sharp increase in the use of guns. Petrol bombs and other explosives devices were used in 22% of incidents. Sharp pointed weapons were used in 14% of incidents, their use showing a steady decline throughout the year.

Amnesty also reports labour issues in Bophuthatwana from the viewpoint of one side only. The organisation accuses the management of a platinum mine of "clamping down on worker activists to undermine the new-found solidarity among the workforce".

It makes no attempt to canvass management's claim that "ANC marshalls" had taken virtual control of the mine and were committing numerous common law crimes (including murder, arson and assault) in their attempts to increase recruitment to the National Union of Mineworkers.

The HRC, in a recent special report on massacres (incidents in which 10 or more people died) puts the blame primarily on the IFP (69%) and the police (8%). The report is, however, riddled with omissions and inaccuracies.

Thus, the HRC records one Richmond, Natal, massacre in which ANC supporters were killed, but entirely ignores another (noted by the ICJ) in which 29 IFP supporters were killed by ANC comrades, using guns unearthed from a secret arms cache.

The HRC also emphasises the frequency with which allegations have been levelled against the IFP and the security forces. Frequency of repetition is, however, no proof of veracity and may indeed be part of propaganda. John Vorster and P W Botha repeatedly claimed that resistance to apartheid rule stemmed mainly from a "communist conspiracy". The frequency of repetition of this allegation did not prove its truth, but it did help to establish this view among many white people.

In a report on violence in April, the HRC blamed 86% of deaths on "vigilante-related action". It defines vigilante-related action as attacks by, or in defence against, surrogate forces of the state in the form of vigilante "private armies" established by black local authorities and homeland administrations.

This definition is so wide that it enables attacks both by and against the IFP to be labelled as vigilante-related action. Thus the death of 23 IFP supporters at the Crossroads

squatter camp on the East Rand in April is attributed to vigilante-related action — and the blame is laid at the door of the state — even though the attack is alleged to have been made by Xhosa-speaking men from an ANC-supporting area.

The HRC also labels as "vigilante-related action" incidents in which the available evidence does not support this categorisation. For example, when the "body of a man is found with head wounds", this is labelled as vigilante-related action. There is, however, no evidence of the man's identity, the identity of his attackers, or the circumstances of his death. There could be many other possible explanations for his death, including robbery.

It is on the basis of this inordinate-wide definition, coupled with a clear disregard of the absence of supporting evidence, that the HRC is able to attribute almost all deaths in April to surrogate forces of the state and effectively to exonerate the ANC.

The HRC does not mince its words in denouncing the IFP and the security forces. In its report on massacres it concludes by stating that there is a "design and purpose (behind the killings) which places them alongside the gas chambers of Nazi Germany in sheer cold-blooded cynicism and brutality". It thus convicts the IFP and the security forces of genocide.

It does so on the basis of unproved allegation, unsubstantiated deduction, deliberate omission, uncertain legal evidence and, in some instances, clear error.

This kind of one-sided assessment — amounting to disinformation — is dangerous. It raises the ire of those falsely accused. It rouses a sense of righteous indignation, albeit without adequate reason, among those exonerated from blame. It sets the scene for heightened confrontation.

Jeffery is a special research consultant to the SAIRR. This article is excerpted from a 60-page report presented yesterday to EC foreign ministers on a peace mission to SA

SPOT DESK



NEWS 20 more killed in Bruntville while Goldstone Commission investigating

# Police could have

# stopped violence

BRUNTVILLE'S AFRICAN National Congress branch wanted peace in the township but was disappointed with attempts by various parties, in

cluding the local peace committee and the Goldstone Commission, at bringing this about.

This view was conveyed yesterday to a sitting of a Goldstone Commission committee investigating violence in the Mooi River township.

The Bruntville ANC political education officer, Mr Mncedisi Mthethwa, said the ANC hoped the involvement of a skilled neutral mediator would resolve the conflict in Bruntville.

In a submission to the committee, Mthethwa said any initiative to resolve the political conflict in the Natal Midlands township would have to address issues such as the arrest of perpetrators of violence; neutral and effective policing; the re-employment of dismissed workers at a local textile factory; an end to the carrying of dangerous weapons in

public; and, problems relating to hostel dwellers residing in Bruntville.

Mthethwa's submission comes on the second day of a reconvened sitting of the Goldstone Commission investigating ongoing violence in Bruntville since 18 people were massacred in the township in December last year.

Since then at least another 20 have been killed in Bruntville.

Mthethwa said it was not the policy of the ANC to attack Inkatha members or policemen. He said the conflict had "brutalised the residents of Bruntville... there has been social disruption".

The ANC believed the police could have decisively ended the conflict at its beginning had they wanted to. "Instead the police have failed to arrest the perpetrators of the violence."

suggestions for peace were ignored:

"In spite of Bruntville being a small township and the areas of conflict limited, the police have failed to protect residents and their possessions."

Mthethwa further charged that police had refused to implement suggestions made to them for security in the township and many ANC members harboured a deep suspicion that elements within the SAP were directly involved in the Bruntville conflict.

"The SAP are unashamedly biased against the ANC, blaming the organisation as (being) responsible for the violence without having any evidence to back this."

Mthethwa said weapons displayed openly by Inkatha supporters in Mooi River intimidated Bruntville residents and provoked anger from them. - Sapa.

DEEP DISTRUST ANC branch says

Savelvan 3/9/92

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# Goldstone weighs up police for unit

By Helen Grange  
Pretoria Bureau

Mr Justice Richard Goldstone is busy consulting with "various parties" over the policemen to be co-opted on to his commission's special investigation unit, which will be set up by next week to probe the causes of violence

He is understood to be holding bilateral discussions with the SA Police over the issue, as well as consultations with independent parties to establish the credibility of proposed members of the high-powered team

The process, according to sources, will probably take a few more days, as Mr Justice Goldstone is intent on making the right choices. It is therefore expected that members selected will somehow have proved their political integrity as policemen.

The team will be assisted by attorneys and advocates, and its investigations will be monitored by international observers of the United Nations

The Goldstone Commission's witness protection programme

STAR 3/9/92  
252  
announced recently to prompt witnesses with information on political crimes to come forward — is to be assisted by the National Institute for Crime Prevention and Rehabilitation of Offenders (Nicro)

Nicro will be able to provide social workers, in suitable cases, to act as security officers ensuring the general welfare of the protected person and to act as a liaison between the person and the commission

The social workers could also assist the person to maintain contact with family members, and help him or her find employment after the protection period is over

Educational and reading material could also be provided by Nicro during the protection period — making the time less oppressive and frustrating.

The Goldstone Commission's witness protection programme provides protection of witnesses' identities from the police, if necessary, and protection can be extended beyond the standard three-month period if Judge Goldstone finds it necessary

**Execution call** (252)

CT 319/92

**BLOEMFONTEIN** —  
The government wanted capital punishment reinstated as a "living penalty" as soon as possible, the Deputy Minister of Justice, Mr Danie Schutte, said yesterday

Executions had been put on hold because the government was negotiating a new constitution that would include a bill of fundamental human rights, he said — Sapa

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OPINION

9 SEP 1992

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THURSDAY SEPTEMBER 3 1992

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# Staal Burger gets interdict over bugging of office

By Michael Sparks



Former Civil Co-operation Bureau member Staal Burger has been granted an interim interdict against The Weekly Mail newspaper, after he found four men in the office next door to his recording his conversations

The men, private investigators hired by The Weekly Mail, had drilled a hole through his office's skirting board and inserted a micro-

phone, which was attached to a tape recorder

Mr Burger noticed the microphone, summoned a policeman, and together they burst in on the men in room 16 of the Breakers Hotel in Berea, Johannesburg. Two of the men were found in the bathroom with recording equipment

Yesterday the Rand Supreme Court granted a temporary interdict preventing The Weekly Mail from pub-

lishing any information it gained by bugging Mr Burger's office

In papers presented to the court Mr Burger, who once headed CCB operations in Johannesburg, said that on entering hotel room No 16 — adjoining his office — with a policeman, two men hired by The Weekly Mail were found in the bedroom

body from the inside was preventing me from opening the door. I then proceeded to shoulder open the door and found two further adult males in the bathroom

"After opening the bathroom door I noticed that one of the adult males had a tape recording device and certain wires concealed under his jacket," the affidavit stated

with their lawyers present, "Harber openly admitted that it was he who instructed the private investigator to have me placed under surveillance and to intercept and record all discussions which took place in my office"

Mr Burger added "Instead of showing any remorse, Harber was arrogant and unrepentant for his unlawful activities"

Mr Justice C Plewman said "We are not dealing with what they may publish, but with what they may do to obtain their information"

The judge granted the interdict until September 22, when it will be heard

Giving his reasons for bringing the application, Mr Burger — whose name featured prominently when the existence of the CCB was first revealed — said he believed that his reputation would otherwise have suffered "irreparable harm"



Staal Burger my reputation is at stake



**Nicro to help  
shield witnesses**

*er 3/9/72*  
*(24) (25)*  
**PRETORIA.** — The National Institute for Crime Prevention and Rehabilitation of Offenders had agreed to assist the Goldstone Commission with its witness protection programme.

Nicro will help ensure the general welfare of protected persons, and assist in making the periods of protection less oppressive. — Sapa

Massacre: 7  
in court (252)

SEVEN hostel dwellers pleaded not guilty in the Rand Supreme Court yesterday to 28 counts of murder following the massacre at Swanieville squatter camp in May last year

Mr Vumisani Majola (37), Mr Sizwe Majola (21), Mr Mphiwa Khanyile (51), Mr Bak-ers Dlamini (32), Mr Mzanywa Sithole (44), Mr Moffat Mdlalose (41) and Mr Pheyi Mlango (54) also pleaded not guilty to charges of public violence and illegal possession of a machinegun, firearms and ammunition.

Charges against an eighth accused, Mr Begabantu Jali (23) were withdrawn. The State alleges the men were part of a group of attackers who murdered and robbed people, plundered and razed homes on May 12 last year. Some 28 people were killed.

Two die



3/9/92  
30 w eter



# Tough times ahead in education

BLOEMFONTEIN — National Education Minister Piet Marais yesterday warned that parents would have to pay even more in the future for their children's education

He said the share of the Budget for education could not be increased above its present 21% level and at the same time the expenditure gap between races would have to be closed

He noted that the annual expenditure for each white pupil was R4 500, while the figure for some black departments was as low as R1 000

He was responding to delegates' misgivings over the hike in education costs caused by the introduction of Model C schools

He said various schemes were in the pipeline to relieve the pressure on parents but warned times ahead would be difficult

He said one of the plans being taken to Cabinet was to set up a fund with money

BILLY PADDOCK

voted from the Budget against which donors to educational institutions could claim relief

There had been a request that donors be given a tax break, Marais said

This could not be done but donors could claim from the fund, which would pay out a sum equivalent to the tax break, he said

Special incentives to get donations for primary schools would have to be considered in the plan because these schools were in a precarious financial position

He could not give details of the size of the fund nor discuss how the plan would be administered because it was still being discussed by the Cabinet

More attention would also have to be given to providing more money to technicians, he said

## Govt wants death sentence, says Minister

BLOEMFONTEIN — Government wanted capital punishment reinstated as a "living penalty" as soon as possible, Deputy Justice Minister Dame Schutte said yesterday

Government believed there were crimes so reprehensible that death was the only suitable punishment. The vast majority of South Africans were in favour of the death penalty in certain circumstances, he said

Executions had been put on hold because the government was busy negotiating a

new constitution that would include a bill of fundamental human rights

The death penalty was one of the issues that would be dealt with in that document. It would therefore be unsuitable to resume executions while negotiations continued

"We agree that the death sentence should be reintroduced as a living penalty as soon as possible, but the way in which it is done is of cardinal importance", he said

— Sapa

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**atic research**

RSEAS expert, Jim Mullin,  
en called by the ANC to facili-  
the development of a national re-  
arch policy for a democratic SA  
Mullin, former chairman of the  
OECD's Committee on Science and  
Technology Policy, had already ar-  
rived in SA to assist in the project, the  
ANC said.

15/10/92  
3/19/92  
B147

**Fugitive stays in jail**

FUGITIVE South African Katiza Ce-  
bekhulu, a co-accused in the Winnie  
Mandela kidnap and assault trial, is  
still languishing in Lusaka's central  
prison despite being served with a de-  
portation order.  
The Zambian authorities are consid-  
ering whether to release him or deport  
him to SA, where he is sought by police

15/10/92  
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**Nicro to assist witnesses**

THE National Institute for Crime Pre-  
vention and Rehabilitation of Offend-  
ers (Nicro) had agreed to assist the  
Goldstone commission with its witness  
protection programme, Judge Richard  
Goldstone said yesterday  
He said Nicro social workers would  
be appointed as security officers, in  
suitable cases, to ensure the general  
welfare of a protected person.

REPORTS Political Staff Sapa

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M... ..



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— Sapa *BIDAM 319192*

Bold initiative to help victims and get more prosecutions

# Rape Crisis: A-G steps in

ARG 3/9/92 (252)

Frank Kahn



**ROGER FRIEDMAN**  
Staff Reporter

A far-reaching initiative aimed at dealing with the burgeoning problem of rape and improving the level and image of the State's service to rape victims was announced today by acting Attorney-General Mr Frank Kahn.

He said he hoped that steps being taken by his office would encourage victims to report rapes, resulting in the prosecution of more offenders.

Mr Kahn said the initiative was a direct result of two issues reported in The Argus this year which brought into serious question the process of justice regarding rape victims.

One dealt with a magistrate's finding that a rape victim was unlikely to be psychologically affected by her experience and the other with a district surgeon ignoring two subpoenas to give evidence in the trial of a youth charged with raping an eight-year-old girl.

In terms of the new initiative, police have appointed a rape specialist in each criminal investigation service unit.

The specialists attended a seminar convened by Mr Kahn's staff where they were addressed by experts including senior policemen, a psychologist, a doctor, a nurse and a sexual harassment research officer.

Mr Khan intends co-opting representatives of the police, medical authorities and private organisations on to a co-ordinating committee.

## Swift action

He said this would enable flaws in the system to be dealt with swiftly and effectively on an internal basis without eroding confidence in the system, thereby discouraging victims from laying charges.

Mr Kahn called for

- Private enterprise sponsorship for a crisis intervention programme for rape victims

- Pro-Deo psychological counsel for needy rape victims to give evidence in court where necessary. These counsel could be taken from the ranks of private practitioners as was the case with advocates

- The appointment of more women police, prosecutors and judicial officers

- The feasibility of setting up specialised rape courts to be examined

- State or privately financed rehabilitation centres for rape victims

- Blood tests for all offenders, mainly to check for Aids

- Increased co-operation between the State and non-government rape counselling organisations

Although he urged the State to commit more finance to dealing with the problem, Mr Kahn said he was aware the State did not have the resources to go it alone.

"As rape affects 54 percent of the population, the private sector has a duty and a responsibility to contribute to any programme aimed at combating rape."

He said it was "an indictment of our priorities" that so little funding was available to assist victims of rape.

● See page 15



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ALG

3/9/92.

having contracted Aids

**Solution:** Parliament should enact legislation allowing blood samples to be taken from all rape accused. The victim has the right to know immediately. The mental anguish of uncertainty on this score is a punishment nobody deserves.

**Concern:** Victims do not always obtain prompt medical attention.

**Solution:** District surgeons have promised their co-operation in speeding up the process. Provincial hospitals are also being approached in this regard.

**Concern:** Experienced prosecutors in the lower courts.

**Solution:** Guidelines for handling rape cases are being issued to all prosecutors. The Attorney General's office is considering the feasibility of instituting specialised rape courts.

**Concern:** Problematical identity parades where victims usually have to touch the alleged offenders.

**Solution:** One-way glass and video cameras are being brought into use, but these have yet to be tested in court. Finance for implementing these measures is a problem.

**Concern:** Lack of pre-trial consultations which should take

sary

**Solution:** Experienced rape prosecutors have been identified. The police have assisted in this regard by identifying rape experts of their own.

**Concern:** Insufficient female prosecutors.

**Solution:** Female prosecutors will be encouraged to specialise in handling rape cases. The AG recognises females are in a better position to empathise with rape victims than males.

**Concern:** Time lapse between offence and trial. Socio-economic changes and the recession have placed an enormous burden on the system of justice.

**Solution:** Attempts are being made to streamline the process.

**Concern:** A lack of psychological evidence being led. Prosecutors require sufficient psychological evidence to get effective deterrent sentences.

**Solution:** Much stronger emphasis on the victim rather than the offender. The State should create bodies focusing on victim rehabilitation. Due to the lack of manpower, the AG is negotiating with universities and psychologists in private practice. Pro-Deo psychologists in needy cases are envisaged.

## Bruntville IFP to stop carrying weapons

MOOI RIVER — Inkatha supporters from Bruntville will stop carrying dangerous weapons in public from next week, a local IFP leader told a committee of the Goldstone Commission yesterday. *STAR 4/9/92*

Bruntville IFP secretary Alex Sokhela told the committee that his party had taken the decision to lay down arms after an undertaking to the commission by the ANC on Wednesday that it would not attack Inkatha members in the

township

But he said the IFP would blame the commission's committee "should an IFP member be killed in attacks by the ANC in future".

Mr Sokhela's remarks came amid reports of the stabbing of ANC member Charlie Shabalala in Mooi River yesterday. Mr Shabalala is reported to be badly injured.

Witnesses told reporters that a group of men armed with spears had stabbed a man outside a bottle store.

Police have not yet confirmed the incident.

Local ANC leaders welcomed the IFP's decision on arms, but added that yesterday's stabbing made the undertaking hollow. *(18)*

The carrying of weapons has come under severe criticism from the ANC and Mr Justice Richard Goldstone, who made recommendations that the issue be addressed urgently. *(18)*

The hearing continues  
— Sapa *(252)*

# Violence monitors

## defend reports

By Jo-Anne Collinge

The Human Rights Commission (HRC) has defended its monitoring of political violence, stating it is "unashamedly anti-apartheid" but meticulous in measuring the human rights record of the Government against the Universal Declaration of Human Rights.

The HRC statement was a response to a report published by the SA Institute of Race Relations, in which author Anthea Jeffery accused the HRC, Amnesty International and the International Commission of Jurists of spreading disinformation regarding political violence.

The SAIRR report argued that these three organisations used one-sided and untested information to emphasise the culpability of the Inkatha Freedom Party and the Government while ignoring other perpetrators of violence, particularly the ANC.

"We have no need to manufacture or distort any facts, as apartheid's record speaks most eloquently for itself," the HRC said.

### Criticised

The organisation stated that it had no intention of refuting point-by-point the SAIRR's accusations "since this would only lead to yet another 56-page report of doubtful purpose".

But it noted that the SAIRR had based its conclusions on only two HRC publications.

The SAIRR criticised the HRC for collapsing attacks by IFP supporters and by ANC supporters into a single category, "vigilante-related action". This boosted the apparent level of "vigilante-related" violence, said the SAIRR.

The HRC responded that its definitions appeared in full in each publication and said the crucial factor in "vigilante-related violence" was that, whether ANC or IFP members perpetrated individual attacks, these were part of a chain of conflict arising from a "vigilante-initiated situation".

The HRC denied that its publications added to conflict. "We believe that full exposure of the root causes of political violence is the only way to bring it to an end."



# Bar reprimands advocate who slapped journalist

Staff Reporter

(252)

STAR 4/19/92

A former Natal judge now practising as an advocate in Johannesburg, Anton Mostert, SC, has been officially reprimanded by the Johannesburg Bar Council for slapping Star reporter Philip Zoio in the Johannesburg Magistrate's Court in April.

Mr Mostert was found guilty of professional miscon-

duct during a meeting of the Bar Council's professional subcommittee last month.

The subcommittee's chairman, W H Trengove, SC, said: "On his own account of the incident, his conduct was unbecoming of an advocate."

"The incident was sufficiently closely related to his practice as an advocate for his conduct to constitute professional misconduct," Mr Trengove said.

# 'If taxi-war dead were white, Govt would act'

STAR 4/9/92

252

CAPE TOWN — The authorities would have taken effective action if 66 whites had been killed in violence during the course of a single year, Cape Town City Council consultant Helen Zille told a Goldstone Commission hearing yesterday.

Speaking during cross-examination by G D Griessel, SC, for the police, she said the authorities would have "created an entitlement" to act lawfully to stop such conflict if whites had been involved.

Ms Zille, a planning and development consultant, was commissioned by the city council to research the township taxi war.

She has presented a report on her research to the Goldstone committee, which is chaired by Cape Attorney-General D J Rossouw, SC.

Ms Zille said proposals by the Cape Town Peace Committee that taxi permits be revoked, vehicle owners be required to reregister, and ranks be temporarily closed were considered "a legitimate form of pressure in a time of crisis" although neither the council nor the Local Road Transportation Board had the power to implement such

measures. "Because of the killing and violence and the community's despair at the ongoing conflict, the committee believed such intervention by the authorities was justified. This was seen as one of the options to exert genuine pressure on the organisations to end the violence."

However, she personally opposed these measures because she was "concerned about unilateral action". The proposals were never implemented.

Ms Zille said there had been repeated requests to the authorities to look through all available legislation to see what effective measures could be applied to end the violence.

Asked whether emergency powers were considered, she said "This presented a difficult situation. Many of us have worked our whole lives opposing emergency powers because we have seen them abused for political ends."

Earlier, she told the committee a major cause of the conflict was the perception that one taxi organisation was being favoured above another in the allocation of permits — Sapa.

**KENNISGEWING 794 VAN 1992****DEPARTEMENT VAN JUSTISIE**

BEKENDMAKING VAN NAME VAN PERSONE WAT DIE INLIGTING BEDOEL IN PARAGRAAF (b) VAN GOEWERMENTSKENNISGEWING No. 3013 VAN 18 DESEMBER 1990 VERSTREK HET

Die Direkteur-generaal, Justisie maak hierby vir algemene inligting in die Bylae bekend, die name van persone wat die inligting bedoel in paragraaf (b) van Goewermentskennisgewing No. 3013 van 18 Desember 1990 volledig verstrek het, vir sover sodanige inligting betrekking het op die verlening van vrywaring ooreenkomstig genoemde Goewermentskennisgewing, ten opsigte van 'die verlatting van die Unie of Republiek sonder 'n geldige paspoort of permit of sonder magtiging by 'n ander plek as 'n toegangspoort, soos bedoel in paragraaf (a) daarvan, deur sodanige persone.

**NOTICE 794 OF 1992****DEPARTMENT OF JUSTICE**

ANNOUNCEMENT OF NAMES OF PERSONS WHO FURNISHED THE INFORMATION REFERRED TO IN PARAGRAPH (b) OF GOVERNMENT NOTICE No 3013 OF 18 DECEMBER 1990

The Director-General: Justice hereby makes known for general information in the Schedule, the names of persons who furnished in full the information referred to in paragraph (b) of Government Notice No 3013 of 18 December 1990, in so far as such information relates to the granting of indemnity in accordance with the said Government Notice, in respect of the departure from the Union or Republic without a valid passport or a permit or without authority at a place other than a port, as referred to in paragraph (a) thereof, by such persons.

**BYLAE • SCHEDULE**

Van Surname	Volle voorname Full christian names	Geboortedatum Date of birth
Bhengi.....	Delane .....	1973-11-19
Cengani.....	James Mbuyiselo .....	1931-12-05
Goobose .....	Mfanasekhaya.....	1917-08-07
Gwatla .....	Johannes Peter .....	1969-07-07
Jaca .....	Siyabonga Wiseman .....	1973-06-02
Jwaro .....	Thulani .....	1965-12-21
Koloti .....	Edwin Khuduga .....	1960-10-02
Mabitle .....	James .....	1971-12-26
Majola .....	Thembelihle .....	1968-03-20
Maloka .....	Suzan .....	1971-01-17
Masina .....	Phineas M .....	1944-10-17
Mazibuko.....	Abraham .....	1973-02-06
Mbatha.....	Thokozani .....	1972-07-01
Mbutho.....	Eugene.....	1972-05-08
Mcumalo .....	Thema .....	1970-11-20
Mhlophe .....	Vusi .....	1974-05-10
Mkhwanazi .....	S'Fiso Thulasizwe .....	1974-04-09
Mkinthe .....	Hope .....	1966-12-20
Mngadi .....	Aubrey.....	1972-06-25
Mogoere.....	Reuben Mojalefa.....	1958-02-23
Mohali .....	Banny.....	1973-06-09
Msimango .....	Michael Seni.....	1959-02-28
Mulaudzi .....	Maanda .....	1958-10-27
Nbcobo .....	Emmanuel .....	1971-04-04
Ndokweni .....	S'Fiso .....	1972-02-10
Nkoano .....	Maria .....	1932-01-28
Sityebi .....	Janet Nonkululeko .....	1966-09-09
Sorgthi .....	Johannes .....	1973-06-24
Tsiu .....	Tebogo .....	1967-02-15



# Goldstone's

## Trust Feed supercop a strong contender

STAN  
SA/192  
HELEN GRANGE

MAJOR Frank Dutton, the "supercop" whose startling revelations in the Trust Feed massacre catapulted him into the public eye as a policeman of integrity, has been singled out for appointment to the Goldstone Commission's special investigative teams probing violence.

Investigations by the Saturday Star this week revealed that Dutton is likely to play a key role on the commission's squad of "untouchables"

and that consultations are taking place over the possibility of other members of his Ham-marsdale unit — also instrumental in the Trust Feed probe — being brought on board

What made the 42-year-old Dutton an obvious target for the no-holds-barred detective work required by Mr Justice Goldstone to uncover the causes of ongoing bloodshed was the result of his Trust Feed massacre probe.

### Credibility

The fact that the mild-mannered policeman courageously — in the face of death threats — forged ahead with an inquiry which led to the conviction of five of his colleagues put him firmly into the newfound domain of "good cop"

Lawyers for Human Rights director Brian Currin believes Dutton will be a "very wise appointment — he is the one person who has been proved to have unqualified credibility".

Human Rights Commission national director Safoora Sadek concurs. "He has clearly shown an inclination to get to the bottom of events and not be influenced by interested parties

"However, we believe that the success of the teams does not lie with the presence of an individual but would depend largely on the powers of investigation and independence granted to the entire team," she adds.

### 'Bad apples'

Mr Justice Goldstone is currently involved in consultations to establish the form and political credibility of the policemen offered by the SAP to his envisaged five investigative units

The process is expected to take some time, as it is understood the judge is determined to avoid the possibility of "bad apples" slipping through the screening.

Dutton feels indebted to his unit for their help in the Trust Feed case, and some of his men are likely to join him in the Goldstone Commission team

A strong contender is retired warrant officer Wilson Magadla, who worked with Dutton and was described as the "brains" behind the major. Magadla has had experience in other major investigations, including one which led to the conviction for murder of top Inkatha man Samuel Jamile.

Each unit is to include an international expert with partly legal, partly administrative, experience

# 'untouchables'

## Boost for Bruntville peace bid

(252) (288)  
**PETER WELLMAN**

MOOIRIVER — Goldstone, peace committee chairman, Professor Dirk van Zyl Smit, ended a four-day hearing in Mooiriver yesterday with hopes of peace in troubled Bruntville township.

After a racked first day on Tuesday, in which a belligerent Inkatha-ANC stand-off prevented the committee sitting, he was able to praise both sides for pledging peace. *STAN*

### **Spears** *5/9/92*

The ANC's Mncedisi Mthethwa had promised no violence or attacks against the Inkatha Freedom Party, and the IFP had in turn promised to lay down its spears from Monday.

Van Zyl Smit said the committee had proposed the following measures to ensure peace prevailed in the area.

- Find a suitable person to act as a monitor to whom incidents could be reported
- The regional dispute resolution committee hold meetings to explain its functions to all sectors of the community.
- A professional outside mediator be brought in

United front to work on improving treatment of victims seeking justice

# New line-up on rape

252  
MAR 5 1992

■ No more mud-slinging, apportioning blame or working at cross purposes — private service organisations including Rape Crisis, Nicro and Famsa — have agreed to serve on a co-ordinating committee side by side with police and medical authorities in an attempt to stamp out some of the horror of reporting rape.

**ROGER FRIEDMAN**  
Weekend Argus Reporter

GOVERNMENT officials and private service organisations are to work together on a co-ordinating committee to investigate rape survivors' complaints about the justice system — and act to rectify them.

The landmark agreement was reached at a meeting convened by acting Cape Attorney-General Mr Frank Kahn in the city this week. The meeting followed an announcement by Mr Kahn of a far-reaching initiative to improve the treatment of rape victims at the hands of the justice system.

The committee, chaired by Mrs Sandra Swart, a senior prosecutor in the Attorney-General's office, will include representatives from Lawyers for Human Rights, NICRO, Rape Crisis, Wildfire, Famsa, the Institute of Criminology (UCT), the Centre for Adult and Continuing Education (UWC) and the Heideveld Advice Office Woman's Support Group, as well as police and medical representatives.

The director of the Institute for Criminology, Ms Desiree Hansson, commended Mr Khan's initiative.

"A wide range of problems in the current system were discussed at the meeting with Mr Khan, from factors preventing the reporting of rape, to the lack of adequate support services for rape survivors," Ms Hansson said.

"Representatives were both relieved and impressed by the concern expressed by the Attorney-General's office regarding the poor treatment of rape survivors in our legal system."

One of the key concerns of the meeting was the threatened closure of Rape Crisis due to inadequate funding.

"The meeting unanimously agreed that the loss of Rape Crisis would severely handicap current efforts to improve services to rape survivors in the Western Cape," Ms Hansson said.

"Rape Crisis is the most experienced organisation in the field offering the essential services of free counselling and practical advice for rape survivors."

■ The executive director of the Community Chest, Mr Robert Blake, has criticised Rape Crisis for resorting to "a degree of sensationalism" in reporting its apparent cash "crisis".

"Although they are doing very important work, we are concerned they are being very dramatic and not very businesslike," Mr Blake said.

They failed to report the funding they had received from the chest, made possible through the generosity of the people of Cape Town, dwelling instead on the withdrawal of foreign funding.

The Community Chest contacted Rape Crisis immediately after hearing that overseas funding had been withdrawn.

"We told them, 'If you've got a crisis we've got emergency funds, come to us,' but they never did."

"They did however acknowledge in open forum at the Community Chest AGM last week that were it not for the chest, their organisation would close."

Rape Crisis and the Battered Women's Shelter will receive over R68 000 from the Community Chest this year, a figure based on their grant application at the beginning of the year.

Rape Crisis yesterday requested a meeting with the Community Chest's allocation committee to "clearly present our financial difficulties and to discuss whether the chest will be able to provide emergency assistance", a spokeswoman said.



# Amnesty row fuels rift

S/Times 6/9/92

252

By EDYTH BULBRING  
Political Correspondent

FAILURE to reach agreement on a general amnesty has emerged as the key stumbling block to the resumption of constitutional talks between the ANC and the government

The ANC announced this week its national executive committee had found the government's response to its 14 demands inadequate

Constitutional talks would remain suspended and mass action, especially in the homelands, would be intensified in the next few weeks

The ANC is still dissatisfied with the government's response to two of its 14 demands — measures to end violence and the release of political prisoners

The organisation is insisting on visible action on these two areas before resuming negotiations and says it will not be satisfied with promises of intent

However, the ANC was satisfied that the government had moved sufficiently in meeting its demand for a sovereign, democratically-elected constituent assembly

Constitutional Development Min-

ister Roelf Meyer said this week the release of political prisoners was the key issue that could not be resolved in his talks with ANC secretary-general Cyril Ramaphosa in the past three weeks

The ANC says there is a group of more than 400 prisoners who qualify for political release in terms of its prior agreement with the government

## Problem

The government disputes this, saying the crimes committed by the group — including murder of civilians — fall outside the agreed definition of a political offence

In an attempt to resolve the problem, the government had offered to grant amnesty to the disputed prisoners in the interests of reconciliation, said Mr Meyer.

However, the principle of a gener-

al amnesty would apply to people across the political spectrum who had committed offences with political motives

It would apply to people in jail, outside and inside the country, and would also cover government officials

"Because we couldn't get agreement on amnesty, we couldn't get agreement on political prisoners," said Mr Meyer

He added the government did not rule out a phased approach, with the prisoners being released first and an amnesty being granted later under an interim government.

The ANC is adamant the question of a general amnesty should only be discussed by an interim government, and says it cannot be linked to the release of its political prisoners, who should be freed immediately

ANC legal adviser Mathews Phosa yesterday said a commitment by the organisation to an amnesty now would be tantamount to giving those involved in violence a licence to kill which was unacceptable

## Nats hear of need for Bill of Rights

THE Law Commission believed the greatest challenge was not the writing of a Bill of Rights, but the creation of a culture of tolerance, democracy and human rights, Judge Pierre Olivier said on Thursday. *CP 1989 6/9/92*

He told the Free State congress of the National Party that the Law Commission, of which he is vice chairman, believed a Bill of Rights was a necessity in the new SA. *(252)*

STAR 7/19/92

# Sergeant's killer sent to Death Row

By Susan Smuts

252

An illiterate man who "cold-bloodedly and brutally" murdered a policeman was sentenced to death in the Rand Supreme Court on Friday.

Snoboyi Mhlango Hlongwane (42) was also sentenced to an effective three years for illegal possession of arms and ammunition. His accomplice, Moses Tshabalala (34), was jailed for 12 years for his part in the murder of Sergeant Daniel Johannes van Niekerk on July 29 last year.

Mr. Justice J. Els said the "senseless and unnecessary" killing of a defenceless man was "so brutal and evil" that death was the only appropriate sentence.

Sergeant van Niekerk and Sergeant Estelle Enslin had searched the boot of the stolen car the murderers were driving. Hlongwane fired at Sergeant van Niekerk and then shot him in the back.

"Sergeant van Niekerk, a policeman investigating a robbery, was murdered in cold blood," the judge said.



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### ANC gets some new deadlines

PATRICK BULGER

THE ANC has launched its own newspaper in the eastern Transvaal.

The Congress is edited in Nelspruit by ANC official Jackson Mthembu, who said it was not only a mouthpiece for the ANC, Cosatu and the SACP alliance, "but for those communities who are without water, those communities who have no vote, those communities who are under a constant threat from gangsters, the SAP and the SADF".

However, the newspaper also contains a mock voting form, featuring the ANC, AWB, Azapo and other parties as contenders.

It notes "As we are continuously breaking and rolling the skull of apartheid, let us build our branches into strong electoral constituencies. Our recruitment drive is not only aimed at increasing membership but canvassing more votes for victory."

## HRC's Coleman says business must act 'to save its economy'

UNCONTROLLABLE violence and economic decline were pushing the government extremely close to conceding to majority rule, newly elected Human Rights Commission national chairman Max Coleman said last week

"They will only take the decision to agree to elections when the pain of holding on exceeds the pain of letting go," he said

Coleman said in an interview he believed business could play a vital role in ending the violence by putting pressure on government to accept majority rule

"The business community probably hold the key to the whole thing. It's their economy that is going down the drain"

He said government's planned conference of parties favouring federalism was a strategy designed to retain regional powers because they would not win a democratic election

A behind-the-scenes battle between the political and security arms

of government was inhibiting the state's ability to end violence, he said. He accused the security establishment and Inkatha of a campaign to destabilise the ANC and its allies to weaken their bargaining power at the negotiating table

Meanwhile, in a statement yesterday, the HRC defended itself against recent attacks on its impartiality by the SA Institute of Race Relations

As a human rights body, its brief had always been to disseminate information about the observance or violation of human rights by the "apartheid state"

"We agree then that our perspective is one of bias against apartheid," it said

"But it would be ludicrous to suggest the HRC has a need to invent or distort the human rights record of the apartheid state when the record is already so prolific in its detail"

RAY HARTLEY

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Trouble SA

# ANC to meet Kahn in rape-victim campaign

252  
**ROGER FRIEDMAN**

Staff Reporter **ARG** 7/19/92

THE ANC Women's League and the Cape Attorney-General are set to meet for the first time in a show of support for the rape initiative announced last week

Several non-governmental organisations met the Attorney-General, Mr Frank Kahn, last week and agreed to set up a co-ordinating committee with police and medical authorities. It will deal with problems rape victims face in the judicial system.

A Women's League spokeswoman said she had spoken to Mr Kahn and was confident the meeting would go ahead after

she had consulted colleagues

"Most women are very reluctant to compound the trauma of the rape experience by encounters with unsympathetic police and legal structures," the spokeswoman said

"It is clear that women have little or no confidence in the sympathy, willingness or ability of the police or legal system to deal with such assaults. We therefore welcome the efforts initiated by Mr Frank Kahn to address the question of rape and its victims."

Conservative Party spokesman Mr Hennie van der Walt lent his party's support to the initiative, saying it would "support any programme aimed at improving the level of service

to rape victims"

However, he questioned Mr Kahn's protestations that the State could not afford the facilities required to deal effectively with rape victims

"If the government would just take one percent of money lost to State department corruption, they could finance a rape victims' shelter, run it, and still show a healthy profit," he said

The Democratic Party and a sexual harassment research officer at the University of Cape Town also said the government should pay for the care of rape victims

Ms Carla Sutherland, the research officer, called for "one-

way mirrors instead of Caspurs," referring to the practice of requiring a rape victim to touch her attacker at identity parades

Ms Dene Smuts, DP spokeswoman on women's rights, said she had held talks with city councillors about providing shelters for battered women and services for rape victims.

"The Democratic Party believes third-tier government can play a vital role in providing these shelters," said Ms Smuts

She backed Mr Kahn's initiative, particularly the idea of separate rape courts, which she said was "thought-provoking, commendable and very innovative"

# I took pictures in prison - photographer

By David Katz

A senior Weekly Mail photographer appearing in the Randburg Magistrate's Court yesterday changed his plea and pleaded guilty to taking photographs in a prison without permission

Kevin Carter appeared with Weekly Mail trainee reporter Graham Harvey and former SA Prisoners' Organisation for Human Rights general-secretary Robert Lombard

All three were charged under the Prisons Act with unlawfully entering a prison, talking to and photographing a

prisoner without permission, taking pictures within a prison without permission and trespassing at the Leeuwkop prison near Johannesburg

The accused initially pleaded not guilty to all charges, but the lawyer for the accused, David Dyson, told the court that Carter had changed his plea on taking photographs within a prison to guilty. Magistrate SP Bezuidenhout accepted the changed plea and dismissed the same charge against Harvey and Mr Lombard.

The State also withdrew a

charge of taking pictures of a prisoner without permission

Commanding officer of Leeuwkop prison Brigadier John Harding told the court that on July 23 the three accused were found parked next to the logistics centre of the prison without the necessary authorisation

Mr Dyson argued that the accused had been granted permission to enter the prison by the guard at the east gate

Carter told the court that he had gone to the prison with Harvey and Mr Lombard to investigate allegations that

prisoners were making weapons in the prison workshop that were then transported to Witwatersrand hostels

His assignment had been to take pictures of the workshop and to photograph a shooting range at the prison allegedly used by uniformed AWB members, he said

The Weekly Mail had faxed a request to the Department of Correctional Services headquarters requesting it to conduct a spot check of the premises, Carter said

The trial was held over until tomorrow



# Auditor-general is made autonomous

B/DAY 8/9/92

259  
THEO RAWANA

THE office of the auditor-general would become an autonomous entity under the authority of Parliament from next year and not form part of the public service, Deputy Finance Minister Theo Alant said yesterday.

Addressing the 7th annual convention of the Association of Black Accountants of Southern Africa (Abasa), Alant said the restructuring would be carried out to ensure the accountability of state departments and that public funds were not misappropriated.

Speaking on the theme The State and the Financial Custodianship — the Right of the People to Know, Alant said the auditor-general was the elected representative's "umbilical cord" in terms of his moral and statutory accountability and keeping the public abreast of developments.

Government had a statutory and moral duty to govern in such a way that social

justice values prevailed, Alant said. "To ensure accountability, a myriad of checks and balances have been enshrined in the various levels of government

"This might appear sometimes to lead to the so-called 'red tape' syndrome, but this is at times an unfortunate but necessary evil to ensure, as far as is humanly possible, that public funds are not misappropriated," he added.

"If you take into account that the auditor-general is responsible for auditing 32 central government departments (including the three own affairs administrations), four provincial authorities, 780 local authorities, 22 agricultural control boards, 37 RSCs, six self-governing states and approximately 140 other statutory institutions, funds, accounts and museums, the enormous responsibility resting on the auditor-general becomes evident," the Deputy Minister said.

## Kyalami to pre-burn parking lot

KYALAMI race organisers would pre-burn grass and would station fire engines in the track's car park to prevent a recurrence of the weekend fire which damaged or destroyed 42 cars.

Motor Racing Enterprises CEO Dave McGregor

ADRIAN HADLAND

"We had cut and raked the grass before the race and it's hard to believe a fire could have started from what was left," he said.

Police spokesman Capt

in four minutes. Midrand Town Council spokesman Matthew Temple said the town's fire services had received a call at 1 19pm on Sunday and had arrived at the car park by 1 24pm. He added some delay had been experienced

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# Two new Cape judges appointed (252)

AT 9/9/92

Supreme Court Reporter  
**PROFESSOR Laurie Ackermann**, professor of Human Rights Law at the University of Stellenbosch, is one of two new judges appointed to the Cape Supreme Court

The other is Mr Acting-Judge Fritz Brand, who takes up his permanent appointment next Tuesday

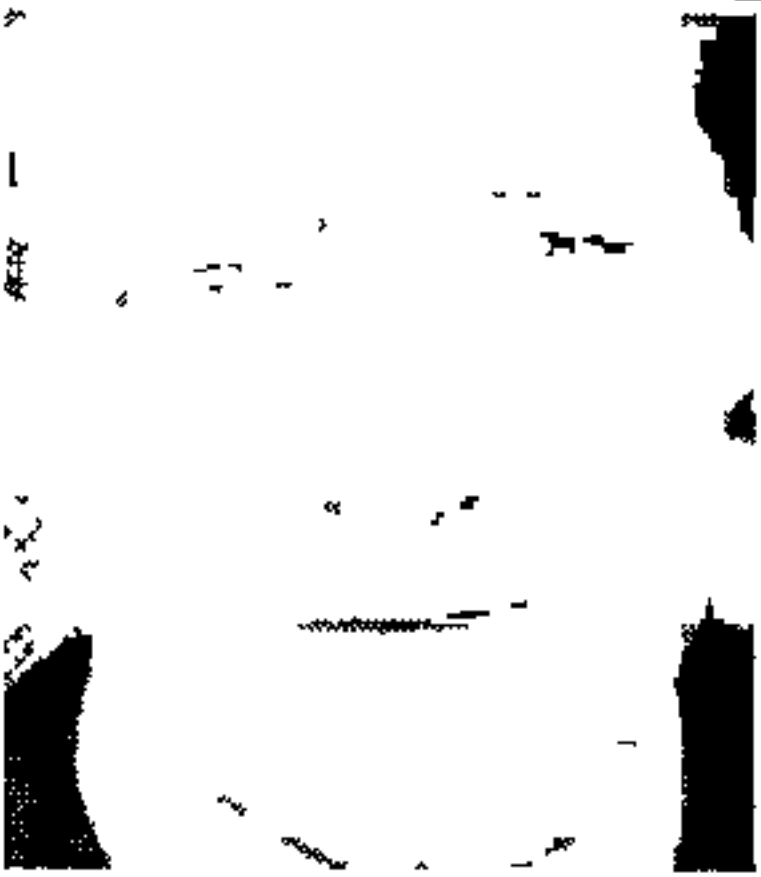
Prof Ackermann will take up his appointment on January 1 next year, the Minister of Justice Mr Kobie Coetsee announced yesterday

Prof Ackermann was born in Pretoria in 1934 He gained a BA degree cum laude in 1953 and completed his LLB degree in 1957

He joined the Pretoria Bar and took silk



**NEW JUDGE**  
Laurie Ackermann



**ACTING-JUDGE**  
Leon Kuschke



**PERMANENT**  
Fritz Brand

He is married with three children

Mr Acting-Judge Brand finished his BA LLB in 1972 Between 1973 and 1976 he was a senior lecturer in commercial law at the University of Stellenbosch and in 1976 he obtained his LLM degree cum laude and was admitted to the Cape Bar

He was appointed acting judge last year

Meanwhile, Mr Leon Kuschke, SC, has been

appointed acting judge until the end of the Supreme Court term on September 25 while Mr Justice Harold Berman recovers from cardiac surgery

He joined the Cape Bar in 1980

He is married with two children

in 1975 He was appointed to the Transvaal Provincial Division of the Supreme Court in 1980

In 1987 he became the first incumbent of the Harry Oppenheimer Chair in Human Rights Law at the University of Stellenbosch

# Richardson's death sentence commuted

BLOEMFONTEIN <sup>B/DAM 9/9/92 1</sup> The Appeal Court in Bloemfontein has substituted life imprisonment for the death sentence imposed on former Mandela Football Club coach Jerry Vusi Musi Richardson for the murder of teenager James "Stompie" Seipei.

The court dismissed his appeal against his convictions on various other charges.

Richardson, who had automatic leave to appeal against his conviction and death sentence for the murder, was granted leave by the Appeal Court to appeal against his convictions on four counts of kidnapping and five counts of assault with intent to do grievous bodily harm.

He did not seek leave to appeal against his conviction for the attempted murder of Andrew Lerotodi Ikaneng, a former member of the soccer club.

The complainants on three of the kidnapping and assault charges had, with Seipei, been accommodated in a Methodist Church mission house in Orlando, Soweto, in December 1988.

At the time Richardson lived in an outside room at Winnie Mandela's house in Diepkloof Extension.

On December 29 1988 Richardson and others drove to the mission house and abducted Seipei and the others. Seipei was last seen alive on the evening of January 1 1989.

His body was found on January 6 1989 in open veld about 6 km from the Mandela house. He had been stabbed to death.

Richardson was convicted by Acting Judge B O'Donovan in the Witwatersrand

Supreme Court on May 6 1990. <sup>(252)</sup>

Yesterday Judge Hefer said that, subject to one qualification, the trial court's list of aggravating factors could not be faulted.

However, the judge did not agree that the case was entirely without any mitigating features. That Seipei was considered to be an informer who had betrayed his comrades, was the motive for the murder.

It might be accepted as a mitigating factor that Richardson did not kill Seipei to serve his personal interests.

What was of greater significance was the reasonable possibility that Richardson acted, if not on the express orders, then at least under the influence of Mandela.

The evidence as a whole did not exclude the reasonable possibility that Richardson acted under the influence of Mandela, whom Richardson idolised, and rather tended to confirm this.

The judge said that when only the aggravating features were taken into account, the death sentence would plainly be a proper one. But, allowing also for the mitigating factors, he felt Richardson should be imprisoned for life.

□ Meanwhile, imprisonment of 25 years has been substituted by the Appeal Court in Bloemfontein for the death sentences two UDF supporters received for the murders of two men accused of being Azapo members.

Gamlakhe Elliot Ngwegwe and Lindemna Lawrence Dada, contract workers who came from Uitenhage, were convicted by Judge DM Williamson in the Cape Supreme Court on March 11 1991 — Sapa.



# New judge wants to further justice

ARG 9/9/92 (252)

**LIBBY PEACOCK**  
**Supreme Court Reporter**

**PROFESSOR** Laurie Ackermann, who resigned from the Bench five years ago to inaugurate a chair of human rights at Stellenbosch University, says he can contribute best to the cause of justice by returning to the Bench

The Minister of Justice announced yesterday that Professor Ackermann, 58, had been appointed a permanent Judge of the Cape Supreme Court from January

Professor Ackermann, son of Dr and Mrs LW Ackermann, was born in Pretoria and matriculated at Pretoria Boys' High School in 1950.

He gained his BA (law) degree *cum laude* in 1953 and was awarded the Cape Rhodes scholarship to Oxford the next year, returning to Stellenbosch to complete his LLB in 1957

In 1958 Professor Ackermann joined the Pretoria Bar. He took silk in 1975 and after

serving as Acting Judge on several occasions was appointed to the Transvaal Division of the Supreme Court in 1980

He resigned in 1987 to become the first incumbent of the Harry Oppenheimer Chair in Human Rights Law

Professor Ackermann was appointed a Judge of the Lesotho Appeal Court in 1988 and Acting Judge of Appeal of the Namibia Supreme Court in 1991

He and his wife Denise have three children.

Last night Professor Ackermann declined to grant an interview, but said in a statement he resigned from the Supreme Court to inaugurate the human rights chair and devote his time to the advancement of human rights

"During this period unanticipated and significant political events have brought South Africa to the eve of a constitutional transformation

"The Stellenbosch chair is, I

believe, well-established and I feel that I can from now on best contribute to the cause of justice by returning to the Bench"

● It was also announced yesterday that Mr Acting Justice Fritz Daniël Jacobus Brand had been appointed a permanent Judge of the Cape Supreme Court from September 15

Mr Justice Brand, 43, was born in Paarl and matriculated in 1967 at Vredenburg High School

He gained his BA LLB degree at Stellenbosch in 1972 and, after two years of research at the University of Leyden, gained his LLM degree

He started practice at the Cape Bar in 1977 and took silk in 1989

He has been a member of the Cape Bar Council for 10 years and was appointed an Acting Judge in 1990

He and his wife Elaine have two children

**STOCKHOLM** - Nordic women are in the front lines in the war against the welfare state and their own hard-won rights will suffer in a male-dominated structure.

In Denmark, Finland, Norway and Sweden, women are far more sceptical than men about closer integration in the European Community.

They see it as threatening their high level of employment and sexual equality.

"Women fear a welfare backlash if we go into Europe," said Tore Bredal, associate director of Norway's MMI research institute.

"Rightly or wrongly, they think we would have to adjust to the community's (lower) standards of social rights."

Sweden and Finland have already applied to join Denmark and the other 11 members of the EC. Norway is expected to do so in November.

Sweden, Finland and Norway are members of the European Free Trade Association which signed a treaty with the EC in May to merge from next January into the world's biggest single

# Nordic women in fight for survival

Sweden 11/6/92.

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Marta Ulvskog, a Swedish Social Democrat who opposes her party's and the present government's policy to join the EC, said. "Women are more active because we have more to lose."

Newspapers in Denmark, which joined the EC in 1973, estimate that as many as 60 percent of eligible women voted "no" in the June 2 referendum to ratify the Maastricht Treaty.

The overall result was 50.7 percent against

The treaty on political and monetary union would forge a common foreign policy, introduce a single currency and strengthen central EC institutions at the expense of those in individual countries.

A poll conducted by the Stockholm afternoon newspaper *Expressen* after the Danish vote showed that 16 710 of its readers opposed European union, with only 5 408 in favour.

The newspaper did not break down the poll results by sex, but said it found more opposition to European union

**In Norway, women do stand for the softer, inner-oriented values of social rather than macho capitalism.**

among Swedish women than men

"Exactly as in Denmark, it is particularly women, both young and old, who are sceptical about European union," the paper said.

"In part they suspect the European continent and Britain are less advanced on (women's) equality

Women were also worried about the distant prospect of Sweden joining a nuclear-armed European power,

*Expressen* said.

In Finland, Hilikka Pietila, a leader of Finland's non-party Alternative to EC/EU, said she believed women made up a majority of the growing number of

Firms who were doubtful about the EC and European Union

"We are against the EC/EU as we see it as patriarchal and undemocratic

"It would take away rights that Nordic women have won in past decades

"Like the nearly 70 percent of seats women have in the Finnish parliament, and give them to a male-dominated hierarchy," she said

In Norway, the percentage of women opposed to the European Community has increased over the past 20 years, Bredal of the MMI said

As in Sweden, women in Norway occupy two out of three public sector jobs and fear they would be the first to go if the male-dominated bureaucracy in Brussels took over

Martin Saeter, a researcher at the Norwegian Institute of International Affairs, said the international economic climate, not the EC, threatened jobs

But the anti-EC lobby was deliberately playing on women's insecurity over this

Bredal said "There are myths and

realities in all this. In Norway the debate is highly emotional. But women do stand for the softer, inner-oriented values of society rather than macho capitalism."

Scandinavian women combine family life and paid employment, relying on a smooth-functioning public sector to look after children, the elderly and sick while they go out to work

In Sweden, 90 percent of women of child-bearing age go out to work, but the birth statistics of 2.15 children a woman are the fourth highest in Europe after Cyprus, Iceland and Ireland

Paid maternity leave of 15 months a child, which can be divided between the parents, and widespread child-care facilities are reinforced by generous entitlement to time off for sickness of child or parent

"The unique thing about Sweden is that so many women keep a foot in the labour market even though they are away from it so much," statistician Britta Hoem told the daily *Dagens Nyheter*

Until last week, Finland and Sweden had seen Denmark as a positive example of how they would fare when they joined the EC. Norway, still to apply for membership, held the same view but the referendum upset calculations in all three countries

"We feel that for the first time, we have the wind blowing in our favour," said Ulvskog - Sapa-Reuter.

# Pay talks delay jail monitors

THE monitoring of detainees in police custody by a team of former magistrates is being delayed by pay package negotiations

**STEPHANE BOTHMA**

Law and Order Minister Hernus Kriel was in the final stages of appointing the six-member monitoring team announced on August 11, ministry spokesman Capt Craig Kotze said yesterday

The monitoring team would report to Kriel and to Police Commissioner Gen Johan van der Merwe.

The six retired magis-

trates had already been selected, but still had to be "taken into service".

"They must be employed and salary packages must be negotiated," said Kotze

Kriel announced the appointment of the team to monitor the conditions of police detainees after inde-

pendent pathologist Dr Jonathan Gluckman said in July the death of prisoners at the hands of policemen continued on a regular

basis

Six detainees died in police custody last week, bringing the number of deaths in detention since January last year to more than 180

Lawyers for Human Rights director Brian Currin said last night that it was unacceptable that the team would report to the Minister and police commissioner

A system of reporting to a judge or an attorney-general would have been far more effective, he said



BUSINESS DAY, Thursday, September 10 1992

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## Bill of rights examined

SUSAN RUSSELL

THE introduction of a new constitution containing a justiciable bill of rights would lead to a whole new branch of legal practice, SA Law Commission chairman Judge Pierre Olivier said in Johannesburg yesterday.

The judge said it could be safely assumed that a bill of rights would be the foundation of SA's new constitution. "The question is when," he added.

Human rights law would be a high-profile activity, attracting the attention of the public.

Human rights lawyers, Olivier said, were the champions of fundamental freedoms and liberties without which SA society would not survive. They would require a thorough knowledge of the provisions of the new constitution and bill of rights.

Olivier said it was also clear that legal practice, including judicial practice, would have to face the challenge of re-education

Supreme Court Judge Ismail Mahomed said the entrenchment of justiciable bills of rights in the constitutions of nations was one of the most dramatic and far-reaching developments after the Second World War.

Apartheid had excluded SA from developing this human rights culture.



Law Commission chairman Judge Pierre Olivier and Transvaal Supreme Court Judge Ismail Mahomed, who yesterday addressed the Attorneys' Association seminar on a bill of rights.

Pictures: ROBERT BOTHA



# Bringing justice a little nearer

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**WINSTON** Matthews was furious when a Mercedes Benz owner drove through a red traffic light and all but destroyed his R15 000 bakkie.

He was even angrier when the errant motorist refused to pay damages.

He was pretty sure he could have won his case, but legal costs frightened him from taking the case to court.

An innovation introduced recently by the Law Society of Transvaal (LST) may help bring justice a little closer to people like Mr Matthews.

The LST's special fee arrangement allows a Transvaal attorney to agree to demand

payment only if his client's claim succeeds.

The arrangement is aimed at individuals like Mr Matthews who tend to be put off litigation by fear of up-front commitment to legal costs.

As an electrical firm employee with a R1 400 monthly income, Mr Matthews falls into the group of people without the means to take their claims to court but still too wealthy to qualify for Legal Aid.

Johannesburg law firm executive Lindsay Madden said "I think it is an excellent idea." And Pretoria lawyer Stephen Bezuidenhout said "It

**PHILIP ZOIO looks at a new fee arrangement for those intimidated by legal fees.**

will be used for the benefit of the man in the street."

According to the arrangement, the client must be a natural person (not a company) and the claim cannot be conceded. The arrangement may be made only for damage claims following breach of contract or delict (a violation or offence).

Payment conditions set by the LST effectively prevent an

attorney from taking more than his rightful chunk of the payout — he may not receive in excess of damages and costs recovered by the client.

Fees are paid out at a fixed rate depending on the attorney's standing, and range from R160 to R240 an hour — below the normal rate.

But with the risk involved and the mediocre reward, many attorneys are not too excited.

Miles Carter, a partner in a large Johannesburg firm, said most Johannesburg attorneys felt they would be "no better off" after a successful claim under the arrangement than

after normal litigation — which guaranteed payment regardless of success or failure.

But the arrangement could work in the platteland, where costs were lower, he said.

Senior Johannesburg attorney Errol Knowles said "I don't believe it will serve its purpose. The fee is not sufficiently attractive to make it viable on a contingency basis."

The other problem was the delay of payment, Mr Carter said. Not every lawyer would be prepared to work without remuneration during the months preceding the payout.



# The strength of clemency



Radford Jordan is a former senior lecturer in political studies at Wits University

252  
FM 11/9/92

**Indemnity** for "political" crimes is still on the agenda in SA. Examples from history may help clarify some of the issues it raises.

The ruler who shows clemency may do so from a variety of motives. He may want to capitalise on a public mood which favours reconciliation, or win over the more moderate faction in a group opposed to him, or strengthen the hand of moderates within such a group. A cynic might say that clemency will be shown whenever the costs of not showing it seem to be too high.

Clemency includes an indemnity from prosecution of persons likely to face conviction in a court of law, the granting of a free pardon to convicted persons, or to persons in jeopardy of conviction, and the substitution of a lighter sentence for a heavier one imposed by a court of law.

A former professor at Wits tells how his grandfather, the governor of a Polish province, led a rebellion against the Tsar which failed. He was taken before the Tsar who asked, "If I reappoint you to your old position, will you rebel against me again?" He replied no and was reappointed.

This example suggests that the higher the rank of the offender, the greater the payoffs from clemency towards him. Watergate landed Nixon's aides and agents in jail, but the dread of shockwaves to the American political system which his impeachment might have caused brought him a free pardon.

The more atrocious the struggle, the greater the scope for magnanimity to ensure that it will not recur. Despite the ghastly bloodletting of the American Civil War —

the first war to be fought with breechloaders on both sides — no-one in the Confederate states was punished for waging war against the Union. A high moment in American history was when the defeated Confederate general Robert E Lee was cheered by Union troops as he rode towards home.

"With malice toward none, with charity for all" — the opening words of Lincoln's famous peroration in his Second Inaugural Address — had a solid basis in public opinions. For want of both such a basis in 1919 and of a leader of Lincoln's calibre to build upon it, nemesis inflicted a second world war on the victors of the first.

The victor who shows himself most sensitive to the perishability of the fruits of victory will most surely keep them longest. The English restoration of 1660 was marked by what was, for that time, magnanimity of a high order. The restored King Charles II saw that he must do his utmost to wipe the slate clean if his comeback was to be secure and lasting. But his parliament included members who had lost relatives, friends and lands in the years that followed the trial and execution of his father, Charles I.

Through his chancellor, Charles II declared himself a humble suitor to parliament for a return to what he called the old English good nature. Parliament was persuaded to pass an Act of Indemnity & Oblivion which in effect pardoned all but a dozen members of the illegal court which had tried and condemned Charles I. In an age which set a high value on vengeance, this Act was a staggering triumph for mercy and common-sense.

Lord Charles Somerset's denial of clemency to the Slogtersnek rebels evoked strong hostility. By contrast, Paul Kruger commuted the death sentences passed on the members of the Reform Committee. When Schalk Burger and others protested, he spiked their guns with the question: "So you want the British to have their Slogtersnek?"

Revulsion at Jopie Fourie's execution drove Kruger's lesson home. Jan Smuts com-

mutated the death sentence on Robey Leibbrandt, whose crime was much more heinous than that of Fourie.

The late Paul Human — later a judge of the Transvaal Supreme Court — had prosecuted Leibbrandt at the preparatory examination which ended in his committal for trial. As he left the dock, he shouted "I'll get you, Human!"

After Leibbrandt's release, following the 1948 defeat of Smuts, Human felt some misgivings on seeing the approach of his colossal antagonist along a Pretoria pavement. As they drew level, Human barked out "Good morning, Leibbrandt!" The only reply was "Good morning, Mr Human!"

Smuts was proved right. With the defeat of Leibbrandt's idol, Hitler, much of his ferocity had ebbed away. Smuts had saved himself the odium he would have incurred by hanging him.

Ojukwe, the politician who first declared the secession of Biafra from Nigeria in 1967, was the first to flee when defeat loomed. He handed over to the Biafran commander, Utuk, who had been a lieutenant-colonel in the Nigerian army before the war. Utuk immediately put on his carefully preserved Nigerian uniform and flew to the HQ of General Gowon, the Nigerian commander-in-chief.

Shown into Gowon's presence, he said in a firm tone: "Lieutenant-Colonel Utuk reporting for duty, sir."

Was a crisper appeal for clemency ever made? Chutzpah deservedly won the day.

In all the instances mentioned above, clemency was shown from a position of strength.

However, to indemnify crimes when a struggle is still on and violence stalks the land is more difficult. That suggests not strength, but weakness; it lacks the finality which marked all the particular cases discussed above.

Yet if a favourable opportunity to show clemency occurs, the cost of failing to take it may be too high.





FM 11/9/92

CURRENT AFFAIRS

(252)

## GOLDSTONE COMMISSION (252) Chipping away FM 11/9/92

The Goldstone Commission cannot investigate the Ciskei bloodbath unless it is invited to do so. As an "independent" state, the homeland falls outside its jurisdiction.

Criticism has been levelled at the commission's limited powers. Judge Richard Goldstone has in turn been outspoken about failure or tardiness in implementing some of his recommendations.

He has also taken government and the press to task over the selective way in which violence and the commission's findings have been publicised.

This issue was emphasised in a recent study by the Institute of Race Relations' Anthea Jeffery, who stresses the importance of how political violence is reported. She says that by the end of July, 1 790 people had died through political turmoil in SA this year — bringing total deaths since 1984 to 13 690, of which 60% have occurred since 1990.

"In the volatile situation," she says, "reports on violence are crucial to defusing tensions or exacerbating confrontation."

She puts special emphasis on recent reports by three organisations — Amnesty International, the International Commission of Jurists and the SA Human Rights Commission. She accuses them of creating a one-sided view of the violence, effectively convicting one side (loosely, government and the IFP) based on "hearsay elevated to fact," while exonerating the other (the ANC and its allies) by ignoring issues such as mass action's potential for violence, the high number of IFP officials killed and attacks on the police.

The institute found it impossible to "identify the agent of attack" in 87% of incidents.

Judge Goldstone has not been slow to adapt to changing (usually growing) needs. For example, he quickly discovered the advantages of holding preliminary hearings. That, in turn, led to separate "committee" hearings chaired by the individual assessors. As long ago as May, he was instrumental in bringing a panel of nine international experts to SA to provide guidance on handling marches and demonstrations.

After the recent UN Security Council recommendations, the commission announced its intention to seek the right to second selected police and other State employees on to it and employ attorneys full-time. These staff members would help to investigate and monitor political violence.

The judge also announced his intention to

appoint international observers to monitor and assess investigations and make recommendations to the commission. A benefit of such changes would be to streamline the organisation further so that it could make "proactive" recommendations to defuse potential flashpoints, instead of only reacting to events. The commission is expected to announce more details this week.

Less prominent, though no less important, Judge Goldstone announced that the National Institute for Crime Prevention & Rehabilitation (Nicro) has agreed to help the commission's witness protection programme — a vexed problem since witnesses giving evidence frequently fear intimidation.

Inkatha supporters at Moor River's Bruntville township exposed a Goldstone nerve when they withdrew co-operation last week. A reason given was the commission's lack of "teeth". The upshot of the deadlock, however, was an agreement whereby Inkatha members would stop carrying dangerous weapons.

Another investigation by a commission committee chaired by Cape attorney-general D J Rossouw has been hearing evidence into violence in the western Cape taxi industry.

As Professor Philip Heymann, who chaired Judge Goldstone's international panel on marches and demonstrations, says, "It is imperative that intimidation be eliminated from SA's political culture as a prerequisite for establishing a free and peaceful democracy."

If Judge Goldstone can contribute in any way to achieving such a culture, his commission will still have relevance. ■



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## GOEWERMENSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

No. R. 2513 11 September 1992

WYSIGING VAN DIE REGULASIES UITGEVAARDIG KRAGTENS DIE WET OP BEMIDDELING IN SEKERE EGSKEIDINGSAANGELEENTHEDE, 1987 (WET No 24 VAN 1987)

Die Minister van Justisie het kragtens artikel 5 van die Wet op Bemiddeling in Sekere Egskeidingsaangeleentheid, 1987 (Wet No 24 van 1987), die regulasies in die Bylae hiervan uiteengesit, uitgevaardig

#### BYLAE

#### Woordomskrywing

1. In hierdie Bylae beteken "die Regulasies" die Regulasies op Bemiddeling in Sekere Egskeidingsaangeleentheid, afgekondig by Goewermentskennisgewing No R 2385 van 3 Oktober 1990.

**Invoeging van regulasie 7A in die Regulasies**  
2. Die volgende regulasie word hierby in die Regulasies ingevoeg na regulasie 7

**"Vergoeding en toelaes betaalbaar aan 'n Gesinsadvokaat kragtens artikel 2 (1) van die Wet aangesel om in 'n bepaalde egskeidingsgeding of 'n aansoek of in meer as een sodanige geding of aansoek op te tree.**

7A (1) 'n Gesinsadvokaat wat kragtens artikel 2 (1) van die Wet aangesel is om in 'n bepaalde egskeidingsgeding of 'n aansoek of in meer as een sodanige geding of aansoek op te tree en wat nie 'n beampte in die staatsdiens is nie, is, vir dienste deur hom in dié verband gelewer, geregtig op die volgende vergoeding

(a) Vir verskyning in die hof R300,00 per dag, ongeag die aantal sodanige gedinge of aansoeke in verband waarmee hy op dié dag voor die hof verskyn

## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

No. R. 2513 **252** 11 September 1992

AMENDMENT OF THE REGULATIONS MADE UNDER THE MEDIATION IN CERTAIN DIVORCE MATTERS ACT, 1987 (ACT No 24 OF 1987)

The Minister of Justice has, under section 5 of the Mediation in Certain Divorce Matters Act, 1987 (Act No 24 of 1987), made the regulations set out in the Schedule hereto

#### SCHEDULE

#### Definition

1. In this Schedule "the Regulations" means the Mediation in Certain Divorce Matters Regulations published under Government Notice No R 2385 of 3 October 1990

#### Insertion of regulation 7A in the Regulations

2. The following regulation is hereby inserted in the Regulations after regulation 7

**"Remuneration and allowances payable to a Family Advocate appointed under section 2 (1) of the Act to act in a specific divorce action or an application or in more than one such action or application.**

7A (1) A Family Advocate appointed under section 2 (1) of the Act to act in a specific divorce action or an application or in more than one such action or application and who is not an officer in the public service shall, for services rendered by him in that regard, be entitled to the following remuneration

(a) For appearance in court R300,00 per day, irrespective of the number of such actions or applications in connection with which he appears before the court on that day

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- (b) Vir die hou van 'n ondersoek in artikel 4 (1) van die Wet bedoel. R300,00 vir die eerste dag aan sodanige ondersoek bestee en R100,00 vir elke daaropvolgende dag aan sodanige ondersoek bestee
- (c) Vir die opstel van 'n skriftelike verslag in artikel 4 (1) van die Wet bedoel R50,00 per uur of gedeelte van 'n uur werklik aan die opstel van sodanige verslag bestee, onderworpe aan 'n maksimumbedrag van R300,00 per dag
- (d) R50,00 per uur of gedeelte van 'n uur werklik bestee aan die deurlees en oorweging van—
- (i) 'n dagvaarding of kennisgewing van mosie en ingevulde vorms bedoel in regulasie 2 (1) en (2),
  - (ii) 'n ingevulde vorm bedoel in regulasie 3 (2), of
  - (iii) 'n skikkingsakte bedoel in regulasie 3 (3) wat nie met 'n hof-verskyning, die hou van die ondersoek of die opstel van die skriftelike verslag bedoel in onderskeidelik paragrawe (a), (b) en (c) van hierdie subregulasie, verband hou nie,
- onderworpe aan 'n maksimumbedrag van R300,00 per dag
- (2) 'n Gesinsadvokaat bedoel in subregulasie (1) wat, vir doeleindes van verskyning in die hof of die hou van 'n ondersoek beoog in onderskeidelik paragrawe (a) en (b) van dié subregulasie, genoodsaak is om huisvesting vir 'n nag te huur of wat vir 'n tydperk van 24 uur of langer afwesig is van die stad of dorp waar hy normaalweg werksaam of woonagtig is, is geregtig op—
- (a) 'n allesinluitende onderhoudstoelae van R65,00 per dag, of
  - (b) die werklike uitgawes redelikerwys deur hom aangegaan ten opsigte van huisvesting en maaltye, asook 'n spesiale toelae van R20,00 per dag vir bykomstige uitgawes
- (3) Indien 'n Gesinsadvokaat bedoel in subregulasie (1) by die lewering van 'n diens in subregulasie (2) beoog vir 'n korter tydperk as 24 uur afwesig is van die stad of dorp waar hy normaalweg werksaam of woonagtig is en nie genoodsaak word om huisvesting vir 'n nag te huur nie, word 'n allesomvattende toelae van R25,00 per dag aan hom betaal
- (4) (a) Wanneer 'n Gesinsadvokaat bedoel in subregulasie (1) van openbare vervoer gebruik maak vir doeleindes van verskyning in die hof of die hou van 'n ondersoek (soos beoog in daardie subregulasie) by 'n ander stad of dorp as die stad of dorp waar hy normaalweg werksaam of woonagtig is, word
- (b) For conducting an enquiry referred to in section 4 (1) of the Act R300,00 for the first day spent on such enquiry and R100,00 for each subsequent day spent on such enquiry
- (c) For drafting a written report referred to in section 4 (1) of the Act R50,00 per hour or part of an hour actually spent on the drafting of such report, subject to a maximum amount of R300,00 per day
- (d) R50,00 per hour or part of an hour actually spent on the perusal and consideration of—
- (i) any summons or notice of motion and completed forms referred to in regulation 2 (1) and (2),
  - (ii) any completed form referred to in regulation 3 (2), or
  - (iii) any deed of settlement referred to in regulation 3 (3) which does not have a bearing on a court appearance, conducting an enquiry or drafting a written report referred to in paragraphs (a), (b) and (c), respectively, of this subregulation,
- subject to a maximum amount of R300,00 per day
- (2) A Family Advocate referred to in subregulation (1) who, for the purposes of appearing in court or conducting an enquiry as contemplated in paragraphs (a) and (b), respectively, of that subregulation, is obliged to rent accommodation for the night or is absent for a period of 24 hours or longer from the city or town where he normally works or resides is entitled to—
- (a) an all-inclusive subsistence allowance of R65,00 per day, or
  - (b) the actual expenses reasonably incurred by him in respect of accommodation and meals, and a special allowance of R20,00 per day for incidental expenses.
- (3) If, in rendering a service contemplated in subregulation (2), a Family Advocate referred to in subregulation (1) is absent for a period of less than 24 hours from the city or town where he normally works or resides and is not obliged to rent accommodation for the night, he shall be paid an all-inclusive allowance of R25,00 per day.
- (4) (a) Whenever a Family Advocate referred to in subregulation (1) makes use of public transport for the purposes of appearing in court or conducting an enquiry (as contemplated in that subregulation) at a city or town other than the city or town where he normally works or resides, an allowance equal

'n toelae gelykstaande met die werklike koste van sodanige vervoer vir die heen-en-terugreis langs die kortste geskikte roete aan hom betaal. Met dien verstande dat indien meer as een geskikte openbare vervoermiddel beskikbaar is, sodanige werklike koste geag word die bedrag geld te wees wat vir vervoer deur middel van die goedkoopste van sodanige openbare vervoermiddels in die betrokke omstandighede gehef sou word.

- (b) Wanneer 'n Gesinsadvokaat bedoel in subregulasie (1) van private vervoer gebruik maak vir doeleindes van verskyning in die hof of die hof van 'n ondersoek by 'n ander stad of dorp as die stad of dorp waar hy normaalweg werksaam of woonagtig is, word 'n bedrag vir die heen-en-terugreis langs die kortste geskikte roete, bereken teen R1,00 per kilometer, aan hom betaal.
- (5) Vir sover die uitgawe verbonde aan die vervoer, huisvesting of maaltye van 'n Gesinsadvokaat bedoel in subregulasie (1), gedra of bestry word vanuit enige ander bron, is geen toelae aan hom betaalbaar ingevolge subregulasie (2), (3) of (4) nie, watter een ook al van toepassing mag wees.
- (6) By die voorlegging, vir betaling ingevolge subregulasie (2) (b), van 'n eis vir die werklike uitgawes ten opsigte van huisvesting en maaltye deur hom aangegaan, moet 'n Gesinsadvokaat bedoel in subregulasie (1) die nodige kwitansies of ander bewysstukke ter staving van sodanige uitgawes aan die Griffier van die Hooggeregshof verstrek.
- (7) Die beslissing van die Griffier van die Hooggeregshof betreffende die bedrae ingevolge hierdie regulasie betaalbaar, is afdoende."

#### **Inwerkingtreding**

**3.** Hierdie regulasies tree op 11 September 1992 in werking.

to the actual cost of such transport for the forward and return journey by the shortest convenient route shall be paid to him. Provided that if more than one suitable means of public transport is available, such actual cost shall be deemed to be the amount of money which, in the circumstances, would have been charged for transportation by the least expensive of such means of public transport.

- (b) Whenever a Family Advocate referred to in subregulation (1) makes use of private transport for the purposes of appearing in court or conducting an enquiry at a city or town other than the city or town where he normally works or resides, an amount for the forward and return journey by the shortest convenient route, calculated at R1,00 per kilometre, shall be paid to him.
- (5) In so far as the costs of the transport, accommodation or meals of a Family Advocate referred to in subregulation (1) are borne by or defrayed from any other source, no allowance shall be payable to him in terms of subregulation (2), (3) or (4), whichever may be applicable.
- (6) When submitting, for payment in terms of subregulation (2) (b), a claim for the actual expenses incurred by him in respect of accommodation and meals, a Family Advocate referred to in subregulation (1) shall submit the necessary receipts or other vouchers in support of such expenses to the Registrar of the Supreme Court.
- (7) The decision of the Registrar of the Supreme Court regarding the amounts payable in terms of this regulation shall be final."

#### **Commencement**

**3.** These regulations shall come into operation on 11 September 1992.



# Bugged by a question of ethics

1119-1719-112  
The Weekly Mail's ethics have been questioned in a Prison Act trial, its journalists say **JACQUIE GOLDING**



**T**HE *Weekly Mail's* bugging of the office of the former Civil Co-operation Bureau chief, Staal Burger, reared its head in a different case at the Randburg Magistrate's Court earlier this week.

*Weekly Mail* chief photographer Kevin Carter, trainee reporter Graham Harvey and Robert Lombard, secretary-general of the South African Prisoners' Organisation for Human Rights, were appearing on charges of trespassing under the Prisons Act. The charges included unlawfully entering the prison complex without permission, communicating with a prisoner and photographing the prison building without the permission of Brigadier John Harding or the commissioner of prisons.

*The Weekly Mail* team entered the premises of Leeuwkop Prison in Kyalami on July 23 to investigate allegations that prisoners were forced by wardens to manufacture weapons in the prison workshops, allegedly for transport to hostels in the Vaal region.

It had also been alleged that Afrikaaner Weerstandsbeweging members were using the prison shooting range for target practice.

During cross-examination, prosecutor Shaun Mulligan questioned Carter on the ethics of journalism, referring to the *Sunday Times* editorial of September 6, which branded the bugging of Burger as "unethical" and as a breach of "the highest code of journalistic practice".

Carter said he did not regard the *Sunday Times* editorial as a reflection of the newspaper's entire staff. "It is the opinion of the editor and not that of his reporters," he said. "It is ironic that in the same issue of the *Sunday Times*, the front page story included a private letter 'leaked' to them involving Winnie Mandela and Daliso Mphahlele. The publicising of such a letter could also be regarded as unethical," he added.

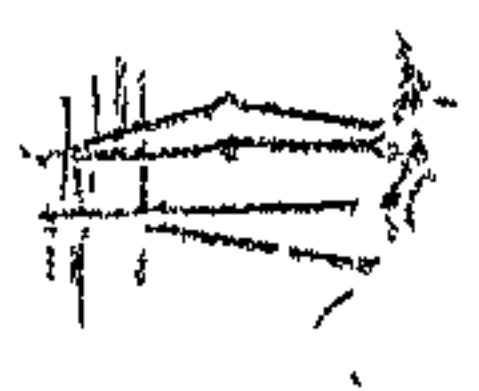
Mulligan argued that the "unlawfulness of a newspaper is judged by the community". Defence attorney for *The Weekly Mail* David Dison objected that the question of whether the *WM* was highly regarded by other newspapers was "hearsay opinion".

"The question of ethics does not affect this case of lawful or unlawful entry into the prison complex," he said. Earlier in the week, Sergeant J.L. Letsiba, who was guarding the east gate of the prison when *The Weekly Mail* team sought entry, testified that he had granted them permission because they had told him they were planning to play golf.

This was denied by both Carter and Lombard — the driver of the vehicle — during questioning earlier this week. Dison said a different pen had been used to insert the destination of *The Weekly Mail* team from that used for the other names and destinations recorded on the entrance sheet. Moreover, the registration of *The Weekly Mail's* car was underlined. Letsiba conceded that a Colonel van Zyl took the form after *The Weekly Mail* team was arrested. Lombard testified that he and the investigative team had parked opposite the workshop to wait for a response to a fax sent by *The Weekly Mail* to the Department of Correctional Services stating the alle-

gations relating to Leeuwkop Prison. They expected either a delegation from the press or a spot check from prison officials, he said. The legal status of a story was left to the editor, said Carter in his testimony, arguing that he was responsible for taking photographs and not for being illegally on prison premises. "Do you remember the Nuremberg trials? Do you expect to get away with the plea of 'I just follow instructions'?" Mulligan asked. "I shoot pictures, not guns," Carter responded.

## Calling all dreamers.



Do you dream of unspoilt, sundrenched beaches, as far as the eye can see? Of pristine white sands dotted with palms?



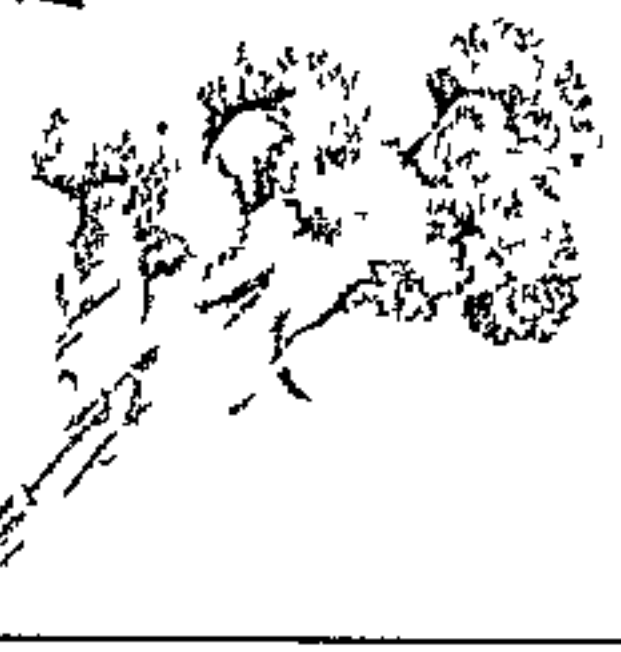
Do you dream of the bluest of seas, warm with the Indian Ocean current and laden with

blue marlin and coral reef teeming with exotic tropical fish?



Do you dream of snow-capped bold peaks, majestic

above the high savannah? Of four-wheel safaris through the tall



grassland... with cheetah and lion just alongside?





# Court sequel to shooting of journalists

Weekly Mail Reporter ~~252~~ (252)  
WASHINGTON POST Journalist Paul Taylor  
yesterday testified how he and the political edi-  
tor of *The Weekly Mail*, Phillip van Niekerk, nar-  
rowly escaped death after being shot at point-  
blank range with a pistol while covering a stay-  
away. W/Mail 1119 - 17/9/92

Appearing in the Vanderbijlpark Regional  
Court as a sequel to the incident, which occurred  
on August 3, were Simon Sithetho (23), Alfred  
Mathipane (19), Enoch Malloane (23) and  
Simon Domo (18). The four pleaded not guilty  
to two counts of attempted murder and charges  
of robbery

Taylor told the court he was ordered out of the  
car in which the two journalists were travelling  
by a gun-toting youth, who told him to hand over  
everything he had

As a result, he testified, Van Niekerk was  
robbed of R50. Taylor said one of their assailants  
had used abusive language and questioned their  
presence in Evaton township

Taylor said he was about to hand over his wal-  
let to the youth when events took a disturbing  
turn, with the sudden sound of gunfire. He then  
saw Van Niekerk lying on the ground with blood  
all over his face. A bullet had gone through the  
side of his right temple and out below his left ear.  
Taylor was wounded in the chest.

Magistrate FW Strydom postponed the case to  
September 25 because several witnesses failed  
to appear in court.

**THE WEEKLY MAIL**

# Newsman describes shooting

APR 13/92  
By STAN MHLONGO

WASHINGTON Post journalist Paul Taylor, this week told the Vanderbijlpark Regional Court how he narrowly escaped death when he was shot at point-blank range while covering a stayaway.

The accused are Simon Sithetho, 23, Alfred Matipane, 19, Enock Maloane, 23, and Simon Domo, 18.

They all pleaded not guilty to a charge of robbery and two of attempted murder before Magistrate FW Strydom.

At the time they were stopped, Taylor said, he was travelling in a car with *Weekly Mail* reporter Philip van Niekerk when their car was cut off by a vehicle occupied by their four assailants.

Both journalists were shot and their car was hijacked by the four youths.

The trial was postponed until September 25.

# Wits A-G to sue minister

Own Correspondent

JOHANNESBURG. — Witwatersrand attorney-general Mr Klaus von Lieres und Wilkau, SC, has filed court proceedings against the Minister of Justice and the Commission for Administration for failing to confirm his 1987 appointment as deputy director-general of justice.

He will ask the Pretoria Supreme Court to order his promotion retrospectively with effect from April 1, 1988 — a year after he would have taken up the position.

"All I can say at this stage is that an application to revise an earlier decision taken by the commission was filed," Mr Von Lieres said last night.

## Job offer 'wasn't honoured' claim

Court papers state that at the time the Minister of Justice Mr Kobie Coetsee had congratulated him on his appointment as deputy director-general.

Mr Von Lieres said in the papers he had talks with Mr Coetsee

and the then director-general of justice Mr S S van der Merwe on March 16, 1987 at which the newly created position of deputy director-general was offered to him. Asked if he would accept the position, Mr Von Lieres said he would, the papers stated.

About a year later he had heard that former state attorney Mr Hans du Plessis had been appointed to the position.

Mr Von Lieres said in an affidavit he believed manipulation had played a role in the decision not to appoint him.

The court papers were filed last week by Pretoria attorney Mr Hendrik Malan after talks between the attorney-general and the Association of Civil Servants.

The third respondent is the director-general of justice.



onitor violence

# Elite force to combat violence

## ■ Five special units appointed in key areas countrywide:

*Sowetan, 14/9/92*

THE Goldstone Commission this weekend announced its elite strike force to combat political crime and violence in the country

The elite strike force, comprising 26 advocates, attorneys, South African Police and South African Defence Force officers, will head five special investigation units and will report directly to the Goldstone Commission

Mr Justice Richard Goldstone said at the weekend: "Information obtained by the units which is or may be relevant to any criminal investigation, if appropriate, will be furnished by the Commission to the SA Police, or the relevant police force of a self-governing territory.

"The information obtained by the units will be relevant as far as the commission is concerned or in so far as it may enable it to carry out its main terms of reference which are to ascertain the causes of public violence and to recommend ways of curbing it"

The units will be based in Durban, Cape Town, Johannesburg, East London/Port Elizabeth and Mantsburg.

of the benefits it would have had if the agreement...

# Prison monitors to increase

STEPHANE BOTHMA

THE number of magistrates appointed by Law and Order Minister Her-nus Kriel to monitor detainees in police custody would be doubled soon, his department said at the weekend

Kriel announced that negotiations regarding the appointment of six retired magistrates had been completed and their names would be announced shortly.

"In order to increase the effectiveness of this measure, I have decided that the number of these monitors should be doubled as soon as possible to 12 persons," he said

Kriel and the International Red Cross were also negotiating visits by the organisation to prisoners

Kriel said the SAP was busy with an intensive analysis of suicide cases in custody to determine if steps, over and above existing measures, could be taken to prevent such incidents  
Monitors would be asked to give

urgent attention to the aspect of suicide and to make recommendations to the Minister.

Regarding claims by independent pathologist Dr Jonathan Gluckman that alarming numbers of detainees were dying of unnatural causes in police custody, Kriel stated "I still remain fully committed to my pledge to reply in full to his allegations, but due to a number of factors, I am at this stage not able to do so"

He said the attorneys-general of the Witwatersrand, Transvaal and Free State had had discussions with Gluckman, who had consented to make available to police a list of 130 names of people who had allegedly died in police custody under suspicious circumstances since 1986

To date Gluckman had provided details and documentation regarding 53 cases, Kriel said

# Attorneys welcome new-style courts

TIM COHEN

PRETORIA — The attorneys' journal De Rebus has welcomed the introduction of short process courts, suggesting they might become as popular as small claims courts.

Short process courts, essentially magistrates' courts with simplified procedures, are likely to reduce legal costs significantly.

The September edition of De Rebus, in an editorial, said the involvement of practitioners in the operation of short process courts would help improve the image of the profession.

According to statistics supplied by members of the Association of Law

Society's branches, more than 1 400 cases are heard every month in the small claims courts. The same opportunities to help people and thereby improve the image of the profession and gain experience in adjudication appeared to be inherent in short process courts, the editorial said

Taking part in the process of adjudication would be important in preparing attorneys for appearances in the Supreme Court and for when judiciary members would be drawn from their ranks, the editorial said

# Groups meet to end train killings

RAY HARTLEY

POLICE, the ANC, Cosatu, Civic Associations of the Southern Transvaal (Cast), SACP and SA Rail and Commuter Corporation representatives agreed at the weekend to meet within three weeks and plan a strategy to end train violence.

The six groups decided to consult their constituencies for fresh ideas before the meeting, scheduled for early October.

Cosatu spokesman Amos Masondo said ANC-aligned organisations believed police were not dealing with the problem adequately. "There is no overall strategy that is acceptable to all parties. We hope that at this meeting some clear guidelines will be given," he said

The number of police deployed on trains and at stations had tripled to 1 201 since May, but only five people had been arrested for violence against commuters.

Of the five arrested, four were "linked to hostels", pointing to a pattern which the police had not investigated adequately, he said.

SA Rail and Commuter Corporation MD Wynand Burger said he was happy with the meeting. "We've made good progress."

The SARCC presented four alternatives to improving station security, including a system using magnetic detection and closed-circuit TV. The systems would be tested soon, it said

## Draft legislation on sexism

BLOEMFONTEIN. — The government will push ahead in the next few weeks with comprehensive draft legislation to remove discrimination against women, Justice Minister Mr Kobie Coetsee announced yesterday.

Mr Coetsee said an investigation into statutory discrimination against women had been launched — with specific reference to the workplace. (252)



Govt confirms  
jurist to sue

JOHANNESBURG —  
The government yesterday confirmed it had received notice that Witwatersrand attorney-general Mr Klaus von Lieres und Wilkau was suing Justice Minister Mr Kobie Coetsee and two top officials over an alleged promotion rene-  
gation

Mr Von Lieres is claiming retrospective "protective" promotion to the level of deputy director-general of justice effective with backpay from April 1, 1988, the date the post was created, his attorney said

"Protective" promotion means he would remain attorney-general but receive the salary of a deputy director-general — Sapa

## Gabriel Mahakwe in court (252)

MR GABRIEL Mahakwe, who has been accused of killing four people on Free State farm in December last year, has been found to have an above average IQ of 115 - Soweta 15/9/92

This evidence was heard in the Bloemfontein Supreme Court yesterday where Mahakwe (41) is on trial for allegedly killing Mr Willie Engelbrecht, his wife, their daughter and 11-year-old granddaughter

The hearing continues - Sapa

STAR 16/9/92

# Man who died in custody had severe head injuries

Pretoria Correspondent

A post-mortem of a man who died in police custody in the Pretoria Central police station cells showed he had "serious bleeding on the brain" (252)

An autopsy report handed to the Pretoria Supreme Court yesterday by Dr Gert Saayman

— who performed a post-mortem on Michael Nkabinde, who died on November 24 1990 — said there were signs of probable repeated blows, especially to his head and face.

Dr Saayman was testifying before Mr Justice J J Strydom at the trial of suspended police constables Andries Jakobus Strydom (25) and Andries Jaco-

bus Ferdinandus Greyling (24)

They are accused of assaulting Mr Nkabinde after they had arrested him during a patrol.

Mr Nkabinde died in hospital.

Mr Strydom and Mr Greyling admitted assaulting Mr Nkabinde after he had allegedly tried to stab Mr Greyling

The trial continues



*Go wefer 16/9/92*  
**Bafokeng heir cleared**

A CHARGE of attempted murder against Mr Mollwane Molotlegi, heir to the throne of the Bafokeng tribe in Phokeng, near Rustenburg, was yesterday withdrawn in the Tlhabane Regional Court. The prosecutor, Mr Bafana Tlhagwane, told magistrate Mr Rauane Matsomane that there was insufficient evidence implicating Mollwane and his co-accused Mr Michael Legare.

(252)

~~(10/10)~~

## Mahakwe is guilty

THE Bloemfontein Supreme Court yesterday convicted Mr Gabriel Mahakwe of killing four people on a farm near Verkeerdelei in the Free State in December last year.

The court found Mahakwe had fatally shot Mr Willie Engelbrecht, of the farm Grootstry, his wife, Bettie, their daughter, Mrs Lena Smit, and her 11-year-old daughter, Michelle, on December 22. Sentence is expected to be passed today.

*16/9/92*

# ANC seeks probe of SADF's 'E Tvl war'

By Bronwyn Wilkinson  
Crime Reporter

The ANC is to ask the Goldstone Commission to start an inquiry into allegations that the SA Defence Force is conducting a low-intensity war against the ANC in KaNgwane and in the eastern Transvaal.

ANC eastern Transvaal publicity secretary Jackson Mthembu told a press conference in Johannesburg yesterday that the United Nations would be asked to intervene in the "open destabilisation" of the ANC by the SADF.

He claimed at least eight ANC members, mostly Umkhonto we Sizwe (MK) cadres, had been shot, assaulted or tortured by SADF troops in the area since the beginning of last month.

Judas Mathabela told the press conference he had been beaten up and a companion shot by SADF troops at a roadblock

in Mangweni village near Komatipoort on August 25. The companion, Johannes Lubisi, showed a bullet wound in his thigh.

Another cadre, Robert Khumalo, said he was crippled by a muscular disorder which began when he was tortured by SADF soldiers in Pienaar, near Nelspruit, on August 28.

Mr Mthembu said repeated complaints to the police about the SADF had failed.

SAP liaison officer Lieutenant Theo du Bruin said last night that the ANC had not contacted the police with complaints about the defence force.

SADF spokesman Colonel John Rolt said the army viewed the allegations in a serious light and would not condone, justify or hide any irregularities committed by its members.

He said civilians had taken to wearing army uniforms while committing crimes.



# Goldstone's sleuths meet

By Helen Grange  
Pretoria Bureau

Police men co-opted on to the Goldstone Commission's five investigative teams met in Pretoria yesterday to discuss and streamline investigations to be undertaken.

In a statement last night Mr Justice Richard Goldstone said members met for the first time and informally discussed procedures to be followed.

Two of the most important players in the teams are Major Frank Dutton, who will co-ordinate the Durban and Maritzburg teams, and Colonel Adrian Eagar of the Johannesburg team.

Major Dutton is well known for heading the Trust Feed

STAR 17/9/92  
massacre investigation.

Colonel Eagar was a Brixton Murder and Robbery Squad detective for about 15 years before being transferred to Vanderbijlpark police station to head a probe into the Boipatong massacre.

Other members of the teams are: Major V Harmse from Durban SADF, Major P M Smythe from Maritzburg SADF, Detective-Sergeants P M van der Merwe and M J Moremi from Johannesburg SAP, Major A G P Coetzee from Johannesburg SADF, Major A F Campher of Cape Town SAP and Captain J F Haynes of East London SAP.

● How Goldstone works  
— Page 17

# How Goldstone Works

STAR 17/19/2

252

**HELEN GRANGE explains the workings of the Goldstone Commission network, set up to investigate various aspects of the protracted violence in South Africa**

**N**EARLY a year has passed since the Goldstone Commission Concerning the Prevention of Public Violence and Intimidation was set up. Since then, the number of violent incidents has mounted.

The first fruits of the commission emerged earlier this year in the form of guidelines by Mr Justice R Goldstone on ways to prevent continued violence, pertaining especially to mass action and the way police handled conflict.

However, the findings of specific inquiries which continue to be held into bloody township battles and allegations of police complicity have yet to emerge.

The variety of the Goldstone Commission's work and the patchy publicity afforded to its committees' hearings has undoubtedly confused many.

The Star has tried to make the picture clearer. The Goldstone Commission's five permanent members, including chairman Mr Justice Goldstone, have spread their services to several committees of inquiry, each of which is assisted by advocates and attorneys co-opted as the need arises.

There are currently six committees, each concentrating on a separate issue.

● The Mooli River violence, focusing on conflict between hostel dwellers from President Steyn mine and ANC-supporting residents. This inquiry is chaired by Professor Van Zyl Smit, dean of the law faculty at the University of Cape Town. The hearing continues later this month.

● Taxi wars in the western Cape. This inquiry is chaired by Cape Attorney-General Niel Rossouw, assisted by Professor Smit. The hearing resumes at the end of next month.

● The role of hostels in violence in the Transvaal. This inquiry is drawing much interest at the moment because of the huge

## Goldstone Commission

Chairman: Mr Justice R Goldstone  
 Advocate: Mr Rossouw, Cape Attorney-General  
 Advocate: Solly Sithole from the Pretoria Bar  
 Lillian Bagwa, attorney from Natal  
 Gert Steyn, attorney from Cape

### Current Inquiries

**Mooli River violence**  
 Chaired by Prof Van Zyl Smit  
 Advocate: Mr Justice R Goldstone  
 Hearing resumes at the end of next month.

**Hostels and violence**  
 Chaired by Bob Neigent  
 Advocate: Solly Sithole from the Pretoria Bar  
 Hearing resumes at the end of next month.

**Role of SADF in Natal violence**  
 Chaired by Mr Justice R Goldstone  
 Advocate: Mr Justice R Goldstone  
 Hearing resumes at the end of next month.

### Future Inquiry

**Alexandra taxi wars**  
 Chaired by Niel Rossouw  
 Hearing begins September 30

**Special investigative committee**  
 The Commission's investigative powers

### Completed Inquiries

**Violence in Tokozza**  
 Chaired by Mr Justice R Goldstone  
 Advocate: Solly Sithole from the Pretoria Bar  
 Hearing resumed this week.

**Role of Vaal Triangle police safe houses in violence**  
 Chaired by Mr Justice R Goldstone  
 Advocate: Solly Sithole from the Pretoria Bar  
 Hearing resumed this week.

**Role of mass action in violence**  
 Chaired by Mr Justice R Goldstone  
 Advocate: Solly Sithole from the Pretoria Bar  
 Hearing resumed this week.

### Completed Inquiry

**Shooting of 12 Inkatha members in Bomenla**  
 Chaired by Mr Justice R Goldstone  
 Advocate: Solly Sithole from the Pretoria Bar  
 Hearing resumed this week.

### Future Investigation

**Killing of 29 protesters during march on Bisho**  
 Details still to be announced

**Special investigative committee**  
 The Commission's investigative powers

problems facing the Government in converting or upgrading hostels. The issue has proved to be a political hotbed. The inquiry is chaired by advocate Bob Neigent of the Johannesburg Bar, and the hearing

continues. Train violence, a widely publicised trend in the ongoing township conflict. This inquiry is chaired by retired magistrate Gert Steyn assisted by attorneys "Sean" Mashedi and a Mr

Ngephi. The hearing continues later this month. The Bopalong massacre, which shocked the nation and the world. The importance of this inquiry is reflected in the members of the committee. It is

chaired by Mr Justice Goldstone and assisted by Inda's Chief Justice P N Bhagwati, Advocate-General Rossouw and advocate Solly Sithole of the Pretoria Bar. The hearing resumes next month.

● Allegations in The Weekly Mail that 200 KwaZulu men were trained by the SADF in the Caprivu and at Mkuze training camp, relating to violence in the Vaal Triangle townships. This inquiry is chaired by Mr Justice Goldstone, assisted by Mr Steyn, Mr Rossouw and Mr Mashedi. The hearing resumed this week.

● Three inquiries have already been completed, and reports are being prepared. They are:

● An inquiry into the violence at Tokozza on the East Rand, focusing on conflict between hostel dwellers and residents. A report is expected soon. The inquiry was chaired by Mr Sithole and assisted by Durban attorney Lillian Bagwa and Johannesburg attorney Bob Tucker.

● The role of Vaal Triangle police safe-houses in violence, arising from allegations that they are used as launching pads for attacks. Advocate Rob Wise chaired this inquiry. A final report is being drawn up.

● The well-publicised special inquiry into ways of preventing violence during mass action, which saw the setting up of an international panel of experts including Reading University's Prof. Peter Waddington, has been highlighted in the wake of the Ciskei massacre.

The events at Bisho last week, where 28 people were killed, is now the subject of another Goldstone Commission probe. It is not clear yet whether there will be a full-scale inquiry.

Investigations, whereby policemen selected by the commission undertake a probe and report back, are to become an important feature of the commission's work and will enhance its investigative powers.

The first of the commission's police investigations took place last week, when a policeman was appointed to look into the killing of 12 Inkatha Youth League members at Bomenla near Port Shepstone.

At the time of going to press, five teams of hand-picked policemen, to be guided by international experts and monitored by the United Nations, were being briefed on the work they would be doing.

An inquiry is to be held into the taxi war in Alexandra, near Sandton. It will begin at the end of the month. □

from Kempton Park travelled  
night to escort the arrested  
Johannesburg.  
at one of the men will appear in  
Magistrate's Court today.

## CID chief to join Goldstone

JOHANNESBURG

The head of the SAP de-  
tective branch at Wood-  
stock, Major A G  
Campher, is the fourth  
Cape Town man to be ap-  
pointed to the Goldstone  
Commission.

He joins three lawyers  
from well-known city  
firms, Mr John van Nie-  
kerk, Mr Noel Tunbridge  
and Mr Max Hales.

Mr Justice Richard  
Goldstone will head five  
countrywide units to in-  
vestigate and monitor  
violence.

Major Campher was a  
member of the Peninsula  
Murder and Robbery  
Squad before his trans-  
fer to Woodstock.

The five units com-  
prise 26 members —  
nine attorneys, two advo-  
cates, 12 policemen, and  
three SADF members —  
Sapa

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## Bail-jumper released on bail again

Pretoria Correspondent

A co-accused in the trial of Koos Botha, former Wonderboom member of Parliament, has again been released on bail

Andries Cornelius Odendaal (27) of Heidelberg, who jumped bail in April, was released yesterday on bail of R3 500 by Pretoria Regional Court magistrate Mr R de Vos

Mr Odendaal, Mr Botha, Petrus Judeel, Dirk Hattingh and Andries Kriel were arrested in April in connection with several explosions in the PWV

area last year, and at the beginning of this year.

A fifth accused, Andries Kriel, is still on the run from the police, and a R10 000 reward is being offered for information leading to his arrest

Mr Odendaal was released on condition that he resides with his father, A C Odendaal, at Eugene Marais Street, Rensburg, Heidelberg

He must report to the Heidelberg police station twice a day between 6 am and 8 pm, and must not leave the magisterial district without permission

# Police probe 'an attempt to pressure ANC'

5/1/92 17/9/92  
Reports of a high-level police investigation into past crimes involving ANC leaders were a "cynical attempt" to pressure the organisation into accepting a general amnesty, the ANC charged yesterday. (252)

It is understood a tentative agreement between the Government and ANC on the release of remaining political

prisoners — one of three key issues delaying a summit meeting between ANC president Nelson Mandela and President F W de Klerk — broke down after the Government insisted on linking the releases to a blanket amnesty, which would include State officials.

The ANC is opposed to a general amnesty without the indemnified non-

ple disclosing their crimes.

Reacting to reports yesterday that a "special unit" had been set up by the police to investigate ANC leaders, Law and Order Ministry spokesman Captain Craig Kotze said the police probe into acts of terrorism was not aimed at the ANC "as an organisation per se". — Political Reporter.

# Terrorism cases 'consolidated'

## Political Staff

THE police confirmed yesterday that they had consolidated all unsolved cases of terrorism and sabotage — including the 1983 Church Street bombing in Pretoria and the explosions at key anti-apartheid

buildings — to try and solve them

But the police denied this move was aimed at the ANC and said it involved all unsolved cases, whether the suspects were ANC, Azanian People Liberation Army or right-wing.

The ANC, however, said the move was a cynical attempt to pressurise the ANC to accept a blanket general amnesty.

Captain Craig Kotze, a spokesman for the Ministry of Law and Order, said there were "far more" than

17 cases, as initially reported. *CT 17/9/92*

The ANC said the investigations reportedly concerned events that occurred prior to its unbanning, and involved people who were granted indemnity.



**NEWS** No 'automatic indemnity for political murders'

# Indemnity plea refused

■ **MK cadre faces charges for murder of policeman and 3 attempted murders:**

THE court application by Umkonto we Sizwe (MK) cadre Mr Jacob Rapholo to compel State President FW de Klerk to grant him indemnity on a charge of murder and three of attempted murder was dismissed with costs by the Pretoria Supreme Court on Tuesday

Rapholo, a highly trained member of MK, the military wing of the African National Congress, now faces prosecution for the murder of a policeman, Constable Nicolaas Claassen, the attempted murder of Sgt. Willem van Rooyen, and the attempted murders of SA Transport Services employee Mr

*Sowetan 17/9/92*  
Franci Vorster and civilian Mr Otto van Dyk

Const Claassen was shot dead and Sgt van Rooyen was injured during an ambush on a security forces patrol near the farm First Hope in the Ellisras district allegedly by a unit under Rapholo's command

Vorster was injured when Rapholo allegedly shot him following his arrest on January 12 1990 and Van Dyk was allegedly shot by Rapholo during a robbery

In papers, Rapholo argued the alleged crimes had been committed for a

political aim, namely to further the objectives of the ANC and that he was therefore entitled to unconditional indemnity

Justice Minister Mr Kobie Coetsee, in an answering affidavit, said although the Indemnity Act provided for indemnity on serious crimes such as murder under certain circumstances, all murders committed with a political aim did not automatically qualify for indemnity

Counsel submitted on behalf of the State President and the Minister of Justice that Rapholo had no right to indemnity

**ANCYL 100 cleared** Sowetan 18/9/92

CHARGES of trespassing against 100 African National Congress Youth League members, who were arrested after staging a sit-in at the Protea Magistrate's Court, were dropped yesterday (252)

The ANCYL members were released on August 4 after each had been fined R200 which was payable by September 10, failing which they had to appear in court yesterday. But after lengthy negotiations between ANC lawyers and the State, charges were dropped.

# KZP: No cards for non-members

PRETORIA. — The commissioner of the KwaZulu Police, General Jack Buchner, agreed before a Goldstone Commission committee yesterday that it would be "highly irregular" for people who were not KZP members to be issued with police appointment cards

Gen Buchner was giving evidence before a Goldstone committee inquiry into a shooting incident involving IFP and ANC supporters during a funeral procession in Wesselton, near Ermelo, on August 11, 1990

Asked by counsel for the ANC, Mr David Soggott, SC, if he was aware that about 200 KwaZulu citizens, who had been trained at Caprivi by the SADF, had been issued with police appointment cards even though they were not members of the KZP, Gen Buchner said the documents would be false if holders were not KZP members

He said SAP members had suggested two KwaZulu policemen were suspects in the shooting because

shells found at the scene allegedly matched their KZP-issue firearms.

Gen Buchner said he later heard of firearms confiscated by the SAP belonged to two of his men. The firearms were handed over to a Capt Langeni, in the security section of the KZP

Asked what action he took about a firearm of Constable Zweli Dlamini (one of the men allegedly involved in the shootings) being found in Wesselton, Gen Buchner said Brigadier Mathe had not been able to trace Const Dlamini for four months.

He said after four months Const Dlamini was asked to explain and he (Gen Buchner) believed there was an acceptable explanation.

He denied that a former ANC guerilla, presently an IFP organiser, Daluxolo Luthuli, was a member of the KZP. *ET 18/9/92*

Mr Justice Richard Goldstone, who chaired the hearing, adjourned the sitting until October 16 for argument — Sapa (24) (252)



# Custody death: policeman guilty

STAR 18/9/92

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A suspended police constable has been found guilty of murdering a man who died as a result of an assault in police custody.

A second suspended constable was found guilty of assault with intent to commit grievous bodily harm.

Andries Strydom (25) was yesterday found guilty in the Pretoria Supreme Court by Mr Justice JJ Strydom of the murder of Michael Nkabinde, who died in hospital in November 1990 after an assault on him by Strydom and Andries Greyling (24).

He was convicted of

murder with intent, in that he ought to have foreseen that his actions could have culminated in the deceased's death.

Greyling could only be found guilty on his plea of assault with intent. "I am convinced he withheld himself from further assaulting the deceased after he initially assaulted him."

Of Strydom, the judge said: "Any reasonable person would have foreseen that hitting a person's head on a hard object, like a floor or a counter, could cause his death. Strydom is a trained policeman. The assumption that he

should have foreseen that he could cause the deceased's death could be made beyond a reasonable doubt."

Because of his failure to testify, the court did not know whether Strydom ceased the assault when he realised — if he did realise — the possibility he could cause Mr Nkabinde's death.

Strydom was again released on warning by the judge on the grounds that there "was no question of the death sentence as there obviously were mitigating circumstances"

Sentence will be passed today. — Pretoria Correspondent.

# Suspended Sandton councillor takes legal action

**SUSPENDED** Sandton town councillor Frederick Ehlers will bring an urgent application in the Rand Supreme Court for his reinstatement

Ehlers, who was suspended for 60 days following suggestions that the council's tendering procedures were open to bribery and corruption, said he would file the application soon

A letter had been sent to all councillors and to Sandton mayor Bruce Burns earlier this week requesting

**ADRIAN HADLAND**

the convening of a special meeting to discuss the suspension, Ehlers said.

This had been done following the breakdown of a mediation attempt last week by DP MP for Bryanston Rupert Lorimer.

The mayor had been given until 5pm yesterday to respond, failing which the urgent application would be served, Ehlers said. "As no meet-

ing has been convened, I hope to file papers by Monday next week."

Ehlers stated individual councillors would be cited in the application so as not to burden the ratepayers with the cost of the action

The application aimed to have Ehlers reinstated to the council and would reclaim any council allowances withheld due to the suspension

Council chambers would be picketed on Thursday, he said

# 'I saw policeman shoot passerby'

**Own Correspondent**

**MARITZBURG** — An SAP sergeant testified in the Supreme Court yesterday that he saw his former Mooi River station commander, Lt George Nichas, cock his shotgun and fire twice at a man walking alone in a Bruntville street in 1990.

The man fell after the second shot but the police casspir in which they were travelling did not stop. Later at the Bruntville clinic he and other policemen, including Nichas, saw the body of a dead man whom he recognised as the alleged murder victim, Jotham Mchunu. He could not say whether Mchunu was the person who was shot at by Nichas.

Nichas has pleaded not guilty to two murder and four attempted murder charges, and four counts of contravening the Arms and Ammunitions Act in connection with two shooting incidents in Bruntville on April 7 and June 16 1990. Two of the charges relate to his alleged unlawful handling of firearms while under the influence of alcohol.

Sgt Martin Mhlongo denied having seen or heard a large toyi-toying group in the vicinity of the casspir at the time of the

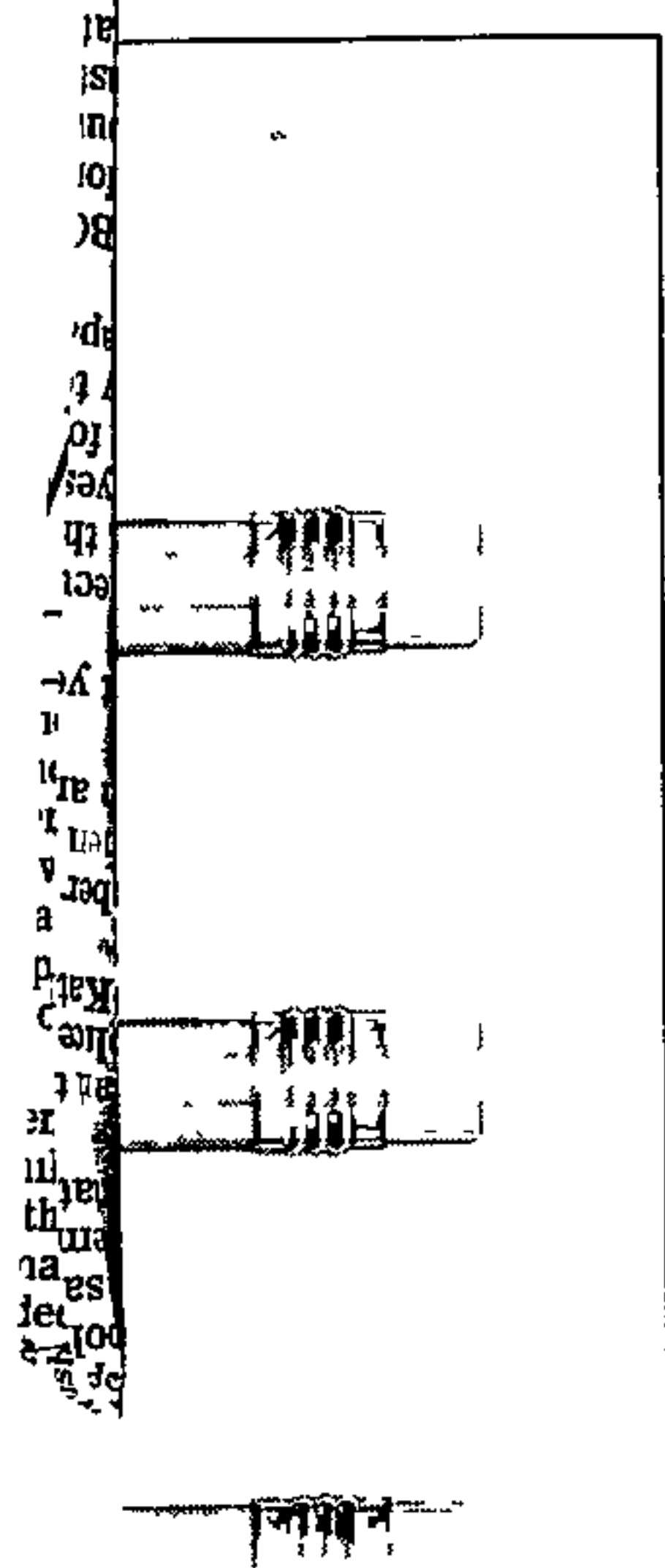
shooting as claimed by several other police and civilian state witnesses. Asked by Judge Booysen how it was possible he did not see the crowd, Mhlongo said he did not know if it was because he was seated in the casspir while some of his colleagues were standing. He saw the man at whom Nichas fired through the casspir's open rear doors.

Defence advocate Kobus Booyens SC asked Mhlongo (who resides in Bruntville with his family) if he had been intimidated in connection with his evidence or statement to the police concerning the shooting. Mhlongo said no one had approached him in connection with the case.

Mhlongo agreed, in reply to further questions by Booyens, that it was unsafe for a policeman to live in Bruntville and that he was scared.

Mhlongo said he was not aware that ANC supporters in Bruntville hated the accused.

Mhlongo also testified that before leaving the police station in the casspir he had noticed that Nichas's speech was not normal, as though he had been drinking liquor.



... presented

# Union shop stewards jailed for murders

STAR 19/1/92

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SUSAN SMUTS

FIVE National Union of Metalworkers (Numsa) shop stewards and a hired killer were given yesterday effective jail sentences of between 12 and 28 years each for murdering and attempting to murder "scab" workers during an illegal strike at Haggie Rand in 1989.

The attacks were aimed at workers whose only crime was to try to eke out an existence, said Mr Justice B R du Plessis in the Rand Supreme Court. "Killing people who disagree with your beliefs is anti-social and anti-democratic in the extreme. It must be stamped out."

Although the State had called for the death penalty for each of the accused, the judge found they were all first offenders who could be reformed.

"You have seen the mothers of the victims who died in your attacks. You heard them telling how the death of their loved ones had affected them. Each of you are capable of being useful members of society. Some have undoubted leadership qualities."

Richard Ngobeni (40) of Soweto was chairman of the shop stewards' committee until the 1989 strike. He was given a total of 149 years in jail (effec-

tively, 25 years) for four murders, eight attempted murders, and attempted arson and illegal possession of arms and ammunition.

Hit man Joseph Mdumiseni Bhengu (26) was sentenced to a total of 91 years, six months (effectively, 27 years) for two murders, four attempted murders, and illegal possession of firearms and ammunition.

Malan Khumalo (44) was sentenced to a total of 197 years, six months (effectively, 28 years) for five murders, nine attempted murders, arson and illegal possession of arms and ammunition.

Malvert Ngubane (42) was sentenced to a total of 83 years, six months (effectively, 22 years) for one murder, seven attempted murders, and arson and illegal possession of arms and ammunition.

Jeffrey Siphon Mtshali (36) was sentenced to a total of 22 years (effectively, 12 years) for one murder and one attempted murder.

Samuel Kgoshiekgolo Malepo (40) was given a total of 32 years (effectively, 12 years) for one murder and two attempted murders.



# 'Apartheid' killer found guilty

Stories by MONWABISI NOMADLO



**SELF-CONFESSED** multiple killer and PAC supporter, 42-year-old Gabriel Diphaphang Mahakoe, remained defiant to the end by refusing to participate in his trial presided over by a "boer" and a "settler". He was found guilty on four counts of murder, one of attempted murder and one of theft by Justice DA Kozze in the Bloemfontein Supreme Court this week.

In a chilling confession made to a Brandfort magistrate shortly after his arrest, Mahakoe of Botshabelo location said he was "killing apartheid" when he brutally murdered farmer Willem Christoffel Engelbrecht, 71, his wife Bette, 68, of Verkeerdevel, their daughter Lena Smit, 39, and her daughter Michelle, 14, of Kimberley, three days before Christmas.

He also attempted to kill Smit's other daughter, Petronella, by shooting at her and hitting her with a gun butt.

While Kozze passed a verdict of guilty inside the stuffy courtroom, 14 PAC supporters were arrested outside the building following a confrontation with police when they were refused entry.

During adjournments, Mahakoe stood in the dock and gave lengthy lectures to cheering spectators about the "untrustworthy settlers" and how they should be wiped from Azanian soil.

He told the packed gallery "I'm not the first to be convicted and neither will I be the last."

In a medical report testimony, Mahakoe was described by OFS University psychiatrist, Prof Pieter van Rensburg, as a capable man with an IQ of 38 points and a medium to high intelligence on average.

Van Rensburg also submitted to the court that Mahakoe had said, "... apartheid is like an animal with 100 heads. You chop one head, 100 more heads will emerge."

Mahakoe told him that he "... went there to cut the apartheid hand but only managed to cut the fingers". Mahakoe had been employed by the Engelbrechts for three weeks before the fateful day, and was staying in the farm's storeroom.

The farmer and his wife had gone to Bloemfontein to meet their daughter Lena and her two daughters arriving from Kimberley.

During the day, Mahakoe broke into the house through a window.

He was trapped inside the house when Engelbrecht and his family arrived home unexpectedly. He armed himself and shot them.

He then stole goods and fled the area.

Petronella, the only survivor, ran to the neighbouring farm five kilometres away to summons help.

Mahakoe admitted killing the four whites but said he wanted to kill 20 to 50.

The sensational trial has been postponed until September 24 for a plea in mitigation of sentence. Sentence will then be passed.



**QUILTY ...** "I killed four, I wanted to kill 50," said the multiple killer following the murder of a farmer and his family. **INSETT: Gabriel Mahakoe**

■ Pict THULANE SITHOLE

# Killing time on Death Row

STimes 20/9/92

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The moratorium on executions is creating its own problems.  
CATHY STAGG reports

MORE than 250 prisoners on Death Row are preparing for a future the law has already decreed they do not have.

But the 272 men who have been sentenced to death are banking on the fact that no one has gone to the gallows since November 14 1989 because of the government's moratorium on executions

Some are studying long-term courses, while others have adopted pet birds and are teaching them to talk

Regular Death Row visitors say the men suffer mood swings, from severe depression to anxiety. At times they express optimism that, although they are legally just one step from the gallows, they will not hang.

Traditionally, Death Row has meant only the special section of Pretoria Central's maximum security section, where those sentenced to death were held before execution

But as judges continue to impose death sentences that are no longer carried out, other accommodation has had to be found

Pretoria Central houses 248 of them while the rest are in prisons elsewhere in the country

In Pretoria, most of the condemned men occupy single cells, but a group of 55 are in 11 communal cells

All 272 have exhausted every legal remedy. No appeal can alter their fate, the State President cannot extend clemency and commute their sentences

Their sole hope lies in constitutional change that could alter their status

Justice Minister Kobie Coetsee spelt out the government's position in March and has not issued any further statements. The latest indication of the government's thinking on the topic came this month during the NP's Free State congress. Deputy Justice Minister Danie Schutte said the government favoured the retention of the death penalty because there were crimes so abominable that it was the only suitable punishment

He said it would be inappropriate to apply the death penalty while negotiations on a new constitution and bill of human rights were in progress, as the government could not act unilaterally.

Meanwhile, lawyers have spoken out about how undesirable it is to leave the situation in limbo

In April, in an article in the advocates' journal *Consultus*, the SA Bar Council said that while large-scale hangings were out of the question, the

legislature's problem was that it had to give expression to public feeling — and the majority of all race groups appeared to be in favour of retaining the death penalty, particularly because of the shockingly high amount of violent crime

The man-in-the-street's attitude can perhaps be gauged by the reaction of the public gallery in a Maritzburg case last month. They applauded when the death sentence was handed down

A number of judges have also spoken out publicly about their untenable situation

In May Mr Justice PJ van der Walt said he was not prepared to function in a vacuum

"If I think the death penalty is the only appropriate sentence, then the community must have certainty that — provided I have not made an error on the facts — that sentence will be carried out. To impose a death sentence which will not be executed for years is not civilised as far as I am concerned," he said

On May 27 Mr Justice MJ Strydom asked why, if the death penalty was going to be abolished, he should have to perform one of the most unpleasant duties expected of a judge

It was high time a final decision was taken on the death penalty, he said

STimes 20/9/92  
And this week Mr Justice Hattingh said he was distressed that violent crime had increased since the moratorium on the death sentence was announced, and doubted that the death penalty had the same deterrent effect as before

Many academics question the effectiveness of the death penalty as a deterrent.

The chairman of the Pretoria chapter of the Abolitionists' Society, Professor Jan van Rooyen, said the number of capital crimes — murder, rape and aggravated robbery — amounted to 55 000 a year. In 1989, the last year that hangings were carried out, 53 people were executed. How could a hanging rate of 0,01 percent be a greater deterrent than other punishments? he asked

"It seems the acceptable level is regarded as about 25. To fine-tune those convicted down to that number in an even-handed way is too much to expect from any human being," he said

Professor Denis Davis of the Centre for Applied Legal Studies at Wits said

"People react to the high crime rate by saying we must hang more people. But the death penalty is not a big deterrent. The public needs to be informed of the complexity of the problem"



**Ministers clash after agreement is reached with ANC**

# KOBBE WARREN STUMMELT DIEAT

By EDYTH BULBRING: Political Correspondent

GOVERNMENT negotiators were yesterday desperately trying to salvage the proposed summit with the ANC after Justice Minister Kobbie Coetsee scuppered a crucial agreement on the release of political prisoners.

A deal paving the way for a summit between President FW de Klerk and ANC leader Nelson Mandela this week was within an ace of being approved by both parties on Friday when Mr Coetsee dug his heels in, said sources at the meeting.

In effect, he reintroduced the idea of linking the release of political prisoners to a general amnesty.

A heated exchange followed between Mr Coetsee and Constitutional Development Minister Roelf Meyer.

Late yesterday, government ministers were still trying to sort out their differences while the ANC team remained on standby. But Mr Coetsee issued a statement to the Sunday Times which said:

"The fact of the matter is that I acted in accordance with government policy and government mandate. Opposition to this reasonable position is inexplicable and displays the possibility of other agendas." The original deal had



## Firemen warn of gas risk

Sunday Times Reporter EIGHTEEN firemen were admitted to hospital yesterday after a two-and-a-half hour battle to put out a blaze at a chemical factory in Midrand, near Johannesburg.

The firemen had been exposed to dangerous fumes released into the air during the blaze at the Rhone-Poulenc Animal Health factory, which makes animal feeds and medicines.

The Midrand crisis control centre broadcast a warning to people living north of Johannesburg to watch for symptoms caused by the fumes.

Exposure to the chemical, tetrachlorovinylphos could result in nasal discharges, tightness of the chest, and wheezing, blurred vision and contraction of the pupils, nausea



mandate Opposition to this reasonable position is inexplicable and displays the possibility of other agendas"

The original deal had been carefully put together by Mr Meyer along with ANC secretary-general Cyril Ramaphosa in a series of meetings to remove three obstacles to the summit

## Failure

The obstacles were

- Political prisoners,
- The carrying of dangerous weapons in public,
- The government's failure to implement Goldstone commission recommendations on stepping up security outside hostels and fencing them

The delegations had agreed in principle that

- All dangerous weapons would be banned in public subject to certain exceptions. The formula that would govern this banning was that if a reasonable person perceived anyone carrying a weapon and intending to use it for nefarious purposes, it would be deemed illegal.

Exceptions would include security force activities and such pastimes as Scottish sword dancing.

- Hostels would be prevented from becoming bases of attack and, in turn, measures would be taken to protect the hostels from being attacked from outside

## Release

Precisely which hostels would be fenced in and secured, and the manner in which this would be done, would be decided at a later stage

The third obstacle to the summit and the resumption of constitutional negotiations was the release of political prisoners

At that stage the government was insisting on linking the release of political prisoners to a general amnesty. Its view was that everyone in jail or who could be prosecuted in future should be given amnesty if the crime had been committed with a political motive

The ANC rejected the linking of political prisoners to a general amnesty on the basis that an amnesty could only be discussed by a government of national unity. Political prisoners should be re-

□ To Page 2

# Summit deal ditched

From Page 1

leased first, it insisted

During talks between the two delegations throughout the week, the government delegation backed down on a general amnesty. It agreed that all existing prisoners who had committed a crime with a political motive would be released

It was agreed that the question of general amnesty would be dealt with by a government of national unity

The ANC, in turn, committed itself to a general amnesty once an interim government was in place

It offered the government delegation two dates this week at which a summit could take place

between Mr De Klerk and Mr Mandela

The government was adamant that the meeting should take place before Mr Mandela leaves for a two-week overseas trip on September 30

On Friday, at 2pm, the two delegations met to put their verbal agreements in writing

Present, on the government side, were Mr Meyer, Constitutional Development adviser Fanie van der Merwe, Constitutional Development director general Niel Barnard, and deputy Law and Order Minister Gert Myburgh

But, for the first time at the pre-summit talks, also present was Justice Minister Kobie Coetsee

The ANC was represented by Mr Ramaphosa, legal advisers Penuell Maduna and Mathews Phosa, and national executive committee member Mac Maharaj

After two hours of discussions, a core drafting committee from the two delegations — excluding Mr Coetsee — adjourned to draft the agreement. This was presented to the full meeting at 5pm that afternoon

It defined a political prisoner as any person in jail who had committed a crime with a political motivation, irrespective of the offence concerned. The agreement provided for a phased approach to the release of prisoners, starting this week

Sources at the talks said Mr Coetsee immediately proposed an amendment which stipulated that amnesty would apply not only to existing prisoners who had political motives for committing their various offences, but also to any person not in prison who might in future be convicted of politically motivated offences

This, in effect, reintroduced the idea of a general amnesty, which had been discarded earlier in the week

Once the ANC delegation stated that it could not accept the amendment, the government delegation left the room to confer

Sources in the meeting said the government delegation was absent for over an hour during which heated words were exchanged between Mr Meyer and Mr Coetsee

The ANC delegation was told at 6 20pm that the government negotiators could not agree and the meeting was aborted

This is the second time that Mr Coetsee has blocked an imminent agreement on the release of political prisoners

Last month, an agreement in principle between Foreign Minister Pik Botha and ANC International Affairs head Thabo Mbeki, initiated by UN special representative Cyrus Vance, was also scotched by Mr Coetsee

# String of previous convictions

*Open 20/9/92*

AFTER the conviction of Gabriel Diphaphang Mahakoe, 42, in the Bloemfontein Supreme Court on Tuesday, Free State attorney-general Tim McNally SC cited his previous convictions.

The list follows:

- October, 1964 - five strokes for theft in Steynsrus.
- March, 1968 - six months' imprisonment for theft in Bloemfontein.
- July, 1969 - in Bloemfontein, three months' imprisonment for the theft of fish.
- March, 1970 - in Bloemfontein, 18 months'

imprisonment for housebreaking and theft.

- March, 1972 - convicted of theft and imprisoned for correctional training.
- November, 1972 - arrested for escaping from prison and sentenced to another 12 months' imprisonment.
- August, 1980 - R60 or 40 days' for pretending to be a policeman.
- April, 1982 - 12 months' imprisonment for housebreaking and theft. Also sentenced to another 12 months' for another case of housebreaking and theft, and another six

months for theft of a firearm and ammunition. Released in May, 1984.

- June, 1988 - 30 months' imprisonment for illegal possession of a firearm and a further six months' for ammunition
- July, 1989 - sentenced to an effective three years' jail for another housebreaking and theft. Released unconditionally in 1990.
- Early this year in Bloemfontein, convicted of housebreaking and sentenced to 18 months' imprisonment with nine months suspended for four months.

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Now Mahakoe has been convicted on four counts of murder, one of attempted murder and one count of theft. Sentence will be passed later this week.

After McNally read the list to the court, Justice DA Kotze asked Mahakoe if he knew the cases. Mahakoe said: "I confirm nothing. I know nothing."

Because of his refusal to confirm his previous convictions, the trial was postponed to the following day, when he admitted the convictions but added that "they were unjustified".



Govt and ANC reach deadlock over key demands

# Summit threatened

By Peter Fabricius  
and Helen Grange

A police investigation of 17 ANC members for past crimes is threatening negotiations between the ANC and the Government aimed at setting up a violence summit.

The ANC has slammed the investigations as an attempt to pressure it into accepting a general amnesty.

The ANC's staunch opposition to a general amnesty at this stage, and the Government's view that political prisoners across the spectrum should be released at the same time, is bogging down the pre-summit talks.

The police, confirming the investigations yesterday, staunchly denied that their agenda was to push through a blanket amnesty, saying the probes were routine and applied to everyone who had committed a crime.

But ANC spokesman Carl Niehaus said it was "totally unacceptable and contradictory" to talk about negotiations while investigating past political acts.

Among those who police are probing are SA Communist Party general-secretary Chris Hani, SACP chairman Joe Slovo, ANC national chairman Oliver Tambo, SACP member Ronnie Kasrils and Umkhonto we Sizwe commander Joe Modise.

Others are Harry Gwala, Thabo Mbeki, Steve Tshwete, Mac Maharaj, Jacob Zuma, Zola Skweyiya, Alfred Nzo, Mmabatho Nhlanhla, Siphwe Nyanda Gertrude

## Spanner in the works — Page 11

Shope of the ANC Women's League is also being investigated, along with Ismael Aboobaker, an Umkhonto we Sizwe commander.

Meetings between Constitutional Development Minister Roelf Meyer and ANC secretary-general Cyril Ramaphosa continued throughout last week to try to find a solution to the political prisoners issue.

The Government view is that all those who qualify under guidelines agreed to by the Government and the ANC have already been released, and that those remaining are guilty of very serious common crimes, such as the murder of civilians. It would be unjust to release them without also freeing similar offenders of other organisations — including people such as the policeman sentenced to death in the Trust Feed massacre.

Meanwhile, both Justice Minister Kobie Coetsee and Mr Meyer have denied a Sunday Times report saying Mr Coetsee had wrecked a provisional agreement on political prisoners and general amnesty struck by Mr Meyer with the ANC on Friday. They said the information was apparently propaganda, which was damaging the summit prospects.

In a joint statement they said there had been no conflict within the Government over its position.

"It is the ANC which is intransigent. The ANC wants only its own people in custody to benefit," they said.

The summit on violence — which President de Klerk called for two weeks ago and the ANC accepted in principle — is the key to a return to multiparty constitutional negotiations.

ANC leader Nelson Mandela last week told The Star the ANC would attend the summit if the Government dealt satisfactorily with the release of political prisoners, curbing of dangerous weapons and securing of hostels.

The Ministers' statement said no agreement had been reached on weapons and hostels.

● The Inkatha Freedom Party has warned that any agreement between the Government and the ANC prohibiting the carrying of cultural weapons was a "sure way to court defiance and civil disobedience".



Sowetan 21/9/92

### Hospital strike may end soon

THE National Education, Health and Allied Workers Union and Transvaal Provincial Administration are today expected to announce details of a settlement of the four-month-old hospital strike which has led to clashes between strikers and non-strikers

Talks between the TPA and Nehawu were held on Friday in another bid to reach a compromise and end the strike. Violence has mounted and lives have been lost since the strike began. About 7 000 hospital workers have been dismissed since the strike began

- Sowetan Reporters and Sapa. ~~(S)~~

### Cops probe ANC members

A SPOKESMAN for the Department of Law and Order yesterday denied allegations that, by investigating members of the ANC, police were trying to obtain a blanket amnesty for members of the security forces

Police spokesman Captain BSI van Rooyen confirmed, however, that 17 senior ANC members were being investigated for various crimes. (252)

Among those police are probing are South African Communist Party general secretary Mr Chris Hani, SACP chairman Mr Joe Slovo, ANC national chairman Mr Oliver Tambo, SACP member Mr Ronnie Kasrils and commander of the ANC's military wing, Mr Joe Modise.

Sowetan 21/9/92 ~~(S)~~

HI





SLOW-moving, reluctant bureaucrats could be the single biggest factor limiting progress towards ending political violence

While the President and his Ministers acted promptly in accepting the recommendations made by institutions like the Goldstone commission, the same cannot be said for those charged with implementing them

Government bureaucracy moves slowly enough on its own. The process of consulting the bureaucracies of other organisations has created a treacle-like procedure that often obscures the tragic reality of daily unrest deaths

The issue of continuing violent attacks on commuters is a case in point. Goldstone commission recommendations, which went so far as to comment on changes to the physical structure of train coach doors and windows, were accepted by government

But since that gesture a month ago more than 30 people have died on trains and very little has been done, even at a superficial level, to improve security at some of the stations where violence has occurred

B10PM 22/9/92

# Bureaucrats frustrate good intentions

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## RAY HARTLEY

A visit to Johannesburg station the day after a commuter had been shot dead on a train in the vicinity bore this out. Not only were the two policemen at the station lounging in the sun outside the building, but private security guards were nowhere near platforms where commuters were boarding trains. There were no searches, no metal detectors and no guards

The problem does not lie with the intentions of SA Rail Commuter Corporation (SARCC) managers, who are obviously sincere in their concern about passenger safety. But instead of direct, immediate action, they are bound by the slowness of their own bureaucracy and a series of snail-paced consultations with police, the ANC and its allies

The last two meetings between the parties to discuss train violence illustrate the point well. The first meeting was postponed after police could not say how many officers

were deployed to protect commuters or how they were deployed

The second meeting made no declaration, but reached agreement on a further meeting in three weeks time to discuss guidelines for train security. Parties did not have enough time to discuss four models for train security developed by the SARCC. And the police finally produced their statistics — including the amazing figure of five arrests for 195 train killings

It is no longer trite to wonder how many commuters will be shot, hacked and bludgeoned to death because meetings had to be postponed

Another case in point is the implementation of the Goldstone commission's recommendations on securing hostels which have become flash-

points for violence in surrounding communities

Last week a detective was shot by inhabitants of the Woluter hostel in Jeppe Street. A few weeks ago residents of Kwamadala hostel — from which the Boipatong massacre was launched — fired on policemen arresting a rapist

A spokesman for Iscor, which owns and runs Kwamadala, later admitted that residents were not searched for arms when entering the premises, despite the fact that a massive steel fence had been erected around the hostel for "security". Police said they did not have the personnel to conduct the searches, which were Iscor's responsibility anyway

Somewhere between the laudable decisions of leadership and the inertia on the ground there lies a series of procedures that blunts and ultimately buries good intentions. If effective action is to be taken, these

bureaucratic processes have to be short-circuited

Interminable meetings need to be transformed into action-orientated task groups with the financial backing of government, so they can focus their energies on problems and pursue them with urgency

Judge Richard Goldstone set an example for this when he announced his new investigative unit. The unit will be unencumbered by the procedures, traditions and rigmarole of police structures. Instead they will be focused on the priority of establishing the causes of violence and will report directly to Goldstone

Goldstone's accelerated inquiry into the Bisho massacre, which will now be completed in October, is another example of the kind of prioritising that is required

But the Goldstone commission, however streamlined and responsive it becomes, is nothing if the legislative and executive arms of government and the processes of consultation they are involved in cannot match its urgency and decisiveness. Goldstone's bark must be matched by government's bite

## REVIEW



Dennis Davis and Gilbert Marcus continue the debate on the motives of violence-monitors

# Selective quotations damage Jeffery's credibility

STAN 22/9/92

CONSIDERABLE publicity has been given to Dr Anthea Jeffery's report, "Spotlight on disinformation about violence in South Africa", in which she accuses three human rights organisations of depicting political conflict in a selective and misleading manner.

Dr Jeffery's attack on reports by Amnesty, the International Commission of Jurists and the Human Rights Commission, was published by the South African Institute of Race Relations. It has been endorsed by the institute's director, John Kane-Berman.

She concludes that the reports of these groups on political violence are, at best, "one-sided and simplistic" and, at worst, "amount to disinformation — deliberate attempts to mislead".

We suggest Dr Jeffery is guilty of the same sins for which she criticises others. But, more importantly, her venture is largely irrelevant and unhelpful in addressing the current problems of violence.

Her main gripe is that they all three organisations allegedly ignore certain strategies of the ANC, such as fostering "ungovernability" through mass action, refusing to disband its armed wing

and refusing to cease establishing of self-defence units.

She also argues that the methodology adopted by the organisations evinces a disregard for the "rules of evidence and the safeguards of due legal process".

It is important that reports of influential organisations be subjected to scrutiny. Had Dr Jeffery's efforts been limited to this, they would have had some value.

But other criticisms are trivial and speculative. In addition, she proceeds from the erroneous premise that the legal rules of evidence must govern reports of this nature. The suggestion is ludicrous. International monitoring bodies do not purport to be legal commissions of inquiry. To expect them to operate as such would render their work impossible.

Dr Jeffery herself pays scant regard to the rules of evidence that she suggests are so important. Her criticisms are often unverified, based upon hearsay and sometimes erroneous speculation. In courts of law, only relevant evidence is admissible and strict tests are laid down for the drawing of inferences. Here Dr Jeffery fails miserably.

First, the question of relevance. In her report the question of what is causing the violence is subverted to proving a conspiracy among three independent bodies.

Accordingly, methodological precision gives way to inferential inexactitude. Space constraints permit only two examples.

In dealing with the HRC's report on the Crossroads massacre, Dr Jeffery writes "The HRC attributes the Crossroads massacre — in which 23 sleeping members of the IFP (including a woman and two children) were killed by Xhosa-speaking men, allegedly from an ANC squatter camp — to 'vigilante related action'.

It defines such action as attacks by (or in defence against) surrogate forces of the State, in the form of 'vigilante' private armies formed by homeland administrations or black local authorities. Deaths thus laid at the door of the State are said by the HRC to include the deaths of these 23 IFP supporters."

The least Dr Jeffery could have done was to quote the exact passage from the relevant HRC report. It reads "The victims were caught unawares by the attackers

who were armed with guns, petrol bombs, pangas and spears and some of the victims died in their burning homes. The area was forcefully taken over by Inkatha supporters in August 1990 and has remained an Inkatha stronghold since then. Among those killed were a woman and two children.

Witnesses reported that the attackers came from the direction of the Holomisa Camp. The ANC disputed this, reporting that the attackers had got off a train near Crossroads at 10 pm and launched the attack at 10.45 pm."

This is a far more factual account than Dr Jeffery would have the reader believe by her selective quotes from different sections of the HRC report.

In dealing with intimidation, Dr Jeffery writes "Opinion surveys confirm the high percentage of black people in metropolitan areas who have been coerced into participating in consumer boycotts, stayaways and rent boycotts. These surveys also show a strong correlation between coercion and political affiliation. Thus, those who support the IFP or the Azanian People's Organisation have been subject to intimidation

far more often than supporters of the ANC and its allies."

When Dr Jeffery's references are examined, the surveys to which she repeatedly refers turn out to be one study conducted by the Institute of Race Relations! On the basis of these "surveys", she makes the following "scientific" claim "If these survey findings from the representative sample canvassed are extrapolated to the total metropolitan population, it can be assumed that some 1.75 million metropolitan blacks experienced coercion or intimidation in the context of mass action during 1990/1."

In the context of this tendentious reasoning the question remains: What is the relevance of the exercise? Is it simply to counter what John Kane-Berman has claimed is a worldwide smear campaign against IFP leader Mangosuthu Buthelezi?

This perception is fortified by a second aspect of Dr Jeffery's enterprise: her scarcely disguised attempts to fit her criticism into a conspiracy of disinformation. Here she would do well to study the rules of inferential reasoning. Some of her arguments are

remniscent of the evidence given by "total onslaught" theorists in the heyday of the security trials. For example, she claims "reports which are seen to be one-sided can easily fan the flames of violence". This was the kind of justification used by the P W Botha regime to ban a range of publications and organisations in the 1980s. Is Dr Jeffery suggesting township residents are so influenced by the Amnesty report that, armed, they proceed to engage in the acts of violence which characterise contemporary South Africa? It seems extraordinary that so much energy can be used to legitimise a particular political position rather than helping to throw light on the causes of violence. When it comes to apportioning blame it is unhelpful to quibble about inaccurate reports of violence. Surely the greatest responsibility must be borne by the Government whose policies Mr Kane-Berman concedes are at the root of the violence? Surely, too, the resources of the SAIRR are better utilised in formulating constructive suggestions to curb abuses of power by the State? □

# Newspaper reports focus of MK cadre's inquest

By Musa Mapisa  
and Brian Sokutu

A lawyer yesterday produced press reports in the Johannesburg Inquest Court to challenge the police version of the shooting of an Umkhonto we Sizwe (MK) soldier and his wife in Soweto a year ago.

MK cadre Itumeleng Samuel Padi (24) and his wife Nokuzola Faith Ncalo (22) were shot dead during a police pre-dawn raid in Phiri on May 19 last year.

Giving evidence yesterday, Lieutenant Herman Havenga of the Soweto Crime Prevention Unit, who led the raid, said police had received information from a person called Flint that Mr Padi was hiding in a flat outside a house in Soweto.

Accompanied by six armed policemen, Flint pointed out the room. People in the house switched on outside

lights but they were asked to switch them off.

Lieutenant Havenga knocked at the door and identified himself as a policeman.

He heard whispers and the door being unlocked and he pushed it open.

As he rushed in with an R-5 rifle in his hand he saw Mr Padi trying to remove a pin from a hand grenade. He shouted "Grenade!" and shot in the direction of Mr Padi, who was sitting on the bed about 2,5 m away.

He said it was dark in the room but he could see Mr Padi, whom he knew well as a dangerous MK cadre.

Advocate G Rautenbach, representing the family, quoted from a report of the shooting published in The Star in which police spokesman Lieutenant-Colonel Tienie Halgryn gave a different account of the raid.

According to Colonel Halgryn's statement,

when the police entered the house they shone a torch at Mr Padi, who then grabbed a hand grenade. The police shot him dead before the grenade could explode.

Mr Rautenbach also challenged Lieutenant Havenga's earlier statement that the police realised only after the shooting that the second person who died was a woman, Nokuzola Ncalo.

He produced a report from the Citizen which quoted Colonel Halgryn as having said police shot and killed a woman who had stormed them and threatened to hurl another grenade at them.

Replying, Lieutenant Havenga said the woman did not attempt to throw a grenade at the police. He denied that police had shone a torch at the suspect and said the press may have misinterpreted Colonel Halgryn's statement.

The hearing continues today.

VILLAGE TRUSTEES

Explosives



# Boipatong: bail opposed

By Melody McDougall  
Vereeniging Bureau

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STAR 22/9/92

The State yesterday opposed the bail application of 71 Kwa-Madala hostel inmates facing charges in connection with the June 17 Boipatong massacre

Testifying for the State in the Vanderbijlpark Magistrate's Court yesterday, Vaal Triangle Crime Investigation Unit assistant head Colonel Joseph du Pont said he believed the accused could skip bail and miss their trials

The 71 suspects, including four youths, are all facing at least 40 counts of murder and public violence charges. No one has yet been asked to plead to the charges before magistrate Mr G J Reynders.

Colonel du Pont said the case was an "historic and

crystallised" one, and a matter in which society and the world would demand that justice be done

He said that if the accused skipped bail it would be difficult to trace them to their given addresses in Natal. Other suspects still being sought in connection with the alleged massacre had already disappeared.

Referring to the "very tense atmosphere" between Inkatha and ANC supporters in the Vaal Triangle area, Colonel du Pont said it would be safer for the suspects to remain in custody.

He had information that ANC supporters in Boipatong would attack the KwaMadala hostel if the accused were released on bail.

The bail hearing was postponed to Monday.



# Suspects are not missing

*Southern* 22/9/92 *252*  
■ 'If these men are released we will have a bloodbath,' says Du Pont:

THE 17 suspects in the Boipatong massacre are not missing, Vanderbijl-Park Magistrate's Court heard yesterday

During the continuation of the bail application hearing for 71 Inkatha Freedom Party members, IFP advocate Mr As Burger told the court that contrary to reports in a Sunday newspaper, two of the men said to be missing were in court

He said one man was dead and another could not be accounted for. The rest were available.

The bail application will continue on September 28 when Burger will question Colonel John du Pont. Du Pont has told the court. "If these men are released we will have a bloodbath."

# Bill may change role of attorneys

GOVERNMENT is planning to introduce controversial legislation next month which will allow attorneys to take on the functions of advocates in supreme courts.

Described by supporters and detractors as the "thin edge of the wedge" that would end the division between advocates and attorneys, the Admission of Advocates Amendment Bill has been criticised as ill-conceived by the law profession.

The Bill makes provision for any division of the supreme court to permit an attorney to discharge the functions of an advocate in any proceedings if no advocate

B/D/AM 22/9/92  
BILLY PADDOCK ~~252~~

is available or willing to appear. (252)

The explanatory memorandum also states that available advocates do not always have sufficient experience or the capability to appear in "certain specialised cases or in cases of a serious and complicated nature in the supreme court".

The Judge President may therefore appoint an attorney from a panel set up by the law society concerned to act in the proceedings. The Bill is to be considered by

□ To Page 2

## Attorneys B/D/AM 22/9/92

the parliamentary standing committee on justice next week

Johannesburg Bar Council chairman Schalk Burger attacked the Bill as "misconceived, with the explanation for its introduction being positively misleading"

There was not a single case that he could think of where no specialist advocate was available. The only time advocates were generally unavailable was in pro deo cases in circuit courts. In these instances, it had long been the case that attorneys were appointed to act in the higher courts.

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He said it would have been far better had a commission of inquiry looked at the whole legal profession. The resultant overview would have led to far better and more comprehensive changes.

Association of Law Societies vice-president David Asherson said he welcomed a start being made in breaking down divisions in the profession but said the Bill fell far short of what was required — that all suitably qualified attorneys be permitted to practise in the supreme court. The present division could no longer be justified, he said.

# Police 'had to open fire'

By Brian Sokutu *STAR*

23/9/92  
Even if it would have led to the killing of innocent children, police had to open fire when they raided the Soweto home of an Umkhonto we Sizwe (MK) cadre last year, a policeman told the Johannesburg Inquest Court yesterday.

Under cross-examination by advocate G Rautenbach, representing the families of slain MK cadre Itumeleng Samuel Padi (24) and his girlfriend Nokuzola Faith Ncalo (22), Lieutenant Herman Havenga of the Soweto Crime Prevention Unit alleged Mr Padi was armed with a hand grenade at the time, and that their lives were in danger.

The two died in a hail of bullets after being shot by police during a pre-dawn raid at their Phiri backyard home on May 19 last year.

"My life and those of my colleagues was in danger. I had to open fire. So even if there were children it would have made no difference," Lieutenant Havenga said.

The hearing continues today.



# ANC scuffle during women's trial

Staff Reporter

**SCUFFLES** between police and ANC supporters broke out in the Cape Town Magistrate's court yesterday after two magistrates walked out of their courts after the gallery interrupted proceedings.

In court 23, five ANC Women's League members and three men appeared in connection with pouring red paint on the South African flag outside the court on June 29.

When the magistrate, Mr W J Faught, entered the courtroom the gallery remained seated and he left the court. The prosecutor and the attorney for the accused both appealed to the gallery.

When Mr Faught re-entered the room the gallery rose but a man shouted "Amandla". Mr Faught rose to leave and four policemen waded into the gallery to apprehend the man.

Scuffling erupted between the police and ANC supporters who were shoved out into the street before the main gates were locked.

The ANC supporters began toy-toy-ing and about 30 policemen charged, arrested them and put them into a van. The trial later proceeded.

Bail of R100 was extended for Ms Mcebisi Shwasha, 27, Mr Nombulelo Koti, 46, Ms Patricia Matolegwe, 37, Ms Thozana Mlangeni, 32, Ms Buyiswa Magediela, 28, Ms Matsatsi Maceba, 28, Mr Michael Mtsho, 26, and Mr Patrick Nogwaza, 41.

Warrants of arrest were issued for Ms Hilda Ndaba, 33, Ms Mamepe Ramoetseni, 37, and Mr Jonguxalo Mibeleli, 24, who failed to appear. The warrants were held over for October 30.

The accused were not asked to plead, no charges were put to them and the trial was postponed to October 30 for the attorney-general's decision whether to prosecute and for further investigation.



**SCUFFLES**... Police carry an ANC supporter from outside the Cape Town Magistrate's Court yesterday.

● In Court 16, Magistrate Mr J McEwan walked out of his court when a member of the gallery interrupted him with a shout of "Mayibuye Afrika" (come back Africa).

Mr McEwan was presiding in the trial of seven ANC Women's League members appearing in connection with holding an illegal demonstration outside Parliament on June 26, where they allegedly flung red paint on the walls of Parliament.

The woman appeared again later. Bail of R50 was extended for Ms Matsatsi Maceba, 28, Ms Madeleine Fullard, 25, Ms Patricia Matolegwe, 37, Ms Nombulelo Katyi, 36, Ms Thozana Mlangeni, 32, Ms Cordelia Racaza, 29, and Ms Louise Naude, 34. The trial was postponed until October 30.

## Killer cop gets 9 years

PRETORIA — Suspended policeman Andries Jacobus Strydom, 26, has been sentenced to an effective nine years in jail for killing a detainee.

His colleague, Andries Jacobus Greyling, 25, was sentenced to two years following an assault in Pretoria Central prison which led to the death of detainee Mr Michael Nkabande in 1990.

Strydom was found guilty of murdering Mr Nkabande. Greyling was found guilty of assault. The judge said he accepted the evidence of a psychiatrist and a pastor that Strydom was remorseful about his actions, and had voluntarily been admitted to a private clinic for psychiatric treatment. — Sapa

## 10 years for killing two

JOHANNESBURG. — The time has come for all race groups in South Africa to become more tolerant of each other, a Rand Supreme Court judge said yesterday as he sentenced two white Vrededorp men to an effective 10 years in jail for kicking two black men to death at Johannesburg Station in March last year.

Anthony Charles Hamman, 20, and Thomas Swanepoel, 19, were convicted of two counts of murder and two of assault after pleading guilty to all charges. "Why you chose to assault two black men, I don't know. You did not tell me," the judge added, referring to the men's decision not to give evidence. — Sapa

# DP advocates an amnesty law

ANC charges the government is pressurising them:

THE Democratic Party yesterday proposed that an amnesty law should be passed by an interim government, saying this would help promote reconciliation and ensure a smooth transition to a nonracial society.

"Such a law should clearly define the offences in respect of which amnesty is to be granted, whether the culprits were security force members or opponents of apartheid," Mr Peter Gastrow, the party's spokesman on law and order, said in a statement.

Gastrow said that while indemnities removed obstacles towards longer-term stability in South Africa, they were ad hoc and detrimentally affected the legal system. They also provided fertile ground for political manipulation.

"This will continue to be the case until a clear and final line is drawn by means of an amnesty law, which should be discussed and debated now but which should only be passed by an interim government."

The Government, in terms of agreements reached with the African National Congress, has indemnified political exiles but the SAP has since started

investigating senior ANC officials over past offences including a 1983 Pretoria bombing which killed 19 people.

The ANC has charged that the Government is attempting to pressurise them into agreeing to a blanket amnesty.

Mr Gastrow said that opening and revealing human rights abuses of the past ought to be directly linked to an amnesty. "This is necessary in order to promote reconciliation and make as smooth as possible the transition from the apartheid era" - Sapa

**Such a law should clearly define the offences in respect of which amnesty is to be granted, whether the culprits were security force members or opponents of apartheid**

Peter Gastrow, DP spokesman on Law and Order

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NEWS Goldstone Commission to rule on fatal shootings ● Top cops under investigation

# 15 Bisho massacre victims 'shot in back'

■ An independent pathologist is satisfied that the autopsies were carried out in a proper manner: *Sowetan 23/9/92 (252)*

AT least 15 of the Bisho massacre victims were shot in the back, according to the findings of a private pathologist who attended the State autopsies

"However, one can't conclude they were running away when they were shot in the back," the pathologist said in an interview yesterday

He felt it was for the Goldstone Commission, which begins its investigation into the massacre on Wednesday, to determine what the victims were doing when they were shot dead.

Twenty-nine people, including a Ciskei soldier, died and almost 200 people were injured when homeland security forces opened fire on thousands of ANC supporters at the Ciskei/South Africa border on September 7.

The State autopsies, attended by the private pathologist,

were carried out on September 10 and 11 at the East London Mortuary by Prof GD Knoebel and Dr S Wade of the Department of Forensic Pathology at the University of Cape Town

Also present were police mortuary staff, a police television photographer and a still photographer

The pathologist - who attended 24 of the autopsies and was given access to autopsy information of another three - praised the work done by the two State pathologists

"I was there to make sure it was done in a proper manner - which it was," he emphasised

According to the nine-page report in *Sapa's* possession, a 16th victim was "probably" also shot in the back, another seven victims were shot in the side and two in the front of their bodies, two were uncertain - *Sapa*

# Top investigation a 'sop'

■ Activities of the far left and far right are both under scrutiny: *Sowetan 23/9/92*

POLICE are investigating possible murder, torture and assault charges

against senior homeland policemen including KwaZulu police chief Major-General Jac Buchner and the SAP's Lieutenant General Lothar Neehling

Lieutenant JA du Preez of the SAP yesterday also confirmed investigations were underway into similar charges "against more than one hun-

dred policemen"

He could not confirm the official list of ANC and PAC people under investigation, and only said that "numerous allegations involving the far right as well as the far left" were being looked into

Senior ANC and PAC officials yesterday said the "investigation" of police officers was a sop created by the Government to squeeze a general

amnesty out of the movement

"It is clear that the Government wants to blackmail the ANC into accepting blanket amnesty.

"We fought a war of liberation in which everyone acknowledged their role in such a war

"The National Party Government fought a war to retain apartheid - condemned by the world as a crime against humanity"



Former exile Mr Duma Ndlovu (centre back) enjoys the comforts of Sun City. He was a guest at the Shell Road To Fame Talent Contest at the Bophutatswana resort at the weekend. He is with (from left) Miss Lindiwe Hengwa, Miss Khanyo Maphumalo, Miss Dudu Ndlovu and Miss Cynthia Nthako. PIC: MBUZENI ZULLU



# 2 cops jailed for killing drunk man

■ **FIRST OFFENDERS** Judge finds dead man's behaviour

mitigated in favour of accused who beat him to death :

## Sowetan Correspondent

**T**WO SUSPENDED POLICEMEN WERE yesterday sentenced to a total of 15 years imprisonment after being found guilty of murder and assault in the Pretoria

Supreme Court

Andries Jakobus Strydom (25) of Orchards near Pretoria was last week found guilty of murder, while Andries Jacobus Ferdinandus Greyling (24) of Tulleken Berea was found guilty of assault with intent to commit grievous bodily harm

Mr Justice JJ Strydom found the pair had assaulted Mr Michael Nkabinde on November 24 1990 after taking him into custody at 2pm

The court heard they hit and kicked him and bashed his head on a counter

When he appeared to lose consciousness, Strydom sprayed teargas into his nostrils

The two constables did not book Nkabinde but he was taken down to the cells at the Pretoria Central police station, where the court found the assault took place

Nkabinde died of his injuries three hours later at the HF Verwoerd Hospital. He had been kicked in the body, head and private parts

Mr Justice Strydom sentenced (Andries) Strydom to 12 years' imprisonment, three years of which were suspended for five years

Greyling was sentenced to three years' imprisonment, one of which was suspended for five years

Both will lodge appeals against the

sentences

The assault on the deceased was "inherently injurious" the judge said

He said Nkabinde, who was highly intoxicated, was not up to defending himself against the two young policemen

The judge said the State had proved aggravating circumstances beyond a reasonable doubt, but there were extenuating circumstances the State was unable to dismiss beyond a doubt.

The judge accepted in mitigation that both men were first offenders, in their early 20s when the crime was committed and that they were probably provoked by Nkabinde's provocative behaviour when he kicked at their vehicle and grabbed Greyling's watch from his arm and threw it into the crowd

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# Winnie to face disciplinary inquiry

**WINNIE Mandela** — now an ordinary ANC member after she stepped down from three key posts — will soon face a disciplinary inquiry, along with some of her supporters who held a protest rally at the ANC's Johannesburg headquarters in May.

The ANC's national executive committee (NEC), of which Mandela was an office-holder until recently, said the date of the inquiry would be announced soon.

**PATRICK BULGER**

The inquiry follows an investigation by two independent attorneys into the protest.

The findings of the inquiry were laid before the NEC recently and were understood to have recommended a disciplinary inquiry.

The NEC said it had appointed a task force to oversee the ANC Women's League PWV region's political and administrative office.

# 'Occult' crimes rise

**POLICE** have confirmed an increase in the number of occult-related crimes under investigation.

However, Satanism was not illegal in SA and so was not investigated as a criminal offence, a police spokesman said in Pretoria yesterday.

Offences which might result from Satanism — such as the slaughter of cats, grave desecration and sexual and drug abuse — were investigated



# Fintech Limited

Incorporated in the Republic of South Africa  
(Registration number 69/10524/06)

## Interim results for the half-year ended 31 August 1992

*Figures in R000's*

Income statement	Six months to		Year ended
	31/8/92 (unaudited)	31/8/91 (unaudited)	
Turnover	285 334	275 641	561 603
Operating income	10 068	11 357	30 749
Interest received/(paid)	287	357	(1 231)

# Policeman jailed for murder of detainee

**PRETORIA** — A policeman who kicked and beat a detainee to death was sentenced to nine years' imprisonment in the Pretoria Supreme Court yesterday.

Andries Jacobus Strydom, a 26-year-old constable, was convicted of murdering Michael Nkabinde, 28, at the Pretoria Central Prison in November 1990.

A colleague, Andries Jacobus Greyling, 25, was convicted of attempted murder and sentenced to two years' imprisonment.

Judge Strydom described the beating of Nkabinde by Strydom as callous and senseless.

Nkabinde had been detained in connection with the possession of a firearm.

Meanwhile, the SAP's Visible Policing Unit said yesterday policemen based at Pretoria Central had prevented three detainees from committing suicide in police cells over the weekend.

The unit's divisional chief, Lt-Gen Louwtjie Malan, said the SAP was aware that the arrest of a person was a traumatic experience and that the police "were doing everything in their power to prevent suicides and to safeguard persons in custody".

Meanwhile, relatives of a detainee, Jan Motosoeneng, who died in hospital in the Free State town of Rietz on Friday, have been invited to appoint a private doctor to attend his post-mortem, according to police. The post-mortem is to be conducted in

# Minister loses anger

**BEHLEHLEN** detectives An inquest dossier has been opened by the PAC yesterday announced a programme of protest action in response to continuing deaths in police cells.

PAC national campaigns committee chairman Ntsundeni Madzunya told a news conference in Johannesburg that the situation was no longer tolerable and could not go unchallenged.

He said 19 people had died since forensic pathologist Dr Jonathan Guckman's public disclosure of allegedly unlawful deaths of prisoners in police custody on July 26.

The programme of action would include:

- An address by the PAC general secretary Benny Alexander to the UN Special Committee against Apartheid on October 12, the "international day of solidarity with Azanian prisoners";
- A march to Parliament on October 12, Demonstrations at police stations on October 11;
- Letters to church, sporting, cultural and other bodies calling for a moment of silence on October 11.

Madzunya said his organisation would also consider a national strike for October 12 if government had not addressed the issue adequately, closer to the time. He did not say what steps government should take — Sapa

# Rid to quash fraud

Minister loses anger





Meyer, Ramaphosa keep talking

# Prisoner hitch dims hope for peace summit

HOPE for an early summit on violence between President F W de Klerk and ANC president Nelson Mandela faded last night as a dispute over three ANC prisoners, including Magoo's Bar bomber Robert McBride, blocked an agreement.

After extended Cabinet and ANC national working committee meetings yesterday it was decided key negotiators Constitutional Development Minister Roelf Meyer and ANC secretary-general Cyril Ramaphosa should go back to the drawing board in search of a compromise.

A senior government source said a summit was still possible, but prospects were "much dimmer than a day ago".

The key obstacle has been ANC insistence that McBride and two other ANC cadres — Mzondeleli Nondula and Mthethleli Mncube, convicted on several counts of murder — be released immediately.

Government believes it is impossible to free the men at this stage, but it is prepared to commit itself to making arrangements for the release during the short parliamentary session in October. This is unacceptable to the ANC.

A government statement last night said Meyer and Ramaphosa would continue discussions "as soon as possible" to clear the way for the summit.

The other two ANC conditions for a summit — the fencing of hostels and the banning of public carrying of weapons — had been adequately resolved, sources said.

They said the Cabinet believed releasing the three prisoners would go beyond the convention of Article 6 of the Constitution

empowering the President to grant clemency. He had already granted them a reprieve from the death penalty last year.

The belief was that their release could be dealt with only in comprehensive legislation that government had agreed to pilot through the coming session of Parliament.

Denying that this was a ploy to force reciprocal amnesty for state officials, government sources said there was a fear that if the release was not done in terms of legislation there could be severe repercussions.

Should this be passed in the short session then the three would be released and the legislation would also be applied across the political spectrum.

Government appeared to be worried that it would be seen to be bowing to demands because of its pressing desire for a summit, a government source said.

He said the two negotiating teams had agreed that all prisoners with politically motivated crimes would be released in terms of prison regulations if they had completed one third of their sentences.

The source said government was prepared to work through the list with the ANC and immediately release all those prisoners who qualified.

The number released would exceed the 80 originally discussed.

An ANC source said too many members of the organisation's national working committee executive did not trust government to deliver on promises to release the three prisoners at a later date.

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BILLY PADDOCK



# Activists 'fled into dunes'

Own Correspondent

UPINGTON — Two right-wing extremists drove their car through two barbed-wire fences before disappearing on foot over the sand dunes of the Kalahari Desert, a policeman has told an inquest hearing

Detective Sergeant Marius Pieterse of the Vehicle Theft Unit in Upington was giving evidence in the inquest into the deaths of Johannes Jurgens Grobbelaar (19) of Krugersdorp and Jurgen Matthews White (22) of Louis Trichardt.

The two self-confessed right-wing activists were killed after an encounter with police in the Kalahari near Noenieput on November 7 1991

Police found a large arsenal of terrorist weapons, ammunition and political literature in their possession.

The inquest court hopes to solve the riddle of whether the two men committed suicide as alleged by the police, or whether they were killed by police fire

Sergeant Pieterse said he had stopped the two men in a red Golf while on a routine patrol between Rietfontein and Noenieput

The driver identified himself as Alex Burger of River Street, Hercules, Pretoria. He said he and his passenger were both students on their way to the Kalahari Gemsbok Park

Their car registration number did not tally with that on the windscreen, Sergeant Pieterse said

Later, when he pulled up alongside the Golf, a smoke grenade was hurled out of the vehicle. It then sped off and a car chase through the semi-

desert ensued

After finding the Golf abandoned, Sergeant Pieterse called for reinforcements and, accompanied by police trackers, followed the men's tracks

"About 500 m from the dunes, I heard the sound of gunfire. Shortly after that I discovered the two suspects, fatally wounded. I found two R-4 rifles, one R-1 and an AK-47"

Two police trackers had been shot and one, Daantje Berendse (23), died of his wounds

Earlier, ballistics expert Major Gerhardus de Waal, of the Forensic Science Laboratory in Pretoria, said forensic tests could not show with certainty whether the bullets that killed Mr Grobbelaar were fired from police weapons, or whether the fatal wound was self-inflicted

The inquest continues

# Cadre's death

## inquest

Star 24/9/92  
By Brian Sokutu

Umkhonto we Sizwe cadre Itumeleng Samuel Padi (24) was shot dead by police in Soweto a month after applying to the Government for indemnity from prosecution, the Johannesburg Inquest Court heard yesterday.

Mr Padi and his girlfriend, Nokuzola Faith Ncalo (22), died in a hail of bullets during a pre-dawn police raid at their Phiri home on May 19 last year.

Under cross-examination by advocate G Rautenbach, Warrant-Officer Marthinus Johannes Schoeman said he was aware that indemnity had been sought.

"When an application is made, we get a copy," he said.

Asked by Mr Rautenbach why police sought to arrest Mr Padi, Warrant-Officer Schoeman said there was information that Mr Padi was in possession of weapons.

"He had escaped from custody in 1989. Making an application for indemnity does not guarantee freedom from prosecution," he said.

Mr Rautenbach quoted an affidavit by Mr Padi's neighbour, Vincent Skosana, alleging police intended to shoot the MK cadre.

The hearing was postponed to December 8.

# Man will not die

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Sowetan  
24/9/92

## ■ Not the proper sentence:

IMPRISONMENT of 15 years has been substituted for the death sentence a Winkelhaak mineworker, Sithembiso Wiseman Kheswa, received for the murder of Mr Michiel Christian Jonker.

Jonker was killed when he stopped on a gravel road near Secunda on the night of May 4 1988.

Kheswa was convicted by Mr Justice MJ Strydom in the Circuit Court at Evander on May 5 1989.

Mr Justice Nienaber said that there was no doubt as to Kheswa's guilt. The only question was whether the death penalty was the only proper sentence.

The apparent pointlessness of the murder of an uninvolved and innocent bystander and the brutal way he was killed were irrefutable aggravatory factors.

Although Kheswa had not testified, the State had not excluded the reasonable possibility that he had been intoxicated and that this had contributed to his irrational conduct.

According to his statement he had picked up a piece of metal at the scene. Robbery could be excluded as a motive as it was not shown that anything that belonged to the victim was missing.

Even if it was accepted that there was too little to justify the inference that Jonker had almost collided with Kheswa, there was enough material to indicate that Kheswa had not acted normally. This made him less blame-worthy.

When it was considered that he was 25 years old at the time, without previous convictions, the death sentence was not the proper sentence for him. *Sapa*



STAR 24/9/92

# Subpoena served on De Klerk

By Monica Oosterbroek

President de Klerk has been subpoenaed to appear in the Potchefstroom Magistrate's

Court to give evidence in the public-violence trial of AWB leader Eugene TerreBlanche and 14 others.

The defence counsel, Gerhard Botha, wants Mr de Klerk to appear in court on November 2 to testify in defence of his clients.

The subpoena was sent to the State President's office yesterday.

Proceedings have been postponed until October 12 due to the ill health of one of the accused, former AWB general-secretary Piet Rudolph.

# Dead man MK cadre

■ Cops admit they knew ANC man had applied for indemnity:

*Soweto 24/9/92.*

UMKHONTO we Sizwe cadre Mr Itumeleng Padi (24) was shot dead by police in Soweto a month after applying to the Government for indemnity from prosecution, the Johannesburg inquest court heard yesterday

Padi and girlfriend Miss Nokuzola Ncalo (22) died in a hail of bullets during a pre-dawn police raid at their Phiri backyard home on May 19 last year.

Under cross-examination by Mr G Rautenbach, representing the families, Warrant-Officer Johannes Schoeman, one of the six policemen who conducted the raid, said he was aware that Padi had applied to the Government for indemnity

"Before we went to raid the house in Phiri we were aware that Itumeleng had made an application for indemnity. When an application is made we get a copy," he said

The hearing was postponed to December 8

# Hostel men were set up - defence

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*Swefam 24/9/72*  
■ Lawyer representing Swanieville massacre accused will give evidence to show cops were responsible for killings:

DEFENCE counsel in the Swanieville massacre trial told the Rand Supreme Court yesterday it would lead evidence to show police had taken part in the attack and then blamed nearby hostel dwellers

Mr AS Burger told Mr Justice C Botha and two assessors the witness would say about 80 to 100 people including policemen, had taken part in the attack in the West Rand Squatter Camp, and not 800 to 1 000 hostel dwellers as policemen had testified before the court

Mr Burger cross-examined Constable Remo Liut, who had been called back to give evidence after an inspection in loco on Tuesday

Constable Liut had earlier dismissed as a "blatant lie" allegations that policemen had taken part in the massacre. He told the court yesterday five Casspirs could have transported 80 to 100 people



# New court, officials could ease trauma facing rape victims

ROGER FRIEDMAN  
Staff Reporter

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ARGT 24/9/92

A COURT specialising in rape cases will operate weekly on an experimental basis from November

Specialised investigators and prosecutors have been identified and the pilot court will permit the Attorney-General's office to assess the success of interaction between police and prosecutors.

The court — a first for the country — will operate in Cape Town at Regional Court level.

The acting Attorney-General, Mr Frank Kahn, hinted at the creation of rape courts when his widespread initiative on rape was announced in The Argus earlier this month.

The announcement was made at the first formal session of the newly constituted Cape Town co-ordinating committee on rape held at the office of the Attorney-General yesterday.

The committee comprises representatives from a broad range of non-governmental organisations who will be joined by police and medical authorities.

Committee member Ms Colleen Hall hailed its endeavours as the "first attempt by State and private structures to sit down with a list of problems and sort them out"

Other significant matters included the provision of psychologists to represent rape survivors and a procedure for medical examination

Lawyers for Human Rights has agreed to foot the bill for psychologists to give expert evidence on behalf of cash-strapped rape survivors.

Rape survivors need never again undergo a court appearance trauma without adequate psychological evidence being led.

Ms Ilze Olckers, Western Cape Regional Director of the Women's Desk for Lawyers for Human Rights, said they recognised the importance for evidence to be led with regard to the emotional trauma.

"We are in the process of developing a pool of experienced psychological practitioners — some have already volunteered their services.

"We hope to make use of academics, and psychologists in private practice."

Co-ordinating committee chairperson and advocate Mrs Sandra Swart said they were negotiating a deal having district surgeons on call during office hours, but reverting to provincial hospitals at night, reducing the waiting for rape survivors to being seen by a doctor — a common complaint



## Jo'burg considers special rape court

A SPECIALISED court in Johannesburg for rape cases was under consideration, Johannesburg attorney-general Klaus von Lieres said yesterday. *Blom*

The move follows the creation of a regional rape court in Cape Town, which will begin hearings on an experimental basis from November. *25/9/92*

Von Lieres said he would consult senior prosecutors on whether more specialised rape prosecutors were required, or whether a specific court should be set aside.

"I am glad my colleague in Cape Town (attorney-general Frank Kahn) has taken this initiative. Hopefully it will go some

*252* ADRIAN HADLAND *252*

way to assisting with the problem," Von Lieres said.

The Cape Town court, with specialised prosecutors and investigators, was set up after the first meeting this week of the Cape Town co-ordinating committee on rape, Sapa reports.

The attorney-general's office would assess the interaction between police and prosecutors.

Psychologists would represent rape victims and funding would be provided by Lawyers for Human Rights.



# Experimental court set up for rape cases

By Monica Oosterbroek

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An experimental court — dealing only with rape cases — to be monitored by a co-ordinating committee will begin hearing cases in Cape Town on a weekly basis from the beginning of November.

The special court, brain child of Cape Town Deputy Attorney-General Frank Kahn, could set standards for the treatment of rape cases countrywide

"The purpose is to internalise problems and create lasting structures to assist rape victims, not just short-term measures," Mr Kahn said

Although the existing

system was adequate, there was room for improvement, he said

If the committee and court were successful, Mr Kahn hoped other provinces would follow his lead

The court would be monitored and improved by a co-ordinating committee made up of lawyers, medical staff, policemen and representatives from organisations such as Lawyers for Human Rights, SA National Institute for Crime Prevention and Rehabilitation of Offenders, Rape Crisis, Family and Marriage Society of SA and the Institute of Criminology at UCT.

These organisations, which had previously worked at cross-purposes, would now work side by side with the police and magis-

trates to investigate rape survivors' complaints

The prosecutors and policemen would attend regular seminars on rape so that they could understand and deal with victims more sympathetically.

Mr Kahn said female prosecutors would be encouraged to handle rape cases because research showed that rape victims felt women were more empathetic

Psychologists would be made available to represent needy rape survivors in court and there would be a new procedure for the medical examination of rape victims

Rape survivors need never again undergo the trauma of a court appearance without adequate psychological evidence being led

# Man with suspected CCB links found guilty of fraud

By Helen Grange  
Pretoria Bureau

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a number of accounts, one allegedly linked to the CCB

A man alleged to have had links with the Civil Co-operation Bureau has been found guilty in the Pretoria Supreme Court of fraud involving R200 000

Helgard Coetzer, a former employee of Spescom — an Armscor sub-contractor — was found guilty last Friday during an in-camera hearing initiated by Spescom

Sentencing has been postponed to November 10. It is not known whether Coetzer has applied for, or been granted, bail

Spescom director Tony Farah said Coetzer had been accused of diverting Spescom funds into

Coetzer was allegedly operating "in cahoots" with another former Spescom employee, "Bingo" Kruger, who received a court judgment against him for diverting Spescom contracts to a close-corporation called Geo International Trading

Geo, which was recently liquidated in an action brought by Spescom, was allegedly run by the CCB and its associates as a front company into which weapons contracts and payments were diverted

Illicit transactions in the arms industry are being probed by the Office for Serious Economic Offences



HE outcome of the general amnesty debate will profoundly affect the nature of the society that emerges from the transition. And yet the debate is already showing signs of giddiness.

It cannot be settled with the magical notion that the mere disclosure of past abuses will safeguard the future. Nor can it be restricted to questions of moral or ethical flexibility, political compromise, or social forgiveness. Ultimately, the debate is about reconciliation, nation-building and democracy.

The arguments in favour of a general amnesty pivot primarily on the argument for forgiveness. One death in our violent society is as reprehensible as another, making it possible to strike a moral equivalency between the crimes of the oppressor and those of the opposition. To break this cycle, we have to forgive, and shut the door on the past.

As Uruguay's former president Julio María Sanguinetti asked in 1986 "What is more just?" To consolidate the peace of a country where human rights are protected today or to seek retroactive justice that could compromise that peace?" It is a doorn-laden argument that warns of a coup by sectors in the armed forces and other institutions of the old system

Coup talk is popular in SA, though flippant and loose. The danger here is not so much a coup in the classical sense, but that a sector of society, as a Latin American politician has noted, "remains defiantly outside the law — a kind of permanent de facto coup." SA bristles with candidates. The argument reminds that the rule of law is beholden to political forces — and that the new government simply does not have the strength to bring the old regime to book.

At the other extreme is the *Soft Revenge of the Freedom Fighter* thesis, associated with Albie Sachs. It argues that trials, imprisonment and punishment will perpetuate the resentments, fears and insecurities that can undermine the new society. So why not accept that the fruits of victory — a nonracial, democratic society — constitute a form of justice that better substitutes for the more mechanistic, legal one? Justice is done in ways that do not

# Amnesty must be able to safeguard future democracy

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## HEIN MARRAIS and MONTY NARSSOO

threaten the criminals — their punishment is to have "lost" Amnesty, not amnesia, forgiveness, but not forgetfulness. The past is uncovered, but transformed from a destructive, vengeful force into a healing and healthy one.

In the SA debate, the major arguments against an amnesty are legal/ethical ones. If crimes against humanity are committed, the perpetrators must be punished. Proponents insist that there is nothing relative or negotiable about crimes of such magnitude.

New York-based Human Rights Watch director Aryeh Neier argues "As a matter of law we simply have to say we are not going to grant clemency to the most grotesque criminals. We may be forced to do so on the basis of greater force, but we should never do so as a matter of law."

Another variant argues that the rule of law must prevail in order to prevent the ethical foundations of the new society from being compromised. If, at the outset of the new society, justice is subordinated so dramatically to the ebb and flow of politics, the very foundations of the democracy are undermined.

But, says another argument, the rule of law is not simply a metaphysic that applies unchangingly. Law is a part of society, and as such it must be sensitive to the social will. In essence, this is the current appar-

ent position of the ANC. It objects not to the possibility that the wrongdoers might evade justice, but to wrongdoers absolving themselves unilaterally.

But critics caution that any form of amnesty invites a repetition of human rights abuses. Amnesty implies a quiet nod to abuses somewhere in the future, when conditions force or allow the new state to position itself as the guardian of "order" against "chaos."

Some observers believe the underlying motives of amnesty were much less innocent than a trade-off with the previous military rulers. New civilian governments began pushing through IMF-type, neo-liberal economic programmes which were certain to aggravate social tensions. The new governments needed the military on side to see the structural adjustment policies through.

The anti-amnesty argument has it that the amnesty itself hobbles the new democracy, and it poses important questions. Just how secure is a democracy that can be established only by suspending the rule of law? What are the prospects of a democracy which comes about only by admitting that the rule of law is subject to the whims of force? Here in SA, we have yet to con-

ments so rapidly become expert at. This would be the just way of resolving the debate. But the debate has to be resolved also at the level of what is feasible. The balance of forces will shape a politically negotiated settlement, based on trade-offs and concessions. Very likely, an amnesty will be part of the deal, sweetened perhaps with a truth-telling process of sorts, and justified as a grand gesture of reconciliation. Do we just accept this?

Reconciliation cannot occur by decree. It is not a spectator event where society magically becomes forgiving. The public, the Press, human rights groups and affected communities must keep the issue of justice on the agenda, must campaign and, mobilise to empower the victims and to disempower the guilty.

At the sociological level, it is active participation of the public (of, if you like, civil society) that heals the wounds and bridges the divisions. It requires the ongoing resurrection of the past — through monuments, documentation centres, media, commemorations and more. (Sadly, the process of forgetting has already begun in SA, the tenth anniversary of Neil Aggett's death passed almost unnoticed this year.)

This is about more than just remembering. It is about deploying those memories to safeguard a democratic and unified future.

The popular mobilisation to repeal Uruguay's amnesty laws in 1987 remains one of the most epic examples of such a process. For several months, the amnesty debate became the central focus of Uruguayan life. A fearsome barrage of threats and propaganda from the military and the main political parties eventually defeated the anti-amnesty forces.

But, as one Uruguayan torture victim put it "For once, they were the ones who had to be afraid for the first time, even if just for a few months, we had them trembling that justice might yet come... That was satisfying."

This is an edited version of an article in the latest edition of *Work in Progress*, of which Marrais is assistant editor. Narssoo is an ex-detainee who sued the SAIP for torture in 1982. The police settled out of court two years later.



**Boipatong** 252  
**probe set to  
restart earlier**

The Goldstone Commission's investigation into the June 17 Boipatong massacre, which was scheduled to resume at the Vereeniging Civic Centre early in November, has been brought forward by about two weeks. *STAR*

The commission will now continue hearing evidence in connection with the massacre from October 20 until November 13. *25/11/77*

About eight witnesses have so far testified before the commission, chaired by Mr Justice Richard Goldstone. The judge is assisted by former Chief Justice of India P.N. Bhagwati and two advocates. —  
Vereeniging Bureau

# Warning on new pro Deo rule

By RONNIE MORRIS  
Supreme Court Reporter

UNLESS sentenced to death, people convicted of criminal offences would no longer be able to use state-funded pro Deo advocates to apply for leave to appeal, the Minister of Justice has ordered

The decision would have an "adverse effect" on the administration of justice, the Judge President of the Cape, Mr Justice Gerald Friedman warned last night

The Chief Justice, Mr Justice M M Corbett, has declined to comment

In a directive issued recently Mr Kobie Coetsee, Minister of Justice, said pro Deo advocates would not be paid if they apply for leave to appeal where the death sentence has not been imposed

Prisoners would have to apply for legal aid should they wish to appeal, the directive said.

Mr Justice Friedman said the department's decision left the courts with "a bit of a problem" and would slow down the whole process of justice

## Process of justice

"If counsel does not appear when a prisoner wants to apply for leave to appeal he would have to be brought from prison to conduct his own case

"One can't expect lay persons to put forward their own cases with the same expertise as advocates," he said

In a circular to members of the Cape Bar, Mr Peter Hodes, SC, chairman of the Cape Bar Council, asked advocates who have appeared in pro Deo cases where an accused person has been convicted and sentenced but wished to appeal, to appear in court and, without payment, apply for leave to appeal

They have been asked to do so till the end of the year

The matter has been taken up with the Minister of Justice by judges and the General Council of the Bar and a response is being awaited, Mr Hodes said

# ANC may concede blanket amnesty

W/Mon 25/9-1/10/92 (252)

**A** GENERAL amnesty once an interim government is in power — that's the concession the African National Congress is likely to make to facilitate the summit with the government.

Disagreement over the release of three Umkhonto weSizwe officials is the major stumbling block in the way of the summit on violence. The guerrilla activities of Robert McBride, Mzondelele Nandula and Mthetheli Mncube all resulted in the deaths of whites, which is probably the primary reason for the government's recalcitrance on releasing them.

For the government to release these three means risking the wrath of its

*The issue of political prisoners*

*remains the major stumbling*

*block to the summit on*

*violence — but indications are*

*that the ANC is willing to*

*concede a general amnesty.*

**By PHILIPPA GARSON**

ussions paving the way for the summit on violence — the banning of dangerous weapons and the policing of hostels — is reportedly close. There is some consensus that the actual details on practical implementation could be hammered out at the summit, which

set to take place either tomorrow or when ANC president Nelson Mandela returns from his visit to China.

Inkatha leader Mangosuthu Buthelezi is demanding that cultural weapons be allowed at certain meetings, including those where the Zulu king is in attendance. For the ANC, however, this would amount to another loophole in the legislation on dangerous weapons, which is now at the forefront of demands on the government to take action to curb the violence.

The summit, likely to look at other violence-related issues like the role of international and local monitors, is not, however, a substitute for the one-

on-one talks between ANC secretary general Cyril Ramaphosa and Constitutional Affairs Minister Roelf Meyer.

The ANC source said these would continue regardless. He added that before full-scale bilateral talks could resume in earnest, the ANC was looking for a formal announcement from the government on the constitutional issues it has provisionally conceded, such as no veto powers over the constitution-making body and a fixed time frame for the interim government.

For the moment, the amnesty affair may have receded slightly to the background. But the issue remains an important one, likely to dominate the political scene in the coming months — whether or not the Goldstone commission expands its parameters, or some sort of "truth commission" granting indemnity to those who come forward to confess to dirty tricks, is set up.

The ANC has repeatedly stated that a government in power cannot pardon itself and that amnesty without full disclosure of crimes committed by the state is meaningless.

Since the political prisoner issue emerged as the key stumbling block in the resumption of fuller talks with the government, the latter has attempted to extract a blanket amnesty for all those guilty of past crimes — including security officials.

Said a senior ANC source: "The government is keen to have at least some indication from us that we don't in principle reject the idea of an amnesty. We remain adamant that we reject amnesty in this period and the concept of a blanket amnesty without confessions of crimes is ludicrous."

Attempts by Justice Minister Kobie Coetsee to scupper near-agreements between Ramaphosa and Meyer over the release of at least some of the 400 remaining political prisoners were not those of a renegade hardliner acting on his own.

Coetsee undoubtedly has a strong backing from top seurocrats, even cabinet ministers, who fear the consequences of full disclosure and who are applying heavy pressure for a widespread amnesty.

Last week the South African Police made the well-timed announcement that a special police team had launched a full-scale investigation into past crimes committed by senior ANC leaders. These include acts of terrorism, atrocities in ANC camps and "the collective responsibility of the ANC hierarchy for all civilian deaths arising out of acts of terror from 1985."

Speaking at the Johannesburg Press Club on Monday, Law and Order Minister Henus Kriel accused the ANC of adopting "selective morality." "In other words, prosecute policemen for murder but don't touch ANC members — especially not NEC members," he said sarcastically.

In ANC circles the threat to prosecute senior leaders was described as "ridiculous." Said an ANC source: "They are trying to put pressure on us to accept a general amnesty. I doubt very much they have serious intent. If they start arresting leaders, negotiations will be plunged into jeopardy."



## Fighting for rural rights

FROM the appointment of one person two years ago, Lawyers for Human Rights' rural office has grown to a full-time staff of five.

The office is inundated with reports of human rights abuses and requests for assistance from all over the Cape Province.

"We don't have the capacity to reach every area, despite the need for our services," said LHR regional organiser Mr Wayne Malgas.

LHR does not only provide courtroom expertise.

Its paralegal training project, human rights schools education programme and farm workers' project are geared at educating and empowering rural dwellers.

They have found that rural residents, particularly farm labourers, are hopelessly ignorant about their rights, despite the fact that they suffer the worst human rights abuses in the country.

"We have to nurture a human rights culture so these victims can deal with violations of their rights," said LHR's human rights education co-ordinator, Ms Cathy Ricketts.

People in rural areas are so immersed in their daily struggle for survival that they seldom recognise the fact that they have been stripped of almost all their rights.

"When we use terminology like 'constitutions' and 'rights', many of them are hearing such words for the first time."

Ricketts said that because rural dwellers were so "disempowered", LHR was forced to battle against their acceptance of their lot in life.

Although the organisation had unearthed hundreds of cases involving clear-cut abuses of human rights, the victims often viewed these as "daily life on the farm".

What LHR has found disturbing is the abuse of women in rural areas where sexual assault and wife-battering is rife.

Child labour is another issue LHR is tackling.

# Into the heart of darkness

Will yesterday's and today's mass murderers and political assassins get off free in a future SA? Will mere knowledge of the atrocities of the past safeguard our future? HEIN MARAIS and MONTY NARSOO look at the question of amnesty in the latest edition of *Work In Progress*.

THE general amnesty debate exposes the very heart of the South African struggle. Its outcome will profoundly affect the nature of the society that emerges from the transition. And yet the debate is already showing signs of giddiness. The debate cannot be settled with the magical notion that mere knowledge of the past – the disclosure of abuses – will safeguard the future.

Ultimately, the debate is about reconciliation, nation-building and democracy, it has to occur within the framework of our struggle to build a democratic, united society.

But the manner in which it is resolved will have dramatic implications for the new society: it will either strengthen or erode its democratic foundations.

The extent and vitality of democracy depends on a society's ethical and legal underpinnings, its social culture and its political institutions.

It is helpful, then, to try and isolate the three dimensions in which the amnesty debate orbits – recognising that they cannot be separated completely – ethical, political and sociological.

The arguments in favour of a general amnesty pivot primarily on the political and, to some extent, religious/ethical argument for forgiveness.

They remind us that our society has been plunged into a vortex of violence, and insist that no side is blameless. One death is as reprehensible as another, making it possible to strike a moral equivalence between the crimes of the oppressor and those of the opposition.

To break this cycle, we have to forgive and shut the door on the past. But it is at the political level that we find the more feisty reasons for a general amnesty. The stakes come from practitioners of realpolitik, like Uruguay's former president Julio Maria Sanguinetti, who asked in 1986: "What is more just? To consolidate the peace of a country where human rights are protected today or to seek retroactive justice that could compromise that peace?"

## Coup talk

It is a doom-laden argument that warns of a coup by sectors in the armed forces and other institutions of the old system. Attempts to apply the rule of law will sabotage the young democracy, by alienating forces with the ability to lead us into the heart of darkness. These are the arguments that led to the secret amnesty deals struck in Uruguay in the mid-1980s, and which persuaded Brazilian decision-makers to avoid human rights trials.

In Argentina, the military pounded the point home with periodic revolts that quickly had the fledgling civilian government backtracking on its half-fulfilled programme of exacting justice.

Coup talk is popular in SA, though the analysis that accompanies it remains flippanant and loose. The danger here is not so much a coup in the

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classical sense, but that a sector of society, as a Latin American politician has noted, "remains defiantly outside the law – a kind of permanent de facto coup".

SA bristles with candidates, from the disaffected ranks of irregular security force units (the *Staal Burgers* of the world) to the proud but embattled chieftans of the security establishment.

Nevertheless, the argument reminds us that the rule of law is beholden to the political balance of forces – and announces that we simply do not have the strength to bring the old regime to book. Given the current stalemate in SA, where the old order has not been comprehensively defeated, the argument packs some clout.

At the other extreme is the "Soft Revenge of the Freedom Fighter" thesis, associated with Albrie Sachs. It argues that a concept of justice that hinges on trials, imprisonment and punishment will perpetuate the resentments, fears and insecurities that can undermine the new society. So why not accept that the fruits of victory – a non-racial, democratic society – constitute a form of justice that better substitutes for the more mechanistic, legal one?

The Sachs argument introduces into the SA context the Chilean formulation, "Reconciliation, Truth and Justice."

Justice is done, but in ways that do not threaten the criminals – their punishment is to have "lost" their struggle to maintain an unjust system. It recognises the need for social stability by placating the fears of the perpetrators and neutralising the political threat they might pose. Finally,

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it aims to facilitate national reconciliation, to "rebuild a sense of a nation that's not at war against itself, overcoming the intense divisions and the traumas of the past". Amnesty, not amnesia; forgiveness, but not forgetfulness.

In the SA context, Sachs's is without doubt the most considered and human argument for an amnesty.

In the SA debate, the major arguments against an amnesty are legal/ethical ones. They come in various models, the most uncompromising of which have a religious solemnity: the perpetrators must be punished, an eye for an eye.

They insist that there is nothing relative or negotiable about crimes of such magnitude. The executive director of Human Rights Watch in New York, Aryeh Nier, has made this potent summary: "As a matter of law we simply have to say we are not going to grant clemency to the most grotesque criminals. We may be forced to do so on the basis of greater force, but we should never do so as a matter of law." It is, at root, the Nuremberg argument.

Another variant argues that the rule of law must prevail in order to prevent the ethical foundations of the new society from being compromised.

"Who in the future will fight against subversion if he knows that at any moment he would be tried?" an Uruguayan general asked in 1988 as compatriots were seeking to rescind a partial amnesty declared in his country. That chilling phrase, the "fight against subversion", is all too familiar to South Africans and Latin Americans alike. The general understood very well that amnesty implies

a quiet nod to abuses somewhere in the future.

Nowhere is the stand-off between the pro- and anti-amnesty arguments clearer (and more fundamental) than in the political dimension. The "hostage" argument pictures a rickety civilian government threatened by "cornered beasts", the security forces. It says that an amnesty is the only way to secure a future for the new democracy, from being sabotaged or held hostage by panicky sections of the old order.

The counter argument announces that the amnesty itself hobbles the new democracy, and it poses important questions. Just how secure is a democracy that can be established only by suspending the rule of law?

## Blind faith

Soon after World War Two, the Polish poet Zbigniew Herbert wrote a verse he called *Mr Cogito and the Need for Precision*. It ended with words that cut in more than one direction. "Ignorance about those who have disappeared undermines the reality of the world." Herbert's "disappeared" are both the criminals and their victims, and his warning is clear: an amnesty without full disclosure legislates a vacuum in a society's knowledge of itself.

The ANC's Kadar Asmal would add that knowledge of the past is itself not enough – there must also be acknowledgement.

However, we should beware placing blind faith in the cleansing power of truth. When released into a society as ruptured as ours, there is no guarantee that truth will yield mere nice, warm feelings.



City Press 27/9/1982

# Money for an eye

By STAN MHLONGO

A SHARPEVILLE man is suing Law and Order Minister Hernus Kriel for R47 500 for loss of sight in his left eye following an alleged sjambok beating by a policeman during the 1984 Vaal unrest.

Mirrima Mayet of Ishmael Ayob Attorneys is instituting the claim on behalf of Jones Masilo.

Mayet told City Press that an ophthalmologist has been called to give evidence at the Rand Supreme Court on October 5, to explain whether the injury which resulted in Masilo's blindness in his left eye is consistent with

one caused by a sjambok or a stone.

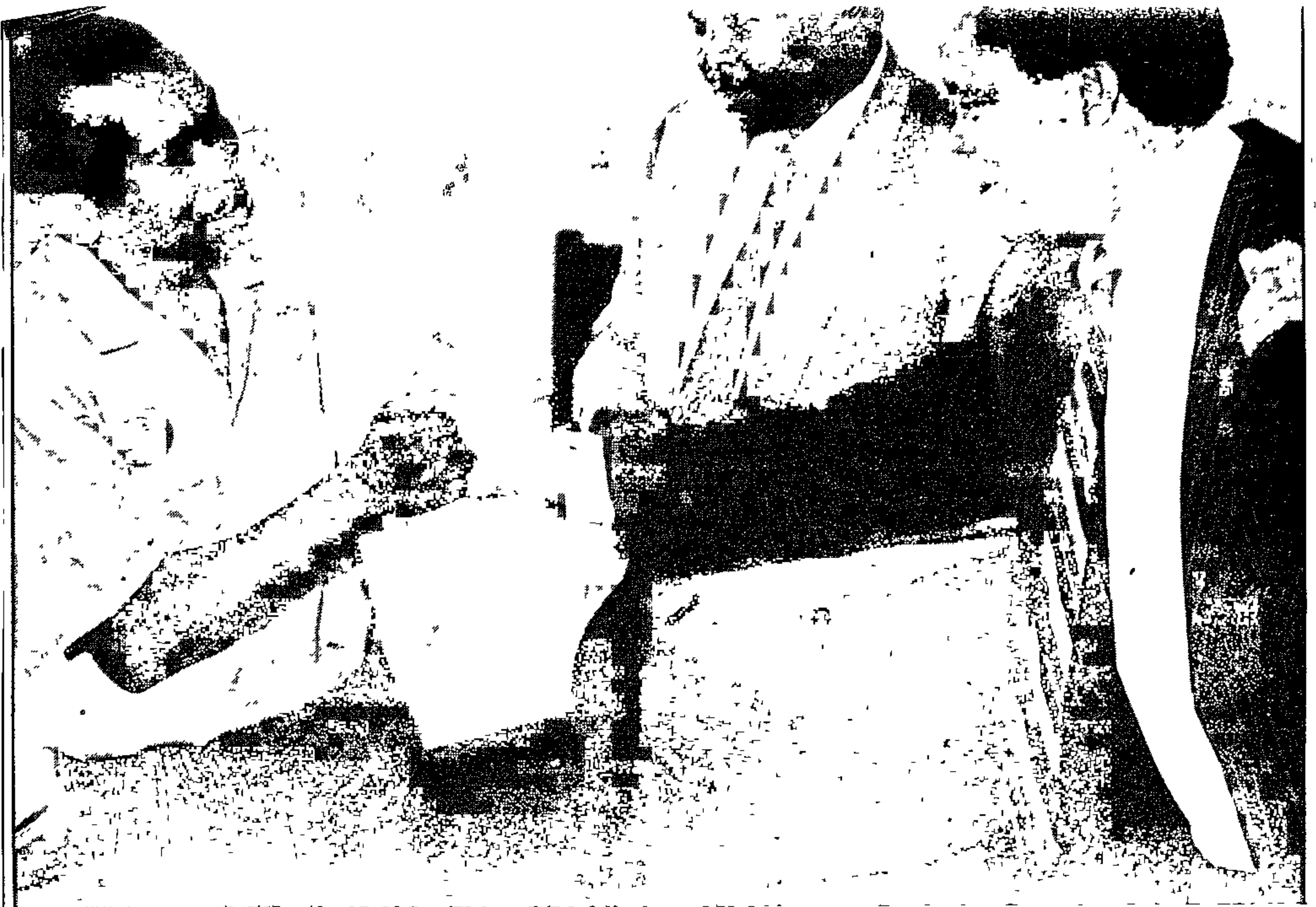
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## Perpetrator

According to Mayet, police have countered Masilo's claim by saying that during a chase by police on September 21 1984 in Sharpeville, where Masilo was one of the "perpetrators of a violent situation", he (Masilo) jumped over a fence and fell on to a stone, injuring his eye.

However, Masilo contradicts the police version and claims that he was hit on the eye by a policeman with a sjambok.





**PAC SUPPORT ... Mass killer Gabriel Diphaphang Mahakoe chats to his legal defence team.**

# How SA raised a white-killer

By **MONWABISI NOMADOLO**

**GABRIEL** Diphaphang Mahakoe descended for one last time into the cells below the Bloemfontein Supreme Court this week, taking with him a string of unanswered questions

Judge DA Kotze had no qualms in sentencing the white-killer dubbed "Die Swart Wolf" to death

But society at large — here symbolised by the black throngs who gathered religiously to attend the hearings and to root unashamedly for the killer — will continue to ponder over this strange man

Prior to the sensational trial, Mahakoe, 43, was a totally obscure personality.

Now he is a household name: the man who went to Death Row clutching his PAC membership card, and who for almost 30 years acted out his race obsession by robbing

## Court defiance spreads

By **DAN DHLAMINI**

THE Orange Free State court's rebellion with black men accused of murdering white people to be tried by white judges.

Gabriel Mahakoe, a member of the PAC, testified in court on Friday that he participated in his trial and that the judge was not black.

He stated that a number of similar acts were done.

Eighteen men were involved in the murder and robbery in Beaufort West and Virginia. The court refused to participate in the trial, claiming that the judicial system as the reason

and maiming whites.

It all began with his father, argued Medunsa clinical psychologist Prof Queen Mokhuane. The late Max Mahakoe was also a thief and jailbird who enjoyed stealing from others, she said in mitigation.

The difference was, she argued, that Gabriel Mahakoe's crimes had been intimately tangled up in the racist political system which spawned him.

She said that his deep abhorrence of apartheid could only find expression

in killing those people whose personalities represented the very embodiment of the system.

These people happened to be white and thus Mahakoe had come to his murderous conclusion.

Judge Kotze, however,

was not convinced. He found that Mahakoe killed purely for criminal gain, and not as a form of political statement

Kotze was prepared to accept that Mahakoe was psychologically unstable — as reflected in his behaviour in the courtroom which had been like that of "a naughty boy"

There was more to be learnt about Mahakoe's unhappy childhood in the prof's report

Prof Mokhuane told how Mahakoe had lied to her, saying his mother was "dead" while she was in fact alive the implication was that Mahakoe had rendered her "psychologically dead" in his mind

Hardships had begun early. His mother "never saw him" and he was raised by a paternal grandmother. She died when he was five.

Shoved on to his uncle, Mahakoe said of this period: "He used to treat me like a football."

Sentence will be passed on November 30.

In the end, Mahakoe's mother was "dead" while she was in fact alive the implication was that Mahakoe had rendered her "psychologically dead" in his mind

Hardships had begun early. His mother "never saw him" and he was raised by a paternal grandmother. She died when he was five.

Shoved on to his uncle, Mahakoe said of this period: "He used to treat me like a football."



By Themba Molefe

Political Reporter

# Freed cadres

## Were 'special'

*Sowetan 28/9/92*  
AMNESTY The unusual trial of

I felt like the devil himself was breathing fire in that small courtroom on May 4 1988 in Messina. The sweltering tropical temperatures and the tension in the room seemed to affect everyone, including Mr Justice JPO de Villiers, but the two manacled young men in the dock

Mthethelleh Zephania Mncube (31) and Mzondeleli Euclid Nondula (30), the first and about only two soldiers of Umkhonto we Sizwe to admit the fact before a South African judge, were calm, almost bored, when De Villiers sentenced them to death 11 times.

They expected it - they said so in evidence. When their trial began in the Messina Circuit Court seven months earlier, the two men refused to participate in the proceedings because they said they did not recognise the judge and his system. In fact, they did not want to leave their cells to go to court.

They relented but refused to plead after their counsel told them the court would impose sentence whether they were present or not.

The public eventually got a glimpse of the two ANC fighters' thinking when Mncube gave evidence to explain his purpose.

He said "I am a soldier of the African National Congress which is at war with South Africa. I expect to be treated as a soldier, not as a criminal."

"When I was captured I was wearing army uniform and thought they would hand me to the South African Defence Force because I consider myself a prisoner of war."

Justice de Villiers did not take this into consideration when he imposed the death penalty and prison terms of up to 50 years.

### Pleas to United Nations

He ignored even the expert legal opinion of Professor John Dugard who submitted that when Mncube was captured, he had satisfied the requirements of the Geneva Conventions on warfare. He was wearing a visible uniform and had surrendered like a soldier.

Dugard had also said cognisance should be taken that the United Nations regarded the ANC as a genuine liberation movement engaged in a just war against apartheid.

But residents of Messina will not forget the seven months during which their small town resembled a military zone.

They will remember a Casspir which was escorted by a helicopter, police vans and dogs and wailing sirens as the two cadres were brought to and from court.

The gallery will not forget the silence, save the clink-clink-clink of the steel chains in the court the day Mncube

crossed the floor from the dock to the witness stand.

Mncube of Diepkloof, Soweto, and Nondula of Mandanlsane near East London were charged with murder, terrorism and sabotage. Those followed a series of landmine blasts in the Weipic farming area near the Zimbabwe border between November 1985 and December 26 1986 when Mncube killed two security policemen after his capture.

### More killing

In one incident, a cement lorry detonated a landmine near Messina. Eight people were killed in the attack, two of them black.

Three young women were killed when a bomb exploded in Magoos Barin beachfront Durban in 1986. Robert John McBride was held responsible.

On April 13 1987 in the Maritzburg Supreme Court, Mr Justice Shearer gave McBride the triple sentence for murder. Greta Appelgren was sentenced to 21 months imprisonment for her part in the bombing.

On February 2 1990, McBride was



Mthethelleh Mncube and Mzondeleli Nondula ... released today.

saved from the gallows when De Klerk issued a moratorium on all hangings. McBride's wife, Paula, whom he married while on Death Row on May 10 1989, is an anti-death penalty and human rights activist.

In 1989, Mrs Dons McBride, his mother, said her son had renounced violence and expressed remorse for the deaths he caused.

For Mncube and McBride today will

be the climax of a love story. They will both meet their wives for the first time outside prison bars.

Mncube married his childhood sweetheart, Nomisa Nkwanca, in a ceremony in Pretoria Central Prison in June.

Paula Leyden had not met her husband before his imprisonment, but love blossomed during her numerous visits to Death Row as a campaigner against the death penalty.



# Tirade against 'settlers' from dook

Undeterred by a death sentence, killer says all whites have blood on their hands:

By Sonti Maseko

252

BEFORE he pronounced the death sentence, Mr Justice AD Koize asked multiple killer Gabriel Diphaphang Mahakoe if he had anything to say

Koize was then subjected to a 30-minute lecture by Mahakoe, who told the judge he still lived by the PAC's slogan of "One Settler, One Bullet"

The angry Mahakoe, unrepentant and defiant to the end, was sentenced to death four times for the murder of farmer Willie Engelbrecht, his wife Bette, their daughter Lena Smit, and her 11-year-old daughter Michelle Mahakoe recalls

I told this court I was unhappy with you presiding over my case. You insisted despite my pleas to be tried by an African I wanted to state that this man (Engelbrecht) who they say was a good man was not good

What I had to say could have led to many settlers (whites) standing in the dock and me walking out a free man. I mean it when I say I hate apartheid, and I hate the white man, just as much as he hates me

You made much of my record (previous convictions of theft, housebreaking). I will touch on a few points

The one in Warmbaths - we were found with eight Impetunnes and 9 AK-47s by the police. We were coming from Botswana. The SAP took these arms to a camp near Thabamanzhi where they were training people to kill Africans. In order to suppress this evidence they decided to charge us with housebreaking

## Explanation of convictions

At Imperial Consolation (another conviction) we delivered fish. One of the people receiving the deliveries stole the fish and we packers were blamed

At the compound, we were working at the dry cleaners when the owner lost some clothes belonging to a customer. He had to pay for them but he ordered us to pay, when we refused they called the police

I was also assaulted inside a cell by a farmer Hans Roux, who was let into the cells by policemen (third conviction). I was the complainant against him, which is why you will never find a docket for the housebreaking charge they subsequently cooked up as a cover for what they did to me. The issue I want to raise now is a hidden thing known by the settlers in Verkeerdeval

There is a place near Kōrrie Preenaar's farm. Every year on December 14, the settlers make tents there, every settler in Verkeerdeval knows about this. On the 16th they kill 'Kaffirs' and throw their bodies in the river or bury them. We the black people are oppressed in our own

# from dook

You say this child of the Engelbrecht's (Michelle) was 11 years old and she was little Hell, what do you say about a pregnant woman, a woman carrying a six month old baby, chopped, killed by the very people you hired

You pay them to kill us so when elections come, we are few and outnumbered. There is not one settler who does not have blood on his hands. Had I killed a human being, maybe I would be feeling sorry, but settlers are dogs

## Kafir is mad

I know you settlers say this kaffer is mad. I am not mad. You fail to learn that we Africans are prepared and we want the return of our land. Settlers say if they go back, the Africans will die of starvation. Our forefathers lived here before your forefather Piet Retief came and we had plenty

We are not prepared, to live by your laws. Those who follow them are those you pay to kill us. You call us thieves in our land. You are the thieves, the robbers, the murderers. We shall fight apartheid will all our means, not just on one front

My grandfather had 100 cattle. Through your laws you proclaimed that there was not enough grazing land. You took all his cattle and he was left with only five. And now you have all the cattle, we have nothing. Why should I stop calling for 'One Settler, One Bullet' while you are pretending to be good men?

You think when settlers die it is a big deal, it's bad, but when we Africans die - every day - killed by people you hire, you do not see it as bad because you are little gods

## Mahakoe

Age: 43  
Occupation: Labourer  
Marital: Separated from wife, 3 children  
Parents: Father shot dead in custody, mother in Lesotho  
Jail: 12 times (1964-91), mainly theft, housebreaking  
Politics: PAC since June

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# Police indemnified too — FW

CT 28/9/92

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JOHANNESBURG — The government has succeeded in obtaining indemnity for everyone — including policemen — who have committed crimes for political reasons, President F W de Klerk said last night in an interview on SATV.

Mr De Klerk's views on amnesty appeared to be completely at variance with those of ANC president Mr Nelson Mandela, whose interview on TV's Agenda programme was broadcast directly before Mr De Klerk's interview.

Mr De Klerk said he had made it clear that "we intend to pass legislation which will not only deal with prisoners but also those with indemnity for those who have not been charged for the same offences committed with a political motivation".

The slate would be cleaned "in all directions", he said, including police, and members of the AWB, ANC and Inkatha.

"The test is, political motivation," Mr De Klerk said. During his interview, a tired-looking Mr Mandela was asked whether the ANC was in favour of amnesty for all people. He argued there was a difference between crimes committed by fighters battling a system acknowledged internationally as a crime against humanity and crimes committed by those upholding this system — Sapa

Self-confessed killer Gabriel Mahakoe talks to members of the Press at his trial in Bloemfontein shortly before he was sentenced to death on Friday. See page 7.  
PIC, PAT SEBOKO

# Killer to hang for farm murders

By Sontji Maseko

*Sowetan 28/9/92 252*  
■ POLITICAL FLAVOUR Judge rejects.

hatred of whites was motive for murder:

**A** BLOEMFONTEIN judge on Friday sentenced multiple killer Gabriel Mahakoe to hang for the murder of a Free State farmer and rejected submissions that Mahakoe was driven by his hatred of apartheid to kill whites.

Mr Justice AD Kotze said there was overwhelming evidence before him that the political flavour that accompanied the trial since Mahakoe pronounced that he killed four whites to "cut the hand of apartheid" was nothing else but a smokescreen.

He described Mahakoe as a habitual criminal, referring to his record of no less than 12 previous arrests and convictions of mainly theft and housebreaking.

The judge accepted earlier submissions by the State that the reason Mahakoe killed his four victims was because they had surprised him after he had broken into their house with the intention to steal.

He politicised the killings as an afterthought to cover his actions.

Mahakoe was sentenced to death four times for the murder of farmer Willem Engelbrecht, (71), his wife Bettie (68), their daughter Helena Smit, (39) and her daughter Michelle (11) three days before Christmas day last year.

He will also serve an additional 12 years for the attempted murder of Smit's daughter, Petronella who he assaulted with the butt of a gun.

● See story on page 7

# Amnesty applies to all affiliations

By Jo-Anne Collinge (252)

In contrast to last year's controversial early release of hundreds of prisoners of all types, the Government's decision to free more than 150 prisoners within the next few days is confined to those who committed crimes "with a political motivation" before October 8 1990

"All prisoners who fall within this category are eligible for release, regardless of their political affiliation," said a Government statement

## Struggle

The Government's decision, made in advance of the Mandela-De Klerk summit, was welcomed by the ANC as a "significant breakthrough" The ANC raised no objection to equal treatment for those jailed in the struggle against apartheid and prisoners of other affiliations

Instead it noted with satisfaction that "the Government has been compelled to drop the linkage it was attempting to establish between the release of political prisoners and an amnesty for State officials implicated in high crimes"

According to the Government

statement, 150 prisoners identified by the ANC meet the criteria Some left jail at the weekend and the rest will soon follow They comprise members of Umkhonto we Sizwe and people jailed for violent crimes committed during the 1980s

In addition to the ANC-aligned group, the authorities have begun to identify prisoners of other political affiliations who meet the criteria

While some of these are undoubtedly supporters of the PAC and Azapo, Boerestaat Party leader Robert van Tonder claims there are no fewer than 41 "Boer freedom fighters" who have been charged or who face prosecution for politically motivated actions

"The Boerestaat Party urges that all must be freed without delay and the charges against them dropped," he said

Most of the releases would be effected by means of remission of sentence under the Correctional Services Act, the Government indicated But this would not be possible in cases of life imprisonment.

It would be necessary to pass special legislation during the October parliamentary session to effect the release of these

prisoners by November 15

This would delay the release of most political "lifers" But "certain prisoners in this category will, within days, be released on parole on certain conditions In such cases the parole conditions will be cancelled in the event of Parliament passing the abovementioned legislation," said the statement

The ANC has already made it clear that three prominent MK members, Robert McBride, Mzondeleli Nondula and Mthetleli Mncube, will be dealt with in this fashion They are expected to walk free later today

## Hinted

The Government has also hinted that a second round of releases — of political prisoners who missed the cut-off date of October 8 1990 — is imminent It specified in its statement that legislation would be tabled to facilitate the release of those who "have committed similar offences, but who have not yet been charged or sentenced"

This might include right-wing prisoners listed by the Boerestaat Party, as well as security force, IFP and ANC supporters on trial for acts of political violence and ANC members found in possession of firearms



# Boipatong defence queries legal system

By Melody McDougall  
Vereeniging Bureau

The world would laugh at a legal system that allowed the release of hundreds of convicted political prisoners — but denied others bail before they had been tried and convicted, the Boipatong massacre accused's defence counsel told the Vanderbijlpark Magistrate's Court yesterday.

250  
Yesterday the State withdrew charges against one of the 71 accused, but brought charges against six others.

The 76 KwaMadala hostel inmates, including four youths, all face charges of murder and public violence following the June 17 massacre in the Vaal Triangle township of Boipatong.

Advocate As Burger yesterday cross-examined State

STAR 29/1/92  
witness Colonel Joseph du Pont at the continuation of the bail application for the accused. The application is being opposed by the State.

No one has yet been asked to plead to the charges.

At an earlier bail hearing, Colonel du Pont, the Vaal Triangle crime investigation unit assistant head, said he feared the accused might skip bail and fail to attend their trial. He also said he had information that ANC supporters would attack KwaMadala hostel if the accused were granted bail.

Mr Burger yesterday asked Colonel du Pont whether he was aware that a large number of prisoners, who had committed "hideous" crimes, were released yesterday.

When the colonel said he was aware of this, Mr Burger said Colonel du Pont

had testified in court that he regarded the Boipatong massacre as a political case.

He had said that it was in the public's interest that the suspects be denied bail.

Mr Burger asked how it could be in the public's interest to deny the accused bail while other political offenders were now free.

Mr Burger said a number of the suspects had been employed for more than 20 years at Iscor in Vanderbijlpark, and that they could not be dismissed before being convicted or appearing before a disciplinary hearing.

In addition to this, KwaMadala hostel committee members had undertaken to co-operate in getting the accused to attend their trials.

Judgment in the bail application will be handed down on Friday.

# Kangaroo court's <sup>(252)</sup> function explained

A KHAYELITSHA Civics Association member yesterday denied that kangaroo courts assaulted or caned convicted people and said that the civics merely facilitated the wishes of the community

This was evidence in the Mitchells Plain Magistrate's Court trial of six Khayelitsha Civics Association members, who have pleaded not guilty to charges of assault with intent to cause grievous bodily harm and theft of property belonging to a Khayelitsha man convicted of alleged rape in a kangaroo court

The accused are Mr Anton Singile Vumazonke, 22, Mr Hertzog Olifant, 68, Miss Zoleka Pasiya, 24, Mrs Nomvelo Sbefile, 59, Mr Edward Vumazonke, 25, and Miss Tamana Plaatjes, 34, all of Khayelitsha

Mr Olifant yesterday denied that any civics association members had assaulted Mr Chris Poswa or evicted him from his G block house and thrown his belongings into the street

The accused were released on a warning and the trial was postponed to October 24.

# Prisoners walk to freedom

■ **WIT WOLF** Strydom disappoints right-wingers who waited for him: *Sowetan 29/9/92* (252)

**By Themba Molefe**  
Political Reporter

**T**HE first phase of the release of remaining "political" prisoners which began at the weekend continued with the freeing of four key inmates yesterday

Those released were mass murderer Barend "Wit Wolf" Strydom and Umkhonto we Sizwe guerrillas Mthetheleli Mncube, Mzondeleli Nondula and Robert McBride

The releases followed Saturday's summit between State President Mr FW de Klerk and ANC president Mr Nelson Mandela and precedes legislation to be passed in October which will allow for the freeing of more prisoners

Mncube and Strydom were released from the Pretoria Central Prison, McBride from Durban and Nondula from East London

Speaking to journalists outside the prison gates, Mncube said: "I am happy to be free, but I don't think Strydom was a political prisoner. He is a criminal who intentionally killed innocent people"

"I feel sorry for the civilians (killed in a series of landmine blasts in Messina between November 1985 and December 1986) who lost their lives. They were caught in the crossfire. I am indeed sorry."

He repeated his statement that he was a soldier, adding that he regarded himself as a prisoner of war

He had no regrets because he acted in good

fath as a "disciplined member of the ANC"

"The new South Africa should not be built on anger and bitterness but on love, forgiveness and reconciliation," Mncube said

As he spoke, the Vierkleur flag hoisted by right-wingers flew nearby as a handful of khaki-clad men and women waited for Strydom who evaded the Press and left the prison through a secret exit

It is understood that the Sunday Afrikaans newspaper *Rapport* has bought exclusive rights to the Barend Strydom story

The right-wingers left in disenchantment after waiting for more than three hours in the heat.

McBride was jailed in 1986 for the bombing of Magoo's Bar, a popular Durban beachfront pub. Three young women were killed. His death sentence was later commuted to life.

Nondula (30) and Mthetheleli Mncube (32) were found guilty of 11 counts of murder for laying a number of landmines in the Messina district.

Nondula's death sentence was later commuted and he was transferred from Pretoria to Fort Glamorgan in May this year. Another political prisoner, Sylvia Mgingwana, was also freed today from Fort Glamorgan in East London, according to *Sapa*

All five prisoners were released on parole.

A spokesman for the Ministry of Correctional Services said the parole conditions would be cancelled in the event of Parliament passing legislation making the unconditional release of life prisoners possible

## New lease on life

**Mthetheleli Mncube (31):** Trained commander of the ANC's Umkhonto We Sizwe. Arrested in Messina in 1986. Sentenced to death for murder, including those of two policemen, and attempted murder. Death penalty commuted to life.

**Mzondeleli Nondula (30):** Arrested in Bophuthatswana in 1986. Sentenced to death for six murders. Death penalty commuted to life.

**Robert McBride (29):** Sentenced to death three times in 1986 for the murder of three young women killed in a bomb blast at Magoo's Bar in Durban. Death sentence commuted to life.

**Barend Strydom (26):** Self-styled leader of the "Wit Wolwe". Received the death sentence eight times for the murder of blacks he randomly shot in Pretoria's Strydom Square and at De Deur in November 1989. Death penalty commuted to life.



# They are

# OUT

Some few 29/9/92  
■ **BACK HOME** New row erupts as political

prisoners are released from jail:

AS high profile prisoners "Wit Wolf" Barend Strydom and the ANC's Mthetheleli Mncube, Mzondeleli Nondula and Robert McBride walked free yesterday, a new row has erupted over Government plans for a general

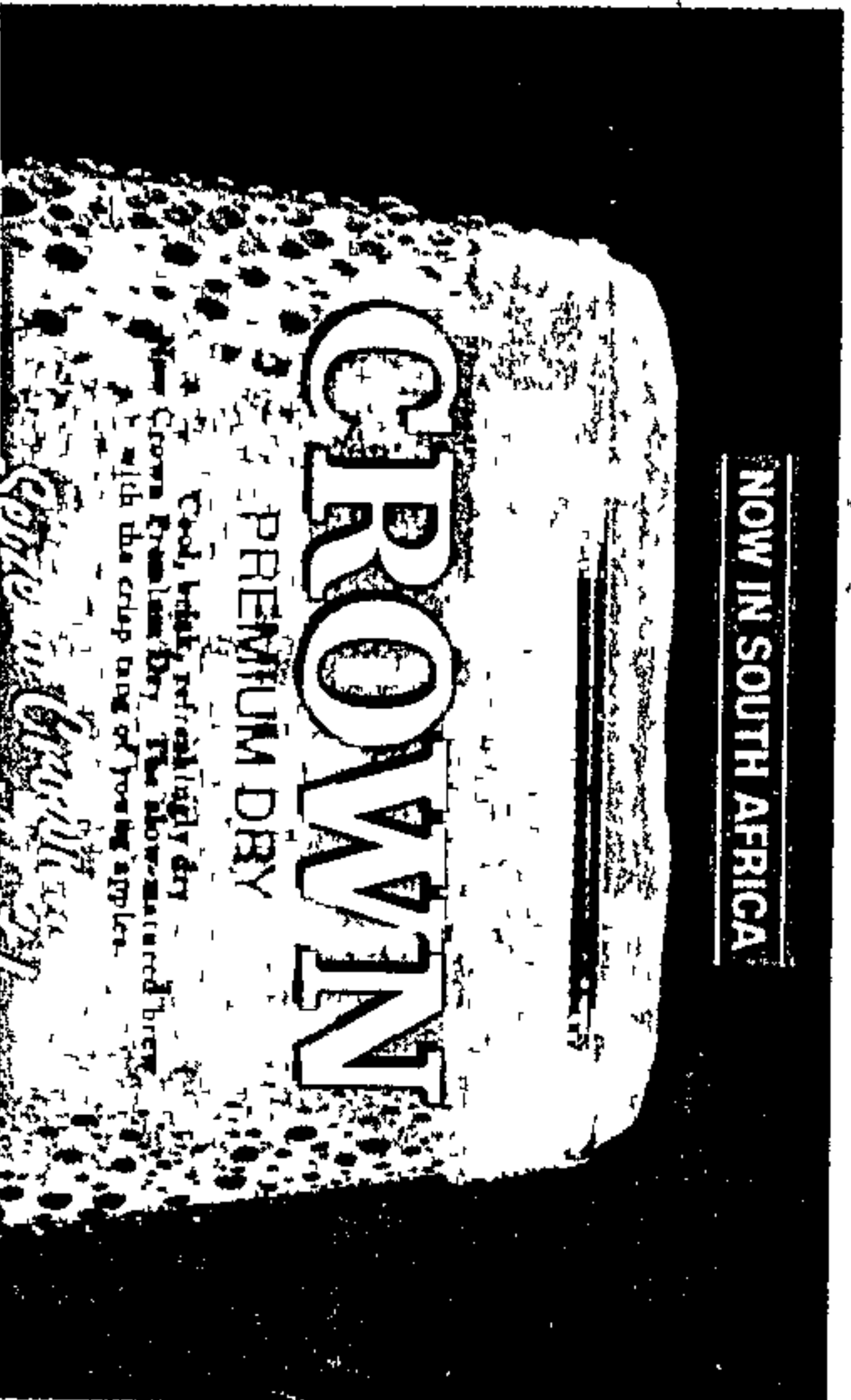
amnesty.

The plan was slammed as an attempt to exempt from prosecution State officials involved in the killing of anti-apartheid activists.

See story page 2



Mthetheleli Mncube gives the clenched fist salute as he leaves Pretoria Central Prison after being freed on parole in terms of a deal on the release of political prisoners struck by the ANC and the Government at the weekend.  
PIC: MBUZENI ZULU



## NEWS Amnesty uproar

# Uproar over De Klerk's (252) amnesty law

*Sowetan 29/9/92*  
■ New law will cover only those who  
confess their 'sins' up front:

POLITICAL organisations have greeted with outrage the announcement by the Government that an amnesty law will be passed by Parliament next month.

On the other hand, a Government spokesman said the anger was unjustified as the new law was to help the release of people that were seen by black organisations as political prisoners.

The furore started after State President FW de Klerk announced during a TV interview on Sunday that legislation to grant amnesty to Government officials would be placed before the short session of Parliament next month.

This was immediately seen by black organisations as an attempt to circumvent the hostility towards the granting of amnesty to policemen and other State functionaries who might have been involved in the killings of activists.

The organisations feel that this will allow killers of people such as Steve Biko, Matthew Goniwe, and others to go free.

ANC spokesman Miss Gill Marcus said the organisation did not accept the announcement of unilateral general amnesty. Only an interim government, duly elected, could decide on pardoning those who wronged society in the service of apartheid, she said.

"It boils down to who pardons whom. The State can't pardon its own criminals. Even the ANC people did not get amnesty but indemnity," she said.

PAC foreign affairs secretary Mr Gora Ebrahim said amnesty could only be granted to people who had "fought the system in order to usher in a democratic dispensation".

Azapo media spokesman Mr Khangale Makhado said his organisations did not recognise the authority of the "regime to pardon criminals that killed freedom fighters."



# ANC to challenge amnesty legislation

THE ANC warned yesterday it would not accept President F W de Klerk's unilateral decision to proceed with amnesty legislation during October's parliamentary session and was assessing how to challenge it

It was considering retaining the right to review and reassess the situation regarding all prisoners released under De Klerk's amnesty, a senior negotiator said.

He said De Klerk had tried to manipulate the agreement concluded at the summit to include all prisoners, including security forces and state officials

There was no threat that this would become a stumbling block to talks

"There is no way that the government can grant amnesty to its own forces. We are happy to consider amnesty as a mechanism to forge reconciliation but this is the

BILLY PADDOCK

preserve of an interim government of national unity," he insisted

The ANC cadres had had to sign forms and state openly the crimes for which they were seeking indemnity. The ANC would insist on full disclosure

On Saturday, De Klerk said the legislation he was proposing would be on the same terms as the indemnity law applied to the ANC and he rejected the ANC view that an interim government should decide

Meanwhile, the DP has criticised elements of the summit agreement. National chairman Ken Andrew said yesterday that the proposal that a constitution-making body also act as an interim parliament was unwise

## Prisoners

from the visitors' hall at Pretoria Central Prison to be greeted by family members, attorney Azhar Cachalia and ANC officials Mathews Phosa and Carl Niehaus

Mncube made a short appeal for reconciliation, but said he had no regrets for what he did "in good faith"

"I am very happy I have no bitterness in my heart because the new SA should not be established on the basis of anger, revenge and bitterness, but on love, forgiveness and reconciliation," he said

With Mzondeleli Nondula, released in East London yesterday, Mncube landmined Messina farm roads in 1985, killing eight people. After being arrested and tied up with shoelaces in the back of a police truck with four loaded AK-47s, he broke loose and shot dead two security policemen. He and Nondula were sentenced to

death, but the sentences were later commuted to life in prison

Walking free from East London prison, Nondula said he regretted lives had to be lost as a result of armed struggle, but he had no regrets at taking up arms to restore his people's dignity

"There is no crime worse than that of depriving a person of his dignity"

Former police captain Brian Mitchell, sentenced to death for the murders of 11 people in the Trust Feed trial in June, could be one of those freed in terms of government's proposed amnesty legislation, a Correctional Services Ministry spokesman said yesterday. The Trust Feed massacre took place in December 1988

● Picture Page 3  
● Comment Page 6

## Buthelezi

propose a multiparty conference to review what went wrong at Codesa

NP secretary-general Stoffel van der Merwe called on Inkatha and the KwaZulu government to approach the latest developments in a positive spirit as their contributions were essential to a speedy movement towards peace.

Buthelezi's reaction was based on misperceptions, because the fencing of the hostels was a Goldstone committee recommendation, which Inkatha had accepted. The banning of weapons was also a Goldstone recommendation as well as that of

UN special envoy Cyrus Vance, which was also accepted by Buthelezi

"The understanding reached with the ANC with regard to constitutional matters does not go beyond consensus reached at Codesa and to which Inkatha was a party," Van der Merwe said

Inkatha senior negotiator Walter Felgate said the ANC and government's agreement should be put to the conference of review so that it could be assessed and be subject to scrutiny and multiparty agreement

● Comment Page 6

## Gengold

are the two operating divisions of the Buffelsfontein mining company.

Beatrix also receives royalties from Buffelsfontein equivalent to 15% of that mine's gross yearly income from gold and other metal sales

Oryx, Gengold's R1,5bn developing mine, is a division of St Helena, and the new mine was developed on the assumption that its capital cost could be largely offset against the St Helena mine's profits

Those profits have proved inadequate because of low gold prices which led St Helena to announce more retrenchments at the weekend. Oryx has depended on interest-free loans from its major shareholders to fund its development work

Oryx, 97% owned by Gencor, Genbel, Sanlam and Anglo American, is scheduled

to pay 15% of its distributable profit from its Beisa section to St Helena, plus 2,25% of the profit from the Ventures section

Maude said Gengold was looking at establishing Beatrix and Oryx as self-standing companies, a move which would involve the compensation of Buffelsfontein and St Helena shareholders for the loss of their rights in the mines

Genbel MD Anton Botha said the complexity of the structures, particularly the Beatrix/Buffelsfontein arrangement, was confusing those trying to assess the mines' real value

It was likely that Oryx, tightly held by its major shareholders at the moment, would want to make its stock more marketable once development work was finished



Max Mosselson responds to critics of Dr Anthea Jeffery

# It's vital for reports to be assessed

S108  
29/11/92

252

READ the recent article on this page, by Dennis Davis and Gilbert Marcus, with dismay and thereafter with increasing concern. The article takes issue with Dr Anthea Jeffery's research into the activities of so-called independent bodies such as the Human Rights Commission, Amnesty International and the International Commission of Jurists, and concludes that they are being selective and biased in favour of the ANC.

Davis and Marcus attack Dr Jeffery's basic premise as "proceeding from the erroneous premise that the legal rules of evidence must govern reports of this nature", and states that this suggestion is ludicrous.

This is a startling statement for any person to make, let alone the learned authors of that article. Obviously, all reports and studies which purport to contain elements

of truth and which, by the authors' claims, should contribute to the end of violence, should be subject to as much rigorous evidence and assessment as possible.

To purport to be an impartial body investigating violence or to explain away inconsistencies in such reports as not being the work of legal commissions of inquiry is sophistry on the part of the authors. In fact, the authors, by their statement, serve to denigrate the very organisations they hope to defend. What credence can be given to the reports of these so-called independent bodies when they are not expected to apply rules of evidence?

The authors are guilty of attempting a cover-up which Dr Jeffery was trying to expose. They complain that Dr Jeffery should have quoted from the HRC report from a different section which they claim gives a fair and accu-

rate version of the ANC's account of the massacre at Crossroads during April 1992.

I represented the victims of the massacre at Crossroads before the Goldstone Commission and was responsible for the leading of the evidence of the massacre.

The facts, as laid before the commission and supported by witnesses, support the version given by Dr Jeffery, whilst the version given by the HRC report, which the authors refer to as being the "true version", was not seriously suggested by any witness before the commission.

In fact, no witness was brought by the Civic Association or the ANC to dispute the version of the survivors who gave evidence. The overwhelming body of the evidence was that the attackers were Xhosa-speaking residents of the areas Mandela Park, Holomisa Park and Kutalo Hostel.

It is interesting that whilst not requiring the HRC, the ICJ etc to conduct their inquiries like "legal commissions of inquiry", the authors can then disregard the available evidence before such a commission to repeat their biased views in favour of the ANC.

To claim that the township residents have read the reports of the bodies in question is to expect too much from those residents.

However, it is reasonable to have expected legal academics and learned commentators to have read the evidence of the Goldstone Commission about the events in question prior to committing themselves in public.

To fail to do so is to be guilty of the same sins for which they criticise others. But more importantly, their venture is "largely irrelevant and unhelpful in addressing the current problems of violence" — to quote Davis and Marcus □

# Political crime: Minister calls halt to probes

ARG 29/9/92

The Argus Correspondent

252

JOHANNESBURG. — Investigations have been temporarily suspended into past politically-motivated crimes, including those allegedly committed by members of the ANC and the security forces.

Ministry of Law and Order spokesman Captain Craig Kotze said today "In the light of the release of political prisoners announced at the weekend, investigations into all so-called politically motivated crimes committed before October 8 1990 will be postponed"

Captain Kotze said the postponement was temporary pending a decision by the government

He said investigations which had already become legal proceedings, such as inquests, would continue

So, he said, the investigations into the murders of Dr David Webster and Matthew Goniwe had not been suspended

Captain Kotze said the investigations into the past activities of ANC National Executive Committee members had been suspended, as had other investigations "across the political spectrum"

But, investigations into all crimes committed after the October 8, 1990, cut-off date agreed to by the ANC and the government would still be investigated, Captain Kotze said

He said the issue had been raised at the summit between President De Klerk and ANC president Nelson Mandela on Saturday and the Ministry of Law and Order had decided to suspend its investigations.

Earlier, it was confirmed the police were investigating 17 ANC members, including 16 members of the organisation's NEC, for possible involvement in serious crimes, including murder, committed in the 1980s.

The ANC charged the investigations were part of a government ploy aimed at pressuring the organisation into accepting a general amnesty



# Status of many freed political convicts was not verified

252 HRC

A TOTAL of 212 prisoners — including murderer and bank robber Lucky Malaza — listed in a Human Rights Commission (HRC) document of 350 political prisoners were not 'audited' to verify their claims to political prisoner status yesterday when it was disclosed that the HRC secured his release by passing himself off as a political prisoner. This disclosure follows the uproar in legal and political circles secured by the HRC national director Saifora Sadek apparently passing himself off as a political prisoner motivated director Saifora Sadek HRC national director Saifora Sadek said yesterday the auditing process was abruptly ended by Correctional Services

last year, before it had been completed. The HRC list was used by the ANC at the weekend summit with government at which it was agreed 150 political prisoners would be released. ANC spokesman Carl Niehaus said Malaza was found to have been released by mistake, the courts would have to consider re-investigating the Malaza case along with government. Sadek said the HRC added Malaza to its list after Correctional Services listed him as a 'security prisoner', but he and 211

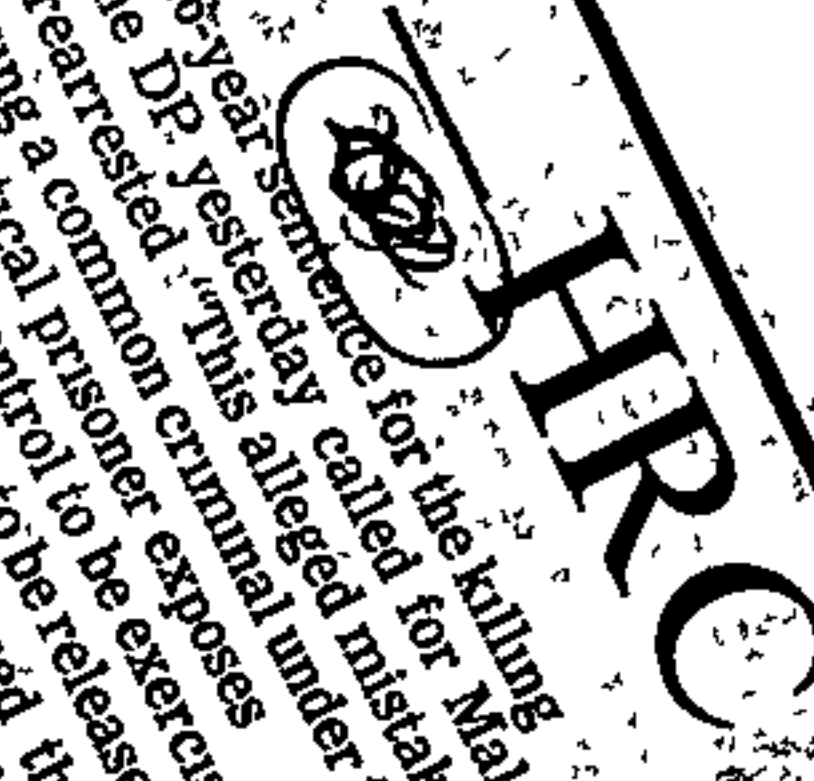
others had not been upgraded to political prisoner status in subsequent meetings. It has been established Malaza and the man he claimed to have been released by Yana Mhambi, were jailed for stealing R57 000 from a bank and killing a police officer. Sadek said 38 prisoners had been re-moved from the HRC list after auditing revealed they were in fact common criminals pretending to have political motives. It could not be established yesterday

how many prisoners released to date had been audited. An earlier HRC statement said auditing involved reconciling lists provided by Correctional Services who were not genuine and eliminating those who were not genuine political prisoners to any of the organisations involved, and well before the process was completed, it said. Malaza gave a Sunday newspaper grisly details of the 'necklacing', he claimed to have participated in, claiming he was giving Malaza

be rearrested on a 16-year sentence for the killing. The DP yesterday called for Malaza to be released. 'This alleged mistake in releasing a common criminal under the guise of a political prisoner exposes the need for a greater control to be exercised over prisoners still due to be released for greater control of prisoners to be re-released in the future,' the DP said. 'This has also exposed the need for a neutral and acceptable body to supervise the auditing process of prisoners to be released in the future,' the DP said. Correctional Services said yesterday it was reassessing all information concerning Malaza



# Status of many freed political convicts was not verified



A TOTAL of 212 prisoners — including murderer and bank robber Lucky Malaza — listed in a Human Rights Commission (HRC) document to verify their claims to political prisoner status were not audited yesterday when it was disclosed Malaza secured his release by passing himself off as a political prisoner. This disclosure followed the uproar in political circles secured yesterday by the HRC document to verify their claims to political prisoner status. This disclosure followed the uproar in political circles secured yesterday by the HRC document to verify their claims to political prisoner status.

RAY MANTLEY

... how many prisoners released to date had been audited. An earlier HRC statement said auditing involved reconciling lists provided by Correctional Services with their own and eliminating those who were not genuine political prisoners. The process was suspended by Correctional Services without any explanation to any of the organisations involved, and well before the process was completed, it said. Malaza gave a Sunday newspaper grisly details of the "necklacing" he claimed to have participated in, claiming he was given a 16-year sentence for the killing of a political prisoner. This alleged mistake in releasing a common criminal under the guise of a political prisoner exposes the need for a political prisoner control to be exercised by a body to supervise prisoners still due to be released. "This has also exposed the need for a neutral and acceptable body to supervise the auditing process of prisoners to be released in the future," the DP said. Correctional Services said yesterday it was reassessing all information concerning Malaza.

... others had not been upgraded to political prisoner status in subsequent meetings. It has been established Malaza and the man he claimed to have necklaced, Farzana Mhambi, were jailed for stealing R57 000 from a bank and killing a policeman in the ensuing gun battle. Sadek said 38 prisoners had been re-moved from the HRC list after auditing revealed they were in fact common criminals pretending to have political motives. It could not be established yesterday whether the necklacing was a security prisoner or not. Sadek said the HRC added Malaza to its list after Correctional Services listed him as a security prisoner, but he and 211

252 ET 30/9/92

# Row over amnesty question sharpens

Political Staff

DURBAN — The row over amnesty for state officials sharpened yesterday when police confirmed they were suspending investigations into crimes committed by security force members and political organisations before October 8, 1990.

The ANC said it "still insists strongly" that state officials be investigated.

Law and Order spokesman Captain Craig Kotze said the investigations had been suspended in the light of the release of prisoners who committed politically-motivated crimes before October 8, 1990.

The suspension would remain until there was clarity of the issue.

ANC spokesman Mr Carl Niehaus said yesterday there was a difference between the indemnity negotiated for people who fought apartheid and the need to investigate crimes by state officials.

# 'Political' crimes probe

## put on hold

MAR 30/1992

Investigations into past politically motivated crimes, including those allegedly committed by members of the ANC and the security forces, have been temporarily suspended.

Ministry of Law and Order spokesman Captain Craig Kotze said yesterday "In the light of the release of political prisoners announced at the weekend, investigations into all so-called politically motivated crimes committed before October 8 1990 will be postponed."

Investigations which had already become legal proceedings, such as inquests, would continue. So, Captain Kotze said, the investigations into the murders of David Webster and Matthew Goniwe had not been suspended.

Investigations into all crimes committed after the October 8 1990 cut-off date agreed to by the ANC and the Government would still be investigated.

● ANC spokesman Carl Niehaus said yesterday there was a need to investigate crimes by people in State sectors "The ANC still insists strongly on these people being investigated" — Crime Reporter



# Dispute mediator's evidence challenged

*Star 30/9/92*  
 A witness testifying before a Goldstone committee inquiry into violence on trains said yesterday that while observing station security measures in Soweto one day in August, he did not notice any policemen on duty.

Nathi Gaisa was working for the Independent Board of Inquiry at the time, a body acting as a mediator in disputes, and his brief was to observe and report on railway station security.

During cross-examination he said that although he did not see policemen at the Soweto stations, he was told by a passenger that special policemen were sometimes on duty.

Asked by counsel for the South African Police why he did not mention the presence of the SAP-controlled special police in his report, he said he did not place emphasis on the information because he did not see policemen when he was at the stations.

Mr Gaisa said when he visited Nancefield station later in August he saw two policemen in camouflage uniforms.

If there were other policemen who were dressed in plain clothes, he would not have been aware of them.

He said he saw security per-

sonnel wearing uniforms with SS written on the shoulders at Merafe station, and was told they had been brought in from a Meyerton-based security firm to examine the security at stations.

He also saw four ticket examiners at Merafe station, and identified them by their uniforms.

At Nhlazane station, he was not asked to present his ticket when he walked on to the platform.

He did not see any ticket examiners on the platform, Mr Gaisa said.

## Assumption

Asked by counsel for Spoornet if he was aware that because of violence on trains and intimidation, ticket examiners could not wear their uniforms, Mr Gaisa said he had seen newspaper reports to that effect.

He conceded that because there were no uniformed ticket examiners and because he was not asked to produce his ticket, he had assumed that there were no ticket examiners at that station.

Committee chairman Gert Steyn adjourned the sitting until today. — Sapa.