

PUBLIC SECTOR-GOVT. - JUSTICE

1996

MAY - JUNE

Death squad man faces summons

A-G to be approached on Pebco 3 affair (252)
ARL 1/5/96

JOHN YELD
on the Truth Commission

JOHANNESBURG - Former askari (turned ANC guerrilla) and self-confessed member of the Vlakplaas police death squad Joe Mamasela might be forced to testify before the commission.

This was revealed by deputy chairman Alex Boraine at a media briefing after yesterday's hearings, during which M Mamasela's name again featured prominently.

Mr Mamasela confessed in a television interview nine days ago that he had been involved in the torture and murder of the missing Pebco Three activists in Port Elizabeth in 1985.

Yesterday, two wives and a mother of three men missing since July 1987 told how they first learned about the men's fate in a Sunday newspaper report in January this year that quoted M Mamasela's evidence in the trial of former Vlakplaas commander Eugene de Kock.

Mr Mamasela had said the men had been brutally murdered, then hands cut off and sent to a police pathologist for disposal so that their fingerprints could not be traced, and their bodies blown up.

Dr Boraine said the commission had already discussed with Transvaal Attorney-General Jan D'Oliviera whose special task force is investigating Third Force activities, the possibility of calling Mr Mamasela.

Dr D'Oliviera had told the commission he was close to issuing warrants of arrest in the case of the Pebco Three and had asked it to hold off for a short while before taking action involving Mr Mamasela.

But yesterday's evidence had made it important for the commission to speak to Dr D'Oliviera again urgently and it would contact him as soon as possible - as was also required by the Act governing the commission - with a view to subpoenaing Mr Mamasela immediately, Dr Boraine said.

"We believe it is important because it is extremely difficult to listen to case after case where one person is involved and nothing is happening."

But issuing a subpoena was still no more than a possibility, he said.

Commission chairman Desmond Tutu said a copy had only just been received of yesterday's Supreme Court judgment in Cape Town, which had ruled in favour of the two

retired police officers who had brought an application to defend themselves against allegations of their involvement in the death of Port Elizabeth student activist Siphwe Mthimkhulu by poisoning.

Mr Justice E L King interdicted the commission's human rights violations committee from hearing or receiving information that would affect the policemen until they had been given notice of hearings where evidence that would implicate them would be heard, and the time and location of the hearings.

Judge King also ordered the commission to give the policemen access to witness's statements and other documents that would allow them to "identify events, incidents and persons" that might implicate them in alleged crimes.

Archbishop Tutu told the briefing that there had not yet been time to study Judge King's judgment.

"We will wish to abide by the law as we read it, and we have already said that we will stand by the decision of the court until something else intervenes."

The Truth Commission was concerned about the possible

impact on victims and witnesses if alleged perpetrators were present at the hearings, the archbishop said.

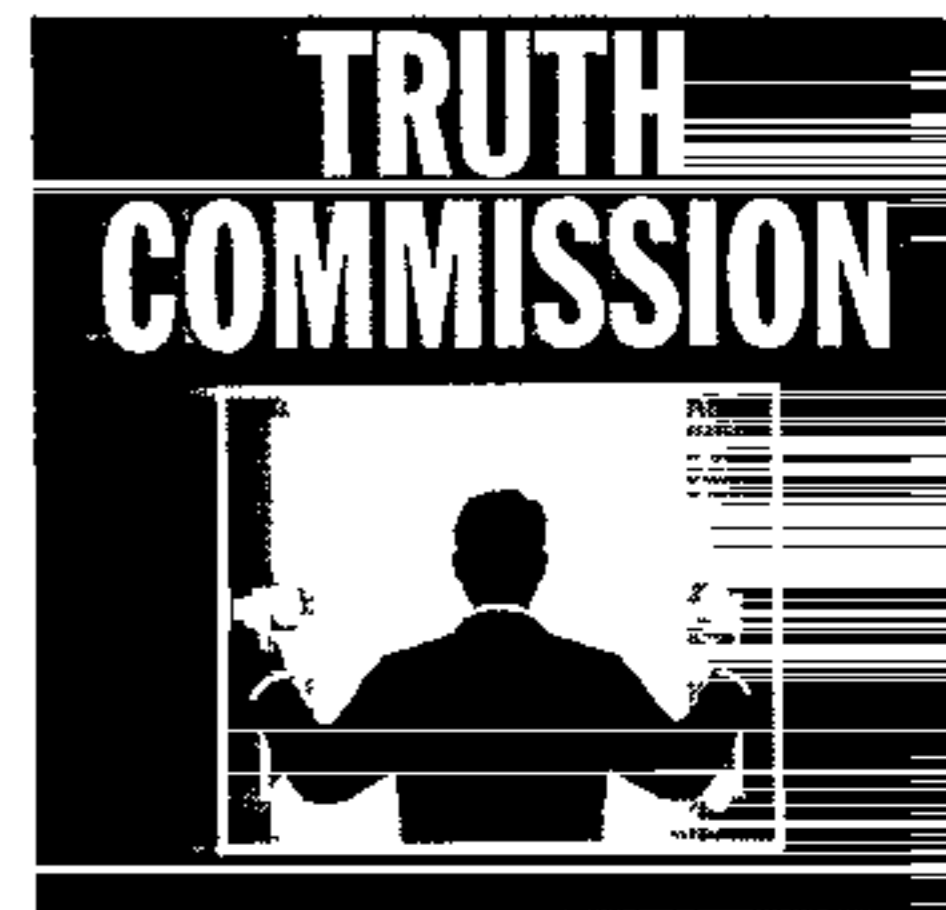
This had already been demonstrated during the commission's Cape Town hearings, where a mother had broken down after seeing a policeman on duty at the hearings who had allegedly been present at the scene of her daughter's death, when she had been shot police.

But the commission was also concerned about the rights of others involved in hearings.

"We want to be fair and just. Even to alleged perpetrators. We would not like to undermine their constitutional rights."

Asked whether victims could be prejudiced by the court's ruling that alleged perpetrators had to be given full documentation, Archbishop Tutu said he had "a very real concern" that the commission should not jeopardise the safety of victims and witnesses in any way.

But people who had testified so far and who had named the alleged perpetrators in their cases had not seemed "overly concerned" for their safety, he said.



TAKING A BREAK: Truth commissioners Alex Boraine and Desmond Tutu have a respite during hearings in

Picture: NATASHA PINCLE



BORN IN JAIL: Nonkululeko, 8, with her mother Maria Mthemisa at the Truth Commission hearings in Johannesburg. The little girl was born while her mother was in detention.

Long agony over missing trio

JOHANNYELD

JOHANNESBURG - The families of three men who were allegedly brutally killed by a Vlakplaas police "death squad" only learnt about their fate nine years later, when a journalist told them to buy a copy of the newspaper in which his article about the missing men appeared.

The Truth Commission heard yesterday that in July 1987 Harold Sefolo disappeared from Witbank, Jackson Maake from an unknown place and Andrew Makope from Mamelodi, Pretoria.

The three were apparently unknown to each other.

In January this year, a Sunday newspaper carried an article detailing evidence from the trial of former Vlakplaas commander Eugene de Kock, in which askari (turned ANC guerrilla) Joe Mamasela testified that a police "death squad"

had tortured the three men, stabbed them to death and then packed their bodies with explosives and blown them up.

Their hands had been cut off and given to a police pathologist to burn so that there were no fingerprints by which the men could be identified.

Lizzie Sefolo, wife of Harold, told the commission nobody had said anything to them before they had seen the story in the newspaper.

"So we started feeling the pain afresh on the news," she said. "I don't know why they did such a cruel thing to my husband. We can never forget him in our family."

"I'm expecting the fullest truth from the commission so that it can be fully explained to me how he died. We've been in the dark for the past nine years."

It wasn't a cow that was lost; it was a human being.

Mrs Maake said she had been shocked at seeing the report

in the newspaper.

"I was told my son had been stabbed until he died and then burnt. This hurts me the most."

"Nobody came to me to investigate about Jackson's disappearance. This was really surprising because Jackson had been brutally killed."

Mr Maake's family said they wanted Mr Mamasela to testify before the commission and explain where Jackson had been killed.

They wanted to rebury him "so that we can go to the grave of our loved one like other people."

Mabel Makope said she had been told by a woman that she had seen her husband (Andrew Makope) being abducted by armed men and driven off in a minibus with tinted windows.

"It's been years - why didn't they tell us anything? I don't understand why we should suffer like this."

Ordinary police 'did not know'

JOHANNYELD

JOHANNESBURG - The security police had been a law unto themselves and ordinary police men and women did not know about the atrocities they committed, says the first policeman to testify at the Truth Commission.

Gregory Beck, who told the commission's human rights violations committee how he had been shot in the leg in an ambush while on patrol in Soweto in April 1988, also praised Nelson Mandela, saying the president's forgiveness was an example to him.

Detective Inspector Beck, a sergeant at the time, said his patrol was ambushed about 12.55 am on a "very dark night" while transporting civilians arrested for rent offences to a rental office.

"I just suddenly heard the sound of automatic and rapid fire... machine-gun fire. I heard screams at the back of the van - one civilian was hit through the neck, and suddenly I heard shots from all around me."

"I was hit in the leg several times. I could hear my bones breaking the way the shots hit my leg."

Inspector Beck said he had been in hospital for a year and had several bone and skin grafts.

As a result, both legs were disfigured and he could not expose them at the beach or on hot days.

"I still suffer - I have severe pains," he said.

Asked by human rights violations committee member Russell Ally about his attitude to the police having been regarded as legitimate targets during the "liberation struggle", Inspector Beck said he understood now what it had been about.

"I don't bear any grudges, although I am a victim," he said.

Before 1990, 'ordinary' policemen had not known anything about covert operations which had been carried out by specialist units.

"And as we are now in the transparent, new South Africa, more of these incidents are being revealed and it becomes clearer to me what was really going on."

Commission chairman Desmond Tutu told Inspector Beck that South Africans were now beginning to own their police force.

"All of us need to change. All of us are traumatised people. All of us need to forgive and be forgiven as we move towards a wonderful prospect."

FIRST TRC TESTIMONY FROM AN OFFICER

Ordinary police 'paid dearly for ignorance'



JOHANNESBURG

...ambush and ... told the ... administration ...
... police ...
... ROGER FRIEDMAN

(252) CT 115/96

ORDINARY members of the police knew nothing of the atrocities committed in defending apartheid by their peers in specialised units such as the Security Branch and Murder and Robbery Unit — and paid dearly for their ignorance, the first policeman to testify before the Truth and Reconciliation Commission said here yesterday

Detective Superintendent Gregory Beck, who nearly lost a leg in an ambush in Soweto in 1988, said policemen who had committed atrocities and did not voluntarily confess to their crimes before the commission should be prosecuted

And those who failed to embrace the new, democratic South African culture should be "kicked out of the police service because they are no good to the police"

Nearly 1 000 policemen and women were killed between 1983 and 1993, as the liberation movements intensified their struggle against apartheid. The police — who were loathed in many quarters for their record of violence and aggression in enforcing apartheid laws — were seen as legitimate targets

The killings started tapering off in 1994

According to figures quoted in 1993 by the then-Minister of Law and Order, Mr Hennis Kriel, police were killed at a rate of one a month in the 1970s, two a month in the 1980s, 13 a month in 1991 and 19 a month in 1992

The slayings of police peaked in 1993 when 271 police members died. This is an average of

just over 22 a month

However, it was in the early hours of April 22, 1988 that the then-Sergeant Beck — with three constables under his command and three people they had just arrested — came under attack from a group of unknown gunmen wielding AK-47 assault rifles

It had been a difficult year for police serving in politically conscious townships throughout South Africa, not least in Soweto. In February, then-President P W Botha granted extra powers to the Minister of Law and Order to restrict organisations and individuals. Thousands were in hiding

South Africa was engulfed in both a state of emergency and a people's war. The violence was about to peak

Beck and his colleagues had just picked up three rent boycotters when "I suddenly heard the sound of automatic, rapid fire

I heard screams from the back (of the vehicle), one civilian was shot in the neck. I heard shots all around me, from all sides, concentrating on my position as driver"

Beck accelerated, then his engine died. "I could hear my bones breaking the way the shots hit my leg. It was very dark in Soweto that night, I couldn't see a thing"

Eight years after the event Beck relived the night — before

the Truth and Reconciliation Commission. Then he was asked what he felt about the police having been perceived as the enforcing arm of apartheid

Before 1990 "ordinary" members of the police "did not know much" about covert operations, he said. "I do not know of any specific atrocities or any police who participated in any of those activities. The security branch had full reign over whatever they wanted to do. They were like a law unto themselves"

Since 1990, ordinary policemen had started to understand that there had been a war going on and that the war being waged by the liberation movements had helped bring about the new South Africa

"I understand now, before I did not know"

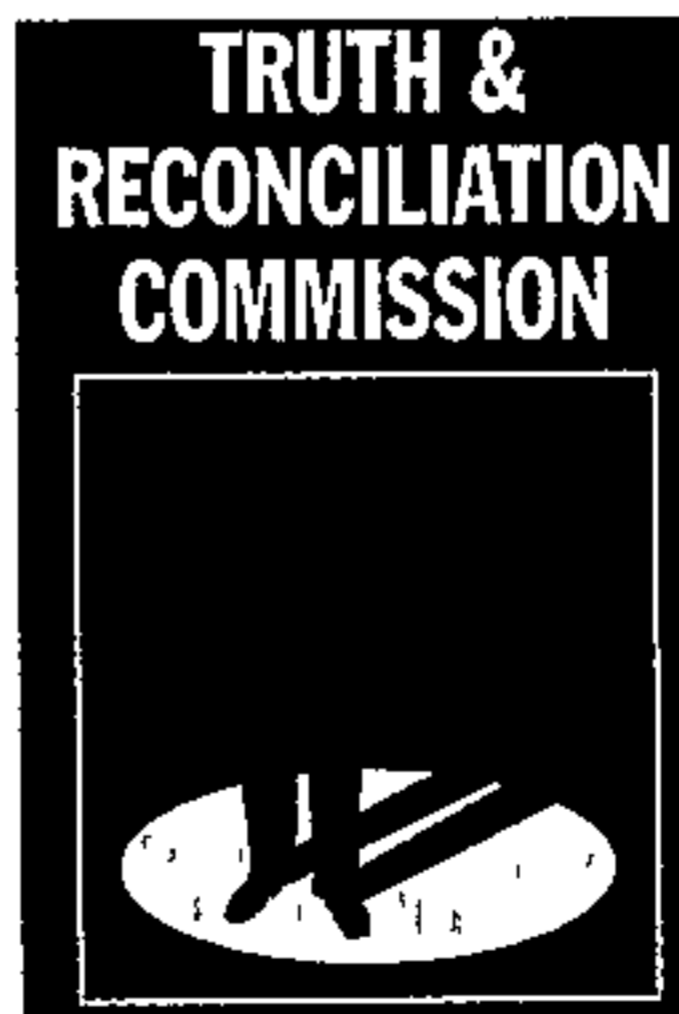
Beck said the commission might consider extending the

December deadline for amnesty applications, but members of the police who had committed atrocities and still failed to come forward to confess should be fired and prosecuted

He said he bore no grudge against his attackers

Commission chairman Archbishop Desmond Tutu said forgiveness was ultimately about allow-

ing people to change, "about opening the door to someone to move from a dark place to a new, enlightened present and future"



Timol's mother wants suicide truth

(252) CT 11/5/96

JOHANNESBURG The mother of Ahmed Timol, an ANC activist who allegedly fell to his death from the 10th floor of John Vorster Square police headquarters in 1971, wept yesterday as she told the Truth and Reconciliation Commission "I need to know what happened I need to know who killed my son"

Mrs Hawa Timol was helped to the witness stand by two of her sons before she began testifying in Gujarati about her 25-year search

for the truth about her son's death "I do not believe that he committed suicide," she said

Police claimed the Roodepoort teacher had leapt from a window on the fifth day of his detention under the Terrorism Act His death triggered an outcry and a demand for a public inquiry

An inquest, however, confirmed the police version of events Magistrate Mr J J de Villiers said Timol had been a confessed communist who was aware that party members

were expected to commit suicide rather than betray the party

Another side to the story emerged yesterday as Timol's mother told the commission his bloodied and bruised body had been returned to her by police with his nails ripped out "His face was covered with blood, his coffin was filled with blood I will not forget what happened"

Her only request to the commission was that a school be named after Ahmed — Sapa

Victims warned on naming supports

CT 11/5/96

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THE Truth and Reconciliation Commission was told yesterday that victims did not have an "unfettered" right to name their tormentors in public hearings.

Supreme Court judge Mr Justice Edwin King allowed, two former policemen an interdict setting conditions under which the commission can hear evidence that may implicate them in crimes.

"People's lives are going to be destroyed. Some people are guilty,

but many may be innocent," the judge said in finding against unlimited rights in the commission's public hearings.

He ordered the commission to tell retired Brigadier Jan du Preez and General Nicolaas van Rensburg when and where evidence concerning them would be heard. He said they should be given advance access to documents and statements affecting them.

The commission warned Du

Preez and Van Rensburg earlier this year that they would be named in the hearings.

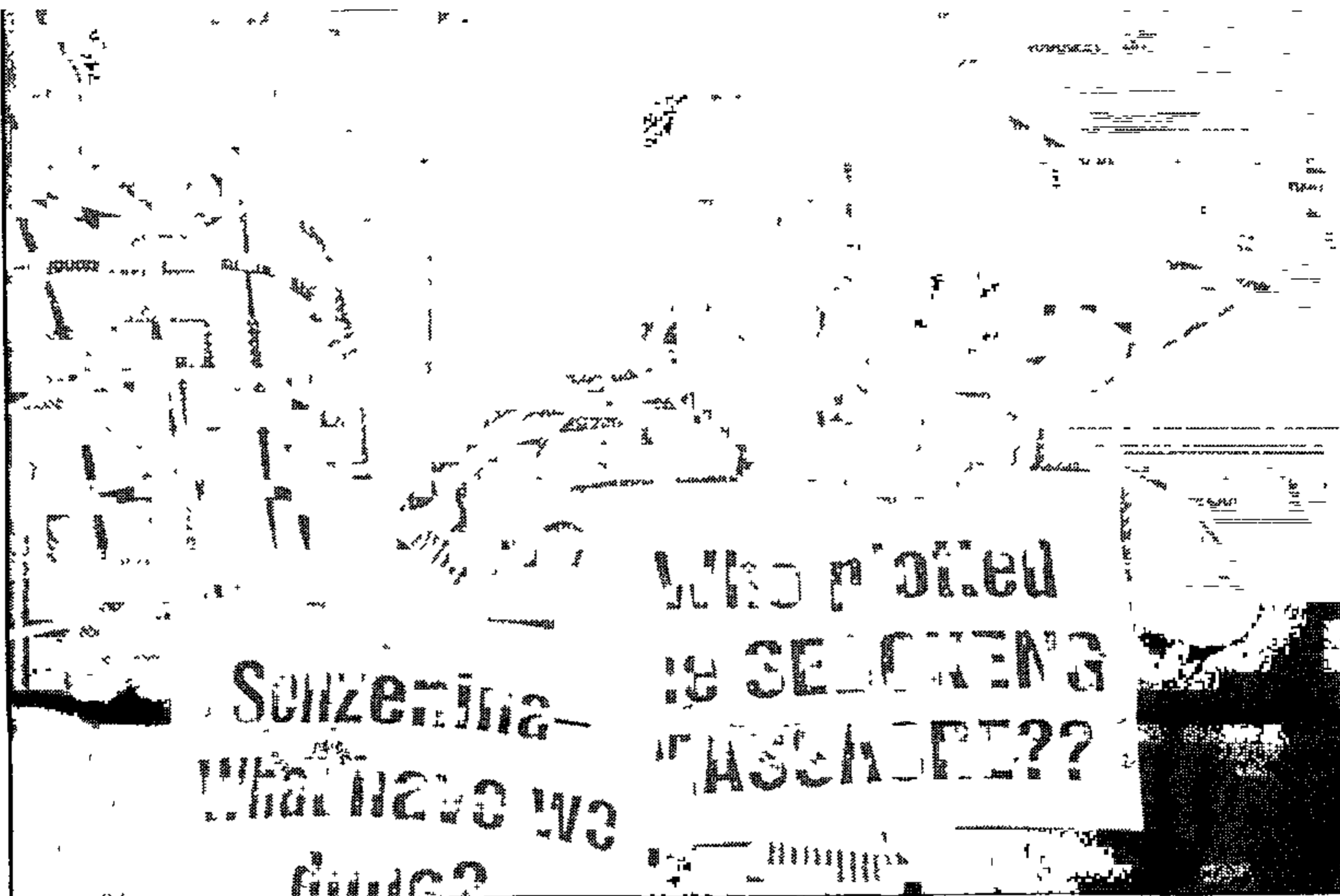
Truth Commission chairman Archbishop Desmond Tutu reacted to the Supreme Court decision yesterday by voicing concern for the safety of witnesses who wish to testify before the commission.

Tutu said his major concern was "to ensure we do not jeopardise the safety" of witnesses.

If the court's decision led to

potential witnesses feeling vulnerable, the commission could either stop witnesses from naming alleged perpetrators, or try to ensure that information given to alleged perpetrators in advance of the hearings did not identify the witness.

He declined to comment on whether the commission would have to expand its witness protection programme — Staff Writer, Reuter



CALLING FOR JUSTICE... families of victims of human rights abuses outside the Central Methodist Church in Johannesburg on Monday before the start of the Truth Commission's hearings. PIC PAT SEBOKO

'I have forgiven my son's killer'

By Claire Keeton
Feature Writer

EIGHT-YEAR-OLD Cornio Smit was killed in a bomb blast in an Amanzimtoti shopping centre two days before Christmas in 1985. On Monday, his father told the Truth and Reconciliation Commission he understands the reason behind the attack and holds no grudge against the bomber or his family.

An Afrikaans-speaking resident of Pretoria, Johan Smit has been called a traitor and condemned for his opinions. "My son was a hero who died for the oppressed people and for freedom," he said at the time of Cornio's death.

His view of the bombing underlines the moral difference between human rights violations committed during the struggle for liberation and those committed in defence of apartheid.

In the midst of Smit's grief, he could see why black South Africans, deprived of basic human rights, would turn to the armed struggle. "I would not have realised it if I had not had my own business and seen how much people struggled."

International crime

Justice Minister Dullah Omar also emphasised this point when reflecting on the TRC. He said South Africans cannot equate the actions of those who committed apartheid crimes with those in the liberation struggle who committed human rights violations.

"Apartheid was an international crime against humanity. Those in the liberation struggle were committed to fight this crime," he said.

Even though the TRC is bound to treat all cases of gross human rights violations the same way, the context underlying the violations is different.

Smit explained "It was a rebellion, actually a war. In war things happen which no one plans. Troops are overzealous and start doing what was not ordered."

His mother was in the same bomb attack and does not share Smit's views. Instead, members of his family said they felt comforted when the bomber, Mr Andrew Zondo, was hanged in 1985.

But Smit said he found it a great

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An Afrikaner father has been called a traitor and condemned for his views

relief to meet Zondo's parents. "I was happy to tell them I have no hatred in my heart." He said he drew his strength and peace from God.

TRC chairperson Archbishop Desmond Tutu thanked Smit for his contribution. "The reason why we still have hope that reconciliation will triumph in the end is because of people like yourself," he said.

The painful questions of morality and reconciliation — highlighted by the courage of victims and survivors — were brought to the commissioners' attention in one case after another during Monday's public hearings.

Killed in her place

The sister of slain Alexandra resident 16-year-old Jerry Mthembu told the TRC how her brother was killed in her place. The security forces shot him dead along with over 15 other youngsters in 1986.

"Jerry died by mistake. We were really after you," the police told Ms Maria Mthembu as they repeatedly threatened to kill her.

Despite many warnings, she stayed in the country to fight for freedom. This commitment led to her detention and the birth of her child, Precious Nonkululeko, while in police custody. She spent 11 days in a cold cell with her newborn baby before she was released.

Her mother, Mrs Sarah Mthembu, said she was willing to start with reconciliation and forgiveness, except she was unsure how she would respond to the policeman who shot Jerry.

"I want to see the one who killed my son. I have forgiven all the policemen who threatened us and who destroyed our house," she said.

In another tragic story, Mrs Madrina Jokazi told the TRC how her daughter and son-in-law were shot dead on July 31 1993 in a taxi in Tembisa.

The daughter, Ms Bulelwa Sigudu, bravely saved her five-year-old child during the attack, pushing her out of the window and telling her to run away.

Jokazi found the girl at the Tembisa police station.

During the burial two weeks later, the child started crying and wanted to run away. Jokazi said "She asked us to help her escape when she saw a police hippo. She said, "These are the people who shot and killed my mother."

Jokazi said six other people were killed in the attack but no one could identify the corpses because they had been burnt. "I don't know who did such a cruel thing. I am told the police and Zulu people were involved," she said. "Nobody has told me what happened."

Jokazi's attempts to lay a charge and seek compensation were rejected on the grounds that there was conflict on the East Rand townships at the time and it was not clear who was responsible.

"To forgive and forget we need to know who was responsible, and the families need to know what happened to their beloved," said President Nelson Mandela during a surprise visit.

Surprise visit

He arrived in time to hear Mr George Dube talk about how he was severely ill-treated by the African National Congress in a camp in Angola.

Dube said the Angolan authorities imprisoned him in January 1977, and when he was released three years later the ANC effectively imprisoned him at a rehabilitation centre until September 1983.

A political exile, Dube said he suffered from beatings and hard labour as well as bad food and living conditions.

Tutu said at the end of his testimony: "The TRC is required to investigate all instances of gross human rights violations and we intend to carry out this mandate. Human rights violations are human rights violations."

On Monday, the TRC also heard two accounts of deaths in police detention, the parcel bombing of an exiled political activist, torture and assault by police in detention, and injury in Pretoria's Church Street bomb attack.

Poor crowd at TRC hearings in Jhb

By Mzimasi Ngudle

ATTENDANCE at the Truth and Reconciliation Commission in Johannesburg since Monday has been poor. Compared to the Eastern Cape hearings where the hall was full daily, by mid-day yesterday the Central Methodist Church Hall had only about 200 people, including journalists, commissioners, victims and translators.

On Monday, ANC Women's League members who were picketing outside the venue supporting the commission, while also calling for action against perpetrators of human rights abuses, numbered more than the people inside.

Meanwhile the venue for the Durban hearings has been changed to the Jewish Club, Old Fort Road, next to the Beach Front TC spokesman Mr Mdu Lembede said the security

authorities felt that the original venue was unsuitable for the event. Lembede said the hearings, which start on Monday 6, will be preceded by a church service at the Durban City Hall which will be led by Muslim, Jewish, Hindu, and Christian leaders.

Bishop Stanley Mokgoba, who is the head of the Methodist Church in Southern Africa, will deliver the main address.

Source from 1/5/96

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At the hearing yesterday, the mother of the late SACP activist Mr Ahmed Timol said "I could not be expected to forgive at this stage". "They hit him very badly and ripped off his nails. I will not forget what happened. I need to know who killed him," Mrs Hava Timol said. Timol's brother Mr Mohammed Timol, who was also detained and tortured several times, said his mother felt she could not forgive people responsible.

She did not know, adding that her family was harassed by police for the past 25 years. Another witness, Mrs Sylvia Dlomo-Jele, whose son Sicelo Dlomo was allegedly shot dead by police in 1988, said she wanted the killers to come forward and confess to their evil deeds. The inquest into Timol's death found that nobody could be held responsible.

Claims of torture in 'suicide' deaths of two Indian activists

Star 1/5/96

(392) (292)

Son's body was returned with nails ripped out, mother tells Truth Commission

By HELEN GRANGE

Details of the horrific deaths of two young Indian activists, who allegedly fell from high buildings while in police detention in 1964 and 1971, were the focus of hearings at the Truth and Reconciliation Commission yesterday.

The frail mother of Ahmed Timol, an ANC activist who plunged to his death from the 10th floor of Johannesburg's John Vorster Square police headquarters in 1971, wept as she told the commission that his bloodied and bruised body, with the nails ripped out, had been returned to her by police afterwards.

Testifying in Gujurati, Hawa Timol said police had told her that her son, a Roodepoort school-teacher, had committed suicide on the fifth day of his detention under the Terrorism Act.

"I told them I did not believe he had committed suicide . . . that it was impossible for him to have jumped. I told them if my body had a zip, they could open it and see how I was aching inside. I still need to know who killed my son. I cannot be expected to forgive at this stage"



We cannot forget ... Hawa Timol - flanked by her two surviving sons, Haroun (left) and Mohammed - testified yesterday.

An inquest later confirmed the police version of events. Magistrate J J de Villiers said Timol had been a confessed communist who was aware that party members were expected to commit suicide rather than betray the party.

The district surgeon who had conducted the postmortem contended that the bruises had been caused before Ahmed's detention - a view which contradicted that of prominent pathologist Dr Jonathan Gluckman, who gave

evidence at the inquest.

Ahmed's brother, Mohammed, said his mother had been "living through this every day for 25 years"

Earlier, Rokaya Saloojee testified that her husband Suluman "Babla" Saloojee, a 32-year-old attorney's clerk who was active in the Transvaal Indian Congress and ANC after its banning, had died in detention on September 9 1964.

He was alleged to have fallen

to his death from the seventh-floor office of the security police in Grays Building in Johannesburg.

She said it had been clear from his clothes, given to her afterwards, that he had been tortured.

"The clothing there in the bag were full of blood. I actually did not know what colour it was, because it had gone hard and black already."

After Babla died, Saloojee said, a policeman called Swanepoel threatened her with death and asked her to become an informer.

Saloojee wants to know exactly what happened to Babla after his detention, and for her husband's torturers to be brought to book.

Babla was the fourth person to die in detention after the first state of emergency was introduced in 1960, noted commissioner Yasmin Sooka.

By 1990, 78 000 people had been detained, of whom 73 died. Inquest courts found 33 of these deaths were suicides. Of these, five detainees allegedly jumped off buildings.

Saloojee said she had suffered a nervous breakdown after Babla's death and was still on medication.

NATASHA PINCUS

Province prepared to surrender Matatielle

Farouk Chothia

DURBAN — KwaZulu-Natal representatives on the Trengove commission had agreed to hand over Matatielle to the Eastern Cape but wanted Umzimkhulu to be given to KwaZulu-Natal, a summary of the commission report released yesterday said.

However, the two KwaZulu-Natal representatives were in the minority. Their two Eastern Cape counterparts, backed by commission chairman Adv Wim Trengove SC, supported the inclusion of Matatielle in Eastern Cape, and for Umzimkhulu to remain part of the province.

Constitutional Development Minister Chris Fisser presented the report earlier this week to KwaZulu-Natal premier Frank Mdlalose and Eastern Cape acting premier Shepherd Mayatula.

The KwaZulu-Natal representatives wanted the province to retain jurisdiction over Kokstad, but the other three felt it should also fall under Eastern Cape. Fisser said the commission's findings were not binding, and negotiations on "this very difficult issue" would take place with both governments before the dispute was finalised.

The constitution required that border changes could be made only with the approval of both the Eastern Cape and KwaZulu-Natal legislatures, Fisser said. An NP source said the dispute had an effect on KwaZulu-Natal local government elections scheduled for May 29. Two of the NP's top candidates for the Midlands regional council came from the Kokstad/Matatielle area, and they would have to be removed from the candidates list if the towns were incorporated into Eastern Cape.

Mdlalose accused the Eastern Cape of "invading" KwaZulu-Natal after claims that it had established offices in Kokstad.

BD 2/5/96

Judgment could strain protection programme

Stephen Lauffer and Linda Ensor

BD 2/5/96

(252)

TWO retired senior security policemen's court victory requiring the truth commission to give alleged perpetrators of human rights violations full notice before victims publicly name them could place enormous strain on the commission's witness protection programme, sources said yesterday.

More victims could be inclined to ask the commission for adequate protection from those who might have an interest in preventing them from giving testimony in open hearings, sources close to the commission said.

Chairman Archbishop Desmond Tutu said in response to the judgment that the commission's concern was not to jeopardise the safety of the witnesses. But not naming the alleged perpetrators would imply stage management of the process. "Maybe the perpetrators protest too much," Tutu said.

Requiring detailed disclosure of allegations against them, including dates of incidents and names of those making the allegations, Judge Edwin King's ruling in the Cape Town Supreme Court could increase the victims' sense of vulnerability. The commission is understood still to be in the process of finalising details of its witness protection programme under former Natal assistant attorney-general Chris McAdam. King's ruling is likely to place demands on the programme which were not budgeted for. Some witnesses have already been

placed in the protection programme, including a man who testified on Monday to having been beaten and abused in an ANC training camp in Angola.

On Tuesday King ordered the commission and its human rights violations committee not to receive any evidence implicating the two security policemen without first giving them reasonable notice of the date of the hearing as well as all relevant information about the allegations.

King said this was necessary to enable former brigadier Jan du Preez and major-general Nicolaas Janse van Rensburg to identify the incidents and persons involved in the allegations and place them in a position to exercise their rights. King said the men were entitled to the statements of witnesses and copies of the transcripts.

The two men were alleged to have been involved in the poisoning and disappearance of a Mr Mthimkhulu in Port Elizabeth in 1981/82.

During legal argument the commission's counsel conceded that the notice and the information received by the security policemen were insufficient.

King said Du Preez and Van Rensburg had a legitimate expectation of a fair hearing and the application of the audi alteram partem principle. The opportunity to be heard presupposed being given reasonable notice. He said a limitation of this right to a fair hearing would be unconstitutional.

See Page 10

Unique challengers in SA ad

South Africans struggle to balance reconciliation with justice

WHEN politicians met to negotiate the birth of the new South Africa, some said it would be in the nation's best interests to forget about the past, to embrace a collective, forgiving amnesia — a general amnesty — and start afresh.

Others argued that apartheid was too evil, had destroyed too many lives, and its scars ran too deep for it to be simply forgotten. The horror had to be acknowledged to restore the dignity of those who suffered.

The interim constitution acknowledged that "the pursuit of national unity, the well being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society," it said.

There was "a need for understanding, not just for vengeance, a need for reparation, but not retaliation, a need for truth but not for victimisation." And, to advance reconciliation and

reconstruction, "amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past."

On July 26, 1995, the Promotion of National Unity and Reconciliation Act was published in the Government Gazette.

The Truth and Reconciliation Commission is the result. The gory details of South Africans' recent past, the depravity and the cruelty, began unfolding before it 18 days ago in East London. Technically, these first proceedings have been hearings of the Committee on Human Rights Violations.

Witnesses (usually family members) and victims of gross violations of human rights have been telling their stories. They are not being cross-examined. They are telling what they know of the events which shattered their lives, but

much of what they know is hearsay, rumour and speculation. They want to know everything.

The commission also has a Committee on Reparation and Rehabilitation of Victims and a Committee on Amnesty.

The commission insists that its focus is, and should be, on restoring the dignity of apartheid victims by allowing them to tell their stories and by acknowledging their suffering, rather than conducting a witchhunt for the perpetrators of atrocities.

Clearly, however, the deliberations



THE PREMISE of the Truth Commission is that those who confess to their crimes should be forgiven. **ROGER FRIEDMAN** has been a leading voice in the debate.

of the committee on Amnesty will be absolutely crucial to the success or failure of the commission. To be able to forgive, for reconciliation to occur, the truth must be known.

Even President Nelson Mandela acknowledged this when he visited the commission earlier this week and said, "Until we know what crimes were committed against innocent people there will never be reconciliation in the proper sense of the word. To forgive is to

know exactly what happened.

To get to know even half of what happened will require those guilty of abuses to come forward and confess to their crimes. These confessions will be scrutinised by the Committee on Amnesty.

If the committee is satisfied that a perpetrator has made a "full" confession, and that the application complies with the conditions laid down in the act, it may grant amnesty.

It will grant thorough amnesties, which will not only preclude criminal prosecution by the state, but also private prosecution and civil claims. Amnesty is the government's carrot for the perpetrators to emerge to tell the truth — the truth which is the key to South Africa's healing, to reconciliation and national building. That is the theory.

The problem is that this type of amnesty may not be constitutional. The

Constitutional Court is being asked to make a decision on this point by the families of four of apartheid's more famous victims — Steve Biko, Griffiths Mxenge, Fabian and Florence Ribeiro.

By granting the type of amnesty the act proposed, his clients could lose their constitutional right to civil redress, argued lawyer Mr Cyril Mörölo.

"The families believe you cannot substitute the criminal justice system. They are not against reconciliation. They are not traitors or against national building. They are seeking justice, not revenge."

They believed justice should be allowed to take its course, criminals should be tried and sentenced, before amnesties were considered.

Last week, the commission had to suspend the activities of its Committee on Amnesty, pending an urgent application by the families to the Cape Supreme

Court to halt the amnesty process until after the Constitutional Court had decided on the act's constitutionality.

On Monday the court will convene to decide whether to grant the application. If it does, and the Constitutional Court goes on to find the act unconstitutional, the issue may have to be taken back to Parliament.

Chairman of the Commission, Archbishop Desmond Tutu, says the commission will abide by the decisions of the courts. In fact, it does not have a choice.

"The perpetrators of gross human rights violations will presumably not voluntarily confess to their sins unless they are confident of being granted amnesty. The commission may use its power of subpoena, but the full truth may never out."

Thus is the predicament the commission faces.

CT2/5/96



Israeli soldiers stop a UN vehicle for an identity check in Hebron in the West Bank. Under the Israeli-PLO agreement, the Israeli army will soon partially withdraw from the volatile West Bank city, where 400 Jewish settlers live among 120 000 Palestinians. A group of "avante-garde" Norwegian observers arrived in Hebron to begin their observation mission of the withdrawal.

PIC AP

Police brutality tales

Journalist 2/5/96 (252)

'MY SON'S COFFIN was filled with blood. He was badly hit and his nails were ripped out," Mrs Hawa Timol told the Truth and Reconciliation Commission on Tuesday. "I told the police I did not believe my son had committed suicide. I said it was impossible he had jumped (to his death)."

Timol, as well as Mrs Rokaya Saloojee, relived the pain of the detention and death of their loved ones at the TRC's public hearings in Johannesburg - exposing the horror of police detention once again.

Police claimed that Mr Ahmed Timol and Mr Suliman Saloojee, both prominent Indian Congress activists, died after committing suicide by jumping out of police buildings in Johannesburg.

Seventy-three people died in detention without trial since 1960 and state inquests found 33 of them had committed suicide. Inquests stated that five allegedly jumped off buildings, said Human Rights Violations committee deputy chairman Ms Yasmin Sooka.

The final witness on Tuesday, Mrs Gotla Paulina Mohale, said police took her to a window on the 10th floor of John Vorster Square while she was in detention.

Many have died

"They said 'See this window, we will make you stand on the table and fly like a bird if you don't tell the truth. So many have died this way'."

Timol has refused to accept the inquest findings of suicide and has lived with this pain "every day for 25 years." The inquest found her son had jumped from the 10th floor of John Vorster Square on October 27 1971.

The magistrate said no one was to blame and that Ahmed was a self-confessed communist. "He had instructions from the Communist Party to commit suicide rather than betray the party," the inquest records claimed.

A frail pensioner today, Timol began her story in October 1971 when the police used to come and raid their home. That month alone, over 100 homes were raided under security laws.

Timol's husband, a devout orthodox Muslim, was interrogated during these raids and refused permission to pray. Police ransacked their house daily, asking questions about Ahmed although they had already detained him on October 22.

Timol asked to visit her son the day before she found out he had died. "The police said I would not see my son again. I told that policeman to go home and ask his wife what it means to raise a child and not see him."

The following day Timol asked the police to

Of the 73 people who died in police detention, 33 were alleged to have committed suicide. Their families believe otherwise. Now they want to find out what really happened to them, writes Features Writer **Claire Keeton**.



Truth Commission chairman Archbishop Desmond Tutu listens attentively at the public hearings in Johannesburg on Tuesday.

sit down during their second raid. "A policeman pushed me and told me my son had jumped from the 10th floor and had died," she said, weeping and talking faster.

She told the police at the time "If my body had a zip, you could open it to see how I'm aching inside." Her late husband was too grief-stricken to talk.

Timol said "It is 25 years now and I do not forget. I want to know who assaulted him and who informed on him. I need to know. I cannot be expected to forgive at this stage."

The family would like the Roodepoort school where Ahmed taught to be named after him in memory of his contribution to democracy.

Grim account of death

Saloojee's wife also gave the Commission a grim account of how her husband had died in police custody with injuries to his head seven years earlier.

Suliman was the fourth person to die in detention after the 90-day detention law was introduced, and police claimed he committed suicide by jumping from the 7th floor of Grays Building.

But his clothes were handed to Saloojee full

of blood, and she saw him while he was in detention with marks on his head.

When she asked her husband during this visit what had happened, police replied he had bumped his head in the cell. They forced her to leave before she had spoken with Suliman.

The second time Saloojee got permission for a visit, on the grounds that she had financial problems, she was made to stand three feet away from her husband. "I realised he was sick and they must have polished him up that day."

On September 9 1964, she was preparing to take food to Suliman when the police phoned and told her

not to go to the police station. "They said he was in hospital. We phoned every hospital and did not find any trace."

A journalist came to her house and asked for a statement. "I said how can I make a statement now when I do not know." (The journalist) said he was in the mortuary. He never reached any hospital.

Refused to believe

Saloojee said "Everybody knew what happened except me. Maybe I refused to believe."

"I didn't feel lonely and lost until after the burial. The special branch came back and said 'Your husband has died, now you will commit suicide too.' I said do what you like, but in the meantime get the hell out of my house. I was not brave but very scared."

Saloojee suffered a nervous breakdown after the police continued to harass her for many years, forcing her to move house often and isolating her from her family and friends.

"I would like the Truth Commission to bring forward every detail from the time of Suliman's arrest to his death. Those who tortured him must be brought to book," she said. "It is easy to say we must forgive but we will never forget."

Court muzzles truth hearings

2/5/96
(252)
By Mzimasi Ngudle

PUBLISHING the names of human rights violators mentioned by victims of human rights abuses in the Truth Commission hearings, may become a thing of the past following a Supreme Court ruling imposing restrictions on such publication.

From today, newspapers will inevitably be forced to use the Mr and Mrs X reminiscent of the state of emergency and other apartheid laws.

The court ruling was in favour of retired policemen when it constrained the commission from allowing witnesses to disclose names of suspects of human rights violations without "proper, reasonable and timeous notice".

The respondent (Truth Commission) is interdicted and restrained from receiving or allowing evidence during its hearings which would affect the applicants unless and until the respondent has given proper, reasonable and timeous notice. Judge E King said in his ruling. Motivating his ruling, King said a fair hearing included due notice of the hearings at which applicants are to be detrimentally implicated.

Timeous receipt of implicating statements with sufficient particularity to enable the applicants to identify the incident and to be present at the hearings to defend their names is therefore required," the judge said.

The ruling means the commission may allow witnesses to mention wrongdoers only after it has "furnished applicants with facts to enable them to identify the incidents and persons involved".

See Pages 12 and 13

Healing the damage of daily exposure to TRC testimonies

Star 2/5/96 (252)

LEON MULLER

Debriefing sessions help control the effects on commission staff and others

Debriefing has become the buzzword among members of the Truth and Reconciliation Commission and others who follow the hearings every day. Commission staff, interpreters, sound technicians and journalists.

What they mean by debriefing is the process of damage control, a way of soothing shattered nerves after being exposed to hour after hour of horrific testimony, of having to hear witnesses tell their stories of torture, robbing, shootings and necklacings.

Commissioners and officials started regular debriefing sessions last week and the services of counsellors have been made available to journalists who cover the commission full-time.

"In East London, there were times when I was crying," said sound technician Jurgen Human, who monitors every testimony through his earphones.



By Robert Bhaum at the Truth and Reconciliation Commission

"Sometimes you are not affected at all, and then suddenly it will hit you again."

A journalist who did not want to be named said he woke up at night thinking about the reports he had filed, remembering every

word. "I keep thinking I should rather have used this word here, or that phrase there."

Interpreter Letha Damane said the stories she heard during the day remained in her mind afterwards.

"By having to interpret every word, you relive the whole situation with the witness."

Different people deal with the stresses in different ways. Human says he and his colleagues have long discussions about the commission every night, a form of informal debriefing. "If you keep things bottled up you might end up needing counselling, but we talk about them among ourselves. We have our own little truth commission every night."

Some newspapers, including The Star, have offered their journalists psychological counselling if needed. Journalists covering the com-

mission complained that the demands of work did not leave time for the debriefing sessions offered by the commission. Damane said she might make use of the commission's debriefing sessions but finds that she unburdens better by talking to her colleagues and friends informally.

"We give each other a hug after every day's hearings. And (fellow interpreter) Theo du Plessis has been constant counselling for us - he holds your hand and is very supportive. And I have a little baby. When I feed it at night it is like a massage after a long day's work. It soothes me."

Commissioner Glenda Wildschutt, a psychiatric nurse by profession, co-ordinates the debriefing sessions.

"Debriefing is different from counselling. It is an opportunity for people here to talk about the work they are doing, and to help them to process the feelings and



A time to weep. Witness Tsomatse Nobleyo is comforted by an official of the Truth and Reconciliation Commission

emotions they go through," she explained. Wildschutt said the long-term

psychological effect of listening to horrific testimony day after day could be severe. Among the probable effects are burnout, listlessness, and an inability to handle personal relationships, she said.

"People start feeling tired, sometimes they feel they can't go on with their jobs, they become callous and hard. This also impacts on their personal lives and relationships. Small things trigger a massive emotional response," Wildschutt said. Listening to

There could be severe long-term effects

stories of people doing terrible things to other people, such as torture, could also lead to a loss of trust in others. The debriefing sessions, which are either in a group or one-on-

one with a psychologist, are aimed at making staffers understand their response to the hearings. "If they feel tired, fearful or stressful, the debriefings will make them understand that others are feeling the same way." The sessions are based on a model developed for people who regularly work in traumatic circumstances, such as paramedics, and people who have experienced traumatic events such as torture.



Torture destroyed star student

A FORMER student activist told the Truth Commission yesterday how police torture had left him permanently incapacitated. **ROGER FRIEDMAN** reports from Johannesburg

"THERE is nothing I can do in life. When I try to get work, I cannot get a job as they say to me I am sick. I have still got my tablets at home. They give me those pills because they say I beat my family."

Mr Cornish Makhanya is 28 years old. Before he was tortured by the police he was a member of his school's SRC, a top-notch athlete and a star goalkeeper.

After his nightmare he tried to complete his schooling — but he probably never will.

His was the last story to be heard yesterday by the Truth and Reconciliation Commission after a day filled with stories of young people destroyed in their prime, a day of extreme anguish.

Makhanya was arrested one night in June 1986 in Lichtenberg where he had gone to meet other pupils to discuss problems at their school. He was taken to the Lichtenberg police station.

"They put me into a room with cupboards and chairs and a machine. There was a Boer with a bucket of water and a cloth. They tied my hands behind my back and told me I must tell the truth and told me I must tell the truth. They wanted names."

His nightmare began. "Others came in and untied my hands. They said I was going to tell the truth. They told me to squat with my hands out. They poured water on me and put the cloth on my breast. A hefty Boer started shocking me. They put this machine on me."

"They took off my underpants and made me lie flat on the ground. Then they took this stick and put it under my knees, and handcuffed my hands. They took the cords off my head. They took the two cords and put them on my private parts."

"When they put the cords on my private parts, they turned the machine on."

Makhanya was now crying freely; so were many people in the audience, commission officials and journalists.

"After that I did not know where I was. I woke up naked the next day when they washed me with a hosepipe. They had called the Boers from Protea (a police station in Soweto)."

When they were finished with him at Protea, he was not lucky enough to regain consciousness naked in his cell. Instead, he awoke at Johannesburg General Hospital.

Aggett: 'Police responsible?'

STAFF WRITER

WHETHER he hanged himself or they killed him, the security police were equally responsible for Dr Neil Aggett's death, the Truth and Reconciliation Commission heard yesterday.

Aggett — a trade unionist and conscientious objector — was found hanging from a steel grille in his cell at John Vorster Square on February 5, 1982.

Dr Elizabeth Floyd, a director in Gauteng's department of health, reminded the commission of the security establishment's "paranoid" response to trade unions increasingly identifying with political issues and its "strategy of constructing charges out of interrogation", which led to Aggett's death.

She was his friend, colleague and co-defence, she said.

"What we were up against was a cruel, a dirty and an unjust sys-

tem," Floyd said.

Just before he died Aggett was interrogated for 60 hours — a so-called long weekend.

After being held in solitary confinement, detainees coming into contact with other people had few defences left, said Floyd. Sleep deprivation further disorganised them. Suffocation-together with electric shocks made them feel they were dying.

There was a very fine line between life and death.

"At the end of the day, while we don't know whether he was killed or committed suicide, whether he was killed or driven to the point where he had no option but to take his life, for myself the difference is not substantial."

Floyd said it still hurt that the legal team assembled to back up Aggett's inquest had been paid with taxpayers' money — and that

one of the advocates had since been appointed to the judiciary.

She said some torturers had abnormal personalities.

"They were not normal people," she said afterwards, noting that torture had included pulling people's teeth out with pliers.

After Aggett's death, police had concealed deaths in detention, she said. "They couldn't afford another Neil Aggett."

Many people, particularly whites, had not known what happened under apartheid and they now had to find out, Floyd said.

"They can't pretend it didn't happen."

There was also a lack of acknowledged guilt among former exiles about human rights abuses in South Africa, she said.

She felt society needed protection from the former torturers who had been absorbed into other jobs or dirty police units.

Tutu describes a day of devastating testimony

STAFF WRITER

It started at 10.30 and ended at 11.30. The hearing in the Truth and Reconciliation Commission was a day of devastating testimony.

The hearing was held in the presence of Mrs Sepati Mlangeni, a Methodist Church member, who testified that she had been sexually abused by a police officer.

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A MOTHER'S TEARS: Mrs Hester Grobelaar gives evidence before the Truth Commission about her son's death in a Kalahari shootout after he became involved with right-wing organisations.

Caught up in the 'total onslaught'

STAFF WRITER

WHEN they plotted the "total strategy" aimed at defeating the "communist onslaught", apartheid security chiefs were entering new terrain.

The battlefield was shifting from the bush and the borders to residential areas, churches, sports fields and classrooms.

Defeating the enemy required a multi-dimensional approach, based on a 20% military, 80% political action formula.

The so-called "total approach" with a strategic aim: "The so-called hearts and minds of the population. Sometimes the strategy spun out of control.

An Afrikaner mother reminded

the Truth and Reconciliation Commission of how pervasive the strategy was when she told of her son being "indoctrinated" while on a leadership course organised by the Department of Education — and how, ultimately, it led to his death.

Johannes Jurgens Grobelaar was 19 when he died beside Jurgen Matthews White in the sand dunes near Noemeput in the Northern Cape.

The official police version — that the right-wing radicals had killed each other in a suicide pact after being cornered in possession of an arms cache — was found to be improbable by the inquest magistrate, Mrs Hester Grobelaar testified yesterday.

Her son was a "total approach" member of the neo-Nazi group, The Church of the Creator, which viewed Christian practices as devil worship and propagated the extermination of Jews and "mad races". It measured time as years since Adolf Hitler's birth.

When her son died, police said he was taking arms, ammunition and disguises across the Botswana border to fugitive Orde Boerewolk bombers Adrian Mantz and Henry Martin.

Mrs Grobelaar, from Krugersdorp, said she wanted to know the truth about his death and says the security police told her they would shoot him, if they ever got the chance.

Her son's problems started after he came home, indoctrinated, from a (Veldskool) leadership course, she said.

The leadership course had appeared to be "a normal high school camp", but he had been "indoctrinated", she said.

TRUTH & RECONCILIATION COMMISSION



Witnesses tell of the killing fields of Swaziland

(252)
JOHN YELD
on the Truth Commission

ARC 3/5/96
JOHANNESBURG - The "killing fields" of Swaziland, where at least 11 anti-apartheid activists were murdered during the first nine months of 1987, were described to the Truth Commission here today.

Introducing the testimony of Felicia Dlodlo, whose husband of five months and ANC uMkhonto weSizwe commander Theophilus Dlodlo was shot dead, along with two others, in a car on May 23, 1987, close to the Swazi parliament in Mbabane, Commissioner Fazel Randera said ANC operatives and sympathisers in Swaziland had been particularly hard-hit.

He described Swaziland as a "killing ground" where politically inspired assassinations had been carried out with impunity.

Mother tells of jail visits to son before he was hanged

JOHN YELD
on the Truth Commission

(252)

JOHANNESBURG - The mother of Solomon Mahlangu, who was hanged in 1979 for his part in the Goch Street shootings in Johannesburg in which two people died, told the Truth Commission her son had grown up "like any other child".

Testifying today, she said her son had wanted to learn woodwork and to teach and they had never had any problems with him.

Mahlangu was a 20-year-old Standard 9 pupil when he left South Africa in February 1976 and returned in June 1977 after training in Angola.

After the shootings, he was arrested and charged under the Sabotage Act.

His accomplice in the shootings was found mentally unfit to stand trial, and although the court found that he (the accomplice) had fired the shots which killed the two men, the judge ruled there was common purpose and sentenced Mahlangu to death.

He was hanged in Pretoria on April 6 1979.

Mrs Mahlangu said she had not known her son was involved in politics. He never contacted her while he was out of the country.

"I heard a report on the radio

that there were terrorists who had killed white people, but it was a month before we found out it was him."

This had been when police arrived to search their home and to take clothes for him. She later visited him at John Vorster Square and they were told they could not talk about his pending trial.

"We didn't know what to talk about - we just looked at each other."

During the visit, just before he was hanged, he had thanked her for being strong and not crying during her visits, Mrs Mahlangu said.

"But he said to me 'where my blood will drop, so many Solomons will grow up because I am innocent'."

Asked by the commission how she had felt about his execution, she replied "That was very painful. As a parent you know how the heart feels. We all know we are going to die, but we don't know how or when. But if you are told your child is going to be killed, it is very very painful."

Mrs Mahlangu told the commission she had wanted to go to the college in Tanzania which was named after her son, but there had been no one to accompany her.

"They said they would fetch me, but no one came," she said

Women tell of booby-trap death

Arg 3/5/96

HORRIFYING testimony of how young Soweto lawyer Bheki Mlangeni was blown to pieces with a booby-trapped tape player headset meant for former Vlakplaas commander Dirk Coetzee has stunned the Truth Commission.

Commissioners, the media and about 100 other people at the hearing listened in shocked silence as Mr Mlangeni's mother, Catherine, testified how she had rushed into his garage "granny flat" at her home after his bride of two months, Sepati, had called her.

"At the time I was very sick. I saw my daughter-in-law rushing in and she just said 'Bheki' and 'I said 'What's wrong?' and she said 'Bheki, at the garage'."

"When I came out they held me and said 'Don't go in there' but I slipped in."

"I found Bheki. He was in pieces. He was hanging on the curtains, he was all over, there were pieces of brains all over. That was the end of Bheki."

Sepati Mlangeni broke down several times during the testimony and at one point the commission adjourned to allow her to recover.

The commission heard that Mr Coetzee had fled to London via Lusaka after making a series of confessions in November 1989 about his activities at Vlakplaas and other "Third Force" activities by the police.

In May 1990 the cassette play-



HORROR RECALLED: Mrs Catherine Mlangeni tells of the trauma when she found her son blown to pieces in his flat. Her daughter-in-law Sepati listens in tears.

er had been sent to him at Lusaka but he had already left and in February the following year it had been returned to the "sender" - the real sender had written the name of Mr Mlangeni at the legal firm of Cheandle, Thompson and Haysom where he had been doing articles. It had allegedly been sent by Mr Coetzee's successor at Vlakplaas, Eugene de Kock.

Mrs Mlangeni said that her husband fetched the parcel on February 15. They had taken a taxi home and as she was undressing, he had connected the headphones. "I said 'Why don't you put it on to the hi-fi so that I can also hear?'"

"I heard a big noise, I thought it was a gun. I just saw him falling down slowly. I tried to run away, I tried to climb through the window."

Tutu 'mindful' of court order over police names

THE Truth and Reconciliation hearings continued in Johannesburg under the shadow of a court injunction prohibiting the naming of alleged perpetrators of human rights violations unless they have been given prior notification.

Chairman Desmond Tutu said the commission was "mindful" of Tuesday's Supreme Court ruling in favour of two retired policemen.

Archbishop Tutu said the witnesses had been

have had the opportunity to notify them."

Nevertheless, the first witness yesterday, former Umkhonto we Sizwe member Abbulahay Jassat, mentioned the names of two security policemen, a Lieutenant Coetzee and a Lieutenant Van Wyk, he claimed were present when he was being tortured while in detention in 1963.

He said the policemen had pushed him out of a third floor window, holding him by the ankles,

TRUTH COMMISSION

from **JOHN YELD** in Johannesburg

Death in the 'killing grounds' of Swaziland

ARKG 3/6/96
(From page 1)

Mrs Dlodlo described her disrupted life when her husband he had been constantly moving out on missions in Southern Africa

"We never really even had a chance to call ourselves lovers - we hardly saw each other"

She said 1987 had been a terrible time "with all these massacres"

She knew one couple who had been killed in bed and said they had not been at all politically active

Two days before her husband had died, she had gone into an hotel close to the Swazi parliament to check, on behalf of her husband, whether a known askari (turned ANC guerrilla) who was allegedly very active, with the South African police, was there

She had found the man, whose nickname was September, playing pool with about 10 white men

"To me they were South Africans, I could tell by their accents. They were having a good time, laughing," Mrs Dlodlo said

She had not been with her husband at the time, he was shot but had been told by one of the survivors what had happened

Her husband and four others

had been driving from a party when a vehicle flicked its lights behind them and one of the occupants had called to her husband to stop

"He did and before they knew it they were surrounded by whites wearing balaclavas

"There was no time to think, they just fired on the car"

Mrs Dlodlo had seen the bullet-riddled car on television news later but had not connected it with her husband

Then a group of ANC women had arrived and started crying

"Then I said 'No, this can't be true, this can't be happening'"

Mavis Msomi, the mother of Mildred Nomsa Msomi, who died in the same shooting incident, said she had waited for her daughter that night as she had asked her to arrange a surprise birthday party for a friend

But her daughter had not arrived home and just before midnight someone had called on the phone but then dropped it before telling her what had happened. She had had a second call from a friend who told her they had been shot dead

"I didn't want to cry but I just prayed," she said

She had later seen her daughter's body at the mortuary and said she had been shot "all over" "I realised my child could never have survived this"

Truth Commission

Stephen Lauffer

THE truth commission could subpoena a number of alleged perpetrators of human rights violations, deputy chairman Alex Boraine said yesterday. He had discussed with the attorney general whether to lead to a subpoena in an arrangement to be reflected in the Commission's report.

But the commission had to deal with those whose actions had created victims, who cannot wait forever for Boraine's announcement. "I am more devastated than most," Submissions had to be interrupted several times to allow weeping witnesses to compose themselves.

The widow of murdered lawyer Bheki Mlangeni, Sepah Mlangeni, said she contested any amnesty application by the perpetrators. She said she knew someone who had sent you someone who blew up her husband. Mlangeni's mother Catherine said she had found her son in pieces.

Angry, unhappy family members on the curators' list. Weeping former student Makhanya said she was on medication. She said she was nothing but a mess. She said she was on medication. She said she was nothing but a mess.

Evidence of torture in 1963 given by former MK cadre Abdullah Jassat al-Jassat. He was used to put earlier ANC activists. Babla Saloojee said he was being up-side down by his two policemen holding him by his ankles from a third-floor window by his wrists. He said he knew if either slipped, he would crash to the concrete below and die.

Tongaat-Hulett

Continued from Page 1

The group approved the R2,4bn expansion to the Hulett Aluminium plant and African Product's R600m starch production plant at Klipriver during the year under review.

The starch and glucose division benefited from improved sales and the textile division achieved a satisfactory performance over the past two years and imports aggravated by illegal demand for residential and industrial sites remained high and sales exceeded last year's figures by 80%.

An athlete spent months in hospital, including the police station. He was on medication. He was nothing but a mess. He was on medication. He was nothing but a mess.

ANC activists. Babla Saloojee said he was being up-side down by his two policemen holding him by his ankles from a third-floor window by his wrists. He said he knew if either slipped, he would crash to the concrete below and die.

B0 3/5/92

Continued on Page 2

Court ruling a 252 blow to hearings

By Simon Zwane

THE CAPE TOWN Supreme Court ruling on the disclosure of the names of perpetrators of human rights violations has thrown a spanner in the works for the Truth and Reconciliation hearing for KwaZulu-Natal and the Free State

Victims of human rights violation who name alleged perpetrators in their statements would not be allowed to give evidence in the hearing which starts at the Jewish Hall in Durban on Tuesday

The court ruled that alleged perpetrators should be given "proper, reasonable and timely notice" with sufficient particulars to enable them to identify the incident and to be present

Sowetan 3/5/76
KwaZulu-Natal and Free State will be most affected by the decision

at the hearing to defend their names

Regional commissioner Richard Lyster said a week was not considered to be enough notice. Five or six people from the Free State have had to be removed from a list of witnesses because they mention perpetrators in their testimony

However, there will be a number of people coming from Tumahole in Parys, slain activists Stompie Seipei's hometown. It is not clear at this stage whether the parents of Stompie, who died as a result of being beaten at Mrs Winnie Madikizela Mandela's house in Soweto,

will be among them

Victims of the Magoos Bar bomb blast, planted by former ANC freedom fighter Robert McBride in Durban, have indicated that they will give evidence before the commission

The violence in KwaZulu Natal was also discouraging many people from testifying before the TRC

Lyster said victims who suffered human rights abuses in the past 10 years were not coming forward

"We are getting some, but people are apprehensive. We are still in a state of civil war in this province."

Lyster said

US

They're psychopaths, says Aggett's ex-girlfriend

(252) Star 2/5/96

Former police torturers still pose a threat to society, a doctor companion of the late Neil Aggett, who died in detention in 1981, tells the Truth Commission

BY HELEN GRANGE

Dangerous psychopaths who interrogated and tortured detainees in apartheid South Africa had moved to other jobs and still posed a danger to society

Thus is what Dr Elizabeth Floyd – the former girlfriend of Dr Neil Aggett, who died in police custody – told the Truth and Reconciliation Commission yesterday

Aggett, a conscientious objector and trade unionist, was detained in November 1981 and found hanged in a John Vorster Square cell in February 1982.

Floyd, now a director in the Gauteng health department, gave the commission a vivid picture of the terrible physical and psychological effects of torture, adding that during the apartheid years it was perpetrated by "professionals"

The combination of electric shocks and smothering had made victims feel they were dying. "It takes you to the brink of death. The line between life and death becomes a very fine one," she said

Solitary confinement left detainees with few defences and thus vulnerable to interrogation, while sleep deprivation produced a "really psychologically deranged person", Floyd said

"The personal damage to people was very extensive," she said, noting that some people had died in car accidents after their release from detention

"They (torturers) are not normal people," she told reporters after her testimony, noting that torture had included pulling people's teeth out with pliers

After Aggett's death, she said, police had concealed deaths in detention. "They couldn't afford an-



1976 .. Mbuyisa Makhuba carries the body of Hector Peterson. Makhuba's mother Nombulelo told the commission he went into exile soon after the riots and then disappeared.

other Neil Aggett"

She testified that, at the time of Aggett's arrest, the security police were using interrogation to try to build a case linking the unions to the then-banned ANC

Floyd said many people, particularly whites, had not known what happened under apartheid rule and it was now critical for them to find out. "Those people can't pretend it didn't happen"

Floyd said she felt society needed protection from the torturers, who had been absorbed back into other jobs or into "dirty" units of the SAPS

She added that some former security policemen were distressed about their past and planned to testify before the commission

Before Floyd's testimony, the mother of Mbuyisa Makhuba – the boy made famous after photographs of him carrying Sowetan

schoolboy Hector Peterson after he had been shot by police in the 1976 student uprising were featured around the world – told the commission she had no knowledge of what had happened to her son after he went into exile

Nombulelo Makhuba said Mbuyisa had left home soon after the riots. She had heard that he had been in Botswana before going to Nigeria, where he was receiving a government education

He had written to her and told her that he was spending more time in hospital with illnesses than at school. "That was the last I heard from him"

Since then, she had been told several stories of what had happened to him, including that his body was found on a beach and that he had told a friend he would "walk to Jamaica"

SAM NZIMA

ANC compromises aid property clause accord

ET 3/5/96

(252)

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WITH THE ANC under pressure to promote land reform and give minimal, if any, protection for property rights, the compromise deal which is likely to be agreed upon today is probably the best that property owners could hope for, writes **BARRY STREEK**.

A result of significant ANC compromises, the political parties in the Constitutional Assembly have almost clinched a deal on the property clause in the new Bill of Rights.

And the deal may well be closed this morning when the Constitutional Committee meets again.

The potential agreement was outlined yesterday by ANC caucus spokesperson Mr Carl Niehaus, who said he was "quite confident" the property clause would be settled.

"It is not a make or break situation. We will probably sort it out," he said.

Two ANC compromises have made this possible. At first, the ANC did not want a property clause in the constitution at all. Now all parties, except the PAC, have agreed that property rights do need to be enshrined in the constitution.

Then, the ANC proposed that the power of the government to expropriate land, particularly for land reform, should not necessarily be dependent on the state's ability to pay market-related compensation.

Land lobby groups and the ANC felt the urgent need for land reform should not be subject to such a major restriction.

This clause has, however, been dropped from the draft constitution.

Yesterday, the parties were still haggling about the wording of a clause which says a person or community "dispossessed of property after 19 June 1913 as a result of past racially discriminatory law or practice" would be entitled by law to either "restitution" of the property or to "equitable redress".

The principle is not at issue, and is in any event incorporated into the legislation which established the Commission for the Restitution of Land Rights. In short, the issue should be resolved, probably by the time of this morning's meeting.

Land and property have always been controversial issues in South Africa, and this has been reflected by lengthy and often heated debate over the property clause.

The ANC had to remember that most South Africans, and the majority of ANC supporters, had not had

free access to property. Whites could usually buy land where they wanted to, but blacks had been denied this and millions had had their land taken away from them.

For the ANC, there is a need to balance the protection of property rights against the necessity of land reform taking place. It was also argued that the property clause in the interim constitution may have impeded land reform and been used to block reform.

The ANC has accused the National and Democratic Parties of wanting to perpetuate existing property relations, but under the current provisions there is no question of land being expropriated without compensation.

Sub-clause three on property says the amount, timing and manner of compensation "must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected having regard to all relevant factors".

The provisions of the property clause must not "unreasonably impede" the state from taking such



PRE-DAWN SMILES: Chairperson of the Constitutional Assembly Mr Cyril Ramaphosa, left, with the National Party's Mr Roelf Meyer, during a break in negotiations early yesterday. All-night talks on resolving outstanding issues on the new constitution are deadlocked and negotiators from most parties have been working to resolve them. Talks continued last night in the hopes of avoiding the declaration of a formal deadlock today.

steps to achieve land reform and "redress the results of past racial discrimination".

The NP and DP would have preferred more explicit provisions about existing property owners, while the land lobby groups favoured far less explicit provisions.

But the ANC has compromised in a way that should satisfy the needs of property owners and the property market while promoting land reform.

With the ANC under pressure to promote land reform and give minimal, if any, protection for property rights, the compromise deal is probably the best property owners could hope for.

PICTURE: AP

Families of Cradock Four receive more than R500 000

(252)

BY JOVIAL RANTAO

Political Correspondent

Star 3/5/96

Two of the widows and seven children of four Eastern Cape political activists known as the Cradock Four received ex-gratia payments of more than half-a-million rands from the SA Police Service and the SA National Defence Force yesterday.

Safety and Security Minister Sidney Mufamadi and Defence Minister Joe Modise announced that cheques totalling R506 444 - almost half of the R1.1-million jointly claimed by the families - had been issued.

The payouts followed pressure from the Truth and Reconciliation Commission that the settlement - reached out of court - should be paid out as soon as possible.

Those who were paid yesterday were Nobuswe Goniwe (R69 559), Dorothy Calata (R40 244), Lukananya Calata (R65 783), Phumani Calata (R82 041), Sindiswe Mkonto (R48 891) and her daughter Lombawo (R25 669), and Nombuyislo Mhlawuli (R52 399), her daughter Babalwa (R46 516) and son Ntsika (R75 342).

The Cradock Four - United Democratic Front - activists

► Truth Commission
- reports and pictures

Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicelo Mhlawuli were found murdered near Port Elizabeth on June 27 1985. An inquest found that security forces were responsible for their deaths.

Three claims totalling R556 682 still have to be paid out.

Court ruling could paralyse commission

MTC 3-9/5/96 (252)

Mungo Soggot

THE truth commission could be paralysed by being forced to operate like a normal court after the Cape Supreme Court's decision this week to allow retired policemen access to truth commission documents, lawyers said this week.

They said the decision could set a precedent which opened the gap for other judgments to order the commission to cross-examine witnesses — a move which would slow down the commission's proceedings considerably.

Judge E King on Tuesday ordered the Truth and Reconciliation Commission not to hear any evidence affecting the two policemen — retired police

Brigadier Jan Abraham and retired General Nicolaas Jacobus Janse van Rensburg — until they had been given advance warning of any evidence which might implicate them. The policemen were also granted access to the commission's documents.

Lawyers, who cautioned they had examined the controversial judgment, said it appeared the policemen and others could now seek interdicts ordering the commission to gag or censor witnesses.

In letters to the policemen, the commission has alleged that they were connected with the disappearance or poisoning of someone in Port Elizabeth in 1981. Sapa reported Judge King said: "This is a test case

and if it has far-reaching implications then so be it."

One prominent constitutional lawyer said the judgment appeared to have struck a balance between ensuring the commission carried out its exposure of apartheid's horrors as dictated by the interim Constitution, and protecting the right of individuals not to have their reputation assaulted.

He said that although the Cape Supreme Court decision set an important precedent, it did not mean that other provinces could not take a different line. There was also a chance the commission could appeal against the decision.

Another lawyer said there was a danger the decision set a precedent which

would make the commission function like a court, slowing down its proceedings considerably.

He pointed to the ominous reaction to the judgment by four former national police commissioners, who warned the commission that it would be hit with similar court applications if it did not allow the cross-examination of witnesses.

Mike Geldenhuys, Johan Coetzee, Hennie de Witt and Johan van der Merwe told Sapa: "The way in which members and former members of the police have been placed in a bad light by some vague allegations, generalisations, hearsay evidence and apparent untruths cannot be tolerated any further."

The legislation which set up the commission does not stipulate that witnesses should be cross-examined and it provides witnesses with a qualified privilege. This gives them a defence to defamation providing their evidence is not motivated by malice and providing it reflects their honest belief.

Judge King's judgment, which was still being examined by the truth commissioners at the time of going to press, is not the first legal challenge to the commission.

Last month the families of several leading apartheid victims sought an interdict against the commission's amnesty committee, arguing that the granting of amnesties violated their constitutional right to civil actions against their relatives' killers and torturers. Judgment in this case has yet to be given.

Two tales of contrasting trauma

MTC 3-9/5/96 (252)

For some people just telling their story is a comfort, but the truth commission is finding it harder to solve some of the other problems, writes **Eddie Koch**

TWO very different people walked into Johannesburg's Central Methodist Church this week and, beneath the stained-glass images of Christ on the way to Calvary, sat to tell harrowing tales which tested to the full the truth commission's offer of comfort and catharsis

George Dube's story begins with a relentless diet of fish and beans in an Umkhonto weSizwe training camp in Angola. He explained how, fed up with the meals that were upsetting his ulcers, he sold some belongings to an Angolan soldier for a bus fare to Luanda where he would explain the problem to his commanders

On the way to the bus stop some Angolan policemen stopped him. Dube could not speak Portuguese. They could not speak English. He had old Angolan currency on him. And he had grown a beard. The Angolans deduced he was one of Jonas Savimbi's foreign mercenaries and took him to a nearby prison.

Dube spent three years there during which time he was joined by another 11 ANC members suspected of being spies. He says there were regular beatings by the Angolan warders and one of his friends, Tom Mabinda, was shot dead in front of him by the guards.

His account of prison conditions deviates into an account of the appalling food. People in the audience giggle at the cranky man who has clearly become obsessed with the workings of his stomach.

It is around 4pm and the hearings are running two hours late. One of the commissioners, Bongani Finca, tries to hurry him up.

Dube says the group was transferred to an ANC rehabilitation centre after staging a hunger strike. There they were forced to do hard labour. "I was beaten every day. It would be your lucky day if you were not beaten. I have seen movies about slavery and they way we treated it was like hell," he claims. "I prayed that I would wake up being dead that they would separate my soul from my body."

There were regular torture sessions to extract confessions from the spies. "I didn't know what to tell them because I have never been a spy."



A mother in mourning: Hawa Timol, accompanied by her relatives, still grieves for her son Ahmed, who police say jumped from the 10th floor of John Vorster Square

PHOTOGRAPH RUTH MOTAU

Three years later Dube and some of the others were released and sent to a camp in Uganda. "The commissar said 'Congress sometimes makes a mistake.'" And the detainees were told they would be sent back to the camp if they told anyone of their experiences.

Is there anything else he would like to tell the commission, asks Finca. "Listen my friend they used to make us run to the toilet. There was no walking there. And then you couldn't sit there and reflect. It was half a minute and you were out." And when he asked for stomach pills he got headache pills and headache pills when he wanted stomach pills.

More giggles from the gallery. Finca asks if there is any request Dube would like to put to the commission. He explains he had tried

courses in bricklaying, farming and cooking at the ANC camps but failed all of them. "I still want to learn to be a chef because I like cooking. I was asking them to send me to a school like this very school for cooking which I wanted."

Dube appears to be a lonely and confused man unable to find any coherent explanation of the trauma he has been through other than that he complained of eating too much beans and fish. Psychologists describe the condition as shattered cognition.

And when he walked out of the church it was clear that, unlike the man depicted in the beautiful windows above him, Dube had not found the meaning and understanding that would be his first step on the road to healing. Nor is he likely to find any place in a school for cooks.

For Hawa Timol it must have been very different.

The ailing old lady on crutches, flanked by caring and nurturing sons, explains in broken Gujarati how the security police broke her heart when they came to say her son, Ahmed Timol, had jumped from the 10th floor of John Vorster Square.

"I told the man he should go home and ask his wife what it means for a mother to rear a child and never see him," she says.

Later, after repeated raids and interrogations, they came again to say her other son, Mohammed, would only be released from detention if he agreed to work as an informer. "I told them that if my body had a zip they could open it and see how I was aching inside."

This time there is no laughter in the gallery, only tears and a lump in every throat.

Mohammed Timol, who survived

his term in jail after the brothers were arrested in 1963, explains how his brother had worked in the underground of the South African Communist Party and the ANC.

For him and his mother, it is intensely gratifying that Ahmed is receiving the recognition he deserves. "He was one of the many South Africans, young and old, to bring about a democratic dispensation in South Africa." He asks that the school in Roodepoort where he taught be given the name Ahmed Timol.

They know why he died and, to use chairman Archbishop Desmond Tutu's words, their appearance at the commission is an exquisite example of how just being given the chance to tell it "brings Christ's ointment into their hearts and souls."

The commission is like a treadmill of truth. There is a tension between the need for succinct and well-organised information and the patience and time needed to help victims reorganise their basic understanding of what happened to them.

Sometimes, when there is a yawning gap between the need for caring on the part of commissioners and pressure to speed things up so the distressing business can get done for the day, its cathartic intent breaks down. So the Dubes of the struggle present the truth body with a formidable challenge.

"One needs to separate out the different needs and wants that victims have and also have a finer understanding of the various types of victims who appear before the commission. They are people with very different expectations," says Brandon Hamber, a psychologist at the Centre for the Study of Violence and Reconciliation.

For some, reparations will be more important than the public hearings. Various groups have raised different requests for compensation at the commission. Some have asked for welfare grants. Others want symbolic recognition in the form of tombstone or a monument. In the Eastern Cape there was a common call for help with the education of young victims.

"The most profoundly worrying group is young people from the twilight period in the 1990s. Many of them probably played the role of victim, witness and perpetrator during the violence of the time. They are young and resentful and face a bleak future. It is hard to say how the commission will respond to their needs," says Hamber.

'I told the man he should go home and ask his wife what it means for a mother to rear a child and never see him'

Old ghosts may rest in peace

(252)
ARG 4/5/96

■ Old events surfaced dramatically at the Johannesburg's Central Methodist Cathedral at Truth Commission hearings this week. Stories of years of abuse and despair took on a shape that did not change their content, but may have provided some distance.

Own Correspondent

JOHANNESBURG – It is Workers' Day and moody autumn clouds hang over Gauteng's West Rand the day after Mrs Hawa Timol testified before the Truth and Reconciliation Commission. Prodded gently by commissioner Fazel Randera, who had visited her at home some days earlier, out came the story she waited 25 years to tell in public.

Her evidence at the inquest of her 30-year old son, activist Ahmed Timol who was said to have "plunged" from the 10th storey of John Vorster Square on October 27, 1971, came to nothing. No notice was taken of the details of Ahmed's disfigured face, his broken teeth, his left eye gouged out, the face that comes to her when she wakes at night.

After the Newtown mosque funeral where the body of her son was washed, and the ensuing reports of his crushed testicles, of burn marks from the electric shocks he received on his legs, these images remained with her.

In an extensive post-mortem, pathologist Jonathan Gluckman found bruising caused by torture. Ahmed's fingernails had been ripped out, his body was covered in blood.

Hawa Timol wept when she told the commission of the nightmare that began on the Friday night before Ahmed's death. For her it was as if no time had passed since the event. Sorrow has faded her beauty, it has left her 78-year-old body frail. Today, with the public unburdening behind her, she is calm, she feels comforted, as if she has had "a bit of therapy".

She still wants to know who is responsible for her son's death, she does not want to see her son's informers, only to know who they are. She does not want to forgive, that is God's job. At last she can rest assured that she will not be harassed by the security police.

Like another mother who testified before the commission early this week, Moloseng Tiro, a domestic worker whose son Abraham was killed by a parcel bomb on February 1, 1974, Hawa Timol was an innocent, unable to speak English and unversed in the language of politics. Commission chairman Bishop Tutu tried to console these mothers by telling them the names of their sons had been called out at rallies as an inspiration. He thanked Moloseng Tiro for bringing into the world a hero and reassured her that the commission was sharing her hurt.

Compassion may not help them discover who really killed Abraham Tiro, but it may stir them to help his sad, diabetic, arthritic mother with her medical bills. It will help them to attempt to move her son from his resting place in Botswana to Johannesburg as Dr Alex Boraine has suggested. Compassion may move the commission to act on the request of Hawa Timol and to name a school after her popular school teacher son. It may help them to construct a repatriation programme that is meaningful in practical terms to each of their testifiers. But it is the telling that appears to be cathartic.

As if the death of her 16-year-old son Jerry Mthembu in 1986 did not bring enough pain, Sarah Mthembu's life was consumed after his death with the harassment of her daughter Ruth who gave birth to a baby, Inkululeko, in prison. She herself was branded as a police spy by her comrades.

If only those who have branded her would come forward and explain to the commission why they did so, she says. She is pre-

pared to forgive everyone, except the one who killed her Jerry.

In the Azaadville home Hawa Timol shares with her son Haroun, his wife and their three small children, she is surrounded by love. Her son Mohammed and her grandson Intiaz sit on either side of her. They interpret from Gujarati as we crowd onto the sofas in the small lounge.

She knows the events of that fateful Ramadan week that began at 3am four days before his death, day for day, hour for hour. The harassment and bullying interrogation by security police, their refusal to allow her husband Yusuf to leave the house to pray at the mosque when the call for Azaan came.

Their seven-hour interrogation of Yusuf and Haroun, their discovery of Ahmed's mailing list and the subsequent detention of some 50 people under Section 6 of the Terrorism Act. Ahmed had been one of the seven people detained in the raid of 150 homes and offices around the country. She recalls the five-month detention of her son Mohammed, eight years Ahmed's junior, in Durban at the time.

It all emerges her desperate, unsuccessful attempts to persuade the security police of the plight of parents whose children are taken from them. Her use of imagery befitting her dressmaker trade: "If my body had a zip and I could undo the zip, I could show you how hurt I am."

And then their rough treatment of her, finally throwing her down on a chair and telling her that her son was dead. The security police disowned all blame, claiming they did not beat their detainees, lies made more harshly ironic by the plight of Mohamed Saleem Essop, who had been detained at the same time as Ahmed, in the same car. Essop's parents had a day before Achmat's death been informed at the Johannesburg General Hospital that he had been badly beaten by the security police.

Hawa Timol would not believe that her son had committed suicide. He was a religious man who had at the age of 24 already performed Haj, the holy pilgrimage to Mecca and suicide is against the tenets of Islamic law. She and Yusuf had performed Haj when they were married, she at 16, he at 25, in the village of Kholvad in the Surat district of Gujarat in India.

Hawa was born in South Africa but Kholvad was the home of her father as well as of Yusuf, who attended school there with SA Communist Party and SA Indian Congress leader, Dr Yusuf Dadoo. It was also the home of Aziz and Essop Pahad, and of Suliman "Babla" Salojee, who died in detention on September 9, 1964.

Salojee's widow Rokaya Salojee's gruelling testimony preceded that of Hawa Timol at the commission. Salojee, a 32-year-old attorney's clerk, an activist, member of the Transvaal Indian Congress and the ANC after its banning was alleged to have plunged of his own volition to his death from the 17th floor of a security police building. It was clear from her husband's clothing he had been tortured. They were black with dried blood.

Perhaps it is a comfort to this woman who says she still hates white policemen that Archbishop Tutu understands that "some things do not just evolve into the ether" but that our police force has been rehabilitated.

Then surprisingly, in English, she offers us fruit salad and drinks, we have done so much for her, she says.

Perhaps the forgiveness Tutu speaks of will come later and allow her and other mothers to move through a dark past, into an enlightened future.

We will (292)
try to lure
in IFP
ARG 8/5/96
says Tutu
(292)

THE truth commission-
ers will continue efforts
to get all groups
involved in its delibera-
tions including the
Inkatha Freedom Party,
vows chairman
Desmond Tutu

His pledge came at the
end of the first day's
hearings by the commis-
sion's human rights vio-
lations committee for
the KwaZulu-Natal and
Free State regions

Contrary to expecta-
tions that witnesses
might be too intimidated
to speak about political
violence in KwaZulu-
Natal, several alleged
IFP and KZP - KwaZulu
Police - atrocities

In written state-
ments, they named al-
leged perpetrators,
although during evi-
dence at the hearings
yesterday they indicat-
ed only that they knew
those involved

The IFP has said it
will not take part in the
commission's proceed-
ings, claiming it is dom-
inated by the ANC and
will be used as a witch-
hunt against the IFP

Although IFP leader
Mangosuthu Buthelezi
has indicated he is pre-
pared to meet Arch-
bishop Tutu and his
deputy, Alex Boraine,
his staff have apparently
been unable to find a
suitable date for more
than two months

Responding to a sug-
gestion that Chief Bu-
thelezi appeared to be
snubbing the commis-
sion, Archbishop Tutu
said this was a possible
interpretation

"But we will not give
up. We are not engaged
in playing marbles. It's
not a game. It must
succeed for the good of
the country

"We will do everything
in our power to involve
the whole nation" Arch-
bishop Tutu said

Plan for special truth unit

Sowetan 19/2/96

(292) (252)

By Ross Colvin

INVESTIGATIVE journalists and human rights lawyers may be recruited to work alongside international investigators and local policemen in the Truth Commission's special investigative unit

This is one of the proposals being considered by the unit's political head Dumisa Ntsebeza, who said in an interview he envisages the investigative arm of the commission being managed by a "Super 12" elite who will coordinate nationwide operations from the commission's Cape Town headquarters

Ntsebeza, a prominent Umtata attorney appointed as one of 17 members of the commission in December, also spoke for the first time about proposals on the structure of the unit and how he saw it fulfilling its task.

He envisages the unit comprising three elements - members of the South African Police Services, National Intelligence Agency and Military Intelligence, international investigators and members of the non-government sector involved in monitoring human rights abuses

It is important that the unit's structure gives it some degree of credibility, emphasises its independence and makes sure its members are completely loyal to the commission, he says

The unit will have 60 members and be broken up into four task forces, each with 12 investigators operating out of the com-

mission's regional offices in Durban, East London, Cape Town and Johannesburg

Each provincial unit will report directly to the "Super 12" in Cape Town, which is likely to be headed by a civilian "We want a civil-

ian-dominated force," Ntsebeza says

The unit's management structure - which will include an equal number of international investigators, local police and non-governmental representatives - should be operational before the end of the month

First public hearing

This is vital if the commission is to hold its first public hearing on April 9 in the Eastern Cape, he says

The "Super 12" will coordinate operations and also undertake some investigations themselves

The inclusion of international investigators in the unit will help to counter possible claims that members from the non-governmental sector are biased towards any one political party, says Ntsebeza

The first three foreign investigators - who are from the Netherlands - are due to arrive in the next few weeks Advertisements for local investigators appeared in newspapers last week, but it has not yet been decided how applicants are to be screened

Time constraints make it impossible for the unit to investigate every case referred to the commission's human rights violation committee

In trying to establish a pattern to the human rights abuses, the unit will probably have to choose "window cases" which explore certain themes like torture, deaths in detention, kidnappings and disappearances

"It's not going to be possible to fulfil our function without a broad sweep across the canvas approach"

Ntsebeza says the primary role of the unit will be to verify allegations and not undertake investigations for prosecution purposes

However, it will have to guard against those who seek to derail the commission and



Safety and Security Minister Sydney Mufamadi ... the Truth Commission wants full cooperation from the police.

‘In searching out perpetrators of human rights abuses, the unit will have to face the ‘brotherhood’ that permeates security forces throughout the world’

sow disinformation.

In searching out perpetrators of human rights abuses, the unit will have to confront the "brotherhood" that permeates security forces throughout the world

"There are a lot of people who do not want the truth to come out," he says

Tomorrow's meeting planned between the commission, Safety and Security Minister Sydney Mufamadi and top police management will concentrate on the importance of full cooperation from the police and safety and security MECs

Access to documents relevant to the commission's investigation will also be discussed although Ntsebeza says he is reasonably sure that most have already been destroyed - Sapa



Dumisa Ntsebeza ... Journalists and human rights lawyers may be recruited to work in the Truth Commission's investigative unit.

Harms blamed for Webster 'cover-up'

(252)

ARL 4/5/96

■ Maggie Friedman, partner of assassinated activist and Wits academic David Webster, is convinced that the commission of inquiry into the killing was manipulated and that evidence had been suppressed deliberately.

JOHN YELD
Political Correspondent

JOHANNESBURG - The chairman of the Harms Commission of Inquiry into the activities of the covert military Civil Co-operation Bureau (CCB) operation, Justice Louis Harms, should be subpoenaed to give evidence to the Truth and Reconciliation Commission about the murder of civil rights activist David Webster.

This was the call from Dr Webster's partner, Maggie Friedman, in giving evidence to the commission.

Dr Webster, a well-known human-rights activist and lecturer in social anthropology at Wits University, was gunned down outside his Troyeville home in Johannesburg on May 1, 1989.

Ms Friedman, dressed in an open-necked white shirt and grey jeans, arrived to give testimony to the commission carrying a thick folder relating to various inquiries into Dr Webster's death which she offered to hand in.

She spoke quietly and occasionally paused when about to be overcome by emotion.

She said she and Dr Webster had left their home early on the morning of his death to go running with their two dogs.

They had arrived back in his bakke and had parked it in the street.

"He got out to go around to let the dogs out and I was a bit slower. I was aware of a car accelerating and heard what I thought was a car backing up and accelerating down the road.

"I saw David staggering and holding his chest and he said 'I've been shot by a shotgun, get an ambulance'.

"So he obviously saw his killers and the weapon.

"He fell down on the pavement and died about half an hour later."

Ms Friedman said she believed his assassination had been ordered and planned at a senior level in the State security structure and that State resources had been used in the murder.

Details of the murder had been manipulated in such a way as to prevent details of the murder being exposed, she claimed.

Ms Friedman said she included the CCB, SA Police, the State Security Council and various cabinet ministers as being responsible, and called for the indictment and prosecution of those involved.

She named these people as Wouter Basson, Staal Burger, Chap-rie Maree, Ferdie Barnard, Slang van Zyl and Calla Botha of the CCB's Region Six, Eddie Webb, chairman of the CCB, Joe Verster, managing director of the CCB, Wilkop Badenhorst, then head of Military Intelligence, Krappies Engelbrecht, chief investigator of the Harms Commission, SA Police investigating officer Floris Mostert, his superior loop Joubert, and minister of defence at the time, Magnus Malan and the then minister of law and order, Adriaan Vlok.

Ms Friedman said she could not say that all had been implicated directly, but said they had been party to a conspiracy to protect their colleagues.

Ms Friedman detailed the various investigations and commissions which involved in investigating Dr Webster's death.

There had been no prosecutions or prosecutions envisaged as far as she knew.

"The impression is that the answer is there, but it's been allowed to slip through a morass of disinformation and conflicting interests."

She said the police investigation had been hampered when it started pointing towards the military. A relatively junior officer had been assigned to the case and he was only allowed to question military officers of a lower rank.

"Red tape was intentionally used to bar the way of proving military involvement."

General Engelbrecht, who had attempted to cover up the CCB involvement, had functioned as a "sweeper" for the police to get rid of information which was embarrassing to the government and the police, Ms Friedman alleged.

She said the Harms Commission had extremely limited terms of reference, strictly adhered to by Judge Harms.

Although all indications had pointed to links between the assassination of Windhoek advocate Anton Lubowski and Dr Webster, Judge Harms had refused to allow this testimony because it was outside the borders of South Africa.

However, Judge Harms had "cynically" allowed Mr Lubowski's alleged links to the military to be investigated.

The Harms Commission was an example of the "sense of powerlessness" that many victims of human rights abuses had experienced in the judicial system, Ms Friedman said.

At the inquest into Dr Webster's death, there had been a "gross intimidation of witnesses" including an allegation - withdrawn after a teabreak - by witness Willie Smut, who testified that Ferdie Barnard, of the CCB, had told him he had killed Dr Webster.

Ms Friedman said she believed there had been conspiracies in the State structures to suppress the evidence and to protect individuals who had planned and carried out the assassination.

She was particularly scathing of Judge Harms, alleging he had steered the commission "firmly away" from the evidence.

The commission's terms of reference had been carefully constructed to limit the potential damage to the State, Ms Friedman alleged.

"I believe Judge Harms must know who set those references."

Asked by the commission who she would like it to subpoena to give evidence about Dr Webster's death, Ms Friedman answered "The one who would be top of my list would be Judge Louis Harms."

"Because I think the commission holds the key. I think he knows who tried to suppress it so hard and it might be possible to get an honest answer from him."

Ms Friedman also said all those she had named earlier as being responsible for the orders and for suppressing the evidence later, should also be subpoenaed.

"The first and most important thing is, why David was killed?"

"I want to know why it was David, in particular, and who it was who made that decision?"

"I'm a lot less interested in the people in the car and who pulled the trigger."

Ms Friedman said she wanted the perpetrators to be brought to justice and she didn't believe that any of them had yet applied for amnesty.

She appealed for those involved to come forward.

"This is the best possible moment for them to dissociate themselves from their superiors."

Asked what her feelings were about reparation, Ms Friedman said she had been working with the Kuhlmann Support Group for victims of human rights violations for more than a year, and they had produced a document which they had



□ **CALL THE JUDGE:** Maggie Friedman, partner of the murdered civil rights activist David Webster, has called for Mr Justice Louis Harms to be subpoenaed to give evidence to the Truth and Reconciliation Commission

Truth Commission prepares to hold special hearings on abuses

JOHANNESBURG - The Truth and Reconciliation Commission was preparing to hold special hearings to allow alleged perpetrators of gross human rights abuses to tell their side of the story, said commission chairman Desmond Tutu.

Archbishop Tutu said he wanted the hearings to take place as quickly as possible.

A number of security force members have been implicated in human rights abuses since April 15, when the commission began hearing testimony on torture, murder and abductions.

Earlier in the week Archbishop Tutu told a media briefing the commission intended to hold event hearings which would probe incidents such as massacres at Boipatong and Bishop.

The first event hearings likely to be held in the Western Cape and will focus on the shooting dead in 1960 of three people during a Pan Africanist Congress protest against pass laws.

No date appears to have been set for the commission to hear submissions from political parties intent on giving their views on the struggle against apartheid.

Both the African National Congress and the National Party have announced their intention to appear before the commission.

handed to the commission.

She said it appeared that victims were being asked to give up something once again.

"I'm afraid we are going to be asked to accept symbolic reparation or community reparation, and this is simply not fair."

In addition to bursaries and medical aid assistance, there should be special pensions to allow the victims to live dignified lives.

If any perpetrators confessed and were within the amnesty criteria of the Truth Commission, they should not be prosecuted but neither should they benefit, Ms Friedman said.

Any pensions or payments these perpetrators had derived during their deeds should be forfeited and paid into an appropriate fund for victims.

Amnesty had to be balanced with fairness for the victims.

"I feel that very, very strongly," she said.

"For myself, I would have hoped the Truth Commission could bring things to a close, but I can see it's only opening up another phase in the saga."

Ms Friedman offered to co-operate as fully as possible with the commission.

Commission chairperson Desmond Tutu told her the commission was "enormously grateful".

"We hope there will be an assuaging of some of the ache because of the support and also the admiration you know many have held for David, and beyond that the supreme price paid for assisting us to where we are now in this new dispensation," said Archbishop Tutu.



□ **MOTHER'S EVIDENCE:** 78-year-old Mrs Hawa Timol relives the night of October 27, 1971, when her son was said to have "plunged" to his death from the 10th storey of Johannesburg police station John Vorster Square

Tutu warns newspapers not to question the Truth Commission's credibility as champion of human rights

JEAN LE MAY

ARL 4/5/96

Staff Reporter

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TRUTH and Reconciliation Commission chairman Desmond Tutu has made it clear that he will not tolerate Press reporting and editorial comment which question the commission's credibility

On Monday last week Archbishop Tutu said at the start of the Johannesburg hearing that he objected to some of the weekend Press coverage

He did not name the newspaper, but SATURDAY Argus understands that he took exception to reports and comment in the Afrikaans Sunday newspaper Rapport

Archbishop Tutu said that the commission's credentials as champions of human rights, justice, fairness and reconciliation "should not be disputed"

Rapport ran extensive coverage on the commission, including an article headlined "Kommer oor billikheid van Tutukommissie neem toe" ("Concern grows about fairness of Tutu commission")

It also ran an article on alleged atrocities

committed by the African National Congress on which evidence from George Dube was later heard by the commission

Mr Dube claimed he had been beaten and tortured for almost four years in an ANC rehabilitation camp in Angola

John Allen, spokesman for the archbishop, said that limitations on reporting the Truth Commission were virtually the same as those on judicial commissions. But there appeared to be no restriction on "belittling and disparaging" the commission, as there is in the Commissions Act

Normally, reporting on judicial commissions may not seek to prejudice nor influence hearings, although there is no sub-judice rule. This means that, unlike court reporting, anything being dealt with by the commission may be written about - within limits. But it is unclear where the limits are - unlike in court reporting where they are strictly defined

Rapport has also been criticised for its reporting on the trial of the generals, in which former defence minister Magnus Malan and 19 co-accused are on trial for the

1988 KwaMakutha massacre

The newspaper ran reports based on information which had not been given to the court

KwaZulu-Natal attorney-general Tim McNally was later forced to lead evidence based on the same information

He commented at the time that "obviously there is a new spirit of freedom and the Press is pushing the limits in court reporting"

It was "a bit of a grey area," said Mr McNally

The grey area in which the Truth Commission was working was highlighted last week when it was told by Justice Edwin King in the Cape Town Supreme Court that it might not hold hearings nor receive information implicating two retired police officers, Jan du Preez and Nicolaas Janse van Rensburg, until they had been given notice of the hearings and access to the same information

The case arose out of a hearing in Port Elizabeth in which they were named by a witness

Truth Commission prepares for KwaZulu Natal sittings

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Durban - At least 25 people are expected to testify before the Truth and Reconciliation Commission during its Durban sittings. Commissioners said yesterday they expected a scramble for the 300-odd tickets that will be made available on Monday.

KwaZulu Natal commissioner Richard Lyster said security would be tight. He stressed that only ticket-holders would be allowed into the hearings at the Jewish Hall in Old Fort Road.

He expressed concern that the hearings might be affected by a strike planned by the ANC for Friday, cutting sittings to

three days from four.

It is expected that former Returned Exiles Committee chairman Pat Hlongwane will testify as a victim of human rights abuse and as a perpetrator. He is expected to tell of his life as a torture victim in the ANC camps in exile and to recount his role in the state-sponsored propaganda campaign waged by the International Freedom Foundation against the ANC.

Tickets and information can be obtained from the commission's offices at 391 Metlife Building, Smith Street, Durban, or by phoning (031) 307-6767.

Locals to bear 16% of Olympic costs

By ANDREA WEISS

Star 4/5/96

Provincial and local government in the Western Cape will be expected to pick up 16% of the estimated R1,8-billion cost of building Olympic venues and practice facilities.

This was said yesterday by Chris Ball, chief executive officer of the Cape Town 2004 Olympic bid company. The

amount would come to just less than R55-million a year, he said.

It is proposed that the province take responsibility for 30% of the cost and the Cape Metropolitan Council for another 30%. The rest will be shared equally by the Cape Town City Council and other substructures. It is not suggested that borrowings be incurred to finance the facilities, Ball said.

Subpoena Judge Harms, says Webster's ex-girlfriend

By WILLIAM-MERVIN GUMEDE

Mr Justice Louis Harms should be subpoenaed to appear before the Truth and Reconciliation Commission, Maggie Friedman, former partner of slain academic and anti-apartheid activist Dr David Webster, told the commission yesterday.

She alleged that Judge Harms, former minister of law and order Adriaan Vlok and former minister of defence Magnus Malan were involved in a cover-up in the 1989 assassination of Webster outside his Troyeville, Johannesburg, home.

She said the order for his death came from very high up in the military, security and intelligence structures. "It was definitely not the work of rogue elements within the security forces, but from those in command who wanted his death."

Friedman said the subsequent inquest, the commission and all other investigations were coverups. She said the commission headed by Judge Harms "steered away from evidence which would lead to pinpointing the people who killed him."

The Harms Commission found that no one could be prosecuted because the evidence was inconclusive. She said the commission's terms of reference were deliberately constructed so as not to implicate the Civil Cooperation Bureau (CCB) and the Vlakplaas security police unit.

"Harms holds the key I think he knows who was trying to suppress information coming up which would lead to the killers. If the terms of reference of the commission were changed to investigate the CCB and Dirk Coetzee's Vlakplaas unit, the KwaZulu Natal violence and

Friedman said assassination of its opponents was part of the strategy of the security forces and they were planned within state structures. Taxpayers' money and state resources were used for these operations.

She said there was a clear link between the killing of Webster and Anton Lubowski's murder in Namibia.

Friedman told the commission the inquest into Webster's death, "led by Judge Stegmann", was a coverup. "There was widespread intimidation of witnesses and a deliberate tactic by the perpetrators to confuse the evidence so that no conclusion could be reached," she said.

"I want to know who killed Webster, and who made the decision," said Friedman. She called on the commission

not to give amnesty to perpetrators without their first confessing. "Their pensions should be denied and should be channelled into a fund for the victims and families of apartheid human rights violations."

Political activist Shanthra-vothie Naidoo told the commission how she was tortured for five days in succession in June 1969 by security police at Pretoria Central prison. She had to stand on her feet for long periods without rest while she was interrogated and was denied sleep during the period.

"In the end I could not distinguish between reality and dreaming."

She afterwards spent four months in solitary confinement where she could not receive any visitors, not even her family

Webster's ex-girlfriend

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train massacres on the Rand would never had occurred."

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Maggie Friedman

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Truth commission

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On her release, her movements were restricted and she and her family were constantly harassed by the security police. Naidoo eventually left the country in 1972.

An impassionate Felicia Dlodlo, who lived in exile in Swaziland, told the commission that the first time she heard of the death of her husband, former MK commander Theophilus "Viva" Dlodlo, was when she saw his bullet-riddled car during a Swaziland television news bulletin.

"The (TV) announcer said the car was found with three bullet-riddled bodies near the Swazi parliament, and the corpses had been taken to the Mbabane mortuary," Dlodlo said.

Her husband was killed by a Vlakplaas hit squad unit in Swaziland together with another ANC activist, Mildred Msomi, and an unknown Swazi student who had hitched a lift from them.

Dlodlo told the commission that human rights should be introduced as a mandatory subject in South African schools to serve as a reminder of apartheid's abuses.

A weeping Mavis Msomi described how she was waiting for her daughter Mildred to get home to a surprise supper, but she did not arrive. "I expected her to be home around 7pm. At midnight I received a call from her friend Zanele saying she was dead and that her body was at the mortuary."

"When we went to the mortuary we saw the bullet-riddled body of Mildred and I thought to myself, 'How can anybody survive such brutality?'"

Commission deputy chairman Alex Boraine said Mavis Msomi had a double burden as her son Tony, also an ANC activist, had "lost his mind" after hearing the news of his sister's death.

Mentally disturbed

Martha Mahlangu, mother of Solomon Mahlangu - whose hanging caused an international outcry - told the commission she had heard of her son's arrest only a month after police ransacked her house searching for his clothes. Police had told her that Solomon was arrested in Lydenburg and was in Pretoria Central prison.

Solomon was arrested together with Monty Motloulung for the shooting of Rupert Kessner and Kenneth Wolfendale. He was executed on April 6 1979, even though evidence showed Motloulung had fired the fatal shot. Motloulung was not sentenced because he was found to be mentally disturbed.

"It is painful as a parent to see your beloved son die in such a horrible way," Mrs Mahlangu said.

An angry Reuben Ranyaka told the commission he was disappointed at the ANC's reluctance to investigate the disappearance of his brother, Kunyamane Ranyaka, who was an MK cadre in Angola.

"One of the worst things is not to know. My brother disappeared in the early eighties while working for the ANC. The ANC told us he was captured by the SA security forces and had turned askari. All our efforts to get further information from the ANC drew a blank."

A distraught Linah Tshabalala requested reparation from the commission after her son David was shot by the SAP's internal stability unit (ISU). "Our only breadwinner was killed. Now our children have no clothes, no shoes and no food."

Michael Bolofo told the court he had struggled to pull his life together after he was shot on his way home from a friend by security police in Alexandra on June 14 1986. "I was operated on three times and have been an outpatient since the police shot me through my stomach on that fateful night."

Priscilla Gama described how security police terrorised her son Nkosinathi "Rasta" Gama and how she found his body after he was tortured by the ISU. "His left hand was burnt, the side of his face blackened, his facial bones were broken and he had a bullet hole in his side."

Her testimony concluded the Gauteng sittings of the commission. The next round of hearings are to be held in Durban from Monday.

Apartheid victims shun TRC sittings

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By JESSICA BEZUIDENHOUT

THE stories of many activists who died or suffered under apartheid will not be heard by the Truth and Reconciliation Commission their families have chosen to remain silent

They have also chosen to remain silent about their reasons for doing so

However, none was prepared to discuss their decision this week — although the deaths of Ashley Kriel and Anton Franch, both umKhonto weSizwe cadres, Pro Jack and others became synonymous with activism in the Western Cape

Well-placed sources said that many, some of whom now held government



PAIN OF THE PAST ...
Imam Achmad Cassiem

posts, did not agree with the principle of the commission, but were reluctant to defy the ANC by saying so publicly.

For veteran anti-apartheid activist, Imam

Achmad Cassiem, this "sad reality" started at Codesa in 1992 when "criminals who ran the oppressive and violating system were indemnified".

People had realised that there would be no purpose in shedding tears on national television when the perpetrators were still walking free

Imam Cassiem, who spent five years on Robben Island, several spells in detention and survived numerous death threats and banning orders, says there can be no reconciliation before retribution

"We need criminal trials," he said

This week, a relative of Mr Kriel made an impassioned plea "for the truth" to be made known. He said it could not be uncovered by the commission

The man wept as he spoke of Kriel's mother, Mrs Ivy Kriel, who died last year.

"All she ever wanted to know was what the hell happened on the day when her son was killed."

Mr Kriel died in a shoot-out with police at a house in Hazendal on July 9, 1987.

To Imam Cassiem, the TRC has adopted the position of breaking with the past

"This will force us into a state of historical amnesia and that is unacceptable," he said.

He said the scale of suffering went beyond the issues being raised at the commission's hearings.

A pain that knows no political boundaries

By MARLENE BURGER

HE last shred of normality in the lives of Maggie Friedman and her lover was a Saturday-morning frolic with their dogs.

For Sepah Mlangeni and her husband, it was a Friday-night love, *Reversal of Fortune*, the story of Klaus von Bulow's trial or the attempted murder of his mistress wife, Sunny.

Within minutes of sharing these unremarkable events, then they loved died in front of these two women, in ways no one could ever have to witness.

This week, they went to the Ruth and Reconciliation Commission, their final hope of finding out who killed their partners, and why.

But while truth is clearly pipernoost in their minds, reconciliation is not a notion they entertain just now.

Mrs Mlangeni begged the commission, sitting in Johannesburg for the first time, to ensure that money was never granted to former Vlakplaas commander Colonel Eugene de Kock, who is on trial for the February 1991 murder of her husband Bheki.

Miss Friedman asked for nothing less than the prosecution of those she believes were engaged in a security-force conspiracy to murder Witwatersrand University anthropologist Dr David Webster, who was shot in front of their home on May 1 1989.

Among those she identified are Defence Minister General Lagunas Malan, former Law and Order Minister Adrian Vlok, retired police generals Jaap Joubert and Krappies Engelbrecht, and retired Military Intelligence chief Lieutenant-General /tkop Badenhorst.

Miss Friedman also wants the commission to call Mr Justice outs Harms — now an Appeal court judge — to explain why he had been prepared to investigate Mr Webster's death only within

the confines of a restricted mandate when he headed a 1990 commission of inquiry into alleged state hit squads.

Only the judge who found no evidence of such squads — and who dismissed the evidence of another former Vlakplaas commander, Dirk Coetzee, as "crap" — could supply the key to unlock the mystery of who was behind the suppression of information and what have since been revealed as top-level cover-ups, an impassioned Miss Friedman told the commission on Friday.

Undertiered assailants blasted Dr Webster with a shotgun as he let his dogs out of his vehicle on their quiet suburban street.

The last words he spoke were "I've been shot with a shotgun. Call an ambulance." Less than 30 minutes later, he died.

Judge Harms yesterday deemed he was party to a judicial cover-up of Webster's death and said that if he was called before the commission he would be unable to add to the documented evidence.

"No evidence was suppressed," he said "I did refuse to have persons against whom no *prima facie* evidence existed called and examined. In that regard, I relied on established legal principles," he said.

In Mr Mlangeni's eagerness to listen to an audio cassette marked "Hit squads, new evidence" on a Walkman he had fetched from his office earlier, he didn't even hear his wife's last words to him.

"I was getting undressed for bed, and I said 'Why don't you connect it to the hi-fi, so I can also listen,'" a distraught Mrs Mlangeni told the commission.

But her husband had already donned the lethal earphones and, as he switched on the booby-

trapped device, she "heard a loud noise like a gunshot", saw his lifeless body slump to the floor, and ran.

"I ran to his mother. . . all I could say was 'Mama, Bheki, garage'."

It was elderly Catherine Mlangeni who entered the room where the explosion had taken place, against the advice of friends and neighbours drawn by the blast. She found her son "in pieces, pieces of him, brains, splattered all over the room" and told the commission this week "That was the end of Bheki".

Several witnesses testifying

against Colonel de Kock have said that the bomb was made by the police's technical section. It was meant to kill Mr Coetzee but for the lack of R60 in customs fees, and because he was suspicious of the parcel, he refused to take delivery of it in Lusaka and some months later it found its way to Mr Mlangeni, named on the wrapping as the sender.

For Ms Friedman, truth may lie only in the confession of someone directly involved in the planning or execution of Dr Webster's murder.

For seven years, investigations, inquests and commissions

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of inquiry have failed to provide the answers she seeks, although the most likely suspects have been named repeatedly as members of the defence force's shadowy Civil Co-operation Bureau.

At this week's truth commission hearings, a parade of victims and their next of kin poured out their anguish over human rights violations during the apartheid era. Their poignant stories proved that pain knows no political boundaries, and grief is colour-blind.

The anguish of Hester Grobbelaar, mother of 19-year-old Jurgen, a fanatical right-winger who died under mysterious circumstances in a shoot-out with police in the sand dunes of the Kalahari in October 1991, is no less than that of Hawa Timol, whose schoolteacher son, Achmed, plunged to his death from the 10th floor of John Vorster Square 25 years ago.

The loss suffered by Elise Oliphant, whose son Benny was shot by police while allegedly trying to escape in the veld near the Klerksdorp township of Johannesburg in 1986, is no less than that felt by Reuben Dipakwane, whose uncle, Kunyamane, disappeared without trace after joining the ANC in exile.

Mr Dipakwane's fate remains unknown, due to conflicting stories and lack of information from senior ANC officials.

It will be with the commission to try to provide these witnesses — and others with equally harrowing tales and equally plaintive pleas — with the answers they so desperately need.

For the common need of those who find the courage to publicly share their sorrow and shame, is to know the truth, however awful it may be. It is the only thing that will set them free from the prisons of uncertainty in which the ghastly events of the past have confined them for too long.

FOUND HER SON IN PIECES:

Catherine Mlangeni told the hearing how a booby-trapped Walkman had splattered Bheki's body and brains all over the room



FIRST TELL US THE TRUTH . . . Maggie Friedman wants an explanation from Mr Justice Louis Harms

Pictures: NICKY DE BLOIS

Where's this truth taking us?

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New obstacles pose more questions for truth body

AS THE emotionally-charged first round of Truth and Reconciliation Commission hearings nears its end, several problems and still more questions have emerged.

A ruling in the Cape Town Supreme Court this week that the commission provide two former security policemen with prior information, including access to victims' statements implicating them in human rights violations, has far-reaching implications. Not least, it means that if victims are to feel safe coming forward, the TRC's embryonic witness protection programme needs to get into full gear.

It also means that victims in Kwa-Zulu/Natal might not come forward for fear of intimidation.

Meanwhile, another court challenge has led to many victims adopting a wait-and see approach.

The families of four slain activists are challenging the amnesty provisions of the Promotion of National Unity and Reconciliation Act and the TRC's amnesty committee has put its work on hold until a court ruling is obtained.

Many of those who have testified stated that they wanted the perpetrators "brought to book". It is doubtful if these victims fully understood the implications of the amnesty provisions.

On the other hand, there is a growing sense that amnesty might not be all that easy to obtain. Commissioners point to a provision of the act which says that the nature of the crime needs to be proportional to the political objective pursued.

This means that the perpetrators of particularly gruesome violations might not qualify for amnesty.

The commission is empowered to look at violations committed within South Africa and beyond its borders. It has heard allegations about the assassinations of anti-apartheid activists abroad and of abuses by ANC of cadres outside the country.

What remains to be seen is whether the commission will look into military operations carried out by the South African government.

The TRC's investigative unit faces an arduous task. Many victims

THE FIRST round of Truth and Reconciliation Commission hearings is nearing a close. Shocking tales of human rights abuses have been told by victims on both sides of the political fence.

Political correspondent **CHIARA CARTER** assesses the emerging picture and asks where it's all leading.

have named individuals whom they allege were perpetrators, but the commission is charged with drawing up a more comprehensive picture.

Its investigative and research units will have to identify not only those who committed an abuse, but also those who gave the orders and how these fitted into an overall strategy.

They have to check the truth of victim's testimonies as well as details supplied in amnesty applications.

Before victim's stories are incorporated in the commission's report, they will have to be thoroughly investigated if the commission's eventual findings are to have credibility.

A range of victims have appeared — indicative of the commission's concern to be seen as evenhanded.

At times this jarred. Not all the victims' stories were of equal weight, and in some cases, it was unclear why it was deemed necessary for certain victims to be heard publicly.

There were also several occasions where the research unit was unable to provide a background to a case.

Also unclear was why the commission heard evidence about cases where perpetrators had already been tried and convicted in court and the court's findings were not disputed by the victim.

The commission has so far provided a chance for ordinary people to tell their stories. It is the first time the state's resources have been used to investigate the lengthy history of human rights abuses in South Africa.



AFTERMATH . . . Coffins are laid out at the funeral of victims of the Lesotho raid in December 1982. It remains to be seen whether the Truth and Reconciliation Commission will look into the details of military operations such as these carried out by the South African government during the anti-apartheid struggle years.

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Torturers asked to own up

By CARMEL RICKARD

AFRIKANER theologian Beyers Naude has made an impassioned call to whites who participated in political violence and torture to confess their deeds and experience the liberation of forgiveness

At the second annual Archbishop Denis Hurley lecture in Durban this week, Dr Naude said if victims were the only group to make use of the Truth and Reconciliation Commission, it would greatly disappoint the hopes of many and the commission would not realise its potential

He said people had been deeply moved by the testimony of victims of political violence. But the small number of people who have so far admitted responsibility for acts of political violence was a setback

"We all know there was an extraordinarily large, well-organised structure of security forces (mostly white) who were enforcing the apartheid system on millions of our people. Where are they all now? Why this

thundering silence on their part? Are they afraid that if they confess the anger of the victims will explode in their faces and destroy them?"

Dr Naude quoted from a new publication by Professor Bennie van der Walt of Potchefstroom University, in which the author says the Truth and Reconciliation Commission might force some people to accept responsibility for the injustices of apartheid. This was regrettable, because Christians should acknowledge responsibility and guilt voluntarily and not be forced to do so

Professor van der Walt wrote that the biblical message to those who had inflicted injustice was clear: "Show sincere repentance, confess before God and men, ask them for forgiveness and ensure through restitution or improvement that real reconciliation is effected"

Dr Naude added that he wished to make a "passionate plea" to all whites, especially Afrikaners, who had taken part in acts of political violence, injustice, torture or mur-

der against the victims of apartheid. "Break your silence! Come forward! Admit and confess where you have wronged — and experience the liberating power of forgiveness which God and the victims will offer you"

He said that the church should help by urging its members to come forward and tell the truth

The church should also speak out courageously against corruption wherever it existed, whether in its own midst or in the new government. Many church leaders felt that because the new government was representative, they should be more lenient if some government leaders enriched themselves or participated in bribery, fraud or corruption

For the integrity of the church, he urged that church leaders should resist this temptation and speak out courageously. "Let us be warned that if duplicity, bribery, fraud and corruption takes hold of the soul of the people it will eventually destroy the nation"

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'How can you kill and expect forgiveness?'

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By WALLY MBHELE

Mlangeni's widow in tears

IN ONE of the most dramatic and emotional testimonies heard by the Truth and Reconciliation Commission in Johannesburg this week, the widow of young Soweto lawyer Bheki Mlangeni told how he had been killed by an explosive device planted inside a cassette recorder

Seipati Mlangeni said that on the day of his death in October 1991 she and her husband had just returned home from watching the movie *Reversal of Fortune*

As a dedicated human rights activist, Mlangeni had been interested in the film - which showed how lawyers could reverse the fortunes of wicked men

However, all his ideals had been brutally snuffed out when the device exploded next to his head

Mlangeni's widow told a stunned Commission

She had never thought this could happen - especially as the political situation in South Africa had been improving at the time

Mlangeni had also never suspected he was to meet such a cruel death, she said

After watching the movie at the Carlton Centre cinema, Mlangeni's widow said, they had gone to have tea at a nearby coffee bar

Mlangeni was carrying a returned parcel purported to contain tape-recorded evidence about hit squads. He had met Dirk Coetzee in London on the same issue

The first thing Mlangeni did when they returned to their home

in Soweto was to open the parcel, take out the cassette recorder and put the earphones on, said his widow

"I asked him why he didn't put the cassette into our music system because I also wanted to listen

"But I just heard a loud bang

"I tried to escape through a small window. I saw Bheki slowly falling down," the sobbing widow said

"I want the person who did this"

Her husband had died a mere two months after their marriage, said Seipati Mlangeni

She broke down and cried uncontrollably several times during her testimony

Even the most hardened journalists battled to suppress their tears as she described her husband's horrific death

Painful murmurs of approval could be heard when she called for the prosecution of her husband's alleged killers

"I understand that Eugene de Kock is asking for amnesty from you. I oppose that. He knew that people would die when he sent those explosives

"Today I am a widow, I feel like an outcast because of a person who is asking for pardon. How can you kill defenceless people - and seek amnesty thereafter?"

Bishop Desmond Tutu asked her to bear in mind that bad things had happened in the past, but said "If you oppose amnesty application, you can do that. You are not obliged to forgive"



MEMORIES OF TERROR
... A tearful Seipati Mlangeni (far left), widow of slain human rights lawyer Bheki Mlangeni, and his mother, Catherine Mlangeni, at the Truth Commission's hearings in Johannesburg. Nombulelo Makhubu (above) testified as the mother of Mbuyisa Makhubu, a hero of the 1976 student uprising who disappeared in exile. He was the boy carrying the slain Hector Pieterse in the famous photo taken in Soweto on June 16 1976.

Picture: WALLY MBHELE

Stories of police brutality go on and on

BY WALLY MBHELE

THE TRUTH and Reconciliation Commission rolled into Johannesburg this week and for four days the commissioners and the public once more sat transfixed as tales of security police brutality, torture and deaths in detention were relayed.

Among many tales of horror, the commission heard how a prominent doctor, also a trade unionist, Neil Aggett, died in detention (at John Vorster Square police station) after an alleged harrowing interrogation and torture.

According to his girlfriend, Elizabeth Floyd, before he died, Aggett had reported to a visiting magistrate about his torture. A statement was taken from him.

However, he was found dead shortly thereafter, in February 1982. The official explanation was that Aggett had committed suicide. "The point is, argued Floyd, if he was not detained he wouldn't have died."

Everyone is sceptical about the so-called suicide in detention. He never left the tenth floor of John Vorster square and he never saw anyone except his interrogators," said Floyd.

Shortly after Aggett's death in detention, another popular trade unionist, Eric Mtonga, died in detention. He had multiple stab wounds. Police said Mtonga was stabbed by other detainees.

Detained

After months trying to evade the police, a United Democratic front (UDF) activist was detained under the 1986 State of Emergency in Klerksdorp.

When the family went to enquire about Oliphant's detention after receiving a tip off about it, they were told he had been released. But to the surprise of the family, the man was spotted at the back of a police van, his face "badly swollen", on the same day police claimed to have released him.

Soon thereafter, testified Oliphant's brother George, a convoy of police cars was seen passing the Oliphants' home.

About ten minutes later, a volley of bullet shots was heard going off in the nearby veld.

The family was then informed that their son died at the scene of where he had allegedly hid explosives. He had taken them to the spot where they were to be removed, when they exploded and fatally wounded him.

They were lying, said George, because they first said he died when he was running away. The

police had said they chased him for more than 20 kilometres. "If he was killed by dynamite, how was it possible that none of the police were injured or killed, because they were together at the scene?" asked the family.

ATsakane student activist who was paralysed after police allegedly gave students, booby trapped handgrenades told the TRC the police deliberately misled the public to believe that his seven colleagues died when they tried to attack "targets". He was then convicted of public violence.

The girlfriend of assassinated Wits University academic David Webster called upon the commission to subpoena all those she believed were involved in the cover up of Webster's killing before she would forgive.

The commission said it would soon subpoena all those implicated in the atrocities and their cover-ups to finally lay the past to rest.

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Mother 'using Truth Commission'

By CHARLES MOGALE

FORMER security policeman and self-confessed hit squad operative Joe Mamasela has strenuously denied accusations that he shot dead a seven-year-old child in cold blood in 1988.

Ellen Sesele, whose daughter Melody died of a bullet wound in the neck, told City Press that Mamasela, then her neighbour had shot the child and later disappeared after the funeral.

Mamasela accused Sesele of trying to cash in on Truth and Reconciliation Commission reparations.

"I quite understand her emotions, but I refuse to be used. Her facts are all wrong. How could I confess to more than 30 killings, and reveal so many killings that nobody knew about, and at the same time hide an incident for which I was openly and wrongly accused?" Mamasela said.

On the day Melody died, he said, he was involved in a shooting with a group of men who were trying to attack his home in Zone 12, Sebokeng. This was after the fu-

neral of a man he had shot during an attempt to rob him of his car.

"I had police guarding my house, and they left at about 7 30 pm. Shortly after that, one of my friends ran into my house and said there was a group of people on their way to attack me.

"I took a mini-Uzi automatic pistol and went out. I saw a group of seven or eight people running towards my gate. I fired two warning shots, and to my surprise, the fire was returned. A skirmish developed — they shot at me and I shot at them," Mamasela said.

After the shooting, he went back into his house.

"Melody's father, Sylvester, then came into my house and said he had seen the boys coming. He said he and his family fled when the boys started throwing petrol bombs. He said he did not know where Melody was, and he was worried. I offered to come with him to look for the child.

Outside our yards, we found her lying next to her bicycle, bleeding from the neck. She was still alive. I was devastated. I told him to rush the child to the hospital,

and I would keep guard over our houses," Mamasela said.

He came back after a few hours and said the child had died.

"It was a shock to me. Out of sheer compassion for my neighbour, I offered to take responsibility. I felt the child would still be alive had it not been for my presence in the area. I did not know who had shot the child — it could have been me, or the people who were shooting at me. If I took responsibility, it held the Commission of Police responsible at the end of the day, so I did," he said.

He then undertook to make a statement under oath, claiming he had shot the child by mistake while trying to repel an attack on his house. Two days later, however, his senior, a Colonel van Niekerk, confronted him and told him he should not have accepted liability.

Van Niekerk said it was for the inquest to determine who had shot the child. He took his firearm and took it for forensic tests.

"He showed me the statements made by the mother of the child and a neighbour and friend of hers, in which they said I was drunk and

had drunk specifically at children. That angered me because I have never touched alcohol in my life," Mamasela said.

There was an inquest, at which he was not even required to testify. He was cleared.

He said "It turned out that the bullet which hit the child did not come from my gun. Police bullets are copper, and the bullet which was found lodged in the neck of the child was a big silver bullet. I am genuinely sorry that an innocent child died under those circumstances, and I understand the mother's emotions. However, the records will speak for themselves. Now Ellen cries crocodile tears, people can't see the difference."

Mamasela denied reports that the child was buried in Kroonstad, Free State, because he was harassing the mourners.

"Tell me of any one cop who could achieve what the then Commissioner and Minister of the Police sought but failed to do — especially in Sebokeng. Nobody could intimidate the community, they could have burned me."



INNOCENT VICTIM
Melody Sesele (7) riding the bicycle on which she was shot dead outside Joe Mamasela's house on January 3 1988.

Truth commission asked to subpoena Pik

Stephen Laufer

THE daughters of murdered anti-apartheid activist Ruth First, who was killed by a parcel bomb in August 1982 in Maputo, have asked the truth commission to subpoena Mineral and Energy Affairs Minister Pik Botha, who was SA's foreign minister at the time of the assassination.

In a private submission to the commission on Friday, First's daughters, Shawn, Gillian and Robyn Slovo, presented the results of months of research for a book and a television documentary for Britain's Channel 4 by Gillian Slovo on the lives and deaths of

her parents

They said Botha should be called before the commission because of a strong suspicion that senior figures within the foreign ministry must have been informed about the planned attack on First, as she was a British citizen living outside SA's borders.

The submission quotes from interviews Slovo conducted with former SAP special branch agent Craig Williamson, in which he admitted involvement in First's murder. Williamson told her of a special unit of retired policemen at Jan Smuts Airport who sorted through mail destined for SA's neighbours, extracting letters

and parcels addressed to ANC cadres and other activists.

A letter addressed to First had been one of those taken. Slovo said Williamson had told her that a special branch operative had handed him the letter and told him to put a bomb in it.

In 1982 First had an international profile as an anti-apartheid activist and was involved in efforts to strengthen the Mozambican economy, which SA wanted to see fail.

Slovo's research indicates that Williamson's unit employed an explosives expert by the name of Jerry

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Commission

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Raven at the time of First's assassination. Although Raven admitted on camera to having been involved in explosives work for Williamson in 1982, he denied having prepared the bomb which killed First.

First's daughters have asked for Raven to be subpoenaed by the commission.

They have also asked for the subpoena of Wal du Toit, named by former Vlakplaas commander Dirk Coetzee as the security policeman Raven may have turned to for assistance in making the explosive device.

Williamson said he believed Semtex, a plastic high explosive, had been used to make the bomb. He did not believe the special branch had access to Semtex in 1982.

First's daughters say in their submission that there is an indication that the SA Defence Force may have provided it.

Williamson told Slovo that some

time after he had passed the letter bomb back to the special branch operative, he had been called to a meeting at police headquarters in Pretoria where he was told of First's death.

In their submission, First's daughters say their research reflected that the letter bomb had not gone through the mail but had been hand delivered to her office in Maputo.

Slovo said that when First's death was announced, Williamson had said he was involved in a disinformation campaign designed to blame her husband, then MK chief of staff Joe Slovo, for the assassination.

Later, a Johannesburg newspaper, The Star, had run a story blaming Joe Slovo, who subsequently sued the newspaper for libel, winning substantial damages in a London court.

First's daughters have asked the commission to subpoena Williamson and five other security branch officers, including former deputy SAP commissioner Basie Smit.

SAPS commissioner Wouter Grove should be called to say why police files on the case were allegedly destroyed and on whose orders.

Truth body uses pamphlets in KwaZulu witness drive

Drew Forrest

(252)

THE truth commission has distributed 100 000 pamphlets in KwaZulu-Natal in the run-up to this week's hearings in Durban, in an effort to persuade more witnesses to come forward.

The commission's convener for KwaZulu-Natal and the Free State, Richard Lyster, said far fewer people had given statements to the commission's offices in KwaZulu-Natal than in any other region.

The pamphlets, distributed over a six-week period, spelt out the commission's aims and stressed that it was a forum for all of SA's people.

Lyster warned that conditions in the province would make it difficult for the commission to discharge its statutory obligation of providing a full picture of human rights abuses. The commission's work in KwaZulu-Natal was "undoubtedly" the most difficult in SA.

The region was unique in that it was torn by a continuing low-grade civil

war. A further obstacle was the IFP's strong opposition to participation in the commission's work.

Lyster described as "disingenuous" the IFP's refusal to engage with the commission as a party, while allowing members to appear before it in their personal capacities. "It would take a brave member to flout the party line."

At the close of the commission's hearings in Johannesburg last week chairman Desmond Tutu said he was still seeking a meeting with IFP president Mangosuthu Buthelezi. "We can only hope to persuade (Inkatha) that it has much to gain and little to lose by co-operating with us," he said.

Inkatha spokesman Ed Tillet said the IFP stand had been decided on by its national council and was unlikely to change. The party would not legitimise a process which was bound to lead to "selective, politically correct truth" favouring the ANC.

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Amnesty International's warning on detainees' deaths went unheeded

AMNESTY INTERNATIONAL warned that if the trial of the 100 detainees were held in the court, the deaths would be a tragedy.

ROGER FRIEDMAN reports

A VARIETY of apartheid security laws allowed for the detention without trial of the former government's opponents.

Torture was not restricted to political detainees. Systematic abuse appeared to have become institutionalised at certain police stations.

In 1992, pathologists at Dr Jonathan Gluckman said he had evidence of 200 deaths in custody, most of which he regarded as "straightforward murder by the police". This figure included political and other detainees.

The police, in disclosing the deaths of detainees, claimed that some had slipped in the shower or fallen down stairs. The overwhelming majority were said to have committed suicide. Communists were trained to commit suicide rather than betray their comrades, the police said.

One of these deaths led to the conviction of a policeman Sergeant Harm van As was found guilty of culpable homicide following the death of Molefe Malatji in Van As claimed that Malatji had grabbed his service pistol and shot himself in the temple.

Deaths in detention were a common thread in the varied and ghastly stories heard by the Truth and Reconciliation Commission during its session in Gauteng last week.

Ms Lorraine Lenkoe and Mr Ben Kgathle spoke of their fathers — James Lenkoe and Nicodimus Kgathle — who died days apart in 1969.

Mrs Rokaya Salogee's husband, Sulimani (Babla) Salogee, was alleged to have hurled himself out of a seventh-floor window while being interrogated in 1964.

Mrs Hawa Timol said she had never believed that her son, Ahmed Timol, had jumped from a 10th-floor window in 1977.

Dr Elizabeth Floyd said it mattered not whether her friend and co-detainee Dr Neil Aggett had been hanged or driven to the point where he hanged himself in February 1982. Either way, he had been murdered by the police.

There was a fine line between life and death when a detainee fell into the hands of security police interrogators.

Whereas Steve Biko's death in 1977 had focused international attention on the South African Police's custom of beating detainees in their care, Aggett's death five years later highlighted their recourse to torture and its terrible psychological effects.

In October 1992 the government agreed for the first time to allow the International Committee of the Red Cross access to detainees in police custody.

In its report to the United Nations Committee on Human Rights in 1993, Amnesty International said "Unless and until the government takes adequate steps to demonstrate publicly and unequivocally that all members of the security forces who are involved directly and indirectly in torture, extrajudicial executions and other human rights violations will be brought to justice, the current climate of fear, frustration and high loss of life will continue."

Today, it falls to the Truth and Reconciliation Commission's Committee on Amnesty to decide whether the security members will be brought to justice.

Truth body in move to Natal, but IFP defiant

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Evidence on ANC-Inkatha

strife is unlikely to be heard

Star 6/5/96

By ROBERT BRAND
Durban

The Truth and Reconciliation Commission starts its public hearings in wartorn KwaZulu Natal tomorrow, but there is little likelihood that evidence related to strife between the ANC and Inkatha will be heard.

The IFP has refused to co-operate with the commission and its members are unlikely to testify. Victims of IFP violence are afraid to come forward.

Further hindering the commission is last week's court ruling ordering it not to allow witnesses to name alleged perpetrators of human rights violations unless they have been given sufficient notice and details of the evidence against them. As a result, the testimony of some witnesses has had to be postponed, commission vice-chairman Dr Alex Boraine says. Notwithstanding the difficulties facing the commission in the province most in need of reconciliation, Boraine is upbeat about the prospects of success.

"A representative list of witnesses will be appearing. They (the commission's Durban office) are not unmindful of the security situation, but we have got the go-ahead," Boraine said after the conclusion of hearings in Johannesburg on Friday.

Buthelezi refuses to co-operate

The commission has been trying unsuccessfully to set up a meeting with IFP leader Mangosuthu Buthelezi, who has continued to voice his opposition to what he views as a "witchhunt" intent on destroying his party.

"We are sad there are people who oppose the commission," chairman Archbishop Desmond Tutu said. "That is part of the reason why we have been meeting with leaders of political parties, and why we still seek to meet with Dr Buthelezi."

Although the list of witnesses is being kept secret, it is believed

at least one of the victims of the Magoo Bar bombing in Durban will testify. Other witnesses will be mostly from the Free State, which falls under the commission's Durban regional office.

Meanwhile, judgment is expected today in an urgent application by the families of four murdered anti-apartheid activists to halt amnesty hearings until they have completed a Constitutional Court challenge against the truth commission.

The first amnesty hearings are scheduled for May 20 in Rustenburg. Two prisoners, Christopher Makgale and Boy Diale, have applied for amnesty for the 1991 murder of Glad Mokgathle in the former Bophuthatswana.

Legal profession's groups face crisis

Deborah Fine

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BLOEMFONTEIN — Talks between the SA Association of Law Societies, the Black Lawyers' Association and the National Democratic Lawyers' Association would turn the structures governing SA's legal profession upside down, law society president Michael Pinnock said yesterday.

Speaking during the 15th SA Law conference, he said the society had held talks with black association president Advocate Justice Poswa, and democratic association president Silas Nkanunu. There was a perception the so-

ciety — the voluntarily umbrella organisation which governs the present law societies of the Transvaal, Natal, Free State and Cape Province — was part of "the old system", and not representative of all attorneys.

Negotiations now centred on the statutory creation of a new national umbrella body.

Parties had agreed on the creation of the national organisation, but agreement had not yet been reached on whether the national body would delegate power to the satellite organisation, or whether powers would be entrenched with the provincial bodies.

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Sausage machine justice at Mitchells Plain

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OVERWORKED staff struggling to dispense justice at a pace that could scarcely ensure it was what **EUNICE RIDER** saw when she visited the **Mitchells Plain Magistrate's Court**

SAUSAGE MACHINE justice may be an apt description for the way in which lower courts across the Peninsula have to operate, with magistrates and prosecutors having to deal with more than 30 cases a day.

The Cape Times went to Mitchells Plain last week to see how it worked.

We sat in on Court 14, with magistrate Mr Ben Julius on the bench. His assessor was Mr Louis Swegelard and the prosecutor was Mr Johan Fortuin.

They dealt with 30 cases in four hours, after which the court was cleared for another magistrate to complete part-heard trials.

The court got off to a late start at 9 35am and was packed to capacity with about 80 people crammed into the benches, waiting to be called as accused or witnesses.

By 10 05am Julius had postponed 14 cases, some of which had already been postponed four times and included charges of assault with intent to do grievous bodily harm, assault, theft and malicious damage to property.

He then heard a witness in the matter of a man accused of assaulting his sister and maliciously damaging her property. Less than 25 minutes later he handed down his judgment and sentence.

The matter was followed at 10 40am by that of an elderly man who had knocked down a cyclist in his car and broken his leg. The man did not have a driver's licence.

In under 20 minutes the man was found guilty, fined and declared unfit to apply for a driver's licence for a few months. Julius pressed on without paus-

ing for lunch at 1pm. Forty minutes later he had completed two more trials.

At 2pm pandemonium broke out in Court 15, when about 100 ANC members who had come to see justice done to a man believed to have murdered ANC members in Khayelitsha, heard that the trial was to be postponed once again.

They toyi-toyed, sang and shouted while standing on the benches in the court and in the corridors, forcing the magistrate, Mrs Judy Nighthale, to order an adjournment so that their leader could try to restore order.

They continued shouting and singing, stamping their feet and toyi-toying until Nighthale re-entered and ordered them to have respect for the court.

She explained why the postponement was necessary, telling the rowdy group that she understood they had come from all over the country only to hear that the trial was to be postponed.

She sympathised with them, but the crime for which the accused stood before her was serious and had to be referred to a higher court that had the jurisdiction to hear a murder trial and to hand down a more suitable sentence than the "absurd" maximum of one year's imprisonment that she was entitled to give.

She told the crowd they knew the country was racked by violent crimes, that court rolls were permanently full and that justice took time to be carried out effectively.

She explained that the police needed time to properly investigate the matter, which had to be ready for trial when it arrived in a higher court. She then postponed the matter to late August for trial.

Immediately after she again adjourned the court, members of the group began slapping the accused, an elderly man, on the back of the head as he was being led down the stairs to the holding cells.

After the crowd had left a defence attorney who had just been told that his matter too was to be postponed — for the seventh time — began shouting angrily to the prosecutor that he was "gatvol".

He complained that his client was paying him to be in court, and that it was "totally unacceptable" that his trial was again being postponed after he had been waiting all day.

Back in Court 14, Julius had disposed of 30 cases, including four trials, by the end of his shortened day on the bench.

Julius pointed out that Fridays were quiet days and Mondays might give a better indication of how busy the courts actually are.

He then gave me a guided tour of the building and told me of his colleagues' and the prosecutors' woes.

He complained of the spiralling workload and appalling conditions under which lawyers had to work, and pointed out that many people lost respect for the law because the courts were so run down, dirty and smoky.

"They stop respecting the law if the place looks so terrible. It does not appear to have any self-respect, so why should they respect it?" he said.

He showed me two poorly furnished and cramped prefabs outside the main court building intended to serve as additional courtrooms. Concertina doors partitioned off a magistrate's office.

Another very run-down court was the juvenile court, where the accused stand was just a nailed-together wooden frame.

The tiles were peeling off the floor and paint was blistering off the walls. Windows were covered with brown paper and electric wires lay unprotected on the floor.



WAITING FOR JUSTICE TO BE DONE: People line the corridors waiting to be called to appear or give evidence at the Mitchells Plain Magistrate's Court. Often they have to return again and again as the courts struggle to catch up with their workload.

PICTURE: BENNY GOOL

The building was extremely dirty and badly maintained, with poor lighting and cigarette butts on the floors, although it is forbidden to smoke in the corridors.

The dank smell of smoke and urine led to the men's toilets.

The broken mirrors and graffiti-covered walls, Julius told me, had been "like this for years".

The toilets had just been cleaned, but this was only evident because of the smell of disinfectant.

Old paint buckets and coffee tins placed under the broken urinals to catch drips were half full. Julius said the lower courts were cleaned by careless and understaffed Department of Public

Works cleaners, whereas the Supreme Court was cleaned by professional agencies.

He said that a magistrate was booked off work for three months last year suffering from depression, and that another had just recently been booked off for a lengthy period, also suffering from depression.

The absentee rate among prosecutors fluctuated and they blamed their illness on the building and environment they work in.

I asked a few prosecutors how they felt about working at the lower end of the judicial system and whether this was what they had imagined for themselves when they were law students.

There was practically an outcry. None wanted to be named, but all agreed that they were tired, demoralised and overworked — generally taking home two hours of work a night. They were also badly underpaid, taking home between R2 000 and R3 500 a month, depending on their qualifications and experience.

They all agreed that if they got the opportunity they would leave the civil service.

One of the prosecutors had just spoken on a telephone to a colleague who was "getting out" when I entered the sparse office she shares with another prosecutor. Julius said most prosecutors

resigned after about two-and-a-half years. As a result, the courts were left with very junior and inexperienced prosecutors, who could hardly cope with the workload, let alone stand up against experienced defence attorneys, who had ample time to familiarise themselves with the facts of a case.

The magistrates and prosecutors are sceptical about the pay increases they've been promised next month.

They say the problem of inexperienced prosecutors will only improve if they are better paid, their working conditions are improved and more effort is put into curbing crime.

Civil indemnities vital — TRC

LINDIZ VAN ZILLA

PEOPLE who committed crimes against humanity would not come forward if they could still face civil suits, an advocate for the Truth and Reconciliation Commission told the Supreme Court yesterday.

Mr Anwar Albertus, SC, said this in his closing argument in the case in which the families of three murdered anti-apartheid activists are seeking to stop the commission from granting amnesty to people who committed human rights violations.

Azapo and the families of black consciousness leader Mr Steve Biko, lawyer Mr Griffiths Mxenge and Dr Fabrian Ribeiro say the planned amnesties will prejudice their rights to seek civil redress.

Albertus argued that there was little chance of reconciliation in South Africa, unless those guilty of crimes came forward to confess.

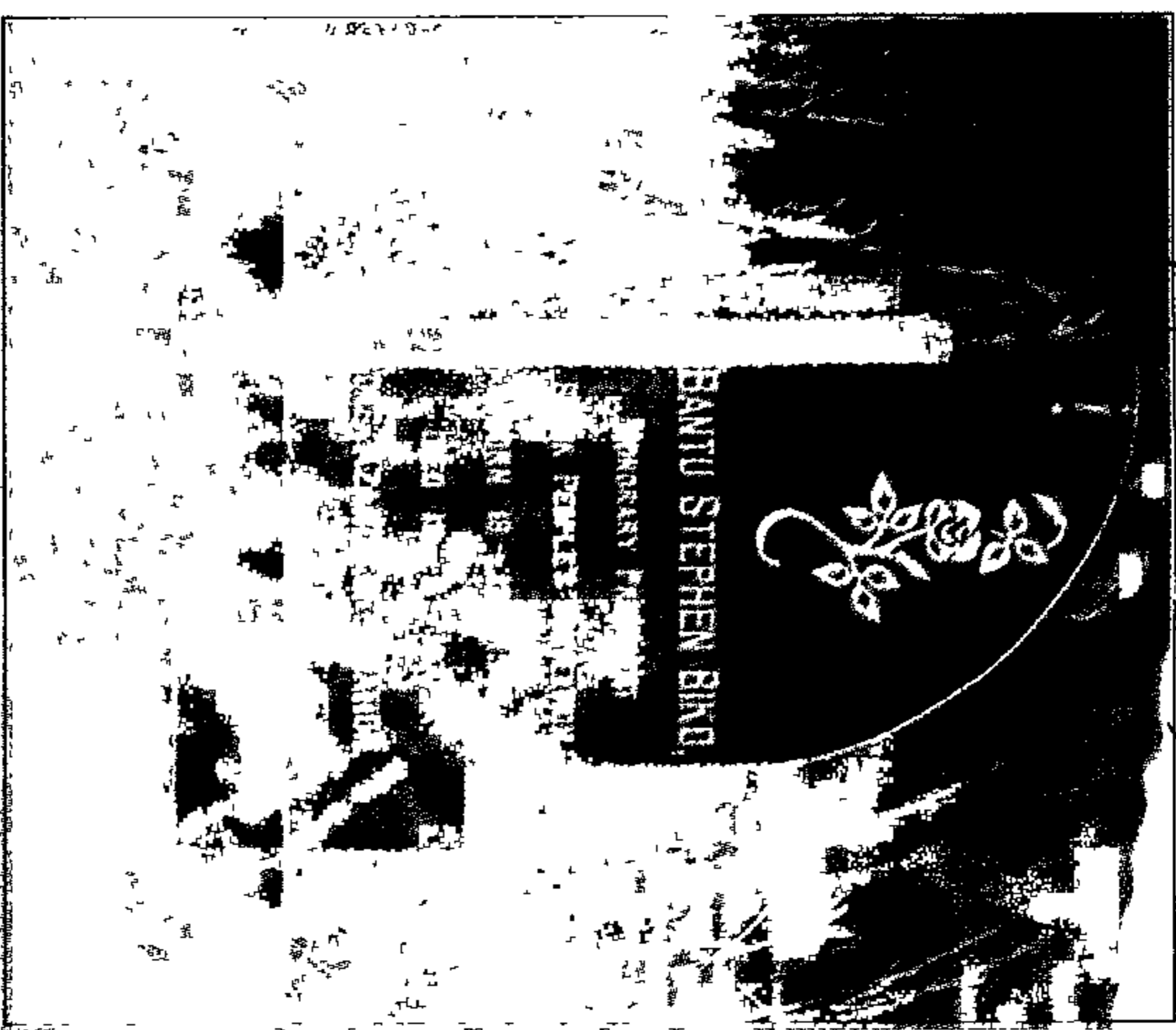
"Who is going to come out of the closet if they know they'll be free from prosecution but could still face a civil suit," he said.

The TRC's amnesty committee started processing applications for amnesty 10 days ago, but none has been granted, pending the outcome of the application.

Azapo and the families have also asked the Constitutional Court to overturn the amnesty law for human rights offences.

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ENGRAVED IN MEMORY: Steve Biko's gravestone, overgrown with weeds, on a hillside at King William's Town **PICTURE: BENNY GOOL**

Albertus said without civil indemnity, the invitation to confess would never be "sufficient and attractive enough".

Justice I G Farlam reserved judgment. Mr Justice Khoza appeared for Azapo and the families.

Prisoners 'will be heard first'

ROGER FRIEDMAN

THE name of former Bophuthatwana leader Mr Lucas Mangope will feature prominently at the Truth and Reconciliation Commission's first amnesty hearings, scheduled for Rustenburg on May 20.

Christopher Makgale and Boy Dale — serving 15-year and 12-year sentences respectively for the murder of Mr Glad Mokoathle in the former Bophuthatwana — will be the first people to have their amnesty applications processed by means of a public hearing. They were convicted in October 1991.

The chairperson of the commission's committee on amnesty, Mr Justice Hassen Mall, said yesterday the men would contend that the appointment of a "certain person" as a tribal chief by Mangope had triggered the violence that led to Mokoathle's death.

The judge said most applications for amnesty had come from people presently serving prison sentences.

In terms of the Promotion of National Unity and Reconciliation Act, such applications would receive priority attention.

The committee's decisions on amnesty are final, and may not be overturned even by the full commission.

Tutu urges Afrikaners to repent

JOHN YEILD

on the Truth Commission
DURBAN - Truth Commission chairman Desmond Tutu has appealed to Afrikaners to testify to the commission, saying they could make a huge contribution to healing and reconciliation in South Africa.

He also expressed disappointment over the decision of the Inkatha Freedom Party not to support the commission.

He was speaking at the opening here today of the fourth session of the commission's human rights violations committee's public hearing. Archbishop Tutu said Afrikaners were a very determined people and when they "saw the light" nothing could hold them back.

"The Afrikaner can make a huge contribution to the healing and reconciliation that is taking place in our country. There is a great challenge for them and I repeat my urgent appeal 'If you would just confess, just repent, then people would be prepared to forgive'."

Archbishop Tutu described the IFP as "a very substantial and important roleplayer", and said it was "sad" that it was not cooperating with the Truth Commission.

"But if nobody comes from their side, it won't be the Truth Commission that has to bear the blame for being one-sided."

Archbishop Tutu said it had been touch-and-go whether the hearings in KwaZulu-Natal took place at all, and it was distressing that violence appeared to be endemic in the province.

Noting that the original venue for these hearings, the Mahatma Gandhi Hall, had been changed for security reasons, Archbishop Tutu said it would have been appropriate because of the Mahatma's contribution to the development of democracy in South Africa.

But the new venue, the Jewish Club, was also appropriate because of the Jewish people's "capacity to remember."

The hearings began today on an emotional note, with the first two witnesses weeping as they told the commission about



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the death in exile of their relatives.
Emily Magashule of Tumahole township in Párys in the Free State told the commission her brother, Isaac, had gone into exile in 1988 and had died in Tanzania in 1989.

The African National Congress, then still in exile, had sent her a telegram and she had gone to Tanzania for his body.

In Tanzania, she had been taken to a grave, but the ANC had refused to exhume the body. Her brother's identity book was missing. "I want to be sure he is really dead. I will rest only if I know he's the person who is buried there," Mrs Magashule said. She appealed to the commission to find out what had happened to him.

Maria Molokoane, also of Tumahole, told the commission that her brother, Barnard, had been arrested and tortured by police in July 1984, during rent boycotts and demonstrations in the township.

He had been tortured in detention, and after being released on bail had gone into exile.

In December, 1990, they had been told he had died in Zimbabwe.

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Extend same property rights to all, says judge

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ARG 7/5/96

BLOEMFONTEIN - The problem of property in South Africa would not simply go away, whether the final constitution referred to it or not, Mr Justice Johan Froneman of the Eastern Cape bench said at the 15th triennial South African law conference here.

The real question was not only how to protect existing property rights, but also how to ensure that the rights the privileged minority enjoyed were extended to the underprivileged majority.

Judge Froneman said if the protection of property and expropriation were not approached in that context, the point would be missed as to why there was controversy about the inclusion of a property-rights clause in the constitution.

Even if one accepted the traditional method as the proper one, it provided no answer to the problem of protection of property in a situation where there was a compelling need to reallocate or redistribute property.

Reliance on legal tradition was not going to resolve conflict in a situation where persons who had property were confronted by those who did not.

Whether one liked it or not, he said, this was a so-called "political" question that could not be solved by what had been perceived as purely "legal" means.

There was a need to convince those

affected by either the protection of property or land reform that these issues were in their long-term interest.

Once it was accepted that the right to private property had intrinsic value as a fundamental right - in the sense that it implied equal and substantive access to the resources of life - it should become clear that the traditional idea of unrestricted and absolute ownership would not be adequate to meet the demands of the future.

In disputes between existing property holders and prospective property holders, all efforts should be made to settle the dispute between the parties themselves, based on fairness. Litigation in the courts should only be used as a last resort.

The discussion thus far in South Africa had dealt mainly with the need to protect property in a situation where it was also necessary to extend ownership of land and other property to those who were deprived of it in the past.

Judge Froneman concluded that the best protection of property in South Africa was, paradoxically, an acknowledgment that the property currently held was not entitled to absolute protection and should be qualified by the imperative to extend the same kind of property rights to those who did not presently have such rights - Sapa.

Kwazulu hearings start today

FRID 7/5/96

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THE Truth and Reconciliation Commission's Kwazulu-Natal hearings get under way here, today amid fears that ongoing violence could "short-circuit" its efforts.

Before the start of the fourth week of public hearings of the commission's human rights violations committee, chairman Desmond Tutu called on the Inkatha Freedom Party and all other groups opposed to the commission to co-operate in its efforts to probe human rights abuses between March 1960 and December 1993.

"If the commission fails, it is going to have the most horrendous consequences," Archbishop Tutu said.

The commission also closed ranks behind commissioner Wendy Orr, who came under strong criticism at the weekend for her role in the employment of her husband, Paul Haupt, as a briever.

"The commission's executive committee, which discussed the issue here yesterday, said in a statement it was "unfortunate"

that Dr Orr - who exposed police brutality against detainees in Port Elizabeth in 1985 - had taken part in the process which had resulted in the employment of Mr Haupt.

The committee noted that Dr Orr had recused herself from Mr Haupt's interview, but said it was also unfortunate that she had not at an earlier stage in the employment process made it clear to other members of the interview panel why she had recused herself.

Nevertheless, it expressed "full confidence" in Dr Orr and in her handling of the matter.

The executive committee noted that Dr Orr had taken part as a panel member in the process of employing briefers and statement-takers, but had not put forward Mr Haupt's name.

She had taken part in the interview process and in the final decision on the appointment of briefers, but had recused herself from Mr Haupt's interview.

"The committee condones her participation and confirms the appointment of Mr Haupt".

The decision would be reported to a full commission meeting next week.

Among those testifying this week are likely to be at least one of the victims of a 1986 bomb attack at Magoo's Bar on Durban's beachfront.

The attack, by ANC activist Robert McBride, killed three people and injured 69.

The commission will also be hearing a number of cases of human rights abuses in the

TRUTH COMMISSION

from JOHN YELD and Sapa in Durban

Free State, which falls under its Durban office.

At yesterday's media briefing, Archbishop Tutu said the commission hoped its work for the healing of South Africa would have an impact on reducing the level of violence which had become endemic in Kwazulu-Natal.

But according to the head of the University of Natal's politics department, Alexander Johnston, the IFP's opposition to the Truth Commission, as well as violence, would make it difficult for the commission to fulfil its mandate.

"Violence in this province has many faces. We are likely to hear of some of the faces but not others. That is unfortunate."

Professor Johnston said part of the problem was that many of the combatants were not ready for reconciliation.

"Efforts towards cessation of the violence must logically precede efforts towards reconciliation. The commission is not a suitable instrument to bring about an end to the violence

"It is going to be extremely difficult to get people to testify in a situation where they fear for their life."

Although the list of witnesses for this week's four-day hearing is being kept secret, the commission has already admitted that most of those testifying will be from the Free State.

"The (commission's) performance will be flawed," Professor Johnston said, "but a flawed process is better than none at all. It is important for those who are ready that the opportunity should be there for them to tell their stories of suffering."

IFP national council member Themba Nzimande said his party was willing to help members who wanted to testify before either the human rights violation committee or the amnesty committee.

However, it viewed the commission as a witch-hunt aimed at the African National Congress's political rivals.

"We are also preparing a document which lists our people who have been victimised."

Bafokeng in first amnesty hearing

BD 7/5/96

(252)

Draw Forrest
and Linda Ensor

DURBAN — The first public hearing of the truth commission's amnesty committee will flow from the protracted conflict between former Bophuthatswana president Lucas Mangope and the Bafokeng tribe.

Scheduled for May 20 in the Rustenburg area, the committee will hear amnesty applications by Christopher Mkgale and Boy Diale, who are serving jail sentences of 15 and 12 years respectively for murder.

The two were convicted in 1990 of killing Glad Mkgathle, whom Mangope had appointed chairman of the Bafokeng tribal council in the face of opposition from the tribe's members.

At a briefing yesterday before the start of the commission's KwaZulu-Natal hearings, amnesty committee head Judge Hassen Mall said it had been decided to hold the first hearings in Rustenburg "because the tribe wanted to be heard".

The committee was obliged to give preference to applications from prisoners. Most amnesty applicants were in jail.

Mall said the committee's policy was not to grant amnesty until the Constitutional Court had adjudicated on a challenge to the constitutionality of the amnesty process by the Biko,

Rabeiro and Mxenge families.

Truth commission chairman Desmond Tutu said IFP president Mangosuthu Buthelezi had indicated he was now willing to meet the commission.

Tutu said that after evidence had been sifted, the intention was to hold a new round of hearings in which the commission's powers of subpoena might be invoked. "We will be inviting people who have been mentioned to their detriment to tell their side of the story. Where necessary, we will engage in a limited form of cross-examination."

Commissioner Dumisa Ntsebeza said a witness protection programme was being refined.

In another development the Cape Supreme Court yesterday reserved judgment on an application by victims' families for an interdict against amnesty decisions pending the Constitutional Court case.

The truth commission yesterday challenged the right of the relatives to apply for a court interdict on the grounds that they could not name the perpetrators of the crimes.

Amnesty committee member Sisi Khampepe argued in an affidavit to the Cape Supreme Court that only the family of murdered Durban lawyer Griffiths Mxenge had the right to apply for an interdict.

The relatives, together with

Azapo, have sought a court order restraining the Amnesty Committee from granting amnesties pending the outcome of their Constitutional Court application to have the amnesty process declared unconstitutional. The committee has given an undertaking not to grant amnesties pending the finalisation of the court action.

Khampepe said Mxenge's relatives were the only ones who had named Dirk Coetzee and Arnold Nofomela as the alleged perpetrators in an action instituted in the Durban Supreme Court. Biko's widow, Nontsikelelo, and Ribeiro's relative, Chris, did not know who the perpetrators were. They could therefore not say whether the killers would apply for amnesty and that their rights would be infringed or threatened. Khampepe believed the killers were likely to be identified only if they sought amnesty.

He also submitted that Azapo had no locus standi to bring the application.

Azapo and the families of the murdered activists argued in their application that the amnesty process extinguished their constitutional rights to bring civil and criminal prosecutions against the alleged perpetrators of gross violations of human rights.

Their counsel, Modise Khoza, argued that they were acting in the public interest and in their individual interests. He also submitted that the Act contravened the Constitution's endorsement of international treaties such as the Geneva Convention on human rights and its protocols.

The five members of the amnesty committee were yesterday joined as co-respondents to the action brought by the families of the deceased.

Khampepe noted there had been 250 applications for amnesty, 220 relating to people in prison, most of whom had already been sentenced.

He submitted that the application to the Constitutional Court had little prospect of success, and denied that the amnesty process infringed the rights of individuals and that it was unconstitutional. He also denied that the Act provided for blanket or automatic amnesty.

"The Act specifically provides that an act, omission or offence, committed by any person for personal gain or out of personal malice, ill will or spite, shall not qualify as an 'act associated with a political objective'," Khampepe said.

He also pointed out that in cases of gross violations of human rights the committee was obliged to hold a hearing.

CS 7/5/96

(252)

Hearings to start without IFP

DURBAN: THE IFP's decision not to participate in the TRC here has saddened him, chairperson Archbishop Desmond Tutu said. Staff Writer **ROGER FRIEDMAN** reports.

THE Truth and Reconciliation Commission faces its first extra-judicial crisis today when the first round of public hearings in war-torn KwaZulu-Natal gets under way without the support of the province's ruling party, the Inkatha Freedom Party.

The venue of the hearings was changed yesterday for security reasons.

The IFP's national council recently decided not to engage with the commission as a party.

It did not wish to lend credibility to a process it said would undoubtedly favour the ANC. Although the national council said individual members were free to appear in their personal capacities, none were expected to take the risk of flouting the official party line.

For several weeks now, commission chairperson Archbishop Desmond Tutu has sought a meeting with IFP leader Chief Mangosuthu Buthelezi — but to no avail.

Tutu told a news conference yesterday "Originally he indicated he was not interested in meeting

us, but has subsequently said he is willing to meet. It's just a matter of scheduling."

However, Tutu had hoped to meet Buthelezi before the start of this week's hearings. Although deputy chairperson Dr Alex Boraine emphasised yesterday that those wishing to appear before the commission were not defined in terms of their political allegiance, no IFP members were expected to tell their stories this week.

Tutu said the IFP's stance saddened him. "This is a national commission and the healing that has to happen is not sectional healing. We want to urge those who are not co-operating with us, to do so."

By examining the past, the "root causes" for the conflict could possibly be identified. If the KwaZulu-Natal conflict was left to dissipate on its own, it would probably mean "waiting until doomsday", Tutu said.

KwaZulu-Natal member of the commission, Dr Khoza Mgqo, said the Durban office had not received

as many applications from people wishing to tell their stories as the East London, Cape Town and Johannesburg regional offices did.

Although there was a witness protection programme in place, people feared coming forward. A few people who could be considered to be IFP supporters had approached the

commission "privately", saying they would only be willing to speak at in-camera proceedings. The commission was willing to accommodate them.

It is perhaps fortunate that the commission's KwaZulu-Natal region includes the Free State.

Apart from the

IFP issue, the commission has been forced to postpone several scheduled hearings as a result of last week's Supreme Court decision forcing it to give alleged perpetrators advance knowledge that they will be named to their detriment.

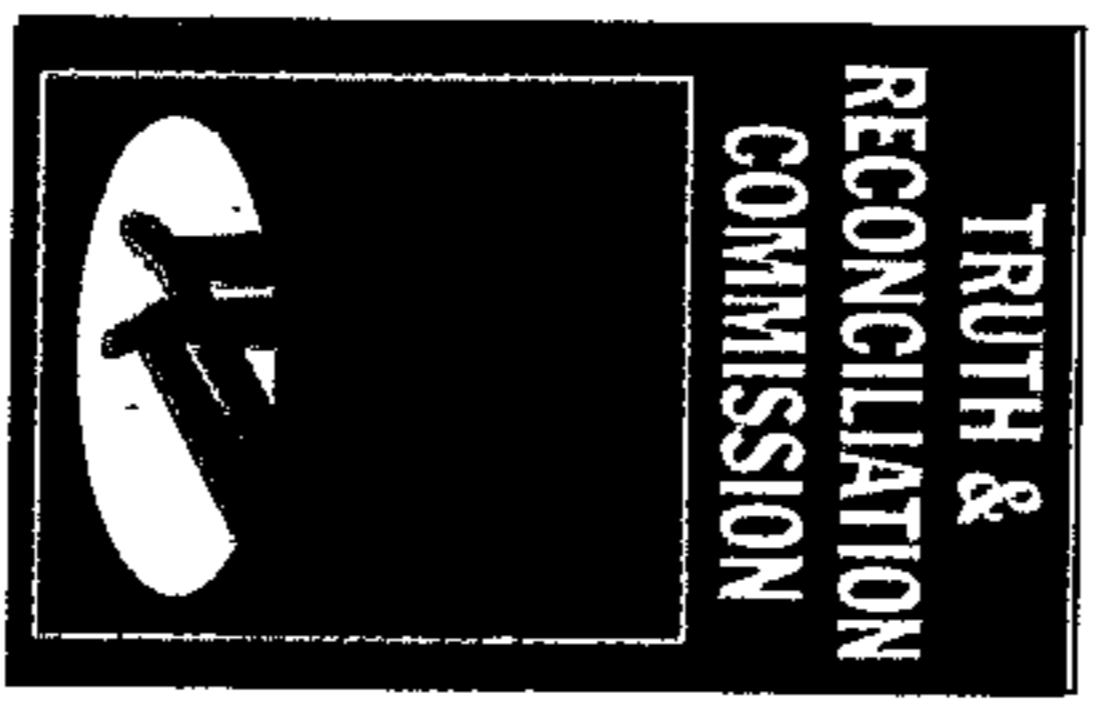
Free State cases should feature prominently this week. But, as Tutu said, the non-participation of

what he termed "a large constituency" would ultimately be to the detriment of a commission charged with promoting national unity and reconciliation by uncovering the truth about apartheid evil. "The picture we will be getting will be incomplete," he said.

If just one of two parties which had been at odds for more than a decade was prepared to unload its grief before the commission, the best the commission could hope to achieve was discovering half the truth, Tutu said.

The stories heard thus far have been moving "just in the telling, for many, there has been a healing not just for the tellers, but for the nation."

Responding to criticism that the stories told to the commission could spark more violence in this province, Tutu said the revelations arising from the Eugene de Kock trial had not "spurred an orgy of revenge" and the Magnus Malan trial had not led to blood-thirstiness.



Family of Magoo's Bar victim want McBride fired from govt post

Drew Forrest

DURBAN — The truth commission would have to consider whether to recommend the exclusion of human rights violators from public office, commission chairman Desmond Tutu said yesterday after the first day of hearings in Cape Town.

Magoo's Bar bombing in Durban in 1986 Marchelle Gerrard, killed in the explosion, was the daughter of the late Robert McBride, a foreign affairs secretary at the time.

Also deputy director testimony was the key to the day's dramatic period in the history of the commission of northern Natal implicated in the alleged police torture and murder of activists in Tlokweng and other areas during the emergency in Free State.

Professor Sibankulu leader under the spotlight in the Free State during the emergency in the province under the spotlight in the Free State.

Tutu said the commission would have to make recommendations to government to ensure that "these things don't happen again". He said the commission should consider whether to recommend that not-benefit from their evil deeds.

Cher, the sisters of Marchelle Gerrard, Moed, said McBride had served only six years of a life sentence when he was unconditionally released in 1992.

Another son, a nurse and had served only six years of a life sentence when he was unconditionally released in 1992.

Magoo's Bar was a meeting place for the ANC and other anti-apartheid activists. It was destroyed in a bombing on May 10, 1986.

her home was set alight. Another son, a nurse and had served only six years of a life sentence when he was unconditionally released in 1992.

Magoo's Bar was a meeting place for the ANC and other anti-apartheid activists. It was destroyed in a bombing on May 10, 1986.

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group of Kwazulu policemen had been present when they found the body and "I thought they were going to tell me that they had a broken killing machine," she said.

An unidentified woman, who said she had been involved in the 1986 attack, said she had seen a woman, identified as the wife of the late Robert McBride, who had been shot in the back of the head and killed.

Another son, a nurse and had served only six years of a life sentence when he was unconditionally released in 1992.

Magoo's Bar was a meeting place for the ANC and other anti-apartheid activists. It was destroyed in a bombing on May 10, 1986.

Property rights 'should be extended to everyone'

Deborah Fine

(252)
BD 8/5/96

BLOEMFONTEIN — The best protection for property in SA was an acknowledgement that property was not entitled to absolute protection, Eastern Cape Supreme Court Judge Johan Fronemon said yesterday.

Protection should be qualified to extend the same kind of property rights to those who did not have these rights.

The controversial property clause in the constitution showed that this was not generally accepted in SA, he said at a law conference in Bloemfontein.

The real problem was "simply that white people owned most of the property" Black people had been excluded from obtaining property in "white" areas — 80%-90% of the land available. The rights they had obtained were not the kind of rights whites normally associated with ownership.

The real question was how to ensure that the rights the privileged minority

enjoyed were extended to the under-privileged majority

It was necessary to convince everyone that protection of property and land reform were in their long-term interest, Fronemon said.

Once the majority gained ownership in various forms of property, the long-term view that such property should also be protected was certain to become more acceptable

Black Lawyers' Association president Justice Poswa told delegates that accused persons "remained human beings", with fundamental rights

It was the responsibility of the courts to fully develop the fundamental rights of dignity, liberty and equality before the law.

As neither the State nor the taxpayer could afford to provide every suspect with a lawyer of his choice or upgrade all prisons, society should meet this obligation by making the necessary funds available, Poswa said.

Stompie's mother tells of anguish

Uncertainty over death 'really hurts' (252)

THE mother of murdered 14-year-old "Stompie", James Moeketsi Seipei told the Truth Commission today how she had struggled to identify his badly decomposed body.

Stompie was murdered in Soweto in 1989 while a member of the Mandela United Football Club, Winnie Mandela's unofficial bodyguards.

His mother, Joyce Seipei, of Tuma-hole, near Parys in the Free State, said she had tried to identify her son's body in the Diepkloof mortuary in Soweto. Many people had told her that the body was not that of Stompie, but fingerprints later confirmed it had been her son.

The day before the funeral on February 25 1989 reporters had visited her and told her that Mrs Mandela had claimed Stompie was still alive and in Botswana.

"I told them 'I am not burying a zombie' I know my son, I raised him," said Mrs Seipei.

The proprietor and staff of the Parys undertakers, where Stompie's body had been brought from Diepkloof, had also suggested to her that the body was not that of Stompie.

"I said 'That's news to me I'm going to bury my son' That really hurt me."

The day after his funeral, the rumour that Stompie was still alive had spread and a group of youths had toy-toyed outside her house, saying "Mrs Seipei - that was not Stompie."

In a statement to the commission, Mrs Seipei said she had last seen her son alive on December 1, 1988 when he had appeared in court in connection with the burning of a municipal car.

He had not been at the next hearing of the case on January 12, 1989 and his

New constitution 'epoch-making'

ABOUT 200 people attending today's hearings of the Truth Commission at the Jewish Club in Durban applauded the adoption of the new constitution, described by commission chairman Desmond Tutu as "an epoch-making event."

In his opening remarks before the start of the hearing, Archbishop Tutu



Reports by JOHN YELD in DURBAN

lawyer had told her the boy was dead. But other boys told her Stompie was still alive, Mrs Seipei's statement said.

"On January 30, 1989 Paul Verryn, a priest, and Bishop Peter Storey of the Johannesburg Methodist Church, came to my house and told me that Stompie had been taken from the church to Winnie Mandela's home.

"They said his friends had been beaten and they had heard that my son had been beaten to death."

Mrs Seipei told the commission that her son had been detained for 11 months at five different prisons and had developed eye problems during his detention.

"He told me he was assaulted in prison. He said the special branch 'squeezed me on my private parts'."

Mrs Seipei said the uncertainty about the circumstances of her son's death was "really hurting" and she told the commission her main concern was to "get to the bottom of the truth."

She also asked the commission to help her as she was very poor.

said, "We give thanks to God for this extraordinary event. We want to congratulate very warmly the constitutional assembly and especially its chairman, Cyril Ramaphosa, and his deputy Leon Wessels."

"I think we should give them a very warm hand," Archbishop Tutu said.

McBride 'has no right to hold public office'

CT 8/5/96 (252)

ROGER FRIEDMAN

DURBAN A controversial provision contained in the "record of understanding" signed in 1992 by the NP and the ANC has come back to haunt the government

One of five key issues agreed on was the release of certain prisoners, including right-wing killer Barend Strydom and Magoo's Bar bomber Robert McBride

Yesterday, the sisters of one of McBride's June 1986 blast victims demanded in evidence to the Truth and Reconciliation Commission that he relinquish his senior position in the Department of Foreign Affairs

Mrs Cher Gerrard and Mrs Sharon Welgemoed, whose sister Marchelle Gerrard was one of three young women killed in the blast — said McBride had no right to hold public office

Marchelle, 28, had gone to Magoo's Bar that night to say goodbye to friends as she was leaving the country a few days later for an exciting new job at Universal Studios in the US "Instead of going overseas she was killed," said Welgemoed

"I think it was a little easier for the father of the boy who died in the Amanzimtoti blast to forgive and forget because justice was done in his case, the perpetrator was hanged," said Welgemoed

Said Gerrard "He has shown no remorse for what he has done He has gained from his callous act"

"I hold them both accountable, the National Party and the African National Congress," Welgemoed added

The record of understanding, signed on September 26, 1992, followed bilateral talks between the ANC's Mr Cyril Ramaphosa and NP's Mr Roelf Meyer, and restored relations soured since the collapse of Codesa II five months earlier

Prisoners benefiting included McBride, Strydom and two ANC guerillas Also released was bank-robber Lucky Malaza — by mistake

At a press conference following the sisters' evidence, commission deputy chairman Dr Alex Boraine said the question of alleged perpetrators of gross human rights violations seemingly being rewarded was something which troubled many people on the commission

He was not just referring to McBride, but also to many members of the security forces who had been promoted following terrible violations, and many of whom were still employed by the state

It is a "very big question that is going to engage us in a lot of debate and discussion", Boraine said The commission would make recommendations to the President at the conclusion of its work



Tutu to pull (holy) rank on Buthelezi

ROGER FRIEDMAN

(252) CT 8/5/96

DURBAN Archbishop Desmond Tutu intends doing "everything humanly possible" to persuade IFP leader Chief Mangosuthu Buthelezi to co-operate with the Truth and Reconciliation Commission chairman, Buthelezi has committed himself to a meeting, but is yet to set a date. He may be stalling, but we will not give up," said Tutu yesterday. "He's an Anglican and I may try and pull rank and say 'You know you are a

devout lay minister of our church, the Archbishop would like to meet with you' " ● Horrific details of the KwaZulu-Natal conflict started unfolding before the Truth Commission yesterday

But, in what could become a major problem for the commission, the terrible stories heard were all apparently committed by IFP supporters and the SA and KwaZulu police.

The IFP's national council has officially decided not to work with the commission, claiming it will only deliver a politically correct, ANC-slanted truth

Amnesty: judgment reserved

252

Sowetan 8/5/96

JUDGMENT has been reserved in an application brought by the families of three slain political activists who oppose amnesty being granted by the Truth and Reconciliation Commission (TRC)

The application was made in the Cape Supreme Court by the families of murdered activists Steve Biko, Griffiths Mxenge and Fabian Ribeiro and by the Azanian People's Organisation (Azapo). The families want the TRC Amnesty Committee's power to grant amnesty to be suspended, pending the outcome of an application they have made in the Constitutional Court, challenging amnesty provisions in legislation governing the TRC.

An affidavit by Pandelani Nefolovhodwe, deputy president of Azapo, on behalf of Azapo and the families, stated that in terms of the constitution and common law, granting amnesty would deny them and the public "the basic right to have matters settled in court" and it would permit "those who perpetrated crimes of inhumanity to go unpunished".

The five judges sitting on the Amnesty Committee were on Monday added to the list of respondents, as the committee itself is not a legal entity. Modise Khoza, counsel for the families, said "If human rights violators have been granted amnesty, the applicants and members of the public will not be able to bring criminal or civil action against these people". He argued that the legislation which allows amnesty to be granted, was in violation of individuals' rights to redress, which is entrenched in the constitution.

Mr Khoza said the application being brought in the Constitutional Court was considered urgent and would probably be heard this month. Mohammed Albertus, SC, for the TRC and the Amnesty Committee, argued the importance of granting amnesty saying, "There is an invitation to persons who violated human rights to come out, but they are not going to come out unless they know there won't be civil suits against them. How can this commission ever get a full picture of what happened so as to avoid this in the future and not plaster over it?" — *Sowetan Correspondent*

Nats introduced
necklacing - ANC

McBride should not hold public office'

Star 8/5/96

(252)

By JUSTICE MALALA
Provincial Correspondent

Truth Commission chairman Desmond Tutu says 'people should not benefit from their evil deeds'

The ANC is to present a report to the Truth and Reconciliation Commission (TRC) which will say that the previous NP government started and was responsible for the spread of the notorious "necklace" method of killing.

Speaking in Johannesburg yesterday, Mphumalanga premier and co-head of the ANC national executive committee's sub-committee on the TRC, Mathews Phosa, said the ANC would also submit that the previous government had planted landmine mines in cinemas in the 1980s.

"We will submit a report that will indict apartheid as a whole. The evidence we will present will put history in its proper perspective," Phosa said.

He added the ANC would also submit that the NP government was responsible for the taxi violence which has claimed hundreds of lives since the 1980s.

Details to back-up the ANC's allegations will be contained in the report to be presented to the TRC.

The necklace method of killing, supposedly used by political groupings to eliminate opponents and suspected police informers in the townships, spiralled after the first prominent incident in 1984, when Maki Skhosana was "necklaced" in Duduza on the East Rand.

The committee compiling the submission will be composed of Phosa, ANC deputy secretary general Cheryl Carolus and other members whose names will be announced by the ANC "shortly".

"Who started the necklace? Whose baby is it? We will submit that it was the NP government which started it," Phosa said.

The team of all these projects was to paint the picture that the violence (in the townships) was 'black on black' violence," he added.

By ROBERT BRAND

The Truth and Reconciliation Commission is likely to recommend to the Government that confirmed perpetrators of human rights violations, such as Robert McBride, should not be allowed to occupy public office, commission members hinted yesterday.

"Many of us feel that people should not benefit from their evil deeds," commission chairman Archbishop Desmond Tutu said after the first day of public hearings in Durban.



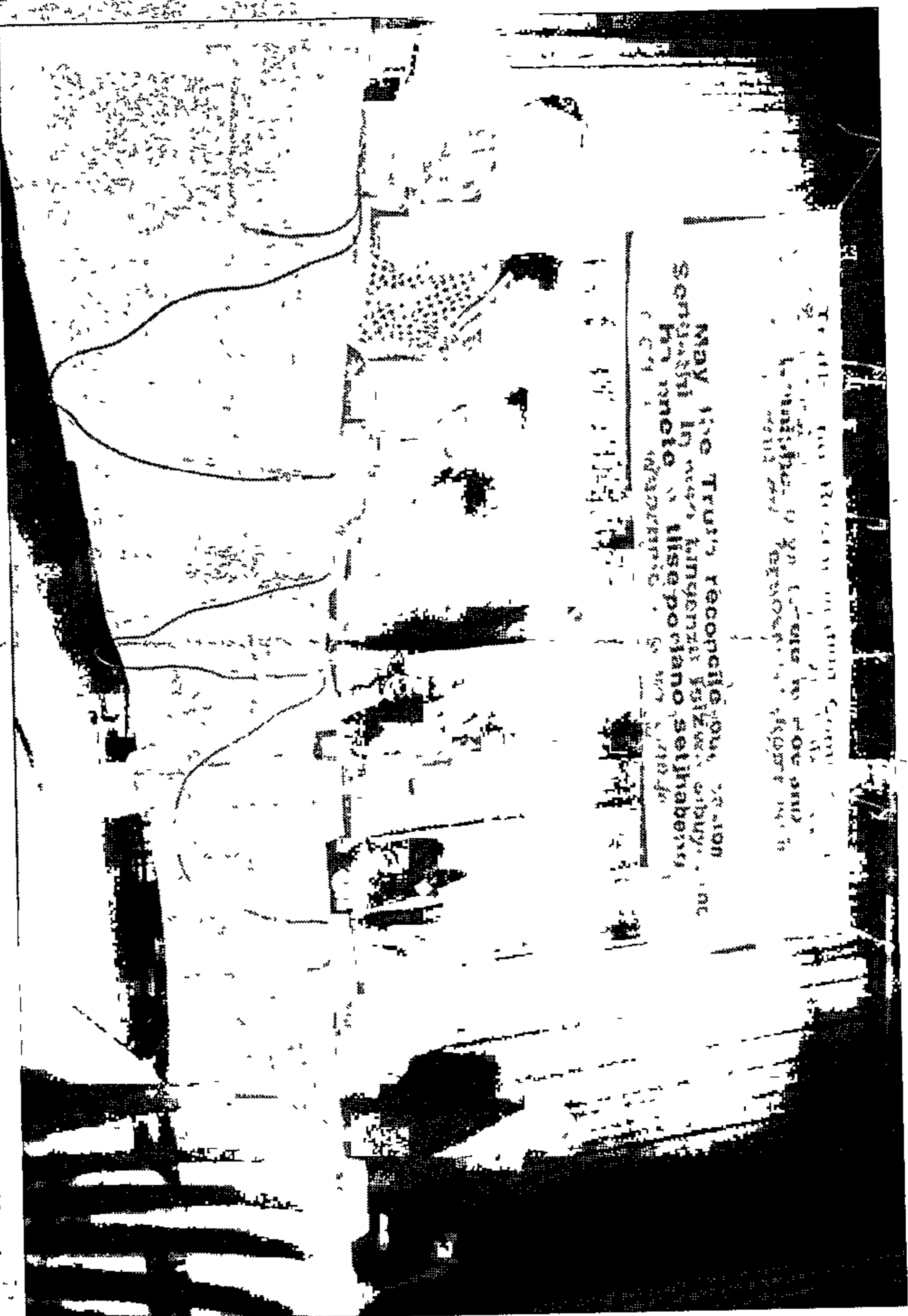
Robert McBride, one of three young women

killed at Magoo's Bar in Durban in 1986 by a car bomb planted by McBride, now a deputy director-general in the Department of Foreign Affairs.

Gerrard's sisters, Cher Gerrard and Sharon Welgemoed, called for McBride to be removed from his position. They also rejected the amnesty granted to him in 1992.

"Robert McBride cannot justify his position in the government as he is a cold-blooded murderer we want McBride to be removed from public office. The thought that we are contributing to his upkeep is inconceivable," Welgemoed said.

Cher Gerrard said McBride had never shown any remorse for the murders. "Now he occupies a public office at the taxpayer's expense how can McBride have



Meeting in Durban ... commissioners of the TRC before the start of the deliberations on day one of the KwaZulu Natal hearings.

received amnesty when he committed offences against innocent people and not against the Government?"

McBride was sentenced to death three times for the blast and received amnesty after spending four years in jail. He became an ANC MP after the election in 1994 and has since been earmarked by the Department of Foreign Affairs as an ambassador.

The commission is required by

law to make recommendations to the President on measures to prevent a recurrence of human rights violations on the scale of the apartheid conflict.

Tutu said many commissioners felt that perpetrators identified during the commission's period of operation should not be allowed to hold public office. This feeling could be included in the commission's final report as a recommendation to the President.

"For (the development of) a culture of human rights it is important that it is made clear that you can't do certain things and get away with impunity."

Vice-chairman Dr Alex Boraine said a situation where people were rewarded for committing human rights violations, as in the case of security force members promoted at the height of apartheid repression, had to be avoided.

"Many of us said that that was wrong. We can forgive, but it seems strange that with forgiveness may come reward."

The commission's KwaZulu Natal regional co-ordinator, Richard Lyster, said McBride had not been notified about the Magoo's bomb testimony.

"We feel he is not an alleged perpetrator. He is an admitted perpetrator. There was no obligation on us to notify him."

Buthelezi says he is willing to meet Truth Commission

252
BY OWN CORRESPONDENT

Star 8/5/96

Durban - IFP leader Mangosuthu Buthelezi has indicated a change of mind and a willingness to meet the Truth Commission but a suitable date has not been agreed in more than two months.

All other political party leaders have either met the commission for discussions or attended its hearings.

Responding to a suggestion that Buthelezi is snubbing the commission, Archbishop Tutu said this was a possible interpretation - "But we will not give up. It's not a game, and it's not as though you can be indifferent to the commission. It must succeed for the good of the country."

"We are not going to give up because people are hostile or seemingly indifferent."

"We will do everything in our power to involve the whole nation, and we hope everyone will be dedicated and committed to the goal of reconciliation."

On a light-hearted note, Archbishop Tutu noted that Buthelezi was a devout Anglican and lay minister. "I might have to pull rank and say 'Your archbishop wants to speak to you'."

Dr Alex Boraine, deputy chairman of the commission, said that in fairness, he and Tutu had been extremely busy and their schedules had also been tight.

The commission is seeking a meeting with Buthelezi, who has publicly denounced it as a "witch-hunt" and discouraged members of his party from participating but Boraine said the failure had as much to do with the commission's own hectic programme as with Buthelezi's perceived reluctance to attend.

The IFP is now reported to be encouraging supporters to co-operate with the TRC.

■ Sapa reports that the mother of murdered teenage activist Stompie Seipei, whose battered body was found in a field in Soweto in January 1989, is due to testify before the Truth and Reconciliation Commission today.

Joyce Seipei is expected to tell the story of the 14-year-old teenager who became the youngest political detainee when he was jailed at 10 in the mid-1980s.

Winnie Mandela was found guilty of kidnapping and being an accessory to assault after Stompie and three others were abducted from the Soweto Methodist manse in December 1988.

She was sentenced to five years' jail but an appeal court later replaced the sentence with a R15 000 fine.

IFP softens stance on truth commission

Farouk Chothia
and Drew Forrest

DURBAN — The IFP has softened its hardline stance on the truth commission, saying it will make a submission to the body on the political conflict in SA and encourage members who stand to benefit to appear before it.

Commission chairman Desmond Tutu said yesterday he was thrilled by the shift. The commission would con-

tinue seeking a meeting with IFP leader Mangosuthu Buthelezi.

IFP secretary-general Ziba Jiyane said the ANC's version of events should not be the only one recorded. The IFP's submission would give a historical account of the conflict. IFP members imprisoned for politically motivated crimes could benefit from the commission's amnesty process, Jiyane said.

Continued on Page 2

Truth body

Continued from Page 1

Others could use the reparations committee. The party was setting up a committee to help members wanting to take advantage of the commission.

Jiyane denied the IFP had dropped its hardline opposition to the truth body, which IFP leaders had attacked as "Stalin's show trials" and an ANC bid to present its version of SA's past. The IFP would not appear before the commission to be "interrogated" as it had not been party to drafting its terms of reference and had been snubbed when commissioners were appointed.

However, Tutu said full confession was required for amnesty and IFP witnesses would have to testify before the commission to qualify for reparations.

Yesterday IFP councillor Silulam Miya of Inanda — the first IFP witness to testify — said he had been attacked and his cars and house destroyed by fire after he tried to save a youth from United Democratic Front (UDF) members in September 1989. Miya said the youth, Goodman Mpanza, had been one of several people targeted for attending a court hearing concerning

IFP Lindelani leader Thomas Shabalala Mpanza was stabbed to death.

Earlier, witnesses gave hair-raising descriptions of night attacks by IFP supporters on UDF homes in 1988, when the battle for control of KwaZulu-Natal's townships was at its height.

Veli Phungula said men broke down her door, hacked and shot dead her husband and dragged her son S'boniseni into the road, where they stabbed him and cut off his genitals.

Also giving testimony yesterday was Joyce Seipei, mother of Stompie Seipei, killed after being abducted by members of Winnie Mandela's football club in 1989. Mandela had told the media Stompie was still alive after his body had been identified and she wanted to know the truth about his death.

Another witness, Yusuf Saloojee, discussed his brother Hoosen's death in detention in 1977. His brother, a dentist, had 60 wounds on his body. Police told the inquest magistrate these were sustained when he refused to get into their car. Saloojee attacked the magistrate for accepting the police version that Hoosen was a highly trained terrorist who had hanged himself rather than face a long jail term.

Comment: Page 16

Attorney calls for ethics conference

(252) BD 9/5/96

Deborah Fine

BLOEMFONTEIN — Pretoria attorney Gustov Radloff has called a "national ethics conference" for the legal profession to halt "an alarming decline in ethical standards" and prevent legal practitioners from becoming their "own greatest enemy".

Speaking at the 15th SA Law Conference — hosted by the Association of Law Societies in Bloemfontein this week — he said the SA way of life under the previous government had led to a breakdown in society's ethics, mainly because people had lost respect for the law and the legal system.

The poor had regarded the law as one of the main vehicles to enforce apartheid while the rich had become disillusioned with its inability to maintain law and order.

"We got caught up in an environment where being unethical could be construed as a valid excuse for survival," he said.

Even legal practitioners had not remained unscathed.

"The practice of law is misused as a fast track of the good life and is no

longer a way of living a good life. We are guilty of self-centred thinking because we have become slaves to our senior partner, the computer. Our only guideline is the total debit passed at the end of each and every month."

Many legal practitioners, however, were deeply concerned by the legal profession's present unhappy state of affairs and by the necessity for the recent establishment of a commission of inquiry into alleged unprofessional and unethical conduct of practising attorneys in Gauteng, Mpumalanga, and the Northwest and Northern provinces.

Radloff said it was manifestly in the public interest that the attorney's profession — along with all other professions — be held in high regard if SA was to prosper as a democracy.

"Our ethical rules and codes of conduct must not be seen as an instrument to protect the legal cartel but rather to protect the public. Should we fail to abide by our own ethical rules, the public will sooner or later dismiss the notion of the legal profession being the guardian of the constitution. We must set the example," he said.

School feeding resumes soon — MEC

Farouk Chothia

BD 9/5/96

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DURBAN — KwaZulu-Natal health MEC Zwelli Mkhize said yesterday that the primary schools nutrition scheme, which collapsed last month due to administrative problems, would be back on track by June.

Mkhize's announcement came after about 40 suppliers staged a sit-in at the health department's Durban offices earlier this week, claiming they were owed R70m Central government had

allocated R100m in the 1996/1997 budget to the province's feeding scheme.

Mkhize said there had been little or no feeding in schools since April due to administrative problems between suppliers and school committees responsible for the scheme.

No system was fraud-proof, and any perpetrators of "abuses" who were identified would be dealt with severely. Mkhize said a possible option was to have the national department directly settle unpaid accounts with suppliers.

McBride criticises commission

Kevin O'Grady

BD 9/5/96

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ROBERT McBride's wife Paula criticised the media and the truth commission yesterday for focusing on her husband's case rather than the more than 10 000 people who had died in KwaZulu-Natal in the past 10 years.

"Robert did not wake up one morning and decide that it looked like a good day for a bomb. He was a member of Umkhonto we Sizwe... and at all times acted under its command," she said.

It was not surprising that it was this case that earned itself a place as "the most villainous act in our history" as it was unusual because whites died MK operatives carried out a similar attack in Witbank in 1988 killing three people and injuring 69. "Who knows the names of the perpetrators or the victims... not many people because the victims happened to be black".

She said that before April 1994, SA was governed by gross human rights violators, and "many of them who still occupy public office should be seeking

amnesty. "Their removal from public office would certainly assist the government in its rationalisation and cost-cutting exercise. We'd be short one deputy president for a start — which may not be a bad idea," she said.

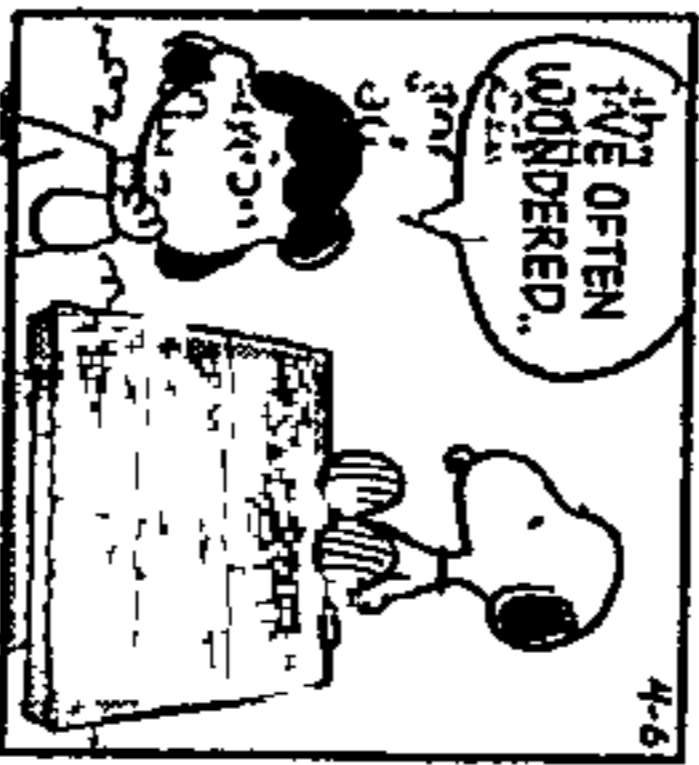
Drew Forrest reports from Durban that commissioners said the demand of truth commission witnesses for the removal of human rights violators from public office was not unreasonable. Commission chairman Desmond Tutu said the matter could be discussed at a full commission meeting next week.

His deputy, Alex Boraine, said suggestions that McBride was being hounded because his victims were white was "absurd". The matter had to be seen in the wider context of a bid to establish a human rights culture.

Yesterday the commission heard testimony from the barmaid at Magoo's Bar on the night of the blast, Helen Kearney, who urged government to reconsider any plans to give McBride a diplomatic post.

PEANUTS

By Charles Schulz



UDF TRIO BLAMED FOR DEATH

Surprise IFP witness tells of youth's killing

DURBAN: A senior IFP member appeared before the TRC yesterday on the same day that his organisation slated the probe in a newspaper article. Staff Writer **ROGER FRIEDMAN** reports

CT 9/5/96 (252)

A FULLER picture of the KwaZulu-Natal conflict started unfolding here yesterday when a senior IFP member testified before the Truth and Reconciliation Commission as a surprise witness

A "thrilled" commission chairman, Archbishop Desmond Tutu, said at the conclusion of the days proceedings "It seemed as if all along we were labouring under a very serious misconception. Some of the public pronouncements of some of their leaders had given the impression that the commission was not exactly their blue-eyed boy"

The appearance of former IFP councillor and branch chairman Mr Silulam Miya came on the same day as IFP Senator Ruth Rabinowitz and advocate Mr Kieren O'Malley of the organisation's research unit rubbished the commission in an article in an afternoon newspaper here

They wrote "Justice and the integrity of the legal process and the law will be sacrificed not, as we are told, for nation-building and reconciliation, but for the sake of the narrow political interests of the ANC

"The ANC will use the suffering of the past to glorify its involvement in a Communist-backed People's War,

waged not only against whites who imposed apartheid, but also against blacks who chose a different way of opposing it"

Miya told of events which occurred outside Durban on September 17, 1989, including the killing of a youth seeking his protection by ANC-leaning United Democratic Front comrades, his own near-fatal stabbing, and the razing of his house

After pleading with two men called Cele and Mthembu to spare teenager Goodman Mpanza's life that day, a third person arrived Mpanza was hacked to death

"I was confused by this death because the people who were doing this were kids. When I reprimanded them, they said 'You will be the next one to join him'. Later he went to a house where UDF supporters had gathered, to ask them to arrange for Mpanza's body to be taken to the mortuary. He tried to defend himself with his knobkierie, but they stabbed him until he fell unconscious to the floor. He was

eventually helped home

But two nights later a mob surrounded his house, and started throwing petrol bombs through the windows. Being an inyanga (healer) saved him, Miya said. "There were lots of bottles inside the house and bottles all over. But although they were burning outside, as soon as they came in the house they were extinguished. As an inyanga my house was protected. The petrol bombs were weaker than my muti."

His attackers disappeared into the darkness. Later they returned when he was out and burned the place down. He asked if the commission could help him to rebuild it.

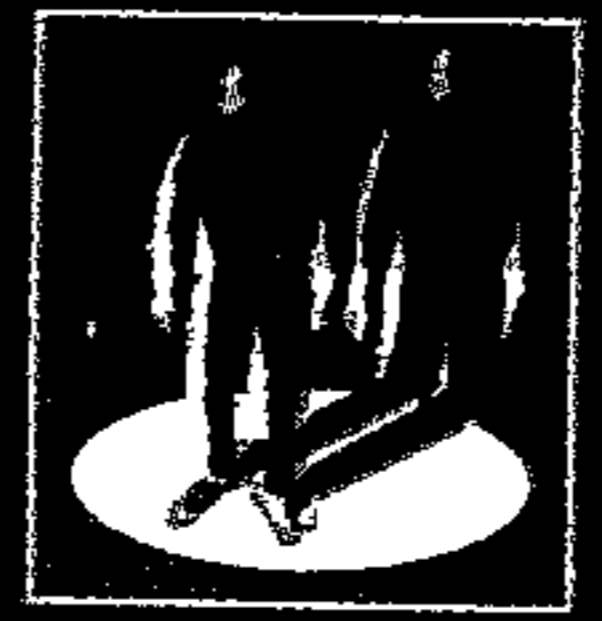
Miya then provided an insight into the futility of the ongoing KwaZulu-Natal war. He had been the Inkatha chairman in his community, and Mthembu and Cele were also Inkatha members before "crossing the floor" to the UDF.

"They wanted me to join UDF. I told Mthembu I would also have joined the UDF if they had told me.

"I told them 'If you told me you had gone to the UDF, I would have also crossed the floor, but you did not tell me'."

He nearly paid for it with his life

TRUTH & RECONCILIATION COMMISSION



McBride's wife hits out at husband's critics

252 CTG/5/96

HENRY LUDSKI
POLITICAL WRITER

THE wife of Foreign Affairs official Mr. Robert McBride has lashed out at individuals, and sections of the media, for attempting to portray her husband as "SA's very own devil".

Mrs Paula McBride said she found it ironic — when seen against the "grotesque background" of killings in KwaZulu-Natal — that the Truth Commission should once more be focusing on her husband and the Magoo's Bar bombing.

A controversial provision contained in the record of understanding signed in 1992 by the NP and the ANC, paved the way for the release of her husband and other prisoners.

Ms Cher Gerrard and Mrs Sharon Welgemoed, whose sister Ms Marchelle Gerard was one of three young women killed in the 1986 Durban blast, demanded

before the commission in Durban on Tuesday that McBride should relinquish his position in the Department of Foreign Affairs. Welgemoed also said in evidence that McBride had shown no remorse for what he had done and had "gained from his callous act".

McBride said yesterday that, "as much as I would have liked to have commented", doing so would contravene his conditions of employment at the Department of Foreign Affairs.

However, his wife has responded by saying that his position as a Foreign Affairs deputy-director, "which he got after undergoing a selection process", had nothing to do with his activities as a former member of uMKhonto weSizwe (uMK).

She said that despite what many people would like to think, "Robert did not wake up one morning and decide that it looked like a good day for a



SADDENED: Robert and Paula McBride.

PICTURE: REUTERS

bombing. He was a member of uMK and at all times acted under its command."

The Magoo's Bar bombing was one of a number of attacks launched by the ANC during that period in which civilians were

killed. "It is interesting that the case involving Robert has earned itself a place as the most villainous act in our history, because whites were killed."

In a similar attack by uMK operatives two years later, three

civilians were killed and 69 people injured. "Who knows the names of the perpetrator or victims? Not many people, because the victims were black," said Paula McBride.

Responding to the evidence to the commission that her husband had shown no remorse, she said "Those who have listened have heard his remorse and his sadness over the loss of life. What he had not expressed remorse for — and nor would he — was his involvement in the struggle against apartheid."

Paula McBride said that if the commission wanted to make recommendations about whether or not people who are guilty of human rights violations should not hold public office, then they should cast their net wider to include the gross violators of human rights who governed South Africa before 1994.

"Many of them still occupy public office," she said.

FS no to combined hearings

(252) *Journalist* 9/5/96

By Mpikeleni Duma

FREE STATE Premier Patrick Lekota, together with the African National Congress provincial chairman Mr Pat Matosa, are to lead a delegation to persuade the Truth and Reconciliation Commission to change its decision for combining public hearings for the province and KwaZulu-Natal.

ANC provincial deputy chairman and Free State economic affairs and tourism MEC Mr Ace Magashule, told a Press conference yesterday that the delegation had been mandated to put it to the Truth Commission leadership that it should treat the hearing in the Free State as a matter of urgency.

"We believe the decision to combine public hearings for the Free State and KwaZulu-Natal have a negative effect on the people willing to appear before the commission because of the current violence in Kwa-Zulu Natal and the inconvenience that it is causing," he said.

Magashule said the people would want to testify before the hearing about the gross violation of human rights as they occurred in the province.

He emphasised that Free State citizens were not calling for a boycott of the hearings but were "just making a reasonable demand".

Referring to the recent walk-out by the National Party and Freedom Front in the provincial legislature, Magashule said such actions have implications even for local government, as a result the matter has been referred to all branches for discussion.

Call for 'apartheid judges' to submit to truth body

Drew Forrest

DURBAN — National Association of Democratic Lawyers publicity secretary Krish Govender yesterday called on judges who had legitimised the apartheid order to "seek redemption" at the truth commission

However, commission chairman Desmond Tutu said at the hearings in KwaZulu-Natal that Govender's submission could give rise to perceptions of bias and "should not have happened that way" He said all organisations, including political parties, would have a chance to put their position at a different kind of commission hearing. The commission had not arrived at a view of SA's past and would not until it had heard all viewpoints He said there had been much debate about whether to allow Govender's submission. KwaZulu-Natal co-ordinator Richard Lyster said Govender had been given the platform to speak in his personal capacity

Govender said a select group of

judges had heard most political trials, ordered most judicial executions of activists and allowed evidence extracted by means of torture. Attorneys-general had "relished" prosecuting in political trials, while state attorneys had defended and covered up police brutality in thousands of civil claims. Law societies and bar councils had moved the Supreme Court to strike off those convicted of political crimes Postmortem hearings of activists who died in detention "were a class of human rights violations on their own"

Unless "perpetrators in the judicial system" accounted for their conduct, showed remorse and committed themselves to justice, a human rights culture could not emerge in SA

Earlier, former MK operative Haroon Aziz described magistrates' visits to security detainees as "a joke" He said security police had "laughed like mad hyenas" while torturing him.

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NP judges condoned (252) barbaric police practices

CT 10/15/96

ROGER FRIEDMAN

JUDGES who allowed the political considerations of the National Party government to cloud their judgments owed "it to the country and the future judiciary" to appear before the Truth and Reconciliation Commission, an executive member of the National Association of Democratic Lawyers said in a controversial submission to the commission yesterday.

Speaking in his private capacity, Mr Krish Govender said in many cases "certain judges" allowed evidence which was extracted "under conditions of extreme and routine torture, to facilitate a conviction for the apartheid state."

"These judges condoned the barbaric practices of the security police, and gave the savagery of Section 6 of the Terrorism Act and Section 29 of the Internal Security Act their blessing and the veneer of legitimacy."

"Whether the evidence was concocted, false or tailored to secure a conviction mattered little. These specific judges played a powerful role in legitimising an illegitimate and evil system of government. What were their motives? They should say so to you, themselves," Govender said.

But, Govender added, judges were by

no means the only members of the legal system to "do the dirty work of apartheid".

He named Supreme Court registrars as "colluding in manipulating the rolls to facilitate the work of the selected judges". Many advocates in the offices of the attorneys-general "relished" prosecuting in political trials. State attorneys and their staff routinely "defended and covered-up for police brutality".

Senior magistrates in the Regional Courts "did as much and more than the judges", while justice in the lower courts was even more skewed.

The law societies and bar councils were the legal profession's "watchdogs of apartheid", striking off political activists and barring lawyers from earning a living. And anti-apartheid defence lawyers "in the name of justice and morality subverted the truth wherever possible".

South Africa inherited a "rotten legal order with morally crippled participants".

"Without a form of redemption this would be a recipe for the continued undermining of the moral fibre of our society."

Commission chairperson Archbishop Desmond Tutu said it might have been better had the submission been made at a special hearing to discuss the legal system.

FAMILIES' APPLICATION REJECTED

Court go-ahead for amnesties

(252)

CT 10/5/96

THE Cape Supreme Court yesterday rejected an application by Azapo and the Biko, Mxenge and Ribeiro families to prevent the Truth Commission from granting amnesties. **EUNICE RIDER** reports.

AN APPLICATION to prevent the Truth and Reconciliation Commission (TRC) from granting amnesty to perpetrators of gross human rights violations, brought by Azapo, the widow of Steve Biko and the families of two other slain activists, was dismissed by the Cape Supreme Court yesterday.

Judge President Justice G Friedman and Justice I G Farlam ruled that the objective of the TRC was to promote national unity and reconciliation in a spirit of understanding which transcended the conflicts and divisions of the past.

To achieve this, special provision had been made for the granting of amnesty.

Counsel for Azapo and the families of black consciousness leader Steve Biko, killed in 1977, lawyer Griffiths Mxenge, killed in 1981 and ANC activist Fabian Ribeiro, killed in 1986, argued that the granting of amnesty would be unconstitutional as it would prevent victims from taking legal recourse against those who committed gross violations of human rights.

"It will permit those who perpetrated crimes against humanity under the apartheid regime to go unpunished and it will deny members of society, including the applicants, a legal forum in which to pursue lawful action against such offenders."

The applicants argued that the removal of the right to retribution was in conflict with the Constitution and that the granting of amnesty nullified the powers of the attorney-general to prosecute perpetrators of gross human rights violations or to institute private prosecutions against them.

Azapo and the families of the slain activists have also asked the Constitutional Court, South Africa's highest legal authority, to overturn the amnesty law, but are still awaiting the outcome.

In dismissing the application the judges found that the interim constitution was intended to be "a historic bridge" from "a deeply divided society" and amnesty was required to achieve reconciliation.

"An amnesty is a complete forgetfulness of the past and as the treaty of peace is meant to put an end to every subject of discord," they quoted from The Law of Nations or The Principles of Natural Law Applied to the Conduct and to the Affairs of Nations and Sovereigns, adding that this applied to both criminal offences and civil wrongs.

"The applicants' attack on the Constitution must fail," they said.

An order on the payment of court costs was held over pending the outcome of the Constitutional Court's decision.

Committee is given approval by court to grant amnesties

Linda Ensor

CAPE TOWN — The amnesty committee was freed yesterday to grant amnesties to perpetrators of human rights violations after the Cape Town Supreme Court dismissed an application for an interdict against it.

The committee had undertaken not to grant amnesties pending the finalisation of the application brought by Azapo and relatives of slain activists Steve Biko, Griffiths Mxenge and Dr Faliqan and Mrs Florence Ribeiro.

In a written judgment, Judge President Gerald Friedman and Judge Ian Farnham found the applicants had not established a clear, or a prima facie right to an interdict.

The applicants sought an interdict forbidding any amnesties being granted until the Constitutional Court had ruled on their application to have the entire amnesty process declared unconstitutional because it infringed their rights to take civil and criminal action against alleged perpetrators.

While conceding that the National Unity and Reconciliation Act infringed on individuals' constitutional right of access to courts, the judges said this was justified by the need for reconcil-

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iation and reconstruction spelt out in the addendum to the constitution.

Amnesty, which was understood in the broadest possible terms as the "complete forgetfulness of the past" included criminal and civil liabilities.

"It would not be possible to achieve (this) reconciliation and reconstruction if amnesty were to be limited to the granting of pardons in respect of criminal offences. It is hardly likely that anyone would seek immunity in the knowledge that he or she would thereby escape criminal liability but would nevertheless expose him/herself to civil proceedings," the judges said.

They dismissed the argument that amnesty did not cover the granting of civil immunity. They said that the powers given to the president by the constitution had the same ambit as the prerogative of mercy previously exercised by the monarch.

The judges also did not accept the argument that granting amnesty contravened the Geneva Convention's protocols, as these were not applicable to the situation in SA. The fight in SA was a fight for internal liberation and not a fight for self-determination against colonial domination or against alien occupation.

PEANUTS

By Charles Schulz



TRADE MISSION F
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Reliving a painful past

252 *Somehan*
10/6/96

IT IS VERY PAINFUL IN YOUR HEART as a parent when you hear your child is going to die. I didn't know how to save my child," Mrs Martha Mahlangu, mother of executed African National Congress guerilla Mr Solomon Mahlangu, told the Truth Commission.

He was hanged on April 6 1979 for participating in an ANC attack in Pretoria two years earlier, even though he did not fire any shots.

His mother's anguish at the commission's public hearings in Johannesburg is reflected in the faces and tears of nearly every witness who takes the stand.

They are the relatives or companions of those who suffered extreme human rights violations, often ending in death. Most of the victims were murdered by the South African security forces.

While the police targeted political activists, they were not the only casualties. To this day their families live with the loss and horror of these killings in police cells, townships and neighbouring countries.

Assassination

At the Durban public hearings, 11-year-old Phoenix Quin listened as her grandparents and aunt describe her mother's assassination in Lesotho in December 1985.

Ms Jacki Quin was gunned down in her Maseru home after midnight during a raid against the ANC although she was not an ANC member. Her husband, Mr Leon Meyer, was also killed with seven others in the raid by South African commandos.

"They left 12-month-old Phoenix traumatised and alone with her dead mother in their home spattered with blood all over the place," Quin's sister Jane said. "Luckily she's a very well-adjusted child. Obviously she is carrying the sadness of what she is."

Ambush

The wife of Mr Theophilus Dlodlo and the mother of Ms Nomsa Msomi told similar stories at the Johannesburg hearings of how their husband and daughter, were shot dead with other comrades in an ambush on May 22 1987 in Mbabane.

Hit squads helped by ANC traitors are implicated in the attack. By September 1987 at least 11 people had been killed in Swaziland.

Mrs Felicia Dlodlo said "Swaziland was a killing field for gunmen carrying out assassinations. My son was only two when his father was killed."

She and Theophilus fell in love in 1983 but they only got married in December 1986 when he was granted permission to go and marry her. He returned in April 1987 to investigate ANC spies connected to the Swaziland massacres.

Relatives of slain activists have over the past few weeks poured their hearts out to the Truth Commission. This important ritual will, hopefully, help heal the wounds. Feature Writer **Claire Keeton** reports...



Truth Commission chairman Archbishop Desmond Tutu and Gauteng premier Tokyo Sexwale during the public hearings in Johannesburg.
PIC LEN KUMALO

Dlodlo said "I did not cry at his funeral. Many people didn't. It was seen as selling out. The victims of apartheid must be given the chance to cry."

She left Swaziland after the funeral and went to Zambia, where she was very depressed. The following year she joined her mother in England, and returned to South Africa last year.

Dlodlo said "After my husband's death, I was lonely. Close friends had been killed and I felt despair. I felt sorry for my son. A lot of children are suffering now and parents can't cope on their own."

She asked the Commission to build a monument to fallen heroes in Swaziland "where we can go and cry." She said the TRC should offer support and counselling to victims. She appealed for human rights to be a school subject.

Mrs Moleseng Anna Tiro told the Commission how her son was blown apart by a parcel bomb in Botswana on February 1 1974. A leader in the South African Students' Organisation, Onkgopotse Tiro was forced into exile by the police after being expelled from Turfloop University.

A child delivered the bomb to him at his room in Kgale near Gaborone. "A child found

Onkgopotse's corpse and ran away. I saw my son in pieces. The police helped me to gather all the pieces, and we took them to a mortuary," Tiro said.

Tiro was refused permission to transport her child home and buried him in Botswana. "I really want to bury him here."

She said after Onkgopotse's murder, her younger son "cried a lot and can't see clearly now. 'I am sick and can hardly see. I was not born crippled but I fell down the stairs at work. I would think of many

things. The doctor said I had a heart attack and arthritis," she said. "Help me find who killed my son. Maybe it will help me in this life."

The mother of murdered student leader Mr Sicelo Dlomo told the Commission that her son's death and police harassment had affected her and her husband.

"Sicelo's father lost his job. He wasn't healthy because of this pain," said Mrs Sylvia Dlomo-Jele. But she has followed her son's wishes to "pick up the spear and continue the struggle" by leading the Khulumani Support Group for the victims of apartheid.

Although Sicelo was hiding from the police, he visited his parents the week he was killed. That was the last time his parents saw him. He was found dead under a tree in Soweto with severe head wounds.

"I told myself, this is the end. Sicelo had told me what to expect," Dlomo-Jele said. "But the pain did not end there."

All the witnesses whose loved ones were killed asked the Commission to find out who was responsible. Some spoke of forgiveness.

But Quin's mother expressed the overriding feeling when she said that she wanted all those - from the top of the chain of command to the people who carried out the attacks - to be branded murderers.

Phosa calls for reform of SA justice system

bowetan 10/5/96

(252)

By Mzimasi Ngudle

VERONA, Italy – More than 29 000 criminally accused people in South Africa are awaiting trial at a cost of R65 a person a day

Some of these accused are awaiting trial for minor offences, but, unable to afford a R100 bail, are kept in prison at a cost of R65 a day for several months and at great cost to the taxpayer

These observations were made by Mpumalanga premier Mathews Phosa yesterday during the first day of the 14th congress of the world's legal insurances companies in Verona, Italy

Delivering his speech in a work session titled "Sick justice, a diagnosis", Phosa said South Africa had too few courts and officials. This resulted in civil cases being heard seven months after the closure of pleas

"Not only has this situation a grave financial implication on the nation's coffers, but justice is also obstructed. Witnesses disappear, evidence is lost and technical 'acquittals' occur," he said

Phosa attributed the lack of sufficient and experienced court officials to poor salaries and working conditions which forced most to leave for greener pastures

Exodus of personnel

He said the exodus of qualified personnel exacerbated the chronic inaccessibility and unaffordability of courts by ordinary litigants

Phosa said South Africa needed about one and a half times as many practising attorneys as there are now

"There can be no doubt that the legal system must face what is really happening in South Africa: a citadel of justice"

Making things worse was the high

cost of litigation and procedures which were not practical for ordinary people

"Litigation in magistrate's courts averages approximately R700 a litigant while Supreme Court cost vary between R25 000 and R70 000

"This results in many people not being able to bring their legal differences before the courts and thousands of South Africans appearing in lower courts without representation," he said

Phosa said procedures were slowed down by too many pleadings actual parties to the dispute

The legal aid system was completely inadequate such that attorneys cannot afford to partake. Should they take instructions, they have to wait for six to nine months to be paid, he said

"Statistics show that for every R14 South Africa spends on legal aid, Britain spends R700"

Families fail in court bid to stop amnesties

Nov 10/5/96

(252)

Applicants had 'not established a clear right entitling them to an interdict', says Mr Justice Gerald Friedman

SAPA
Cape Town

An application by the Azanian Peoples Organisation and the families of three murdered anti-apartheid activists to stop the Truth and Reconciliation Commission from granting amnesty to people who committed human rights violations, was dismissed in the Cape Town Supreme Court yesterday.

Azapo and the families of black consciousness leader Steve Biko, lawyer Griffiths Mxenge and Dr Fabian Ribeiro argued that the granting of amnesties would prejudice their right to seek civil redress.

Mr Justice Gerald Friedman with Mr Justice Ian Farlam referred to a clause in the constitution stating that "at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained"

The judges ruled there was no peremptory rule of international law which prohibited the granting of the broadest possible amnesty in the case of conflicts of the kind which existed in South Africa prior to the "cut-off date" referred to in the post-amble in the constitution.

Friedman said the post-amble was for all purposes deemed to

Judges rule constitution provides for granting of amnesty

form part of the substance of the constitution.

"In our judgment, therefore, if the word 'amnesty' as used in the post-amble means the broadest possible amnesty, including immunity against civil actions, then the applicants' attack on the constitutionality of the act must fail."

The judge said if the word

"amnesty" had been intended only to mean a general pardon in respect of criminal offences, the words "acts, omissions and" would have been unnecessary.

He said the applicants had not established a clear right entitling them to an interdict. "Nor has even a prima facie right, though open to some doubt, been established."

It was inappropriate for the court to make any costs order as the main application was still pending before the Constitutional Court. "Once the Constitutional Court has delivered its judgment, or if the applicants do not proceed with the application, this court will be in a better position to deal with the question of costs," Friedman said.

No order regarding costs would be made at this stage but the parties would be given leave to file heads of argument within 10 days of the matter being disposed of in the Constitutional Court or, in the event of the matter not being proceeded with, within 10 days of its falling away or withdrawal.

Truth commissioner under investigation

(252) M&G 10-16/5/96

Stefaans Brummer

THE master of the supreme court is investigating a false signature on the trust deed of a non-governmental organisation set up by truth commission reparations committee head Hlengiwe Mkhize

Mpumalanga clergyman Father Michel Barrette has complained to the supreme court that the signature — which appears to confirm him as a trustee of the National Children and Violence Trust (NCVT) — is not his. Mkhize has acknowledged it was not Barrette's signature, but claimed "either the lawyer or auditor said he could sign" for Barrette as he had previously stated he was willing to serve as a trustee.

The false signature was one in a number of allegations against Mkhize and her co-trustees by dissatisfied former NCVT employees and associates, published a fortnight ago in the *Mail & Guardian*. Another allegation was that donor funds had been maladminis-

tered or misappropriated. Most activities of the NCVT are in limbo after staff, up in arms about the way the trust was run, were dismissed *en masse* in February.

Truth commission chair Archbishop Desmond Tutu and deputy chair Dr Alex Boraine said they had confidence in Mkhize after they met her to discuss the *M&G* report. Boraine this week said Mkhize and a lawyer briefed by the NCVT board of trustees to investigate the *M&G* allegations had both assured the truth commission there was "nothing of substance" in the allegations. "We have to trust our people until such time as the contrary is proven"

But the *M&G* learnt this week the lawyers briefed by the NCVT board have not completed their investigation.

Board of trustees chair Dr Cecil Manitshana this week refused to comment — and angrily accused the *M&G* of "perhaps taking bribes" to publish the allegations. Mkhize was in the United States for a conference

Tutu confident dark past can be buried

By ROBERT BRAND

"We have stared the beast of our past in the eye, and we have survived the ordeal"

With these words, Archbishop Desmond Tutu closed the historic first round of Truth and Reconciliation Commission hearings in Durban yesterday, confident that the commission had taken the first steps towards reconciliation in South Africa. "We believe it is possible that our country can be healed. It is possible for us, after going through this ritual, to close the door on our dark past"

Tutu said the commission hoped to present its first interim report as soon as next month "so that the country can hear some of the things we have heard and our preliminary views of the evidence we have heard"

The commission has heard evidence over four weeks in East

London, Cape Town, Johannesburg and Durban, and Tutu said he was "overwhelmed by the depths of depravity" revealed in the testimony

"We have been shocked and filled with revulsion to hear of the depths to which we are able to sink in our inhumanity to one another" But the spirit of the victims had impressed him "We are realising that we can indeed transcend the conflicts of the past and hold hands as we realise our common humanity"

Tutu said he believed the testimony heard in Durban this week presented a "reasonably accurate picture" of the conflict in KwaZulu Natal, despite concerns about the reluctance of the IFP to accept the commission. Victims of violence by the IFP, the KwaZulu Police, and the police and defence force were by far in the majority, although the commission also heard evidence

(252) Star 11/5/96
from victims of ANC bombs, an IFP member who was attacked by United Democratic Front members, and a KwaZulu policeman killed by suspected UDF members

The IFP announced on Monday it would co-operate with the commission, subject to certain limitations, and that it would encourage its members - particularly those in jail who may qualify for amnesty - to come forward with testimony

"We are concerned about people who may have wanted to come but thought until Tuesday that their party didn't want them to come," Tutu said

The commission will on Monday discuss the possibility of subpoenaing people who could provide information about cases brought before the commission in the past four weeks

Truth Commission

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These could include perpetrators named during testimony, or people such as former Vlakplaas policeman Joe Mamasela who had made statements outside the commission about cases under investigation by it

The next public hearing is on May 20, when the amnesty committee meets in Rustenburg to consider an amnesty application by two men from the former Bophuthatswana.

The human rights violations committee will be splitting into smaller sub-groups to meet simultaneously in different parts of the country

Tutu said the commission was also considering different kinds of hearings, such as "event" hearings where a single event - for instance, the Boipatong massacre - would be scrutinised. There would also be "perpetrator hearings", where people named as alleged perpetrators of human rights violations would be given a chance to tell their side of the story

'Police raided my son's funeral'

AAU 11/5/96 (252)

DURBAN - Police beat up young mourners and smashed furniture hired from a church during a memorial service for hanged ANC guerrilla Andrew Zondo, his mother Lephina Zondo has told the Truth and Reconciliation Commission.

Two children had also been attacked and killed as they left Mrs Zondo's KwaMashu home after a prayer session for her 20-year-old son, condemned to death for planting a bomb in an Amanzimtoti shopping centre in 1986 which killed five people.

Mrs Zondo, who gave her testimony in a voice nearly breaking with emotion, told the commission yesterday her son had left school as the age of 16 while doing matric.

"He used to tell us that he was fed up with the system and that he was going to leave us. By these comments I realised he was a UDF supporter," she said in her written statement to the commission.

When he had finally left home, they had searched for him, but had been unable to find him, Mrs Zondo said.

One day police arrived and said they'd got him and that we could go and see him in prison. The family was told that Andrew had planted a bomb in the building at Amanzimtoti



John Yeld on the Truth Commission

"We visited him many times in prison and we went to Scottsville where his case was heard.

"He asked us not to come at the end (of the case). He didn't want to be sentenced while we were in the same room," Mrs Zondo said.

Andrew's lawyer had later told the family that he had been sentenced to death five times.

He had been taken to Pretoria prison where they had visited him a number of times.

"They didn't keep him long. The police arrived at our home to tell us that the day had been set for him to be hanged and we left as a family to see him in Pretoria."

The family had been deeply hurt by the prison authorities' refusal to allow them to see his

body after he had been hanged.

"It's our tradition - before someone is buried, you have to look at him to see if it's the right person," Mrs Zondo said.

"There was this heavy burden in our hearts. Why didn't they give us his body?"

"They said 'no, it's the law, they have to bury him'." The family was told Andrew was to be hanged on September 8.

They had held a memorial service for him at their house which had been attended by UDF supporters and others.

"A week went by and I still didn't know whether he had been buried," Mrs Zondo said.

Mourners had visited the house each day and on one occasion two grandchildren of a friend had been attacked and killed as they were leaving.

"One day police arrived and surrounded the house.

"As we were singing *Nkosi Sikelel' iAfrika*, there were police in large numbers at all the doors and windows.

"They beat up the youths and children in the house, but they didn't touch me.

"The police assaulted the youths terribly, the blood was full in the house and dishes were broken," she said.

One of her other sons, who suffered from epilepsy, had

been heavily assaulted, Mrs Zondo said.

"After that incident he got these attacks. He would go to bed and cry and say 'Mom, here are the police, they are attacking me'. Every time he cried, I went to his room to make sure he was alright," she said.

He had later died.

In her statement, Mrs Zondo said many of the items destroyed by the police had been hired from the church and she was still trying to replace them.

Asked whether she remembered meeting Mr Smit, whose child had died in the blast and who testified at the commission last week that he had forgiven Andrew, Mrs Zondo said she did remember the meeting and that it had helped her a lot.

"I would ask the commission to replace the furniture that belonged to the church and we don't have a death certificate. Also, we cannot go to the place where my son is buried."

Commission deputy chairperson Alex Boraine, who said Mrs Zondo's story was "one of great pain", said he was not sure what the law was relating to the remains of people who had been executed by the state.

"But we will make inquiries about your son's body and we will let you know."



Mary Zanele Madikizela

'Ask Winnie - she'll find the answer'

Own Correspondent

ARLT 11/5/96

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DURBAN - Winnie Madikizela-Mandela was mentioned during her sister-in-law's testimony to the Truth Commission in Durban as a possible link to the disappearance of her son, a University of Transkei student, who had left home to look for a job in 1987

Mary Zanele Madikizela told the Truth Commission yesterday she had been told "Winnie would know where my child is"

Mrs Madikizela, who is married to President Mandela's brother, broke down in tears as she told the commission how she had tried to find her son, Sabata, who was said to have gone to join the African National Congress in exile

"I was surprised when a boy I did not know asked me in 1992, if I was Sabata's mother

"He later told me that I would get the answers about my son if I asked Winnie, as she would be going to Lusaka

"When I met Winnie she said she was going to investigate the case but she never came back to me," said Mrs Madikizela

She never denied knowledge of Sabata's whereabouts, an emotional Mrs Madikizela told the commission

She said her hopes were raised when she was told Sabata might be returning with the first group of exiles in 1992 and in 1993 But he had not returned.

"I then decided to search for him by asking other returned exiles, and also by going to the ANC offices in Umtata

"They would tell me that they would phone Sabata, but they never got back to me," she said

Botswana MP tells of his kidnap and torture in SA

MKOLIMGXASHE
Staff Reporter

He was arrested in January 1966, in Rhodesia, while travelling by train to Lusaka, by the British South Africa Police, which collaborated with the South African police in tracking down people considered to be "enemies" of the South African government.

His British passport, issued to him by the British Protectorate authorities in Botswana, was confiscated to screen the fact that he had been arrested illegally and "become the next president of Botswana if his party, the opposition Botswana National Front, wins the 1999 general elections," as is widely speculated in Botswana.

SATURDAY prison "This is where the interrogation began in earnest, and when I refused to answer their questions

■ A top Botswana politician, arrested in 1966 in the then Rhodesia, may become the first non-South African to testify before the Truth and Reconciliation Commission.

they tortured me and beat me I was made to stand for two days and two nights, without eating or going to the toilet, with six policemen firing the questions and doing the beating and applying electric shocks in order to get a statement from me.

"They read what they claimed were confessions made by some of our comrades and wanted me to corroborate these. And, finally, just to escape the torture, I agreed to make a statement, and did, without giving them anything of substance. They were not satisfied and called it a 'tissue of lies'." But the police did not give up.

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tors told him if he co-operated he would be released and set up in business in Botswana, where he would form his own political party and work closely with the South African government, and would never have any problems about money.

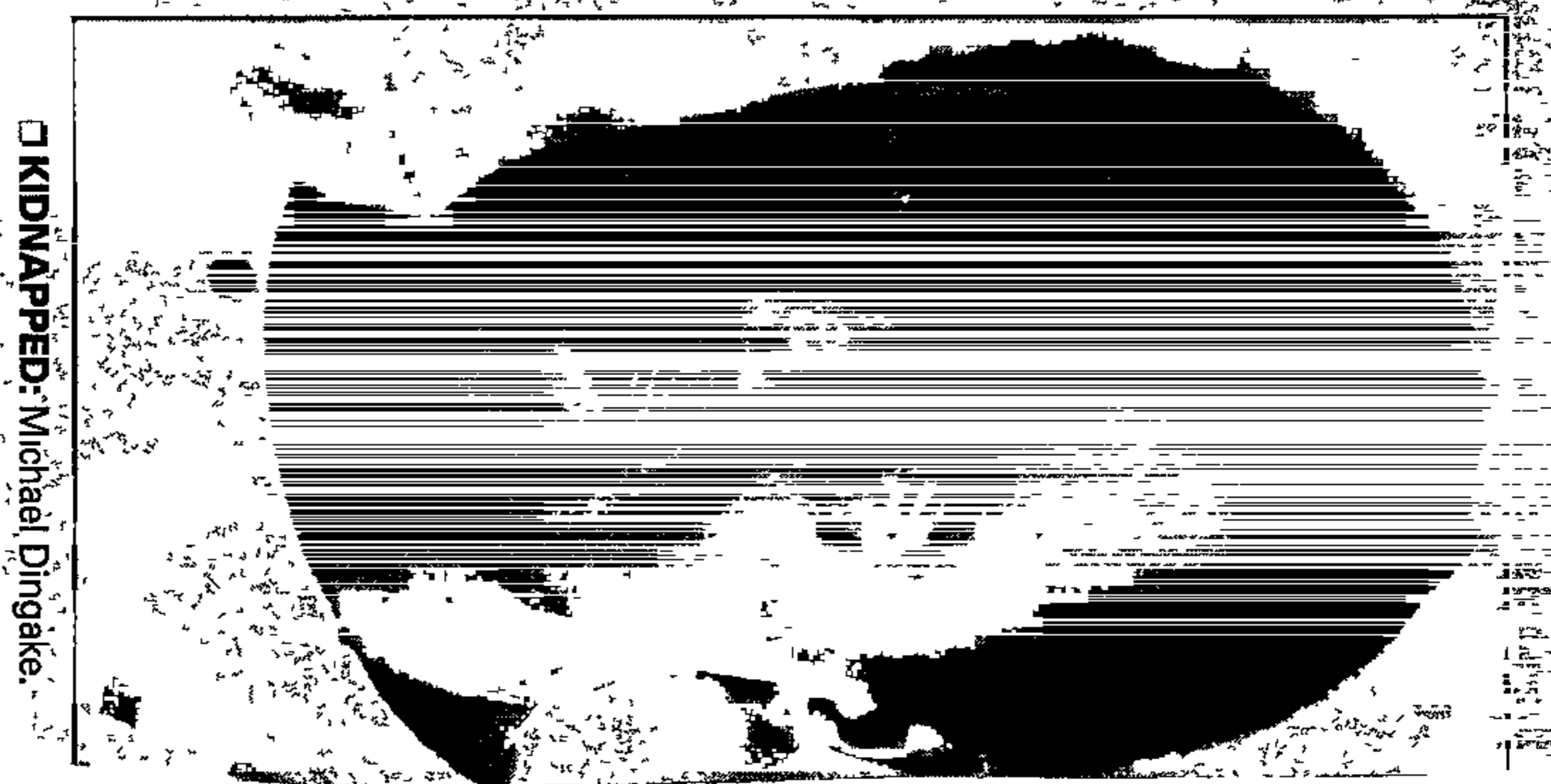
He refused all these gestures and for that paid by being sentenced to 15 years on Robben Island for membership of a banned organisation, and sabotage, and for allegedly violating the provisions of the Suppression of Communism Act.

He said the Special Branch visited him after he had been a year on the island, and took him for further interrogations and torture under the supervision of a colonel. His hands were handcuffed to the ceiling and his body left to hang in the air. "This went on for six days without eating, drinking or going to the toilet.

"I am not a suicidal person, but if I had the means of committing suicide I could have done it, but I could not do it with my hands tied to the ceiling," Mr Dingake said.

He said that even though he had not forgotten these "naughty experiences" and had even written a book on them after his release from prison, the memory of the torture, he said, was further revived by recent testimony before the Truth Commission.

"We cannot afford not to talk about these experiences, especially now that South Africa is on the path of developing a healthy culture of human rights," Mr Dingake said.



☐ KIDNAPPED: Michael Dingake.

Witnesses tell of high profile hit squad

ARG 11/6/96

(252)

DURBAN - Convicted murderer and former deputy minister for the KwaZulu government, Samuel Jamile, may have hired a hit squad to assassinate numerous political opponents in Durban's Clermont township in 1987 and 1988, the Truth and Reconciliation Commission heard.

Testifying yesterday, on the final day of the commission's Durban hearing, four witnesses, including Ciskei Supreme Court Judge Vuka Tshabalala, said they had lost relatives during a reign of terror that appeared to have been initiated from within the Clermont community.

The victims included Mr Tshabalala's wife, Pearl, Clermont United Democratic Front activist Mandla Mkhize and Clermont community leader Zazie Khuzwayo, the commission heard.

All three were gunned down, either at their homes or workplaces, by a group of attackers.

In 1991, the Maritzburg Supreme Court sentenced Jamile to life imprisonment in

connection with the Khuzwayo case.

He was later indemnified following a political agreement and released from prison.

However, the commission heard testimony on Friday suggesting Jamile may have masterminded numerous high-profile murders in Clermont.

A State witness in the murder trial of former Defence Minister Magnus Malan and 19 others, Alex Khumalo, told the commission he had been instructed to kill various Clermont business people in the 1980s.

Mr Khumalo, an Inkatha supporter, also told the Durban Supreme Court that he had received South African Defence Force training, along with other Inkatha recruits, at a secret island base in the Caprivi Strip in 1986.

Mr Tshabalala testified on Friday that he had decided to appear before the commission after reading about Mr Khumalo's testimony in newspapers. (Newspaper articles about the Malan trial) said Alex Khu-

mallo was one of the people who attacked my wife. When I saw that, I felt maybe I should come to the Truth Commission.

(Khumalo) said he'd been sent to kill business people in Clermont. It seems that (the murders) had been authorised somewhere else.

General Malan and his co-accused face criminal charges arising from the 1987-Kwa-Makutha massacre which took place close to Clermont.

Thirteen people were killed in the massacre, which was allegedly carried out by some of the Caprivi trainees.

Mr Tshabalala told the commission he had opposed Jamile in elections for the Clermont Advisory Board prior to his wife's murder. Jamile had canvassed as an Inkatha representative.

Pearl Tshabalala, Mandla Mkhize and Zazie Khuzwayo had all been UDF sympathisers who had resisted moves to incorporate Clermont into the KwaZulu homeland state at the time of their murders, the com-

mission heard.

In other testimony yesterday, Mr Mkhize's widow, Zamaswazi, told the commission Jamile should be charged for her husband's murder.

"Jamile was never charged although the killers were hired by him.

"Why wasn't he charged for hiring these people?" she asked.

In a written statement read to the commission, Mr Khuzwayo's widow, Philisiwe, said her life had been in danger since she turned State witness in Jamile's supreme court trial.

"The situation has not improved as the said MP was granted amnesty and released. I still live in fear and the threats have not ceased.

"I am convinced that as a result of my testimony in the Truth Commission, the threat to me and my family is even greater and accordingly urge the commission to do all it can to ensure our safety," she said.

She demanded to know why Jamile had ordered her husband's death. -Sapa

Nzo beat me at ANC camp

APC 11/5/96

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DURBAN - Foreign Affairs Minister Alfred Nzo was accused in front of the Truth and Reconciliation Commission of physically assaulting a prisoner at an African National Congress detention camp in Zambia in the mid 1980s.

Former head of the controversial Returned Exiles' Committee, Pat Hlongwane, told the commission yesterday he had travelled to Zambia in December 1986 to meet ANC and Pan Africanist Congress leaders.

Mr Hlongwane said he wanted to discuss the United Democratic Front, which was in conflict with the Port Elizabeth Black Civic Organisation, of which he was a member.

When he arrived in Lusaka he was questioned by ANC officials and beaten after freely admitting he had collaborated



Pat Hlongwane

with police in Port Elizabeth to "deal with" the UDF.

Mr Hlongwane said he was kept in an underground cell at "RC camp" for three months and was repeatedly tortured and assaulted. "I remember

Alfred Nzo coming there. "I hoped he would help me, but he dealt with me physically."

He said he was then moved to a camp in Angola in May 1987, ostensibly to be trained as an Umkhonto we Sizwe soldier. But he was again imprisoned, this time at Quatro detention camp.

He said he was charged in 1991 for being a government spy and sentenced to death. The sentence was later changed to 15 years' hard labour. He said he then embarked on a series of hunger strikes and was released in August 17, 1991.

"I was then sent back to South Africa in 1991, where we were welcomed by the ANC and the International Red Cross."

Mr Hlongwane said he started fearing for life after his mother was necklaced in the Port Elizabeth township of Zwijde shortly after his return from exile, and he had sought protection from Ciskei ruler Oupa Gqozo. He also claimed to be living in hiding and said he knew his life was in danger, but added "I do not need the protection of the TRC, witness protection programme, I have my men, who are protecting me, and if somebody shoots at me, I will also shoot back."

Mr Hlongwane also told the commission he intended to apply for amnesty for political offences. He did not say what the offences were.

Later Mr Hlongwane said he was going to rejoin the ANC. He said he had spoken to senior members of the ANC about the possibility of his becoming a member of the organisation. "Deep down I have never been anything else," he said - Sapa.

Staff shortages lead to crisis in local A-G's office

(252) Star 11/5/96

By ESTHER WAUGH
POLITICAL CORRESPONDENT

Acting Witwatersrand Attorney-General Kevin Attwell has painted a bleak picture of staff shortages and falling levels of experience

In his annual report, tabled in Parliament this week, he said 1995 was "marked by momentous and eventful developments, not all of which have, regrettably, been positive in nature"

The level of uncertainty experienced by the A-G's office had been

unusually high and it was felt the uncertainty could have been reduced by different strategies having been followed by the authorities. Attwell identified the personnel function in the office as the area most adversely affected

Turning to the retirement on medical grounds of former Witwatersrand A-G Klaus von Lieres, Attwell said "The unexpected and sudden departure of the erstwhile A-G in early May 1995 would have been enough to shake any office at the best of times. But to lose a

dynamic leader at a time when the office was seriously short-staffed and the challenges the office had to meet were so demanding had an effect the consequences of which cannot be exaggerated"

The delay in filling his post, a pattern mirrored in filling other vacant posts, was "unfortunate"

Attwell said news reports about 11 000 jobs aimed at making the public service more representative had had a demoralising effect on staff. His report mentioned a "steady stream of resignations"

due mainly to concerns about salaries and career prospects

All of this was exacerbated by the fact that the CBD of Johannesburg (where the Supreme Court is situated) has become a dirty and dangerous environment, he said

Another "very disruptive feature" was "the frequent, noisy marches/protests/processions" around the Supreme Court. In this regard, Attwell complained "about the apparent unwillingness of authorities to enforce the Demonstrations, On Or Near Court Buildings Prohibition Act"

The staff crisis, he said, inevitably rubbed off on other aspects of work. He singled out the "steadily falling" levels of experience which had forced the office to re-prioritise its operations on an ongoing basis

Attwell noted that court challenges of a constitutional nature involving human rights had imposed an additional strain on the office. "Not only is it a sphere in which few, if any, members have had any training before, but mat-

ters are complex, the legal position still very unclear and the essential source material for research difficult to access"

He further noted "a phenomenon which has increasingly reared its head" - experienced staff who resigned while busy with complex and partly heard cases. He said there was no alternative but to have them appointed as "outside advocates" to complete the cases, "of course at fees far in excess of what they were earning in the state's employ"

Apartheid judges may have to plead their case

By CRAIG DOONAN

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CT/12/5/96

JUDGES could soon find themselves in the dock for upholding apartheid

The names of several top judges, attorneys general, magistrates and lawyers who allegedly connived with the National Party government, appear on a list being compiled by a group of lawyers and to be presented to the Truth and Reconciliation Commission

The National Democratic Lawyers Association this week told the truth commission in Durban that judges should repent for the past and "seek redemption" The lawyers hope that judges and other legal officers will admit that they were pressured by the state to act in a prejudicial manner in upholding the law This pressure could have come from security agencies, secret organisations like the Broederbond, or politicians

A spokesman for the association, Krish Govender, alleged that

- A select group of judges had been responsible for most of the judicial executions of political activists,
- These judges played a powerful role in legitimising an illegitimate and evil system of government,
- Attorneys general and state advocates relished their task of prosecuting political trials, and
- State attorneys defended and covered up police brutality, and senior magistrates "did much more than judges in terms of volume and enthusiasm"

Mr Govender told the commission those responsible for "whitewash" inquest findings into the deaths in detention of anti-apartheid activists, including Steve Biko, Dr Neil Aggett, Ahmed Timol and Dr Hoosen Hafjee, should also account for their actions

The association was considering an extensive submission to show how deep the support for apartheid went. In particular, the submission would include names of judges who had handed down "questionable sentences", most of which led to hanging, Mr Govender said

The hanging of Andrew Zondo for the 1985 Amanzimtoti bomb blast was a specific case. "Among the extenuating circumstances advanced before sentence was his youth. This alone ought to have spared him, as it would have in any civilised court of law in the world," Mr Govender said

Zondo's mother, Lephina Zondo, this week asked the commission for help after police smashed furniture at her house during a memorial service for her son

Judge Raymon Leon, who presided over the case, declined to comment on Mr Govender's remarks

Jody Kollapen, the national director of Lawyers for Human Rights, said his organisation would carefully consider whether to support the planned submission

"For the truth commission to be effective, it has to be a voluntary process. It has no mechanism to call these people up unless their conduct was equivalent to criminal action," he said.

Mr Govender said he had received overwhelming support: "I've had calls from lawyers all over the country. People are dissatisfied that the work of the police during apartheid was concluded by some people in the justice system"

A Cape Town magistrate, who asked not to be named, said she supported Mr Govender's submission because she had been harassed by senior judicial staff when she had protested that they were covering up a case in which an innocent man had been jailed

But the submission drew a sharp reaction from the Attorney General of Kwazulu Natal, Tim McNally. Mr McNally wrote to Archbishop Desmond Tutu, the commission chairman, asking for a chance to cross examine Mr Govender and to put the other side of the story

Archbishop Tutu's deputy, Dr Alex Boraine, said Mr McNally could come forward "to speak about the roles of attorneys general". He said the commission would meet the country's attorneys general in about two weeks to consult with them about the commission's work

"We may also invite the judiciary to give evidence, in the same way we may invite Mr F W de Klerk, who was partly involved in the past regime, and the ANC, because it was involved in the conflict, and anybody else

"The judicial system was part of the human-rights violations of the past — and of defending human rights. Lots of lawyers did a superb job but the system, in terms of magistrates, very often were all white and the only blacks there were standing before them," he said



Psychiatry horrors exposed

By BENISON MAKELE

THE Citizens Commission on Human Rights (CCHR) is to testify before the Truth and Reconciliation Commission (TRC) on the dehumanising effects of psychiatry on black people during the apartheid era.

CCHR spokesperson Paul Sondergaard said his organisation, which has a long history of exposing psychiatric human rights abuses internationally, will give evidence on "psychiatry's betrayal in the guise of help."

Among abuses prevalent in mental institutions are the flogging, electrocution, and heavy drugging with anti-depressants of patients, which, according to Sondergaard, turns black patients into zombies.

A recent report handed to Minister of Health Nkosazana Zuma revealed rampant human rights abuses in mental institutions and condemned the majority of them as unfit for humans.

The Mental Health Act of 1973, which forbids the publication of sketches and photographs and any information on mental institutions is scheduled for revision and amendment to address human rights issues, according to a spokesperson for the Health Department.

Furthermore, the provinces have decided to establish facility-based task teams to investigate allegations of human rights violations against mental health patients.

The investigations will look at financial, management and relocation implications and the impact on patients and their families.

The CCHR has charged that alternative healing methods need be explored - including traditional healing techniques.

Meanwhile, the President of the Traditional Healers Organisation of South Africa, Horatius Zungu, said that traditional healers treat up to 80 percent of the population and have achieved success in curing afflicted people.

Truth Commission to go across borders

By BENISON MAKELE

CHILLING stories of cross-border raids which left hundreds of southern African citizens dead, maimed and orphaned by South African security forces during the total onslaught period will be heard before the Truth and Reconciliation Commission (TRC).

Justice Minister Dullah Omar's spokesman Barend Heystek confirmed that the TRC will, if need be, cross borders to probe human rights violations of the sub-continent's citizenry.

Citizens of Botswana, Lesotho, Swaziland, Mozambique and Zimbabwe were also entitled to address the TRC on individual human rights violations, according to Heystek.

High on the list of atrocities committed by the erstwhile apartheid regime will be the assassination of the SACP's Joe Slovo's wife Ruth First in 1982 in Maputo,

Mozambique, the 1983 assassination of Joe Gqabi in Zimbabwe, the merciless killing of liberation movement cadres in Lesotho and Botswana and the mortar bombing of Samsuddin Chand in Sikwane, Botswana, in April 1990.

In the latter case, Chand and his wife Hagera, their three sons, the watchman and his dog were mortar bombed by alleged South African agents two months after President Mandela's release.

During an interview late last year one of Chand's two surviving children, Fawzia Bett, who lives in Mayfair West, Johannesburg, vowed never to rest until her father's killers were brought to book.

"I will never forgive them. They must be found and hauled before the courts. My father did them no wrong. Why was it necessary to kill almost the whole family?" she said, adding that she was prepared to testify before the TRC.

South Africa's High Commission in Gaborone, Botswana, had received representations from people seeking redress for human rights violations by the apartheid regime, according to a spokesman for the commission.

The TRC has instructed South Africa's ambassadors in the neighbouring states to liaise with governments in the region in this regard.

Ditshwanelo-Botswana Centre for Human Rights spokesman Thuso Bogatsu said his organisation had not been aware that the TRC would be open to non-South African citizens and, as a result, had not formulated any strategy to deal with such an eventuality.

First Secretary in the Mozambican embassy Benedicto Nasson said he was not aware of the commission's quest to probe human rights violations against citizens of his country but would welcome such probes in helping to unmask the apartheid dragon.

PAC deputy president Dr Motsoko Pheko said his organisation, while it did not agree with the commission's terms of reference, would testify for the sake of 600 Apla cadres currently serving long jail terms for liberation activities.

But, Pheko emphasised, Apla cadres would not implicate themselves in pursuit of amnesty, adding that a full strategy would be worked out by Apla's High Command on how to present their testimony before the TRC.

However, Pheko stated that the organisation's appearance before the TRC was no admission that they had committed any "crimes" as apartheid was a crime against humanity.

"We object to the criminalisation of our struggle," he said.

The National Association of Democratic Lawyers (Nadel) this week called on the perpetrators of past apartheid abuses to come forward "and redeem themselves."

Inkatha misses chance to speak

By WALLY MBHELE

AT THE first hearings of the Truth and Reconciliation Commission (TRC) held at the Durban Jewish Centre in KwaZulu/Natal, only the Inkatha Freedom Party was conspicuous by its absence.

Except for a lone former Inkatha councillor, Nicholas Miya, who braved all calls not to attend and told the TRC how UDF comrades had burned down his house. The tide was against his organisation. Victims of past human rights abuses came in droves and the commission was unable to hear all of them.

The TRC hearings in Durban this week exposed how deeply this province has sunk into the culture of violence.

This tragedy was brought home when on the first day of the hearings, three gunmen opened fire on taxi passengers in Umhlanga, seriously wounding three.

The attack followed hard on the heels of running battles between the police and Inkatha supporters on the streets of Durban last Saturday. Seven people, including three policemen, were injured.

Inkatha changed its mind about telling its supporters not to testify to the commission – apparently aware of the negative repercussions of a boycott.

But it was too late. The supporters never came. The

commission had to listen to witness after witness accusing the organisation of cold-blooded attacks.

This coincided with police allegations that Inkatha had ordered the Christmas Day massacre at Shobashobane. Opposing bail for 26 Inkatha members charged of murdering 18 people, Captain Johan Kotze alleged in the Harding magistrate's court that between 2 000 and 3 000 Inkatha supporters chased ANC sympathisers from their homes that day.

They allegedly herded the victims towards Izingolweni police station on the South Coast, where they were butchered and shot.

No wonder, amid these revelations, the Inkatha leader finally agreed to meet the TRC, observers noted.

Not only Inkatha and the former KwaZulu police faced a barrage of allegations at the TRC. So did the former SA Police and Defence Force.

As the victims relived their horror, one could almost feel sorry for the perpetrators too – for one got the sense that they did not always know what they were doing.

There were also moments of laughter – for truth can sometimes produce humour to ease the pain.

This came when former ANC detainee Pat Hlongwane arrived to haunt his ANC torturers. Hlongwane was asked to refrain from naming his alleged torturers

as the TRC is restricted by a Supreme Court order from doing so. However, the man proved to have a "short memory". He sparked laughter as he named more alleged perpetrators hardly a minute after being warned not to.

But he said he still feared for his life and would be going "underground" on his return home.

When the hearings for victims closed on Friday evening, TRC chairman Archbishop Tutu told the press "I don't think one can get used to this. I thought we knew, but when you hear it from people who survived, it's rough."

The hearings will resume on May 20 when alleged perpetrators of abuses tell their story in Rustenburg.

JUST when he thought the dust had settled, Former KwaZulu Minister of Interior Samuel Jamile was this week plunged deep into hot water as accounts were given of alleged hit-squad activities.

At least three families – whose members belonged to the Clermont Advisory Board in Durban – alleged that Jamile ordered the killing of their next of kin during the 1980s. Because two of the families have allegedly been threatened with death, they were immediately put under the Truth and Reconciliation Commission's witness protection scheme.

The Advisory Board, consisting mainly of business people, resisted

incorporation into the former homeland of KwaZulu.

It also emerged that a witness who broke the story of Jamile's shadowy activities to City Press is in hiding after alleged attempts to "eliminate" him.

Jamile, an Inkatha strongman at the time of the incidents described, was in 1991 sentenced to 32 years in jail. He was soon released on indemnity, however.

Among some dramatic evidence which had the public at Friday's hearing shouting in disbelief:

It was alleged that outgoing deputy president F W De Klerk (then president) and his former Minister of Law and Order, Adrian Vlok, were sent a recorded tape of Jamile's hit-squad activities. No action was taken though De Klerk said he would look into the matter.

It was also revealed how members of the former KwaZulu police allegedly participated in the assassination of Advisory Board members. They never appeared in court.

Before the killings, the commission was told, Jamile had been spreading word that some board members would be killed.

As the lurid details of conspiracy and murder unfolded, TRC sources told City Press that Jamile was certain to be called to appear before the commission.



A MOTHER REMEMBERS . . . Joyce Seipei, mother of slain child activist Stompie Seipei, was at the TRC hearings in Durban this week with her daughter, Elizabeth. Stompie was found dead in 1989 after he had been abducted and taken to the house of ANC MP Winnie Madikizela-Mandela.

Picture: THULANI SIHQI/E

Secret web of death & deceit finally exposed

By WALLY MBHELE

FOR THE first time, former controversial African National Congress detainee Patrick Hlongwane revealed how he – in 1984 and 1985 – participated in the grisly murder of two United Democratic Front activists in Port Elizabeth.

Hlongwane told City Press he had made a statement to the Truth and Reconciliation Commission's Amnesty Committee confessing that he was also involved in spying on the "Pebco Three" shortly before they were abducted and killed by the police.

Hlongwane – who was held in ANC detention camps in many African countries – said he acted on behalf of the state and wished to inform the families of the deceased that he was responsible.

This, according to Hlongwane, was a result of instructions from the security police branch in Port Elizabeth.

Shortly after testifying before the TRC in Durban about his torture in exile, Hlongwane told City Press that his organisation, the Returned Exiles Committee, was formed with the assistance of former Military Intelligence.

He said the REC, which he described as "the former government's project", was formed after he met with a Major Davidson of the MI in Pretoria in 1991 with the aim of carrying a campaign to destroy the ANC before elections.

Among other things, Hlongwane alleged that when he moved to Lindelani to join the Inkatha Freedom Party, he became involved in Third Force activities, supplying arms and ammunitions to IFP hostels in Durban and Gauteng, adding that the IFP "wants to kill me since I ap-



RESPONSIBLE ... Patrick Hlongwane tells of his intricate involvement in controversial parts of SA history.

proached the TRC about my revelations."

According to Hlongwane, he was recruited in 1980 by a Sergeant Swarts of Port Elizabeth when he, together with two other activists, were arrested in connection with possession of explosives.

"As a result charges were dropped against me – and my two co-accused, Mzamo Madolwana and Mziwabantu Bhadesho, were each sentenced to 15 years," said Hlongwane.

Thereafter, Hlongwane claimed he and the police carried attacks on PE activists' homes. Some of those homes were bombed.

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He revealed that a popular PE leader, Mkhuseh Jack, who initiated the boycott of white businesses in the Eastern Cape, narrowly escaped death in June 1985 when he raided his home on a mission to assassinate him.

Hlongwane further revealed that he was responsible for the murder of Jack's uncle, Mpumelelo Mpendu who a high ranking UDF activist. He alleged to have carried the murder with the former PE major, Thamsanqa Linda in 1985.

This was after he had allegedly stabbed to death a Cosas activist, Mzolis Gxuma in 1984. Following these murders, Hlongwane says he was arrested but charges were dropped against him.

The policemen responsible for dropping the charges, according to Hlongwane, were Colonel Roelofse and Major Dion Nieuwoudt – who is presently facing charges of murdering his colleagues in the Motherwell case.

Among the charges faced by Nieuwoudt is one related to the killing of Sergeant Amos Faku who was suspected of being about to reveal details of the kidnapping of Sipho Hashe, Qaqawuli Godolozu and Champion Galela, popularly known as the Pebco Three.

Faku received messages from Hlongwane about the whereabouts of Pebco Three shortly before they were abducted, tortured and killed.

The beleaguered Hlongwane, who also became a close associate of former Ciskei strongman, Oupa Gqozo, said he wished to return to the ANC so that he can be able to visit his PE home again.

The last time he went there, was when he was accompanied by two Ciskei soldiers at night to visit his father.

The truth commission moves into phase two of its work

Drew Forrest

BD 13/5/96

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THE truth commission is planning large scale "event hearings" focusing on landmark upheavals such as the 1976 Soweto student uprising, and forums for political parties and other organisations as it moves into the second stage of its activities.

These hearings will form part of a new agenda now that phase one of the commission's work — symbolic setpiece hearings for victims — is over.

The full commission will meet on Wednesday to digest the lessons of phase one and to map out its operation for the remainder of its two year lifespan.

Commission chairman Archbishop Desmond Tutu and other commissioners indicated last week that a range of forums was on the cards. Small scale victim hearings will continue, but perpetrators will come increasingly under the spotlight.

Event hearings are designed to shed light on broader patterns of human rights violation. KwaZulu-Natal co-ordinator Richard Lytster said they would be of key importance in coming to grips with the thousands of violations in KwaZulu-Natal over the past decade.

Tutu said the human rights violations committee would break into as many as four roving units to hold victim hearings across the country.

The organisational forums are expected to be major setpieces at which party luminaries such as Deputy President Thabo Mbeki and NP leader FW de Klerk may testify.

Also in the offing are follow-up hearings to check the veracity of victim testimonies. Named perpetrators will be given the right of reply and the opportunity to subject victims to limited cross-examination.

At the same time the amnesty process begins in earnest with the first public hearings scheduled for the Rustenburg area next Monday.

But it is unclear when the first amnesties will be announced, as last week it was decided not to grant amnesty pending a constitutional court challenge to the amnesty process.

Council writes policy on road access control

Ingrid Salgado

BD 13/5/96

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GREATER Johannesburg's eastern metropolitan substructure has drawn up a comprehensive policy document on suburban road closure and access control due to demand from residents for restricted access to their homes as a way of preventing crime.

Councillor Craig Stephens said the council was considering applications on the matter every week. It had recently agreed to approve applications where more than 80% of residents in affected areas consented to roads being blocked off.

A working group had been set up to hear the applications. Seven applications for either road closure or access control had already been approved, primarily in Sandton, and several others were in

the pipeline.

With the council's consent, residents could set up a section 21 company, to which those in favour of road closure or access control would pay a monthly fee to the private security companies guarding the roads. Residents against restricted access were not forced to contribute.

The system was cost effective since all residents with alarms in their homes normally signed up with one security company, thus introducing economies of scale.

Police in the area believed restricted access had a "positive effect" on reducing crime, Stephens said. Private patrolling meant police resources could be used elsewhere while police representatives sat on the working group to hear applications. He dismissed claims by a

Sandton resident that security companies acted like vigilantes and "private police forces". Security officials were law-abiding citizens and there was no evidence of gangsterism or anarchy, Stephens said.

The resident, former Sandton councillor Frederick Ehlers, alleged that the "rule of law" in Sandton had broken down and security companies had erected "barriers" on roads leading into Barlow Park, which is his place of residence.

But Stephens said the council had received only one written objection to the boom, and that was from Ehlers. More than 90% of residents in the area were in favour of the boom. He said that Ehlers, whom he defeated in last November's local government elections, had "sour grapes"

If names are named then so be it

(252) CT 15/5/96

PAUSING FOR REFLECTION after the first sessions of the Truth and Reconciliation Commission, Contributing Editor **MIKE NICOL**, author and journalist, argues that those responsible for causing the pain and suffering, about which victims have spoken so eloquently, should be named.

"THE way in which members and former members of the police have been placed in a bad light by some vague allegations, generalisations, hearsay evidence and apparent innuendos cannot be tolerated any further"

This statement was issued by policemen Mike Geldenhuis, Johan Coetzee, Henne de Witt and Johan van der Merwe after Mr Justice Edwin King's recent ruling in the Cape Supreme Court that retired police Brigadier Jan Abraham and retired General Nicolaas Jacobus Jansen van Rensburg should be granted access to documents held by the Truth and Reconciliation Commission

The TRC had earlier advised the former security force officers that they were going to be named in testimony as being connected with the disappearance or poisoning of someone in Port Elizabeth in 1981

What is interesting about the statement from Geldenhuis et al is its tone. It could be described as bluster, yet the words "cannot be tolerated any further" carry a warning. There is an echo here from the iron days

Consider this "The public must take

notice of the fact that our enemies will in future want to undermine us with greater hatred and venom than ever before. Between them and us stand the police."

The quote was made by former Prime Minister John Vorster when he refused to institute a special commission into the death of Ahmed Timol who fell from the 10th floor of John Vorster Square police station in Johannesburg one Saturday in October 1971

Once again the message is not only in the words but in the tone. The tone speaks of authority, impunity, power. Neither of these positions is valid any longer. However, they are implied in the Geldenhuis statement and have been

given a measure of credence by Judge King's decision. What has been signalled — no doubt unintentionally — is that the law that once shielded police activity can still be relied on

At the Truth Commission hearings in Johannesburg on the same day as Judge King's verdict, Hava Timol, the mother of Ahmed Timol, told how the police had returned her son's bruised and disfigured body to her with its finger nails ripped out, broken teeth and electric shock-burns on its legs

"The face was covered with blood, the coffin was filled with blood. I will not forget what happened," she said

At the time, after an inquest that lasted six months, magistrate J J L de Villiers found that Timol had not been assaulted while in police custody and that nobody was responsible for his death. The magistrate labelled Timol a self-confessed com-



AHMED TIMOL: 'Bloody coffin'



'PLACED IN A BAD LIGHT': Policemen Mike Geldenhuis, Johann Coetzee and Henne de Witt whose statement is seen as 'an echo of the iron days'.

munist and said that communists were expected to commit suicide rather than betray the party, thus confirming the police version of events

It is within this context that Judge King's ruling is inevitably going to be seen. Every day for the last three weeks testimonies of those who were tortured, of the bereaved, of those whose relatives disappeared have been recounted. Often the contemporary responses from the courts have also been reported. Invariably these are as biased as the Timol finding

What has to be stressed is throughout the last two or three decades people who had a strong moral right found themselves impotent before the law

So when it is reported that by naming names "people's lives are going to be destroyed, some people are guilty but many may be innocent" the response from many quarters may be "So what? Let them be named, they have the amnesty commission or the courts where they can clear their names"

This, of course, flies in the face of our prevailing attitudes towards human rights. And yet, given the years of apartheid, there is a simple way in which

It is right. It has moral force

Because of this, I find myself saying "Name them!" Nobody could ever have expected the TRC to be fair to everyone and if this means that a clutch of old brigadiers and generals are implicated in disappearances or poisonings, then, as Judge King said of his test case finding, "so be it" If it means that some still working in the police force find themselves facing allegations of torture or murder, then again, so be it

I admit innocent lives are going to be traumatised. First, those who are named and are not guilty (But, as has been mentioned, they can challenge the accusations.) Then the wives, children or grandchildren who suddenly have to face a new image of their husbands, fathers or grandfathers. They may have to start living with the knowledge that the hand that caresses them may also be a hand that has killed.

Unfortunately for them there is nothing that can be done about this. Those who joined the security forces did so by choice. They aligned themselves with an institution that was widely perceived as an occupying army. The consequences of doing this is what they are being called to account for now

WEDNESDAY
★ MAY 15, 1996

PLANS TO FIGHT RAMPANT CORRUPTION

Omar: We must clean up justice system

UNLESS THE GOVERNMENT could "eradicate crime very quickly, it would undermine all the work we are doing," Justice Minister Omar Dullah told the Cape Times last night. Political Writer **HENRY LUDSKI** reports.

MINISTER of Justice Dullah Omar announced sweeping plans last night to fight rampant corruption in the criminal justice system

The measures include the enactment of special legislation that will give an Anti-Corruption Commission — the establishment of which was announced by President Nelson Mandela recently — unprecedented powers to fight corruption

Commissions normally have powers of recommendation, but the plan includes the appointment of Mr Justice Heath of the Eastern Cape to look at how the commission can be given "the teeth to take drastic action against corruption"

An example had to be made of criminal elements undermining the justice system, Omar said and added "We want to eradicate corruption very quickly and the commission must be able to follow up cases and cut through all the red tape and enable action to be taken against those involved"

The government has been under severe pressure in recent

months to deal with the soaring problem of crime affecting the stability of the country and undermining investment confidence in South Africa

Omar told the Cape Times in an interview last night he would be tabling legislation in Parliament shortly to get the powers of the commission extended

"I will speak to the President personally in an attempt to get the cabinet's approval for such legislation"

He added that unless the government was able to "eradicate crime very quickly it would undermine all the work we are doing"

Problems in the criminal justice system had been characterised by the disappearance of dockets, the withdrawal of cases and the easy acquittal of criminals — all largely due to corruption

"All those things are to a large extent due to elements within the criminal justice system operating with and being in collusion with gangsters and criminals

"They manipulate the system to keep evidence away from courts, they don't bring dockets to court,

dockets disappear and it's all people in the system"

Omar, whose budget vote will be debated in the Senate today, also launched a scathing attack on criminal elements in the police, which he singled out as being the greatest source of corruption

"I am not saying there is no corruption in courts, but the major source of corruption is within the police. Magistrates don't handle dockets, so there is no way that magistrates are responsible for the disappearance of docket."

Responding to what he described as "a misconception in the eyes of the public" that the Department of Justice was responsible for the fact that people were not arrested, that there were no proper investigations, and that criminals got off very easily Omar said

"Those things have nothing to do with the Department of Justice. Those are police matters, for which the Minister of Safety and Security is responsible"

Today's debate in the Senate is also expected to focus on the question of an accelerated programme of affirmative action in the Justice Department, the upgrading of courts, the overhauling of the entire judicial structure and the creation of greater access to the courts

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CT 15/5/96

Security police told woman she 'would fly like a bird'

JOHN YELD
on the Truth Commission

JOHANNESBURG — Security police with "wild eyes" threatened to make a woman prisoner being detained without trial "fly like a bird" from the window of an office in their headquarters at John Vorster Square, the Truth Commission has heard.

Paulina Mohale, who was later charged on Terrorism Act charges with Gauteng Premier Tokyo Sexwale and 10 others,

testified that she had spent 18 months in jail after being arrested by police near the Swazi border in 1976.

Ms Mohale, who was 26 at the time, said she had been repeatedly beaten and given electric shocks with something that looked like an umbrella while being questioned on the supply of arms to the African National Congress.

She was later taken to Johannesburg's John Vorster Square where she was told her mother had been arrested and would

be killed if she did not co-operate.

"They also took me to the 10th floor and told me, 'You see this window? We'll

make you stand on the table and fly like a bird. Many people have flown like a bird.'"

Earlier, the commission heard moving testimony from a frail Hava Timol, the mother of teacher-activist Ahmed Timol who police alleged had jumped to his death, also from a 10th floor window in the same building on October 27, 1971.

Mrs Timol said she had seen her son's badly beaten body and was convinced he had not committed suicide.

Ms Mohale said the policemen who had interrogated her had looked "wild". They were huge, very hefty. They looked like cannibals. They threatened me. They said 'You are not going to come out of here alive'."

Ms Mohale said she had repeatedly asked to see a doctor while being detained, but had been seen only once by a district surgeon who had prescribed sleeping tablets which had "drugged" her.

"He never examined me thoroughly. She had not been visited by a magistrate after being released, she had had a nervous breakdown and had to consult a neurologist at Baragwanath Hospital.

"It really made me feel bad. At times I would dream 'I just couldn't adjust to the normal situation of the farm'."

Mrs Mohale said

● Reports and pictures on page 4.

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Court rules on right of appeal

Deborah Fine
15/5/96 (252)

THE Constitutional Court ruled yesterday that Section 20 (4) (b) of the Supreme Court Act of 1959 — which limits litigants' right of appeal — was not inconsistent with the constitution.

The Act provides that there can be no appeal against a judgment or order of a Supreme Court Division in civil proceedings unless leave to appeal has been granted by that court or, where leave to appeal has been refused, leave to appeal has been granted by the Appellate Division.

Without such leave, a litigant may not prosecute an appeal.

The Act's validity was challenged on the grounds that in setting preconditions for civil appeals, section 20 (4) (b) breached the constitutional guarantees of equality before the law as well as the section 22 clause which protected the right of access to courts.

Delivering judgment on behalf of a unanimous court, Judge Kate O'Regan said the court had applied an earlier decision in which it was held that in criminal trials, the leave to appeal and petition procedure was sufficient to satisfy constitutional fair trial requirements. The court had extended the principle to civil matters.

The court was not convinced that section 22 rights of access to court were violated by a procedure which excluded undeserving appeals and enabled a higher court to make a decision on the prospects of a successful appeal.

He had not joined the ...

Hanekom to focus on food supply in new post

Louise Cook
15/5/96

FOOD supply would be a critical priority when he took over as agriculture minister from incumbent NP minister Kraai van Niekerk in July, Land Affairs Minister Derek Hanekom said yesterday.

The National African Farmers' Union (Nafu) said cheap food production needed rapid land reform and additional agricultural support services. The union said Hanekom must increase support to small and medium-sized farmers and "recognise" their role in successful food production.

Hanekom had been chosen to run the agricultural portfolio in President Nelson Mandela's Cabinet reshuffle on Monday. Van Niekerk, one of the NP ministers who walked out of the government of national unity last week, held the post for eight years.

Nafu spokesman Steve Mokwena said the union looked forward to working with Hanekom, and called on him to put together a task team which understood the needs of the African farmer.

Hanekom has lashed out at right-wing farmer unions in the Northern Transvaal and Mpumalanga for suggesting land reform was a "socialist" policy. Farmers were not "victims of arbitrary confiscation" of land, he said. Most accepted the validity of land reform.

The agricultural sector had to contribute to the economy and a

clear marketing policy was also urgently needed, he said.

Meanwhile, senior officials from both the land affairs and agriculture departments are to meet in Cape Town early next week to decide how best to run the departments.

They will share a minister from July 1 following Mandela's decision to allocate the agriculture portfolio to Hanekom.

Senior land affairs officials said the position of deputy land affairs minister — held by the NP's Fanus Schoeman, who took over from Tobie Meyer when he resigned this year — could be scrapped if the departments merged.

But land affairs senior legal advisor Renaldi Bester said a merger would present difficulties. The two departments employed about 5 500 staff, which could make a single department cumbersome and difficult to split up again if Mandela ever wanted a separate agriculture minister in the future.

"Nothing can be decided yet — we first need to know the situation regarding the new deputy ministers," he said.

Land affairs officials said that if Mandela scrapped the position of deputy land affairs minister, Deputy Agriculture Minister Thoko Didiza would stand in. They expected Hanekom to focus heavily on farming issues at first.

Comment: Page 12

Truth testimony prompts reopening of McBride bomb case

STAFF REPORTERS

KwaZulu Natal Attorney-General Tim McNally is to reopen the case of the 1986 Magoo's Bar bombing. McNally said yesterday that Robert McBride would be asked to identify the person who gave the order to place a car bomb outside the Durban beachfront ladies' bar.

This follows testimony before the Truth and Reconciliation Commission on what happened to the victims of McBride's bomb.

After last week's hearings, McBride said his seniors in the ANC

had ordered him to place the bomb outside Magoo's. He has declined to name these people.

McBride was subsequently sentenced to death, but is now deputy director in the Department of Foreign Affairs.

McNally said yesterday the next step would depend on whether McBride gave a statement "and what is in the statement".

McBride has said he would not identify the Umkhonto we Sizwe commander who ordered him to plant the bomb.

The ANC slammed the new development yesterday, saying it

was totally unacceptable to treat McBride in a similar vein to those who, in the pursuit of the implementation and maintenance of apartheid, tortured, maimed, and killed people, and yet had never been brought before a court of law.

Cher Gerrard, sister of Magoo's victim Marchelle, who was 28 at the time of her death, said she was happy that the case was being reopened.

Magda's Malan is being tried on the same sort of basis, so what is fair for one is fair for the other.

"But it doesn't matter who

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gave McBride the order, he planted the bomb. If he argues that he was in a state of war, then he should be tried as a war criminal," Gerrard said.

McBride could not be reached for comment.

■ It was a misconception that Robert McBride had received amnesty, according to the Department of Justice. "McBride's sentence of death was initially commuted to a sentence of imprisonment, whereafter the received remission of sentence in September 1992," a spokesman from the department said.

Investigation ordered after 'Kaalvoet' set free



AP Photo

THURSDAY
★ MAY 16, 1996

TRUTH COMMISSION SPLITS UP

Revelations so far only tip of iceberg

THE TESTIMONY heard by the Truth Commission so far is only the tip of the iceberg — many more victims will still be heard. **ROGER FRIEDMAN** reports.

THOSE in denial, those suffering guilt-overload and those who simply don't care will draw scant relief from the fact that the ghastly tales of those who suffered under apartheid rule have only just begun to be told — reconciliation through acknowledgement of the truth is not an overnight sensation.

The Truth and Reconciliation Commission's first round of public hearings which ended last week in Durban, taking in East London, Cape Town and Johannesburg, were, really, just an hors d'oeuvre.

Yesterday, the commission's Western/Northern Cape headquarters in Adderley Street announced plans for a further 16 sets of hearings to be conducted in this region over the next year — starting in Kimberley on June 10, followed by visits to George and Worcester.

All of these hearings will be conducted by the Committee on Human Rights Violations. The format will differ to what has gone before in that they will be presided over by one or two commissioners at a time, instead of virtually the entire commission.

The committee will also convene a variety of "specialist" hearings which will include submissions by political parties and other interest groups, and "event" hearings to scrutinise specific incidents such as the Bisho Massacre, Boipatong and the 1960 Langa shootings. It has not been said in which regions the specialist

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Little told of women's abuse

ROGER FRIEDMAN

THERE has been the notable absence in the spectrum of debauchery unveiled thus far by the Truth and Reconciliation Commission, and that is crime against women.

Nobody has said that rape and the assault of women did not occur during a period of violent struggle and upheaval. The rape of women by security force members, and by the "comrades" in the liberation movement camps, has thus far remained an unspoken thing.

Of the 140 witnesses and victims of human rights violations who appeared before the commission thus far, less than a handful of women spoke about being physically abused. A grandmother came closest when she spoke of her abuser

attaching electrodes to her vagina.

Most women who appeared before the commission were the widows of their slain husbands and daughters of male victims of brutality. This depiction of women as "secondary victims" led to some contention among feminists, with representatives of the Gender Network holding talks with the commission earlier this week.

Commissioner Mrs Mary Burton said yesterday women had definitely not been overlooked: "The first four weeks reflected women as secondary victims. That's part of the reality, but I think there's more to be told."

Although special provisions could be made for women to tell their stories at "closed hearings", Burton hoped they would be able to speak in public.

The three sub-regions are Peninsula and Northern Cape, Boland and West Coast/Namaqualand, and the Southern Cape and Karoo.

Commissioner Dr Wendy Orr emphasised yesterday that those appearing as witnesses in public represented only a small number of those making submissions to the commission. Through their public testimony they were affording South Africa a "window into the processes of the commission".

The commission will derive most of the information it requires from the statements of thousands of victims who will not appear in person. The commission will also have their evidence investigated, and they too qualify for reparations.

Omar appeals for corruption inquiry into justice system

By **PATRICK BULGER**
Parliamentary Correspondent

Cape Town — An "independent investigation" into widespread and demoralising corruption in the criminal justice system is "in the pipeline," according to Justice Minister Dullah Omar.

He told the justice policy debate in the Senate yesterday that an "independent, competent body" was needed to investigate corruption because "unless we eradicate this, we will not restore confidence in the criminal justice system."

He described the corruption as "terrible" and said it was "very important that corruption be ripped open and exposed."

"The public is entitled to know the truth. Indeed, local communities know of the corruption within the system in their local areas. But public acknowledgement is essential, so as to enable us to find solutions."

"In my view, a major reason that perpetrators of serious crime — especially in gangsterism, syndicate activity, including drug trafficking — are not arrested, is because elements in the criminal

justice system co-operate with them to avoid and prevent arrest.

One of the major reasons — in addition to other weaknesses in the system — for poor investigations, easy bail, unsuccessful prosecution and the withdrawal of cases is that elements within the criminal justice system manipulate cases to achieve results.

"That is why police dockets disappear, why dockets are not in court on trial dates, why witnesses are not in court when cases are called and why important evidence is often not placed before the courts."

Omar said he had spoken to "ordinary, hard-working, decent policemen and women" who took risks performing their duties.

"Not only are they demoralised by poor pay, lack of equipment and facilities, their major demoralisation flows from collusion which exists within the criminal justice system with gang leaders and syndicate leaders."

Omar said he was not satisfied that steps that had been taken, to stamp out corruption were adequate, and he had passed his impressions on to Safety and Security Minister Sydney Mufamadi.

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Listen to the victims, commission urges F W

JOHN YELD
on the Truth Commission

OUTGOING Deputy President F W de Klerk has been challenged to spend a day listening to the testimony of victims of human rights abuses.

Mr De Klerk said recently the Truth and Reconciliation Commission was not promoting reconciliation.

The challenge came from commission deputy chairman Alex Boraine, who said yesterday at the end of a two-day meeting of the full commission that there was "something happening" in the country after the first four weeks of testimony by about 140 victims.

"There is the beginning of an unfolding of wonder and of some guilt, some shock and some hope that we're coming to terms with our past and that the last word is not revenge but healing," Dr Boraine said.

Mr De Klerk told a youth rally in Pretoria recently that the Truth Commission was not fulfilling its objective of promoting national reconciliation.

"You cannot really say 'reconcile' if you in the wrong way, open up old wounds," he said.

"I am beginning to become sceptical. I don't think that the processes they are following are doing this (promoting reconciliation). So, we are watching them. They are moving in the wrong direction."

But Dr Boraine said Mr De Klerk's criticism was "in strong contrast" to the response of President Mandela, Justice Minister Dullah Omar and most of the people who had telephoned, faxed and written to the commission.

"If he really wants to know I would invite him to come and spend a day - not to talk, but to listen," Dr Boraine said.

Commission chairman Desmond Tutu said Mr De Klerk had been reported as saying that the commission should give amnesty to everyone who applied.

"And of course the commission will grant amnesty to everyone - everyone who fulfils the conditions (laid down in the Act)," he said.

● See page 3



Revival of Maggo's case slated

Boraine astounded at McBride subpoena as ANC queries KwaZulu A-G's decision

AN YELD
the Truth Commission

THE announcement that the ANC's Bui bombing case is to be reopened is "astounding", says Truth Commission deputy chairman Alex Boraine. This follows the announcement by KwaZulu-atal Attorney-General Tim McNally that he is to approach convicted bomber Robert McBride for a statement about who gave him orders. Three women were killed in the blast on June 14, 1986.



saying it was "worrysome" that of all the allegations made at Truth Commission hearings, the Attorney-General had only found it necessary to pursue one case.

"It will be unfortunate if a perception were to develop that Advocate McNally is not being even-handed in his approach to the matter. Such an approach may lend itself to criticism that he seeks to undermine the Truth and Reconciliation processes currently under way."

Mr McBride recently said he had been acting on orders. After a two-day session of the full commission at its Cape Town headquarters yesterday, Dr Boraine said he had been astounded to learn that Mr McBride was now apparently being subpoenaed.

Mr McBride had been arrested, tried, convicted and sentenced to death before being granted amnesty after four years, but nobody appeared "terribly keen" to act against people like self-confessed Vlakplaas police death squad member Joe Mamasela, who had admitted on television to 'heinous crimes'.

The ANC also expressed surprise at Mr McNally's action.

Its national executive committee would make a "full and comprehensive submission" to the commission on the conduct of its struggle from 1960 onwards, "within the context of collective responsibility for all actions undertaken under the directives of all its subsidiary structures including the military", the ANC said.

Archbishop Desmond Tutu, TRC chairman, explained his previous remarks about the incident - interpreted in some quarters as support for victims' suggestions that Mr McBride should not hold public office. He had only been expressing "a general statement of principle" that perpetrators of human rights violations should not benefit from their actions, the archbishop said.



CLASHES: Students at Pretoria Technikon flee as police fire teargas and rubber bullets to keep apart warring factions at the establishment

AKG 17/5/96

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No rush for subpoenas

at 17/5/96

ROGER FRIEDMAN

THE vexed question of issuing subpoenas appears to have been put on hold by the Truth and Reconciliation Commission on the advice of its lawyers.

The commission met in the city this week to review the hearings conducted in East London, Cape Town, Johannesburg and Durban over the past month — and indicated that issuing subpoenas would feature high on the agenda.

In fact, while in Johannesburg, commission chairperson Archbishop Desmond Tutu suggested that the first person to be subpoenaed would probably be former Vlakplaas policeman Warrant Officer Joe Mamasela, who has admitted on television in recent weeks that he took part in up to 35 state-sanctioned murders.

At a press conference yesterday, Tutu said the subpoena issue would now be placed on the agenda of the commission's Human Rights Violations Committee, which meets next week.

The commission had taken legal advice, which suggested that rather than issuing subpoenas, those people it wished to interview should be asked to appear of their own free will. Should they refuse, subpoenas would be issued.

"We certainly want to bring certain people before the commission to give us information they appear to have. We are not suddenly developing cold feet, we are just learning to be judiciously cautious," said Tutu.

Also at the press conference yesterday it was announced that an agreement had been reached with Justice Minister Dullah Omar about establishing a forum of party political leaders and members of the commission's executive committee to arrange for the submission of party statements to the commission.

TRC can view NIA's secret files — Omar

(252)
ROGER FRIEDMAN

CI 17/5/96

JUSTICE minister Mr Dullah Omar has agreed to give the Truth and Reconciliation Commission (TRC) access to secret files held by the National Intelligence Agency.

TRC deputy-chairperson Dr Alex Boraine said yesterday that although he didn't know how much relevant documentation had escaped being shredded in the transition from the old order, it was important the TRC have access to that information still available.

The arrangement, similar to one agreed to by Safety and Security Minister Mr Sydney Mufamadi allowing access to police files, would soon be formalised in writing, Boraine said.

The commission had just completed a two-day meeting in Cape Town to evaluate its first round of public hearings, which ended last week in Durban.

During its meeting yesterday the commission was visited by President Nelson Mandela and held discussions with Omar.

TRC Chairperson Archbishop Desmond Tutu said Omar was amenable to the formation of a working-group to streamline the workings of Promotion of National Unity and Reconciliation Act.

Tutu rebukes FW for attack on commission

ROGER FRIEDMAN

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C 77/5/96
WHITEHEAD Deputy President
FW De Klerk looked like he had
gone into a trap. In a move he
had descended to the level of
ordinary politicians, in his
scathing attack on the Truth
Commission at the weekend
commission chairman Archbishop
Desmond Tutu said
yesterday.

De Klerk told a National
Party Youth gathering in Pre-
toria that by opening old
wounds the commission was
not fulfilling its obligation to
promote reconciliation.

True reconciliation, he
said, could only be achieved if
all the perpetrators of human
rights violations were granted
immunity.

Although the commission
is a reality South Africans
had to accept it was moving
in the wrong direction, he
said.

Tutu said the commission
was not a football to be kicked
about by politicians. Neither
was it a game. Amnesties
would be granted to those who
applied within the provisions
of the Promotion of National
Unity and Reconciliation Act.

Corruption 'must be exposed'

Omar not satisfied that proper steps are being taken to deal with matter

Sowetan 17/5/96 (252)

By Rafiq Rohan
Political Correspondent

JUSTICE Minister Dullah Omar told Parliament yesterday that South Africa's criminal justice is corrupt

He said the public was entitled to know the truth, and the truth was that the criminal justice system was corrupt

In a brutally frank assessment of the system, Omar said it was very important that corruption "be ripped open and exposed"

He said communities knew about corruption in the system in their areas, but it was also important that this was brought to the attention of the general public so solutions could be found

Omar's bold statements became even bolder when he pinpointed why he said the system was so corrupt

He said: "In my view a major reason that perpetrators of serious crime, especially in gangsterism and syndicate activities including drug traffick-

ing, are not arrested is because elements in the criminal justice system co-operate with them to help avoid and prevent arrest"

People from within the justice system collaborate to the extent where police dockets disappeared, he said

"That is why police dockets disappear, why dockets are not in court on trial dates, why witnesses are not in court when cases are called and why important evidence is often not placed before courts"

There are hard-working and decent policemen and women who are trying their best but their problems are two-fold, the Minister said "Not only are they demoralised by poor pay, lack of equipment and facilities, their major demoralisation flows from collusion which exists within the criminal justice system with gang leaders and syndicate leaders" He was not satisfied that the proper steps were being taken to deal with this corruption and he had informed Safety and Security Minister Sydney Mufamadi of his view

TRC's real test coming

THE FIRST ROUND of the Truth and Reconciliation Commission's hearings on human rights violations has been a powerful experience for survivors and the public alike – and a grim reminder of South Africa's tortured history

But there is a danger that the TRC's emphasis on reconciliation will hide the cries of many witnesses for justice and obscure the context in which atrocities were committed

"Victims want to see perpetrators made to account for what happened," said Mr Friday France of the Human Rights Trust in Port Elizabeth

But the TRC is unable to hand down justice and is required to be impartial. Therefore, it is disturbing that the only case to be promptly re-opened following testimony to the commission is the Magoo bar bombing, in which the victims were white

Why not also re-examine South African hit squad raids into Swaziland and Lesotho, which turned these countries into killing fields for many innocent people?

Magoo bomb

And it is unreasonable to expect Mr Robert McBride to reveal on whose orders he planted the Magoo bomb when the names of those who authorised deadly cross-border raids against the African National Congress are still a secret

"The full force of state violence was very different from other kinds. The TRC has a problem of context, of weighting (cases). It should not simply record incidents," said University of Cape Town social anthropologist Professor Pamela Reynolds

She has attended the public hearings in East London, Cape Town, Johannesburg and Durban as she is doing an ethnographic study of aspects of the TRC

TRC monitor for the Black Lawyers Association, Mr Ishmael Semanya, warned that the Commission should not divorce the former Government from responsibility for gross violations committed by its security forces

"The security apparatus was funded by the state. It was its criminal arm. The Government should seek atonement"

He added that the TRC was useful in presenting "a stage of South African political history"

The Johannesburg director of Lawyers for Human Rights, Mr Salim Ebrahim, said the establishment of the TRC was necessary for South Africa's transitional process

"We have seen people embrace the commission and come forward baring their souls. It has been a cathartic forum for the victims of apartheid to tell stories of their suffering"

Mrs Joyce Mthimkhulu says she "must

So far the Truth Commission hearings on human rights violations were a grim reminder of South Africa's tortured history. But more challenges lie ahead. Feature Writer **Claire Keeton** explains why...

Sowetan 17/5/96 (252)



Khulumani Support Group leaders Maggle Friedman and Sylvia Dlomo-Jele light a candle in memory of their loved ones, Sicelo Dlomo and David Webster. Both testified before the Truth Commission in Johannesburg recently.

speaking at the next hearings or die" A court order prevented her from testifying in East London about the torture and disappearance of her son Siphiso, but she will be a witness at the Port Elizabeth hearings next week.

Khulumani Support Group leader Mrs Sylvia Dlomo-Jele said she had found it a relief to tell the TRC about her son Sicelo's murder "It was very painful but it was a good experience," she said

Burden lifted

Centre for the Study of Violence and Reconciliation psychologist Mr Brandon Hamber said most witnesses had felt as if a burden had been lifted through testifying to the commission

"It was a shock for many people to see that witnesses were still traumatised after so many years. Their testimony could be the first step in healing for some and the last step for others"

He said the TRC process catered for different groups and many "secondary victims" had come forward. These witnesses were often parents or partners of murdered activists who found it difficult to come to terms with their loss

"Many activists found it easier to integrate their experiences as they were directly involved in the struggle for liberation, which had a goal and meaning for them. Parents often said they were not sure what their child was up to and

needed to find out more," Hamber said

Reynolds said the TRC had played a valuable role in meeting the needs of those on the margins of direct political activism "But there is a particular danger that the truth is seen in relation to 'victims'. We are seeing a nation of victims instead of a nation of fighters"

She said young revolutionaries in South Africa had swallowed their pain as part of their struggle and did not want to be categorised as victims now "The commission will lose many stories unless there is a way for activists to tell what they experienced

without being made victims"

Gender researcher at the Centre for Applied Legal Studies, Ms Beth Goldblatt, said she was concerned that most women had come forward to speak about the abuse of others and not their own

She said the TRC should develop mechanisms, like closed hearings, for women to speak about their suffering of sexual assault and rape in detention. She said it was important that the TRC reach out to women in rural areas, many of whom had survived the worst abuses

France said political prisoners were clamouring for a chance to put their cases before the TRC. He has taken over 33 statements from St Alban's prison and has requests from other prisons

"Political prisoners, predominantly ANC supporters, are angry that organisations are against the TRC when they are being forgotten in prison," he said

The first round of public hearings has clearly played an important role in giving forgotten and grieving victims or survivors a voice to tell their stories

But the real test of its strength will be seen at the amnesty hearings in Phokeng next week. Unless perpetrators of human rights' abuses volunteer new information to the amnesty committee, many witnesses will not get the answers they were looking for when they testified during the past month

Puzzling, says Boraine of McBride subpoena

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Cape Town - It was astonishing that the KwaZulu Natal attorney-general should act so quickly to subpoena Magoo's bar bomber Robert McBride, deputy chairman of the Truth Commission Dr Alex Boraine said yesterday

He told a media briefing that he was astounded by Tim McNally's decision because no one seemed terribly keen to act against other people, such as former security policeman Joe Mamasela

Mamasela had not been tried and convicted like McBride, yet had publicly admitted to heinous crimes, including murder

"I just find it rather puzzling that an attorney-general should act so very quickly in one instance and so completely ignore others"

Boraine said McNally, who earlier this week announced he wanted to question McBride about who ordered him to bomb the bar, now apparently also wanted to subpoena him

McBride, who recently joined

the Department of Foreign Affairs as a deputy director, was condemned to death but this was commuted to imprisonment

A relative of a bombing victim asked a Truth Commission sitting last week that McBride be dismissed from his post

McNally acted after a television interview in which McBride said senior ANC members ordered him to plant the bomb

Asked about the relative's request, commission chairman Archbishop Desmond Tutu said the maxim that no one should benefit from their violations of human rights should be applied "consistently across the board"

The question was "how to apply it, where is your cut-off point. What do you mean that someone should not benefit"

Asked about Mamasela, Tutu said the commission would "certainly want to bring certain people in front of us to throw light on cases we have heard" - Sapa

AGs versus truth body ⁽²⁵²⁾

MTC 17-23/5/96

The issue of indemnity has pitted attorneys general against the truth commission, reports
Eddie Koch

THE Truth and Reconciliation Commission ran into serious problems a week before its public hearings for human rights offenders, because officers from the old police death squad at Vlakplaas and other dirty tricks units have already received informal indemnity from the offices of the attorneys general.

The *Mail & Guardian* has established that the truth body's investigators are increasingly uneasy because few security force members have applied to appear before the commission's hearings for perpetrators on May 20, while a number of Vlakplaas officers have chosen to cut informal testimony-for-immunity deals with the offices of the attorneys general.

AGs have the discretion to give indemnity to suspects who co-operate with their officials during investigations into possible criminal prosecutions. This practice during the Eugene De Kock murder trial and impending "Third Force" cases appears to have given perpetrators of human rights abuse an alternative to appearing before the amnesty committee of the truth commission.

Transvaal AG Jan d'Oliveira has agreed not to prosecute a number of former Vlakplaas officers in exchange for the evidence they gave against De Kock in the marathon case, now winding up in the Pretoria Supreme Court. Most of these ex-policemen have already been given witness protection and in some cases have been employed as investigators by the AG.

The same witnesses, joined by De Kock and security force defectors, will give evidence in a forthcoming "Third Force" trial against Thembu Khoza and other prominent IFP leaders.

Given the ability of former perpetrators to obtain effective amnesty in this way, it is hardly surprising they have chosen to co-operate with the AG rather than make application to the truth commission. Abusers have to make full disclosures to the amnesty committee which may, in any event, decide to turn down their applications. Deals with the AG can be negotiated behind closed doors on terms more favourable to the perpetrators.

It has also been established that a number of Umkhonto weSizwe operatives, responsible for guerrilla attacks on civilian targets in the 1980s, are also uneasy about appearing at the commission's hearings for perpetra-

tors, after KwaZulu-Natal AG Tim McNally announced he had reopened criminal proceedings in connection with ANC soldier Robert McBride's Durban beachfront bombing which killed three civilians in 1986.

The upshot is that the truth commission runs the risk of becoming a body for victims to recount their experiences, while the culprits manage to stay out of the truth body's spotlight. The problem has been compounded because D'Oliveira is reluctant to provide investigators from the truth commission with evidence his officials have collected from former security force officers, or to allow his potential witnesses to appear before the commission.

So far the truth body has announced the names of only two offenders who will appear at the commission on Monday. These are two relatively unknown men, Christopher Mokgale and Boy Diale, who have already been convicted of killing a councillor in the Bafokeng tribal authority near Rustenburg in 1990.

The commission is legally obliged to give priority to applications from people in custody. "There have been a pile of applications from people convicted of crimes. These have to be checked for full disclosure before their applications will be heard," says commission media officer Christelle Terreblanche.

"The hearings will be in public. They cannot be conducted in the same way as for victims at this stage because the applications are being scrutinised individually and each one weighed according to international human rights principles."

The AGs, and officials associated with their investigations, believe truth commission appearances could hinder their ability to pursue successful prosecutions in forthcoming Third Force trials. They are worried their star witnesses will open themselves to undue cross-examination in later "third force" trials if they make public statements to the truth commission. Another problem is that evidence given to the amnesty committee of the commission cannot be used against perpetrators in the criminal courts.

It is also possible that territorial battles underlie the apparent tensions between the truth body's investigators and the AG's prosecutors as each team seeks credit for solving some of the most mysterious political murders.

D'Oliveira, however, believes possible conflicts of interest between the two truth processes can be avoided. "Regarding the Truth and Reconciliation Commission and the question of possible conflicts of interest, it is to be stated that no real conflict has yet occurred thanks to open communica-



Jan D'Oliveira: Reluctant to provide the truth commission with evidence

PHOTOGRAPH SUNDAY TIMES/SOUTH LIGHT

'Gun-runners' face charges

Eddie Koch

INKATHA FREEDOM PARTY leader Thembu Khoza and other senior members of the Zulu-nationalist party may be arrested soon and charged with gun-running in South Africa's next big "Third Force" trial.

Former Vlakplaas commander Eugene de Kock, currently facing more than 100 charges of murder and fraud in the Pretoria Supreme Court, has agreed to provide key evidence in the case against Khoza and his colleagues.

Other suspects are Celani Mthetwa, former safety and security minister in KwaZulu-Natal, and Humphrey Ndlovu, an IFP parliamentarian in the Gauteng legislature.

De Kock was involved in the supply of truckloads of weapons to members of Inkatha during the early 1990s. He also helped train the IFP's paramilitary forces at secret bases in KwaZulu-Natal.

His testimony in the forthcoming trial will also name IFP Senator Philip Powell, who is alleged to have co-ordinated training and supply of weapons to the Inkatha squads. However, the

process of the prosecutorial process," a member of the commission, who asked not to be named, told *M&G*. "And ultimately the success of the commission's amnesty provisions depends on the ability of the criminal justice system to prosecute offenders who don't come clean about the past. Although there is a creative tension between the truth commission and the justice system they are both ultimately pulling in the same direction."

But there are other members of the truth commission who believe the combative mood in some AGs' offices is hindering its efforts to probe the truth about a wider range of crimes against

Mail & Guardian has established the senator is unlikely to appear on the charge sheet at this stage.

De Kock's testimony against the Inkatha trio will be backed by evidence from other members of the Vlakplaas unit who collaborated with Inkatha's clandestine forces to destabilise parts of the country in the run-up to the 1994 elections.

Transcripts of affidavits made by Vlakplaas defectors Willie Nortje and "Brood" van Heerden to the Goldstone Commission state Ndlovu was a paid agent of the South African Police at the time of the gun-running operation.

Nortje told the Supreme Court that false police claims had been used to hire buses to ferry IFP members from KwaZulu-Natal to Johannesburg and to pay for transport of bodies of Inkatha members killed in battles with African National Congress units on the East Rand back to their rural homes.

Nortje's affidavit to the Goldstone Commission, which was handed in as evidence in the De Kock trial, states that the flow of arms from the police to Inkatha stopped in 1992, but De Kock continued to deal with the IFP

agents after the Vlakplaas unit was closed down in April 1993.

The document says De Kock and two colleagues from the police dirty tricks unit, Snor Vermeulen and Simon Radebe, had continued to train IFP paramilitary fighters at a secret base near the Umfolozi game reserve called the Mlaba camp.

The training was under the auspices of Phillip Powell, a former member of the SAP's D section [intelligence section], says the affidavit.

"I confronted Vermeulen and Radebe, who admitted they had been at Umfolozi. Vermeulen said he only had training in the use of rifles, but Radebe told me about 500 IFP recruits had been trained in the use of SADF-issue rifles, AK-47s, RPG7s, explosives and the planting of landmines."

Transvaal Attorney General Jan d'Oliveira said this week his office "still has some way to go before we will be in a position to identify persons to be charged". He added his office did not have the staff to handle another major Third Force trial.

humanity — especially those cases that will never be dealt with by the overstretched criminal justice system.

There are also worries in truth commission circles that the AG's right to negotiate informal deals with human rights abusers could undermine the commission's aim of creating a human rights culture which refuses to reward perpetrators. It has been established, for example, that former Vlakplaas operative Joe Mamesela, who acknowledges he was involved in the murder of more than 30 people including the assassination of Durban lawyer Griffiths Mxenge, is now working for D'Oliveira as an investigator.

Modise could face murder charges

Former Umkhonto weSizwe commanders may have to answer for the Magoo bombing, write **Eddie Koch and Justin Pearce**

DEFENCE Minister Joe Modise could end up in the dock on charges arising from Umkhonto weSizwe's Magoo Bar bomb which killed three civilians in 1986

KwaZulu-Natal Attorney General Tim McNally confirmed this week he had reopened investigations into the case after bomber Robert McBride said he had planted the car bomb under orders from his superiors

McBride was a member of Umkhonto weSizwe's (MK) special operations unit that carried out some of the organisation's more spectacular guerrilla attacks in the Eighties — and fell directly under Modise's command at the time

McBride has refused to name those who gave him the orders. According to research conducted by the Institute for Defence Policy, however, all "special projects" carried out by this unit required the "green light" from MK's high command

McBride told the *Mail & Guardian* last week he had received instructions from "the person in charge of special operations" in Gaborone, but would not name the individual

Modise was commander-in-chief of Umkhonto weSizwe at the time of the Durban beachfront bombing in 1986. The research indicates that Lambert Moloi, now a general in the South African National Defence Force, was in charge of planning and executing special operations

He would have worked closely with Abu-Baker Ismail, now also a general in the SANDF, and Cassius Make. These men were in charge of ordnance and supply of weaponry to special operations teams. Make was assassinated in Swaziland in 1987

Asked if he would prosecute everyone involved in this chain of command, including the defence minister, McNally told the *M&G* "We would

have to evaluate the evidence. We will follow it to wherever it leads. Nobody is above the law and the law is above everybody"

McNally appears determined to investigate the case as a matter of urgency and sent a special investigator to interview McBride in Pretoria, where he works as a deputy director in the Department of Foreign Affairs, on Wednesday

But McBride is not sure whether he will give evidence, even if subpoenaed. "I have not had time to think this over," said McBride. He added that McNally's decision to reopen the prosecution in connection with the Durban bombing begged the question of why McNally had "moved so fast" in this case while apparently paying less attention to other cases raised in evidence before the truth commission

Asked to comment on the AG's announcement, Kasrils told the *M&G* the ANC was busy compiling its submission to the truth commission and this would deal with "actions such as those carried out by Robert McBride"

"All members of MK involved in planning, commanding or carrying out the actual operation fall within the ambit of this submission. The leadership has taken collective responsibility for the conduct of our combatants in the course of the armed struggle," said Kasrils

"The rank-and-file operatives will not be left to take responsibility alone. Political responsibility is accepted for all cadres even though we know that in the course of the liberation struggle anomalies may have arisen

"Robert McBride was an outstanding member of MK who has served a sentence and been given indemnity. It is an absolute injustice to repeatedly drag him through an ordeal for which he has been punished"

The ANC's position differs markedly from that of other political parties,



Loud and clear: Robert McBride has refused to name the people who ordered the Magoo bombing

PHOTOGRAPH HENNER FRANKENFELD

including the National Party and the Inkatha Freedom Party, whose leaders have distanced themselves from foot soldiers implicated in human rights abuses

Observers believe McNally has placed the revived Magoo inquiry on to an urgent footing in order to show even-handedness in his determination to prosecute past political crimes

The KwaZulu-Natal AG is currently heading the state's case against former defence minister Magnus Malan and 19 other security force officers in connection with the 1987 Kwa-Makutha massacre

The ANC will point out there is no mirror image between the two cases. Its cadres are willing to go before the truth commission and tell all while Malan and his co-suspects have refused to cooperate with the truth process

Modise and others are likely to testify

before the truth commission, which would be necessary if they were to secure amnesty before McNally begins the prosecution. Asked whether he would consider going before the commission himself, McBride replied "I have no business to go to the truth commission. People who want amnesty will apply for it," adding he did not see how his testimony could help the amnesty applications of others

While McBride, like Kasrils, maintains he has been indemnified, the Justice Department says McBride never received amnesty on his release from prison. Piet Kleynhans, head of the Justice Department's indemnity office, said the Amnesty Act of 1990 applied only to people who were awaiting trial or who had never been charged. People in McBride's position who had already been convicted were granted remission of sentence, but not

amnesty, Kleynhans said

McBride insists that he was indeed granted amnesty. "Why was I allowed to stand for public office when convicted criminals are not allowed to stand for public office?" said McBride, who served as a Gauteng MPL before taking up his present position in the Department of Foreign Affairs

However, Kleynhans explained the Electoral Act, which used to exclude convicted criminals from running for office, had been amended before the 1994 elections to accommodate the fact that many candidates who were active in the liberation movements — including Nelson Mandela — had been convicted under various laws without being granted amnesty

Although not indemnified, McBride is not liable for further prosecution since he has already been tried, convicted and sentenced

Now perpetrators can give their side of story

By WILLIAM-MERVIN GUMEDE

Perpetrators of apartheid human rights abuses will take centre stage on Monday when they get their first opportunity to face the Truth and Reconciliation Commission to confess their crimes in order to get amnesty.

The first sitting of the TRC's amnesty committee begins in North-West Province's rural town of Phokeng, about 15km from Rustenburg. TRC spokesman Sello Rabothata said the amnesty committee had received a host of applications from perpetrators of apartheid crimes, including some from

people convicted of crimes and currently in jail.

The sitting will continue despite an upcoming Constitutional Court hearing launched by the Azanian People's Organisation and the families of slain political activists Steve Biko, Griffiths Mxenge and Fabian Ribeyre.

The TRC will not wait for the Constitutional Court hearing, expected to take place at the end of the month, before it makes the outcome of its amnesty hearings known. Last week the Supreme Court in Cape Town threw out an urgent application by Azapo and the three

families for an interim interdict to stop the granting of amnesty to perpetrators. The group argued that the granting of amnesty would prevent them from seeking civil redress from perpetrators through the courts.

Rabothata said the TRC would now go ahead and grant amnesty because the Supreme Court had ruled in its favour.

The amnesty hearings will operate like a court of law and perpetrators will be represented by their lawyers. The Phokeng hearings, planned for three days, will lay the basis for the rest of the amnesty hearings.

Justice Department director-general Jasper Noeth said his department has provided the commission with all the information and files it had requested for the first amnesty hearings.

Yesterday non-governmental organisations and church and community groups in North-West Province complained about the amnesty hearings taking place in Phokeng. They raised concerns about the neutrality of the venue and denounced its lack of accessibility to the community.

The communities have expressed their unhappiness with choosing Phokeng as a venue. It is

is within tribal territory," said Jeron Phosa, local general-secretary of Justice in Transition. "It could give the false impression that the hearings would only be for the Bakong tribe," he added.

Meanwhile, regulations guiding the procedures of the TRC were promulgated yesterday, having been drafted and submitted to the Department of Justice for approval.

The Department of Justice finances the commission and gives it administrative support, but the TRC has its own chief executive and accounting officers. The commission has asked the Minister Dullah Omar to

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change the TRC Act to provide for urgent assistance for victims of human rights violations. Noeth said the commission had also requested an increase in its budget, after it incurred additional expenses by opening offices in Johannesburg, Durban and Cape Town. These requests were being addressed.

The Justice Ministry has guaranteed the commission access to all the national intelligence records it needs, and a formal mechanism to ensure continuing access to the documents will be set up soon. It will be similar to arrangements the commission has with the Safety and Security Ministry.

Now, the agony of ariom

FESAR 18/5/96

WILLIAM-MERVIN GUMEDE
Own Correspondent

First hearings start in North West province with the Mokgathle murder

JOHANNESBURG - Perpetrators of human rights abuses during the apartheid era will take the centre stage on Monday when they get their first opportunity to face the Truth and Reconciliation Commission to confess their crimes in order to receive amnesty.

The first sitting of the commission's Amnesty Committee - which has powers to grant amnesty to perpetrators - begins in the North West town of Phokeng, about 15 kilometres away from Rustenburg.

Commission spokesman Sello Rabothata said the Amnesty Committee had received a host of applications from perpetrators of "apartheid crimes", including from people convicted

of crimes and those currently serving jail sentences.

The sitting would continue in spite of a looming Constitutional Court hearing launched by the Azanian People's Organisation and the families of slain political activists Steve Biko, Griffiths Mxenge and Fabian Ribeiro.

The commission would not wait for the Constitutional Court hearing, which was expected to take place at the end of the month, before it made the outcome of its amnesty hearings known.

Last week, the Supreme Court in Cape Town threw out an urgent application by Azapo and the three families for an interim interdict to stop the grant-

ing of amnesty to perpetrators.

The group argued that the granting of amnesty would prevent them from seeking civil redress through the courts.

Mr Rabothata said the commission would proceed in granting amnesty as the Supreme Court had ruled in its favour.

The amnesty hearings would operate like a court of law and alleged perpetrators would be represented by their lawyers.

■ The next stage of South Africa's coming to terms with its recent past occurs next week when the Truth and Reconciliation Commission's Amnesty Committee sits.

Mr Rabothata said the commission would proceed in granting amnesty as the Supreme Court had ruled in its favour. The amnesty hearings would operate like a court of law and alleged perpetrators would be represented by their lawyers.

The Phokeng hearings, planned to last three days, would lay the basis on which the rest of the amnesty hearings would proceed.

Jasper Noeth, Justice Department director-general, said his department had provided the commis-

its own chief executive and accounting officers.

The commission has asked Justice Minister Dulah Omar to change the law governing the commission to provide for urgent assistance to redress human rights violations.

Mr Noeth said the commission also asked for an increase in its budget, after it had incurred additional expenses by opening offices in Johannesburg, Durban and Cape Town.

He said the requests were being addressed. The Justice Ministry has guaranteed the commission access to all the national intelligence records it needed and a formal mechanism to ensure continuing access to the documents will be

set up soon

It would be similar to arrangements the commission has with the Safety and Security ministry

Former Vlakplaas security police unit member Almond Nofemela and his commander Dirk Coetzee, have applied for amnesty for the murder of Durban lawyer Griffiths Mxenge

The first cases the five-member amnesty committee - judges Hassan Mall (chairman), Andrew Wilson and Barnard Ngoepe, advocates Chris de Jager and Sisi Khampepe - will hear are those of Christopher Mokgale and Boy Dilale, convicted and jailed for the murder of the Bafokeng tribe leader Glad Mokgathle in the North West in 1990

Mr Mokgathle was

allegedly murdered for being a "puppet" of the Bophuthatswana regime of Lucas Mangope

The traditional Bafokeng leader, Lebone Molotlegi, was detained by Mr Mangope for allegedly backing Rocky Malebane-Metsing financially in his abortive 1988 coup against him

After his release, Mr Molotlegi went into exile in Botswana

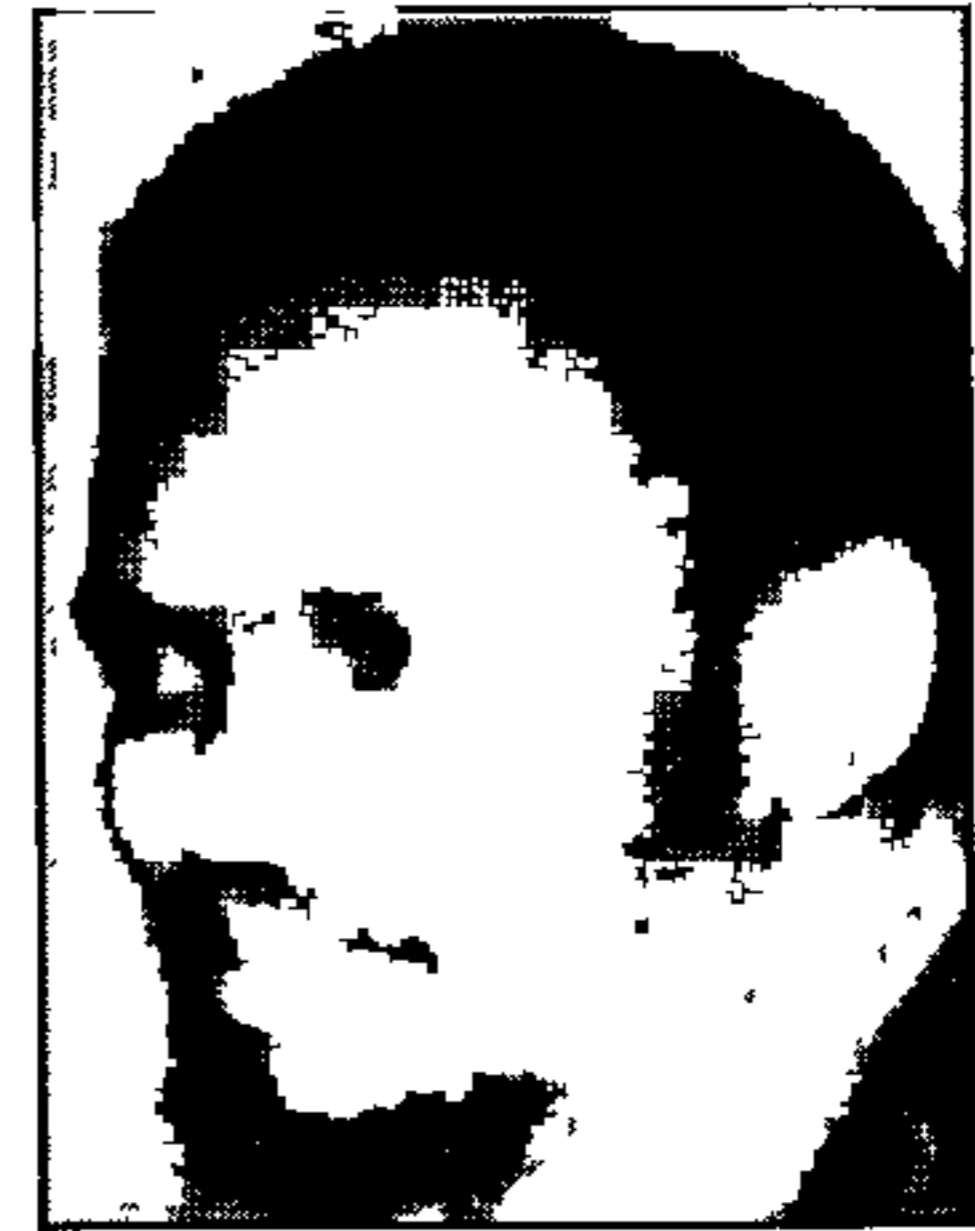
Mr Mangope then installed his friend, Mr Mokgathle, as chief

The tribe demanded that Mr Mangope annul his unpopular appointment

He refused and, in 1990, Mr Mokgale and Mr Dilale, together with a group of angry Bafokeng tribesmen allegedly attacked and killed Mr Mokgathle

Mr Molotlegi returned to South Africa in 1994 and was reinstated as chief

He died earlier this year



□ STEVE BIKO



□ FABIAN RIBEIRO

FIRST INDEMNITY HEARING TODAY

President's backing for killer's amnesty plea?

CT 20/5/96 (252)

RUSTENBURG: The Truth Commission's amnesty committee will hear its first applications today from two men convicted of murder, writes **ROGER FRIEDMAN**.

WHEN Mr Christopher Makgale becomes the first person to apply to the Truth and Reconciliation Commission for amnesty today by confessing to a murder he committed in 1990, it is understood he will do so with no less than presidential confirmation that his crime was politically motivated.

Makgale is serving a 15-year prison sentence for killing the chairman of the Bafokeng Tribal Council, Mr Glad Mokgathle.

Joining him in the amnesty application is Mr Boy Diale, who is serving a 12-year prison sentence for the same offence.

In December 1991, after the

release of some political prisoners, the Human Rights Commission said 11 such prisoners remained in Bophuthatswana — three of them held for ANC military operations.

Two months later ANC president Mr Nelson Mandela met Bophuthatswana president Chief Lucas Mangope to discuss the release of prisoners. No agreements could be reached.

According to researcher and author Anthea Jeffery, one of the prisoners "alleged by the ANC to merit political status" was Makgale.

But even if Makgale and Diale can prove they killed Mokgathle with political intent, they will still

have to satisfy several other conditions before the commission's committee on amnesty can free and indemnify them.

The committee will have to decide if the applicant has made a full disclosure of his action, whether the action was in proportion to the objective, and whether it was committed on the orders or with the approval of a political organisation.

The committee on amnesty is made up of five members under the leadership of Mr Justice Hassen Mall. The committee alone decides who gets amnesty.

But there is an application pending in the Constitutional Court to have the amnesty process declared unconstitutional.

The families of several slain anti-apartheid activists say it is their right to see justice prevail.

TRC empowered to grant full amnesty

CT 20/5/96
(252)

APARTHEID-ERA human rights violators, fearful of criminal and civil court cases, may now decide to testify before the Truth and Reconciliation Commission in exchange for amnesty after the Cape Supreme Court dismissed a bid by the Azanian Peoples Organisation and relatives of slain activists for an interdict, stopping the Amnesty Committee from granting violators amnesty, legal observers say. **RONALD MORRIS** reports.

TWO Supreme Court judges recently ruled that amnesty from both criminal and civil proceedings could be granted to human rights violators who testified before the Truth and Reconciliation Commission so that reconciliation and reconstruction could occur.

The Judge President of the Cape, Mr Justice G Friedman, and Mr Justice I G Farlam said it was hardly likely that anyone would seek immunity in the knowledge that they would escape criminal liability but would still be exposed to civil proceedings.

This is, however, not the last word because a Constitutional Court challenge by Azapo, Mrs Nontsikelelo Biko, Mr Churchill Mxenge and Mr Chris Ribeiro on the constitutionality of the TRC is still pending.

The judges held that a broader meaning of the word "amnesty" was intended and reconciliation and reconstruction would not be possible if amnesty were limited to the granting of pardons for criminal offences.

The court held that Article 1 (1) of the Additional Protocol II to the Geneva Convention was not applicable to South Africa where the fight was not against colonial domination or alien occupation.

While it could be said to have been a fight against a racist regime, those engaged in it were not doing so "in the exercise of their right to self-determination" They were fighting for equality in their own country and "for a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex".

The judges held that Article 1 (1) indicated that there was no peremptory rule of international law which prohibited the broadest possible amnesty in the case of conflicts of the kind which existed in South Africa prior to the firm "cut-off date" referred to in

the postamble to the constitution.

If the word "amnesty" as used in the postamble means the broadest possible amnesty, including immunity from civil actions, the applicants' attack on the constitutionality of the Act must fail.

The judges held that two factors indicated strongly that the broad meaning was intended. Firstly, there is the wording of the postamble regarding "acts, omissions and offences". If the word "amnesty" had been intended only to mean a general pardon in respect of criminal offences, the words "acts omissions and" would not have been necessary.

Counsel for the applicants submitted that the words were used to provide for the fact that amnesty was intended to be applied in cases of human rights violations which did not constitute offences under South African law, but would have constituted violations of international human rights law.

The court, however, disagreed and held that the submission overlooked the provisions of Section 25 (3) (f) of the Constitution which provides that "Every accused person shall have the right to a fair trial, which shall include the right not to be convicted of an offence in respect of any act or omission which was not an offence at the time it was committed".

The judges said the words "not an offence" obviously meant "not an offence under South African law". Consequently, a person who committed a so-called apartheid crime, which was not a crime by South African law at the time of its perpetration, did not require any amnesty.

The use of the words "acts or omissions and" was, therefore, a powerful indication that the word amnesty was intended in the postamble to include the conferring of immunity also in respect of civil liability.

The second reason why the court held that a broad meaning was intended was that it would not be possible to achieve the reconciliation and reconstruction referred to in the postamble if amnesty were to be limited to pardons for criminal offences.

"It is hardly likely that anyone would seek immunity in the knowledge that he or she would thereby escape criminal liability but would nevertheless expose him/herself to civil proceedings. The fear that such proceedings would follow an application for amnesty would operate as a powerful incentive to prevent a person who might otherwise qualify for amnesty, from applying. This would, in turn, defeat the purpose envisaged in the amnesty provisions of the postamble."

Mangope's regime goes on trial in Rustenbourg

ROGER FRIEDMAN

RUSTENBURG: The rolling thunder of the neo-nazi cavalcade that marked his demise in March 1994 will be absent when former Bophuthatswana strongman Chief Lucas Mangope's repressive regime effectively goes on trial here today before the Truth and Reconciliation Commission.

The first case to be heard by the commission's committee on amnesty flows from years of bitter conflict between the former president and the Bafokeng tribe, occupying land in the east of his former fiefdom.

Applying for amnesty are Christopher Makgale and Boy Dale, now serving 15-year and 12-year sentences in the Odi District Prison for the murder of Bafokeng

Tribal Council chairman Glad Mokgathle in December 1990. Mokgathle was made chairman by Mangope after his brother, Chief Edward Mokgathle, was detained and then forced into exile in the aftermath of the abortive February 1988 coup. The coup appeared to have been led by the People's Progressive Party, whose leader, Mr Rocky Malebane-Mets-

ing, was installed as president for a few hours — before fleeing the country. The PPP was widely supported by the Bafokeng. When Mangope banned the party he claimed they were in cahoots with the ANC.

Eleven years before the coup, the Bafokeng had objected to Bophuthatswana becoming an "independent republic" and refused to recognise Mangope as

the new head of state.

And then there was the matter of money. Since early this century the Bafokeng have enjoyed royalties from the vast platinum deposits under their land. After he assumed the presidency — and became legal trustee of the tribe — the Bafokeng claimed Mangope shortchanged them.

The year 1990 heralded the beginning of the end for minority rule in South Africa — but in Bophuthatswana Mangope was cementing ties with the right wing, and dreaming of a "Tswana Boereland Superstate" to counter the dreaded ANC.

Bophuthatswana was a one-party state, and three treason trials had cleansed the administration — of Malabane-Mets-ling's support base Bafokeng,

mostly that was the year Mokgathle died. He was seen as Mangope's friend. And Mangope was lurching further and further toward right-wing, Afrikaner-based parties.

He imitated the Southern African Tswana forum in incorporating the Bophuthatswana government officials, right-wing academics, farmers and businessmen — and followed it up with a "Conference on Regional Government". Mangope increasingly spoke of the historic ties between Afrikaner and Batswana, sometimes harking back to the 18th century Batswana who stood alongside Voortrekkers and Griqua in defending Christian beliefs and civilisation.

Then he formed an alliance with the Conservative Party to counter the perceived ANC/NP

alliance. By 1993 the Bophuthatswana government had become a member of the conservative grouping Cosag, which eventually evolved into the Freedom Front.

But Mangope's crisis was deepening. In the streets there was looting and shooting, and the army and civil service were showing signs of disobedience.

Then, on March 14, 1994, the right-wing cavalcade rolled in, headed by members of the AWB. Three AWB members died, two of them executed by one of Mangope's soldiers as they lay pleading for their lives. Within days, then-President F W de Klerk and Mr Nelson Mandela had put an interim administration in place, and South Africa's democratic elections followed six weeks later.

(252) CT 20/5/96

Bafokeng murder 'intended to prove point' to Mangope

Ingrid Salgado

PHOKENG — Members of the wealthy Bafokeng tribe in Northwest strangled and hacked to death the tribe's council chairman in 1990 in an attempt to stop former Bophuthatswana president Lucas Mangope from oppressing the former homeland's people, the truth commission's amnesty committee heard yesterday.

The committee's first hearings — held in Phokeng, a Northwest town near Rustenburg — heard yesterday about the fate of the victim, Glad Mokgatle.

Two tribe members — Boy Diale and Christopher Makgale, who are serving 12- and 15-year sentences respectively — have applied for amnesty in connection with the murder. Mokgatle — whom Mangope appointed council chairman after the tribe's former chief Lebone Molotlegi fled from Mangope's rule — was killed to ensure Mangope knew his opponents were "serious" about the chief's safe return, the tribe's reincorporation into SA and their rejection of the Bophuthatswana government, Diale said.

Ten Bafokeng members had taken Mokgatle hostage on October 29 1990 in an attempt to get the keys for the Bafokeng Civic

Centre — the venue of the hearings, Diale said. This was after a meeting of Bafokeng men had decided Mokgatle and those working under him would no longer handle the tribe's affairs.

The men had not intended to kill Mokgatle, but emotions ran high when Mokgatle failed to hand over the centre's keys.

Makgale told the committee he was "angry" when his colleagues began assaulting Mokgatle, but when he saw that Mokgatle was still alive, "I chopped him (with a panga) because I realised we were heading for prison. I wanted to sweep away the evidence."

Diale said all 10 men had agreed to kill Mokgatle because they were afraid he would identify them and they would have been tortured and killed by the former Bophuthatswana police.

Diale, an ANC member, claimed that the ANC had "approved of the murder".

The applicants' legal representative Brian Currin earlier told the committee he would call on witnesses to substantiate any allegations he had made in his opening address. Committee members Chris de Jager and Judge Bernard Ngoepe expressed concern at the number of allegations Currin had made against individuals.

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Currin said there had been ongoing conflict between Mangope and the cash-rich Bafokeng, who own land on which 80% of the world's platinum is mined and receive about R75m annually in royalties from Impala Platinum.

Instead of co-operating with the tribe, Mangope had sided with the mine when he became trustee of the land during Bophuthatswana's independence in 1977, Currin said. He also clashed with Chief Molotgeti, who consistently refused to take up the seat he was entitled to in the homeland's legislature. The chief and several other Bafokeng, including Diale, were detained in 1988 after Rocky Malebane-Metsing's Progressive People's Party attempted a coup in Mmabatho. Molotgeti was accused of using Metsing as a front for chiefs who wished to oust Mangope. The chief fled to Botswana after his release but not before appointing an acting-chief during his absence.

However, Mangope unilaterally appointed Molotlegi's brother George as chief and Glad Mokgatle as council chairman. The tribe rejected the appointments but repeated attempts to solve the conflict with Mangope were met with "rebuff, harassment and repeated detentions", Currin said.

BD 21/5/96

APPLICANTS GRILLED AT AMNESTY HEARINGS

No easy walk to freedom

THE PROCEEDINGS of the Truth and Reconciliation Commission committee on amnesty are forbidding. Applicants are cross-examined to determine whether they satisfy the criteria laid down by law. **ROGER FRIEDMAN** reports.

THERE will be no easy walk to freedom for those applying to the Truth and Reconciliation Commission for amnesty, if yesterday's first amnesty hearing can be used as a yardstick.

The proceedings of Mr Justice Hassen Mall's five-member committee differ fundamentally from the witness-friendly environment created by the human rights violations committee.

The atmosphere of amnesty hearings is sterner and court-like. Lawyers represent the commission and the applicants and witnesses are cross-examined.

Those who apply for amnesty have to satisfy criteria laid down in an act of Parliament. They must prove their actions were politically motivated and there is a proportionality clause, among others.

Those whose application was heard yesterday — Boy Diale and Christopher Makgale — are serving sentences of up to 15 years for hacking to death Bafokeng tribal Chief Glad Mokgatle in 1990.

The murder took place on the steps of the building where the hearing was held — the civic centre in Phokeng, outside Rustenburg, Reuter notes.

Makgale and Diale say they were politically opposed to the Bophuthatswana regime of President Lucas Mangope.

"I want forgiveness. I want the deceased's (Mokgatle's) family to forgive me for what I did," Diale said as the crowd that packed the hall applauded. "We are one tribe — there will be reconciliation."

Diale, 35, the first of the pair to take the witness stand, was drilled about whether he murdered under orders, whether his action had been sanctioned by any political grouping and how he had felt. The intention, essentially, was to ascertain whether he was not using politics as an excuse.

Diale said he and Makgale had planned only to take their victim hostage. "It was our intention to keep this man as a hostage until

Mangope listened to us."

Both men were members of the ANC. Diale said he had believed he had the support of the ANC. "In all the meetings that I attended they told us that it was important to eradicate the collaborators."

Makgale, 53, said he had "dealt the fatal blow" with an axe. He is to continue giving evidence today.

Most of the applications for amnesty have been from prisoners. Observers yesterday agreed that the thoroughness of the amnesty proceedings was unlikely to prompt a wave of applications from perpetrators of human rights violations who are not in prison.

If they do not come forward voluntarily, it is possible they will be subpoenaed. If they are and hope to qualify for amnesty, they will have to make a full confession.

Widows visit husbands' murder scene

CRADOCK The widows of three murdered Port Elizabeth Black Civic Organisation members visited the murder scene outside Cradock yesterday.

Former security policeman Mr Joe Mamasela claimed in April he had taken part in the abduction of activists Mr Sipho Hashe, Mr Qawawuli Godolozzi and Mr Champion Galela at Port Elizabeth Airport on May 8, 1985.

He said the men had been snatched in a military-style operation and taken to an old farmhouse, where they were tortured and beaten to death with a metal pipe.

Yesterday their families visited Post Chalmers — an old police station about 33km from Cradock on the Graaff-Reinet road.

Mrs Monica Godolozzi broke down and prayed when thanking the Truth and Reconciliation Commission for bringing them to the site.

She appealed to Mamasela and the National Party to reveal where the bodies of the three were buried. — Sapa

Policy-makers 'must bear brunt of blame'

POLITICAL STAFF

THE Truth and Reconciliation Commission was showing policemen and women as "inherently evil" but those who took the policy decisions that led to human rights violations should be targeted instead, Safety and Security Minister Sydney Mufamadi said yesterday.

Introducing the policy debate on the South African Police Services in the Senate, Mufamadi said the TRC "has been hearing shocking evidence about the actions of the police in the past."

"Unless these actions are understood in their proper historical context, it is easy to conclude — and wrongly so — that policemen and women are inher-

ently evil."

He said that those who had been responsible for policy decisions should have been the first to testify.

"Without this understanding, it will be difficult for communities to continue their efforts to encourage and support the dedicated

members of the present service.

"The system, its goals and visions, its philosophy and character, is changing. It is important that the nature of the previous system be exposed so that it may wither and die."

He said the government had tried to show respect for the good service that many members of the SAPS were providing.

Mufamadi said money had been provided for overtime payments and the starting salaries of constables had been increased.

He said the police had managed to cut vehicle hijacking in Gauteng, but it appeared as if some hijacking had been displaced to other areas, notably North-West, Mpumalanga, Eastern Cape and the Western Cape.

"Social fabric" crimes like rape and child abuse had received particular attention.

He said there had been a substantial increase in the reporting rates of these crimes.

Corruption in the SAPS was also being targeted. In the past six months, 10 anti-corruption units had been established and they had investigated a total of 899 cases resulting in the arrests of 168 members of the SAPS on charges relating to corruption.

"Many more cases are still under investigation," he said. This probe would be extended into the Department of Justice.



Kahn's st walkouts

BARRY STREEK
POLITICAL WRITER

SERIOUS crime had risen by up to 20% in some parts of the Peninsula, but prosecutors' working conditions had not improved, the attorney-general of the Cape, Mr Frank Kahn, said yesterday.

"The public prosecutors are demotivated, overworked and underpaid," Kahn said in his annual report, tabled in Parliament.

"Their salaries remain unacceptably low and bear no relation to the income of similarly qualified lawyers in the private sector."

"In spite of the political rhetoric, my plea for improved working circumstances in the previous year has not elicited sufficient response from the department."

Kahn said about 25% of prosecutors had left the service last year — up from 20% the year before.

The 245 029 crimes reported in the Peninsula in 1995 were 6% more than the figure for 1994 — yet the number of serious crimes

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Grant awarded for black law students

Deborah Fine

BD 21/5/96
THE US Agency for International Development signed an agreement yesterday awarding Pretoria University's Centre for Human Rights and the University of the North a grant of R1.2m to enable senior black law students to participate in internship programmes with well established SA law firms

Part of the grant will go to supporting the universities' efforts to establish an education programme on human rights and constitutional law, as well as to assist black students to pursue masters degrees on fundamental rights and constitutional practice

The signing of the agreement took place at Pretoria University. The signing ceremony was attended by SA Justice Minister Dullah Omar, Constitutional Court Judge Johan Kriegler,

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USAid/SA Mission director Leshe Dean, Pretoria University principal Prof Phillip Smit and University of the North's Prof Bongani Majola

Pretoria's Prof Christof Heyns said the grant would enable the Centre for Human Rights' Integrated Bar Project to place senior black law students at various SA law firms for internships in July this year, after which the 20 best students would be awarded internships in the legal divisions of SA's major banks, the Appellate Division and the Constitutional Court

Candidates for the programme would be selected next week. Dean said that one of the major priorities of USAid's SA programme was to support the justice ministry's efforts to make law more accessible to the majority population and to increase representation in the legal profession



Day of pleading ... a friend greets Boy Diale and Christopher Makgale (right) who came out of prison to become the first applicants for amnesty before the Truth and Reconciliation Commission. Both men are serving jail sentences for what they claim was a political murder.

Man tells amnesty committee how he killed unpopular Bop tribal councillor

By ROBERT BRAND

Phokeng-Christopher Makgale had never in five years admitted his part in the murder of Bafokeng tribal councillor Glad Mokgale - but did when he was brought out of prison to appear before the Truth and Reconciliation Commission outside Rustenburg yesterday.

Makgale (52) confessed in a soft voice that he had inflicted the fatal panga wound when the unpopular councillor was brutally attacked by a group of the wealthy tribe's members. He told a hushed audience of several hundred other Bafokeng: "I saw that he was still alive. I took the panga and I chopped him."

"I chopped him personally, because I realised we were heading for prison and I wanted to sweep up the evidence." Makgale and Boy Diale (35) were in an "action committee" of 10 which abducted and killed Mokgale in 1990 and they were sentenced to 15 and 12 years' jail respectively. They have applied for amnesty to the Truth Commission, claiming that the murder was politically motivated. Testimony in support of the application was heard in the Civic Centre in Phokeng, near Rustenburg in North West province. The public hearing is the first by the five-member amnesty committee and is expected to continue until tomorrow.

Motivating their application, Brian Currin of Bell, Dewar and Hall, who appeared for the applicants, sketched a picture of simmering discontent with the rule of former Bophuthatswana president Lucas Mangope. Matters came to a head when Bafokeng chief Edward Molotlegi

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Man tells how he killed councillor

▶ From Page 1

was forced into exile in 1988. Currin said that against the tribe's wishes Mangope had appointed supporters of his cabinet to positions of authority in the tribal administration.

Mokgale was made chairman of the tribal council, an appointment which angered part of the tribe and caused a split in the council.

An "action committee" was formed and mandated by tribal elders to obtain the keys to the Bafokeng Civic Centre from Mokgale as a symbolic protest.

Ten members of the committee, including Makgale and Diale, kidnapped Mokgale, bundled him into a minibus and, when Mokgale would not give up the keys, assaulted and killed him.

Diale and Makgale, who were the only ones convicted of the murder although eight were arrested and charged, testified that they did not have the intention to kill Mokgale.

But, Diale said, they had changed their minds because Mokgale's intransigence had made them "emotional" and also because they were afraid that he might be able to identify them.

"When we attacked him, we wanted South Africa to realise that we didn't want the Bophuthatswana government. We wanted Mangope to realise how serious we were about getting back our chief."

'Amnesty does not preclude compensation'

Star 21/5/96 (252)

By HELEN GRANGE

Constitutional Court Correspondent

The option of amnesty available to the Truth and Reconciliation Commission does not mean that victims are denied the opportunity to apply for compensation, according to Justice Minister Dullah Omar.

He is opposing a Constitutional Court application by the Azanian People's Organisation to have direct access to the court to challenge the constitutionality of the Promotion of National Unity and Reconciliation Act, which

gives the commission its powers

Azapo, together with the families of murdered anti-apartheid activists Steve Biko, Griffiths Mxenge and Dr Fabian Ribeiro, claim in their heads of argument that the power to grant amnesty denies people the constitutional right to pursue civil action against perpetrators of human rights violations.

They are requesting that the court hears the matter urgently and that the act be declared unconstitutional.

Omar, however, has requested that their application be dis-

missed, arguing that the applicants have had difficulty identifying those who had killed members of their families and that the act was designed to make identification of perpetrators possible.

"Unless amnesty is granted, it is extremely unlikely that the perpetrators would ever come forward," he said. All victims were entitled to apply for compensation or reparation, he added.

Omar said there were no grounds for direct access to the court. The applicants had delayed for eight months following the publication of the act last year.

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'Too few to fight crime'

ET 22/5/96

THE TRANSVAAL attorney-general's office was unable to serve the public as it should, Transvaal attorney-general Jan D'Olveira said in his annual report tabled yesterday.

The drive to combat crime was being seriously hampered by the continuous lack of staff in his office.

Due to the unfilled vacancies and increase in workload the interests of the community — the President's assurance that crime would be curtailed notwithstanding — could no longer be properly cared for — Sapa

POLICE OFFICER TAKES ACTION

TRC accused of contempt of court

(252) CT 22/5/96

DURBAN: An application has been brought before the Supreme Court, by former security policeman Gideon Nieuwoudt, to find the Truth and Reconciliation Commission guilty of contempt of court.

THE Supreme Court will be asked today to find the Truth and Reconciliation Commission guilty of contempt of court

Lawyers acting for former security policeman Gideon Nieuwoudt — currently one of the accused in the Motherwell car-bomb trial — said last night that TRC chairman Archbishop Desmond Tutu, vice chairman Dr Alex Boraine and the rest of the commission's members ignored a Supreme Court ruling preventing witnesses from naming him

The lawyers have asked that the TRC be found guilty of contempt of court. The motion will be heard at 11am today.

The Supreme Court issued the ruling on Monday, preventing the commission's witnesses from giving evidence which may affect or implicate Mr Nieuwoudt, unless he has been given reasonable and timely notice

In a founding affidavit last night, Mr Nieuwoudt claimed two people giving evidence before the commission yesterday — Mr Mlandile Quntu and Eastern Cape Safety and Security MEC Dennis Neer — had named him

"Notwithstanding the court interdict, the commission allowed evidence to be given by Mr Mlandile Quntu, who specifically mentioned my name and alleged that I apparently harassed and intimidated him during 1984," Mr Nieuwoudt said.

"My name was mentioned by this person after he was asked whether he could name those allegedly involved.

"Furthermore, evidence was also given and allowed to be given by Mr Dennis Neer, who also mentioned me by name on numerous occasions and implied that I had threatened to kill him.

"Although I am not in possession of the transcript of the evidence I am informed and believe that Mr Boraine specifically asked Mr Neer whether he could name the alleged perpetrators. Mr Neer was therefore invited by Mr Boraine to mention the names and my name was mentioned

"I deny the allegations made by Mr Quntu and Mr Neer," he said.

Mr Nieuwoudt said he had reasonable grounds to expect that the TRC would continue to act in contempt of the court

"As far as I am aware at least another 11 hearings are planned for the Eastern Cape, although I do not know the dates of such other hearings," he said,

In a statement issued earlier yesterday, the judge who granted the temporary interdict said he was surprised the TRC did not oppose the application on Monday.

Before granting the order, acting judge Mr Justice Buchanan said he considered it necessary to pass some brief comments

"I consider it surprising, to say the least, that the respondent (TRC), despite apparently having notice of the application, has not sought fit to place its views and attitudes before me," he said. "The workings of the Truth and Reconciliation Commission are of fundamental importance to the process of reconciliation in this country.

"Nevertheless, the hearings of the commission are extraordinary and without precedent in our history

"When orders are sought from this court which fundamentally affect the rights of witnesses the input and attitude of the commission should ordinarily be placed before the court.

"For reasons not presently clear, the commission has failed to do so in this application," Judge Buchanan said — Own Correspondent

First amnesty decision by July

ROGER FRIEDMAN

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or 22/5/96

PHOKENG The first applicants to the Truth and Reconciliation Commission for amnesty returned to their prison cells yesterday to begin what could be a long wait before they learn their fate.

At a press briefing after the first application had been concluded, the head of the commission's committee of amnesty, Mr Justice Hasen Mall, refused to predict how long it would take for the committee to make a decision. The next amnesty hearing was provisionally booked for July, and he hoped a decision would be reached before then.

Apart from the fact that this was a ground-breaking application for his committee to consider, the three judges seconded from the Supreme Court to the five person committee had judicial work to complete. It was convenient to dispose of these matters as soon as possible, said the judge.

The committee, however, did not intend waiting for the Constitutional Court to decide on a pending application to have the commission's amnesty process declared unconstitutional. Azapo lawyer Mr Cyril Morolo, who launched the application, has said the committee's failure to wait amounted to contempt for the

highest court in the land.

Earlier yesterday, counsel for the amnesty applicants, Mr Brian Currin, argued in his closing statement that his clients' actions qualified for amnesty under the Promotion of National Unity and Reconciliation Act.

The applicants, Mr Boy Dialo and Mr Christopher Makgale, are serving lengthy prison sentences for the murder of the chairman of the Batokeng Tribal Council, Mr Glad Mokgathle in 1990.

Mr Glad was installed by President Lucas Mangope, whose Bantustan regime was detested by the Batokeng people. Currin said his clients' act was

"obviously" associated with a political objective. The murder had not been premeditated, it was committed against a political background, and it was in proportion to a political objective.

Counsel for the commission, de facto prosecutor Mr Cocky Mpshe, disagreed with Currin's assessment.

He was not convinced the brutality of Mokgathle's murder justified the perpetrators' political ends.

"There were other alternative means at the disposal of the applicants. They could have simply snubbed Mokgathle and spared his life," he said.



The first two applicants for amnesty, Boy Diale (left) and a tearful Christopher Makgale (right), are greeted by an unidentified friend on their arrival at the Truth Commission's first amnesty hearing on Monday.

Looking for the full truth of SA's past

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Southern 25/5/96

Significance of amnesty committee becomes clear at its first hearing

By Claire Keeton
Feature Writer

A POLITICAL prisoner in the former homeland of Bophuthatswana for the first time on Monday confessed before the Truth Commission's amnesty committee the extent of his guilt in the murder of an unpopular tribal leader.

"I grabbed him and chopped him personally with a panga," Christopher Makgale told the committee in Phokeng. He had previously in court denied active participation in the killing of Mr Glad Mokgatle.

This was a significant admission as one of the amnesty committee's main functions is to uncover new information about atrocities perpetrated under apartheid, and it will only be able to do this if perpetrators cooperate with the committee.

But, then again, Makgale and his fellow applicant, Boy Diale, are not typical "perpetrators" as they are not enemies of their broader community. In fact, they are regarded as heroes by many of the 300 000-strong Bafokeng tribe for eliminating one of Mr Lucas Mangope's appointees.

This was evident from the applause of the capacity crowd that attended the public hearings in the Bafokeng Civic Centre, itself a symbol of the power struggle which ended in Mokgatle's death.

Priority to prisoners

The amnesty committee's decision to hear Diale and Makgale's applications first, out of about 250 applications, meets the requirement of the Promotion of National Unity and Reconciliation Act of 1995 to give priority to prisoners.

Diale, is serving 12 years and Makgale 15 years in Odri Prison for their role in beating Mokgatle to death on October 29 1990, a time of intense political conflict between the Bophuthatswana government and the Bafokeng community.

While Diale and Makgale are prisoners, it is equally likely that they were chosen to launch the amnesty committee's hearings because of the clear political motivation behind their offence.

When sentencing the two men on October 8 1991, Judge CJ Waddington said as much: "The court is driven to conclude that Accused No 1 (and No 2) were motivated by political considera-

tions, right or wrong."

Their lawyer, Mr Brian Currin, said the men were regarded as political prisoners by organisations such as the African National Congress, Lawyers for Human Rights, Mafikeng Anti-Repression Forum, Human Rights Commission and others, who have consistently called for their release.

Although it became apparent from their testimony to the amnesty committee that Diale and Makgale were not acting on orders from their community or the African National Congress when they killed Mokgatle, neither were they acting in isolation.

Kidnapped Mokgatle

The two were part of a group of 10 who kidnapped Mokgatle to force him to hand over the keys of the civic centre where tribal affairs were administered and to relinquish his position as chairman of the Bafokeng Tribal Council, a position which should have been held by the chief's appointee in his absence.

"What troubled us was that our chief was sick and forced into exile. We wanted him back in his seat. We wanted Bophuthatswana dismantled and the Bafokeng tribe wanted to be reincorporated into South Africa," Makgale told the committee.

He was a member of the People's Progressive Party, which was involved in a coup attempt against Mangope on February 10 1990, and Diale was a member of the United Democratic Front and ANC at the time of the murder.

Both were members of the Bafokeng Action Committee, established in resistance to Mangope's sympathisers who had been appointed to authority over the tribe.

But their political involvement does not mean they will automatically qualify for amnesty. The judges made it clear that applicants will have to go a long way to prove they were politically motivated, setting a precedent for subsequent hearings.

The contrast between the proceedings of the amnesty committee and the human rights violations committee was marked on Monday as the two men gave testimony.

The details of the atrocity, in this

case the murder of Mokgatle, were overshadowed by the pressing need to establish the reasons for the murder and the broader political context.

During the human rights violations committee hearings, witnesses told their stories in grim detail and were allowed to talk freely without being subjected to much cross-examination.

The lawyers and judges of the amnesty committee did not accept Diale and Makgale's testimony at face value, and answers to their probing revealed that they had not intended to kill Mokgatle.

Instead, his murder was committed in a burst of anger by his captors when he refused to meet their demands and they feared torture and imprisonment if he was left alive to testify against them.

"Then the killing had nothing to do with the ANC," Judge Andrew Wilson said after Diale admitted it was not a premeditated plan. Diale replied: "I can't say that, we were working hand in hand with them."

Beginning of struggle

Diale said the chairman of the Rustenburg ANC at the time, Mr Isaac Mokgatle, told him after Mokgatle's death that this was "the beginning of the struggle".

He said: "The ANC told us at all meetings it was important to eradicate collaborators."

The amnesty committee is obliged to grant amnesty when an act is associated with a political objective, as long as the perpetrator has disclosed the full truth relevant to the application.

The sensitivity of these hearings was underlined by the tight security at its opening, with the civic centre circled by razor wire, heavily armed police on patrol and a roadblock on the road to Phokeng.

A makeshift dock for the applicants and lawyers, and Archbishop Desmond Tutu's appearance in a suit instead of his usual clerical robes, added to the court atmosphere.

But, ultimately, the amnesty and human rights violations committees are working towards the same objective: the full truth of South Africa's divided past and reconciliation for the future.

Mbeki moves to investigate bribery claims

Stephen Laufer

BD 23/5/96

CAPE TOWN — Acting President Thabo Mbeki moved rapidly last night to defuse a ministerial row sparked by Deputy Environment Affairs Minister Bantu Holomisa's claim that Public Enterprises Minister Stella Sigcau took a R50 000 bribe while she was a minister of the old Transkei homeland.

In evidence to the truth commission in Port Elizabeth, Holomisa — who deposed Sigcau to become Transkei military ruler in December 1987 — alleged she had accepted the bribe as part of the award of the territory's exclusive gambling rights. Sigcau said yesterday she was surprised Holomisa had raised the allegations again despite the fact that a commission of inquiry had cleared her. She challenged Holomisa to do his homework.

Presidential spokesman Joel Netshitenzhe said Mbeki had spoken to Holomisa, who told him that he had appeared before the truth commission in his capacity as former Transkei leader and not as a member of the SA government or the ANC. Holomisa and Sigcau would be asked to submit documentary evidence to the acting president, who would meet them after studying the facts, Netshitenzhe said.

Mbeki would then report fully to President Nelson Mandela on the matter after his return from Germany.

⁽²⁵²⁾ Ecna reports Holomisa told the commission that the Transkei defence force had intervened to remove prime minister George Matanzima after details of the bribe had emerged. Although the company which bought the gambling rights with the bribe was not named in Holomisa's submission, it is common knowledge that they went to Sol Kerzner's Sun International in return for a payment of R2m to the Transkei leadership.

It had been discovered after Sigcau's election as prime minister that several senior ministers, including paramount chief KD Matanzima and Sigcau, had each received R50 000, Holomisa alleged. She had then been removed by the homeland defence force. When the ousted politicians had turned to Pretoria for help, Matanzima had been arrested as part of the implementation of recommendations by a commission of inquiry. The result had been "a lot of interference from foreign minister Pik Botha", Holomisa said.

Patrick Cull reports that Holomisa released a letter signed by Lt-Col BD van Greunen on behalf of the officer commanding Eastern Province Command, and dated April 24 1996, advising all members to "remain silent" on the Bisho massacre. The letter, which is classified as re-

Continued on Page 2

Sigcau

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Continued from Page 1

stricted, said the office had received many inquiries about the incident.

"Apart from the fact that the SANDF is aware of the incident, and that authority has been granted by the finance chief of staff for members involved to obtain legal representation at state expense, this office is unable to identify anyone who was involved."

The letter said the contact person at the state attorney's office was Johan Coetzee, and if anyone was approached for statements "they are advised to remain silent until they have consulted

the law officer".

Commenting on the "signal", Holomisa said it raised questions because at the time of the massacre there were SADF members who had been seconded to the Ciskei Defence Force, whose commander Marius Oelschig was also an SADF officer who had been withdrawn after the massacre.

Holomisa said the officials seconded from Pretoria to the homeland had executive powers.

He said the signal confirmed that authority had been granted by the finance chief of staff in Pretoria for members involved to seek legal representation at state expense, "but the author (of the signal) distances his office in identifying the personnel involved

THURSDAY
MAY 23, 1996

POLI

PROPOSAL TO SPEED UP TRIALS

Confessions may be ruled out

(252) CT 23/5/96

THE SA LAW COMMISSION has made several proposals to eliminate backlogs in the criminal justice system in its 1995 report, our **POLITICAL STAFF** report.

CONFESSIONS extracted by police should be disallowed in the courts in the interests of speeding up the criminal justice system, according to the South African Law Commission

In its 1995 report tabled in Parliament this week, the commission proposed that the law be amended to rule any confession inadmissible in order to "eliminate many a trial within a trial to establish the admissibility of a confession"

Its proposal to Justice Minister Dullah Omar is one of several aimed at eliminating backlogs in the criminal justice system

Among the other recommendations are the introduction of statutory plea bargaining, more use of admission of guilt fines and limitations on cross-examination

The commission recommended that "all delays that can reasonably be prevented and that could cause substantial or possible prejudice to the state or the accused should be eliminated"

The court should be able to order that "postponement of the proceedings be refused, that the trial be continued without legal representation, that a prosecution may not be instituted again, that

the accused be acquitted, that cross-examination be curtailed, that an order as to costs be awarded against the party responsible for the delay and that disciplinary action be taken against such a party"

The commission recommended that where an accused person failed to appoint a legal representative in an attempt to delay a trial, the court should be able to order that the trial proceed without legal representation or itself appoint a representative for the accused

If cross-examination of a witness appeared to be unreasonably drawing out a trial, the court should be able to "request the cross-examiner to disclose the relevancy of any particular line of examination and may impose rea-

sonable limits on the examination"

Admission of guilt fines should also be used more widely and more summonses should be issued instead of arrests

Plea-bargaining should be made statutory and a procedure should be implemented to facilitate the proof of undisputed facts "It will therefore be unnecessary to call witnesses to give oral evidence in so far as sworn statements may be submitted instead".

The commission is also working on reports on simplifying criminal procedure, improving public access to the criminal justice system, sentencing guidelines and the relationship between criminal procedure and the implementation of the new Bill of Rights



Picture ANDREW INGRAM, The Argus

CLOSE TIES: Mozambican president Joaquim Chissano, left, gets to grips with South African deputy president Thabo Mbeki during the southern Africa economic summit in Cape Town

ARG 23/5/96 (252) (252)

Mbeki steps in to defuse row over 'bribe'

JOHN YELD
on the Truth Commission

PORT ELIZABETH - Deputy President Thabo Mbeki has stepped in to defuse a row between government members Bantu Holomisa and Stella Sigcau over an alleged bribe in 1987

During his testimony to the Truth Commission here yesterday, Deputy Environmental Affairs Minister Holomisa, the former military leader of Transkei, repeated previous accusations that Ms Sigcau, Min-

ister of Public Enterprises, had been paid a R50 000 share of a R2 million bribe for gambling rights, paid to then Transkei prime minister George Matanzima by hotel magnate Sol Kerzner

An angry Ms Sigcau accused Mr Holomisa of dragging up false accusations and said he had to explain what his real agenda was for doing so

In an attempt to end the dispute Mr Mbeki announced that he would call the two ministers in for discussions after he had had a chance to examine the facts

During his evidence to the commission, Mr Holimisa referred to the "destabilisation of Transkei by South Africa".

Persistent rumours and allegations of the embezzlement of funds from South Africa had led to commissions of inquiry being appointed

"When Chief George Matanzima refused to step down as a result of his implication in financial scandals, the then Transkei Defence Force intervened and forced him out of politics," Mr Holomisa said

● More reports, pictures page 6

Colonel's gag on torture tale

(252) AR 23/5/96



Picture: LEON MULLER, Chief Photographer

BURNING ISSUE: Former Port Elizabeth fireman Donald Myles testifying at the Truth Commission about the policy to delay fighting fires in black townships. With him is commission briefer Tantaswa Gubevu

Deliberate delays caused deaths, says ex-fireman

AR 23/5/96 (252)

MANY people burnt to death in shack fires in the 1980s because of a deliberate policy to delay the response of the Port Elizabeth fire service.

This was evidence of a former fire officer with 25 years' experience, testifying at the Truth Commission. Donald Myles was testifying to the commission's human rights violations committee and said during one year 44 people had died after being trapped in fires, and about half of these deaths were because the fire service had either delayed responding or had ignored the call for help.

Once 150 shacks had burnt down as the service "stood by and watched". Sometimes the service had taken between 40 to 60 minutes to respond to a call just four minutes away.

During unrest in townships during the 1980s, there had been a deliberate policy to ignore requests from these areas as a result of uprisings. The policy was that firemen would have to get the go-ahead from police before they could enter a black area.

FORMER Eastern Cape political activist Mkhushel Jack told the Truth Commission today that 70 percent of evidence he had planned to give about torture in detention involved controversial former security policeman Gideon Nieuwoudt.

Mr Jack was testifying at the hearings of the commission's human rights violations committee. But before he began, the commission's Eastern Cape convenor, Rev Bongani Finca, told him that the commission was required to put questions to each witness before they testified, in terms of a Supreme Court agreement with Lieutenant-Colonel Nieuwoudt.

The commission had to ask, in terms of the agreement, whether witnesses intended naming Colonel Nieuwoudt as a perpetrator and if the answer was "yes", they had to be told not to.

"We have decided to honour this court order because we think it is in the interests of the country," Mr Finca said in response. Mr Jack said 70 percent of his testimony would have related to Colonel Nieuwoudt.

"However, in the interests of the country as a whole, and particularly in the light of international interest in the conduct in our land, I will set an example personally of showing that in South Africa we respect the courts of the land."

"I will try to do this under very difficult circumstances."



JOHN YELD reports from Port Elizabeth

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It is important I abide by this."

Immediately after Mr Jack had finished testifying Mr Finca announced that the mother of Siphiwo Mkhulu, who disappeared after being apparently poisoned in Port Elizabeth in 1982, would not testify next as scheduled, because of an urgent Supreme Court application in Cape Town by two former police officers who demanded to see evidence relating to them before it was led.

Judgment in the case is expected shortly. "We are waiting for this judgment - that shows the difficulties that are facing this commission," Mr Finca said. Mrs Mkhulu was then led, weeping bitterly into a back room.

Mr Jack then appealed to people to support the commission, despite the fact that alleged perpetrators of human rights were abusing the new constitution.

"Let us not break our rules because should we do that, we are going to make ourselves a laughing-stock," Mr Jack said.

Court to rule on Nieuwoudt settlement

AN agreement between the Truth Commission and controversial former security policeman Gideon Nieuwoudt was expected to be made an order of court in the Port Elizabeth Supreme Court today.

The commission will undertake not to allow or receive any evidence or allegations to be made about Lieutenant-Colonel Nieuwoudt - on trial for the alleged Motherwell bombing murder of three security policemen and an informer - without giving him adequate notice and access to relevant information and documentation.

In return, Colonel Nieuwoudt will withdraw his application for a contempt of court order against the commission for allegedly ignoring a temporary interdiction granted him on Monday.

The return date for his interdict application is June 5, and it is likely to be opposed. Commissioner Dumisa Ntsebeza told a media briefing after yesterday's hearings that the commission did not want to appear to be failing to conform with the law.

Commissioner Bongani Finca, who heads the commission's Eastern Cape office, confirmed a letter from the mayor of Port Elizabeth, Nceba Faku, had been sent to chairman Desmond Tutu, informing him the city council had withdrawn its Citizen of the Year award to former Black Consciousness leader Ebenezer Mzwandile Magana.

Mr Magana, reputed to have had close Azanian People's Organisation links during the years of conflict with the United Democratic Front and more recently with the National Party, has been named several times during the two days of hearings so far this week in connection with alleged human rights violations and violence.

Holomisa hints at conspiracy among former SADF officers

APR 9 23/5/96

THERE may still be a conspiracy among officers of the former defence force to hide their involvement in actions against political parties like the African National Congress after the parties' unbanning in 1990. That's the possibility posed by Deputy Environmental Affairs and Tourism Minister Bantu Holomisa after his testimony to the Truth and Reconciliation Commission yesterday, when he handed over at least 15 top-secret files.

These were mostly about covert

SADF operations and front companies for Military Intelligence to win the hearts and minds of black people and crush their support for organisations like the United Democratic Front during the latter half of the 1980s.

In a section of his submission headed "Bisho Massacre 1992: Who Was Behind It?", Mr Holomisa handed in a memorandum marked "Restricted" from the SA National Defence Force's Eastern Province Command. The memorandum stated

that the legal office of this command had received "numerous inquiries about the shooting at the Bisho stadium.

reference number and an emergency telephone number

"All Unit/Gp OCs (unit/group officers commanding) must take note that should any person under their command be approached for statements, they are advised to remain silent until they have consulted with the law officer," the memorandum stated.

Mr Holomisa said this signal raised "serious questions." At the time of the massacre, members of the former SADF had been seconded to the Ciskei

Defence Force, whose officer commanding had also been an SADF officer, Brigadier Marius Oelschig. After the shooting he had been withdrawn to Pretoria

"Even before the case was finalised he was promoted to major-general, as if it was a reward for a job well done - that is, it succeeded in playing one black brother against the other, and the South African government in the meantime was not to be blamed," Mr Holomisa said.

He asked that, if the personnel divi-

officers

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sion and the office of military law of Eastern Province Command were not aware of the people involved, as suggested by the signal, who had then approached the office of the Chief of Staff Finance in Pretoria for authority to pay legal costs for the affected personnel?

"The million dollar question which must be answered is: Does the signal refer to ex-Ciskei soldiers or to the then SADF soldiers who might have been involved in the shooting during the Bisho massacre?"



Bantu Holomisa

Firemen's delays 'cost lives' (252)

Own Correspondent

PORT ELIZABETH — More than 20 people died in one year because of the Port Elizabeth fire department's policy of ignoring requests from black townships "on fire at the time of the uprisings", a former fireman told the truth commission yesterday.

Donald Myles, an employee of the fire department for 25 years, told the commission during the second day of hearings in Port Elizabeth that in one year when he was responsible for records, 44 people had died. Half the deaths had been as a result of the fire services "delaying and not responding to calls for help".

He said the people in charge "must have known what was happening", because he had been in a semi-management position and he had known. "If they did nothing, they condoned it."

Myles said the policy at the time was that firemen had to get the go-ahead from the SA Police before they could enter any black area.

"This, inevitably, made it impossible for firemen to attend speedily to any cases reported by black residents."

Myles said it had been part of policy also that fire services would be rendered only in the presence of the police, "and in most cases the police would refuse to escort the firemen into the black township".

"In other cases there would be a deliberate delay of up to two hours in attending to requests from the black townships. By that time a lot of damage had been done."

He cited one case where a delay of between 40 minutes and an hour had resulted in the deaths of four people.

Myles said he had been subjected to harassment and threatened

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by municipal officials when it became known he was to testify.

Ecna reports that ANC parliamentarian Ivy Gcina told the commission she was tortured and tear-gassed by police during a 1985 spell in detention.

In July 1985 she was taken to Louis le Grange Square, the Port Elizabeth headquarters of the SAP, where she was severely tortured for the whole day.

Gcina, sister of murdered activist Siphon Hashe, said a policeman named Van Wyk had thrown two tear gas canisters into a men's toilet where she was being held.

Her torturers also took towels "which they tied around my face".

While held at North End Prison, known as Rooi Hel, she was treated by Dr Wendy Orr.

Orr said Gcina's left eardrum, and a nerve attached to the ear, had been damaged while she was held in custody.

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Truth body application withdrawn

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Own Correspondent

BO 23/5/96

PORT ELIZABETH — Former security policeman Lt-Col Gideon Nieuwoudt withdrew a Supreme Court application against the truth commission, its chairman and vice-chairman yesterday when an agreement was reached between the parties.

This followed the alleged transgression by the commission of an earlier Supreme Court ruling which operates as an interim interdict.

The interdict, obtained on Monday, prevents witnesses from giving evidence which may affect or implicate him — unless he has been given notice. Despite the interdict, Nieuwoudt was named by two witnesses on Tuesday.

As part of the agreement, the commission undertook to give Nieuwoudt reasonable notice if evidence was to be presented which would implicate him, and to present Nieuwoudt with all relevant information.

In another case, two retired senior policemen brought an urgent application in the Cape Town Supreme Court yesterday asking the commission and its chairman be fined or jailed for disregarding a court order.

Sapa reports the application was filed by lawyers for retired police Brig Jan Abraham du Preez and retired Gen Nicolaas Jacobus Janse van Rensburg.

Last month the two won a "test case" application in the Cape Supreme Court enforcing advance notice of testimony involving them, and access to documents.

The former policemen claimed the commission had not complied with the ruling and wanted testimony, scheduled for today, in which they were to be mentioned, postponed. The case will be heard in the Supreme Court today.

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TOP SECRET BOOK DRAID

Holomisa claims Public Enterprises Minister received R50 000

By Mzimasi Ngudle and Eena

PUBLIC Enterprises Minister Miss Stella Sigcau allegedly received a R50 000 bribe when the then Transkei government awarded exclusive gambling rights to Mr Sol Kerzner's Sun International in the homeland.

The Truth and Reconciliation Commission heard yesterday the allegation was contained in a lengthy submission to the TRC by former Port Elizabeth Deputy Environmental Affairs and Tourism Minister General Bantu Holomisa.

Although Holomisa did not name the South African company, it is alleged that Kerzner had offered for the Transkei game minister, Chief George Matanzima, R2 million for exclusive gambling rights for Sun International in the homeland.

Financial scandals
Holomisa said that when Matanzima refused to resign after being implicated in financial scandals, the Transkei Defence Force had intervened and forced him out.

A new prime minister, Stella Sigcau, was elected. We discovered that Chief Matanzima was paid a bribe of R2 million for exclusive gambling rights.

Bank statements were obtained from the Bank of Transkei which showed that some of the senior ministers and Paramount Chief, Kaiser Matanzima had each received a sum of R50 000.

On the morning of December 31 1987 all ranks of the TDF took a decision to remove the government of Miss Stella Sigcau since she was also a recipient of the R50 000, Holomisa told the commission.

TRC deputy chairman Dr Alex Boraine said top police officers and



government leaders implicated by Holomisa would be invited to present their cases before the commission.

The officers, together with other people whom Holomisa has accused of apartheid atrocities, could be subpoenaed if they failed to accept invitations, Boraine said in a packed Centenary Hall in New Brighton.

Boraine said that after Holomisa had mentioned senior police officers in the top secret files he had handed to the commission yesterday.

He said he hoped the Reverend Ebenezer Mangina, the leader of

Transkei, which served as a bridge during the mid-80s and had been specifically invited to appear before the commission.

In his testimony, Holomisa mentioned Brigadier CP van der Westhuizen, the commander of the Eastern Cape Command who headed Operation Katzen, for his alleged role in a multi-pronged security plot to eliminate human rights activists.

The broader object was to develop the Eastern Cape into a power block against the United Democratic Front

and the ANC.

Holomisa said former state president PW Botha had given orders that the 1986 crisis be brought to an end by that December.

It is clear that the current unrest situation cannot be permanently stabilised through the current conventional methods including the state of emergency, Botha is quoted as saying in the file on Operation Katzen.

Holomisa alleged that:

● Former president FW de Klerk, who chaired the State Security Council, must have been aware of the operation as well as the SADF raid

that had killed five youths dead in Umhlanga in 1993.

● Colonel Jan Nicwoudt, who headed the Ciskei Intelligence Services, had plotted the killing of former Ciskei security boss Charles Sebe;

Truth and Reconciliation Commissioner Me Thandazwa Gubevu confirms one of the witnesses at yesterday's hearing at the Centenary Hall in Port Elizabeth where Environmental Affairs and Tourism Deputy Minister Bantu Holomisa made startling allegations of bribery against a Government Cabinet Minister.

There could be no peace until De Klerk and Van der Westhuizen were called to account for their roles in the Directorate Covert Collections; and

● Top security personnel were highly implicated in the findings of a commission of inquiry, headed by police officer Pierre Steyn.

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Sigcau took R50 000 bribe, says Holomisa

Deputy minister also calls on TRC to 'call to account' former intelligence chiefs and FW de Klerk

Port Elizabeth - Public Enterprises Minister Stella Sigcau received a R50 000 bribe to approve exclusive gambling rights when she was a minister in the Transkei homeland government, Deputy Environmental Affairs Minister Bantu Holomisa alleged to the Truth and Reconciliation Commission hearing in Port Elizabeth yesterday.

Holomisa led a military coup against the Transkei's homeland government and became its leader until its incorporation. He did not name the company which had provided the bribe, but it is now common knowledge that Sol Kerzner offered R2-million to the then homeland's prime minister, George Matanzima, for exclusive gambling rights for Sun International.

Holomisa told the commission yesterday that after Matanzima's

overthrow by the Transkei defence force (TDF), "we discovered that Chief Matanzima was paid R2-million as a bribe for exclusive gambling rights. Bank statements were obtained from the Bank of Transkei which showed that some of the senior ministers and Parliament Chief K D Matanzima had each received a sum of R50 000."

"On the morning of 31 December 1987, the TDF took a decision to remove the government of Stella Sigcau, since she was also a recipient of the R50 000."

Holomisa said the ousted politicians had turned to Pretoria to have his military government removed, and "we experienced a lot of interference from the (former) minister of foreign affairs, Pik Botha."

Holomisa said that by 1991 Pretoria was looking for "every plausible" reason to mount a military

invasion and "Operation Abbot" was a secret plan to destabilise the homeland.

He also made allegations concerning an attempted counter-coup in 1990 engineered by the SADF with the "full knowledge and backing of the RSA political authorities."

He called on the TRC to subpoena the "Chiefs of Intelligence", that is, Military Intelligence, National Intelligence Services and security police who were in office before the 1994 elections to account for the violence against the disadvantaged.

Outgoing Deputy President FW de Klerk and the former chief of Military Intelligence, Joffel van der Westhuizen, should also be called to account to the nation at the TRC, Holomisa said. He said it was the only way to close the chapter on the violence

that had erupted in the 1990s after unbanning of the liberation movements and to assess the role of the Directorate of Covert Collection (DCC) in the violence.

In a session lasting nearly three hours Holomisa said he was testifying to the commission as a "concerned citizen."

He produced top-secret military documents on covert operations which he said aimed to destabilise the Eastern Cape and the former Transkei and Ciskei.

De Klerk and Van der Westhuizen's testimony should be viewed against De Klerk's decision to grant early retirement to senior DCC officers after they had been linked to violence and murder. De Klerk himself had stated they could be charged with murder, Holomisa said.

It was unfortunate that the Steyn Commission's report was

never made public or tabled in Parliament, he added.

He alleged that the IFP had formed part of, and was at the forefront of, counter-revolutionary activities of the then SA Defence Force in the 1980s.

"The bloody conflict between the IFP and African National Congress supporters is not a consequence of bitter political rivalry but a manifestation of the Third Force dirty tricks at work."

The documents handed in by Holomisa refer to covert operations such as Project Katzen, written by Van der Westhuizen and aimed at "normalising" the situation in the Eastern Cape. Holomisa said that what emerged from the documents was that operations were sanctioned at the highest level of government, with emphasis that they should not be traceable back to it.

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WITNESSES REFER TO 'MR X'

Concern over court threats against TRC

EAST LONDON: Angry community members demonstrated yesterday against a ruling that prevented witnesses from naming human rights abusers. **ROGER FRIEDMAN** reports.

MINISTER of Justice Mr Dullah Omar has expressed concern over the number of court actions being brought against the Truth and Reconciliation Commission, but says it would have been naive to have expected the commission to proceed without hindrances from those who resisted change in South Africa.

There was fury in New Brighton yesterday when a court application alleged perpetrators Major-General Nic van Rensburg and Brigadier Jan Abraham di Preez prevented Mrs Elizabeth Mzimkulu, for the second time, from telling the commission the story of her son Sipho's poisoning and disappearance.

The two former security policemen brought an urgent application against the commission on Wednesday, claiming it was in contempt of a

Port Elizabeth, Mr Nceba Rake when it was agreed a special hearing would be held for the Mzimkulus next month.

After lunch, commissioner Mr Bongani Finca said the family, the mayor (representing the community) and several commissioners were angry that reconciliation and healing adequate notice and details of what they were going to be accused of, to enable them to prepare a defence.

Mrs Mzimkulu broke down and had to receive medical attention when informed yesterday that Van Rensburg's and Du Preez's application would prevent her from speaking.

She was initially on the list of witnesses to testify at the commission's first hearings in East London six weeks ago.

About 1 000 Congress of SA Students members demonstrated outside the venue before lunch, bearing placards calling for the Mzimkulu story to be heard.

During the lunch-break the commission held urgent talks with the Mzimkulu family and the mayor of

Port Elizabeth, Mr Nceba Rake when it was agreed a special hearing would be held for the Mzimkulus next month.

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CONCERNED - Mr Dullah Omar

the Terrence, who was torturing Jews" Later, Mr Siculo Aplem told of "Mr X" putting his genitals in a desk drawer and slamming the drawer.

Omar said the intention had always been that the names of perpetrators be made known. At the same time, those named to their detriment

in testimonies to the commission had to be afforded protection as the allegations made against them were untested.

"Certainly the commission should follow a procedure which will not lead to this kind of situation (the flurry of court applications) developing. The commission is an independent body. If there are problem areas with the law the commission must draw them to my attention."

But, said Omar, it had been expected the commission would have "teething problems, and I have no doubt they will be sorted out."

The commission was an entirely new concept for South Africa. It was not a court, but people could be named in evidence and then prosecuted if denied amnesty.

"What the last month of hearings has revealed is that there are people who are afraid of the truth coming out that those involved in violations of human rights have not suddenly changed, but are resisting change," he said.

Fit for more torture claim

PORT ELIZABETH: White doctors examined detainees in the 1980s and prescribed them "fit for more torture", the Truth Commission was told yesterday.

The shocking allegation came from western region district council health director Dr Mangaliso Magina, who named part-time district surgeon Dr Ivor Lang and a Dr Labuschagne as having taken part in "gross human rights violations".

He named Labuschagne, who he said had once prescribed that a beaten man was fit for more torture. Lang was found guilty of improper conduct and cautioned in a disciplinary hearing in 1985 for his part in Steve Biko's death in 1977. — Own Correspondent

TRC 'in contempt of court'

THE two senior ex-police officers who recently won a Supreme Court application to stop the Truth and Reconciliation Commission hearing evidence against them yesterday asked that the TRC be called to explain why they should not be held in contempt of court and punished.

Major-General Nic van Rensburg and Brigadier Jan Abraham du Preez have been implicated in the poisoning, kidnapping and murder of student activist Mr Sipho Mzimkulu in 1982. They say the TRC deliberately tried to evade the ruling in their intention to go ahead with evidence against them in Port Elizabeth. — Staff Reporter

Court acts again on TRC evidence

Staff Reporter

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ARG 24/5/96

THE Truth and Reconciliation Commission has again been interdicted in the Cape Supreme Court from hearing the evidence of a Port Elizabeth woman on the death of her son, allegedly at the hands of two retired senior policemen.

Retired police brigadier Jan Abraham du Preez and retired general Nicolaas Jacobus Janse van Rensburg brought the interdict application against the TRC and its chairman Desmond Tutu this week, a day before Elizabeth Mthimkhulu was to have testified before the TRC.

● Full report on page 1

ANC threatens NP candidates with court

Linda Ensor

CAPE TOWN — Political emotion is rising in the run-up to Wednesday's local government elections in the Western Cape, with the ANC threatening two legal actions against NP candidates for alleged intimidation and fraud.

ANC spokesman Cameron Dugmore said last night the party had laid a charge with the Man-

enberg police yesterday following an incident in Heideveld in which its canvassers were intimidated, and posters and pamphlets torn up. An NP MP was allegedly involved.

The ANC was also contemplating Supreme Court action to have two NP candidates disqualified for alleged fraud in their nomination signatures. Charges were laid against them two weeks ago.

SA doctors 'prescribed torture'

Own Correspondent

PORT ELIZABETH — White doctors examined detainees in the 1980s and prescribed them "fit for more torture", the truth commission was told yesterday.

The shocking allegation came from western region district council health director Dr Mangaliso Maqina, who named part-time district surgeon Dr Ivor Lang and a Dr Labuschagne as having taken part in "gross human rights violations".

When the Medical Association of SA (Masa) "said nothing" about human rights violations, Maqina said, black doctors and other health professionals formed an alternative association.

He said 99% of white doctors

belonged to Masa then. The association had since changed and is "now talking our language".

"I cannot believe that if you are a doctor trained to look after people for healing, that you can torture people," Maqina said.

He named a Dr Labuschagne as having once prescribed a beaten man as fit for more torture.

Lang was found guilty of improper conduct and cautioned at a 1985 disciplinary hearing for his part in Steve Biko's death in 1977.

When Maqina finished his testimony, commissioner Dr Mapule Ramashala said to him: "In our profession, our call is to save lives. It is very unfortunate that in SA doctors have participated in the perpetration of human rights violations."

Miller happy to get R21m aid

Farouk Chothia

DURBAN — Central government yesterday agreed to the KwaZulu-Natal government's request for an additional R21m to organise local government elections in the province, but was still considering a request from political parties for allocations to them as well.

KwaZulu-Natal local government MEC Peter Miller said he was "delighted" about the allocation, and that the Cabinet treasury committee had praised the province for the "high quality of financial management" in the use of election funds.

Spokesman Des Beykirch said the R21m would cover costs incurred as a result of the one-month postponement of elections to June 26.

The money would be used to pay thousands of election staff and voter education staff, as well as for reopening voter registration for four days. He said an additional R31m to fund expenditure carried over from the previous financial year had also been allocated.

Special truth hearing to be held

PORT ELIZABETH — The truth commission would hold a special hearing next month to hear evidence on the disappearance of activists Siphiso Mtinkulu and Topsy Madaka, Eastern Cape commission chairman Bongani Finca said yesterday.

Sapa reports this followed the invasion of the commission's Port Elizabeth venue by more than 1 000 schoolchildren from New Brighton and KwaZakele, demanding that Siphiso's mother, Elizabeth Mtinkulu, be allowed to testify.

She was to have testified at the commission's hearings in East London a month ago. However this was postponed to yesterday after Brig Jan du Preez and Maj-Gen Nicolaas Jansé van Rensburg applied for urgent interdicts preventing the commission from hearing her evidence, which they said would incriminate them.

The commission agreed to a second postponement after the policemen asked the Cape Supreme Court to fine or jail the commission and its chairman Desmond

Tutu for disregarding the previous court order in their favour.

Addressing the crowd at the hearings, Port Elizabeth mayor Nceba Faku pleaded for understanding and asked the community not to allow their anger to spill over into violence.

Mtinkulu and Madaka disappeared after they visited Port Elizabeth's Livingstone Hospital in 1982. Mtinkulu was diagnosed as suffering from thallium poisoning after his release from detention.

Our Port Elizabeth correspondent reports former Port Elizabeth Youth Organisation president Mkhusele Jack told the commission yesterday that he would not be able to give 70% of his testimony because it related to Lt-Col Gideon Nieuwoudt.

Nieuwoudt and the commission reached agreement on Wednesday in terms of which people testifying before the commission would be informed that they were not allowed to name the him as a perpetrator. Jack was the first to be warned and said he would respect the ruling.

He related how the police had taken him and other comrades to a shop and pretended that "they were having a good time" As a result people had started to say "we do not trust these comrades".

"I was fortunate because I was not named as an informer, because there were some who lost their lives."

He said he had been taken to Louis le Grange police station by W/O Coetsee who put him in handcuffs and wrapped a towel around his waist saying "We don't want you to have any scars"

Another witness, Kirkwood mother Nosisana Celia Louw, asked the commission for witness protection after naming two policemen and a police informer she believed could shed light on her son's disappearance in 1985.

Louw said a few days after the disappearance of her son, Sizwe Mazungula, a policeman had driven past her house and announced over a loudhailer that: "Sizwe had gone to train in order to come back and fight with the police." She had not seen her son since.

TRC gets to grips with amnesty

(252)

Sowetan 24/5/96
First ground-breaking case goes before Amnesty Committee

By Claire Keeton
Feature Writer

THE FIRST TWO APPLICANTS to the Amnesty Committee of the Truth Commission should be freed from prison as the murder they committed in former Bophuthatswana was associated with a political objective, their attorney, Mr Brian Currin, said this week.

In a ground-breaking interpretation of the commission's amnesty provisions, Currin said the offence may be a common-law crime as long as it is associated with a political objective.

"The offence does not have to have an immediate political motive as long as it is associated with a political objective," he said in his closing argument on behalf of applicants Christopher Makgale and Boy Diale.

Currin highlighted the objective "One person was murdered in an attempt to regain control of governance (of the Bafokeng tribe). This must be seen in the context of the applicants' own suffering and repression at the hands of the (homeland) security forces."

Untested sections

Currin and his associate, Mr Greg Nott, were the first lawyers to argue the untested amnesty sections in the Promotion of National Unity and Reconciliation Act before a public hearing of the Amnesty Committee on early this week.

The Act states that an applicant will be granted amnesty if the committee is satisfied that the "act, omission or offence" is associated with a political objective committed during past conflicts, and the applicant makes a full disclosure of the facts.

Makgale (52) and Diale (35) are serving long sentences in Odi Prison for the murder of illegitimate tribal chairman Mr Glad Mokgatle (83) in the Bafokeng district on October 29 1990.

They were among a group that abducted Mokgatle with a political purpose, but killed him out of anger and fear of retribution. "We do not believe this crime was motivated by malice, ill-will or spite," Currin said.

Six points are relevant when the Committee decides whether an act was associated with a political objective.

- The motive of the offender.
- The context, particularly whether the act was part of a political uprising or event,

'One person was murdered in an attempt to regain control of governance (of the Bafokeng tribe)'

- The legal and factual nature of the act, including its gravity,

- The objective of the act, particularly whether it was primarily directed at a political opponent or state property or personnel or private property or individuals,

- Whether the act was committed on orders, on behalf of, or with the approval of an organisation of which the offender was a member, agent or supporter, and

- The relationship between the act and the political objective, and the proportionality of the act to the objective pursued

Currin said the two applicants met the legal requirements for amnesty and located their offence in a time of intense political conflict. In 1990, Bophuthatswana was consumed by struggles to destroy the homeland government of Mr Lucas Mangope and his political representatives.

Mangope appointed Mokgatle the tribal chairman of the Bafokeng in Phokeng despite opposition after their rightful leader had been forced into exile.

The tribe made repeated attempts to solve their problems that year, but they were met with harassment. Mokgatle became increasingly unpopular.

Diale said on October 29 a group of 10 men decided, after a tribal meeting, to kidnap Mokgatle to force him to hand over the keys to the Phokeng civic centre from which he administered the tribe's affairs. They intended to end the "wrongful use of tribal funds by an illegitimate administrator."

"Their immediate political objective was to obtain the keys of this building. Their broader objective was to regain control of the building and the entire administration of the tribe," Currin said.

The group took Mokgatle hostage from his girlfriend's home and, when he said he knew nothing about the keys, they assaulted him with a variety of weapons until he died.

Currin admitted that the assault on Mokgatle was not immediately politically motivated since both applicants feared arrest and torture if he was left alive. But he added "There is no doubt at all that it was in a political context."

Judge CJ Waddington, who sentenced Makgale and Diale in 1991, said it was clear "there was a political foundation for the manner in which they acted."

Currin argued the gravity of the offence should be weighed against the circumstances. "In this particular case, a number of factors act as mitigating factors against the gravity," he said.

He said the murder was not premeditated as the men acted in a mob frenzy. However, he said "There is indisputable evidence the act was committed against a political opponent."

Bafokeng action committee

Both men were members of the Bafokeng Action Committee and were acting on behalf of the organisation. Currin argued they were acting with the broad, though not prior, approval of the African National Congress, which had a policy of removing illegitimate authorities. But the judges dismissed this after the ANC failed to testify.

Currin argued that the Act and the objective were closely connected and the murder was not out of proportion. "A life was lost in a brutal fashion and caused pain to the community."

"But if you look at the killing in its context, we do not believe it was disproportionate. The objective (to regain control of tribal affairs) was great in the minds of the people."

He said the Amnesty Committee would further reconciliation in the community by granting amnesty. Even Mokgatle's sons testified they had forgiven them and pleaded to be reunited with the Bafokeng community.

Bafokeng deputy chairman Mr Mabitso Phetoane told the committee "What brought us here today touched every person in the tribe. We have to forgive one another and come together as a community."

Court order stops woman's testimony

(252) Sowetan 24/5/96
Public angered by urgent application brought by two implicated policemen

By Mzimasi Ngudle and Sapa

A LARGE CROWD of people accepted a last-minute proposal to hold back the testimony of Mrs Joyce Mthimkhulu, who was barred by a court order from naming top police officers in her evidence before the Truth Commission.

Commissioner Bongani Finca said the Mthimkhulus, leaders of the ANC-led tripartite alliance, and the commission agreed that a special hearing be held in June where the family would hopefully tender evidence unencumbered by court orders and applications.

After Finca announced the agreement, more than 1 000 angry members of the Congress of South African Students, who marched in protest against court orders barring Mrs Mthimkhulu and other witnesses from naming a police colonel as a perpetrator started leaving. Throughout the day, the

students marched outside New Brighton's Centenary Hall, waving placards that read "Let Mrs Mthimkhulu give her testimony today".

The TRC will hold a special hearing in June to hear evidence about the disappearance of Siphiso Mthimkhulu and Topsy Madaka. The two disappeared in 1982, after they visited Livingstone Hospital in Port Elizabeth for Siphiso's check-up. He was suffering from thallium poisoning shortly after his release from detention.

Finca said community leaders of the Mthimkhulu family and Madaka's brother Mbuyiselo had held a closed meeting with the commission yesterday.

During the meeting, PE mayor Mr Nceba Faku and the family had registered a very strong protest which is not direct-

ed at the TRC but against the perpetrators who are named in the evidence of Mrs Mthimkhulu who have decided to go to court to stop her from testifying.

Mrs Mthimkhulu was to have testified in East London a month ago, but this was postponed to yesterday after two former security policemen, Brigadier Jan du Preez and Major-General Nicolaas Janse van Rensburg, made urgent applications to stop the TRC from hearing her evidence, which they said would incriminate them.

A Cape Town Supreme Court judge is expected to deliver judgment on the policemen's second application asking that the commission and its chairman Archbishop Desmond Tutu, be fined or jailed for disregarding the previous court order in their favour.

Mbeki seeks solution to Sigcau-Holomisa row

(252) Star 24/5/96
BY JOVIAL RANTAO
Political Correspondent

Deputy President Thabo Mbeki has asked for documents that Deputy Minister Bantu Holomisa submitted to the Truth and Reconciliation Commission as proof that Stella Sigcau, Public Enterprises Minister, accepted a R50 000 bribe eight years ago while she served in the Transkei homelands government.

Holomisa was the last ruler of the homeland and told the commission in Port Elizabeth on Wednesday that the bribery information had come into the hands of his government after it ousted Sigcau, who was prime minister

in the previous government

Mbeki has also asked Sigcau for documents she claims will clear her name, according to ANC spokesman Ronnie Mamoepa. He said yesterday that Sigcau claims the Alexander Commission into bribery within the homeland had cleared her of taking bribes.

Mbeki is expected to call the two ministers in for discussions after examining the documents. He will report his findings to the president, for whom he has been acting while Mandela was visiting Germany.

Mamoepa says "Mbeki has set in motion a process to find an amicable solution and we (the ANC) cannot pre-empt that

process"

He said Holomisa had told Mbeki that he had made submissions to the Truth Commission as the past military ruler of Transkei and not in his capacity as a deputy minister and ANC member.

Holomisa told the Truth Commission that Sigcau had received R50 000 of a R2-million bribe for gambling rights.

A spokesman for Water Affairs and Forestry Minister Prof Kader Asmal, who is also chairman of the ANC's disciplinary committee, said the committee would only investigate the matter if any structure or member of the ANC laid a complaint.

Security policemen 'using courts to silence witnesses'

JOHN YELD
Own Correspondent

APARTHEID security forces are determined to spike the work of the Truth and Reconciliation Commission through the use of court interdicts.

This is the firm belief of some of the commissioners and their staff, although they only express this privately and "off-the-record".

On the record they are more circumspect, anxious not to appear disrespectful of South Africa's legal system and of the courts - particularly because of the commission's chairperson Desmond Tutu is facing an application for him to be found in contempt of court for allegedly ignoring an interdict.

The issue was highlighted in Port Elizabeth this week when the packed hearings of the commission's human rights violations committee at times appeared balanced on a knife edge.

A temporary Supreme Court interdict and a separate agreement, made an order of court, between the commission and controversial former security policeman Gordon Newwoud effectively prevented any witnesses on Thursday from implicating him in any alleged human rights violations. But occasional references by several witnesses to a "Mr X" left little doubt to whom they were referring.

vented from testifying during the commission's East London hearings.

On Thursday several hundred Cosas members demonstrated in the street outside the hearings and many of them pushed their way into the already crowded hall, where their leaders took advantage of the lunch break to use the microphones to demand that Elizabeth Mthimku be allowed to testify within 14 days.

At the start of the afternoon session, when he announced that the Mthimku family and Port Elizabeth civic leaders had agreed that Mrs Mthimku would testify at a special sitting next month, Truth Commission Eastern Cape co-ordinator Bongani Finca told the tense but hushed audience there was "extreme anger" in the community at the delay.

"Some of us on the other side of this table are equally angry," he said.

Commissioner Dumisa Ntsebeza, who explained in Xhosa to the audience why they had agreed to the delay, said victims of human rights abuses were still "bleeding" and feeling hurt, and others also needed to testify to the commission.

"It would be very painful to destroy what we have finally started to heal," he said. He suggested the delay could prove "a blessing in disguise", as it might enable former Vlakplaas commander Dirk Coetzee - who had "paved the way" by revealing details of Mr Mthimku's alleged poisoning - to testify at the hearing.

■ The Truth Commission has come under sustained attack from a determined adversary - South Africa's former security forces.

After a second successful application in the Cape Supreme Court yesterday by retired police brigadier Jan Abraham du Preez and retired general Nicolaas Jacobus Jansen Rensburg which prevented Mrs Mthimku from testifying this week, commission deputy chairperson Alex Boraine said commissioners were "absolutely determined of us will continue".

"Mrs Mthimku will be heard, and if it means a delay in order to meet the requirements of the courts, we will abide by that," Dr Boraine said.

"But that she will be heard is not in question, it's just a question of when. There is absolutely no doubt that whatever attempts are made to prevent her from testifying will not succeed."

Following discussions with Justice Minister Dullah Omar, the commission is already in the process of compiling a "package" of amendments to the Promotion of National Unity and Reconciliation Act, which



governs its activities, for presentation to parliament later this year.

"Obviously we will look at every possible way of streamlining and improving the work of the commission, but never at the expense of 'due process' - the other side must always be given the right to be heard," Dr Boraine said.

At a press conference after Wednesday's hearings, commissioners were asked if they believed the courts were being used to stifle the commission's work and if the judicial system was being abused.

Mr Finca and Mr Ntsebeza measured their responses carefully to take their answers out of context.

Mr Finca said that on a personal level he felt a "sense of frustration". He said he belonged to a culture where problems were talked through, rather than in a "Fleby court applications" which "little people" did

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not have money to appoint lawyers to act on their behalf in such challenges.

"It is frustrating, but as a commission we are a body appointed and funded by an Act of Parliament and we are trying desperately to be objective. But it is not very comfortable," he said.

Mr Ntsebeza said they had to be extremely careful in their replies to such questions and had to be seen to be respectful of the law. He personally did not agree with some of the judgments that had been made, he added.

"Without impugning anyone's integrity, I think there will still be a long way to go before the judiciary is perceived to be completely independent," he said.

Former United Democratic Front leader Mkhusele Jack - one of the most prominent activists in the Eastern Cape during the 1980s - said during his testimony on Thursday that those attempting to block the commission were using the benefits of the introduction of the very principles for which they had stood during the struggle.

"People are abusing the constitution to protect themselves. We have fought for their freedom and we have always said so," Mr Jack said.

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said if they are named before they come (to the commission), he said.

Dennis Neer, Eastern Cape Minister of Safety and Security, made a similar appeal to policemen to testify. "Come forward to the Truth Commission and relate the stories, give details of the atrocities and say who gave the orders," he said.

"Now is the time for people to come forward. It will be regretted if they do not come forward now and are exposed during the investigation."

Playwright, trade unionist and activist Fikile Kobese of KwaNobuhle, Uitenhage, was one of those who appealed to black policemen.

"They must come forward, because they know a lot. They knew exactly what was happening."

"They must show they are not animals, they must show they were sent to do these things." Mr Kobese made a comment that had chilling echoes of the fate of Neil Aggett, who was effectively interrogated to death because police were convinced there was something he was concealing from them.

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PORT ELIZABETH - Gideon Newwoud's legal counsel has blasted this week's Truth and Reconciliation Commission hearings in Port Elizabeth, charging that every principle of natural justice was breached.

Prefiging his final argument in the Port Elizabeth Supreme Court where the Motherwell bomb trial is drawing to a close, advocate Dup du Bryyn SC asked the court to ignore what he said was the willful disregard for a court order.

A temporary court order obtained by Mr Newwoud on Monday, barring witnesses from naming him as a perpetrator of human rights violations without prior notice, did nothing to prevent a number of witnesses from naming him in their evidence.

When his lawyers threatened to have the TRC charged with contempt of court, cautious TRC commissioners warned successive witnesses not to mention Mr Newwoud in their evidence.

In one mouthful submission, former activist Mkhusele Jack referred to the "person I cannot mention" each time the name of "the person I cannot mention" came up.

Mr Du Bryyn said his clients, as laymen, were concerned that the court could be influenced by the reports about Mr Newwoud and jeopardise their chances of a fair trial.

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Continuing his final argument, Mr Du Bryyn alleged that D'Oliviera, supported by Justice Minister Dullah Omar and Safety and Security Minister Sydney Mufamadi, withheld information on key state witnesses Lionel Snyman and

former Port Elizabeth Commissioner of Police Mr Snyman and former Port Elizabeth Commissioner of Police Mr Snyman.

At the start of the third day - before the announcement about Mrs Mthimku - Reverend Finca told the audience they had been listening to "a lot of pain" over the previous two days.

"But there is also a lot of joy at the possibility of healing," he added.

"Nowhere throughout South Africa has the turn-out been as wonderful as Port Elizabeth. You have put to rest once and for all any thinking that the Truth Commission does not have the support of our communities."

"You have demonstrated very clearly that you stand behind this process of reconciliation through truth."

TRC breached principals of natural justice

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Viljoen: 'Extend amnesty and I'll testify'

FREEDOM Front leader Constand Viljoen said he would testify before the Truth and Reconciliation Commission provided the cut-off date for amnesty was extended.

General Viljoen, who is a former chief of the South African Defence Force, said he was in discussion with the government over extending the cut-off date beyond the December 1993 deadline. He said if necessary he

would assume joint responsibility for the planning of what he called the "war" before the April 1994 elections.

He was referring to a number of attacks by right-wingers during the run-up to the elections. General Viljoen maintained these offences, most of which were committed after the amnesty cut-off date, were politically motivated.



Truth Commission Eastern Cape co-ordinator Bongani Finca

Mr Finca and Mr Ntsebeza measured their responses carefully to take their answers out of context.

Mr Finca said that on a personal level he felt a "sense of frustration". He said he belonged to a culture where problems were talked through, rather than in a "Fleby court applications" which "little people" did

...fathers, a role he says he is not altogether comfortable with

...his own about
Timothy Naude is currently with his adoptive parents in Malawi.

Justice minister heads for showdown with A-Gs over prosecution speed-up plan

By PRAKASH NAIDOO

Star 25/5/96

Minister of Justice Dullah Omar is heading for a showdown with state advocates around the country, following his support for the establishment of a national attorney-general's office and the hiring of private lawyers as solutions to the massive backlog in prosecutions around the country

It emerged this week that several high-profile cases investigated by the Office for Serious Economic Offences (OSEO), involving millions of rands and submitted to the offices of attorneys-general (A-Gs) around the country had not been prosecuted.

OSEO director Jan Swanepoel said some cases handed to A-Gs more than three years ago were still awaiting a decision, and in desperation his office had asked the minister to allow it prosecutorial powers to take the

cases to court
Omar confirmed yesterday that staff shortages at A-Gs' offices around the country were causing frustrating delays in cases coming to court, and said the immediate short-term solution to the problem was to brief counsel at the Bar

He said there was an urgent need to streamline prosecutorial policy in South Africa to make it more effective and efficient.

But the A-Gs have already expressed serious reservations about the creation of a national office, which they see as direct political interference and a threat to their independence.

They have been equally reluctant to support the OSEO's request for prosecutorial powers, and the hiring of private advocates at the Bar, fearing an undermining of their powers.

TO PAGE 2

SABC says it can't afford Bok Tests

P.T.D.

◆ Justice minister heads for showdown with A-Gs

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Expressing his concern about the looming crisis, Omar said he would welcome any agreement the A-Gs and OSEO could reach to resolve the matter "in the best interest of speedy justice"

But the minister's irritation with some of the more obstinate A-Gs became increasingly clear when he said some of them were "still locked in the thinking of the past"

"Pressure at the A-Gs' offices can be relieved if they choose," he said, adding that he had been given a list of advocates who were ready to take on state cases immediately, following a meeting with a Business Against Crime delegation last week

"In general, I have not interfered with OSEO or the attorneys-general because I recognise the need for them to operate independently and without any perceived political interference," said Omar

"But this problem has to be looked at in the context of a national attorney-general's office which will bring a uniform prosecutorial policy throughout the country"

Emphasising that a national A-G would control policy matters only, Omar said any rationalisation of the system would include the OSEO, so as to ensure uniformity and no duplication

Smuggled emeralds

Swanepoel told the *Saturday Star* that morale was extremely low among OSEO staff, and the delays in prosecutions of their cases was a cause of great frustration

The offices in Pretoria and Cape Town are staffed by a total of 19 advocates, but there were now five positions - including that of a deputy - vacant

"The demand for investigations by OSEO have grown in the past year, especially from state departments, and we simply cannot cope with the amount of work being referred to us," said Swanepoel

An audit of the OSEO office last year recommended that they employ a further 29 advocates, but the Government had yet to allocate funds for expansion, he said

Among the cases still awaiting a decision from the A-Gs' offices were

■ The investigation into Allan Boesak's Foundation for Peace and Justice, submitted to the A-G in the Western Cape six months ago

■ The second leg of the Tollgate fraud, involving R350-million, also submitted to the Western Cape six months ago

■ The Cape Pension Fund and BTM cases, totalling R90-million and submitted in Pretoria and the Western Cape three years ago

■ The Joubert case, involving R180-million in smuggled emeralds, handed to the Pretoria office three years ago

"Often the success of prosecutions depends on how swiftly cases are brought to court," said Swanepoel "Statements are taken from witnesses and sometimes it is three years before they are called to court, which can cause serious problems"

He said cases investigated by the OSEO usually involved a team made up of an advocate, a policeman and an auditor, and could take up to two years of consistent work

"This is a waste of a lot of money and time if these cases never get to court"

Swanepoel said he hoped to raise the matter personally with Omar within the next few weeks

■ SEE PAGE 11

Truth Commission seen as victim of conspiracy

(252) Star 25/5/96

By JOHN YELD

Port Elizabeth - Truth commissioners and their staff claim there is a serious conspiracy on the part of apartheid security forces to spike their work and that the use of court interdicts to delay and frustrate their activities is a core tactic.

On the record they are more circumspect, anxious not to be seen to be disrespectful of the courts - particularly as commission chairman Desmond Tutu faces a contempt-of-court charge for allegedly ignoring an interdict.

The issue was highlighted in Port Elizabeth this week. A Supreme Court temporary interdict and a separate agreement made an order of court between the commission and former security policeman Gideon Nieuwoudt prevented witnesses on Thursday from implicating him in alleged human rights violations, although the occasional reference by witnesses to a "Mr X" left little room for doubt about who they were referring to.

Elizabeth Mtimkulu, whose son,

former Congress of SA Students leader Sphiso, disappeared in 1982 after he was allegedly poisoned by security police, was again unable to testify. She was previously prevented from testifying at hearings in East London.

When Eastern Cape commission co-ordinator Rev Bongani Finca announced that the Mtimkulu family would testify at a special sitting next month, he suggested the delay could prove a blessing in disguise as former security policeman Dirk Coetzee, who had "paved the way" by disclosing details of Mtimkulu's alleged poisoning, could testify to the commission.

After Wednesday's hearings, commissioners were asked whether they believed the courts were being used to stifle their work and whether the judicial system was being abused. Finca and commissioner Dumisa Ntsebeza both measured their responses carefully.

Finca said that on a personal level he felt a "sense of frustration". He said he belonged to a culture

where problems were talked through, rather than stifled by court applications. "Little people" did not have money to appoint lawyers to act on their behalf in such challenges. "It is frustrating, but as a commission we are a body appointed and funded by an act of Parliament, and we are trying desperately to be objective. Without impugning anyone's integrity I think there will still be a long way to go before the judiciary is perceived to be completely independent."

Former United Democratic Front leader Mkhoseli Jack said on Thursday that those attempting to block the commission were using the benefits of the introduction of the very principles for which they had stood during the struggle. "People are abusing the constitution to protect themselves. We have fought for their freedom and we have always said so."

"Only the foot soldiers have been called to account so far. The people in the top places are enjoying all the freedom and benefits of the new South Africa and ordinary people are still crawling in poverty."

Politicians shamed by court rout

By CARMEL RICKARD

DEFIANT efforts by the Inkatha Freedom Party to push four Bills through the Kwazulu Natal provincial legislature turned into a public relations disaster this week.

The IFP provincial authorities had clung to their programme of legislation in the face of opposition by the ANC and the Democratic Party, and despite strong warnings that the Bills dealt with issues beyond the province's powers.

Once passed, however, the Bills were referred to the Constitutional Court for a ruling on their validity, following a petition by the ANC and the DP.

At enormous cost to the taxpayer, legal representatives of the Premier, Dr Frank Mdlalose, copied voluminous documents and briefed counsel. The Constitutional Court was put to the task of reading the documentation relating to all four Bills, and three days were set aside for arguing them thoroughly.

Then, literally at the last minute, with the judges and lawyers in court and ready to begin, a settlement was an-



ARTHUR CHASKALSON

ounced in two cases

Despite the brave face which some provincial officials have attempted to put on the settlements, they represent a complete capitulation. In terms of the written agreement handed to the court, Dr Mdlalose has had to acknowledge that the two Bills dealt with matters outside the provincial competence. He has also had to undertake

to repeal the planned legislation within a month.

The remaining two Bills were fully argued, but whatever the court may decide on their merits, the debate revealed that the public relations disaster had become a rout.

On several occasions, counsel for the premier had to concede that the legislation was poorly drafted, that it was pointless since it could not be implemented, that significant definitions had been omitted — and that he did not know what several key phrases meant.

The Bills, which are now to be rescinded in terms of the settlement, deal with election and voting procedures, and with the controversial trust set up just before the 1994 elections enabling the Zulu king to administer all land in the former Kwazulu.

The old legislation gave the king sole power to administer land such as roads as well as traditional tribal territory. Driven by the IFP, the provincial legislature had attempted to reaffirm and extend this law. Now the provincial authorities have had to sign an agreement that "the subject matter of the Act does not fall within



ISMAIL MAHOMED

the legislative competence of the provincial legislature."

The national minister of land affairs is to meet with the premier and the MEC for traditional and environmental affairs as well as provincial representatives of the ANC and the DP. During their discussions he will "consult" on the content of a new national land Bill. However, in legal jargon,

"consult" has a specific, limited meaning and it does not imply that the IFP will be entitled to have its way.

The two remaining Bills concern limitations on income which the provincial legislature wants to impose on traditional leaders, including the king.

They provide that these leaders will be paid by the province, and that they may not receive any other funds or benefits "from any source under the Republic" — a phrase which the court spent some time trying to decipher before apparently deciding it referred to the central government.

Should the traditional leaders be paid any other money it must be handed to a provincial fund, over which the traditional leaders have no control, and will then be used "for their benefit".

By the end of a full day's argument, there seemed to be a general agreement that despite the grandiose intentions of the drafters, the province was not permitted to pass legislation which would impinge on the freedoms of other provinces. This would leave the way open for traditional leaders to avoid the strictures imposed on their

simply by opening a bank account in another province and depositing any funds, other than their provincial salaries, into such an account.

At one point, talking about the Bill's attempt to prevent the Zulu king from receiving any income other than the R16-million paid to him annually by the province, Judge John Dicoth commented "The Bill now seems to have got down very near to a farce."

When the court probed the reasons for passing the Bill, counsel for the premier, Gordon Richings SC explained, "They were trying to ensure he (the king) did not serve two masters."

Court president Arthur Chaskalson immediately demanded "But does the king serve any master? Is it a legitimate use of power to try to ensure that the traditional authority is subservient to the provincial legislature?"

The deputy president of the court, Ismail Mahomed, added "Is it a permissible purpose for a legislature to make him serve the provincial legislature as a master?" Judgment in the hearing has been reserved.

(252) ST 26/5/96

Loophole in court ruling lands debtors back behind bars

By CARMEL RICKARD

EAGLE-EYED lawyers have spotted a loophole in a recent Constitutional Court ban on imprisoning people for debt and are now having people jailed under a different section of the same law

The Constitutional Court decided last September that civil imprisonment for debt under Section 65 of the Magistrates' Courts Act was unconstitutional

Many human rights lawyers assumed this would end the South African version of the Victorian poorhouse, at least until parliament drafted a new debtors' law that fitted with the Bill of Rights

But some lawyers have discovered they

can use Section 109 of the same law to lock up debtors. It says debtors who have a judgment against them must inform their creditors and the court if they change address. If they do not, they can be given notice to appear in court, where they can be sentenced to jail for up to 30 days.

A Durban Legal Resources Centre attorney, Ranjit Purshotam, has already begun preparing papers asking that the Constitutional Court declare Section 109 unconstitutional as well.

The centre has also sent a fax to the correctional services commissioner saying it is unconstitutional to jail debtors under Section 109 and urging that those held under this section be released.

(252) ST 26/5/96

Court raps legal team over delay

Deborah Fine

BD 27/5/96 (252)

THE Constitutional Court has sent a stern reprimand to the legal team challenging the constitutionality of the truth and reconciliation commission — on behalf of the families of three slain anti-apartheid activists — after the team failed to deliver written heads of argument to the court on Thursday

According to directions issued by the court three weeks ago, Pretoria attorney Cyril Morolo and his colleagues were to have delivered the papers to the court by 3pm on Thursday

The team failed to do so however, after which Morolo sent the court a letter requesting an extension to today

In a stern letter to the team on Friday, the court said that parties were not entitled to change the time limits set by the court

The court said it had been important for the papers to be delivered on

Thursday to enable the respondents in the matter — the president, the government, the justice ministry, the safety and security ministry and the truth and reconciliation commission — to file their written heads by May 28 to ensure that the court had time to peruse both arguments by May 30

The court said Morolo's letter had not followed proper procedures but said it may consider the request by Morolo should it be re-submitted in a proper form

Morolo said at the weekend that he was surprised by the court's stance because members of his team had informed the court of their difficulties on Tuesday

He said his senior counsel in the matter, Advocate Justus Poswa, had gone overseas on May 6 and had still not returned, and his team "had only been informed that they would have to file papers by May 23, on May 15"

Property clause succeeds in cutting its throat

Peter Leon

THE DP believes the right to property is a basic freedom which deserves proper constitutional protection. We regard the right to acquire, hold and dispose of property as an essential aspect of liberty itself.

That does not mean we consider that the right to property cannot and should not be limited. We believe that property rights, while constitutionally entrenched, should not be absolute, but that there must be appropriate constitutional guarantees, based on comparative international principles of due process, to protect them from arbitrary, unfair or improper deprivation.

In taking this view, we are doing no more than identifying with and reiterating the the Fifth Amendment of the US Bill of Rights, which provides that no one shall "be deprived of life, liberty, or property, without just compensation."

While the US founding fathers were reacting to the authoritarian excesses of the Hanoverian monarchy, the Fifth Amendment's insistence on due process and liberty find an echo, two centuries later, in the DP's dispute with the ANC on the property clause in the constitution. Internationally, instruments such as the Universal Declaration of Human Rights (1948), the International Convention on the Elimination of all forms of Racial Discrimination (1950), and the African Charter on Human and Peoples' Rights (1981) protect property rights.

So do some national constitutions in Africa. The Namibian constitution provides that everyone has the right to acquire, own, and dispose of property, but that property may be expropriated in the public interest, subject to just compensation. Similar provisions exist in Botswana, Zambia, Malawi and Mauritius. SA's 1993 constitution provided, in section 28, proper protection for

the property rights of individuals, while balancing these rights against the ability of the state to deprive individuals of rights in property under a law of general application, or expropriating it for "public purposes", subject to consensual compensation or judicially determined compensation which had to be "just and equitable".

A number of criteria in determining such compensation were stated in section 28 (3), which included the use of the property, the history of its acquisition and its market value. A court was not obliged to order market-related compensation in the event of a compulsory acquisition, but it was obliged to determine such compensation equitably.

Quibble

Section 28 substantially followed the Fifth Amendment private property may not be taken without due process and unless it is for a public purpose. Section 28 had, however, one weakness while it rightly distinguished a deprivation of property from its expropriation (all deprivations must be in accordance with a general law), it failed to prohibit arbitrary deprivations of property.

That quibble, however, is minor when one compares section 28 of the 1993 constitution with the extraordinary provisions of section 25 of the final constitution.

Quite frankly, the section is an example of a Soviet-style self-immolating right, where the appearance of a right, in the body of the clause, is entirely negated by its override in section 25 (8).

In our view, not only does this completely undermine the protection contained in section 28 of the 1993 constitution but it is, potentially, inimical to Constitutional Principle 2. This provides that the final constitution must contain all "universally accepted fundamental rights, freedoms and civil liberties".

(252)

B0 27/5/96

Why has this happened? While the ANC initially accepted the general principle of a property clause in the Constitutional Assembly, the intervention of the ANC-aligned land lobby in the Constitutional Assembly from October 1995 has gradually whittled away any enthusiasm on the majority party's part for the constitutional protection of property rights. The result, in which the NIP acquiesced in a series of calamitous bilateral meetings, is a property clause through which the land lobby, duly assisted by the ANC, has not only ridden a coach and horses, but a tank regiment as well. Indeed, it would be far to say that the clause is unique because it succeeds in cutting its own throat.

Unlike the 1993 constitution, section 25 contains no guarantee of property but only provisions relating to its deprivation and expropriation. Gone is the link, stretching to the 18th century, between liberty and property.

Property may now be expropriated not only for "public purposes"—a narrow test based on international and national human rights instruments—but also in the "public interest" a wider test, which, in an SA context, has traditionally meant what has pleased the minister. Indeed, this is confirmed by section 25 (4) which defines the public interest as including land reform and reforms bringing about equitable access to natural resources.

More worryingly, the careful balance in the 1993 constitution between an individual's rights in property and other factors in determining just and equitable compensation, is now sharply tilted in the direction of the state and away from the individual. This is achieved by providing that in determining compensation, a court must have regard to the state's investment or subsidisation of the property.

The most sinister provision of section 25 is reserved for the end

Having attempted to make provision for due process both in the deprivation of property rights, as well as in its expropriation, section 25 (8) provides, "No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the result of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36 (1)".

In my view, it would be perfectly possible for the state to use this provision to do any of the following without providing any compensation to the persons affected.

- Expropriate property individually or collectively;
- Remove the rights to water which farmers currently enjoy as riparian owners under water legislation;
- Redirect access to water by organised agriculture to historically disadvantaged communities;
- Restrict the size of agricultural land owned by any farmer, co-operative or company;
- Direct developers to build a number of houses gratuitously for the historically disadvantaged in any new building development; and
- Expropriate the holdings of SA emigrants in JSE-listed companies in exchange for low coupons government bonds (as occurred in Zimbabwe in 1984).

The requirement that the measures be "in accordance with the provisions of section 36 (1)" merely reiterates the fact that all rights in the Bill of Rights may be limited in accordance with the limitation clause. The only benefit that the proviso brings to

section 25 is to provide some limitation on non-legislative measures which the state may adopt in its zeal to right the wrongs of the past.

There are several ironies about section 25 (8). First, it could result in the state perpetrating, under the guise of redressing apartheid, exactly the same calamities that befell the victims of the Group Areas Act—expropriation without compensation. Second, the absence of proper constitutional protection for property rights is hardly conducive to foreign investment or to investor concerns about the safety and stability of SA. Third, and most important, the victim of section 25 will in most cases be the individual who will least be able to defend himself.

Unless the courts are able to fashion limitations on section 25 (8) which prohibit the compulsory taking of land or other property without compensation, the constitutional protection of property in SA is likely to be similar to what it was under the malevolence of Dr Verwoerd, or the "protection" of property in the US under the rule of King George III—enjoyable at the ruling party's or the king's pleasure.

□ Leon is leader of the DP in the Gauteng legislature. This is an edited extract from a recent address to the National Association of Home Builders and Urban Developers.

27/5/96

Unmentionable colonel named in television series

ROGER FRIEDMAN

HE has succeeded in preventing witnesses from naming him in their evidence to the Truth and Reconciliation Commission, but will former security police Colonel Gideon Niewoudt be able to stop his being named on television tomorrow night?



The second episode of the SABC3 series If Truth Be Told features an interview in which former Military Intelligence Colonel Gerrie Hugo tells of a joint police/military operation he co-ordinated in the Eastern Cape in the 1980s

Policemen who participated in Operation Orpheus — aimed at neutralising the leadership of the United Democratic Front — included "well-known members at this stage, ie Gideon Niewoudt", says Hugo

Typically, they would dress in Port Elizabeth municipality overalls and balaclavas, bash down their township victims' doors, blindfold them and drag them off for interrogation

"First-degree, second-degree and third-degree interrogation" is Hugo's curious turn of phrase:

"This used to be an old SABC studio," he says, gesturing at a decaying building behind him. "It was quite effective for our means because the studios, were still sound-proofed"

Last week Niewoudt secured an agreement with the commission — later made an order of the court — that witnesses would not name him unless he received advance warning, and details of their allegations.

From then on witnesses referred to all their alleged torturers by name, apart from one whom they called "Mr X" or "the one we may not mention"

(252)

DP slates Mbeki's decision on Sigcau

(252) (209)

Wyndham Hartley

6D 27/5/96

CAPE TOWN — Deputy President Thabo Mbeki's decision not to act on allegations by Bantu Holomisa against Public Enterprises Minister Stella Sigcau was reminiscent of his handling of the Allan Boesak debacle, when attempts were made to clear Boesak without sufficient evidence, DP leader Tony Leon said yesterday.

Leon said the truth of the deputy environmental affairs minister's allegations — that Sigcau had received a R50,000 bribe allegedly paid by casino magnate Sol Kerzner when she was a Transkei cabinet minister — "must come out in Parliament", and the DP had called for a debate.

Leon was speaking after Mbeki had declared that Holomisa's allegations, made before the truth commission, were not substantiated in testimony before an earlier judicial commission. Mbeki's spokesman Thami Ntshemba confirmed yesterday that no action would be taken against Sigcau because the initial commission had ruled a judicial investigation unnecessary.

Omar plan 'will cost taxpayers millions'

LINDSAY BARNES

Staff Reporter

JUSTICE Minister Dullah Omar's proposed solution to the huge backlog of prosecutions will cost taxpayers millions and is just window dressing, according to Western Cape Attorney-General Frank Kahn.

Mr Kahn was responding to a report in Saturday Argus, in which Mr Omar said he supported the concept of a national attorney-general's office, plus the hiring of private advocates to ease the worsening scenario.

But due to the disparity in fees earned by attorney-general and private advocates, this would cost a small fortune if implemented, Mr Kahn said.

A deputy attorney general, earned R358 a day, whereas an inexperienced private advocate was paid R1 000 a day and an advocate with more than 10 years' experience got R1 800 a day.

"Although I personally welcome the hiring of private lawyers to relieve the present backlog, as suggested by the minister, I must acknowledge that there is merit in the argument of some of my colleagues that this step will not be cost-effective."

Mr Kahn said the simple solution lay

instead in the appointment of more staff, the filling of existing posts and the promotion of better salaries and working conditions.

"The minister should be commended for his considerable effort in this regard, and I fail to see how a national attorney-general could perform his tasks better than the minister himself," he said.

He also lashed out at the Office for Serious Economic Offences (OSEO) director Jan Swanepoel, who said a decision was still pending on some cases handed to the attorney-general more than three years ago.

Mr Swanepoel's office had requested that the minister grant them prosecutorial powers to take their cases to court.

In response, Mr Kahn said if the OSEO wished to assist the attorney-general in clearing the backlog of their cases, they should start by submitting dockets which were fully investigated and ready to go to trial.

He said that in a recent major case a docket received from the OSEO took 12 months of further investigation before it was ready for trial.

Mr Swanepoel's repeated requests to allow his investigators to prosecute, was

impractical and unsound in law, and would be criticised by the courts, he said.

"The courts have held in the past that it is undesirable for investigators or the police to prosecute in cases they have investigated," Mr Kahn said.

"They will lack the objectivity to evaluate their own evidence and furthermore may become witnesses in their own cases, especially where they have interviewed the accused and conducted searches, such as the OSEO does."

The serious fraud office in the United Kingdom similarly did not allow its investigators to prosecute.

In a recent case and at the request of Mr Swanepoel, one of the OSEO investigators was withdrawn as leader of the prosecuting team as she had made herself a witness at the trial.

"The fact that Mr Swanepoel has stated that his staff cannot cope with the existing workload, and that he has asked for a further 29 advocates, leaves me unable to understand how he would bail us out," said Mr Kahn.

"The solution for the OSEO was to co-ordinate with the attorney-general at an appropriate stage of the investigation, a step which they had shown reluctance to take."

AR 6 28/5/96

(252)

TWO THIRDS IN WESTERN CAPE OPPOSE ABORTION

Most favour death penalty

(252)

THE DEATH PENALTY has greatest support among women and NP voters, while most who favour choice on abortion are likely to vote DP, a survey has found. **BARRY STREEK** reports.

THE people of the Western Cape are strongly in favour of the death penalty and more than two-thirds do not believe abortions should be allowed.

According to the findings of a public opinion survey released yesterday by Marketing and Media Research, a division of Independent Newspapers, 81% of those ques-

tioned supported the death penalty, while 18% did not. More women (84%) than men (78%) were in favour of the death penalty. Whites (89%) and coloureds (83%) were more likely to support the death penalty than blacks, while Afrikaners (88%) were more likely than English (77%) and Xhosa speakers (61%) to support it.

National Party supporters (almost 80%) were more likely than ANC (70%) or Democratic Party supporters (65%) to believe South Africa should have the death penalty.

The survey also found that only the DP had a majority of supporters, 60%, who favoured free choice on abortion, while 34% of NP supporters and only 26% of ANC supporters were pro-choice.

On the other hand, 73% of ANC supporters, 64% of NP supporters and 36% of DP supporters were opposed to abortion.

Overall, 67% of those polled did not agree that women should be allowed abortions, 32% agreed that women should be allowed abortions and 1% said they did not know.

Whites (52%) were far more likely than blacks (18%) to support abortion. Blacks (82%) and coloureds (72%) were clearly opposed to it.

POINTS TO REMEMBER

- You must arrive at the station 15 minutes before closing. Will still be able to vote for 10pm.
- Remember to take your ID.

CT 28/5/96

Sigcau case shut if no more evidence

(252) (2021) Star 28/5/96

By JOVIAL RANTAO
Political Correspondent

Unless new evidence was presented to Deputy President Thabo Mbeki to substantiate claims that former Transkei prime minister and now Public Enterprises Minister Stella Sigcau accepted bribes, the chapter which started with a submission to the Truth and Reconciliation Commission (TRC) has been closed.

Mbeki's spokesman, Ricky Naidoo, said the deputy president had no doubts about the decision reached by the judicial commission chaired by Mr Justice Alexander to clear Sigcau on charges that she had accepted a R50 000 bribe from a South African hotel group.

"Unless there is evidence contrary to the commission's findings

or any new information on the (alleged) illegal activity by the minister, this case is closed. There's no reason to doubt the integrity of the judicial commission," Naidoo said.

Mbeki intervened last week when former Transkei military ruler and now Deputy Environmental Affairs and Tourism Minister Bantu Holomisa submitted documentation to the TRC repeating previous allegations that Sigcau had received R50 000 of a R2-million bribe for gambling rights.

Mbeki reached his decision after going through documents made available by Holomisa, Sigcau and the Alexander Commission.

Naidoo said Mbeki would try to restore relations between the two. Reported tension between them was based on speculation. "The deputy president has con-

sulted with both of them on several occasions and he has not come across any tensions. There's no evidence of strained relations."

The Star, however, understands there has been tension between the two since Holomisa removed Sigcau from power in a military coup eight years ago.

Indications yesterday were that Holomisa would not face any disciplinary hearings by the ANC for making public allegations against a party colleague. Themba Khumalo, a spokesman for Water Affairs and Forestry Minister Kader Asmal, who is chairman of the ANC's disciplinary committee, said no complaint had been laid against Holomisa or Sigcau.

Asmal cannot take action unless an ANC structure or member has laid a charge of misconduct.

International support to halt amnesties

BY ROBERT BRAND

(252)

Star 29/5/91

Dates of hearings on rights announced

International and local human rights organisations have rallied behind Azapo and the families of four murdered anti-apartheid activists in their bid to have the Truth and Reconciliation Commission's power to grant amnesty declared unconstitutional.

The case will be heard in the Constitutional Court tomorrow. Azapo and the families of Griffiths Mxenge, Steve Biko and Fabian and Florence Riberro claim the commission's power to grant amnesty infringes on their right to seek legal redress.

At least three organisations have applied to be admitted to the proceedings as *amicus curiae* (friends of the court) to support the application, according to the applicants' lawyer, Cyril Morolo.

Wits' Centre for Applied Legal Studies filed papers in support of the application yesterday.

Amnesty International and the London-based International Centre for the Legal Protection of Human Rights have also asked permission to submit arguments, Morolo said. If they are admitted, it will be the first time international organisations will have been allowed to enter arguments in a constitutional dispute in South Africa.

The Truth Commission legislation empowers the commission's amnesty committee to grant amnesty - including indemnity from prosecution and civil liability - to people who committed crimes with a political objective.

The legislation also indemnifies any "body or organisation or the state" from civil liability.

In its heads of argument, the Centre for Applied Legal Studies says Parliament was required by the interim constitution to pass legislation providing for amnesty, and the passing of Truth Commission legislation was a result of this duty.

However, it was illegal in terms of international law for a state to indemnify itself from legal liability for human rights violations committed by its agents, the centre argues.

The Truth Commission will hold 17 public hearings on human rights violations in Gauteng, Northern Province, Mpumalanga and North West from July to December.

Seven will be in Gauteng, starting in Soweto on July 22. Other Gauteng venues are Sebokeng (August 8), Pretoria (August 12), Tembisa (September 16), Sharpeville (September 30), KwaThema (December 9), plus a hearing on October 14 in Katorus.

North West hearings: Mmabatho (July 8), Brits (October 28), Potchefstroom (September 2), Kuruman (November 25), Northern Province: Pretorsburg (December 2), Moutse (October 7), Gyan (September 9), Messina (November 4), Mpumalanga: Nelspruit (August 19), Piet Retief (November 11) - Staff Reporter

Azapo backed in move on amnesty

Biko and Ribeiro families seek right to redress

JOHANNESBURG - International and local human rights organisations have rallied behind Azapo and the families of four murdered anti-apartheid activists in their bid to have the Truth and Reconciliation Commission's power to grant amnesty declared unconstitutional.

The case will be heard in the Constitutional Court today. Azapo and the families of Griffiths Mxenge, Steve Biko and Fabian and Florence Ribeiro claim the commission's power to grant amnesty infringes on their right to seek legal redress in court.

The application will be opposed by Justice Minister Dullah Omar on behalf of himself, the government and President Mandela.

At least three organisations have applied to be admitted to the proceedings as *amici curiae*

(friends of the court) to support the application, according to the applicants' lawyer, Cyril Morolo. Wits' Centre for Applied Legal Studies has already been granted permission to present argument as *amicus curiae* and has filed papers in support of the application.

Amnesty International and the London-based International Centre for the Legal Protection of Human Rights have also asked permission to submit arguments, Mr Morolo said.

If they are admitted, it will be the first time international organisations are allowed to enter arguments in a constitutional dispute in South Africa.

The Truth Commission legislation empowers the commission's amnesty committee to grant amnesty - including indemnity from prosecution and civil liability - to people who committed

crimes with a political objective. The legislation also indemnifies any "body or organisation or the state" from civil liability arising from crimes for which amnesty had been granted.

In its heads of argument, the Centre for Applied Legal studies says parliament was required by the interim constitution to pass legislation providing for amnesty and the passing of Truth Commission legislation was a result of this duty.

However, it was illegal in terms of international law for a state to indemnify itself from legal liability for human rights violations committed by its agents, the centre argues.

The duty imposed by the constitution that "amnesty shall be granted" applies only to individuals involved in crimes on both sides of the apartheid conflict, the centre argues.

Bid to have state amnesty declared unconstitutional

(252) BD 30/5/96

Susan Russell

THE power granted to the state to indemnify itself against human rights violations by the Truth and Reconciliation Act was a violation of international law, parties will argue before the Constitutional Court today

There will be a submission before the court, made by the families of four anti-apartheid activists — Steve Biko, Griffiths Mxenge and Fabian and Florence Ribeiro, murdered under the old regime — and the Azanian People's Organisation, who are attempting to have the Truth Commission's power to grant amnesty declared unconstitutional

Today's application which, if successful, would be a fatal blow to the Truth Commission by preventing it from granting amnesty in any cases, is being opposed by Justice Minister Dullah Omar on behalf of President Nelson Mandela and his government

The parties bringing the case contend that the commission's

power to grant amnesty infringes the constitutional right of victims and their families to institute civil claims for damages against perpetrators of gross human rights violations during the apartheid

The amnesty provisions, they argue, effectively deprive an entire class of victims of repression and war during apartheid of their right to recover damages for "injury to life, limb and property"

One of the organisations supporting their bid is Wits University's Centre for Applied Legal Studies, which has applied for leave to submit argument to the court today

The centre contends that indemnity of the state by itself violates international law and that a limitation of the victim's constitutional right to seek legal redress, which is in violation of international law, should be presumed to be unjustifiable

Papers submitted to the court on behalf of government said passing the Truth and Reconciliation Act was an obligation imposed by

a constitutional postscript

The obligation to grant amnesty in terms of the postscript, it said, contemplated amnesty from criminal and civil prosecution

This had been deemed necessary because the identity of many of the perpetrators of crimes under the old regime was still unknown to both the victims and the prosecuting authorities

If the amnesty incentive was removed it was unlikely that the majority of perpetrators of "historical wrongs" would come forward

The centre accepted in its own written submission that without amnesty from individual civil liability, there would be no incentive for perpetrators to come forward

However, this could be overcome by the state assuming civil liability for acts by its agents during the apartheid years

The centre argued that the cost of assuming this liability was small compared to the debt that the SA state owed the victims of apartheid

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Legal aid bureau may close

See well from 30/5/96

(252)

By Lulama Luti

AFTER almost 60 years of championing the rights of thousands of poor people, Johannesburg's Legal Aid Bureau faces closure because of lack of funds. In fact, if the organisation does not secure funding soon, it will close down at the end of June, director Mrs Pauline Lipson said yesterday.

"We're a family organisation. We've survived virtually by begging. This office has always dealt with small problems which big law firms would never be interested in. If we are forced to close down, a large part of the

disadvantaged community of Gauteng will suffer.

"We are a welfare organisation and the first to have ever done anything for the underprivileged. A greater proportion of our clients are black," she said.

The bureau's office, housed in an old building in Harrison Street, is manned by 13 staffers who deal with no fewer than 150 new cases daily. It runs on a budget of R35 000 a month which covers salaries, rental and administrative costs.

Said a sickly Mrs Lephinah Khumalo, whose farm labourer son drowned while at work in a farm in KwaZulu-Natal in 1983: "This office can't close

down, they are our only hope. What will happen to people like myself?"

Through the bureau's help, Khumalo gets a monthly payment of R30 from the Workmen's Compensation for her son's death. She also gets a further R200 grant from the Welfare Department.

The para-legal office deals with labour matters, vehicle accident cases and divorces.

"I have been here since 1978, not earning much, to help our people. For us it's not about money. If we close down, they have nowhere else to go. We need help soon," said adviser Mandla Ngwenya.

Amnesty must be limited — counsel

Susan Russell

(252)
BD 3/15/96

THE state's right to grant amnesty for crimes committed during the apartheid era did not extend to indemnifying the perpetrators against civil claims for damages by victims and their families, it was argued before the Constitutional Court yesterday

This submission was made by David Soggot SC, counsel acting for the Azanian People's Organisation and the families of four anti-apartheid campaigners murdered under the old regime. The families are trying to have the truth commission's power to grant criminal and civil indemnity to those responsible for human rights offences under the old government declared unconstitutional

Azapo and the families of Steve Biko, Griffith Mxenge and Fabian and Florence Ribeiro contend that the powers conferred on the commission to grant amnesty in terms of the Truth and Reconciliation Act deprive them of their constitutional right to seek legal redress against those responsible

The government opposed the application on the grounds that there was an obligation to grant both civil and criminal amnesty in terms of a postscript to the constitution providing for "national unity and reconciliation"

At the start of the hearing yesterday Soggot told the court that although he and his legal team conceded that the constitution did give the state sufficient authority to grant criminal amnesty, their clients wished to persist with their contention that both forms of amnesty should be struck down by the court.

Soggot, however, confined his argument to submissions that individuals and the state should be held civilly liable for past offences

He argued that the state could not allow those responsible for acts which were crimes under international law to be relieved of civil liability, nor could it exonerate itself.

Soggot was questioned at length by Judge J Didcott on whether withholding civil liability would not be self-defeating for victims and their families, including his clients

The judge said it was unlikely that those responsible would come forward and testify to the truth commission if they knew they would be held criminally and civilly liable, leaving victims who did not know who the perpetrators were in exactly the same position they had been in before

Soggot conceded that while there was some force in the argument that striking down civil liability might be self-defeating, this did not justify depriving people of a right to civil redress. He argued also that a claim against the pre-democratic SA was enforceable now.

Gilbert Marcus SC, acting for the state, submitted that civil indemnity for individuals and the state was mandated and permitted by the national unity and reconciliation postscript to the constitution. It envisaged amnesty in the broadest terms, he said, and to have only intended criminal amnesty would have defeated the purposes of reconstruction and reconciliation.

The amnesty envisaged a fresh start and wiping the slate clean
The court reserved judgment.

Amnesty provisions challenged in court

(252)

CT 31/5/96

JOHANNESBURG: Amnesty provisions in Truth Commission legislation were challenged in the Constitutional Court yesterday.

The Azanian People's Organisation and families of three slain anti-apartheid activists asked the court to strike down amnesty provisions which they said denied their right to compensation from the state or perpetrators of human rights abuses.

Their lawyer, Mr David Soggot, SC, declined to argue his clients' additional claim that amnesty for criminal acts is unconstitutional.

Respondents to the challenge to the Promotion of National Unity and Reconciliation Act are President Nelson Mandela, the government, the ministers of Justice and Safety and Security, and Truth and Reconciliation Commission chairman Archbishop Desmond Tutu.

Their lawyer, Mr Gilbert Marcus, said the act was an indispensable mechanism adopted to achieve South Africa's transition to democracy. Integral to the transi-

tion was "wiping the slate clean".

Speaking from the bench, Judge John Didcott pointed out that criminal or civil actions required evidence that could only emerge if perpetrators of abuses were granted amnesty in exchange for their confessions.

Perpetrators of human rights abuses, he said, would not tell their stories if they risked conviction. "And the silence that has suppressed everyone for so long will continue," he told Soggot.

Truth Commission deputy chairman Dr Alex Boraine told journalists outside the hearing he agreed that amnesty provisions had taken away the rights of victims, but said amnesty was part of a necessary compromise between warring parties which negotiated South Africa's transition.

"Sometimes for the greater good certain rights have to be taken away."

Boraine said the commission remained the best forum for Azapo and the families of victims to find the truth about their loved ones and apply for some form of reparation.

Judgment was reserved — Sapa

Commission cleared Sigcau, Mbeki says

Wyndham Hartley

20 3/15/96

CAPE TOWN — In a spirited defence of Public Enterprises Minister Stella Sigcau, Deputy President Thabo Mbeki said yesterday the country would be better served if attention was drawn to new cases rather than to those cleared of offences.

Speaking in a snap debate in the National Assembly on the accusations that Sigcau had received R50 000 of an alleged bribe from gambling interests, Mbeki reaffirmed his belief that Sigcau had been cleared by the Alexander commission.

Allegations that Sigcau had received R50 000 of a R2m bribe paid to former Transkei premier George Matanzima resurfaced recently in testimony by Deputy Environment Affairs Minister Bantu Holomisa before the truth commission.

Quoting extensively from the records of the Alexander commission, Mbeki said the judge had been unable to make any adverse findings concerning Sigcau "on her own evidence". The judge said that Sigcau had been "misguided" for having taken R50 000 from Matanzima for the education of her daughter, considering Matanzima's reputation. This had caused her considerable embarrassment, including her removal from office in Transkei. Sigcau was deposed when Holomisa staged a military coup.

Mbeki said "No other evidence has been presented to President Nelson Mandela implicating Sigcau in any corrupt practice. The President therefore considers such calls as have been made that he should take action against his public enterprises minister as, at best, ill-informed, or, at worst, malicious."

Mbeki said Holomisa's remarks to the truth commission were referring to a matter fully investigated by a commission which had cleared Sigcau.

Mbeki steps in to defuse Sigcau row

CT 3/15/96

~~251A~~ (252)

THERE was no evidence that Public Enterprises Minister Stella Sigcau had been involved in any corrupt practice, Deputy President Thabo Mbeki said yesterday.

He was reacting to calls that action be taken against her for allegedly accepting R50 000 from former Transkei leader Chief George Matanzima as part of a payment to secure exclusive gambling rights for Sun International in the former Transkei.

President Nelson Mandela considered these calls as "at best ill-informed, or at worst, malicious".

Deputy Environmental Affairs and Tourism Minister Bantu Holomisa had raised the matter during his testimony before the Truth and Reconciliation Commission in Port Elizabeth last week.

The Alexander Commission of Inquiry into allegations of corruption found in 1988 that she did not need to be investigated further after she said Matanzima had given her the money to pay for her daughter's studies in Britain.

Sigcau, the commission said, had been misguided in receiving the donation from Matanzima.

"Holomisa's remarks refer to a matter that has been fully investigated by a commission of inquiry, and in respect of which Sigcau has



MISGUIDED. Public Enterprises Minister Ms Stella Sigcau

been publicly cleared," Mbeki said.

The country would be better served if resources were rather directed at the "many instances of official corruption which have still not seen the light of day".

Mr Koos van der Merwe (IFP) and Mr Douglas Gibson (DP) said Holomisa should either be disciplined or fired.

Holomisa had known of the commission's findings, but had still accused his colleague of corruption. If Holomisa was "simply being malicious" then he should be fired," Gibson said. — Sapa

Judges

quiz

TRC

on law

(252)

By Mzimase Ngudle

CONSTITUTIONAL Court judges yesterday questioned the Truth Commission law exempting the state from paying compensation to victims of human rights abuses.

In a landmark case in which Azapo and families of the late civil rights activists Steve Biko, Griffiths Mxenge and Dr Fabian Ribeiro are challenging constitutional validities of amnesty provided in the promotion of Capital National Unity and Reconciliation Act, the judges questioned the legal basis of the immunity enjoyed by the state.

Judgment was reserved in the case which was attended by deputy chairman of the Truth and Reconciliation Commission Dr Alex Boraine, head of the TRC investigation unit, Mr Dumisa Ntsebeza, and Azapo president Mosibudi Mangena.

Counsel for the applicants, Advocate David Soggot, SC, attacked section 20 sub-section 7, of the Act which absolves perpetrators of human rights abuses, political organisations and the state from civil or criminal liability, once amnesty is granted in respect of wrongs committed during the past political conflict.

The thrust of Soggot's argument was that amnesty provisions be declared invalid as they deprived victims of their rights to claim damages for life, limb and property from the perpetrators and the state.

Mr Justice John Didcot said the granting of indemnity to the state did not serve any purpose contemplated by the act which included reconciliation.

Mbeki comes to Sigcau's defence

By Rafiq Rohan
Political Correspondent

DEPUTY President Thabo Mbeki yesterday presented evidence in defence of Cabinet Minister Stella Sigcau, concluding that she was innocent following accusations to the Truth and Reconciliation Commission that she had received a R50 000 bribe while she was an official of the Transkei government.

The claim, made by ANC MP Bantu Holomisa to the TRC on May 22, was that Sigcau allegedly received a R50 000 bribe when the homeland government awarded a gambling contract to Sun International's Sol Kerzner.

"It is clear that the Honourable Bantu Holomisa's remarks have not

raised any new matter," Mbeki told Parliament. He said calls to President Nelson Mandela to take action against Sigcau were "at best ill-informed, or, at worst malicious".

'Publicly cleared'

Referring to Holomisa's remarks, Mbeki said "On the contrary, his remarks refer to a matter that has been fully investigated by a commission of inquiry, and in respect of which Minister Sigcau has been publicly cleared after a thorough scrutiny of facts".

Presenting the case for Sigcau, Mbeki recalled Holomisa's remarks

Sowetan 31/5/96
"The matter has been investigated and the minister publicly cleared"

to the TRC that the then prime minister of Transkei had to be forced out of office as a result "of his implication in financial scandals". Sigcau was elected in his place.

It was then discovered that Chief George Matanzima was paid R2 million as a bribe for the gambling rights. Bank statements revealed that senior ministers of Matanzima had each received R50 000, according to Holomisa's evidence.

George Matanzima had told the Alexander Commission investigating corruption in Transkei "Miss Sigcau was given this money in order to help in the education of her child".

Public pays R1,5-m for SANDF trials

(252)
(252)

Sowetan 31/5/96

The law allows taxpayer money to be used to defend SANDF criminal cases

By Rafiq Rohan
Political Correspondent

THE DEPARTMENT OF DEFENCE spent more than R1,5 million defending members of the South African National Defence Force in criminal trials during this financial year

Although charges against the members mainly relate to reckless driving, there have been those who were found guilty of culpable homicide, assault and even murder. All of these defences were paid for by the taxpayer.

A number of murder charges against members have either been withdrawn or the member found not guilty, Defence Minister Joe Modise

said in Parliament

He said that in terms of the law, taxpayer money was allowed to be used to defend members of the SANDF in criminal cases

"When a member of the SANDF is criminally charged as a result of his or her actions in the course and scope of duty, the said member is entitled to legal representation at state expense"

Since 1993 when 42 cases were reported, that figure rose dramatically to 103 cases for last year

"It should be noted," Modise said,

"that when a court delivers a verdict of guilty, the member is not automatically liable for the legal costs incurred"

More than half the cases where members were found guilty involved reckless and negligent driving

The Malan case in Durban is proceeding and the Defence Force is footing the R1,2 million legal costs

In one of the cases for the past year an SANDF member, K. Gwenzu, was found guilty of murder and his case cost the Defence Force R215 370, 91

Truth probe investigators flex muscles

(252)
By JOHN YELD

Star 1/6/96

Several people alleged to have been involved in human rights violations or who know about such violations will be asked to appear before the Truth Commission's investigative unit. They will be subpoenaed if they refuse.

This was announced by the commission's executive committee after a meeting yesterday.

The alleged perpetrators who will be called have not been named by the commission but will almost certainly include former askari (ANC guerrilla-turned-security policeman) Joe Mamasela.

He confessed publicly during recent television programmes to being involved in the murders of Durban human rights attorney Griffiths Mxenge in 1981 and of the "Pebco Three" - Sipho Hashe, Qawawuli Godolozu and Champion Galela - who disappeared from Port Elizabeth's airport on May 8, 1985.

Mamasela said they had been murdered at a rural police station near Cradock.

Other likely candidates for summoning are former security police-

men Dirk Coetzee, Almond Nofemela and David Tshikalanga, who confessed under oath to the Harms Commission to the murder of Mxenge.

Former Eastern Cape security policeman Gideon Nieuwoudt, whose name cropped up repeatedly during recent public hearings of the Truth Commission's human rights violations committee in Port Elizabeth until he obtained a Supreme Court interdict forbidding the commission from allowing him to be named without adequate notice, may also be called by the commission to provide information.

Lieutenant-Colonel Nieuwoudt is currently on trial for the "Motherwell bombing" murder of three security policeman and an informer.

There is also a chance that the commission will call Robert McBride - former MK soldier and now deputy director in the Department of Foreign Affairs, who led the Magoo's Bar bombing attack in Durban in June 1986 - to talk to its investigative unit. In a statement issued yesterday, the Truth Commission's executive committee announced it had resolved to ask its investigating unit to call on "a number of individuals" to appear

at investigations aimed at obtaining further information about alleged human rights violations.

The commission would, if necessary, use its powers under section 29 of the Promotion of National Unity and Reconciliation Act to summon the individuals to the investigations. "The commission will not at this stage release the names of those to be approached," yesterday's statement said.

The act provides that section 29 investigations are confidential until the commission decides to release details, or until there is a public hearing.

"Should it emerge at a section 29 investigation that people have relevant information, public hearings may well follow."

The commission also announced that several members of its executive committee had consulted South Africa's attorneys-general yesterday.

"It was agreed at the meeting that the commission should liaise with attorneys-general to minimise the potential for conflict between commission investigations and those carried out by the offices of attorneys-general," the statement said.

TODAY

Violators of human rights have to testify

262
JOHNVELD

At the Truth Commission

A NUMBER of people alleged to have been involved in human rights violations or to know about such violations will be asked to appear before the Truth Commission's investigative unit - and they will be subpoenaed if they refuse.

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By CARMEL RICKARD

YOU may win the battle but you will lose the war, Constitutional Court judges warned Azapo and the families of murdered political activists who are challenging the legality of the Truth and Reconciliation Commission this week.

Azapo and the families of Steve Biko, Griffiths and Victoria Mxenge, and Florence and Fabian Ribeiro, want the court to rule that the law which set up the commission is unconstitutional.

They argue that it takes away their right to criminal and civil redress against the people who murdered their relatives.

Mr Justice John Didecott and some of his colleagues debated the wisdom of challenging the Act with David Soggot SC, appearing for the families.

Mr Soggot said his clients maintained that the interim constitution had authorised neither civil nor criminal amnesty, but would not argue the second point.

Instead, he argued that the state should not be absolved from its liability to pay compensation for civil damages.

In response, Mr Justice Didecott, with several other judges, expressed astonishment at the position of the families. He said they "knew in their hearts" what had happened to their relatives but had been unable to sue

Win the case, and you will never know who killed this man



SELF-DEFEATING . . . Steve Biko, whose family is trying to stop the truth commission

because they had no evidence. He said their argument was "self-defeating". If amnesty were not granted, the perpetrators would not tell the truth and the families would stay in the dark.

"To have any prospect of success they (the families) need to find out what they do not know. And those who do know will not tell them as long as they (the perpetrators) are liable to civil and criminal liability."

"How can it avail your clients to have the wrong-doers keep their mouths shut? They will not talk if they are going to have claims of R1-million made against them," he said.

"Attempts to knock down this law will frustrate everything the fam-

ilies are trying to achieve.

"I would have thought it was in the interests of your clients for the truth to emerge about what happened and who did it. But if you win this case, it will never emerge."

Mr Soggot said the constitution's framers could not have intended "victims of war and violent repression" to be cut off from the right to recover damages for death, injury and damage to property.

While he conceded amnesty could be granted to individuals for particular deeds, the state should acknowledge its liability to pay victims compensation in response to claims for civil damages.

At one point, the court's president, Arthur Chaskalson, said the question had been narrowed to one crucial issue — whether amnesty would release the state from civil obligations.

Gilbert Marcus, appearing for the government, replied that granting amnesty to all who asked for it and making a clean breast of the past was an essential feature of the negotiations leading up to the new constitution.

He argued against the prospect of the state being liable for civil damages "Would those who negoti-

ated this transition have agreed to a solution whereby they would be asked to foot the bill for the sins of their predecessors?"

Mr Marcus said that the existence of the interim constitution, and the new political dispensation, was due to the agreement by all parties that individuals and the state would be absolved from criminal and civil liability.

"We close all books. It is oblivion and forgetfulness," he said.

The political parties which took part in the negotiations leading to the interim constitution "con-

sciously chose" a philosophy of peace, reconciliation and reconstruction over a philosophy of retribution and revenge.

If they hadn't, some of the participants, especially those who had military and executive power, would not have agreed. Similarly the present government would not have signed an agreement which prevented them from taking action against their opponents and yet saddled them with paying the civil damages incurred by these same opponents. Judgment in the matter has been reserved.

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'Fuzzy' court censured

(252) ST 2/6/96
By CARMEL RICKARD

A SENIOR legal academic has accused the Constitutional Court of not being rigorous enough in some of its judgments, and preferring a warm, fuzzy consensus over hard choices.

In the latest issue of the South African Journal on Human Rights, which focuses on the court's first year, Professor Alfred Cockrell of the University of Cape Town's law school writes that the court sometimes relies on "rainbow jurisprudence". He uses the phrase to describe a feel-good approach to difficult decisions.

Professor Cockrell says that in the past, judges rarely looked beyond the formal rules imposed by Parliament through legislation. However, the new Constitution demands that the courts have more regard for "substance", to ensure that the values of the Constitution are given due consideration.

In his view it is understandable that the court has not been consistently successful at the new

approach since the shift is probably traumatic for lawyers used to the strict formality of the past.

Professor Cockrell says while decision makers faced with a change of this importance might be expected to develop a rigorous jurisprudence to guide them, its absence is the most striking feature of the court's first year.

Instead, "what we have been given is a quasi-theory so lacking in substance that I propose to call it rainbow jurisprudence".

He gives examples from decisions written by judges, among them the following from Albie Sachs: "In broad terms, the function given to this court by the Constitution is to articulate the fundamental sense of justice and right shared by the whole nation as expressed in the text of the Constitution."

Professor Cockrell says such remarks "flit before our eyes like rainbows,

beguiling us with their lack of substance".

"We have as much chance of finding genuine instruction about substantive reasoning in these wishy-washy pronouncements as we have of touching a rainbow."

Such statements also seem to deny that deep conflicts exist in the process of examining substantive reasons, he says.

"Substantive reasons are difficult reasons; they require hard choices to be made between moral and political values which are inherently contestable and over which rational people will disagree."

However, the necessity to make hard choices is "fudged by rainbow jurisprudence which states blandly that all competing values can, mysteriously, be accommodated within the embrace of a warm, fuzzy consensus".

He says some judges, like Kate O'Regan and Laurie Ackermann, have given powerful examples of substantive reasoning.

	KWADWESTI 1995
(a) Murder	2
(b) Culpable homicide	1
(c) Assault GBH	41
(d) Common assault	29
(e) Rape	11
(f) Robbery	28
(g) Theft of vehicles	26
(h) Theft of other items	133
(i) Damage to property	78
(j) Housebreaking with intent to steal and theft	61
(k) Possession of drugs	0
(l) Drunken driving	0
(m) Vagrancy	0
(n) Prostitution	0
Total	410

The station Kwadwest did not exist during the period 1994

Train commuters in Western Cape Metropole/ Gauteng/Durban

417 Mrs A VAN WYK asked the Minister for Public Enterprises †

How many commuters made use of train services in (a) the Western Cape Metropole, (b) Gauteng and (c) the Durban Metropole during the last financial year? N728E

The MINISTER FOR PUBLIC ENTERPRISES

The number of commuter journeys during the 1995/96 financial year were as follows

- (a) Western Cape Metropole 126 878 835
(b) Gauteng 221 349 276
(c) (comprising Pretoria and Johannesburg Metropoles)

(c) Durban Metropole 77 557 231

Police Reservists

422 Mr N J GOGOTYA asked the Minister for Safety and Security †

How many Police Reservists were registered in (a) 1993, (b) 1994 and (c) 1995? N733E

The MINISTER FOR SAFETY AND SECURITY

- (a) 1993 — 17 888
(b) 1994 — 21 042
(c) 1995 — 24 825

Minister of Housing: gifts received

435 Mr M J ELLIS asked the Minister of Housing

Whether she received any gifts in an official capacity during the period 1 January 1995 up to the latest specified date for which information is available, if so, in each case, (a) from whom were the gifts received, (b) what was the (i) nature and (ii) value of these gifts and (c) why were these gifts given? N749E

The MINISTER OF HOUSING

(a) The Institute of International Research

(b) (i) Four water glasses

(ii) The estimated value is ± R100
(c) For no particular reason. It is common practice for Ministers/Delegations to exchange gifts when visiting foreign countries

QUESTIONS

Indicates translated version

For written reply

Truth and Reconciliation Commission: personnel (252)

287 Mr D H M GIBSON asked the Minister of Justice

- (1) Whether any staff members have been employed by the Truth and Reconciliation Commission, if so, what (a) is the salary, (b) is the title and (c) are the qualifications of each such staff member;

(2) whether any staff members are still to be employed, if so, (a) how many and (b) in what capacities? N489E

The MINISTER OF JUSTICE

At the outset it should be mentioned that the Commission for Truth and Reconciliation (Commission) is an independent body with its own Chief Executive Officer who is responsible for the appointment of the personnel of the Commission. In order to assist the hon member, I have caused inquiries to be made at the Commission who supplied the following information for the purpose of this reply:

(1) (a), (b) and (c) The particulars in respect of the staff members appointed are contained in Annexure A

(2) Yes

(a) 134

- (b) National Office Secretary
Security Manager
Chief Investigator
Investigator
Committee Member (R & R)
Regional Co-ordinator (R & R)
Legal Team Secretary

- Regional Office
Logistics Officer
Data Capturer
Data Processor
Secretary/Clerk
Translator
Messenger

Security Officer
Information Manager
Investigator

Minister of Justice: visits outside the RSA

336 Mr D H M GIBSON asked the Minister of Justice

- (a) How many days in 1995 did (i) her and/or (ii) the previous Deputy Minister spend outside the borders of the Republic, (b) what was the (i) purpose, (ii) destination, (iii) duration and (iv) cost of each visit and (c) who accompanied him in each case? N584E

The MINISTER OF JUSTICE

(a) (i) (b) and (c) I spent a total of 42 days outside the Republic. The total cost of the trips abroad, mine and the officials' who accompanied me, was R202 324,14, which is made up as follows

- (aa) During the period 25 April to 2 May 1995 (eight days), I visited Cairo to attend a conference on the Ninth United Nations Congress on Crime and the Treatment of Offenders. The cost of the trip was R13 716,92. I was accompanied by my wife, Messrs Vusi Pikoli, my special adviser, I Augustyn, my private secretary, G Nel, the head of the Legislation Division of the Department, David Nshingase and Advocate Lungi Mahlati. The cost of the five officials' trip was R66 398,13

(bb) During 15 December 1994 to 15 January 1995, I was invited to India by the Indian Minister of Justice. I spent 32 days (of which 15 days was during 1995) in India. The cost of the trip was paid by the Indian authorities. A part of the trip was official and the rest was vacation. I was accompanied by my wife, My two children, Kemal and Fazin, their friend

AGs quit over poor pay

ET 3/7/96

(252)

STATE advocates, already paid less than their counterparts in the private sector, have now received smaller increases than often lower-qualified magistrates — prompting them to resign in droves. **DALE GRANGER** reports.

Sixteen deputy attorneys-general and 12 senior state advocates, disenchanting with their low salaries, have applied for severance packages from the government. The final straw was the salary increase given to magistrates, which, they say, far outweighs their adjustments.

Ms Retha Meentjies, chairperson of the Society for State Advocates and a deputy attorney-general, said yesterday those applying for packages included six deputy attorneys-general in the Pretoria office, nine senior state advocates in Cape Town and three senior state advocates at the Office for Serious Economic Offences in Cape Town.

She said while the society did not begrudge magistrates a salary

reflecting "proven abilities, knowledge and responsibilities, the imbalance that now exists between salaries of magistrates and that of generally better-qualified and overworked state advocates is not justifiable."

Magistrates' salaries had been increased by an average of 14.4% by the Department of Justice, she said, while most deputy attorneys-general had received 10% and some 12.9%. The starting salary of a magistrate was now R65 320 per annum, with the highest-paid earning R145 862.

A state advocate had to be qualified with an LL B, a higher qualification than that required of magistrates and prosecutors. Whereas magistrates and prosecutors had in the past always been on the same

salary scale, prosecutors were now "really lagging behind" on a starting salary of R40 836. This was R25 000 less than the lowest grade for magistrates, and could precipitate "big problems."

Some top-level advocates in the employ of the state, even senior counsel, took home R163 260 per annum.

By comparison, Pro Deo advocates earned a maximum of R1 200 a day. In the private sector, even an advocate who is not necessarily the best in their field could top R7 000 a day in a lengthy trial.

The morale of state advocates is already dangerously low due to unacceptably low salaries, she said, explaining that previously a specific ratio between the salaries of magistrates, advocates and prosecutors had always been maintained, based on considerations such as qualifications and experience.

"The impoverishment of the prosecuting component will neces-

sarily lead to further loss of experienced and knowledgeable prosecutors, and the impoverishment of the justice system," she warned.

Deputy attorneys-general will now be receiving 60% less than attorneys-general who are now also receiving a 25% salary increase. The effective average increases of 10% for senior state advocates and 12.9% for deputy attorneys-general that are held out as a prospect would not alleviate matters, taking inflation and lack of increases over past years into account.

She said crime prevention was a national priority and plans to combat it were doomed to fail unless all role players were properly compensated to ensure an efficient administration of justice.

Numerous pleas over the years had fallen on deaf ears, she said, and it was "no wonder six deputy attorneys-general in the Pretoria office alone have already applied for severance packages."

4/6/96

Magistrates lodge formal objection to constitution

BD 4/6/96 (252)

Susan Russell

SA's magistrates have lodged a formal objection to provisions of the constitution on the grounds that they fail to provide adequate safeguards for their judicial independence.

The magistrates' objection was one of almost a dozen filed by organisations, political parties, special interest groups and members of the public in the Constitutional Court last Friday to meet the May 31 deadline. Oral argument in support or rebuttal of written objections by the parties will be heard by the Constitutional Court at public hearings starting on July 1.

The magistrates have objected to a number of provisions or omissions in chapter 8 of the final constitution which deals with the courts and the administration of justice.

According to the magistrates, who represent three professional bodies, the present provisions of the constitution do not comply with international norms to ensure judicial independence.

Among their objections is that chap-

ter 8 fails to provide magistrates with security of tenure and financial security which, the submission says, were essential conditions for judicial independence. It cites international cases and charters supporting the principle.

The magistrates said the chapter did not provide terms of office, removal from office and remuneration. There was also no provision for an independent body to regulate these matters.

They also objected to a section of chapter 8 which deals with the appointment of judicial officers on the grounds that it gives the legislature wide powers to regulate the functioning of the lower judiciary.

The magistrates said the new constitutional order relied on the principles of the rule of law, including a separation of the executive, legislative and independent judiciary.

Under the previous government, failure to recognise these principles had meant that magistrates had been part of the public service and in effect controlled by the executive, the magistrates' submission said.

'Chaos' at Parliament slammed

BD 4/4/96

Wyndham Hartley

CAPE TOWN — After a rash of parliamentary meetings were abandoned due to a lack of quorums, the Freedom Front slammed the system as being chaotic.

Front chief whip Jo-

seph Chiole said that three meetings he was required to attend yesterday either did not take place or were abandoned when not enough members turned up.

The first, a meeting of the committee on internal arrangements, was scheduled for 9am and, unknown to members, the time was changed to 11am and therefore had to be abandoned.

Another internal committee failed for the second time to discuss TV coverage for Parliament, due to poor attendance.

The transport committee, scheduled to begin at 10am, had had to be abandoned 20 min-

utes later as a quorum could not be achieved.

"No country can function properly in the long term if its Parliament functions in such a chaotic way," Chiole said. It was a chaotic situation, unnecessarily lengthening the parliamentary year, he said.

"In the second place it creates a bad impression both domestically and internationally because note is taken on how effectively a country's Parliament functions."

He said he feared Parliament's attitude would spread to other sectors of SA society, leading to a national loss of purpose with "tragic" results.



TUESDAY, 4 JUNE 1996

Aadlia Munshi accompanied us at no additional cost to the State

(cc) During the period 29 May to 10 June 1995 (13 days), I visited London and Ireland to attend a conference on "Reconciliation and Community The Future of Peace in Northern Ireland". The cost of the trip was R17 857,27. I was accompanied by Mr Enver Daniels, my special adviser, Ms Shmita Datta, my assistant private secretary and Mr James Boo, a security officer. The cost of the three officials' trip was R47 518,78.

acquaint himself with the proposed new procedures which affect debt collection and the law relating to executions and the Sheriff's Profession. The cost of the trip was R15 366,03. He was accompanied by his wife Mrs Amyburgh and Messrs B P Williams, his administrative secretary, R E Kasefate, a member of the Management Committee of the Department, and H Potgieter, a State Law Adviser. The cost of the three officials' trip was R40 285,19.

Magistrates: vacant posts

355. Mr D H M GIBSON asked the Minister of Justice:

(1) Whether any posts for magistrates are currently vacant, if so, (a) how many, (b) in what regions and (c) for how long has such posts been vacant,

(2) (a) what (i) salary scale is applicable to magistrates and (ii)(aa) qualifications are and (bb) level of experience is applicable to each level on this salary scale and (b)(i) when was the salary scale last reviewed, (ii) what increases were awarded on this date and (iii) when is it expected that the salary scale will be reviewed again?

The MINISTER OF JUSTICE

- (1) Yes.
- (a) 56
- (b) and (c)

N608E

EASTERN CAPE		
Station	Post	Since when vacant
Port Elizabeth	Magistrate (Relief Staff)	1 April 1996
Willowmore	Magistrate (Head of Office)	1 March 1996
Qumbu	Magistrate	1 March 1996
Lusitanski	Magistrate	1 April 1996
Willowvale	Magistrate	1 April 1996
Regional Office Bisho	Magistrate (Relief Staff)	1 April 1996
Umtata	Magistrate	1 April 1996
Zwelitsha	Magistrate	1 April 1996
Zwelitsha	Magistrate	1 April 1996

TUESDAY, 4 JUNE 1996

WESTERN CAPE			
Paarl	Regional Magistrate		2 March 1996
Paarl	Magistrate		1 April 1996
NORTHERN CAPE			
Upington	Senior Magistrate (Head of Office)		1 January 1996
GAUTENG			
Pretoria	Chief Magistrate		1 January 1996
Johannesburg	Regional Magistrate		18 March 1996
Kempton Park	Regional Magistrate		1 November 1993
Johannesburg	Senior Magistrate		1 September 1994
Kempton Park	Senior Magistrate		1 October 1995
Boksburg	Magistrate		1 May 1996
Johannesburg	Magistrate		1 May 1996
Germiston	Magistrate		1 May 1996
Pretoria	Magistrate		1 May 1996
Randburg	Magistrate		1 April 1996
MPUMALANGA			
Withbank	Senior Magistrate		1 March 1996
Bersehoek	Magistrate		1 April 1996
Ekangala	Magistrate		1 April 1996
Mduyana	Magistrate		1 April 1996
NORTHERN PROVINCE			
Sekhukuneland	Magistrate		1 May 1996
Bolobedu	Magistrate		1 March 1996
Gyani	Magistrate		1 April 1996
Thohoyandou	Magistrate		1 April 1996
NORTH WEST PROVINCE			
Brits	Senior Magistrate (Head of Office)		1 January 1996
Taung	Magistrate		1 January 1996
Taung	Magistrate		1 April 1996
Ganyesa	Magistrate		1 April 1996
Mmabatho	Magistrate (Relief Staff)		1 April 1996
Mmabatho	Magistrate (Relief Staff)		1 April 1996
KWAZULU-NATAL			
Durban	Chief Magistrate		1 October 1995
Ezumnbe	Magistrate		1 April 1996

Moornvier	Magistrate (Head of Office)	1 May 1996
Nkandla	Magistrate	1 March 1996
Inkanyezi	Magistrate	1 September 1995
Msinga	Magistrate	1 April 1996
Ongoye	Magistrate	1 April 1996
Ongoye	Magistrate	1 April 1996
Ingwavuma	Magistrate	1 April 1996
Ixopo	Magistrate	1 November 1995
Madadeni	Magistrate	1 April 1996
Mahlabathini	Magistrate	1 April 1996
Maphumulo	Magistrate	1 April 1996
Verulam	Magistrate	1 April 1996
FREE STATE		
Bloemfontein	Chief Magistrate	1 February 1996
Ladybrand	Magistrate (Head of Office)	1 August 1995
Ficksburg	Magistrate	1 May 1996
Vredfort	Magistrate (Head of Office)	1 April 1996
Phuthaditjhaba	Magistrate	1 April 1996
Phuthaditjhaba	Magistrate	1 April 1996

(2) (a) (i) Magistrate (First Leg) R35 085 x 1 317-39 036 x 1 968-48 876
 Magistrate (Second Leg) R54 780 x 1 968-58 716 x 2 379-63 474
 Magistrate (Third Leg) R68 232-72 990-79 086-85 182-92 256-96 282 x
 4 026-108 360

Senior Magistrate R100 308-108 360-112 386-117 462-122 553
 Regional Magistrate R117 462-127 644-132 732
 Chief Magistrate R132 732 (Fixed)
 Regional Court President R156 030 (Fixed)
 Special Grade Chief Magistrate R156 030 (Fixed)

(2) (a) (ii) (aa) All magistrates except the Regional Magistrates and Regional Court Presidents must at least possess an applicable recognised three year legal qualification (RVQ13) Regional Magistrates and Regional Court Presidents must possess at least an LL B degree or a Diploma Legum

(bb) (a) Magistrate (First Leg) No experience

(b) Magistrate (Second Leg)

(i) Five years' experience for a candidate who does not have an LL B degree, and

(ii) two years' experience for a candidate who has an LL B degree

(c) Magistrate (Third leg)

(i) Eight years' experience for a candidate who does not have an LL B degree, and

(ii) five years' experience for a candidate who has an LL B degree

The number of years of qualifying experience shall be appropriate experience after the obtaining of the minimum qualification (RVQ13) for appointment Depending on the merit

assessment attained, the above-mentioned qualifying periods for progression to the next higher rank can be shortened The other ranks of Magistrate are promotion ranks

(2) (b) (i) 1 July 1995
 (ii) 5%
 (iii) The salary scales are at present being reviewed

STAFF LIST			
Name	Position	Basic yearly	Qualifications
Ackerman, Sally-Ann	Data Processor	60 000	Secretarial Diploma
Allen, John	Press Liaison Officer	180 000	Not readily available
Arendse, Sandra	Human Resource Manager	150 000	BA (Hons) SW
Arendse, Wendy	Secretary	70 000	Matric
Barends, Zenarrah	Head, Investigative Unit	150 000	BA Hons
Barolsky, Vanessa	Data Processor	60 000	BA Hons, PG Dip—Journa- lism
Booi, Funanekele	Investigator	90 000	Std 8
Borraine, Alex	Commissioner	287 500	Not readily available
Botha, Denise	Allowance	50 400	Matric
Brown, Shireen	Briefer	60 000	BSocSc
Brown, Fauza	Secretary	65 000	Matric
Burton, Mary	Commissioner	285 000	Not readily available
Burts, Melaney	Logistics Officer	66 000	Matric
Carnagu, Zuko	Investigator	90 000	Not readily available
Chaskalson, Jerome	Investigator	90 000	
Cherry, Janet	Researcher	80 000	BA Hons, MA (Econ) His
Chihl, Dudu	Statement Taker	60 000	Teacher's Dipl, PR Dip
Clark, Paddy	Personal Assistant	120 000	Matric
Cloete, Elizabeth	Logistics Officer	60 000	Std 8
Crawford-Browne, Lavina	Personal Assistant	120 000	Not readily available
Crichton, June	Committee Member	216 084	Diploma in Med Technology
Daniels, Prof John	Researcher	120 000	Not readily available
Dawel, Nelson	Statement Taker	60 000	BProc
De Jager, Chris	Commissioner	285 000	Not readily available
Dhoda, Yunus	Bookkeeper	60 000	National Dip in Company Admin
Dladla, Duduzile	Secretary	60 000	BA (Hons) & Admin Hons
Diamini Mduzizi	Committee Member	216 084	Not readily available
Dowman, Pauline	Housekeeper	18 000	Std 6
Du Plooy, Louis	Reg SS Mngtr	100 000	BA (Hons)
Dubase, Nolundi	Briefer	60 000	Not readily available
Dukumbana, Mandisa	Admin Secretary	55 000	Matric

Finca, Bongani	Commissioner	285 000	Dip in Theology
Fredericks, Fatima	Admin/Clerk	50 400	Matric
Gaylard, Matthew	Data Processor	60 000	BSocSc
Gebashe, Virginia	Committee Member	216 084	Not readily available
Goba, Siphso	Messenger	30 000	Sid 9
Gobodo, Pumla	Committee Member	216 084	MSc
Golding, Jameel	Computer Officer	87 600	Not readily available
Goosen, Glen	Nation Director, Investigator	210 000	BA LLB
Goss, Shireen	Data Computer	40 000	Not readily available
Grobelaar, Janis	Information Manager	120 000	D Lit et Phil
Gubevu, Tantiswa	Breifer	60 000	BA SW
Gumede, Una	Secretary	45 000	Matric
Gumede, Numsa	Breifer	60 000	Matric
Gutuza, Iona	Breifer	60 000	BA (SW)
Habalaba, Vuyiswa	Housekeeper	18 000	Matric
Hams, Somkazi	Personnel Officer	100 020	BCom (Hons)
Haupt, Paul	Breifer	60 000	BA (Hons)
Hendricks, Kathleen	Computer Officer	60 000	Matric, PC's and Networks Support
Heslop, Ashley	Support Services Manager	120 000	BA (Hons) Theology
Hine, Jackie	Secretary	60 000	Sid 8
Hlongwane, Zandile	Secretary	45 000	Secretarial Diploma
Holmes, Brenda	Investigator	90 000	Matric
Hoosain, Karlem	Financial Manager	170 040	BCom (Hons) CA
Ingeveld, S	Researcher	85 000	Not readily available
Isaacs, Debbie	Bookkeeper	60 000	Matric
Janse van Rensburg, Wessel	Statement Taker	60 000	LLB
Japha, Joe	Breifer	60 000	Social Work
Joy, Monica	Media Liaison Officer	120 000	BA
Kalaote, Wele	Statement Taker	60 000	BA
Kelly, Patrick	Regional Manager	160 000	BA Hons, PG Dip in Mngt
Keena, Phundiwe	Senior Secretary	65 000	Matric
Khampene, Sisi	Commissioner	285 000	Not readily available
Khuzwya, Phinda	Communications Officer	120 000	Journalism Degree
Kippie, Fazia	Logistics Officer	70 000	Matric, Dip in Mngt
Killian, Mark	Investigator	90 000	Sid 8
Kimbers, Amanda	Logistics Officer	60 000	BCom
Klaas, Nomaxabiso	Statement Taker	60 000	B Jurs

Koffie, Norma	Secretary	45 000	Matric
Kondlo, K W	Researcher	80 000	BA, MA
Koni, Thembakazi	Breifer	60 000	Not readily available
Khuzwayo, Phinda	Communications Officer	120 000	Not readily available
Kubheka, Themba	Data Processor	60 000	Dip in Journalism, Comput, Data Proc
Kunene, Mosley	Housekeeper	18 000	Sid 8
Kungwane, Kenneth	Data Enterer	40 000	B Public Admn
Lamfu, Mbuyiselo	Messenger	18 000	Matric
Lax, Llan	Committee Member	216 684	BProc, LLM
Le Kloisan, Zenzile	Investigator	90 000	Matric
Lembede, M	Media Liaison	135 000	B Admn
Lenger, Viola	Breifer	60 000	BSocSc (Hons)
Levin, Lydia	Researcher	120 000	Not readily available
Lewin, Ruth	Regional Manager	160 000	Matric
Lyster, Richard	Commissioner	285 000	BProc
Madiba, Ingebritt	Secretary	45 000	Matric, Secretarial, Computer
Madiba, Balile	Receptionist	45 000	Not readily available
Mafofane, Lillian	Secretary	60 000	Matric
Maifu, Nocawe	Breifer	60 000	Dip in Nursing Science
Mafulundi, Sam	Investigator	90 000	Not readily available
Maharaj, Pravesh	Computer Officer	80 000	DP Certificate
Mahopo, Alban	Statement Taker	60 000	Dip in Theology
Magwaza, Adelaide	Committee Member	216 084	PhD, Psychology
Makgatho, Dimakatso	Data Enterer	40 000	Matric
Maki, Siyabonga	Breifer	60 000	Not readily available
Malan, Wynand	Commissioner	285 000	Not readily available
Mall, Judge H E	Commissioner	286 000	Not readily available
Mantata, Tom	Committee Member	216 084	Not readily available
Mageleza, Dugard	Investigator	90 000	Not readily available
Marais, Phyllis	Jnr Secretary	45 000	Not readily available
Masina, Zodwa	Breifer	60 000	BA SW, Dip HRM
Masters, David	Security	35 000	Not readily available
Maisepe, Lillian	Messenger	30 000	Not readily available
Maya, Tiny	Committee Member	216 084	B Jurs, LLB
Mbalo, Nelswa	Housekeeper	18 000	Not readily available
Mbatho, Nokuthula	Data Capturer	45 000	Computer Diploma
Meiring, Piet	Committee Member	216 084	Not readily available
Mgojo, K	Commissioner	285 000	PHD Theology
Megquba, Zole	Security	35 000	Sid 9

Miller, Stephanie	Investigator	90 000	BProc	
Munyuku, B	CEO	285 000	PhD	
Mkhuze, Khumbuzile	Briefer	60 000	Comm Dev Diploma	
Mkhuze, Hlengiwe	Commissioner	285 000	Not readily available	
Manyamba, Vuyelwa	PA to CEO	120 000	Not readily available	
Mohlapi, Frank	Briefer	60 000	Matric, Management Prin	
Mogale, Ntshangeng	R & R Regional Co-ordinator	100 000	BA Higher Dip in Adv SW	
Mokhele-Mkosana, Ntheki	Logistics Officer	75 000	Not readily available	
Mokuele, Laura	Logistics Officer	70 000	Matric, Dip in Personnel Mngt	
Molebatsi, George	Briefer	60 000	Sid 8	
Molese, Wendy	Receptionist	54 000	Matric	
Monakali, Mandisa	Briefer	60 000	BA (SW)	
Moosman, Gail	Information Manager	100 000	Not readily available	
Mosoetsi, Jane	Data Entering	40 000	Matric, Business Management	
Motasi, Thandi	Jnr Secretary	45 000	Matric, Secretarial, Computer	
Motsoetsi, Jane	Data Entering	40 000	Not readily available	
Motshabi, Zeona	Communications Director	160 000	Not readily available	
Mpanza, Skumbuzi	R & R Co-ordinator	100 000	Matric	
Mthethwa, Priscilla	Secretary	45 000	Secretarial Diploma	
Mtsha, Eunice	Secretary/Receptionist	65 000	Matric	
Mtyhobole, Busiswa	Secretary	45 000	Not readily available	
Murugan, Rajadren	Investigator	90 000	Not readily available	
Mwale, Lydia	Receptionist	45 000	Not readily available	
Mzamele, Themba	Researcher	75 000	Not readily available	
Neholu, Manchohu	Secretary	45 000	Matric	
Nduvane, Sigqibo	Briefer	60 000	Not readily available	
Neer, John	Statement Taker	60 000	Matric	
Ngalo, Simphiwe	Statement Taker	60 000	Matric	
Ngombane, Nobby	Support Services Mgr	100 000	BA	
Ngcobo, Faith	Secretary	65 000	Matric, Secretarial Dip, Computer	
Ngcobo, Fikile	Briefer	60 000	Not readily available	
Ngcobo, Sibongile	Internal Services	18 000	Not readily available	
Ngcanga, Dade	Bookkeeper	60 000	Matric	
Ngoepe, Judge B M	Commissioner	286 000	Not readily available	

Ngumba, Phila	Media Liaison Officer	120 000	Dip in Journalism
Njozela, Lucky	Statement Taker	60 000	B Jurs
Nkgoang, Kumbula	Media Dept Sec	48 000	BCom
Nkwane, Nomsa	Secretary	65 000	Not readily available
Norman, Vione	Bookkeeper	50 400	Matric
Nxumalo, Felicity	Documentation Officer	60 000	BSc Hons, National Lib Ass
Nshanyana, Otto	Briefer	60 000	BTh (Hons)
Ntsebeza, Dumisa	Commissioner	285 000	Not readily available
Nyide, Ntombizonke	Briefer	60 000	BScSc
Nyobole, Rev Vido	Regional Manager	160 000	BTh (Hons) Bed, DiphM
Nzama, Zakhele	Briefer	60 000	Diploma in Philosophy
Nzamide, Nontuthuko	Briefer	60 000	B Jurs, LLB
Nzamide, Paul	Investigator	90 000	Not readily available
Nxumalo, Sunah	Senior Secretary	60 000	Not readily available
Ogle, Karen	Data Computer	40 000	Secretarial Diploma
Orkhay, Prakash	Computer Officer	80 000	Dip in Comp Training
Orr, Wendy	Commissioner	285 000	Not readily available
O'Sullivan, Gerald	Information Systems	180 000	Not readily available
Oxche, Calvin	Briefer	60 000	BCom
Petuma, Nomsa	Secretary	45 000	Matric, Secretarial, Book-keeping Dip
Piso, Moses	Logistics Officer	60 000	Matric
Piso, Sekoati	Support Services Mngt	120 000	B Admn, PG Dip in Mngt
Plaaigje, Khayaletu	Statement Taker	60 000	Matric
Potgieter, Denzil	Commissioner	285 000	Not readily available
Quinn, Debra	Researcher	80 000	BA
Quinn, Yolinda	Secretary	45 000	Matric
Rabothata, Sello	Media Liaison	160 000	Not readily available
Radebe, Isabella	Briefer	60 000	B Jurs
Rendera Farzel	Commissioner	285 000	Not readily available
Roberts, Derek	Messenger Regional	30 000	Sid 8
Sandi, Ntsiki	Committee Member	216 084	BA, LLB, LLM
Sangweni, Themba	Messenger	30 000	Secretarial Diploma
Seroke, Joyce	Committee Member	216 084	Not readily available
Shabalala, Funi	Briefer	60 000	BA Hons
Shabalala, Sonto	Receptionist	54 000	Fin Man Dip
Simon, Andrew	Accountant	100 000	BCom H d a
Singh, Jenny	Secretary	65 000	Matric, Secretarial, Computer, Dip in Mngt

Sobey, Irene	Receptionist	31 200	Std 9
Sooka, Yassmin	Commissioner	285 000	Not readily available
Soloyi, Sipino	Logistics Officer	60 000	Not readily available
Steenkamp, Andie	Chief Investigator	150 000	Not readily available
Sieyn, H	Support Services Mng'r	102 000	Not readily available
Stoffie, Busisiwe	Office Administrator	80 000	B Admn
Stoffels, Stanley	Messenger	30 000	Matric
Stuurman, A M	Housekeeper	18 000	Std 7
Terreblanche, Christina	Media	120 000	BA (Hons)
Thompson, Wendy	Secretary	50 000	BSocSc
Tilley, Susan	Documentation Officer	60 000	BA HDE
Tuswa, Zine	Breifer	60 000	BProc
Tutu, Desmond	Commissioner	292 200	Not readily available
Van Diemen, Linda	Secretary	65 000	Secretarial Diploma
Van Eck, Cynthia	Secretary	65 000	Matric
Van Senni, Georgina	Housekeeper	24 000	Not readily available
Van Zyl, Paul	Executive Secretary	160 000	Not readily available
Verwoerd, W	Researcher	110 000	MA
Vilakazi, Jeffrey	Investigator	90 000	Not readily available
Vilakazi, Nomusa	Investigator	90 000	Not readily available
Villa-Vincenzo, Charles	Research Director	200 004	PhD
Wannenberg, Gail	Investigator	90 000	BA, LLB, LLM
Watson, Barbara	Exec Sec R & R	160 000	Not readily available
Watson, Wendy	Regional Manager	160 000	Secretarial Diploma
Weidena, Janneke	Data Processor	60 000	BSc
Wildschut, Glenda	Commissioner	285 000	Not readily available
William-Brown, Samantha	Data Processor	60 000	BA Hons
Williams, Joy	HR Sec/Admin	69 600	Matric/Teacher's Diploma/Secr
Wilson, Judge Andrew	Commissioner	286 000	Not readily available
Xaba, Thandi	Secretary	45 000	Secretarial Diploma
Zwane, Nombuzodwa	Secretary	65 000	BSc, Secretarial, Computer
Zwane, Paul	Information Manager	120 000	BA, PPDM, ODSP (MBA)
Mponco, Neliswa	Investigator	90 000	Not readily available
Flanagan, Louise	Investigator	90 000	B Journ
Bolo, Mkhululi	Investigator	90 000	Matric
Ndlovu, Noxolo	Investigator	90 000	B Jurs, LLB
Xandu, Mcebisi	Committee Member	215 000	Dip in Theology

Maintenance

364 Ms M E TUROK asked the Minister of Justice:

- (1) (a) How many (i) new maintenance cases are registered, (ii) maintenance enquiries are dealt with by maintenance officers, and with in terms of section 11 of the Maintenance Act, 1963 (Act No 23 of 1963), on average each month, (b)(i) how many maintenance files are currently on record with his Department and (ii) how many of these files have been used in the last five years, (c) which maintenance officers are currently making use of computerisation in respect of child support (i) payments collected by the court and (ii) applications, (d) what are the plans and timeframes in respect of future computerisation, (e)(i) what training is provided for maintenance clerks, (ii) where is this training provided and (iii) by whom is such training provided, (f) how many garnishee/embolument orders were made in 1995 and (g) what was the total amount paid out in the past financial year by his Department as a contribution towards (i) blood tests and (ii) travelling costs.
- (2) whether, with a view to eradicating the current fragmentation of maintenance files, a policy has been formulated to combine those files under the control of the Departments of Home Affairs and Welfare and Population Development with those under the control of his Department, if so, when will such policy be implemented;
- (3) (a) how many files in respect of contribution orders made in terms of the Child Care Act, 1983 (Act No 74 of 1983), are currently being administered by his Department and (b) what was the total income derived by the State from contribution orders in the past financial year?
- N643E
- The MINISTER OF JUSTICE
- (1) (a) and (b) The required information is unfortunately not readily available in my Department, since statistics in this regard are not kept. To obtain the necessary information will mean that each and every magistrate's office in the Republic will have to be contacted and it will take the personnel weeks to
- (c) (i) and (ii) Computerised systems are in use at the magistrates' offices of Pretoria, Johannesburg, Durban, Bloemfontein, Cape Town, Wynberg, Athlone, Mitchells Plain, Bellville and Port Elizabeth
- (d) Functional specifications to revise the present system have been drafted and are currently awaiting approval with the aim of obtaining tenders for the development and implementation of the revised system. It is planned that the first revised system will be implemented in the current financial year. The revised system will, depending on the availability of funds, initially be implemented in Chief Magistrates' offices
- (e) A maintenance clerk should not be confused with a maintenance officer. The duties of a maintenance clerk are such that in-service training provided by the supervising officer concerned would usually suffice. Maintenance officers are usually public prosecutors. At public prosecutors' courses (and also at magistrates' courses) presented at Justice College maintenance matters (including the duties of maintenance officers are dealt with fairly comprehensively. Against the above-mentioned background the following replies are submitted:
- (i) Maintenance clerks In-service training provided by supervising officers
- Maintenance officer In-service training provided by supervising officers and formal training provided during courses for public prosecutors
- (ii) Maintenance clerks At the respective magistrates' offices

TUESDAY
JUNE 4, 1996

Former police chiefs to call for death penalty

STAFF WRITER

CT 4/6/96 (252)

FORMER South African police generals who believe the country is going to the dogs because of crime are to call for the death penalty to be reintroduced

Drastic steps needed to be taken to reverse the spiraling crime rate, former Ministry of Law and Order spokesman Major-General Leon Mellet said last night

He said "scores" of former police generals were to meet soon to discuss crime in South Africa, and intended to introduce a motion at the meeting that would lay out points they believed imperative to combat the situation

These included reintroducing the death penalty, swift prosecution of offenders, "sufficient sentences" to deter criminals, the tightening up of bail procedures and ensuring that offenders served out their sentences

At present, the criminal justice system was ineffective and did not scare off criminals, Mellet said

"South Africa is going to the dogs as a result of crime," he said "Crime is going to destroy our country"

Mellet said the ex-generals would be prepared to act as "advisers" to the government, but he stressed their interest stemmed from concern over the future of SA "This is not a political matter"

IFP leaders to wait for next truth body move

(252)

Star 5/6/96

Archbishop Tutu describes meeting with Buthelezi as 'full and frank'

OWN CORRESPONDENT
Cape Town

The leadership of the Inkatha Freedom Party (IFP) is waiting "with bated breath" for senior members of its national council to be charged in connection with violence and, until this happens, they see no sense in cooperating with the Truth and Reconciliation Commission.

This was one of the points made by IFP leader Mangosuthu Buthelezi in a four-page memorandum presented to commission head Desmond Tutu during a 90-minute meeting at Buthelezi's parliamentary office yesterday.

Commission deputy chairperson Alex Boraine and Joe

Commission should be judged by its work to date

Matthews, deputy safety and security minister and member of the IFP's national council, were also present.

Archbishop Tutu described the discussion at the long-awaited meeting as "very full and very frank".

Tutu said they were hoping that two of their arguments would persuade the IFP to change its mind. The first was that the commission should be judged by its work to date and, secondly, it was crucial for the IFP's account of events to be included in the commission's report if it was to give a "reasonably full" account of the conflict in the past.

"I think that is one (argument) that resonated," Tutu said.

Buthelezi said the IFP had expressed reservations about the commission from the outset and that its national council had passed a resolution in July last year not to participate or co-operate with it.

Buthelezi, who also said it was "absolutely untrue" that he had stalled meeting Tutu and Boraine as alleged in the media, said the commission had been set up to deal with the conflict of the past. But for the IFP, the conflict was still "very much in the present".

"Even now there are threats to arrest leading members of our national council. So, despite a very good discussion, there are these anxieties the conflict is still very much there. To us, the conflicts are on-going," he said.

In his memorandum, Buthelezi said the IFP objected strongly to the combination of truth-finding with the administration of amnesty for politically motivated crimes.

"This perverted mechanism will, in our opinion, produce a truth which emerges out of the pleas of those who seek amnesty or monetary compensation, and who often do so by telling what they perceive the commission wants to hear.

"These are the very basis on which witch-hunts have historically taken place and, in our case, this risk is increased by the reward of freedom to those in jail or of pecuniary compensation for the victims."

Boraine pointed out during yesterday's meeting that only people who have been declared victims can apply for reparation.

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Talks on IFP co-operation with the Truth Commission

JOHN YELO
on the Truth Commission

INKATHA Freedom Party (IFP) leaders are waiting "with bated breath" for senior members of the party's national council to be charged in connection with violence, and until this has happened they see no sense in co-operating with the Truth and Reconciliation Commission.

Archbishop Tutu described the discussion at the long-awaited meeting with Mr. leader Mangosuthu Buthelezi in a four-page memorandum presented to commission head Desmond Tutu during a 90-minute meeting at Chief Buthelezi's parliamentary office yesterday.

Commission deputy chairperson Alex Boraine and Joe Matthews, Deputy Safety and Security Minister and member of the IFP's national council, were also present.

Archbishop Tutu said they were hoping that two arguments would persuade the Buthelezi as "very full and very frank".

This is one of the points made by IFP.

Chief Buthelezi and Mr Matthews had undertaken to put these points to the next meeting of the IFP's national council on June 15.

Archbishop Tutu said they were hoping that two arguments would persuade the

IFP to change its mind on the commission. The first was that the commission should be judged by its work to date.

Secondly, it was crucial for the IFP's account of events to be included in the commission's report if it was to give a "reasonably full" account of the conflict in the past.

Chief Buthelezi said the IFP had expressed reservations about the commission from the outset.

Secondly, it was crucial for the IFP's account of events to be included in the commission's report if it was to give a "reasonably full" account of the conflict in the past.

Chief Buthelezi said the IFP had expressed reservations about the commission from the outset.

(252) MUC 5/17/96

Plan to establish interim attorneys' governing body

Deborah Fine (252) BD 5/6/96

MOVES towards the creation of a unified governing structure for the attorneys' profession are gathering pace and could result in the inauguration of an interim co-governing structure by the end of the year.

SA attorneys' journal De Rebus has reported in its June edition that a joint committee consisting of representatives of the present governing structures and members of the "alternative" Black Lawyers' Association (BLA) and National Association of Democratic Lawyers (Nadel) would meet at the end of the month to consider proposals for a single governing body representative of all SA attorneys.

The present governing structures — the law societies of the former Cape, Natal, Free State and Transvaal provinces and the voluntary Association of Law Societies (ALS) — have been criticised by the BLA and Nadel as being illegitimate remnants of the old SA. De Rebus reported the committee had agreed during its inaugural meeting in Bloemfontein last month that there should be one national body with substructures representing the nine new provinces.

Details as to allocation of powers and duties to the bodies would still have to be settled, but there was consensus that membership would be limited to practising attorneys and possibly candidate attorneys.

The committee had also agreed to the creation of an interim co-governing structure to oversee the transformation with half the representatives coming from the present structures and half from the "non-establishment" groups.

Transvaal Law Society president Esme du Plessis told De Rebus that she hoped all outstanding issues would be resolved at the end of the month meeting. The interim co-governing body could then be established by an amendment to the ALS constitution.

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...talks

Mbeki gave wrong idea — Holomisa

Deborah Fine

DEPUTY President Thabo Mbeki's failure to publicly clear Deputy Environmental Affairs Minister Bantu Holomisa of any wrongdoing for his remarks about Public Enterprises Minister Stella Sigcau had created the "wrong impression" in the media that he was now being "castigated", Holomisa said yesterday.

Holomisa was reacting to newspaper reports that he had been "publicly slapped down" by Mbeki about remarks he made to the truth commission last month,

DD 5/6/96 (252) (251)
that Sigcau had received R50 000 out of a R2m bribe given to ex-Transkei head George Matanzima by casino tycoon Sol Kerzner for exclusive gambling rights

Following the remarks, Sigcau publicly accused Holomisa of having "a hidden agenda"

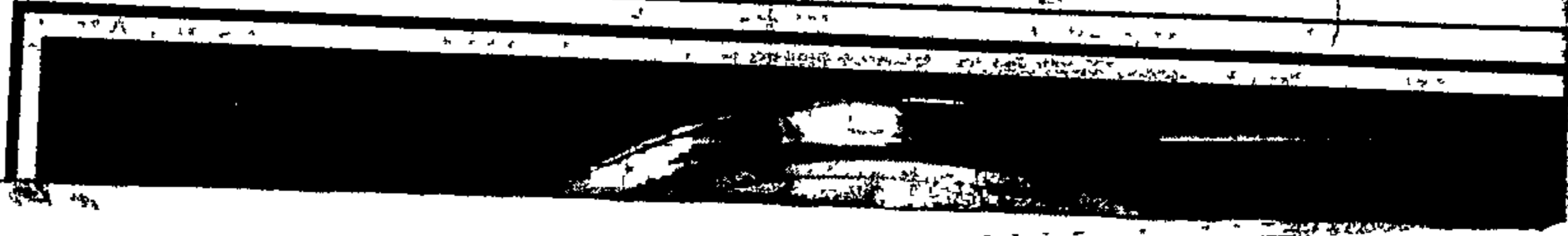
Mbeki intervened in the matter by telling Parliament that Sigcau had been cleared of the allegations by the Alexander commission

Holomisa said it was "unfortunate" Mbeki had failed to clear him in Parliament of any "mischievous-making" as the omission had "created an erroneous impression

in the minds of the media" that in clearing Sigcau, Mbeki was, by implication, castigating him

Holomisa said "nothing had happened to change the view" that the ex-Transkei Defence Force had been "constrained to topple" Sigcau as she had received the money in circumstances suggesting "an element of corruption"

Meanwhile, NP media director Dr Johan Steenkamp has called on President Nelson Mandela and Mbeki to "choose" between Sigcau and Holomisa, as "both cannot be right". Mbeki's office could not be reached for comment last night.



IFP members may apply for amnesty

CT 5/6/96 (252)
POLITICAL CORRESPONDENT

IFP leader Chief Mangosuthu Buthelezi has agreed to consider a request from Archbishop Desmond Tutu that IFP members who wished to apply for amnesty be allowed to appear before the Truth and Reconciliation Commission.

This was decided at long-awaited talks that lasted over an hour between the archbishop, Buthelezi, deputy commission chairman Dr Alex Boraine and IFP Deputy Minister of Safety and Security, Mr Joe Matthews.

In the procedures of the commission, those applying for amnesty must appear before it. The IFP has said it would not interfere with individual members who wished to co-operate with the commission.

Buthelezi, however, remained resistant to full co-operation by his party with the commission. He said the IFP rejected the commission as currently constituted as he believed it was "an expression of ANC ideology".

TRC faces Nieuwoudt's contempt of court case

CT 5/6/96 (252)

OWN CORRESPONDENT

PORT ELIZABETH: The Supreme Court will consider an application tomorrow from former security policeman Mr Gideon Nieuwoudt that the Truth and Reconciliation Commission be found in contempt of court.

The TRC will contest this application, it was learnt last night.

In his motion lodged yesterday, attorney Mr Francois van der Merwe claims that TRC chairman Archbishop Desmond Tutu, vice-chairman Dr Alex Boraine and human rights violations committee chairman the Rev Bongani Finca have disregarded the Supreme Court order issued on May 22.

Nieuwoudt was granted a temporary interdict on May 20 preventing witnesses from naming him. Nieuwoudt claims that he was falsely implicated by witnesses giving evidence in East London, Cape Town and Durban.

"I was never given any notice or information before the time that such evidence would be given

about me," he says in the affidavit.

"My attorney wrote a letter to Archbishop Tutu, whereafter he gave a written undertaking to furnish me with prior notice of such evidence."

Nieuwoudt says the TRC did not comply with the temporary interdict and this led to a second application on May 22 that the TRC be found in contempt of court.

He said he had reached an agreement with the TRC that was made an order of the court. But he claimed that this agreement was also breached.

"Witnesses were asked if they were going to implicate me and if they indicated that they would, they were told not to use my name, but were allowed to refer to me as either 'the man whose name we shouldn't mention', or 'Mr X'."

"It was, however, clear to everybody that I was the person who was referred to," Nieuwoudt said.

A source close to the TRC said last night the commission would contest the application tomorrow. This could, however, not be confirmed with the TRC members.

Sigcau must appear in court — Holomisa

CT 5/6/96

(SIPA) (252)

DURBAN: Deputy Environment Minister and former Transkei military ruler Mr Bantu Holomisa told yesterday why there was a coup in the former homeland in 1987



CHALLENGE: Deputy Environment Minister Bantu Holomisa

FORMER Transkei military leader Mr Bantu Holomisa has called for Public Enterprises Minister Ms Stella Sigcau to appear "in a criminal court" to explain the R50 000 she received as part of a R2-million bribe allegedly paid by gambling supremo Mr Sol Kerzner

Deputy Environment Minister Holomisa and Sigcau are members of the ANC

The former Transkei leader made the statement about Sigcau's acceptance of R50 000 during evidence to the Truth Commission in Port Elizabeth last month

Sigcau was later cleared by Deputy President Thabo Mbeki, who said she had been cleared by the Alexander Commission

Yesterday, Holomisa gave the background to the coup in 1987, saying the Transkei Defence Force had been "constrained to topple" Sigcau's government "after satisfying ourselves she had received R50 000 in circumstances which

convinced us that there was an element of corruption"

He said Sigcau had been a member of the Transkei cabinet, which had created the precedent of giving Kerzner exclusive gambling rights, while the cabinet minutes "did not reflect objections from any of the recipients of the R50 000 cheques"

Holomisa said the amount of R50 000 was referred to "variously" as "sweets", "tobacco" and "school fees" by the recipients

"We have never been able to explain how an amount of R50 000 could be referred to in those terms"

He said Sigcau had been "very inconsistent" in explaining the R50 000, having on one occasion stated the money was for a child who was "studying" overseas. On another occasion, she had said "Knowing African tradition as I do, how could I as leader of the Pondo reject a gift from the Tembu royalty without offending the giver?"

Holomisa said "From her own explanation it is impossible to know what the circumstances were under which she received the money. The fact that she received this amount is indisputable"

He said the Transkei Military Council did not accept the recommendations of the Alexander Commission

"The then military government indicated that the final word will only come when Sol Kerzner, Chief George Matanzima and whoever else, have appeared in a criminal court to explain the circumstances of the exchange of the monies."

Holomisa said the bottom line was that until a criminal case was brought against Kerzner, "an end to this matter cannot be simplistically declared"

He said that had been the Transkei Military Council's view in April 1994 "and regrettably nothing has happened since to change that view" — Political Staff

Many blacks on Death Row

(252)
some have
b/b/96

By Rafiq Rohan
Political Correspondent

TODAY is the first anniversary of the abolition of the death penalty, but there are still hundreds of prisoners, mainly black, languishing on Death Row.

The Human Rights Committee has demanded that a decision on their fate be made immediately.

"In 1995 when the ruling was passed down, 459 prisoners languished on Death Row," Dr Jeremy Sarkin, chairman of the board of the HRC, said.

"Today hundreds remain. Lives have been put on hold and families of prisoners have been waiting for one year while politicians at Cabinet level debated their fates. This prolonged uncertainty may in itself constitute cruel and unusual punishment," he said.

Consideration

The HRC has called for new legislation which is under consideration by Cabinet, to be enacted as soon as possible.

"The Bill would send death row prisoners' cases back to the courts where they were tried. There they would receive a replacement sentence."

It was questionable, said the HRC, whether it would be a wise thing to refer cases back to the same courts.

"Most death penalties were handed down under apartheid laws and were often ordered by judges so well known for capital sentencing that they were called 'hanging judges,'" said Sarkin.

"The advisability of sending cases back to these same judges is questionable."

Fate of Death Row prisoners still unsure

(252)

ARG 6/6/96

JOSEPH ARANES
Staff Reporter

A YEAR ago the country's Constitutional Court abolished the death penalty, ruling that capital punishment was, among other things, cruel, inhuman and degrading.

At the time of the ruling 459 prisoners, most of them black, languished on Death Row. Today about 400 of them are still being kept in cells at Pretoria Central Prison not knowing what the future holds for them, while the politicians and cabinet ministers debate their fate.

In his 244-page judgment, Constitutional Court president Arthur Chaskalson said that everyone, including the most abominable of human beings, had the right to life, and capital punishment was therefore unconstitutional.

In rendering the death penalty unconstitutional, Death Row prisoners were being kept behind bars for crimes they committed, but without being sentenced. Since the court ruling in the State versus Makwanyane, and another case on June 6 1995, the Death Row inmates have still not been given substitute punishment.

Some politicians have suggested that all the Death Row prisoners be sentenced to life in prison, and that the current legislation be amended so that life sentences means life in prison.

A Justice Department spokesman, Paul Setsetse, said draft legislation had been tabled and discussed by the cabinet and was being fine-tuned by the

state's legal adviser before being tabled in parliament

"As soon as this process is complete and the bill adopted, then the whole question of the re-sentencing of Death Row inmates will be resolved. The cabinet discussed the legislation yesterday and we feel quite confident that parliament will discuss the matter before it goes into recess."

Jeremy Sarkin, of the Human Rights Committee, said the uncertainty about the fate of the prisoners was a cruel and unusual punishment, and showed a lack of commitment to the development of a human-rights culture in the country.

"Today marks the one-year anniversary of the abolition of the death penalty but the lives of the inmates have been put on hold and their families have been waiting all this time while the politicians try to resolve the matter.

"We believe that it is imperative that new legislation be enacted in a timely manner to put to rest the question about the fate of the prisoners."

He said the bill would send the prisoners' cases back to the courts where they were tried, as that was where they would get replacement sentences.

"However, most death sentences were handed down under apartheid laws and often were ordered by judges well known for capital sentencing. The advisability of sending the cases back to these same judges is questionable."

Mr Sarkin said neutral and uniform results could be obtained only from an independent panel of judges reviewing all cases with the same criteria.

TRC must prove it didn't breach court order

(252) Star 7/16/96

By SHADLEY NASH

Port Elizabeth - The Truth and Reconciliation Commission (TRC) has two months to prove it did not breach a court order, after witnesses at its Port Elizabeth hearings made veiled references to Motherwell murder accused Gideon Nieuwoudt.

A Supreme Court judge today ruled that *prima facie* evidence existed that the commission was in breach of an earlier court order prohibiting witnesses from naming Nieuwoudt without sufficient prior notice.

The application for a *rule nisi* was heard before Mr Justice Frank Kroon and was one in a series brought by Nieuwoudt against the TRC.

Nieuwoudt, along with four other former security policemen, is charged with the 1989 Motherwell car bomb murders of three colleagues and an alleged Askan. Judgment is scheduled for June 14.

In his notice of motion, Nieuwoudt named the commission (as a juristic body), Archbishop Desmond Tutu (commission chairman), Dr Alex Boraine (deputy chairman) and Reverend Bongani Finca (a commissioner) as respondents.

He said the respondents must show cause by August 28 why the commission should not be

sentenced to a fine, Tutu and Boraine should not be sentenced to a period of imprisonment as determined by the court, and that all of the above should not be suspended for the life of the commission.

Today's court application by Nieuwoudt was a sequel to his earlier threat to bring contempt of court charges against the TRC after witnesses made obscure references to him during their evidence.

A subsequent agreement between the parties to withdraw the contempt of court charges, in exchange for an undertaking that witnesses would not be allowed to name Nieuwoudt without sufficient prior notice, was made an order of the court.

Two Port Elizabeth witnesses, when cautioned by Finca not to mention Nieuwoudt's name, then referred to him as "the person I cannot mention", which Nieuwoudt's lawyers argued was in breach of the agreement.

Hanif Vally, the commission's lawyer, said the ruling would not affect the TRC hearings.

Nieuwoudt's attorney, Francois van der Merwe, said afterwards the application was brought to protect the integrity of the legal fraternity and that he had no reason not to respect the TRC, but cautioned that the TRC should also respect the court order - Eena.

TRC rules out blanket amnesty

(252) ARG 7/6/98

JOHN YELD and Sapa
on the Truth Commission

MEMBERS of political parties will have to apply individually to the Truth Commission for amnesty for human rights violations, even though party leaderships may assume collective moral responsibility for the members' actions

This was confirmed today by the chairman of the commission's amnesty committee, Judge Hassen Mall, who pointed out that application forms for amnesty had to be completed by individuals

Yesterday, Joe Modise, the Defence Minister and former commander of the ANC's liberation army uMkhonto weSizwe, announced he would apply to the Truth Commission for amnesty

He is the first African National Congress leader and cabinet minister to publicly admit



Joe Modise

responsibility for acts of violence during the struggle

But ANC national spokesman Ronnie Mamoepa said later that Mr Modise would not approach the Truth Commission's amnesty committee in his individual capacity but in the context of the collective responsibility of the ANC's national leadership

In terms of the Truth Com-

mission's act, perpetrators must give full details of how they committed human rights violations before amnesty can be granted

The official application form calls for details such as the capacity in which the applicant served any organisation, who gave any orders and/or whether they approved the acts, the names of any other people involved, whether anyone was killed or injured as a result, and the applicant's justification for such acts

Speaking on national television last night, Mr Modise said he regretted the loss of innocent lives during MK operations

"But I do not regret carrying out a struggle for the liberation of this country," the 67-year-old minister added

"In the process, lives (were) lost and naturally one will have to go in front of the Truth Commission and ask for indemnity," Mr Modise said

'Legally dead': Plea to the TRC

*(252) ARG 7/6/96,
'Long list of problems caused by revelations'*

JOHN YELD
on the Truth Commission

THE Truth and Reconciliation Commission should recommend a special procedure by which people who disappeared and who were probably killed by government agents can be declared legally dead

This is one of the suggestions in an article about the commission in the latest issue of *De Rebus*, the journal of South African attorneys

The article, "The Promotion of National Unity and Reconciliation Act A legal practitioner's perspective", by practising attorneys Tefo Raditapole and Anton Steenkamp, states that revelations at the commission's hearings of what happened to people killed or maimed by agents of the previous regime had created "a long list" of legal problems

These included civil status, inheritance and the possession of assets of people killed or who suffered abuse, custody of children, legal capacity of wives married in community of property, and "a whole range of circumstances relating to the family estate"

The authors suggest the commission should recommend a special procedure whereby a person can be certified dead in cases where it appears certain government agents were responsible for their detention and subsequent disappearance

Such a declaration of a presumption of death should be capable of being made an order of court and legally binding

In the article, the authors also undertake a comprehensive analysis of the Act with respect to the issues of international norms, access to information and due process (fairness before the law), the right against self-incrimination and implications for litigants in civil proceedings, and the constitutionality of the act

The article has appeared shortly after amnesty provi-

sions in Truth Commission legislation were challenged in the Constitutional Court

Last week, lawyers appearing for the Azanian People's Organisation and families of four slain anti-apartheid activists - Steve Biko, Griffiths Mxenge, Fabian Ribeiro and his wife Florence - asked the court to strike down amnesty provisions which they said denied their right to compensation from the state or from perpetrators of human rights abuses

Their lawyer, David Soggot SC, declined to argue their additional claim that amnesty for criminal acts was unconstitutional

The court has reserved judgment

The authors of the *De Rebus* article note that, in terms of international norms, perpetrators responsible for arbitrary and summary execution of victims and for "enforced disappearances" are prohibited from benefiting from special amnesty laws or indemnities from prosecution

"According to these norms, perpetrators of the most serious human rights violations should be brought to trial and prosecuted, and only then, in a spirit of reconciliation and national unity, can they be pardoned"

But this position cannot be reconciled with the Promotion of National Unity and Reconciliation Act, in terms of which the Truth Commission has been established, the authors argue

This is because the commission is constitutionally obliged to grant amnesty to perpetrators if their activities - including summary execution and disappearances - fall expressly within the defined categories for which amnesty can be granted, and if they make full disclosures

"This amnesty, in terms of the Act, also extends to absolute indemnity from criminal and civil liability"

The granting of amnesty is the most far-reaching and -

according to some critics - the potentially most unconstitutional aspect of the act, the authors suggest

They note that although the constitution provides for the passing of legislation to facilitate the granting of amnesty, this is not defined in either the constitution or the act

They point out that there is a difference between amnesty, which is "a general pardon, especially for a political offence", and indemnity, which is "legal exemption from the penalties or liabilities incurred by a course of action"

"The effect of indemnifying perpetrators and the state against civil action is to deny or limit persons from exercising their right to equality and due process

"We submit that this limitation fails the test set out in section 33 of the constitution - namely, that it should be permissible only to the extent that it is reasonable and justifiable in an open and democratic society based on freedom and equality, and does not negate the essential content of the right in question"

Reference to the international norms clearly indicate it is unreasonable to deprive victims of their right to due process - particularly in the light of possible budgetary constraints facing the President's Fund (the fund established in terms of the Act from which victims of human rights abuses would be paid some form of reparations), the authors state

"Should the Constitutional Court interpret the constitution in favour of the view that the inclusion of indemnity from civil action in the act is authorised by the constitution, one can only lament that the objectives sought to be achieved at policy level will not be met

"The effect of this would be to make the Truth and Reconciliation Commission fall far short of internationally accepted standards in this regard"

Sad plight behind prosecutors' flight

252
MAY 7-13/6/96

Overworked, underpaid and overstressed prosecutors are in revolt
Angella Johnson interviewed one who says enough is enough

JAN KRUGER rises the day he decided to swap his police uniform for the long black robe of an advocate. "My contemporaries who stayed behind in the South African Police Service are about to get a big pay rise. No one seems to think we at times even of the criminal justice system also deserve a proper salary."

Sitting in the cramped office he shares with a colleague at the Magistrate's Court in Pretoria, Kruger is busy pondering his future within a system riddled with demoralised workers unhappy with their lot.

He left the police force in 1980 after 10 years during which he rose to the rank of captain, because he wanted to improve his career prospects. "I realised I would be 40 years old under the old promotional system before I could earn R50 000 a year. He was then aged 32.

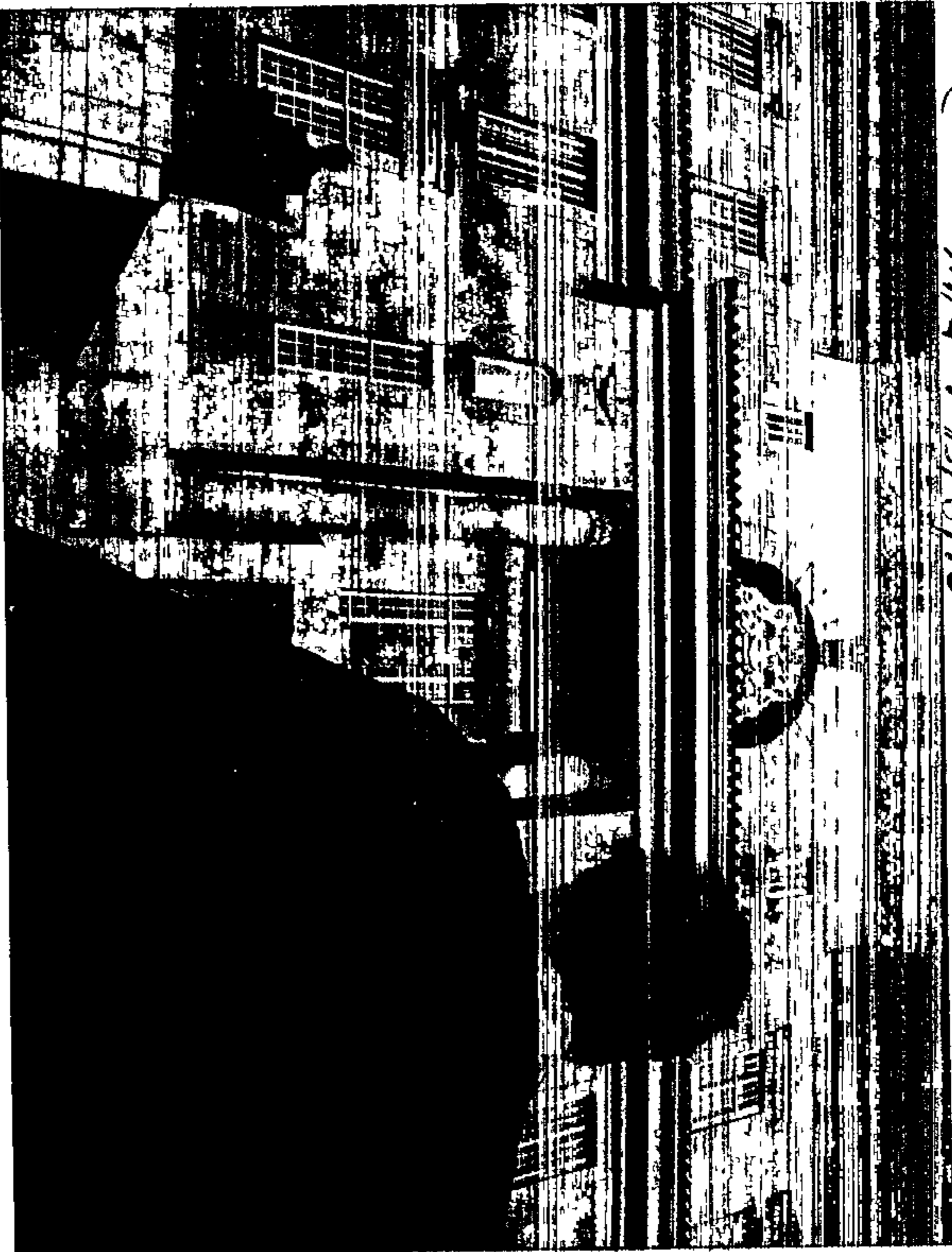
Today Kruger earns just R8 011 a month. After tax, pension, medical payments, house bond and life insurance have been deducted, he is left with R1 967. "How am I supposed to feed a wife and three young children on such a paltry sum?"

He joined the Justice Department thinking it would offer a better career prospect in the long run. "Now I fear I shall have to re-evaluate my position because I can't survive on this money any more."

Kruger is particularly bitter that his contemporaries in the SAPS who attended police college with him are to be paid R98 463 while his expected pay rise will only gross R73 141. "Promotion is not automatic here. It would take me another three years before I could even be eligible to earn over R100 000."

Although he could make more money in private practice, Kruger insists that is not where he wants to be. "I did not come into this job to earn big bucks. I wanted to be on the side of the state — of law and order."

"I still think there should be people prepared to take on the interest of society as a priority, but we can't live off idealism, so qualified and



PHOTOGRAPH BY HENRI PRINCEWILL

Law but not much order. Prosecutors have about 75 minutes to prepare for a day in court very experienced people are leaving all the time because they feel demoralised.

His family is able to survive with "presents" from his parents who are retired and because his wife, who is also an attorney, works part-time in Pretoria's municipal offices — earning the same as he does full-time.

The desk in Kruger's office is laden with brown folders containing some of the 30-plus cases he is working on. He is working under the strain. A family portrait of his golden-haired six-month-old son, 18 months and six months, sits inconspicuously among cases representing the typical of human nature.

"I have rape cases, child abuse, murders, one man shot his wife, claiming he thought it was an

intruder in their house; in another a toddler was battered to death by his mother and step-father."

But he admits he is unable to give each case the level of attention needed because of the workload. Kruger complains about inadequate facilities, lack of back-up from some police officers and undue pressures put on prosecutors to chase up witnesses and ensure they get paid. "There's the paperwork, everything in duplicates and triplicate. I do about two murder trials per week. If I want to make sure my job is properly done, it means using my own time."

Another handicap to the smooth operation of the prosecution system is the shortage of money to pay expert witnesses. "We have to plead

with people to help us. Fortunately, most professionals are prepared to do it for next to nothing."

The system offers no slack to new recruits. According to the Prosecutors' Association of South Africa, a district court prosecutor will have less than a year's experience in court to deal with up to 15 cases each day. They have about 75 minutes to prepare for a day in court. "The margin for error in circumstances such as these can be figuratively likened to the Great Barrier Reef," comments Ray Sanson, a senior prosecutor from Durban.

He says trials are often withdrawn because of inadequate preparation, and inadequate preparation being made for the attendance of witnesses.

Prosecutors even have to decide which cases should go for trial. "We're supposed to do it within seven days," says Kruger, "but no one ever does." That's another hint in the slow channings of the system.

He also criticises the sentences meted out by magistrates. "They are pathetic. Too often we see the same people appearing in court accused of a serious crime committed when on parole. I think people should serve their time to the limit."

These arrest and probation are good for first offenders, but it makes me mad that hardened criminals are being let out early.

Whatever happens, he is adamant he will not defend criminals. "I think I'll look for something entirely different. Maybe run a fast-food business."

chief comes under fire

Ron Haywood has been criticised for assuming the position of CEO of Armscor when he is already in control of the board, reports

Stefaans Brümmer

(254) MTC 7-13/6/96
A RMSCOR stands accused of disregarding principles of good management by appointing former industrialist Ron Haywood as its chief executive as well as the chair of its board

But Haywood, a former industrialist and long-time deputy director general of the South African Chamber of Business, says his position is a "holding one" until a suitable candidate can be found, and that it will bring stability while Armscor transforms itself into an accountable organisation.

Haywood was appointed to Armscor's board of directors by Defence Minister Joe Modise in January last year, and was given the temporary position of acting executive chair last September — which was confirmed as a permanent position two months later. A week ago, with the blessing of the board and Modise, Haywood's *de facto* control of both the board and management was formalised with his appointment as chief executive officer. He stays on as chair of the board.

Having the same incumbent in both positions is still the practice in a number of South African companies, although it is increasingly uncommon in most Western countries. South Africa's King Committee on corporate governance recommended in November 1994 that both private and state companies respect the international trend, as it encourages accountability and independent oversight of management.

Laurie Nathan, member of the Cameron Commission of Inquiry into South Africa's arms control regime, this week said the first Cameron report last year had shown the state arms acquisition corporation racked with "financial, managerial and administrative incompetence", and that Haywood's background could only benefit Armscor.

"I could see him playing an extremely effective role in either position, but it is inappropriate to combine both [positions]," Nathan said.

Armscor advertised the position of chief executive last November. Personnel agency Select Africa honed the applicants to a shortlist of two Armscor employees, Jaco de Jager and Krish Naidoo, and one or two outsiders. De Jager is a senior engineer who has been with the organisation for over a decade, while Naidoo is a lawyer with United Democratic Front credentials who is senior manager of Armscor corporate communications.

The applicants were interviewed by Haywood and others, but in late May Haywood called staff together and told them that as a "suitable candidate" could not be found, Modise and the board were happy for him to take the job for two years.

Some Armscor staff this week criticised the appointment, saying it clashed with the King recommendations and that it was a setback for those who were hoping for a black appointment.

A source who had been involved in the selection process said "During the search [for a candidate] things changed. The government felt it wanted to bring in more people of colour, and that is what will happen. But there has to be a stabilising effect in the meantime."

Haywood this week said he was well aware of the King recommendations — and had indeed been part of the process that informed the inquiry — but that the recommendations were not appropriate for now.

He said he had been made responsible for Armscor when he was brought in as chair, and that the new position did not make more than a nominal difference.

"My responsibilities since I came in haven't changed. I was made responsible for Armscor and that's it."

He said he was "stabilising Armscor while we find Mr Right, Chief Executive."

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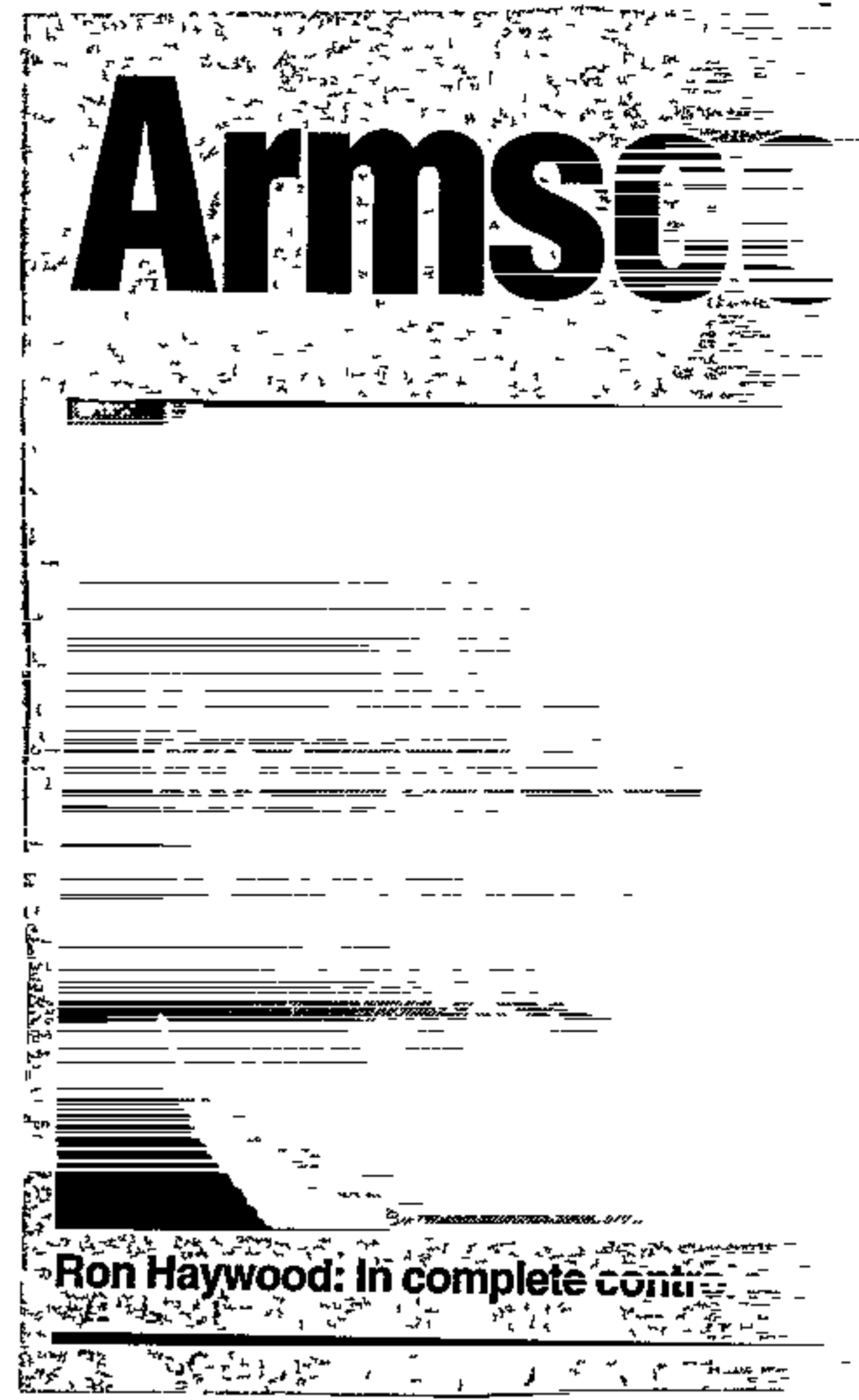
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Location: UCT-ASL



New info on Webster, Lubowski

By CHIARA CARTER
(252)
9/16/96

THE TRUTH and Reconciliation Commission has information linking the murders of Swapo lawyer Anton Lubowski and Johannesburg academic and anti-apartheid activist David Webster.

The commission intends asking Judge Louis Harms, who headed the Harms Commission inquiry into hit-squad activities, to appear before it.

This follows the TRC hearing testimony about a number of cases allegedly involving state hit squads, including the Lubowski and Webster murders.

Commissioner Dumisa Ntsebeza this weekend confirmed that the TRC investigation pointed to a possible link between the Webster and Lubowski murders and said the inquiry was at a sensitive stage.

He declined to comment on rumours that the TRC had received documentation relating to the Lubowski murder from a state legal officer and that it had statements relating to the murders.

The TRC is also looking into claims made by former Defence Minister Magnus Malan that Lu-

bowski was recruited as a Military Intelligence informer three months before he died.

Lubowski was supposedly paid three payments totalling R100 000 through a MI front company, a closed corporation called Global Capital Investments owned by Pretoria lawyer Ernst Penzhorn.

Malan's claim was accepted by Judge Harms after the Defence Force provided various documents relating to alleged payments to Lubowski. But the Defence Force to date has never supplied the original motivation for recruiting Lubowski or proof of work he allegedly did.

Following the Harms commission several anomalies were discovered in the Defence Force records.

These included attempts to backdate at least one of the Treasury cheques, crude attempts to backdate ownership of Global and a requisition form which refers to "final payment".

Ntsebeza said the TRC had not requested the Military Intelligence files on Lubowski.

Meanwhile, Defence Minister Joe Modise this week said he had no idea where these files were.

■ Lubowski, who joined Swapo in 1984, was shot seven times with an AK47 outside his home in Windhoek on September 12, 1989. The final shot was fired into his head with a different calibre weapon.

An Irish national, Donald Acheson, was arrested the following day for the murder but was released eight months later after the prosecutor failed to produce evidence.

A 1994 Namibian inquest court found that Acheson a former member of the Rhodesian army, had killed Lubowski on the instructions of the shadowy Civil Co-operations Bureau a covert division of the SA Defence Force.

The court found that CCR policy was to destabilise Namibia, disrupt its elections and assassinate Swapo leaders.

Justice Harold Levy said several CCB members were Acheson's accomplices.

■ Webster was shot dead outside his Johannesburg home in 1989 and three years later a task force investigating his killing failed to identify his killers.

■ The TRC intends issuing subpoenas to several police officers who

have taken legal action against the TRC as well as self-confessed state assassin turned state witness Joe Mamasela.

Ntsebeza said the TRC had the power to compel people to appear before it.

■ Responding to Defence Minister Joe Modise's announcement earlier this week that he would appear before the Truth Commission to accept responsibility for deeds committed by MK members during the liberation struggle, Ntsebeza said the TRC wanted political organisations to make their submissions outlining their policies as soon as possible.

The military leaders and security officials would then provide details about operations which they ordered as well as violations committed against their members.

However, those who actually carried out the human rights violations – the operatives – would have to apply individually for amnesty.

Following Modise's announcement, the ANC issued a statement saying the organisation's leadership would accept collective responsibility for deeds carried out by its members.



DEATHS LINKED... Swapo lawyer Anton Lubowski (top) and anti-apartheid activist David Webster.

Truth body considers special hearing

CAPE TOWN — The Truth and Reconciliation Commission was considering a special hearing to hear evidence on the disappearance of secret apartheid-era intelligence and police files, a commission spokesman said.

Confirmation of the planned hearing followed a report in the Sunday newspaper, City Press, which said Military Intelligence files were apparently missing.

The report quoted the commission's investigative unit head Dumisa Ntsebeza, who said the fate of the missing files would be "vigorously investigated" by the commission. He said government officials would be questioned in an effort to establish who had ordered the removal of the files, and where they had been taken.

However, commission member Denzil Potgieter said the body had not yet applied for any National Intelligence Agency or Military Intelligence files,

although the understanding was they would be made available on request.

City Press quoted Defence Minister Joe Modise as saying there was a strong possibility that the information had been removed on computer disks and taken to a "faraway destination".

They contain the names of Military Intelligence operatives, a central register of informers and operatives, motivations for their recruitment and details about covert operations.

The newspaper said Parliament's joint standing committee on intelligence headed by Lindiwe Sisulu intended launching its own investigation into the matter.

When her committee recently visited the military intelligence academy, ANC MP Llewelyn Landers had asked to see documentation of past covert activities. When he was told the files no longer existed, the committee had been utterly horrified. — Sapa

Priest blames F W for letter bomb blast that maimed him

President failed to disband death squads, TRC told

ART 10/6/96

(252)

JOHN YELD
on the Truth Commission

KIMBERLEY - Anglican priest Michael Lapsley told the Truth Commission today that outgoing Deputy President F W de Klerk was "politically and morally" responsible for the letter bomb that blew off his hands and blinded him in one eye.

Father Lapsley opened the letter bomb in Harare on April 23, 1990.

He told the commission that the attack bore all the hallmarks of the Civil Co-operation Bureau (CCB) dirty tricks squad of Military Intelligence.

"The scale of sophistication of the attack and the kind of intelligence information required obviously indicated there was a whole complex of interlocking forces at work.

"Politically and morally speaking, I hold F W de Klerk responsible for the attack.

"He was the head of state at the time, and death squad activity continued during that period, and remained part of the machinery of state.

"He should obviously take political responsibility for not disbanding the death squads, part of the machinery of state, even if he did not have direct knowledge of the attack on me."

Father Lapsley, who had left South Africa in 1976 because of his anti-apartheid work, said he would like to know who had been responsible for the attack - which occurred on the eve of the first talks between the unbanned African National Congress and the De Klerk government - and in particular what the chain of command had been.

He told the commission the letter bomb had been placed in an English religious magazine, and that he had been about to make a telephone call when he opened the magazine and the device detonated.

"There was a loud explosion and I was thrown to the floor," he said.

The explosion blew a hole in the floor, and brought down the ceilings in three rooms.

"I was blinded and deafened and lost both my hands.

"I lost one eye, and the other was damaged.

"Both my eardrums were shattered, I had extensive burns and my right arm was broken."

Father Lapsley said he had remained conscious throughout and had not had any treatment for about six hours.

"I can still remember what happened - the pain was such I didn't think a human being could experience.

"Perhaps the most extraordinary thing of all was that I felt the presence of God with me."

Earlier commission chairman Desmond Tutu said hundreds of perpetrators of gross human rights violations such as murder, torture and abduction had already applied for amnesty - including at least 200 during the past three weeks.

Opening two days of hearings of the commission's human rights violations committee here today, Archbishop Tutu appealed to perpetrators who had not yet applied for amnesty to come forward, renounce their actions and express regret.

"They will be amazed at the warm response they will get. People want to forgive."

More than 600 perpetrators had already applied for amnesty, Archbishop Tutu said.

"I appeal to perpetrators to provide us quickly with information that people are craving - 'Who killed my loved one? Why? Who gave the order?'"

"They want to know. The commission will get to the bottom of this, but those who know could quicken the process."

The first case the commission heard today was of the death of a 27-year-old teacher, Phakamile Mabiya, who died in a fall from the sixth floor of the Transvaal Road police station here on June 7, 1977.

A friend of the Mabiya family, Henriette Manzana, said she had been working in the police station at the time.

About 1pm, she had gone to give Mr Mabiya food, but the police told her to bring it later.

"About 3pm, while I was making some tea on the third floor, I saw Pakie [Mr Mabiya] fly past the window," she said.

MISSING DOCUMENTS files hunted

TRC plans hearing on fate of apartheid dossiers

THE TRUTH and Reconciliation Commission was considering holding a special hearing to hear evidence on the disappearance of secret apartheid-era intelligence and police files, a commission spokesman said on Sunday.

Confirmation of the planned hearing came after a newspaper report which said all Military Intelligence files apparently were missing.

The report quoted the head of the commission's investigative unit, Dumisa Nisebeza, who promised the fate of the missing files would be "vigorously investigated" by the commission.

He said government officials would be questioned in an effort to establish who had ordered the removal of the files, and where they had been taken.

A commission spokesman confirmed the forum was looking at holding a formal hearing "relating to missing files".

However, commission member Denizil Potgieter said the body had not yet applied for any National Intelligence Agency or MI files, although the understanding was that they would be made available on request.

The news report quoted Defence Minister Joe Modise as saying there was a strong possibility the information had been removed on computer disks and taken to a "faraway destination".

They reportedly contain the names of MI operatives, a central register of informers and operatives, motivations for their recruitment and details about covert operations.

The newspaper said Parliament's Joint Standing Committee on intelligence headed by Lindiwe Sisulu intended launching its own investigation into the matter.

"This is a very serious matter and we will dedicate our energy to resolving it," Mr Sisulu said.

"We intend to take it up with the Ministry of Arts and Culture to determine what this government's policy is on documentation and archives."

When her committee recently visited the military intelligence academy, ANC MP Luwellyn Landers had asked to see documentation of past covert activities.

When he was told the files no longer existed, the committee had been utterly horrified — Sapa

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(252)

'IFP units bused into town'

Truth Commission hears of collusion between police and Inkatha in N Cape

By ROBERT BRAND
Kimberley

Inkatha Freedom Party units were bused in from Johannesburg to sow mayhem in isolated Northern Cape communities during the early 1990s, several witnesses told the Truth and Reconciliation Commission yesterday.

The witnesses also made allegations of collusion between local police and the IFP in Griekwastad, 100km from Kimberley on the edge of the Kalahari.

At least one person was killed and two seriously were injured during confrontation between the ANC and the IFP in Griekwastad, the commission heard.

Grace Kgathane said her son Aubrey, an ANC Youth League organiser, was severely assaulted by a group of "strangers" bused into Griekwastad on June 30 1991.

She said her son was still mentally unstable as a result of the beating at the hands of the IFP group.

"Those people were strangers, we didn't know them. But we knew the people responsible for bringing them in. It was the IFP."

Kgathane's other son, Tommy, testified that trouble started between the local ANC and IFP in July 1990 at a meeting between the two groups to discuss peace.

He said tempers flared and the police intervened, separating the two groups. Police then tear-

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gassed the ANC group.

When ANC marshals tried to ask the police why they had tear-gassed only the ANC group, a policeman opened fire with a shotgun, hitting Tommy in the arm and face.

Molly Motharo testified about the death of her brother Charlie Bees, also in Griekwastad, after a disagreement between the ANC and the IFP in November 1991.

Bees was stabbed to death by a group of IFP members seeking revenge for the stabbing of one of their councillors earlier the same day, she said. The police never investigated the killing, she said.

After the Goldstone Commission had sent detectives to investigate the case, a black policeman,

Const Setlaune, had told her that a white sergeant had promised him and other policemen money if they kept quiet about the case.

Only 18 out of 150 people who made statements to the commission had been prepared to testify in the Kimberley hearing, a commission spokesman said.

Many potential witnesses were afraid to testify because a number of the policemen implicated in human rights violations were still active in the area, in some cases as station commanders, commission sources said.

The hearing continues today. ■ The commission will release its first preliminary report on Thursday, vice-chairman Dr Alex Boraine said.

Priest blames FW for bomb that maimed him

By ROBERT BRAND

Kimberley - National Party leader F W de Klerk should be held politically and morally accountable for the letter-bomb explosion which cost him both hands and one eye, Anglican priest Father Michael Lapsley told the Truth and Reconciliation Commission yesterday.

"De Klerk was head of state, and the death squads remained part of the machinery of state. He knew about that. I'm not saying he gave the command, or he knew about my bomb. But he did not disband the death squads."

Lapsley was testifying during

the first day of human rights violations hearings in Kimberley.

The priest, originally from New Zealand, had incurred the wrath of the South African government after settling in South Africa during the 1970s and eventually joining the ANC in Lesotho.

He said the sophistication of the 1990 bomb "bore the hallmarks of the CCB (Civil Co-operation Bureau)."

Lapsley spent five months in Zimbabwean and Australian hospitals and three months in a Sydney rehabilitation centre before returning to Zimbabwe.

There were times when he

thought he could not go on living, he said. However, after he had recovered and learnt how to use his mechanical hands, he thought otherwise. "I thought I could be more of a priest with no hands than I ever was with two hands."

Lapsley said he would like to meet those responsible for constructing and sending the bomb, and their commanders - but only if they showed remorse. "If somebody said they were sorry, I would love to be able to say to them, of course I forgive you."

The National Party said last night Lapsley's accusations against De Klerk were "grossly unjust"

and uncalled for. He would present the commission with a full submission on behalf of the previous government in his capacity as the then head of state.

■ Sapa reports that confessed police hit squad commander, Dirk Coetzee is to be the first security force operative to give evidence to the commission on "dirty tricks" used against anti-apartheid activists. Former security policemen Joe Mamasela and Gideon Nieuwoudt are also to be called before the body to answer questions relating to the disappearance of three Port Elizabeth Black Civic Organisation members in 1985.

Confession drama at (252) truth probe

By ROBERT BRAMP

Star 12/6/96
Kimberley - A former Umkhonto weSizwe cadre has told the Truth and Reconciliation Commission that when he confessed to police that he had thrown a hand grenade which killed a demonstrator, the response was that he was "confusing the issue" and he was chased away.

The surprise confession by Walter Smiles yesterday could lead to the reopening of a 1993 case in which two Kimberley activists were convicted for the death of a youth in the explosion.

Smiles, now in the SANDF, tearfully told the commission he had thrown the grenade which killed 18-year-old Izakiel Mokone during a march in Kimberley for which ANC Youth League organiser Spho Mbaqa and SACP member Nkosinathi Nkohla were sentenced to 12 years each.

The chief State witness at their trial, Thembinkosi Ngqele, also confessed to the commission that he had fabricated his evidence under police pressure.

Nkohla testified he had not even been in Kimberley on the day of the march, but had been forced by police to sign a false confession.

On the stand yesterday, Smiles said police had told him he was "confusing the issue" and had "chased" him away.

After denying involvement in the incident in his written statement to the commission, Smiles took the stand and begged forgiveness from Mokone's mother and the people of Kimberley.

■ Commissioner Dumisa Ntsebeza said a decision would be made whether to ask the Supreme Court to reopen the case on the grounds of new evidence.

- (1) Whether the price of diesel fuel oil was increased in the past three months, if so, (a) how many times, (b) by what total amount during this period and (c) what was the reason for the increase in each case,
- (2) whether he will make a statement on the matter?

N906E

The MINISTER OF MINERAL AND ENERGY AFFAIRS

- (1) (a) Yes, three times
- (b) The total amount of the increase was 13 cents per litre (c/l). It increased by 3 c/l in March 1996, by 7 c/l in April 1996, which incorporated a fuel tax increase of 3 c/l, and by 3 c/l in May 1996
- (c) Except for the 3 c/l increase in the fuel tax in April 1996, the reason for the increases was the same in each case: an increase in the international oil and product prices and a drop in the value of the rand against the collar, from US \$1 = R3,93 to US \$1 = R4,37

(2) The Liquid Fuels Industry Task Force (LFITF) with representation from business, labour and Government, recommended in 1994 that fuel price adjustments in respect of controlled fuel products, namely petrol, diesel and illuminating paraffin, be adjusted, if required, on the first Wednesday of each month based on the prevailing international market price of these products and the rand/dollar exchange rate. The Cabinet approved this recommendation on 28 September 1994 and on Wednesday, 5 October 1994 the first adjustment was effected in terms of the new mechanism. The fuel pricing mechanism as agreed to by the LFITF is administered by the Central Energy Fund (Pty) Ltd and audited on a monthly basis by an independent audit firm.

Cef releases a monthly media statement in respect of fuel price adjustments. Information in respect of the daily and average unit over/under-recoveries on petrol, diesel and illuminating paraffin are also published in the media on a daily basis.

Business interrupted in accordance with Rule 199(3) of the Standing Rules for the National Assembly

*12 Ms M SMUTS asked the Minister for Posts, Telecommunications and Broadcasting

- (1) Whether a certain person, whose name has been furnished to his Department for the purpose of his reply, is employed by the SABC, if so, (a) what is his annual salary, (b) in what capacity is he employed and (c) what are his principal responsibilities,
- (2) whether the said person has been charged with or convicted of any crimes, if so, what are the relevant details,
- (3) whether he will make a statement on the matter?

N907E

The MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING

The Chairperson of the SABC has informed me as follows

- (1) The said person (Dr Adam Klein) is not a permanent employee of the SABC
- (a) Consultancy fees 1 March 1995-31 October 1995 = Total R861 840
- (b) The said person did perform consultancy services to the Corporation during 1995
- (c) Management consultancy
- (2) The said person had been charged and convicted in November 1995 for contravening the foreign exchange regulations
- (3) Dr Adam Klein is visiting the USA and is not available for comment. The SABC has no intention of employing the said person in the future, either as a full-time employee or as a consultant. On a related matter, the SABC now has a "Consultants Policy" in place to ensure that proper procedures are followed prior to the appointment of consultants

Houses built by public sector

*13 Mr K M ANDREW asked the Minister of Housing

- (a) How many houses were built by the public sector during the period 27 April 1994 up to 27 April 1996 and (b) how many of these houses were built by small and emerging businesses?

N908E

The MINISTER OF HOUSING

- (a) and (b)

Record is kept only of houses which are being erected with the assistance of state funds. The details required are not readily available within housing departments at national or provincial level. To provide these details, the nine provincial administrations will have to approach local authorities. This will entail a very time-consuming process that will not be economically justifiable.

However, since the implementation of Government's Housing Subsidy Scheme on 15 March 1994 until 30 April 1996, 47 191 individual ownership subsidies were approved by the nine provincial housing boards within the framework of the subsidy scheme in respect of beneficiaries who had bought residential properties. Once individual ownership subsidies are approved, conveyancers are instructed to register transfer of the residential property in the name of the subsidy beneficiary. In the case of existing homes and completed homes in projects, this means that the beneficiary can take occupation of the home soon after registration of transfer or earlier if the agreement of sale so provides. Where the housing unit is still to be constructed, indications are that construction is completed within two to three months after registration of transfer.

*14 Mr A J LEON—Public Service and Administration [Question standing over]

SA criminal law system: corruption

*15 Mr D M BAKKER asked the Minister of Justice

- (1) Whether his Department intends instituting an investigation into possible corruption in the South African criminal law system, if not, what is the position in this regard, if so, what sections are to be investigated,
- (2) whether he will make a statement on the matter?

N910E

The MINISTER OF JUSTICE

- (1) and (2) I had already indicated in my budget vote speech in the Senate on 15 May 1996 that steps are in the pipeline for an independent investigation and appropriate action in respect of corruption in our criminal justice system. I want to emphasise that in my speech I did not refer to "corruption in the Department of Justice" as reported by *The Citizen* newspaper of 16 May 1996, but to corruption in the criminal justice system. In this regard I referred to the following examples
- (a) The failure to arrest gangsters and members of crime syndicates because of elements in the criminal justice system who co-operate with them
- (b) The lack of successful prosecutions because of—
- (i) poor investigations,
- (ii) disappearance of police docketers,
- (iii) non-appearance of witnesses at court, and
- (iv) the failure to place all the evidence before the courts

As indicated in my speech I had informed my counterpart in Safety and Security of my view. I am of the view that a toothless commission of enquiry would be wholly inappropriate. Therefore legislation is envisaged to provide for the establishment of special investigating units for the purpose of investigating serious malpractices or maladministration in connection with the administration of state institutions, state assets or public money, which includes an investigation into corruption in the criminal justice system. Such legislation will also provide for the establishment of special tribunals so as to deal speedily with cases arising out of such investigations. Such draft legislation will be made available for public discussion soon.

In addition and in co-operation with the SA Police Services, steps have been taken to eradicate corruption wherever it rears its head in the criminal justice system. Control measures to prevent corruption are also being implemented.

stamp editions in relation to the world rugby champions, the Masakhane campaign, the Gandhi commemoration and the Africa Cup of Nations

(2) Future issues relate to the new Constitution, the Comrades Marathon, Youth Day, the Olympic Games, Women's Day and the Nobel Centenary Year. There is a full list which I can give to the hon member

Government departments: zero rate budgeting

*6 Mr M F CASSIM asked the Minister of Finance

Whether zero rate budgeting is being implemented in respect of all Government departments, if not, why not, if so, (a) to what extent and (b) when will this goal be fully achieved?

N900E

The MINISTER OF FINANCE Madam Speaker, the answer is no, because nobody knows what zero rate budgeting is. We searched every textbook on fiscal management and called the IMF and the World Bank, but nobody has ever heard of zero rate budgeting. That is why we have not implemented this system [Laughter] [Interjections]

Increase in applications for legal aid (252)

*7 Mr A J LEON asked the Minister of Justice

(1) Whether there has been an increase in the number of persons applying for and receiving legal aid from the State following the commencement of the interim constitution in 1993, if so, (a) why and (b) what was the extent of the increase,

(2) whether existing schemes for providing legal aid have been adequate to meet the increased demand, if not, (a) why not and (b) what steps are being taken to rectify the inadequacies, if so, what are the relevant details?

N901E

The MINISTER OF JUSTICE Madam Speaker, I have a fairly lengthy reply, but I will read it as quickly as I can

(1) Yes

(a) It is not possible to state with certainty why there has been an increase in the number of persons applying for legal

sentation at affordable cost. Approximately 15% of legal aid matters are dealt with by this staff. The balance are handled by lawyers in private practice

Funds will have to be made available for legal aid as the demand for such services increases, particularly in new fields such as matters coming before the Constitutional and Land Claims Courts. Legal assistance through paralegals is also under consideration. The board has already expanded legal representation in courts as required by the Constitution and has plans to further expand these services

The board also envisages the following steps to rectify inadequacies

- The expansion of its law clinics to 36
- The expansion of the Public Defender service in metropolitan areas
- The negotiation of acceptable fee structures with private practitioners to encourage lawyers to become involved in providing legal aid
- The further extension of legal aid in the former TBVC states
- The simplification of finalisation of accounts of private practitioners and payment of the moneys due

Political party: money unaccounted for

*8 Mr D H M GIBSON asked the Minister of Home Affairs

(1) Whether his attention has been drawn to allegations that an amount of money allocated by the Government to a certain political party, the name of which has been furnished to his Department for the purpose of his reply, for the purpose of providing financial assistance to the said party's campaign for the 1994 general election, is unaccounted for, if so,

(2) whether he intends taking any steps in this regard, if not, why not, if so, what steps?

N903E

The MINISTER OF CORRECTIONAL SERVICES (for the Minister of Home Affairs)

(1) Neither my department nor I has been involved with or has responsibility for the administration of the State Electoral Fund. That is the responsibility of the IEC, which advised me as follows

In accordance with the provisions of the Electoral Act, 1993, full audited statements have been requested from all political parties which received contributions from the State Electoral Fund. In a number of cases, including that of the PAC, the statements submitted were initially neither complete nor satisfactory. The matter has been followed up on an ongoing basis and some of these deficiencies have been rectified or are in the process of being rectified. The present position of the PAC, as with some other parties, is that their audited statements do not yet meet all the requirements set by the Electoral Act, 1993, and the Independent Electoral Commission

It is expected that the Independent Electoral Commission will be in a position to wind up the State Electoral Fund towards the end of August 1996. A report will then be submitted to the Auditor-General

(2) Political parties will be requested to return such funds (if any) not accounted for in the prescribed way. It must, however, be pointed out that the Electoral Act, 1993, provides no legal sanctions. If any such request indeed eventuates and fails to elicit a favourable response, it would be up to the Auditor-General and Parliament to deal with the matter

The MINISTER OF JUSTICE Madam Speaker, the Minister of Health apologises for her absence and asks that Question 9 stand over

*9 Mr M J ELLIS—Health [Question standing over]

*10 Mr K M ANDREW—Finance [Withdrawn]

Price of diesel fuel

*11 Mr J A JORDAAN asked the Minister of Mineral and Energy Affairs

(252)

France for the purchase of the scanners. When these are installed, things will certainly improve significantly with regard to the rate of inspection of containers at the various ports of entry.

In respect of the issues raised by the hon Ebrahim in relation to smuggling of goods out of South Africa, that does not normally fall within the sphere of customs and excise. [Time expired.]

Mr H M NEERAHOO Madam Speaker, I would just like to bring to the attention of the hon the Minister the evasion of VAT in South Africa. The Value-Added Tax Act of South Africa provides that goods purchased or manufactured in South Africa can be exported VAT-free.

I would like to bring to the Minister's attention one example, in regard to which a letter has been written to his department. It concerns cigarette exports from the country to Lesotho. There is only one border control post between South Africa and Lesotho, which is on the Lesotho side. On the South African side we just have a Home Affairs border control post. Dealers from Lesotho come to South Africa and purchase these commodities, ie cigarettes, and are then invoiced with the VAT added on. They take it through to Lesotho, have it stamped, come back to South Africa with the goods and then reclaim the VAT via the wholesaler they purchased from. They then flood the market and sell at a much lower price than the wholesalers can.

This matter was taken up with the Commissioner of Inland Revenue, Mr Van Heerden. He told us that they simply lacked the finances to put up border controls, and that the matter should be considered by the Department of Finance and the Minister himself. A letter was written to the Minister and I received a reply from the Deputy Minister stating that I should further consult with Mr Van Heerden to get the matter resolved.

Today I consulted Mr Van Heerden and he told me that it was the Minister who had to make a final decision on these particular matters. I humbly ask the Minister to see to it that issues such as these are put to rest urgently, because they are costing this country millions of rands. We cannot afford to let goods go out of the country VAT-free and then have these unscrupulous dealers coming back and claiming VAT on them.

Dr K RAJOO Madam Speaker, I thank the Minister sincerely for the specific answers that he has given me with regard to the points raised. What I would like to bring to his attention is that

there are no South African customs controls at the following points: Lesotho, Botswana, Swaziland and Namibia. We would like him to take urgent action to see that these points are manned so that we can get the due revenues that are necessary for South Africa.

He stated that he would employ 30 new staff members during this coming year, and that more staff would be employed over the next five years. I would urge the Minister's department immediately to employ the 300 staff members that are required so that they can intercept all fraudulent cases. They will bring in more revenue than is necessary to pay their salaries so that we will be in a win-win situation. Why wait for such a long period when we know that [Time expired.]

THE MINISTER OF FINANCE Madam Speaker, the issue of the smuggling of goods outside South Africa is not a matter that falls under customs and excise or revenue services. There is an interdisciplinary task team involved in national intelligence. The SA Police Service has set up a special Border Unit. The Department of Home Affairs is involved, the Airports Company needs to be involved and, of course, customs and excise.

Work is being done in this regard. Already there have been significant recoveries recently. Kruger Rands are actually pure gold. So it is not something separate from gold. There have been arrests just recently.

In respect of loopholes with respect to tax and tax law, the Deputy Minister raised—I think it was before the joint standing committee last week—the fact that we are at present involved in a very substantial redrafting of the income tax law, a great many parts of which we think have fallen into disrepute.

In respect of border controls, there are no revenue exchanges between South Africa, Botswana, Lesotho, Namibia and Swaziland, because one has a Southern African Customs Union in existence. However, we need those border controls in order to curb smuggling, and we are aware of what is happening in Lesotho. The issue is that it is not Inland Revenue, the SA Revenue Service or the Ministry of Finance that builds border posts. They are built by the Department of Public Works. There is engagement in regard to this, because it is not just about a post. It is about housing customs officials and all kinds of things. Ongoing discussions and plans are under way to deal with this.

In respect of the employment of investigating officers, we cannot find them in the streets. These are people who have to be trained, and therefore, while one advertises the posts, we have to fill them over time and train the incumbents. [Time expired.]

Debate concluded

Death penalty reinstated

4 Mr J CHIOLE asked the Minister of Justice *

Whether he will consider initiating the constitutional and other steps necessary with a view to reinstating the death penalty, if not, why not, if so, what are the relevant details?

263

N1065E INT

THE MINISTER OF JUSTICE Madam Speaker, hon members, the answer to the question is no. My first duty, as Minister of Justice, is to uphold and respect the Constitution and to promote constitutionalism.

This includes respecting and giving effect to decisions of the Constitutional Court. Section 9 of the interim Constitution provides that every person shall have the right to life. On 6 June 1995, in *State v Makwanyane and Another*, the Constitutional Court held that the death penalty was unconstitutional and therefore invalid.

Section 11 of the new constitution contains a similar provision. In view of this provision and the Constitutional Court's judgment, the death penalty remains unconstitutional.

There are currently 458 persons who have been sentenced to death and who have to be resented. My department is therefore in the process of promoting legislation which will give effect to the judgment of the Constitutional Court.

The Criminal Law Amendment Bill of 1996 envisages the repeal or amendment of provisions which authorise a court of law to impose a sentence of death or which refer to such a sentence. Provision is also made for a mechanism in terms of which the sentences of all persons under sentence of death are to be substituted. The Cabinet has already approved the introduction of the Bill in Parliament during the 1996 session.

Mr J CHIOLE Madam Speaker, the possible reintroduction of the death penalty in South Africa is becoming a very emotional subject.

The death penalty was applied in South Africa from 1910, when South Africa became a Union, until 1990, when former State President F W de Klerk placed a moratorium on it. The death penalty was finally scrapped in South Africa on 6 June 1995.

If we look at the tendencies throughout the world, we see that by 1995, 96 countries had abolished capital punishment in law or practice. However, there are also many other countries in which, with good reason and in various ways, it is still being applied. For example, Amnesty International says that at least 2 331 prisoners were executed in 37 countries during 1994. It is just as important to take serious note of what other countries which do not have the death penalty have done to bring their murder rate down.

In New York, for instance, tough new sentencing policies have put more than a million people into prison, taking dangerous criminals off the streets. The number of homicide detectives has been trebled and more police have been put in trouble spots.

In South Africa these preventative steps are not being taken by the Government. Furthermore, it is a fact that the Constitutional Court ruled in 1995 that the death penalty was unconstitutional, based on the contents of the Bill of Rights in the interim Constitution.

The Minister is quite correct. This decision was based mainly on the clause which has now also been included in the final constitution, clause 11, which says "Everyone has the right to life". This is very clear, but clause 12(1)(c) says "Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from both public and private sources". If murderers are set free to possibly murder again, these two clauses are, to a certain extent, contradictory.

It is clear, however, that the Government's intention is that the public should be protected from all forms of violence. In order to protect life and the right to security in South Africa, it is now becoming imperative for the Government, as a deterrent, to have the right to put the taking of a life, as a punishment, within the power of the court so that such sentences can be imposed on those who have wilfully taken a life and are a threat to others' lives. For this the political party has to exist within the ranks of the majority party. Only then can the constitution be changed, which

I am sure will lead to fewer people losing their lives in South Africa

*Dr W J BOTHA Madam Speaker, my interest in this interpellation lies with the economic consequences

Yesterday in the Nedcor report we read about the destructive effect of violence on the South African economy. By this time everybody is aware of it. The contents of this report are put into perspective when the cost of crime is expressed as a percentage of the GDP and of the national budget. According to this report, the cost of crime is equal to 18,02% of the national budget and 5,6% of the projected GDP

Comparing this to some other figures, provides more perspective. One can see, for example, that it is almost equal to last year's budget deficit. What is interesting, is that only 6,3% of the national budget goes to the police service. Therefore, the damage caused by crime is three times the amount spent on the police. Vote

Many factors are listed as prerequisites for economic growth. The Government knows what these factors are and defines them very well. However, no matter how correctly these factors are defined, they will have to be rectified before economic growth can be expected. The most important one is the restoration of law and order and political stability. That is the first thing an investor will look at when deciding whether to invest in South Africa or not.

Yesterday's Nedcor report contains such appalling facts that one would rather not discuss them. Very few investors will consider investing in South Africa if they see this report. [Time expired]

The MINISTER OF JUSTICE Madam Speaker, I thank the hon members Mr Chiole and Dr Botha for the way in which they raised the question. They have done so in a very reasoned manner and they have raised concerns which are indeed the concerns of all South Africans. The concern involves ending violent crime in our country, and I think that we all share that concern. The reality with regard to our situation is that we need to do a number of things in order to deal with the problem raised by the hon members.

Firstly, it is absolutely correct that every South African is entitled to personal security, and this is a right which the Government and the State need

to ensure respect for. Therefore, tackling crime properly is important.

But what we have to say every time is that there are two things that need to be taken into account. Firstly, the issue of crime is a legal problem, but secondly, it is also a social problem. One cannot tackle one without tackling the other. It is very important that we should deal with crime effectively, but at the same time we must address the causes of crime.

As long as there is a situation in which millions of people are alienated and marginalised and feel that they do not have to respect the laws of society, that kind of phenomenon is going to continue. Therefore, it is very important that we must have economic growth in our country, and we also need to create the kind of social stability which will help to address the causes of crime. In so far as the legal aspects are concerned, however, I want to assure hon members that the Government is absolutely serious about tackling crime in a way which will help to decrease crime in our country and ultimately eliminate it. That is why the National Crime Prevention Strategy forms the core of the approach of the Government in this regard at the present stage.

It is also true, as the hon Dr Botha said. [Time expired]

*Mr J CHIOLE Madam Speaker, I agree with the hon the Minister that the effective combating of crime is of vital importance to any country. The primary task of every government is to protect the safety of its citizens. If a government fails to do this, it will have failed to perform its most important task, and chaos and anarchy will break loose. In time the inhabitants of a country will take the law into their own hands, and then life will become cheap, as has been the case in South Africa. Eventually, such a government loses the ability to govern. All government functions collapse and even a revolution in due course cannot be excluded.

The question is, just how far are we in South Africa from such a collapse? What do our newspaper headlines say? What do we see on the front page of today's *Die Burger*, for example? An article under the headline, "Nuwe SA word msdaadkoning" says

"In Wêreldkampioen in wording op die gebied van msdaad—dit is Suid-Afrika luidens 'n onvattende nuwe verslag wat gister hier bekend gemak is. Daaruit blyk onder meer

gemiddeld 45 mense uit elke 100 000 word vermoor, teenoor gemiddeld 5,5 elders ter wêreld

This means that we are 720% higher than average. The article goes on to say that 77 people are arrested for every 1 000 crimes committed. This means that only 7,7% are arrested. It appears that 45,6% of South Africans think that violence is the biggest problem facing the country.

South Africa's crime statistics were released on 27 May 1996. What do they say? Let me quote from *The Citizen* of 28 May 1996.

Since a moratorium was placed on the death penalty in 1990, former capital offences such as armed robbery, murder and rape have increased by up to 110%. At the same time, the ability of the justice system to bring armed robbers, murderers and rapists before the courts has dropped from a success rate of almost 50% to a success rate of only 15%. Only 30% of murderers and 25% of rapists ever need to account for their deeds. Last year 18 983 murders were reported in South Africa, up from 11 750 in 1989. That is an increase of 61,5% in six years. Of these cases, the justice system could only manage to bring 6 519 to court.

The meaning of these cold, hard statistics is that the maintenance of law and order is no longer effective in South Africa and that we have lost control. The alarming fact is that at this rate, about 250 000 people in South Africa, a quarter of a million, will be murdered within the next ten years. This is what the facts tell us.

The solution is threefold. The death penalty must be reintroduced. Murderers and rapists must lose their lives, as a deterrent to others. [Time expired]

The MINISTER OF JUSTICE Madam Speaker, first of all, I share the concern about the seriousness of crime, and I do not think that anybody should underestimate that. Also, nobody should underestimate the determination of the Government to deal with the phenomenon of crime. However, I would be very cautious about the newspapers quoted by the hon member, because it is very easy to quote newspapers and to regard what is quoted as fact. Whilst I do not regard a slight reduction in the murder rate as a vast improvement, the reality is that over the past year the murder rate in our country has gone down. Those are the official figures which I have received. I do not regard that as a great victory,

because any single murder is one murder too many for me. I think that we need to deal with the matter this way.

With regard to the criminal justice system, the reality is that both the Department of Correctional Services and the Department of Justice took over 11 separate departments at the time of the coming into being of the first democratic Government. A united Department of Justice and Department of Correctional Services had to be created. Secondly, at the time, those departments served 20% of South Africa's population. They now have to serve 100% of the South African population. Those are two important factors.

What is more, the resources of the country are not always available. Within the framework of resources, both the police and the Department of Justice have taken steps within the framework of the National Crime Prevention Strategy to address the problems which the hon member has raised. I can give the House the assurance that those problems are being addressed, but we need the co-operation of all the parties and all communities to eliminate crime in our country.

Debate concluded

QUESTIONS

†Indicates translated version

For oral reply

Executive Deputy President (Mr T M Mbeke)

Cabinet code of conduct

*1 Mr D H M GIBSON asked the Executive Deputy President (Mr T M Mbeke)

- (1) Whether all (a) members of the Cabinet and (b) Deputy Ministers have signed a Cabinet code of conduct and disclosed their financial dealings and interests, if not, (1) which persons have not done so and (ii) for what reasons,
- (2) whether he will table the relevant documents, if not, why not?

N902E

The EXECUTIVE DEPUTY PRESIDENT (Mr T M Mbeke)

- (1) (a) No
- (b) No

After this - no legal aid for the poor

if the organisation does not get funding soon it will have to close

By Lulama Luti

IN MAY 1987 Norman Mkhize (not his real name) was run over by a car while he was walking in the city. He suffered a fractured skull that left him with brain damage.

Mkhize (45) received a R50 000 insurance settlement and his mother was appointed to administer the money on his behalf. Instead, she had a field day spending the money.

She gave about R22 000 to her one daughter to renovate her house and, until today, it is not clear what happened to the rest of the money.

Somehow Mkhize showed up at the Legal Aid Bureau in Harrison Street, Johannesburg. It has been helping him to get his money back - and, for now, the staffers at the bureau are all he's got.

Brain damaged

"He is physically damaged, brain damaged. He doesn't have the mental capacity to do anything for himself," says LAB director Mrs Pauline Lipson. "We are trying to get back the R22 000 from his sister. She is paying it back in R500 instalments. This month she gave us only R400 but at least we are getting it back."

After more than 59 years of helping people like Mkhize, the bureau will close at the end of the month - that is, if it cannot raise the R35 000 a month needed to run the office.

On this cold winter's day, the bureau's offices are abuzz with clients wearing grim expressions. Seemingly oblivious to the freezing conditions inside the office, they wait patiently to be attended to.

The offices have bare cement floors. They contain rickety furniture and old steel filing cabinets that can no longer hold all the files, most of which are strewn all over the place.

"I am the director - it sounds very fancy, but it means little because I make my own tea," says Lipson.

She still manages to joke about their plight and that of the thousands of people who have come to depend on the bureau's paralegal advice.

"Our existence has always made a difference to the ordinary man. If we are forced to close down, who will deal with his problems?" asks Lipson.

Pension problems

The LAB deals with up to 150 cases a month, including pension problems, third party claims, unfair dismissals, divorces, Unemployment Insurance Fund claims and so on.

"We deal with all sorts of cases," says Lipson. "The work we do is not madly important as far as changing the laws of the country are concerned, but if we are forced to close down many of the disadvantaged in Gauteng will suffer."

Paralegal adviser Mr Mandla Ngwenya introduced *Sowetan* to three of the widows of a man who used to work as a security guard for a leading clothing retail shop.

When he died after a short illness last August, he left at least three of his wives - Beauty, Juliet and Vukeleni - in a quandary.

Together with the man's eldest widow, the four have 20 children and also look after two others from another woman.

"We haven't received a cent from



The widows Beauty, Vukeleni and Juliet wait patiently to be helped by a paralegal adviser at the Legal Aid Bureau's office.

PIC MOTLAPELE SEGÁLE

his employer. All they said was that they would help pay for some of the children's education," says Vukeleni.

The three women are in a predicament. The fourth widow has their husband's UIF card and the insurance fund will not pay out unless all four have signed a release document.

Unable to get the fourth widow's cooperation, they approached the bureau for help.

When asked if they would like to be interviewed about the possible closure of the bureau, Vukeleni says "Of course you should (interview us). If this bureau closes down, we have no hope at all."

"We have children to feed and clothe. Right now one of my kids

has been sent back from school because she doesn't have a proper uniform. All of us are without a job and have no means to support our families."

The thought makes her sob. Ngwenya immediately comforts her and assures her that the LAB will do everything in its power to help them solve their problem.

For him, helping the needy is enough reward. "We are here to help. We don't get much. We're doing this work out of love."

Lipson adds "We are the first organisation that ever did anything for the disadvantaged."

● The Legal Aid Bureau is at 77A Harrison Street, Johannesburg, 2001. Telephone (011) 834-8561.

Sowetan
12/6/96

(252)

Judge quits

Recusal comes after bias row over ruling in favour of retired police

12/6/96

(252) AR/5

DENNIS CAVERNELIS
Supreme Court Reporter

A CAPE Supreme Court judge today recused himself from hearing an application by the Truth and Reconciliation Commission after a TRC member last month publicly criticised his earlier judgment against the commission.

Mr Justice Edwin King was to have heard the TRC's application for leave to appeal against his earlier judgment, which allowed two retired policemen access to commission documents which implicated them in human rights violations.

Judge King, in recusing himself, said "there may be a perception by the public, or certain sections of the public" that he might not be impartial in hearing the TRC's application.

This was a result of "certain statements" made publicly, and media coverage of these statements.

Today's court papers included an article in an Afrikaans-language newspaper published last month, which reported that Dumisa Ntsebeza, head of the TRC investigation team, had "indirectly criticised" Judge King's judgment in favour of two retired policemen, Brigadier Jan Abraham du Preez and General Nicolaas Jacobus Janse van Rensburg.

Mr Ntsebeza was quoted in the report as saying he was not questioning the integrity of judges, but that if he had been in Judge King's place, he would have "acted differently".

According to the Afrikaans newspaper report, Judge King had unsuccessfully applied to be a member of the TRC's amnesty committee.

In an affidavit by deputy TRC chairman Alex Boraine, attached to the appeal application, he said Mr Ntsebeza had not spoken with the authority of the TRC.

Dr Boraine said Mr Ntsebeza's remarks "were not intended to reflect on the court, and he expresses his regret in this regard".

Judge King today refuted any suggestion that he would not be impartial, but said he felt that in view of the importance of the matter, and public interest and public emotion aroused by the matter, another judge should hear the application.

Counsel for the TRC and the policemen had not asked Judge King to recuse himself - he did so on his own initiative.

● Truth Commission reports - page 3

case, Ntsebeza

Romanian walks over to UK to watch Euro '96

Newcastle - Double disaster awaited Constanin Ciuka at the end of his 4 000 km walk from Romania to watch Euro '96.

After watching his heroes lose 1-0 to France, he suffered another blow when he found his tent and other gear had been stolen from his campsite.

But Ciuka, called "the globe-trotter" and well known in Romania for walking to sports events, was supplied with replacement equipment by a local firm.

"I like to walk everywhere I can I wish I could have swum the English Channel," he said - Reuters

Now 240 000 township householders must pay rates

BY LORNA ZOKUSA
City Reporter

Up to 240 000 households in Soweto, Dobsonville, Alexandra and Diepsmeadow will be liable for rates when their properties are valued for the first time on July 1.

Previously, valuation of property was applied only in the former Johannesburg, Randburg and Sandton administrations, but now the Greater Johannesburg Transitional Metropolitan Council will introduce uniform valuation rolls across the metropole.

The valuation rolls are complete lists of rateable properties in

Greater Johannesburg. The upcoming rolls will determine the market value of properties as of January 2 this year.

"Rates form an important part of the council's income, and the uniform valuation rolls will mean that we will receive more rates, especially from the 200 000 to 240 000 property owners who did not pay rates because of the apartheid era," said Eugene Robson, chairman of the council's budget and finance committee.

Robson said a total of 500 000 properties would be valued throughout Greater Johannesburg and provisional valuation

rolls will be open for public inspection from June 26.

"During this time, any property owner may lodge an objection against the value of their property as recorded in the provisional valuation roll.

"All this has been developed entirely in step with the spirit of our constitution and the Local Authorities Rating Ordinance, and one of the main purposes of this ordinance is to ensure that there is an equitable distribution of the rates burden," Robson added.

In a bid to bring the public on board, the council and its four

substructures will hold 17 public meetings on the entire valuation process.

Although the valuations will be conducted by an independent board, Robson said the council and its substructures were the first metropole in South Africa to apply uniform valuation rolls that "cut across previous apartheid-created boundaries".

The Valuation Board is expected to comprise an advocate, an attorney, a retired magistrate, and two or more members who, in the premier's opinion, have sufficient knowledge and experience of the valuation of immovable property.

ANC in 'get clearance first' TRC storm

BY PATRICK BULGER
JOYAL RANTAO AND
MONDILI MANKHANYA

Cape Town - The ANC is at the centre of a political storm over its insistence that members clear their Truth and Reconciliation Commission submissions with the party hierarchy before presenting them.

TRC chairman Archbishop Desmond Tutu said the commission was concerned by reports the ANC was to ask its members to consult the party first.

"We are particularly concerned that the publicity around the matter might discourage ANC

members from approaching the commission without prior clearance from the party. We find it impossible to believe that a political party would seek to muzzle its rank-and-file members by vetting their statements before they approach the commission, and we intend seeking clarification on the ANC's position," Tutu said.

He urged all parties to encourage their members to approach the commission and emphasised that it was an independent institution "Our doors are open to all".

At least one truth commissioner, Dumisa Ntsebeza, has separately criticised the decision, say-

ing it would give him a dim view of what individual members had to say about their actions.

Water Affairs and Forestry Minister Kader Asmal, who is chairman of the ANC's disciplinary committee, told a media briefing that he intended going before the commission.

"I will go there myself, but shall share my testimony and submission with the ANC. That is my obligation," Asmal said.

Deputy Environmental Affairs and Tourism Minister Bantu Holomisa said the suggestion that people should get clearance from the ANC gave the impression that they wanted to control the system.

Holomisa throws down the gauntlet

POLITICAL STAFF
AND SABA

Deputy Environment Minister Bantu Holomisa has thrown down the gauntlet to the ANC by refusing to appear before the organisation's disciplinary committee, where he was to account for his remarks about Public Enterprises Minister Stella Sigcau to the Truth Commission.



Holomisa.

Holomisa said the disciplinary committee and the ANC leadership would by noon today receive his formal objections to the disciplinary inquiry. "I will state the reasons why I do not want to

appear before the disciplinary committee. It will then be up to them to tell the people what those reasons are," he said.

He said he had received a copy of the procedure he would face from the party's national disciplinary committee chairman Prof Kader Asmal and that it was clear the charges would relate to remarks he had made about Sigcau at the commission.

Earlier, Asmal told a press briefing that the ANC had yet to prepare its case against Holomisa and that the inquiry might take place in only two months' time.

Judge recuses himself in TRC case

(252) / Jan 13 / 16 / 96

Cape Town - Suggestions of bias against the Truth and Reconciliation Commission yesterday led to the withdrawal of Mr Justice Edwin King from an application by the commission for leave to appeal against an earlier ruling he made against it.

He withdrew minutes before he was due to decide on the application in the Cape Town Supreme Court.

Recusing himself from the case involving two former security police officers, Brig Jan du Preez and Maj-Gen Nic Janse van Rensburg, the judge said applications for leave to appeal against a judgment were normally heard by the judge who gave the judgment.

"However, in view of certain considerations, I have decided to recuse myself," he told counsel for both sides. Because of "certain statements that have been made, and the publicity which has been given to the matter in the media," he was satisfied that there may be a perception by the public - or certain sections of it - that his further participation in the matter may result in "something less than the total and unqualified impartiality which is expected of a judicial officer", he said.

The judge said he emphatically denied any such suggestion, but he nevertheless felt that the interests of justice would be regarded as better served if the application for leave to appeal against his own judgment be heard by another judge.

This was so, considering particularly the importance of the judgment sought to be appealed, as well as the considerable public interest and emotion, he said.

Judge King said he had taken the liberty to inform the counsel and attorneys involved of his decision, and they in turn had asked him to stress that neither they nor the parties to the action had requested his recusal. "However, they understand and accept that my decision has been made in the interests of justice and, as has often been remarked, justice must not only be done, it must manifestly be seen to be done," he said.

He requested the counsel and attorneys in the case to approach Western Cape Judge President Gerald Friedman to arrange for the hearing of the matter before another judge. - Sapa

Application to appeal deferred

CAPE TOWN — An application by the truth commission for leave to appeal against a Cape Town judge's decision which allowed two former policemen access to commission documents has been postponed to August.

In April Judge Edwin King ordered the commission to give adequate and timely notice to former police officers Maj-Gen Nic Janse van Rensburg and Brig Jan du Preez, against whom incriminating evidence was to be heard in Port Elizabeth.

King recused himself yesterday from hearing the commission's application for leave to appeal. His action comes after a commission member publicly criticised his April decision.

King said because of "statements that have been made, and the publicity which has been given to the matter in the media" there might be a perception that his further participation may result in "something less than the total and unqualified impartiality which is expected of a judicial officer".

According to court papers yesterday, an Afrikaans-language newspaper reported last month that commission investigation team head Dumisa Ntsebeza had "indirectly criticised" King's judgment. The report claimed King had unsuccessfully applied to be a member of the commission's amnesty committee.

Commission deputy chairman Alex Boraine said in an affidavit Ntsebeza had not spoken with the authority of the commission.

The commission submitted that the judgment in April was erroneous.

It also contends that the judge failed to consider adequately the logistical and other constraints contemplated by the Promotion of National Unity and Reconciliation Act. It also contends the judge erred in basing his reasoning on the new constitution and the common law. — Sapa

ED 13/6/96

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SAZ Enter for the
Listed Company

DURBAN — Several thousand SA Municipal Workers' Union members disrupted municipal services and trashed the city's

Kevin O'G

STANDARD

2. -- BUSINESS DAY, Thursday, June 13 1996

Tutu defends Holomisa's right to approach truth body

David Greybe

CAPE TOWN — Truth commission chairman Archbishop Desmond Tutu yesterday entered the fray surrounding Deputy Environmental Affairs Minister Bantu Holomisa and ANC moves to discipline him

Tutu said the commission was concerned at the possible implications for its work following reports that the ANC was to ask its members to "consult" the party before approaching the commission.

Holomisa is to be investigated for allegedly bringing the ANC into disrepute

At issue is his statement to the commission that Public Enterprises Minister Stella Sigcau had taken a R50 000 cut of a R2m bribe to George Matanzima from hotel magnate Sol Kerzner for gambling rights.

The commission was "particularly concerned that the publicity around the matter might discourage ANC members from approaching the commission without prior clearance from the party"

"We find it impossible to believe that a political party would seek to muzzle its rank-and-file

members by vetting their statements before they approach the commission," Tutu said. The commission would seek clarification from the ANC

Tutu said the commission was an independent institution, and urged all parties to encourage their members to approach it.

Kader Asmal, chairman of the ANC disciplinary committee which is investigating Holomisa, earlier said ANC members "owed an obligation" to the ANC "to share" their submissions with the party before they submitted them to the commission. It was part of members' "voluntary relationship" with the party

However, the disciplinary hearing against Holomisa did not prejudice the rights of ANC members to "access" the commission.

Referring to his own submission, Asmal said if it was found to be in conflict or violation of a similar one planned by the ANC "I will be forced to recognise this". He did not elaborate.

Meanwhile, Sapa reported Holomisa would formally object today to his ANC disciplinary inquiry. He said he did not have to wait "until I am in the dock" before

exercising his rights

Holomisa had received from Asmal a copy of the procedure he would face, and said it was clear the charges would relate to his remarks about Sigcau

The formal objection to the holding of an inquiry would be lodged with Asmal, Deputy President Thabo Mbeki, ANC secretary-general Cyril Ramaphosa and the ANC's executive

Meanwhile, Asmal is expected to announce today the name of the "presenter" (prosecutor) whose job it will be to prepare the case against Holomisa.

If found guilty, Holomisa faces a reprimand, payment of compensation and/or performance of "useful tasks", suspension or expulsion from the ANC. Some senior ANC sources believe Holomisa faces a one-year suspended expulsion from the ANC to give him a chance to "rehabilitate" himself.

Asmal said the disciplinary hearing could not be used by ANC members "to settle private vendettas, political disputes, or differences of opinion". He refused to comment further on the Holomisa case. The investigation could last up to a year.

BD 13/6/96 (262)

our company faring
SAZ Enter for the
Listed Company

DURBAN — Several thousand SA Municipal Workers' Union members disrupted municipal services and trashed the city's

Kevin O'g

STANDARD I

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However, the disciplinary hearing against Holomisa did not prejudice the rights of ANC members to "access" the commission.

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Asmal said the disciplinary hearing could not be used by ANC members "to settle private vendettas, political disputes, or differences of opinion". He refused to comment further on the Holomisa case. The investigation could last up to a year.

BD 13/6/96 (262)

Two TRC court cases postponed until August

(252) ARG 13/6/96
No other judges available following King's recusal

Supreme Court Reporter

TWO cases in the Cape Supreme Court involving the Truth and Reconciliation Commission (TRC) have been postponed to August this year.

One is an application by the Truth Commission itself for leave to appeal against a judgment by Mr Justice EL King which allowed two retired policemen access to documents which may have incriminated them at the TRC hearings.

Judge King yesterday recused himself from hearing the application following criticism of his judgment by a TRC member. The matter was postponed to August 5 because there were no other judges available to hear the matter.

The second case, also postponed to August 5, involves an application by the two ex-policemen, Jan Abraham du Preéz and Nicolaas Jacobus

Janse van Rensburg, who are seeking to have the TRC held in contempt of court for breaching Judge King's order.

Yesterday Judge King recused himself, saying "there may be a perception by the public, or certain sections of the public" that he may not be impartial in hearing the application. This was a result of "certain statements" made publicly, and media coverage of these statements.

He was referring to an article in an Afrikaans language newspaper last month which reported that Dumisa Ntsebeza, head of the TRC investigation team, "indirectly criticised" Judge King's judgment in the case.

In an affidavit attached to the appeal application, deputy TRC chairman Alex Boraine said Mr Ntsebeza had not spoken with the authority of the TRC, his remarks "were not intended to reflect on the court,

and he expresses his regret in this regard."

Judge King refuted any suggestion that he would not be impartial, but said he felt that in view of the importance of the matter, public interest and public emotion aroused by the matter, another judge should hear the application.

The application for leave to appeal asked the court to allow it, even though it was brought seven days after the cut-off date for such appeal applications.

An affidavit by Hanif Vally, national legal officer of the TRC, said that in his judgment, Judge King had erred in his interpretation of the Promotion of National Unity and Reconciliation Act.

He asked that the application be allowed and that the appeal be heard by a full bench of the Cape Supreme Court at the same time as the policemen's application.

Row over ANC bid to vet submissions

(252) CT 13/6/96
POLITICAL STAFF

THE ANC is at the centre of a political storm over its insistence that members clear their Truth Commission submissions with the party hierarchy before presenting them to the commission itself.

At least one truth commissioner, Mr Dumisa Ntsebeza, has criticised the decision, saying it would give him a "dim view" of what individual members had to say about their actions.

Water Affairs and Forestry Minister Kader Asmal, who is chairman of the ANC's disciplinary committee, told a media briefing at Parliament that he intended going before the commission.

"I will go there myself, but shall share my testimony and submission with the ANC. That is my obligation," he said.

Meanwhile, Deputy Environment Minister Bantu Holomisa said yesterday he would formally object tomorrow to his ANC disciplinary inquiry, resulting from remarks he made to the Truth Commission about Public Enterprises Minister Stella Sigcau.

He had received a copy of the procedure he would face from Asmal and it was clear the charges would relate to remarks he had made about Sigcau at the commis-

sion, Holomisa said last night.

Earlier Asmal told a press briefing the ANC had yet to prepare its case against Holomisa and that the inquiry might only take place in two months' time.

Holomisa said he did not have to wait "until I'm in the dock" before exercising his rights.

The formal objection to the holding of an inquiry would be lodged with Asmal, Deputy President Thabo Mbeki, ANC secretary-general Mr Cyril Ramaphosa and the ANC's national executive council.

Labelling the disciplinary inquiry as "unfair", Holomisa said he would not make the reasons for his objection public, although Asmal, Mbeki or Ramaphosa were welcome to do so.

Documents informing Holomisa of the hearing, based on two written complaints by senior ANC office-bearers, were served on him yesterday, Asmal said.

Asmal denied media suggestions that disciplinary procedure could be used to silence dissident voices within the organisation.

He also denied Holomisa was appearing before the disciplinary committee because he had gone before the commission without clearing his testimony with the ANC. But it was the duty of ANC members to consult the ANC first.

TRC case: Judge recuses himself

(252) CT 13/6/96

EUNICE RIDER
SUPREME COURT REPORTER

A SUPREME Court judge yesterday recused himself from hearing an appeal by the Truth and Reconciliation Commission (TRC) because one of its members had publicly insinuated that he was biased against the TRC as it had turned him down for a post on its Amnesty Committee

Mr Justice E L King was to have heard an appeal yesterday by the TRC against his April judgment in favour of two former high-ranking police officers

He had found that the former officers were entitled to timeous access to allegations against them by alleged victims of human rights violations and witnesses to the TRC, to enable them to defend their good names and reputations

After this judgment, Mr Dumisa Ntsebeza, head of the TRC's investigation team, publicly criticised Judge King's judgment, implying that the reason for his finding was that he had applied for a post on the TRC's Amnesty Committee but had been turned down

Judge King told the court "I am satisfied that there may be a perception by the public or certain sections of the public that my further participation in the matter



DENIAL: Mr Justice E L King

may result in something less than the total and unqualified impartiality expected of a judicial officer

"I emphatically refute any such suggestion, but I nevertheless feel that, particularly in view of the importance of the matter and the considerable public interest, and indeed public emotion, which it has aroused, the interests of justice will be regarded as better served if the application was headed by another judge"

None of the parties or their legal representatives had asked him to recuse himself

The appeal was postponed to August 5

Tutu to ask for clarity from the ANC

By Mzimasi Ngudle

TRUTH and Reconciliation Commission chairman Archbishop Desmond Tutu yesterday said he would ask the African National Congress to clarify its position on vetting statements from witnesses prior to appearing before the Commission.

Tutu was reacting to suggestions that Major-General Bantu Holomisa should have consulted the ANC before his testimony in Port Elizabeth where he said that Public Enterprises Minister Stella Sigcau received a bribe of R50 000 for gambling rights while she was Transkei Cabinet Minister.

The TRC is concerned about the possible implications this will have on the Commission's work, considering reports that the ANC is to ask its members to consult the party before approaching the commission.

"We find it impossible to believe that a political party would seek to muzzle its rank-and-file members by vetting their statements before they approach the Commission."

"We are particularly concerned that the publicity around the matter might discourage ANC members from approaching the TRC without prior clearance from the party," Tutu said.

He said the TRC would continue to urge all parties to encourage their members to come to the commission.

Azapo spokesman Phandjani Nefolothodwe condemned the ANC for "dictating what must be said before the commission."

"Meanwhile, the Azanian People's Organisation said it was unacceptable that the TRC has failed to protect Holomisa."

"If they vet testimony, there will be no more truth. It seems the ANC has created the TRC for its own convenience," he said.

The National Party said the ANC owed the commission and the country an apology, adding that the ANC's moves to vet testimony before presentation was a sinister development.

"National reconciliation itself is threatened," NP media officer Dr Johan Steenkamp said.

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N Cape A-G rejects ANC member's claim

Walter Smiles told the TRC this week that he was responsible for 1993 blast at the Kimberley Bop consulate

SAPA
Cape Town

The Northern Cape attorney-general has rejected as false this week's dramatic confession by an ANC member that he was responsible for the 1993 grenade attack on the Bophuthatswana consulate in Kimberley

Testifying before the Truth and Reconciliation Commission in Kimberley, Walter Smiles claimed he was responsible for the blast which killed one person and injured at least 39 others

Two other men are serving 12-year sentences for the bombing. Both have claimed they were framed by police who allegedly suppressed crucial evidence and

Star 14/6/96
fabricated witness statements.

Yesterday, Northern Cape Attorney-General Charl du Plessis sent a fax to commission vice-chairman, Dr Alex Boraine, expressing concern at Smiles' evidence

Du Plessis said he had investi-

He said police had 'turned him away'

gated his claims on a previous occasion and had found them to be "clearly false"

Smiles told the commission he had come forward during the trial of Siphosiso Mbaqa and Nkosinathi Nkohlhla to confess to the crime but

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was turned away by police after being told he would only complicate matters if he made a statement

However, in his written statement to the commission he denied all knowledge of the attack

Du Plessis also complained about the involvement of commissioner Denzil Potgieter in the Kimberley hearings. Potgieter, a Cape Town advocate, had acted as a legal counsel for Mbaqa and Nkohlhla during their trial

Du Plessis said he took the "strongest exception" to Potgieter's presence

Boraine told a media briefing yesterday that Du Plessis' fax contained serious allegations which needed to be looked at as "carefully as possible"

All judicial officers should be called 'judge' — Omar

(252) 30 11/6/96
CAPE TOWN — There was no reason why all judicial officers should not bear the title "judge" as this would enhance the independence of the judiciary as a whole, Justice Minister Dullah Omar said yesterday. "I know that such a change may cause dismay in certain quarters and I do not pretend that such a change can take place overnight," he said during the justice budget debate.

Regional Court magistrates may be renamed Regional Court judges and District Court magistrates may be renamed district judges, while family courts will be headed by a chief lay judge.

Omar said he did not think he was moving "too fast or too rashly" if he said that a logical extension of the notion of a single judiciary was that "we should move towards the creation of a single structure to regulate the position of all judicial officers."

A single court structure might ultimately need a constitutional amendment.

A feature of a single judiciary would include the Constitutional Court headed by the president of that court and an Appellate Division of the Supreme Court headed by the chief justice.

Omar also said Regional Courts, which might also be renamed, would also consist of civil, family and criminal chambers.

It was also envisaged that the present District Courts would deal with civil and criminal matters with an appeals chamber to deal with appeals from community courts — Sapa



Dullah Omar at a news conference
Picture: GARTH LUMLEY

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(252) PD 14/16/96

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ANC clarifies its testimony policy on truth commission

BD 14/6/96 (252)

David Greybe and Linda Ensor

CAPE TOWN— Senior ANC leaders were required to discuss their appearance before the truth commission with the party's executive only if their testimony would affect the organisation, the ANC said in a statement last night

It said, however, that this did not preclude ordinary members and leaders testifying and applying for amnesty in their capacities as individuals

The clarification of policy was made following a meeting yesterday between Deputy President Thabo Mbeki and truth commission chairman Desmond Tutu and deputy chairman Alex Boraine

They were told rank and file members did not need to seek party approval before testifying. Tutu told a news briefing yesterday he was satisfied with this

Commission spokesman John Allen said the commissioners wanted to see the ANC's stance on senior leaders' testimony before responding. Tutu's concern was that ordinary members should feel free to testify, as many had already done.

On the question of Deputy Environment Minister Bantu Holomisa's conflict with the ANC over his testimony about Public Enterprises Minister Stella Sigcau, Tutu said the commission did not want to become involved in the

internal affairs of any organisation. He suggested the ANC should be asked to clarify its policy in this regard.

At issue is Holomisa's statement to the truth commission that Sigcau had taken a R50 000 cut of a R2m bribe to then Transkei ruler George Matanzima from hotel magnate Sol Kerzner.

ANC spokesman Ronnie Mamoepa said the organisation was committed to the principle of collective responsibility regarding the struggle against apartheid in all its forms. This did not preclude ordinary members or leaders from testifying or applying for amnesty.

However, the ANC had a duty to ensure that especially senior members upheld party discipline.

Holomisa called on the ANC yesterday to drop its disciplinary inquiry against him for allegedly bringing the ANC into disrepute.

"They must not waste their time," he said. He refused to be made to plead to the charge.

He confirmed President Nelson Mandela had discussed the matter with him last week. He refused to disclose details.

Holomisa said that he had met Kader Asmal, chairman of the ANC disciplinary committee investigating him, yesterday morning. He had handed over a letter in which he objected to the "entire process" against him.

Holomisa said he had merely

repeated to the commission what was public knowledge, and had not called for Sigcau's removal from office or an investigation.

At yesterday's briefing, Boraine disclosed that Northern Cape attorney-general Charl du Plessis had sent a fax yesterday taking strong exception to the presence of commissioner Denzil Potgieter at evidence given by ex-Umkhonto we Sizwe member Walter Smles in Kimberley this week.

Potgieter, he said, had been involved in the original case Boraine said this was a serious allegation which would be probed. Du Plessis said Smles had previously made his "false allegations" that he, rather than two imprisoned men, had thrown a grenade.

Tutu also said extension of the commission's lifespan by another six months was being considered.

Reparations and rehabilitation committee chairman Hlengiwe Mkhizi said the erection of symbolic memorial graves for those who disappeared or were buried in unmarked graves abroad was being considered.

Many testifiers were distressed their relatives had not received proper burials

Black-owned advertising agency Herdbuoys and communications company Siyakha Communications have been given the task of managing publicity for the truth commission.

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Thabo Mbeki.



Kader Asmal

Mbeki explains ANC will not vet evidence

AR 6/14/96

(252)

A MEETING between the Truth Commission's executive and Deputy President

Thabo Mbeki has cleared the air over whether the African National Congress is trying to "censor" its members' testimony - at least to the satisfaction of the commission

"The ANC will have to answer for itself. I'm not a member of any political party," commission chairman Desmond Tutu told a media briefing after a two-day meeting of the full commission yesterday.

Archbishop Tutu said they had met Mr Mbeki yesterday, mainly to discuss the possibility of increased television coverage for the commission's hearings and to find ways to record "archivable material". These discussions had been "useful".

They had also spoken about the ANC disciplinary hearing involving Deputy Environmental Affairs Minister Bantu Holomisa

This followed his remarks about Public Enterprise Minister Stella Sigcau's alleged R50 000 share of an alleged R2 million bribe for gambling rights in the former Transkei, during his testimony to the commission in Port Elizabeth two weeks ago.

Ms Sigcau was later cleared by a commission of inquiry.

Archbishop Tutu said they had been particularly concerned by the statement of Water Affairs and Forestry Minister Kader Asmal, who is heading the ANC's disciplinary inquiry.

Professor Asmal was quoted as saying ANC members wanting to go to the commission should first inform the party, as he planned to do.

"I shall, as a loyal member of the ANC, share my testimony and submission with the ANC. That is my obligation. It arises from the very nature of our relationship," he was quoted as saying.

However, this did not mean that all

ANC members had to inform the party, Professor Asmal continued.

If the planned testimony conflicted with the ANC's basic submission to the commission, "then I am obliged to recognise that".

"If I am told my testimony violated the (party's) code of conduct, the rules of the ANC, I must take it into account. If I don't want to accept it then there's a logical conclusion"

Archbishop Tutu said Mr Mbeki and his delegation had satisfied the Truth Commission's executive that the ANC did not intend to vet possible testimony from its "rank-and-file" members or demand prior clearance.

"For our purposes, the concern was that many people would have interpreted that (Professor Asmal's comments) that they couldn't appear before the commission without the okay of the party," Archbishop Tutu said.

"He (Mr Mbeki) says that is not the intention. . . We are satisfied in that regard."

The South African Council of Churches also expressed concern about Professor Asmal's remarks, saying that the ANC's action against Mr Holomisa would only serve to make other party members reluctant to tell their full stories to the commission.

In a statement, the council said it did not dispute the right of political parties to have their own rules and regulations.

"(But) we are concerned when these take precedence over an agreed process of such significance to that nation as the Truth and Reconciliation Commission.

"We believe anything that stands in the way of us dealing openly and effectively with our past, whether it be missing files, court injunctions or party regulations, is a disservice to the nation."

Soldier's confession dismissed

Attorney General says earlier statement on grenade thrown at Kimberley march also false

JOHN VEID
on the Truth Commission

NORTHERN Cape Attorney-General Charl du Plessis has rejected the confession of a young South African National Defence Force soldier that he was responsible for the 1993 hand-grenade attack in Kimberley for which two other men were later convicted.

They are serving 12-year jail sentences.

Mr Du Plessis said in a faxed letter to the Truth Commission yesterday that former Umkhonto we Sizwe guerrilla Walter Smiles's evidence to a commission hearing in Kimberley on Tuesday in which he (Smiles) claimed to have thrown the grenade, was false.

He said Mr Smiles had on a previous occasion made a similar claim, which had been found to be "clearly false".

Acknowledging receipt of the letter, commission deputy chairman Alex Boraine told a media conference that the issue



FLASHBACK: A Cape Town session the Truth Commission

would be investigated.

"I think this is a serious allegation and, like all serious allegations, we will go into it seriously."

Dr Boraine said the commission's job was to listen carefully to witnesses and then to

assess their testimony.

"As a matter of principle, we don't accept everything everybody says. Our

approach is to say we will investigate and make a finding."

Mr Smiles, wiping tears from his eyes and speaking under oath, told the commission's human rights violations committee on Tuesday that he had thrown the grenade at the Bophuthatswana consulate offices during a march in the Kimberley city centre on May 25, 1993.

The explosion killed a young supporter of the African National Congress, Izakiel Mokone, and wounded several others.

Mr Smiles was applauded by the audience of several hundred when he told the Truth Commission he intended applying for amnesty.

But in a written statement to the commission several days previously that was not certified under oath, Mr Smiles denied throwing the grenade and said he had a witness who would confirm he had not been at the march.

On the day of the march I met some people who were on their way back from it.

"I was riding my bicycle I did not attend the meeting at all and didn't know what it was all about until I heard on the radio that a hand grenade had exploded in front of the Trust Bank," he said in the unsworn written statement.

A security policeman had offered him money to say he had thrown the grenade and he had agreed, "as I had a hard time".

"Some time after I was taken to a lawyer, Rodney Isaacs, who had prepared an affidavit in which I confessed to being the person who threw the grenade at the venue.

"I don't remember what was written in the affidavit and I was just asked to sign it.

"Afterwards Rodney Isaacs, the lawyer, took me to the police station, but I was kicked out without any interrogation. "The police have not since confronted me with the case."

Dawid

Mr P. Mervin

Mr H. Steven

Mr G.

Mr C. Olivia

Mr F.

New-look judiciary for SA (262)

Rohanan 14/6/96

By Rafiq Rohan Political Correspondent

MAJOR and far-reaching changes are on the cards for South Africa's justice system.

Minister of Justice Dullah Omar announced in Parliament yesterday that initiatives were already in place to provide for a single judiciary. The changes will lead to:

- Magistrates becoming judges;
- Practising lawyers being able to serve as temporary or acting judges;
- Community courts will be established with civil and criminal jurisdiction;
- Traditional courts being considered within the concept of community courts, and
- Provision being made for family matters to be considered in the context of religious marriages like Muslim or Hindu.

The single judiciary will have the Constitutional Court at the highest level headed by its president and the Appellate Division of the Supreme Court headed by the Chief Justice.

High Courts will function in the different provinces consisting of three components: a Civil Chamber, a Criminal Chamber and an Appeals Chamber.

The Regional Courts, as existing at present, will also have three chambers: Civil, Criminal and Family Law Chambers.

Regional Court magistrates may be promoted to Regional Court judges and it is expected that these changes are expected.

"At present Regional Courts deal with civil and criminal matters, Omar said."

Holomisa sparks ANC truth row

MTC 14-20/6/96

(252) (2000)

As the row over Bantu Holomisa's statements escalates, questions are being asked about the ANC's approach to the truth commission, writes **Gayle Davis**



Raising questions: Bantu Holomisa is contesting the ANC's decision to discipline him

THU David and Gobath battle between Deputy Minister of Environmental Affairs and Tourism Bantu Holomisa and the African National Congress, has thrown tensions within the party into sharp relief and highlighted a recent confusion over its approach to dealing with the Truth and Reconciliation Commission.

The stand-off between Holomisa and the ANC starts with discipline hearings on Tuesday while testimony before the commission now threatens to be eclipsed by a broader political row sparked by Deputy President Thabo Mbeki's assertion that ANC members should consult party leaders before making their submissions before the commission.

In a swift and vehement reaction, commission chair Archbishop Desmond Tutu gave notice he would be seeking clarity from the ANC on a position which could discourage members from coming forward, saying "We find it impossible to believe that a political party would seek to muzzle its rank-and-file members by vetting their statements before they approach the commission."

On Thursday Holomisa formally objected to being disciplined for saying Public Enterprises Minister Stella Sigcau, when prime minister of Transkei, took a R50 000 cut of a R2-million bribe allegedly paid by hotel magnate Sol Kerzner to sew up gambling rights in the bantustan.

ANC disciplinary committee chair, Water Affairs Minister Kader Asmal, informed Holomisa of his rights by fax on Wednesday but did not specify a hearing date or the charges. Holomisa told the *Mobius Guardian*.

"I will refuse to appear before any disciplinary hearing," he said. He did not intend to undermine the hearing, but objected that "I don't see how they can say I was bringing outside my rights. The ANC has no policy barring members from going to the truth commission."

There was no rule saying ANC members should first have their statements vetted by the leadership and there had been no discussion of this in the ANC's national executive committee, he said. If such a rule existed it should have been communicated.

We have discussed the ANC leadership making a presentation on behalf of the organisation, but as a strategic it out, I went before the commission

which is constituted by an act of Parliament, as a former head of government and a concerned citizen."

The issue has divided ANC members: the party's Women's League, led by Winnie Madikizela-Mandela, rallied behind him this week, saying "We suspect that Holomisa is guilty of telling too much truth." By contrast, the ANC Youth League, which backed Mbeki for the position of ANC deputy president in 1994, said it had "full confidence" in the disciplinary committee and would not comment until it had tabled its recommendations before the NEC.

Thabo Masebe, youth league secretary for information and publicity, said he did not believe the suggestion that members first clear truth commission submissions with party leadership would lead to information being suppressed. "It is more a question of the party being informed if submissions were to have implications for other party members."

While he did not believe the row between Holomisa and the ANC would divide the organisation, "if it is handled very badly it will have the potential of causing problems."

Holomisa, a maverick whose outspokenness has proved a source of irritation to the ANC hierarchy on several occasions in the past, commands wide support among rank and file members. Elections for the ANC's national executive committee in 1994 saw him come in with the most votes, with Madikizela-Mandela fifth.

year after criticising the way the ANC handled its sacking of Madikizela-Mandela as arts and culture deputy minister and suggesting a campaign was underway within the organisation to "vilify and isolate" certain members.

He was in trouble again later for accusing an elitist ANC clique of trying to sideline members seen as "populist", and subsequently apologised.

The spectacle of the ANC seeking to discipline one of its deputy ministers and Holomisa's defiant stance has obliterated the thrust of what he told the commission — a detailed account of the National Party government's attempts, both covert and overt, to destabilise the Transkei after Holomisa came to power in a 1987 coup which toppled President George Matanzima and ousted Sigcau.

"My statements at the truth commission were not intended to call for the commission to investigate Sigcau or for her to be fired from government. I was overviewing the circumstances of Transkei's destabilisation by South Africa."

Sigcau has never denied receiving the money. She was cleared of corruption in 1988 by the Alexander Commission, which could make no adverse finding against her on available evidence and did not recommend any further investigation, while noting the source of the money was illicit.

But the battle has thrown into sharp relief tensions between Holomisa and Sigcau, who spent

the bantustan under the corrupt regime of the Matanzimas, yet was appointed to Cabinet in 1994 by President Mandela. Holomisa, who during his rule provided the ANC space to operate in his territory and suffered several Pretoria-driven coup attempts and budget squeezes for his pains, was given a relatively junior position.

The ANC now has to contend with public perceptions of its action, coming in the wake of Health Minister Nkosazana Zuma being judged by the party to have emerged "without a blemish" from the *Sarafina II* debacle. Rank and file members, thrown into confusion by lack of clarity on whether they should first clear submissions to the truth commission with party leaders, are also asking why Holomisa should be disciplined "for telling the truth" when the public protector had found that Zuma misled Parliament over the Aids play.

Sigcau refused to deny or confirm that she — reportedly along with Sports Minister Steve Tshwete — laid the complaint against Holomisa.

Holomisa said it appeared the decision to discipline him had been taken by ANC officials. "One would have expected a matter of national importance like this would at least have been discussed by the NEC or the national working committee," he said.

He had asked ANC secretary general, Cyril Ramaphosa, to refer the matter to the NEC "because of its sensitivity" but had received no response.

Serjeant AT THE BAR

When should judges speak out?

mtg 14-20/6/96 (252)
Has Judge Edwin Cameron undermined the judiciary's independence by getting involved in the fray over Sarafina II?

THE big news last week was the uncompromising criticism levelled by Judge Edwin Cameron at the government for maladministration in the Department of Health relating to the anti-Aids project, *Sarafina II*.

Judge Cameron was not speaking from the Bench; in his capacity as co-chairman of the National Aids Convention of South Africa (Nacosa), he and his fellow chairman, Clarence Mini, issued the statement. In reality, it was a communication by Nacosa. However, there is little doubt that it was lent great weight by Judge Cameron's participation.

Partly this weight derives from the judge's own moral standing; by no means a publicity-seeker (he has had rather less publicity than many of his colleagues in academia and practice), Judge Cameron has not, in the past, shrunk from striking hard and loudly when an issue of principle was at stake.

As a relatively junior academic, he launched a blistering attack in the media on the extension of former chief justice Pierre Rabe's term of office beyond retirement age; and in an article published in an academic journal in 1987, he savaged a full Bench of the Orange Free State Supreme Court for a judgment, delivered

by Judge MT Steyn, which he claimed contained a clear and partisan statement of support for the government. These stands were almost quixotically courageous for the late 1980s, and they served to spotlight Judge Cameron's implacable integrity.

But there is another factor that lends weight to the Nacosa statement, and that is his position as a judge of the supreme court. This is rather more controversial and raises questions about how far a judge ought to involve himself in political controversy.

There is a long, if sporadic, history of judicial involvement in South African politics. Both Tielman Roos and Leslie Blackwell moved easily between the Bench and Parliament, and more recently Judge Kowie Marais became a Progressive Party MP after resigning. Further afield, there have been English judges who simultaneously held Cabinet posts, and in the United States, Judge Felix Frankfurter habitually advised presidents on difficult political issues.

All this is unwholesome because it undermines the judiciary's independence (now constitutionally decreed) from the legislature and the executive. In this context, what is important about Judge Cameron's statement is that it did not

adopt a partisan position in the sense that he sought to promote or retard the interests of any political party.

What he did do was to enter the fray of a highly charged public controversy. Even this is unusual because the orthodox view in most of the world is that judges ought to stay away from such disputes.

It was not always so. English judges on circuit in the 17th and 18th centuries had as one of their duties on their return, "to present to the king the distastes and griefs of the people".

There is much to be said for this. Judges come into daily contact with the trials and tribulations of ordinary people; they hear their divorces, adjudicate on their motor car accidents, protect them from unfair decisions or policies of the executive, decide their employment disputes, ensure that contracts are honoured and debts paid, stand to help the common person aggrieved by a bank or an insurance company, assist in the supervision of the prisons, and they act as the upper guardians of all children. They see, almost before any other branch of government, the social effect of legislation and of executive policy. Who better to speak out when something is wrong?

Judicial silence has also not been notably beneficial to the people of this country. Some of the most awful apartheid measures related to forced removals, the horrors of which — Sophiatown, District Six and thousands of others in every city and town — are well documented.

But our judges, until the 1980s, did not speak out. In an important case on the Group Areas Act, for example, Appeal Court Judge NG Holmes described it, somewhat blandly, as "a colossal social experiment", and masked any concern at its vicious consequences that he might have felt with the anodyne remark that "whether all this will ultimately prove to be for the common weal of all inhabitants is not for the court to decide". Who can say that the history of South Africa could not have been — even slightly — different if judges had spoken up earlier?

No, Judge Cameron's forthrightness is healthy, and it will be no bad thing if more judges speak out on issues where they have a special knowledge or interest.

No rest for Von Lieres

THERE appears little danger that Klaus von Lieres und Wilkau will slip back into retirement when he has finished defending former defence minister Magnus Malan. Talk is that the former Witwatersrand attorney general will be championing the cause of Charlie Landman, head of the infamous Brixton Murder and Robbery Squad.

Landman and a colleague, Ferdi Barnard of the Civil Co-operation Bureau, face charges of corruption and obstructing the course of justice after allegedly accepting a pay-off from a Capetonian counterfeiter. Landman has not stopped working and the state will be footing his legal bill.

Von Lieres's junior will be another former employee of the attorney general's office, Danie Dorfling.

At considerable expense to the taxpayer, Von Lieres took early retirement last year on the grounds of ill-health, but then recovered sufficiently to defend Malan.

Justice Minister Dullah Omar said recently he had not launched an official investigation into Von Lieres's retirement, but was looking into it. His office noted that Von Lieres had retired because of an "irreversible" illness.

Von Lieres, who started his defence of Malan this week, could not be reached for comment.

NIA bosses named as 'torturers'

(252) MTC 14-20/6/96

A searing indictment of three ANC officials is to be delivered to the truth commission by a one-time MK camp commissar, reports
Stefans Brimmer

GOVERNMENT official Gordon Moshoeu plans to tell the Truth and Reconciliation Commission how two men responsible for jailing and torturing him in the notorious Quatro camp, and executing his brother, are now senior officials in the National Intelligence Agency (NIA).

Moshoeu has decided to go public because of an alleged attempt on his life a fortnight ago. Moshoeu, who is an assistant director charged with Reconstruction and Development Programme (RDP) matters in the North West provincial government, says he was attacked by six men outside a Mmabatho tavern. During the confrontation he wounded one man, while about 10 shots were fired at his government car, one narrowly missing him.

Moshoeu holds Quatro's commander Gabriel Mthembu, and his deputy, "Mountain" Kepadisa, responsible for his brother's death and the abuse he suffered at the hands of his comrades in the African National Congress's Angolan detention camp. Mthembu is now a senior manager of the NIA in Pretoria and Kepadisa is the intelligence agency's deputy director in the North West.

Moshoeu also names Andrew Masondo, then MK national commissar, second-in-charge after Chris Han, now major-general in the South African National Defence Force responsible for integration, as the one who "locked me up" and presided over a "kangaroo court" that found him guilty of collaborating with the apartheid state, a charge he denies.

The story behind the alleged attempt on Moshoeu's life — which he believes to be connected with his intention to testify to the TRC — goes back to 1976 when Moshoeu was a 20-year-old student training to be a teacher in Matikeng. The political turmoil of that year's education uprising made him cross the border to Botswana, where he joined Umkhonto weSizwe (MK).

He was trained in Angola, earning the nickname "Grenade" for his proficiency in handling the tool of war, then packed off to Sofia in Bulgaria to study Marxist-Leninist philosophy.

In 1979, Moshoeu returned to



Firing Back: Gordon Moshoeu is hitting out at those who allegedly tortured him

PHOTOGRAPH: NAASHON ZALK

Angola where he rose to become commissar of Gubaxe Camp in the north.

"While I was in Gubaxe problems started between me and the security department, Mbokodo. Before they came to my camp, they were shooting at animals and bullets passed my camp. When I questioned them they didn't like it because in exile they were the bosses."

In 1981, Moshoeu says, he was taken from Luanda to Quatro on the pretext he was escorting leaders there, "only to find I was escorting myself to prison." At Quatro, he was told by Masondo he was being locked up. Moshoeu spent the next 18 months in solitary confinement.

"Serious torture was taking place. The prison had no laws and everyone who was a prison warder would come in and torture you anytime. The one I can refer to who is really notorious is Kepadisa. We were called enemy agents, we had to take the pain for everything the apartheid system was doing."

Moshoeu describes beatings with weaved electric cord under the feet and on the rest of his body and claims Kepadisa personally rubbed wild-

growing chilies on his private parts worse was to come.

In 1982, Moshoeu was ordered to a cell where his brother, MK soldier Gabriel Pakh Moshoeu, was sitting on the floor in the presence of Mthembu and other officials. Mthembu asked him whether this was his brother, to which he replied yes.

During the 15 minutes Moshoeu spent with his brother, one of the officials told him this was the last time he would see him. No reasons were given. "All they kept saying was that he [Gabriel Moshoeu] was 'adamant'."

'It is my responsibility to the country to make sure those things that happened to me and others will not be repeated'

Later that day he glimpsed his brother and 12 others being led to a ravine behind the prison. Shots followed. The executions, which Moshoeu believes was Quatro's first, and other abuses, led to an uprising. MK cadres mutinied and took over three camps in Angola, killing a number of Mbokodo men.

In 1984, Han arrived from Lesotho to calm the situation, but not before Moshoeu received a final round of beatings in a piggsty for refusing to wash a live baboon and a "kangaroo court" hearing where Moshoeu says he was forced by Masondo to confess

in writing to being an enemy agent thus condemning himself to a further four years sentence.

Later that year, through Han's intervention, Moshoeu and others were released, first into house arrest, and later to MK's Viana Camp at Luanda. But Mbokodo kept a tight rein on his movements until Han again intervened to secure him a scholarship to study in Ghana. But when Han left, the scholarship was cancelled.

In 1986, another ANC official in Luanda organised him a scholarship in Sweden, but he left from Luanda only after Mbokodo men tried to stop him at the airport.

After finishing the course in Sweden, Moshoeu returned to the ANC fold, this time teaching at the movement's Solomon Mahlangu college in Tanzania. But towards the end of the year he said three Cubans and two Mbokodo men, including Mthembu, came to him with a telex, in then-ANC president Oliver Tambo's name, summoning him to ANC headquarters in Lusaka, Zambia.

In Lusaka he was kept under house arrest by Mbokodo until he slipped out to speak to senior ANC officials, including Ronnie Kasrils (now deputy defence minister) and Ruth Mompati. No one knew about the summons, Moshoeu says, lead-

ing him to the conclusion it had been concocted by Mbokodo.

An attempt was made to lure him back to Angola, but he fled to the United States embassy, pursued by Mbokodo men "literally firing shots at me." Moshoeu was granted political asylum in the US, where he studied until shortly before the April 1994 elections, when he returned home.

Ironically, Kepadisa, as NIA official, had to vet Moshoeu when he first applied for his job at the provincial Safety and Security Department. Only later, while he was working in a sun-lar field for Idasa, did he get the job.

In March, Moshoeu contacted the truth commission to tell of his intention to testify, only to be targeted, he believes, in the shooting incident on May 27. He laid charges of attempted murder the same day. The person he wounded laid a similar charge against him a day later.

Moshoeu wants Kepadisa and others to go to the truth commission and confess — but also to be barred from the senior positions they now hold.

Moshoeu's first-hand account of Mbokodo abuses may be the first to reach the truth commission outside of that delivered by the largely discredited Returned Exiles Committee (Recoo), led by Pat Hlongwane — whose close ties and financial backing by the apartheid security establishment have been documented in, among others, the *Mail & Guardian*. Moshoeu rejected overtures from Recoo when he returned from exile.

The ANC accepted collective responsibility for abuses in its camps in the frontline states after damning revelations by the Skweyrya and Motsuenyane commissions in 1992 and 1993, but has refused to act against individual members implicated.

Moshoeu believes that is wrong. "I am not talking like Hlongwane who took money for ridiculing the ANC, but it is my responsibility to the country to make sure those things that happened to me and others will not be repeated. It is unfair that those people hold such high positions."

Masondo was abroad and not available for comment this week. Mthembu said he had been advised by the "powers that be" not to respond before the ANC's "global" presentation is made to the truth commission.

Kepadisa said he supported the truth commission, but did not want to pre-empt it. "I don't have a problem with anyone who wants to talk. But of course, I will be prepared to defend myself."

CAPE TOWN — It was crucial that the truth commission heard the IFP's side of the story on past human rights abuses, commission chairman Desmond Tutu told IFP leader Mangosuthu Buthelezi yesterday.

The two met for more than 90 minutes in Buthelezi's ministerial office in Cape Town along with commission deputy chairman Dr Alex Boraine and IFP council member Joe Matthews.

The long awaited meeting was the last in a series which the commission has held with party leaders to explain the

Tutu says truth body needs to hear IFP's side

(252) BD 5/6/96
aims and work of the 17-member panel which is probing three decades of human rights abuses.

Buthelezi committed his party to the "notion of a nationwide truth-finding exercise" but rejecting the structure of the commission as a "recipe for great evil".

He also criticised the 17-member panel appointed by President Nelson Mandela, saying many commissioners

were known to have ANC leanings.

He also stressed that while the commission had been established to probe past human rights abuses, the IFP was still party to an ongoing "tragic and bloody conflict" with the ANC in KwaZulu-Natal. In these circumstances the IFP did not see the point of "prematurely" involving itself in the work of the commission. — Sapa.



Minefield of fact and

Some serious concerns about the Truth Commission have been raised, writes Robert Brand

(252) Star 17/6/96

Friction

Walter Smules' heartfelt "confession" before the Truth and Reconciliation Commission in Kimberley last week sounded too good to be true. As it turns out, it probably was.

Smules, a former Umkhonto we Sizwe cadre now in the SANDF, "confessed" that he had thrown a hand-grenade which killed 11 protesters outside the Bophuthatwana consulate in Kimberley three years ago. Two other activists were jailed for the incident.

If Smules' confession is accepted, he would be able to apply for and in all probability receive, amnesty, and the two "innocently" jailed activists would go free - a happy ending for all concerned, except perhaps the victim's relatives.

But Smules was lying, says the Attorney-General of the Northern Cape, Charl du Plessis, who investigated his "confession" when he first made it before the trial of his two comrades. Du Plessis also objected to the presence

on the commission panel of advocate Denzil Potgieter, who was the defence lawyer for the two activists who took the rap.

These questions, and a few more, were asked at a press conference after the hearing, and while the commission cannot be blamed if Smules committed perjury, it is a matter for concern that journalists' reservations about his testimony were almost glibly swept aside.

Why did Potgieter not recuse himself from the hearing?

Why was Smules not questioned about the huge contradictions between his written statement and his oral testimony (in his statement, he denied throwing the hand-grenade and said he had been offered money by the ANC to "confess")?

Why was a group of ANC supporters in the audience allowed to intimidate the witness with noisy behaviour and loud applause?

If Potgieter really believed Smules' "confession", why didn't he use it during the trial in defence of the two "innocent" com-

rades? Why did commissioners, in spite of obvious doubts, intimate publicly that they accepted Smules' confession as the truth?

One such incident is not enough to set the alarm bells ringing about the value of evidence before the commission. There were more than 20 other witnesses in Kimberley, and for most of them the opportunity to voice their pain was a tremendous benefit.

But with every Walter Smules thrust upon a public with many eagerly incredulous members, the commission runs the risk of undermining itself.

It is not enough to argue, as Commissioner Yasmin Sooka did, that the human-rights violations hearings are not primarily an investigative process and that allegations would be thoroughly investigated afterwards. Allegations are being disseminated as the truth whether the commission likes it or not.

The Smules debacle came at the end of a week which must have been traumatic for the commission, not least because of the ANC's inexplorable about-face in its approach to its own branchchild First, Bantu Holomisa was strongly re-

buked for making an unsavoury allegation against Stella Sigcau at a hearing in Port Elizabeth, leaving the distinct impression that the ANC is not keen to have certain parts of the past investigated too thoroughly.

Then Joe Modise was swiftly repudiated when he said he would apply for amnesty for his part in human-rights violations committed by ANC members during the armed struggle.

The party's spokesman, Ronnie Mamoepa, said Modise would not be going to the commission in his personal capacity, but on behalf of the ANC leadership. He would take collective responsibility for human-rights violations committed by the ANC rank and file.

"Collective responsibility" has been a refrain through most ANC comment on the Truth Commission in recent weeks, and it seems to have become equated with notions about a sort of collective or corporate amnesty. Nothing stops the ANC or Joe Modise from going to the commission and making

If Modise asked for forgiveness on behalf of the ANC from the relatives of bomb victims, some of those relatives might just lose a bit of their hatred for the people who killed their loved ones.

But one thing it would not do is procure amnesty for Modise or anyone else involved in the bombings. The amnesty provisions in the Promotion of National Unity and Reconciliation Act do not allow for corporate or collective amnesty.

If Joe Modise wanted amnesty, he would have to go before the amnesty committee and explain in detail his role in each of the actions for which he wanted amnesty. This would include naming everybody else involved in each incident. But does the ANC have the stomach for that?

a submission on behalf of the ANC, and assuming responsibility for the actions of ANC members during the struggle. Such a symbolic accountability could be meaningful and conducive to reconciliation. For instance, if F W de Klerk assumed responsibility for the outrages committed by the security forces during his rule, and asked the nation for forgiveness.

Ombudsman to fight curbs on govt minister probes

BY ANTHONY LIVUZA

Blantyre — Malawians are disillusioned because the new office of the Ombudsman, the public watchdog, is not allowed to investigate charges against government ministers without their consent.

Parliament agreed to a clause in the Ombudsman Bill which grants ministers immunity from investigation on charges of maladministration unless the Ombudsman, James Churwa, obtains a warrant from a magistrate which a minister must personally sign to authorise an inquiry or a search.

Even then, seven days must pass before this may take place, during which time the minister can obtain a court order restraining investigators from access to

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government documents on the grounds that they are state secrets. Many Malawians are concerned over this discriminatory provision for ministers.

The Ombudsman was appointed to investigate cases of maladministration where an individual has suffered injustice without a reasonable and practical remedy in a court of law.

A Law Commissioner, Elton Sinigun, will deal with repeals and reviews of all laws in Malawi's new constitution, which came into force in June last year.

The Ombudsman and the Law Commissioner are joint commissioners of the National Human Rights Commission, another new institution responsible for the protection and promotion of the rights and freedoms provided in the constitution.

Star 18/6/96

Former auditor-general Gilton Chwaula now heads an Anti-Corruption Bureau, whose powers are also curtailed by the immunity granted to ministers, the president and his deputies.

Under the new constitution, a National Compensation Tribunal has been set up to assess and settle criminal and civil claims by people unlawfully detained during the 30-year dictatorial rule of Hastings Banda's Malawi Congress Party.

At first, such democratic provisions were welcomed by most Malawians. But they are now suspicious that the offices of the Ombudsman, Anti-Corruption Bureau, Law Commissioner and National Compensation Tribunal were created to protect or serve the interests of top government officials.

The quasi-judicial Ombudsman was appointed by parliament and can only be removed by parliament. Thus the incumbent can operate without any political duress. His only impediment, he says, is the provision in the act governing his operations.

Churwa says he will lobby both inside and outside Malawi for an amendment to the provision shielding top government officials from investigation by his office. "No person or institution, government or private, should be above the law," he says, referring to the constitution, which stipulates that no person shall be immune from prosecution.

"Let a message go out to all that never again will the country tolerate abuse of human rights and their violation by anyone at any level." — Star Foreign Service

than at present
One of the constitutional principles

that the association has
guard the public's interests

Improved SA conviction rate demanded

Deborah Fine

IMPROVED policing and other crime prevention efforts would not result in a reduced crime rate unless the police and criminal courts simultaneously improved SA's poor conviction and sentencing rate, Human

Sciences Research Council researcher Lorraine Glanz has warned

In an article in Indicator SA magazine's autumn edition, she said that while the number of crimes reported to the SA Police Service increased each year, the number of convictions

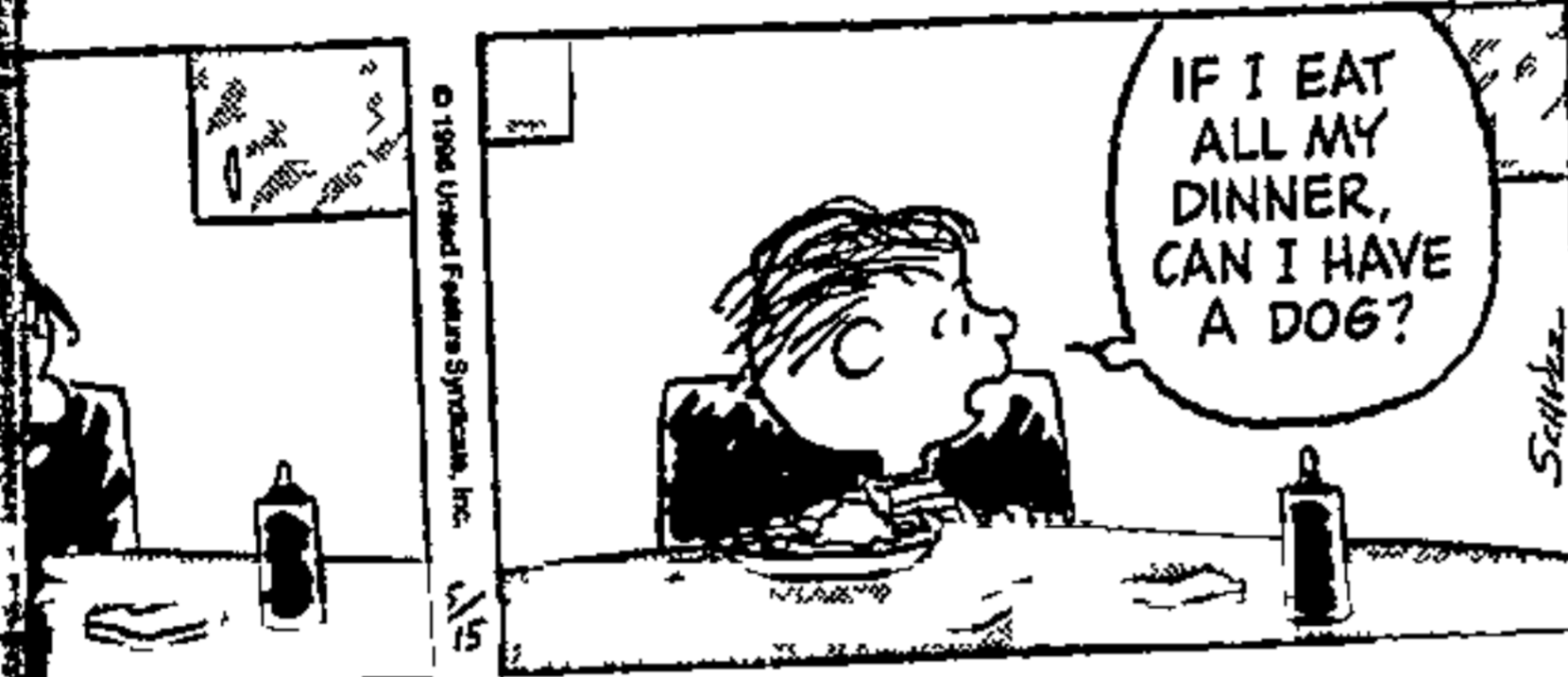
obtained decreased

Thus no matter how efficiently police prevented crime, serious attention would have to be paid to the functioning of police investigative arms and the courts to enable the system to cope

She said the problem of poor conviction and sentencing rates began with detectives' case-loads being so great that many cases could not be investigated adequately. This led to a drop in the number of cases solved, inadequate gathering of evidence and shoddy preparation of cases.

Statistics showed the proportion of cases solved by police had dropped from 71% in 1975 to 51% in 1993.

By Charles Schulz



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Qualified nod for single judiciary plan

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Fears that status of judges may drop

ANDREA BOTHA
Staff Reporter

JUSTICE Minister Dullah Omar's proposal that South Africa should have a single judiciary for magistrates and judges received qualified support from the South African Association of Law Societies (ALS), which represents the country's attorneys.

But association president Michael Pinnock said the most controversial aspect of Mr Omar's announcement in his budget speech last week was his suggestion that all magistrates should be called judges, irrespective of their level of expertise and education.

Mr Pinnock said the minister should consult more widely and ask the opinion of judges before he made his decision. Although Mr Pinnock said the association did not have a problem with the name changing in principle, he expressed concern about the implications of the decision.

The single judiciary system would elevate the status of magistrates by

calling them judges, but it could also lower the status of the existing judges, said Mr Pinnock.

The difference between judges and magistrates is largely one of legal qualification and experience. Magistrates need only a matric certificate and to pass an entrance exam, whereas judges of the Supreme Court need an LLB law degree and years of practical experience as senior advocates.

Bringing judicial officers and judges closer together was an admirable objective, said Mr Pinnock. But he said the association was concerned that Mr Omar's speech did not address the question of parole and early release for prisoners.

But Mr Pinnock praised other recommendations made by the minister, including the establishment of a public monitoring commission, a family law court and community courts.

He also praised Mr Omar's view that attorneys be appointed as temporary judges to alleviate the backlog in civil and criminal cases.

Truth probe starts simultaneous hearings

CT 18/6/96
ROGER FRIEDMAN

UMTATA: Truth and Reconciliation Commission hearings begin here and in George today, the first time the commission's Human Rights Violations Committee holds simultaneous sessions in different centres

But the drama will not be confined to the Southern Cape and Transkei — it will be a crucial week for the commission in the Cape Town Supreme Court, too

Its on-off appeal against Mr Justice E L King's finding in favour of former security policemen Brigadier Jan Abraham du Preez and Major-General Nic Janse van Rensburg — which has twice prevented Mrs Elizabeth Mtinkulu telling the story of her son, Siphiso's, poisoning and disappearance — will go ahead on Thursday

The judge withdrew from the application for leave to appeal last week after allegations that he could be biased — allegations he emphatically refuted

The King-judgment bound the commission to giving Du Preez and Janse van Rensburg "adequate notice" that they were to be accused of human rights violations, and access to witnesses' statements

Meanwhile, Eastern Cape Safety and Security MEC Mr Dennis Neer has reportedly received letters of intent to sue for alleged defamation after remarks he made to the commission on May 21 about his torture. Among the four people threatening to sue him for R100 000 each are a pair

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of Eastern Cape police superintendents and Motherwell bomber Gideon Nieuwoudt

In keeping with the court-room theme, the commission's Umtata hearings will feature several prominent lawyers

None are more prominent than the brothers-Matanzima — Chief Kaiser and Chief George — who dominated politics in the former Bantustan for nearly 30 years. Finally, widespread bribery and corruption allegations ended the Transkei's rule by the Matanzimas. Chief George was replaced by Ms Stella Sigcau, who was deposed by General Bantu Holomisa.

The majority of cases to be heard here over the next three days took place in the Matanzima-era. There will be stories of

assassinations, disappearances, torture some dating back to the 1960s, long before Transkei became the first independent homeland in 1976

Among the better-known cases will be one that centrally involves another prominent lawyer. On September 24, 1985, former student activist Mr Batandwa Ndongu, died of gunshot wounds at Cala Hospital 30 minutes after being fetched from his home by security police. His death led to boycotts and disturbances at Unitha

In October six men, all connected in some or other way — as relatives or witnesses — to Ndongu's death, were detained for a month, then banished to various parts of the Transkei



30 years of pain

ANC stalwart tells commission of repeated torture

(252)

source party 1976/1976

A 72-YEAR-OLD veteran of the African National Congress told the Truth and Reconciliation Commission yesterday how he was periodically tortured by police for more than 30 years and had his right testicle stripped off during one of the brutal torture sessions.

Pensioner Mr James Kati told the TRC hearing in Umhlati that he had been arrested nine times since 1958 and was imprisoned on Robben Island for eight years for his anti-apartheid activities. The charges included conspiracy, arson and membership of a banned organisation.

First arrested during the ANC's 1952 defiant campaign, he appeared relieved as he told the commission about the torture methods.

During one period of detention at Pollsmoor Prison in Cape Town, Kati said he was subjected to mental torture. A film was shown on a screen in

his cell which showed people screaming. "Kati, you have told us, you are now eating and we are not."

These images haunted him day and night as the torture continued for more than two months.

After suffering a nervous breakdown he was taken from his cell and stripped by four policemen.

"I then felt red-hot cigarette tips burning into the flesh of my back. They continued to burn me for a long time. Lit matches were also used to burn my thumb and index fingers."

Severe injuries

The injuries he sustained were so severe that he had to remain in hospital for more than four months. He was released from prison in 1977 and allowed to return home to Engcobo in Transkei.

In 1981 he was arrested by police searching for weapons and taken to Cambridge police station in East



London, where he was subjected to electric shocks. Electrodes were attached to his feet and face water poured over his head. A tyre tube was put over his face so he could not scream or breath.

"This continued from about 4pm up to about 7am the next day. In the end I falsely admitted I knew where the weapons were."

He was escorted back to Engcobo where he was told to point out where he had hidden the arms.

"They were digging holes knee-deep. When they did not find anything we went to another spot. I kept on doing this. It was a wild goose chase

in the car they realised I was giving them false information. They assaulted me, crushing my right testicle."

He was still in custody in prison at Idutywa when he was told that his wife had died at King Edward Hospital in Durban.

"The information I received was that my wife's health had deteriorated because a policeman called Taylor had told her that he had killed me and my daughter."

Kati finally emerged from prison in 1988 after serving a seven-year sentence.

Never again

The perpetrators must be investigated and brought forward to explain why they did all the things they did to me. There should never again be a white person who leads the country."

In another testimony, former

Transkei homeland ruler Chief Kaiser Matanzima was quoted as having publicly admitted to the police the killing of University of Transkei student leader Bantwazi Ndondo in 1985.

"We have killed the terrorist," Matanzima reportedly told a rally at Idutywa.

Mrs Sidumo Ndondo said witnesses had told her that her son, who was lying face down after being shot in the back while escaping from a police minibus in Cala, was killed by police as he tried to stand up.

"I want to know who killed my son and why," Mrs Ndondo said.

Meanwhile, a key witness to the police slaying of three Transkei human rights activists, Mr Thozamile Nkume, went missing yesterday and had still not been found by TRC investigators by day's end - *Political Staff, Eena and Sapa*

Mr. I-Chang Loh of the Department of China, took place on Wednesday, 5 June 1996. A meeting has been scheduled by Mr. I-Chang Loh with all the Chiefs of Diplomatic missions to take place on 19 June 1996 at the Union Buildings in Pretoria.

This meeting will be facilitated by the Department of Foreign Affairs and will be attended by the Provincial Commissioner of Gauteng and Commissioner Vanga. A draft policy document will then be finalised and forwarded to the National Commissioner for his approval.

Dr B L GELDENHUYS Mr Chairperson, arising out of the hon the Minister's reply, may I ask him to convey to his colleague—I heard what he said—that there is an international convention actually demanding special measures with a view to protecting consular premises. I am referring to the Vienna Convention on Consular Relations of 1963, with special reference to article 31.

Business interrupted in accordance with Rule 19(3) of the Standing Rules for the National Assembly.

Government spending: watchdog unit

*8 Mr Z D MNGUNI asked the Minister of Finance †

- (1) Whether his Department is currently establishing a watchdog unit to monitor Government spending, if so, (a) how many persons are or will be employed by the unit and (b) what will be the annual cost to the taxpayer,
- (2) whether he will make a statement on the matter? N970E

The MINISTER OF FINANCE

- (1) No, but an Expenditure Evaluation Unit will be established during 1996 to advise departments and the Treasury Committee on strategic planning, budgeting, financial and management systems, belt tightening measures, Information Technology, re-prioritisation of expenditure and performance measurement. An amount of R10 million for personnel and operating expenditure for this Unit has been announced in the Budget Speech on 13 March 1996 as a supplementary proposal.

- (2) whether they have received any compensation for such overtime, if not, why not, if so, what are the relevant details,
- (3) whether he will make a statement on the matter?

The MINISTER OF JUSTICE

- (1) Yes

(a) and (b) The required information is unfortunately not readily available. Information in respect of each prosecutor is kept at his/her sub-office. In order to obtain the necessary information all the offices in the Republic will have to be contacted and it will take the personnel weeks to gather the information. Such an exercise will therefore not only be time-consuming but will also not be economically feasible.

I may however inform the hon member that all professional personnel of the Department (excluding those in the former independent and self-governing states for which dependable information is not available) worked 267 447 hours overtime during the last year for which statistics are available.

- (2) Yes, some prosecutors have received compensation for working overtime. For the same reasons as stated in (1) the required information is unfortunately not available.
- (3) I do not believe that our prosecutors are adequately compensated for the services rendered by them. Every attempt is being made to remedy this unfortunate situation.

Prisoners on death-row

*11 Mr J W MARKEE asked the Minister of Correctional Services

Whether any prisoners were still on death-row as at 30 April 1996, if so, (a) how many and (b) what are his Department's plans in regard to these prisoners? N973E

The MINISTER OF CORRECTIONAL SERVICES

No

- (a) Falls away

- (b) The cases of the prisoners in question have been referred to the Department of Justice for reconsideration and the imposition of an appropriate sentence.

*12 Mr G M E CARELSE—Transport [Questions standing over]

Illegal casinos

*13 Mr P I BIKITSHA asked the Minister for Provincial Affairs and Constitutional Development †

- (a) How many illegal casinos are currently in operation in South Africa, (b) what is the turnover of such illegal casinos and (c) in respect of what date is this information furnished? N975E

The MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT

- (a) No accurate numbers are available. For example, numbers decrease in a specific area if an illegal casino is successfully prosecuted in that area. According to some sources, between 2 500 and 3 000 illegal casinos are currently in operation in South Africa.
- (b) In the light of (a) above, accurate figures are also not available. According to some sources the estimated turnover of these illegal casinos totals between R1.6 and R2 billion per annum.

(c) 18 June 1996

Doctors' training

*14 Mr C M GEORGE asked the Minister for Health †

- (1) (a) How many doctors are currently being trained in the country and (b) what is the cost per doctor for the training period,
- (2) whether she will make a statement on the matter? N976E

The MINISTER FOR HEALTH

- (1) (a) Undergraduate Postgraduate

Total

- (b) There is no accurate figure at present, the estimates calculated are

10 324
2 625
12 949

Teen trio's deaths

Were 'avoidable'

ORGE: The mother of one of

ee children shot dead by police
1985 has told the Truth Com-
mission she believes the killings
re planned

Fezile Hanse, 14, Andile Mayola,
and Patrick Madkane, 14, were
t dead outside the home of a
urry policeman, known only as
igoma, in Bongolethu township
r Quthusoom.

A witness, Mr Mzukisi Mooli,
the commission yesterday that
roup of people had gathered in
road. They believed there was
one at Mangoma's home.

"A boy with a red jersey went to
front door. The next minute I
rd a shot going off. Shots were
d continuously. I saw a little
y lying near the gate. I saw a girl
wing across the road.

"The next moment policemen
ne out of the house. One police-
in continued firing at the
wd."

At the time, police said they
acted in self-defence after a
wd attacked a house they were
rding.
Patrick's mother, Mrs Nol-
isa Madkane, told the commis-
1 yesterday that the police could
re arrested the children.

"They (the police) were hiding
he house. They were intending
ill," she said.

Madkane said she had gone to
her washing when she saw a
wd of people and went to inves-
ate. Someone told her Patrick
l been shot.

She saw her son's body lying in
road, but when she tried to
roach it, Captain George Marx
l shouted that she should turn
k if she did not want to die, she

said

Marx, now a brigadier and sta-
tioned in George, was mentioned
several times during yesterday's
hearing.

Madkane said that when she
returned with her husband to the
scene of the shootings later in the
day, the bodies had been removed.
A court case had followed, but no
one had told the parents what was
going on.

Majola's father, Mr Lawrence
Maganda, said his son had been
returning a key to his aunt when
he was shot.

Maganda said he had heard
shots and had walked down the
road to see what was happening.

When he arrived at
the scene he saw the
body of a young child
lying in the road.

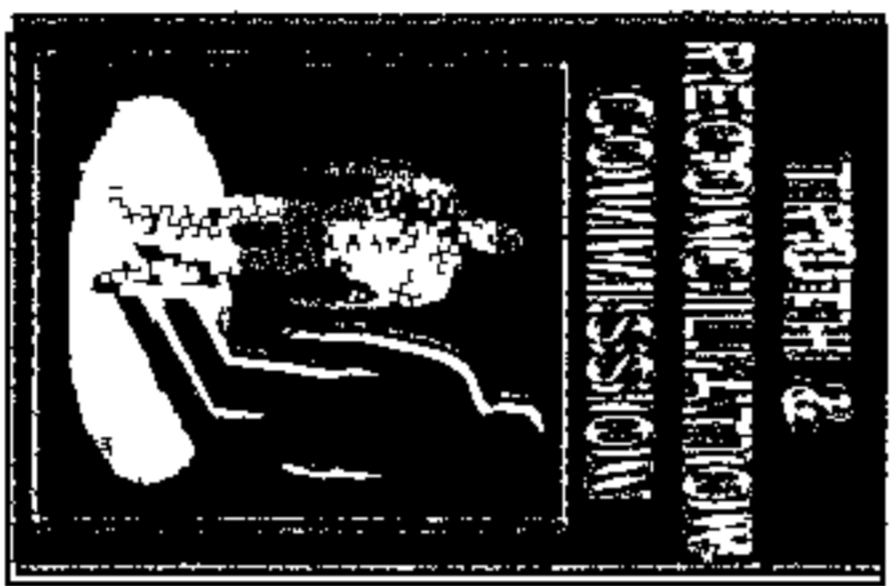
An uncle of Fezile
Hanse, Mr Zato Hanse,
said he had not been
present during the
shootings.

He had gone to the
mortuary to find
Fezile's body. Fezile had
been shot through the
forehead, he said.

Madkane said that
what made the shootings more
unbearable was that the children's
graves had been defaced.

"I wondered how these people
could kill and then they went and
defiled their graves," she said.

The commission undertook to
investigate the shootings and find
out what had happened during the
court case. It thanked Madkane,
Maganda and Hanse for their
courage in coming forward to testi-
fy — Sapa



AVO... CHERS HEL... DIV SELVES TO WOMEN

Ex-MK man tells of abuse

UMTATA: Women comrades at MK camps in Angola were routinely abused and pleas to senior officers to halt the practice were ignored, the Truth and Reconciliation Commission heard yesterday. **ROGER FRIEDMAN** reports.

SOVIET Union-trained
A umk onto wesizwe com-
mander, Mr Teddy Williams,
has lifted the lid on alleged abuse
of women comrades in ANC camps
in Angola.

Williams told the Truth and
Reconciliation Commission, sit-
ting here yesterday, he had objec-
ted to the abuse of women when he
was sent to the Quibaxe Camp in
1978 after his training in the Soviet
Union. He believed his

objections had been
one of the factors that
had led to his being
"targeted" by superiors,
detained, tortured and
poisoned.

"We were among
wolves," he said.

Williams said
Defence Minister Joe
Modise was one of the
high-level MK officers
who "did not want to
listen to our griev-
ances".

"We came back as officers from
the Soviet Union. There were new
arrivals. Some of them were
females, of course. There was this
type of situation where these
young females were abused. The
officers would help themselves.

"We did not immediately chal-
lenge these things. Some of the
trainees came with their girlfriends
to exile, people they meant to
marry in the future. Some even

brought their wives. Even the
wives were abused."

Some of the women were
appointed section leaders by the
officers "in order to abuse them".

They would be called to the
administration section on the pre-
text of work.

When the late Chris Ham was
appointed MK commissar "we
thought now there was a man who
would listen to our grievances —
but we were never given a chance
to speak to him", said Williams.

One comrade whose wife was
abused was locked up at Quatro
Camp after raising an objection.
Upon his release, the comrade dis-
cussed the issue with the late ANC
president Mr Oliver Tambo, but
returned disillusioned from the
meeting.

Said Williams: "If the ANC is
prepared to face the truth, to
cleanse itself, it should come up
with a list of names of all exiles
who died outside the country.
with their cause of death and time
when they died."

Williams' story was repeatedly
interrupted by commissioners
pleading with him to stick to the
subject of his own torture. At one
stage, his microphone was
switched off. He was interrupted
several times.

After spending about 50 min-
utes on the stand he was told by
commissioner the Rev Bongani
Finca he had been given more time



DEAF EAR: Mr Joe Modise

than was usual for witnesses

This was not true, as many wit-
nesses have spoken for more than
an hour in the past.

Interviewed later, Finca said he
felt Williams had been given ample
time to relate his story.

However, Williams said he felt
"not completely satisfied" with the
way the commission had handled
his submission. "They sort of cur-
tail you a lot."

This was probably because his
tale had negative implications for
the ANC, he said.

Although he did not wish to
speak ill of the organisation, he
could not be apologetic for speak-
ing the truth.

The abuse of women had been
"too rare" and was not confined to
the Quibaxe Camp. Women were
regularly offered sought-after posi-
tions or further training in
exchange for sex.



UNHELPFUL: Mr Oliver Tambo

Others, who found themselves
alone after their husbands or
boyfriends had been sent overseas
for further training, could offer lit-
tle resistance.

Williams spoke of one soldier
who arrived in Angola with his
wife and made it clear he did not
want her "tampered with" by his
superiors.

Some time later he was told his
wife was at the administration sec-
tion with an officer.

He shot his wife, the officer and
then himself.

Williams alleged a senior South
African National Defence Force
general, formerly an MK officer,
once tried to lure a young woman.
"First he tried to speak to her but
she refused.

He then threatened she would
get no further training. "But this
woman was very clever... she
quickly married someone else."

Amnesty the price SA has to pay for peace - Boraine

(252) ARU 20/6/96
AMNESTY is the price South Africa has to pay for peace, says Truth and Reconciliation Commission deputy chairman Alex Boraine

Without amnesty, violence would have escalated, causing greater loss of life and further destabilisation of the country, Dr Boraine said during a public debate organised by the Human Rights Commission of South Africa (HRCSA) in Cape Town yesterday.

The debate heard that to date 700 people - all men - have applied for amnesty

Phumla Dwane-Alpman of the National Association of Democratic Lawyers argued that a state could not evade its duty to punish atrocious crimes, merely for the sake of promoting national reconciliation.

A government that failed completely to punish or prevent repeated or notorious violations of rights respected by customary international law was presumed to have encouraged or condoned these acts, according to the view of the Restatement (Third) of the Foreign Relations Law of the United States.

South Africa's Truth Commission was unique in its power to grant amnesty. A change in government did not relieve the state of its commitments under international law.

"The current constitution as

well as the interim constitution call for the need to look at international law for guidance on this issue," she said

Dr Boraine said that although the demand for prosecution was understandable, it would simply have been rejected and the war would have continued.

While amnesty was a dirty word in other countries, this was because elsewhere it had frequently been a blanket provision

This was not the case in South Africa, where the demands for granting amnesty were totally different.

"The key debate is the politics of compromise and the radical notion of justice," he said "I want to argue that political compromise is politically and morally defensible."

About 60 percent of murders were never solved, and if the truth about the atrocities carried out during the apartheid era was to be discovered, the perpetrators had to be offered a carrot to come forward, Dr Boraine said. That carrot was amnesty.

Willie Hofmeyr, ANC MP on the justice committee, said the most important part of the transition to democracy had been maintaining a delicate balance between addressing the fears of those who had to give up their power and meeting the aspirations of those who had been his-

torically disadvantaged.

In the negotiation process, it could be argued, three compromises had tipped the scales in favour of those who had given up power, he said

They were that public servants were guaranteed their jobs for the five years of the transitional period, that actions legally carried out under the laws of apartheid would be regarded as legal; and the option of amnesty for those who had acted illegally under the same laws but in pursuit of a political objective

It was the view of the Truth Commission that the imbalance these compromises created had to be redressed urgently. Without the compromises, South Africa would have degenerated into war.

The Truth Commission filled a need for an official acknowledgement of what had happened in the past, Mr Hofmeyr said.

It would provide some level of compensation for victims of apartheid atrocities, most of whom had no hope of legal compensation. He believed that fewer than one percent of those who applied through the courts would be granted relief

Dr Boraine said perpetrators of violence who did not apply for amnesty would be liable for prosecution. The Commission would subpoena anyone who declined to apply for amnesty

A refrain of deep suffering

(252) Semetan 20/6/96
Truth Commission hears about the brutality of the apartheid regime

By Claire Keeton
Feature Writer

MR SITHEMBELE Zibi appealed to the Truth Commission and the public in Umtata on Tuesday to help him find a picture of his younger brother, Vuyani, who was killed in a 1982 South African army raid into Lesotho.

"If anyone has his photograph please will they give it to us - we have none. It may sound insignificant but it means a lot to us, so the younger generation will know what he looked like," Zibi said at the human rights violations hearings.

The suffering of the families of victims and survivors was a constant refrain at the opening day of the hearings, and hundreds of people filled the University of Transkei auditorium to listen.

"As a family we would like to know why people were massacred in their sleep. Why did South Africa send soldiers to Lesotho?" Zibi asked the Commission.

He also appealed to the Commission to investigate whether his brother had children of his own while in exile in Lesotho.

The family of murdered Transkei activist Mr Aga Khan Tiya asked for his child to be returned to them.

Heir of family

"We regard the child as the heir of the family. We would like the child to be brought back from Tanzania," Mr Bishop Tiya said.

He took over his wife's testimony of how their son was killed when she collapsed weeping.

A former Umtra student, Tiya sur-

vived an assassination attempt in Transkei in the late 1980s but was killed a few years later in South Africa.

Before his death, he was arrested and charged under the Terrorism Act in South Africa and represented by Mr Dullah Omar, now Minister of Justice.

His father suspects that the people who arrested him in South Africa were responsible for trying to murder him a few years before.

"I found that he had been stabbed in a way that suggested someone had been trying to cut his throat. He was cut in the way normally used when slaughtering a sheep. His vocal chords had been split open with a knife," he said.

Tiya was later shot dead and his body brought to the family by the African National Congress, of which he was an active member.

His family wants to know what happened to him. They were recently approached by a person who said he was pre-

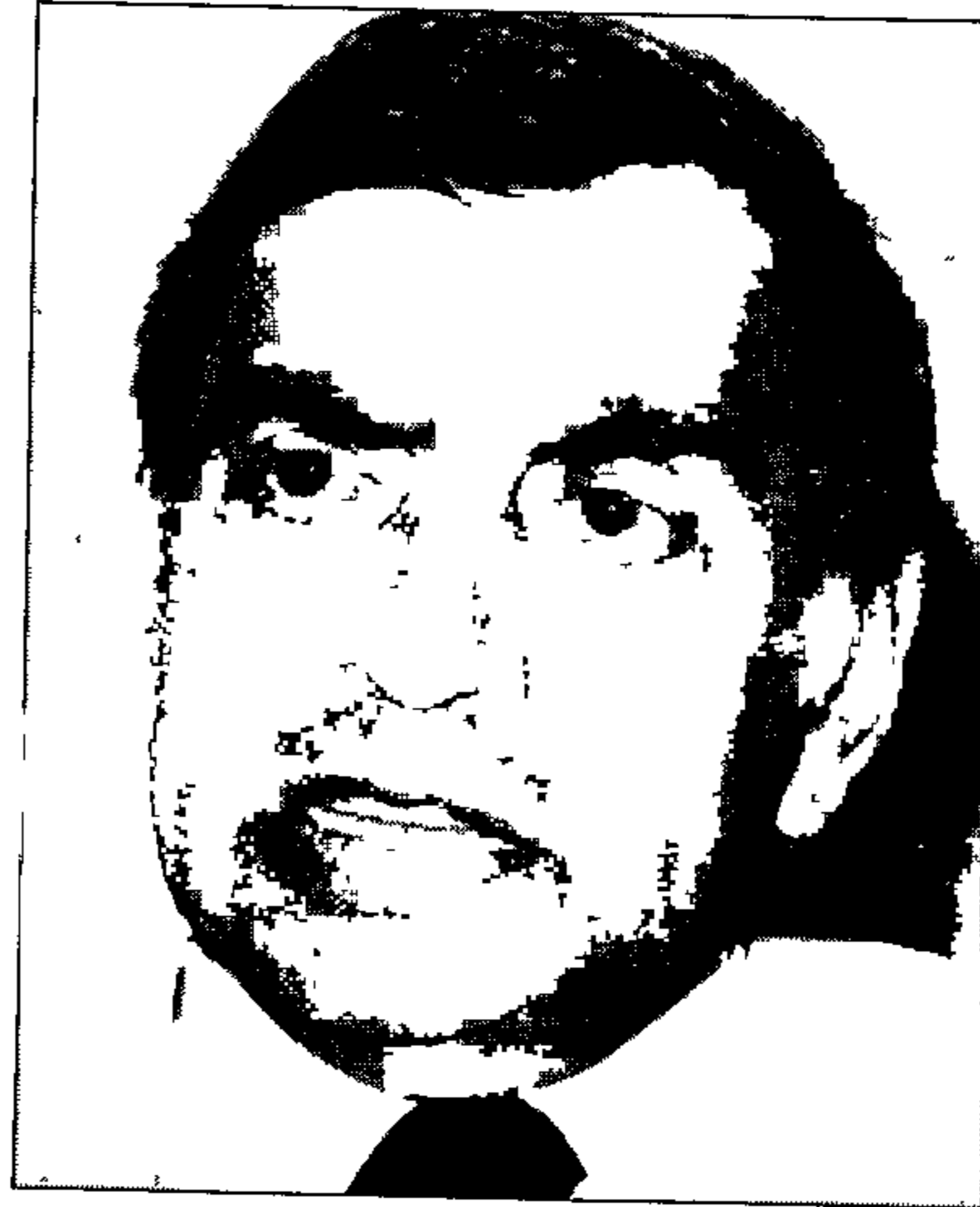
pared to testify before the commission. But now this person had refused to testify, following a warning that he would die if he said anything.

The Tiya family has appealed to the commission to investigate their son's death.

Their agony and need to know the truth was understood only too well by other witnesses on Tuesday.

Ms Nombasa Sangoni, for instance, would like to know exactly who was involved in the ambush on February 5 1988 which ended the life of her husband, Zohile.

A survivor of this attack, in which three men died, was scheduled to appear before the commission on Tuesday but Mr Thozamile Nkume



Justice Minister Dullah Omar ... represented activist Aga Khan Tiya when he was charged under the Terrorism Act.

failed to appear.

Concern was expressed that Nkume did not arrive, but the chairman of the hearings, the Reverend Bongani Finca, said this was most likely the result of inadequate rural transport.

Never charged

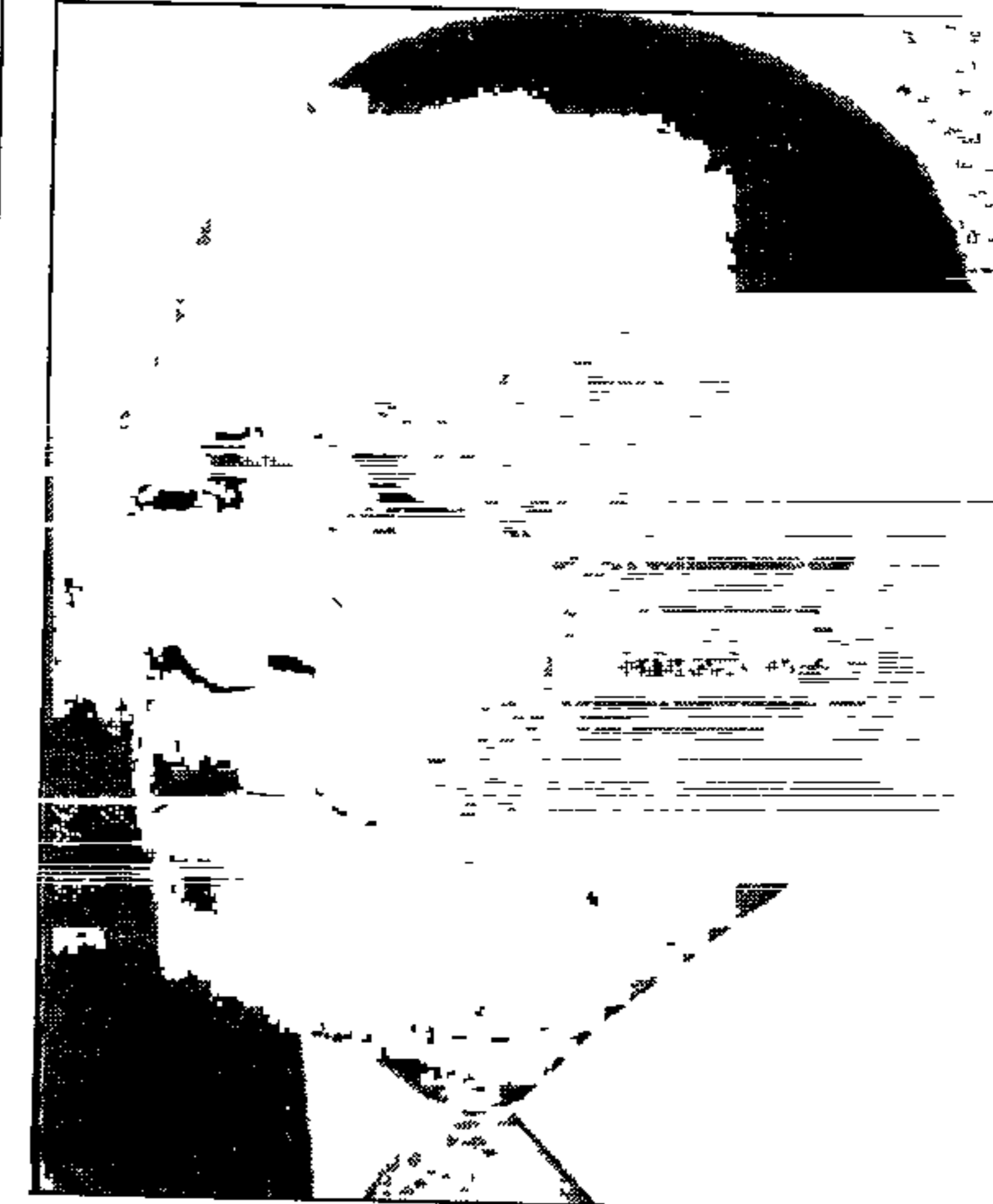
Sangoni said "what hurts" was that two policemen from Transkei who took part in her husband's murder were identified but never charged.

The death of student activist Mr Bathandwa Ndondo (22) on September 24 1985 was also blamed on Transkei police.

He was abducted from his home and gunned down.

His mother, Ms Princess Lulama Sidumo, said her first-born son was killed on orders from the Matanzima government for being a "terrorist".

Although he had already been shot several times, a female police officer was heard saying "Kill the dog."



Former Transkei leader Kaizer Matanzima ... those who opposed his government were unrelentingly harassed.

Ndondo's funeral was restricted by police to three hours on a weekday, yet the police still fired shots at the cemetery.

"The police confiscated the T-shirts with Bathandwa's face on them and the people who were wearing them were arrested," Sidumo told the commission.

The unrelenting harassment of Transkei residents opposed to the Matanzima government seems to have been the order of the day.

Veteran activist Mr James Kati told of his involvement, repeated arrests and imprisonment for over 30 years.

He was picked up more than 10 times from 1952 and endured many years in prison, suffering different types of torture at the hands of police in Transkei and East London.

Among the tortures inflicted on him were the burning of his skin, electric shock torture, being hung upside down, suffocation and starvation.

Kati finally told the police to kill him just to escape the terrible pain, but instead they arrested his daughter, Ms Nomajiphethe Kati, and beat her up.

"She was deeply hurt and I pleaded with them to leave her alone and to kill me," he told the commission.

Kati's wife died in Durban while he and their daughter were in detention.

Deteriorated

"The information I received was that my wife's health had deteriorated because a policeman had advised her that he had killed me and my daughter," Kati said.

Another long-serving ANC member, Mr Alfred Zakade Buka, told the commission how he returned to certain arrest and torture after the police raided his home because he could not abandon his family.

Finca commended the role played by ANC heroes from Transkei in the struggle for liberation.



700 prisoners have applied for amnesty

(252) CJ 20/6/96

HUNDREDS of prisoners have applied for amnesty to the Truth and Reconciliation Commission — but the process of granting amnesty is being delayed by applicants failing to furnish full particulars of their offences or submitting applications when they do not qualify for amnesty.

This was disclosed yesterday by TRC amnesty committee deputy chairman Mr Justice Andrew Wilson during a panel discussion on the amnesty process at St George's Cathedral.

Judge Wilson said that under the National and Unity Reconciliation Act prisoners would only be granted amnesty if the committee was satisfied that their crimes had been politically motivated.

He said that little had been accomplished so far towards the holding of amnesty hearings because of delays in getting the process started.

About 700 prisoners had applied for amnesty so far — Staff Writer

Attorney-General accuses Truth Commission of 'manipulating' evidence

BY ROBERT BRAND

Northern Cape Attorney-General Charl du Plessis has fired a broadside against the Truth and Reconciliation Commission, accusing it of manipulating evidence in a recent hearing on a grenade blast at the Bophuthatswana consulate in Kimberley.

Du Plessis yesterday lodged a formal complaint against the conduct of the hearing in Kimberley earlier this month, and called on commissioner Denzil Potgieter to reconsider his position on the commission.

The panel in Kimberley, including Potgieter, heard testimony from two prisoners each serving 12 years in jail for the 1993 grenade blast, in which one person was killed and 40 wounded. The two prisoners were defended in their criminal trial by Potgieter, who is an advocate.

During the Kimberley hearing, a tearful SANDF soldier, Walter Smiles, said on the stand that he had thrown the grenade in the attack for which the two men had been convicted.

At the time, Smiles was a member of the ANC's armed wing, Umkhonto weSizwe. In a seven-page letter addressed to commission chairman Archbishop Desmond Tutu, Du Plessis said the commission owed an explanation about what appeared to have been the "ruse" of the Kimberley hearing to secure the release of the two men who were convicted for the explosion. The two men are still in jail.

"I am not accusing members of the commission of deliberate impropriety (But) unless satisfactory explanations are given, the credibility of the commission may be called into doubt." The commission yesterday confirmed that it had received Du Plessis' letter, but declined to comment.

Spokesman John Allen said (202) 21/6/96

been wrong.

Potgieter said he had seen no need to recuse himself because there was no question of personal or financial gain.

But Du Plessis retorted "If a commissioner really believes that is all that is at stake here, I submit that he should reconsider his position on the commission.

"Thus is not merely a legal technicality. Advocate Potgieter's participation may certainly have cast doubt on the impartiality of

the commission"

Du Plessis also objected to indications by members of the panel that they accepted Smiles' confession.

The panel chairman, commissioner Yasrum Sooka, said Smiles should seek amnesty and the two convicted men should be released.

"By doing so, the commission in fact found that the original trial in the Supreme Court had been a travesty of justice," Du Plessis said.

on grenade blast

Witness plan mooted by Idasa

Deborah Fine (252)

BO 21/6/96

WITNESS protection programmes would become an important tool of the truth and reconciliation commission, especially for members of hit squads and paramilitary units who had broken ranks and applied for amnesty

This was the view adopted by Institute for Democracy in SA (Idasa) member Gareth Newham and truth commission member Paul van Zyl, in an article in the autumn edition of Indicator SA Magazine titled Speaking out in Safety

They said that information likely to lead the commission to breakthroughs was likely to be provided by the perpetrators of human rights abuses

Providing such perpetrators with protection at the commission's expense could result in a dilemma for the commission in that there was likely to be justifiable resentment on the part of

the victims of such abuses. Victims could be offended by the idea that not only would perpetrators escape conviction, but would be housed, fed and protected at the state's expense

This could be seen as "doubly cruel" given that the state would not be able to provide victims, many of whom lived in poverty, with full reparation

Newham and Van Zyl said the "reality" of the dilemma was that protecting perpetrators was an indispensable part of the process, but the anger of victims who felt that the truth commission had gone too far in accommodating the needs of perpetrators was also legitimate

They said perhaps the commission's only solution was to openly acknowledge this tension and be particularly vigilant in preventing the abuse of witness protection by unscrupulous perpetrators merely seeking to improve their lifestyles

Meiring admits destroying files

THE TRC will demand that General Georg Meiring reveal who ordered the destruction of spy files. **BARRY STREEK, ROGER FRIEDMAN and WILLEM STEENKAMP** report

THE head of the Defence Force, General Georg Meiring, had "cheerfully" admitted to Parliament's intelligence oversight committee that all military files on covert action before April 1994 had been destroyed, the committee chairperson, Ms Lindiwe Sisulu-Guma, said yesterday.

Reacting to Meiring's disclosure last night, Truth and Reconciliation Commission investigative unit head Mr Dumisa Ntsebeza said in Umtata the commission would demand Meiring's appearance before it, to reveal who had ordered the destruction of the files.

Sisulu-Guma told an ANC press briefing that the committee had now demanded that all government intelligence agencies explain whether any of their files had been destroyed.

Sisulu-Guma, whose committee's first report was handed over yesterday to President Nelson Mandela, as required by law, said the Ministries of Defence, and Safety and Security and both civilian intelligence agencies had been asked whether their files had been audited.

Her committee had already consulted lawyers after being told by Meiring that the files had been destroyed under the provisions of the Archives Act.

It had also written to the Ministry of Arts, Culture, Science and Technology about the provisions of the Archives Act and what the policy was on the destruction of files.

Sisulu-Guma said her committee had been visiting the Military Academy, where South Africa's military intelligence spies and counter-spies are trained, when Meiring had told them of the destroyed files. She also said that Meiring had not given any reasons for this action, but had cited the provisions of the Archives Act as legal justification for their destruction.

She said her committee was also looking for copies of the files with the auditor-general. The auditor-general had to oversee the use of money for covert activity but the law would have to be changed to enable her committee to have access to his files.

She had "no idea at this point" whether any of the other intelligence agencies had destroyed files.

Earlier, Sisulu-Guma said her committee wanted to have control over the budgets of the police and military

intelligence agencies "so that they will understand that when we do make recommendations, they will take us seriously".

The committee's relationship with the police and military was not as fluid as it was with the civilian services because it did not control their budgets.

The TRC's Ntsebeza said the commission would demand Meiring's appearance before it to provide an explanation for the destruction of the files.

"If Meiring wants to justify his actions by referring to the Archives Act he will have to be subjected to some questioning by the commission," he said.

"Meiring must also have been acting in terms of an order of a Minister of State and we will want to know which minister and if it was a cabinet decision," said Ntsebeza.

The commission decided before Meiring's admission that it would have to hold special hearings on missing files, to discover who ordered their destruction.

Obviously, the loss of the files would make it harder for the commission to corroborate evidence placed before it. But they expected perpetrators would come forward "to come clean and say what was in the files".

A top defence analyst, who did not want to be identified, said last night it was likely the SADF was ordered to begin destroying files in the early 1990s, at the same time that the former National Intelligence and Security Branch were ordered to do so.

The destruction of the files, on the orders of the previous government, would have come to an end after the

April 1994 elections.

He said the SADF, barring well-publicised examples such as the Civil Co-operation Bureau (CCB), had been involved in relatively few covert operations and the files

The truth may have gone up in smoke

A NUMBER of secret operations were carried out in the period for which the files have been destroyed.

- The Civil Co-operation Bureau a shadowy SADF sponsored group carried out bombings, assassinated prominent activists and infiltrated groups opposed to the government.

- Inkatha members trained at an SADF camp in Caprivi have been linked to the KwaMakutha massacre.

- Operation Katzen, to rid the Eastern Cape of activists, was mounted at the time the Cradock Four were killed.

- Newslink, an SADF-funded newspaper was created to discredit the ANC. It ceased publication after the ANC was unbanned.

(20/6) (20/6) DT 21/6/96

Pick n Pay
Discontinued Supermarkets

judgments, cases commonly remanded or collapsing, because of inadequate preparation, and questionable bail decisions

Lawyers, commissioned by the Department of Justice to help assess poor facilities, say improvements are under way

However, some courts are not waiting for a head office lead

Take the example of Heinrich Moldenauer, Nelspruit's chief magistrate

About 10 years ago, he concluded that "we in the court system do not treat people like people"

This thought — revolutionary at the time — prompted him to revamp his court

After a four-year battle, he has created a comfortable waiting room for witnesses

Re-groomed security officers politely direct people to the correct office or court, while plants and a waterfall feature inside the building

Women coming to court with maintenance problems use a private waiting room and a bathroom where babies can be changed

But what pleases him most is that his staff back him fully

"Don't think we have become soft on crime," he says "We have a reputation for tough sentencing when appropriate. If necessary, we try to send people to jail with a smile on their faces"

Mr Moldenauer has won many converts, including the Justice Department and the provincial government, which are now trying to spread the Nelspruit gospel

The last two years have also seen other changes

LAWYERS appearing in the magistrates' courts say that Constitutional Court decisions have resulted in fairer prosecutions. For example, an accused now has access to much of the state docket, which one attorney said had helped end the system of "trial by ambush"

Pivotal to every attempt at reform, however, are the magistrates. No longer almost exclusively white and male, they now sit routinely with lay assessors

But they face major internal challenges, including the battle for better salaries to halt morale-sapping defections to the private sector

Significant increases were promised for July, but it emerged this payment may be delayed. Mr Omar said he feared the courts would continue to lose their best personnel because staff were neither treated as professionals nor paid on a competitive scale

Fed up with the heavy workload and breadline pay, magistrates have been leaving in droves. Those who

DISORDER IN COURT

(252) ST 23/6/96
A tale of toilet rolls and
the problem of getting
justice's job done in SA

stay speak about the perception that anyone over 40 and still in the job is regarded as either a saint or not good enough for the private sector.

Blackie Swart, the chairman of the Prosecutors' Association, says that in many offices the caseload has become unbearable

Magistrates must also come to terms with what it means to be independent, a status conferred on them three years ago. Although stressed repeatedly by Mr Omar, it remains an alien concept to many

A code of conduct for magistrates, issued two years ago, is said by some to undermine their independence. This bizarre document, mixing high-minded precepts with instructions about the length of a magistrate's gown, has caused unease. Some call it racist, aimed at black magistrates who might not know "how to behave"

A circular from the liaison division of the Justice Department issued two months ago adds to the confusion about the extent of magisterial independence. It provides "guidelines" for staff approached by the media. Magistrates "are required" to handle such requests in consultation with the Magistrates' Commission, and are "requested" to inform the liaison division beforehand about statements to the media

One result — experienced by the Sunday Times in preparing this article — is that some magistrates feel pressurised not to speak to the media, instead referring all questions to the department. The liaison division then approaches magistrates on behalf of the media with a list of questions, sifting through the replies and providing a composite response

No one can fault the department for its helpfulness, but the inhibition experienced by some magistrates is patent. Justice College lecturer Leon Dicker, who trains civil magistrates, says he believes that independence is crucial to transforming the magistracy

His frank articles about unacceptable magistrates' courts' standards, published in the attorneys' magazine *De Rebus* last year, caused a stir, with many magistrates feeling he should not have spoken so freely.

He criticised magistrates' and prosecutors' "appalling" salaries and their "atrocious" conditions of service, saying these problems caused such a high staff turnover that an average Johannesburg and Pretoria prosecutor had no more than about six months' experience

Since then, Mr Dicker says, the quality of justice experienced by the public in the magistrates' courts has improved, but there is still a long way to go

BETTER working conditions for magistrates and prosecutors must be a priority. But magistrates must exercise their newly won independence if the public is to trust them

Past experience of government "leaning" on magistrates has proved a legacy difficult to eradicate now, even without overt pressure, some retain an instinct to second-guess what politicians want and try to oblige

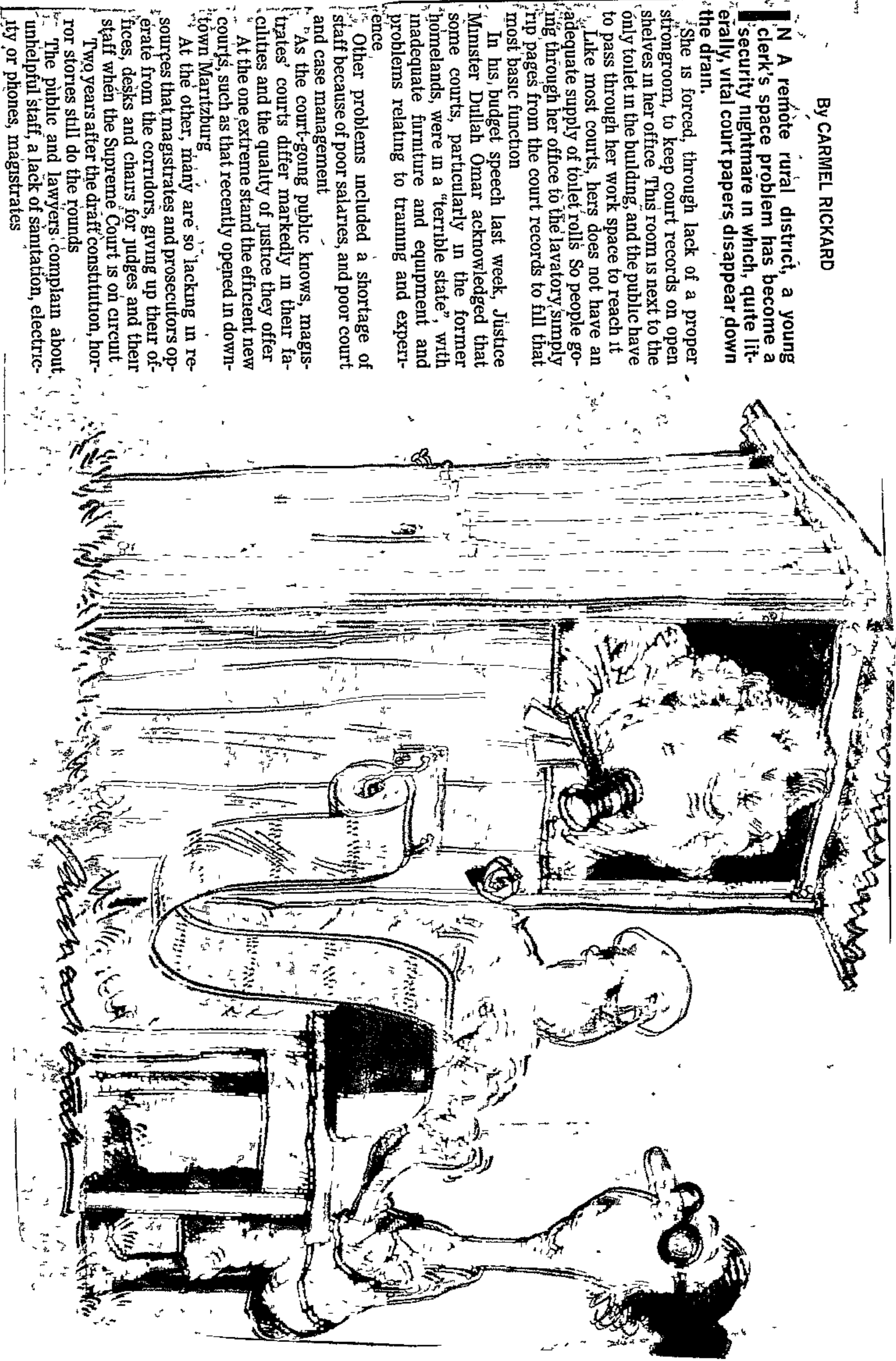
"We need judicial officers nurtured in an attitude of fierce independence so that whenever the state is involved as a party, there will be no fear of a biased decision. Particularly in the criminal courts, the public must have confidence in the impartiality of the magistracy

"Magistrates often deal with cases where there might be pressure from the community or the government, but they must exercise independence and be prepared to make and hand down unpopular decisions"

He says that in the face of government statements about what courts should do, magistrates must respond, not by blind obedience, but by acting as they believe that justice and the law — not the politicians or the public — demand in each case

ST 23/6/96

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By CARMEL RICKARD

IN A remote rural district, a young clerk's space problem has become a security nightmare in which, quite literally, vital court papers disappear down the drain.

She is forced, through lack of a proper strongroom, to keep court records on open shelves in her office. This room is next to the only toilet in the building, and the public have to pass through her work space to reach it.

Like most courts, hers does not have an adequate supply of toilet rolls. So people going through her office to the lavatory, simply rip pages from the court records to fill that most basic function.

In his budget speech last week, Justice Minister Dullah Omar acknowledged that some courts, particularly in the former homelands, were in a "terrible state", with inadequate furniture and equipment and problems relating to training and expertise.

Other problems included a shortage of staff because of poor salaries, and poor court and case management.

As the court-going public knows, magistrates' courts differ markedly in their facilities and the quality of justice they offer.

At the one extreme stand the efficient new courts, such as that recently opened in downtown Maritzburg.

At the other, many are so lacking in resources that magistrates and prosecutors operate from the corridors, giving up their offices, desks and chairs for judges and their staff when the Supreme Court is on circuit.

Two years after the draft constitution, horror stories still do the rounds. The public and lawyers complain about unhelpful staff, a lack of sanitation, electricity or phones, magistrates

Prosecutors lay down the law over pay

(252) ST 23/6/96

BY CARMEL RICKARD

A CRISIS in the magistrates' courts was averted this week when the government announced it would honour promised salary increases for prosecutors and magistrates.

In the face of widespread dissatisfaction and a rumoured strike, the Ministry for Public Service and Administration issued a statement on Friday saying salary increases promised earlier this year would come into effect on July 1.

Technical problems meant that in many cases the increases would not be paid immediately, but they would be backdated.

Later on Friday, the Minister of Justice, Dullah Omar, issued a statement clarifying that the increases applied to staff employed by his department as well.

Despite these promises, however, the crisis is not entirely over as staff are angry that they are unlikely to see their increases until August at the earliest and complain that pay hikes address only part of the problem.

Just as serious, they claim, are staff shortages, which create intolerable work loads — prosecutors carry on average five times as many dockets as they should — and cause serious delays in hearing cases and threaten to undermine the new police crime prevention operation.

Prosecutors said they were sickened at how often staff shortages led to cases being withdrawn against criminals charged with serious offences.

If a case is postponed repeatedly, lawyers acting for an accused are entitled to ask for charges to be withdrawn, as such delays run counter to the guaranteed right to a speedy trial.

Prosecutors said even if police were successful in arresting South Africa's "most wanted" criminals they might never be tried because of the serious shortage of court staff.

"Poor salaries are only part of our problem," said Blackie Swart, the chairman of the National Prosecutors' Association.

"They must be improved so that we retain staff and attract new people to our ranks. The present levels are so poor that people are leaving in droves. The result is an unacceptably low level of experience — yet these inexperienced prosecutors are expected to do battle with senior counsel defending criminals in serious cases.

"The public needs to be aware that many years of neglect of court staff are now benefiting criminals." Dissatisfaction among magistrates and prosecutors came to a head after Mr

Omar said in his budget speech to Parliament that he regretted to announce no agreement had been reached over long-promised salary increases.

But he held out the hope of enhanced status, saying magistrates ought also to be called "judge".

Magistrates immediately hit back, saying, "Forget the fancy titles, just pay us properly."

On Thursday this week, senior prosecuting staff, also angered by Mr Omar's speech, were informed by departmental officials that there would be "no increases" for magistrates and prosecutors.

In the outcry that followed, rumours of a prosecutors' strike surfaced. Although the rumours were denied in some quarters, emergency meetings were held around the country and enorthous pressure was placed on Mr Omar and his colleagues responsible for approving salary increases.

Within 24 hours, staff were informed that their increases would be forthcoming, but were asked to be patient since further delays were expected.

However, prosecutors and magistrates were not mollified by the statements. Following further meetings on Friday, senior staff said more delays until the increases were paid were "unacceptable".



HELD TO ACCOUNT Justice Minister Dullah Omar, who has confirmed that court staff will be getting their pay increases after all.

Privatisation plan inches to next stage

ST (MT) 23/6/96

(252)

By SVEN LUNSCHÉ

PUBLIC Enterprises Minister Stella Sigcau on Friday announced only marginal progress in the government's restructuring and privatisation programme for public sector corporations

In her budget address to Parliament, Ms Sigcau warned that the privatisation process was destined to be "protracted and carefully considered"

She did, however, list a block of state assets that would be sold before the end of the year or early next year: the entire holdings in airlines Sun Air and Transkei Airways and leisure group Aventura, a minority stake in Telkom as well as three Eskom power plants

This is in line with an announcement by the government in December last year, before the programme was halted amid fierce resistance by trade unions

Ms Sigcau stressed in an interview that "the tentative timetable we have proposed is subject to negotiations with the unions and suggestions from our advisers" She added that a special adviser would be appointed next week to draft a final model guide for the privatisation and restructuring programme

A noticeable omission from Ms Sigcau's privatisation list were South African Airways and the Airports Company, which had been earmarked for partial sale under the December plan

Ms Sigcau said that a decision on SAA and other Transnet divisions would have to wait until the airlines' internal restructuring had been completed. A major stumbling block was Transnet's massive pension fund deficit. She stressed that the partial sale of SAA was still on track once new management had completed its assessment

Expectations of a major statement by Ms Sigcau had built up since President Nelson Mandela's commitment to privatisation during a visit to Germany and his subsequent rejection of objections by the trade unions

Economists and business leaders believe privatisation is central to restoring investor confidence, badly dented by the rand's recent sharp fall

In the debate following Ms Sigcau's budget, the National Party's Piet Coetzer

described the speech as disappointing "It appears the government has not quite made up its mind about privatisation"

Standard Bank recently estimated that the government could raise about R100-billion from the sale of assets. The assets earmarked for imminent sale by Ms Sigcau are likely to fetch about R10-billion

The prime target for foreign investors is a 25% to 33% stake in Telkom which could raise up to R9-billion. Telecommunications Minister Jay Naidoo is leaving for Europe and the US next week to meet potential equity partners

It emerged this week that the money received from the Telkom sale would not be held in a special fund but transferred directly to the national revenue fund

Ms Sigcau said that utility Eskom was currently considering whether to activate and sell three mothballed power stations, which could realise a further R1-billion in foreign capital. A number of foreign utilities had already approached Eskom before negotiations were put on halt by government earlier this year

Ms Sigcau said that in line with new corporate governance guidelines for parastatals, Eskom could soon be required to pay both dividends and taxes

Of the other three public corporations only Sun Air is profitable and could fetch about R200-million. Transkei Airways is heavily subsidised by the Eastern Cape government while Aventura is likely to report a R3-million loss in the year to end-August. The disposal of Aventura would include the possibility of selling 25% to its workers, Ms Sigcau said

She said the primary aim of bringing in foreign equity partners was the provision of infrastructure at an estimated cost of R173-billion over the next five years. The bulk of this amount — R81-billion — will have to be provided by Eskom, Transnet, Telkom and the Water Boards, while central government will have to raise about R62-billion

Privatisation would also assist in reducing debt and making state corporations more efficient and competitive

AGs put constitution in the dock

(252)

HENRY LUDSKI
POLITICAL WRITER

CT 24/6/96

ATTORNEYS-GENERAL are challenging in the Constitutional Court a government plan for the appointment of a "super" national attorney-general who would have executive authority

Gauteng attorney-general Dr Jan d'Oliveira, who is leading the action, has asked the court to "refuse to certify" a provision of the constitution

The disputed Section 179 provides for the creation of a single national prosecuting authority and the appointment of a national director of public prosecutions. He would have full jurisdiction over attorneys-general, who would be known as directors of public prosecutions

The national director would have the executive authority to issue policy directives and to intervene to ensure compliance with these

D'Oliveira argues that the section represents clear-cut political interference in attorneys-general's work and will have the effect of undermining their prosecutorial independence

Western Cape Attorney-General Mr Frank Kahn criticised the setting up of a national director of public prosecutions as a "waste of money" and an attempt by "certain political parties" to get around prosecutions arising out of the Truth and Reconciliation Commission — a claim denied by Minister of Justice Mr Dullah Omar

"There is nothing in the constitution which makes provision for political interference," Omar said "(The) fears are unfounded"

In his submission to the court, D'Oliveira criticised Section 179 as being vague, illogical and unworkable. It did not guarantee attorneys-general protection from political interference and ignored the principle of the separation of political and judicial powers

There was no assurance that the national director and directors of public prosecutions would not be political appointments

Responding, Omar said the appointments of attorneys-general made during the apartheid years, had been political. "I am not saying that they are not persons with integrity, they work hard. They were forced to apply apartheid laws, which they did, so they are used to political interference. In the two years that we have been here there has been no political interference and there won't be in the future"

Attorneys-general had to have a prosecutorial authority that gave them "the right to decide fearlessly and without interference whom and whom not to prosecute", Omar said

The Society of State Advocates was also concerned about the political implications of the constitutional provision, its chairman, Mrs Retha Meintjes, said. "If the national attorney-general is going to have executive authority over the prosecutorial process, then we would want to be satisfied that this person would not be able to exert any political influence over us"

● See Page 5

Flock's farewell to Archbishop



VALEDICTION: Archbishop Desmond Tutu and his wife, Leah, clap hands as they wave to invited guests and supportive members of the public who lined Wale Street for the farewell and thanksgiving celebrations given for Tutu, who is retiring, at St George's Cathedral yesterday ● See Page 6

PICTURE: BENNY GOOL

Reign of Amasolomzi to be recalled

ROGER FRIEDMAN

WHEN the children of Zolani, at Ashton, defied their parents by continuing to boycott school, some of the fathers hit back by joining a vigilante group called Amasolomzi, the Eye of the Community. Some of the children called them Vet Katte (fat cats).

Drawn from the ranks of Langeberg Co-op workers, virtually the sole employer in the critically job-short Breede River valley town, they dominated local township life.

Ashton's white fathers, including the police, thought Amasolomzi was doing a fine job controlling troublesome Zolani, so they offered its members additional employment, as "community guards". The local development board paid the guards R56 a week. Father clashed with son and daughter.

In February 1986 the late Mr Justice H L Berman granted an order in the Supreme Court restraining Amasolomzi from operating in Zolani, from imposing curfews, assaulting residents, threatening, harassing or intimidating them. But the order had little effect.

Those caught outside after 9pm continued

to be assaulted with a variety of iron rods, assegais and knobkieries.

"Is it not so that there was no violence until the men on your side began beating the schoolchildren?" asked defence counsel Mr Dullah Omar of a witness, Amasolomzi leader and Zolani mayor Mr George Jonas, in a Supreme Court trial later in 1986. Jonas did not agree.

What will the Truth and Reconciliation Commission make of all this when it casts its eye on the Boland for the first time this week? It will almost certainly be asked to investigate links between Amasolomzi and the police.

The commission's Human Rights Violations Committee sits in Worcester today, tomorrow and Wednesday. Today it will concentrate on incidents that took place in the Worcester/Zwelethemba area.

Unlike in many other centres, where most witnesses have testified in relation to someone else — who is often dead — witnesses from this area will tell stories of their own assault or torture.

Last week South Africa celebrated the 20th anniversary of Soweto Day. It did not cele-

brate the 10th anniversary of the imposition of the 1986 state of emergency on June 12.

According to research by the South African Institute of Race Relations, published in South Africa Review Four, state of emergency repression in small towns and rural areas of the Western Cape was "more brutal and overt, with very real threats of death or injury to the most innocent community members".

"In Zwelethemba, Worcester, for example, there was a reign of terror. The township has a permanent SAP and SADF mini-encampment guarding its sole entrance and is constantly patrolled," the report said.

"Typically on weekends a curfew is announced over loudhailers, and people found on the street are physically assaulted. One young man was sjambokked on his way to church and lost the sight of an eye. A 13-year-old boy was allegedly shot in his own backyard, then charged with public violence."

The commission will also focus on the 1960s defiance campaign in Boland towns, which seemed to have been met with the most terrible torture.

CT 24/6/96

(252)

Top ex-police make surprise bid for amnesty

(252)

Star 25/6/96

Officers, including former commissioners and generals, are willing to accept responsibility for apartheid era crimes

By ROBERT BRAND

Apartheid's top police officers have made an approach to the Truth and Reconciliation Commission about applying for amnesty for human-rights abuses committed by police under their command.

The group includes former commissioners Johan van der Merwe and Johann Coetzee and Lt-Generals Basie Smut, former chief of the Special Branch, and Krappies Engelbrecht

In a letter to the commission they list the crimes and indicate willingness to accept responsibility. Their letter has the support of Adriaan Vlok, the former government's minister of law and order who was political boss of the police, sources have confirmed.

The letter has been sent to the commission by a lawyer on behalf of the group, whose number has not yet been disclosed. It lists names of their "foot soldiers" who committed the human-rights violations.

Among the crimes listed are the murder of the so-called Pebco Three - Port Elizabeth activists



Gen Johan van der Merwe

who disappeared in 1985 - and the bombing of Cosatu's headquarters, Khotse House, in Johannesburg

The group's attorney, Jan Wagener, confirmed yesterday that he had approached the commission on behalf of the top officers.

Wagener denied that the officers had accepted responsibility for any human-rights violations, saying the letter was simply "an inquiry on behalf of certain people about applying for amnesty".

Commission vice-chairman Dr Alex Boraine said the commission had received a letter "from people

inquiring about how the commission would treat them". He would not disclose from whom, saying simply the letter included a number of "top names".

Boraine stressed that the commission could not consider collective applications for amnesty.

The letter follows an appeal by commission chairman Archbishop Desmond Tutu for perpetrators of human-rights violations to come forward and disclose their deeds.

Boraine said the commission had already written to past and present security force generals inviting them to join political parties in making submissions.

The commission also recently announced that it had drawn up a list of the alleged perpetrators who would then be asked to assist the 17-member panel in its ongoing investigations.

Among those who are to be called are former security policemen Gideon Nieuwoudt and Joe Mamasela, recently implicated in the murder of the Pebco Three.

► More reports

Generals' admission 'clears' Cape activist

252

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PIETER MALAN and JOE ARANES
Staff Reporters

THE admission by top-ranking police that they were directly responsible for the bombing of Khotso House in Johannesburg in 1988 has been welcomed by Cape Town activist Shirley Gunn

Adriaan Vlok who was minister of police at the time, insinuated the following year that Ms Gunn had been responsible. She is now suing Mr Vlok for R1 million

"It is fantastic, it's such a relief to hear this," Ms Gunn said after hearing the news of the generals' submission

Mr Vlok claimed in 1989 that Ms Gunn had been seen entering the building - the headquarters of the SA Council of Churches and other anti-apartheid organisations - with two men shortly before the blast in September 1988

Ms Gunn, with her 16-month-old baby, was later arrested and held under Section 29 of the Internal Security Act in connection with the blast

Chairman of the Truth and Reconciliation Commission Archbishop Desmond Tutu said today that a lawyer representing 22 current and former police members had written to him saying that his clients were prepared to approach the commission with amnesty applications

Archbishop Tutu said the lawyer told him that their actions were fully supported by Mr Vlok and various former police generals who would accept, where applicable, collective responsibility and who may also apply for amnesty

He declined to provide any more details, saying the commission was determined to handle the matter carefully and correctly

It is understood that the letter listed a number of specific crimes, including the bombing of Khotso House and Cosatu House, the bombing of a Randburg electricity station and the killing of the Pebco Three - Port Elizabeth Black Consciousness Organisation activists

Ms Gunn said today that her case against Mr Vlok would go ahead as it was in the public interest that the case run its course

"This is just confirmation to me that I am right to continue with the case

"I want to finish this and get on with my life"

She said today that her son, Haroon, who was detained with his mother when he was 16 months old, asked her why she received so many telephone calls

"I showed him the newspaper and

explained to him what has happened. He then looked at her and said "Oh goody"

"It was just confirmation that it is in the interest of my family that we solve this matter now," Ms Gunn said

While she was in prison those interrogating her told her that they would be the first to apologise if they were proved wrong

"Up till this day none of them has done so," she said

She added that it was worrying that although the generals had acknowledged responsibility, there was no sign of remorse for what they had done

"Twenty-one people were injured in the Khotso House blast. Are they sorry about that?" she asked



Shirley Gunn

Ms Gunn's lawyer Waheed Badrodien welcomed the generals' submission saying that it put the case in a different light

"We are sure that we have got a case and are willing to argue that case in court

"What we are saying is let the case go ahead and let the public judge the evidence in open court"

Mr Vlok has refused to comment on the generals' letter

General van der Merwe told Sapa today that reports created a "totally wrong" impression about the letter to the commission

He said the letter followed an initiative by a group of policemen, who had approached a Pretoria legal firm to advise them on the possibility of their applying for amnesty

"I stated that I would be prepared to assist the policemen should they decide to apply for amnesty," General Van der Merwe said

"I would also be willing to provide background of the circumstances in which possible human rights violations had been committed

"Should this process reveal that one or several generals should accept responsibility, they will be prepared to do so"

In such an event the generals concerned would also consider applying for amnesty, he said

The National Party will also probably discuss the generals' approach to the truth commission at the party's federal council meeting in Pretoria today, said NP media director Jan Bosman

The generals' submission might well have an influence on Deputy President FW de Klerk's own submission to the commission in mid-July ● See page 9

Generals sound out amnesty possibility

ARG 25/6/96 (252) (254)

JOHN YELD
on the Truth Commission

WORCESTER - TOP security force generals from the apartheid era, including two former police commissioners, have acknowledged collective responsibility for more than 20 major crimes

These include the deaths of the missing "Pebco Three" civic activists in Port Elizabeth in 1985, the 1988 bombing of Khotso House in Johannesburg, the 1991 bombing of Cosatu House in Pretoria, and the blowing up of a Gauteng power station - an action previously attributed to the African National Congress

The generals are mainly former policemen and include former police commissioners General Johan van der Merwe and General Johann Coetzee, and Lieutenant-General Basie Smit and Lieutenant-General Krappies Engelbrecht. They also include some former defence force officers. They have approached the Truth Commission through a lawyer to sound out possible amnesty applications

In the letter, crimes are outlined and the "foot-soldiers" who carried them out are named, according to sources close to the Truth Commission

The letter is understood to have the support of former police minister Adriaan Vlok

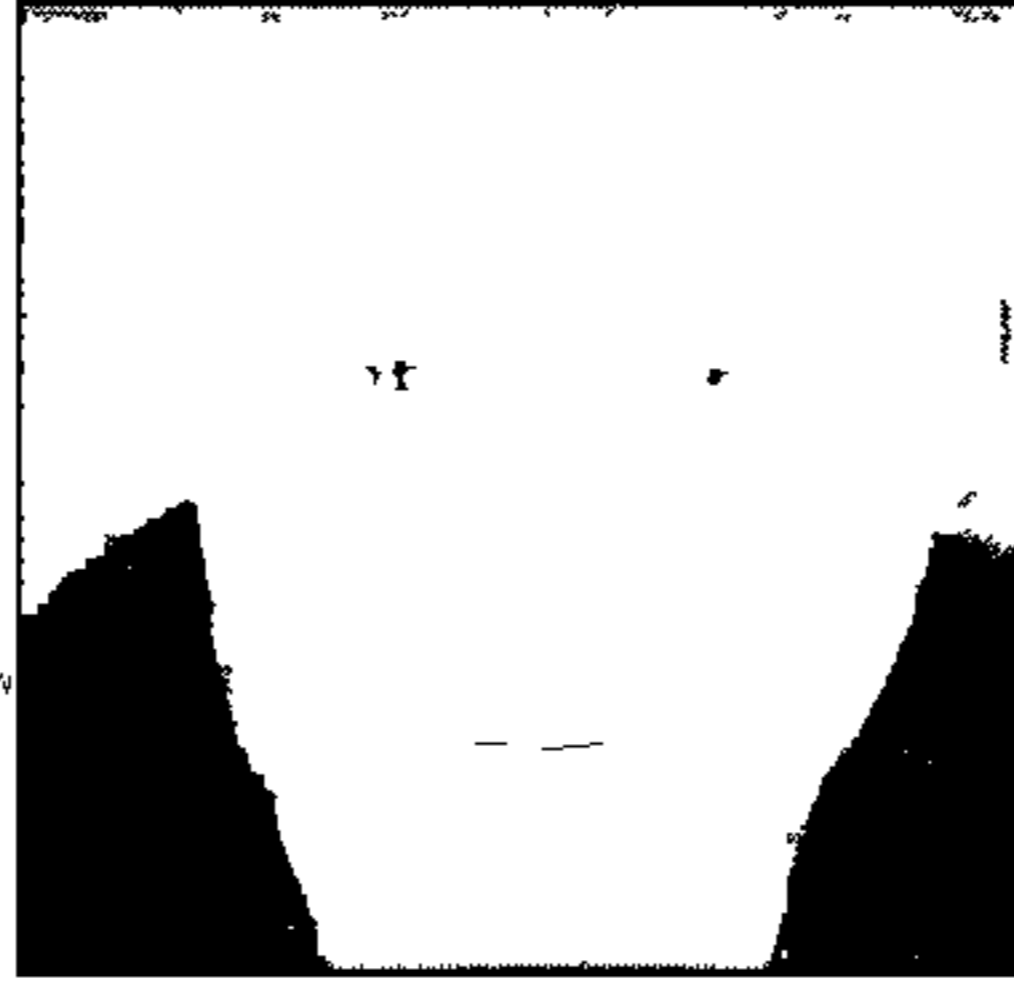
A copy has been sent to the Attorney-General of the Transvaal, Jan D'Oliveira

It indicates that the top officers, in their leadership capacity, would assume responsibility on behalf of their subordinates for violations where appropriate. The group's attorney, Jan Wagener, yesterday confirmed that he had approached the commission on their behalf

"I was approached by certain people about the possibility of applying for amnesty in certain situations. I wrote to the commission to inquire about that," Mr Wagener said

He added that the letter included a list of names and a list of incidents for which amnesty may be sought

Mr Wagener denied that the officers had accepted responsi-



Alex Boraine

bility for any human rights violations, saying the letter was simply "an inquiry on behalf of certain people about applying for amnesty"

His letter reached the commission on Friday, the sources said

Asked at a media conference after the commission's hearings in Worcester yesterday to comment on the letter, commission deputy chairman Alex Boraine said he had not seen it yet

"If it is true what you tell me, then I think it is very, very exciting

**For more reports
and pictures, see
page 13.**

indeed, because the commission has constantly urged perpetrators to come forward

"We don't think the healing process is complete with hearing only from the victims - we also need to hear from the perpetrators"

Contacted at his home last night, General Van der Merwe refused to comment, saying he would not speak on the matter until an official statement was issued by the commission, Sapa reports

Dr Boraine said it was "very, very encouraging" if key former security officers were coming forward to testify, although he warned that there was no such thing as amnesty for "collective responsibility" in terms of the Truth Commission's founding Act. Individuals had to apply

Dr Boraine also announced it was possible that due to unresolved legal proceedings self-confessed former police "dirty tricks" and "hit-squad" commander Dirk Coetzee would not testify at a two-day commission hearing in Port Elizabeth, starting tomorrow, as planned

A full bench of the Cape Supreme Court was expected to rule today on the commission's appeal against a ruling by Judge King in favour of controversial former Eastern Cape security policeman Gideon Nieuwoudt

Even if the court ruled in favour of the commission's appeal there was still a further legal process to be followed, Dr Boraine explained

This was to overturn a finding of contempt of court against the commission in the Port Elizabeth Supreme Court, based on Judge King's judgment and in favour of Colonel Nieuwoudt

Because Mr Coetzee was likely to implicate Colonel Nieuwoudt, who was last week convicted of multiple murder in the Motherwell bombing case, he (Colonel Nieuwoudt) would still be required to have 30 days' written notice that he was to be named as an alleged perpetrator, until the contempt finding was overturned, Dr Boraine said

But there was no doubt that Mr Coetzee would ultimately testify, Dr Boraine emphasised - it was a postponement, not a cancellation

He confirmed that the mother of missing Cosas leader Siphiso Mtinkulu, who was allegedly poisoned by security policemen in 1982, would definitely testify in Port Elizabeth tomorrow

Two previous attempts by her to testify had been temporarily thwarted by Supreme Court action by retired police brigadier Jan Abraham du Preez and retired general Nicolaas Jacobus Janse Van Rensburg

● Khotso House, the headquarters in Johannesburg of the SA Council of Churches, was ripped apart by a huge explosion in August 1988, leaving it devastated

In the December 1991 Cosatu House bombing, a huge explosion ripped through the building at 1.15am. No one was injured

Single prosecuting authority under fire

BD 25/6/96 (252)

Susan Russell

TRANSVAAL attorney-general Jan D'Oliviera has formally objected to provisions in the new constitution which place provincial attorneys-general under a single national prosecuting authority which, he says, fails to ensure their judicial independence from government

D'Oliviera contends that the provisions for a national director of public prosecutions indicates that the position is to be a political one

He has lodged his objections with the Constitutional Court, which has given him the go-ahead to make oral submissions when it sits next week to hear argument from political parties, groups and organisations

The court has received dozens of written objections and submissions, and will hear oral argument next week to determine whether provisions of the final constitution are in accordance with the constitutional principles agreed at Kempton Park before certifying the final draft

D'Oliviera, with the support of his Witwatersrand counterpart Andre de Vries, contends that the provisions for a centralised prosecuting authority do not accord with the constitutional principle that there shall be a "separation of powers between the legislature, ex-

ecutive and judiciary with appropriate checks and balances"

The constitution provides for a single prosecuting authority made up of a national director of public prosecutions appointed by the president, as well as directors of public prosecutions (currently provincial attorneys-general) and prosecutors.

The national director will have the power to determine, with the concurrence of the justice minister, prosecution policy, issue policy directives and intervene in the prosecution process when directives are not followed. He may also review a decision not to prosecute after consultation with the relevant director of public prosecutions

D'Oliviera says the constitution also fails to secure the constitutional independence of chief prosecutors (directors) and that their "attendant position of authority" is left to the "whims of the legislature and/or the executive, and the position of the office in the administration of justice is undermined"

This is also contrary to the principle of a separation of powers, he says

In written submissions to the Constitutional Court D'Oliviera said no attorneys-general were invited by the Constitutional Assembly for consultations or to make professional input on "any coherent and serious proposal" for a reshaped prosecution service.

11

Doctor 'helped to cover up torture'

25/6/96

(252)

WORCESTER — A Worcester doctor allegedly advised police to force-feed a detained civic leader with porridge to make it look as though he had suffocated, the Truth and Reconciliation Commission heard yesterday

Western Cape Civic Association member Amos Dyanti said he had been tortured with a jackhammer, and electrodes had been inserted in his anus, when he was detained in 1985.

He named his alleged chief torturer as a Van Loggerenberg, who was still a senior policeman in Worcester

Dyanti, who was arrested for his involvement in the civic body, said he had been detained at security police offices, where he was subjected to "excruciatingly painful" torture.

A tube had been placed over his face while electrodes were attached to his fingers and toes "I had convulsions I could feel the shock waves The pain was beyond description After shocking me Van Loggerenberg removed the tube from my face. I was screaming and calling for my father."

Dyanti said he was praying in Xhosa while an electrode was inserted deep into his anus and he was again shocked "When they removed the wire I was crying... Then they took off my trousers and switched on this jack-

hammer. I thought my intestines were going to come out."

Dyanti said Van Loggerenberg had then summoned a Dr Van Heerden to attend to his injuries.

Van Heerden, believing Dyanti to be near death, allegedly told the policemen to insert porridge in his mouth and nose so that it would look like he had been asphyxiated

However, Dyanti's recollection of what happened next was vague. "They took me to a van. I do not remember if I was taken to hospital."

He was later charged with possession of AK-47 rifles and arson and appeared in court

Although acquitted, he was again detained in 1986 under the state of emergency. A few months later, however, he was rushed to hospital together with fellow activist Trevor Manuel, now finance minister, with suspected poisoning. "We were all sick. My neck was swollen. Then it was discovered that we had been poisoned."

At a news briefing later, commissioner Dr Wendy Orr said there was a growing move among doctors for the medical profession to launch its own truth commission to probe the activities of members during the struggle against apartheid — Sapa.

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Horror tale of torture with a jackhammer



JOHN YELD reports from Worcester

IN some of the most horrifying testimony of torture yet heard by the Truth Commission, a former Worcester civic activist told how in 1985 security policemen had abused him with a jackhammer-type of instrument and electric cords in his anus.

Feeling close to death and unable to speak after the torture, he had heard a Worcester medical practitioner tell the policemen they could disguise his death by stuffing porridge in his nose and throat to make it look as though he had choked and suffocated.

These people (security police) were so evil you could liken them to Satan himself," Amos Dyantyi of Zwelethemba township outside Worcester told the commission's human rights violations committee on the first day of its three-day hearings here yesterday.

He alleged that while being held in detention under the state of emergency regulations in 1987, he and other activists - including current Finance Minister Trevor Manuel - had been poisoned. They had been hos-

pitalised as a result. About 250 people in the hall of the Solange Teachers Training College listened in shocked silence as Mr Dyantyi, a former civic organisation leader and ANC activist, gave graphic details of his experience at the hands of Worcester security policemen, led by a Lieutenant van Loggenberg.

Mr Dyantyi said he had been taken blindfolded and handcuffed in a car to an unknown place.

"They put a tube over my face - it was difficult to breathe. They took electric wires and I was connected to this - I had convulsions I could feel the shock waves in my body."

"This was happening on my fingers and toes. A person who has not had that done, cannot imagine it - it's beyond description."

"I was screaming. I was shouting for my father. I was crying in pain because it was excruciating."

"They turned me around. He (Van Loggenberg) opened my trousers at the back and took the wires and put them deep into my anus. This continued for quite a long while."

"I prayed so hard but they didn't listen to me. He said he was going to show me."

The policemen had then taken an instrument similar to a jackhammer used on construction sites, "with very sharp iron points."

"They took off my trousers," Mr Dyantyi said, before stopping briefly to drink water. "Please, I apologise for my expression of these emotions."



GRUESOME DETAILS: Amos Dyantyi, right, testifies before the Truth Commission. On the left is briefer Sallvon Fransman

"Then they switched on this jackhammer - it was used to torture me."

"At the same time the plastic tube was over my mouth, so even if I tried to scream you couldn't hear."

"It felt as though my intestines were going to come out. I was certain I was going to be disembowelled."

The security policemen had then realised that he was close to death and had taken him back to town and had thrown buckets of water on him in an attempt to revive him.

A doctor, whom he named as a Dr Van Heerden, had been called and had found him with his tongue hanging out. He had

Accused doctor still practising

THE Worcester doctor who allegedly told security police how they could disguise a tortured prisoner's likely death as still in private practice in the Boland town.

He was notified by the Truth Commission beforehand about Amos Dyantyi's allegations and was sent a copy of the relevant part of his written statement to the commission, commissioner Wendy Orr told a media conference after yesterday's hearings.

The commission's deputy chairman, Alex Boraine, who presided at the hearings, said that it was only an allegation and that the commission would have to investigate further.

"The man (Mr Dyantyi) who gave evidence was virtually unconscious, close to death (at the time) - I wouldn't like to accept what he said until I've spoken to the doctor," he said.

Whites 'controlled' Ashton blacks' lives

JOSEPH ARANES

Staff Reporter WORCESTER - The lives of black people living in Ashton were controlled and regulated from the cradle to the grave by the small but closely knit white community, the Truth Commission has been told.

Mike Weeder, who was the priest at St Paul's Church in Zolani in 1989, said people's experiences were directed by what appeared to be collusion between local authorities.

He said several Boland towns, although unequally developed both socially and economically, all shared common features like segregated hostels and other municipal facilities.

"At the Ashton police station senior officers were all white and here racism was experienced in its most violent forms both in terms of verbal and physical abuse."

"The uprising in the Boland is found in poverty and extreme social disadvantages of black Bolanders. The history of neglect by local authorities along with the problems of unemployment, overcrowding and high rents made this area a timebomb waiting to explode."

He said in 1990 the country was at the crossroads and the hope of millions of people were raised for a peaceful transition to a new order.

"But when the black Bolanders realised that there were those who were not prepared to change, they embarked on a series of non-violent actions."

"Many months later they emerged from it bloodied, brutalised but immensely proud that God had led their exodus."

"Reaching the other side of the repression they knew for themselves that the days of baasskap were over and that they had helped bury it."

POLICE TOLD TO FORCE-FEED PRISONER

(252)

CP 25/6/96

Leader thought he was dead after torture

WORCESTER: A civic leader in the Zwelethemba township were told the TRC yesterday how he was tortured by security police and of an attempt to poison him while he was in Victor Verster prison. Staff Writer **ROGER FRIEDMAN** reports.

Zwelethemba civic leader has suggested a local doctor told the security police to force-feed him porridge so that if he died it would appear he died of a physical ailment.

Mr Amos Dyantyi told the Truth and Reconciliation Commission here yesterday that after being arrested in 1985 he was so severely tortured he thought he was dead.

Among the methods of torture he was allegedly subjected to by security policemen, headed by a Mr Loggenberg, was having electrodes inserted in his anus and the power switched on.

Then, with his head covered by a rubber tube, his tormentors went to work on him with an imple-

ment Dyantyi described as similar to a jack-hammer.

"Even if I tried to scream, nobody could hear me properly. I felt as if I was being disembowelled. Those people were so evil, you could liken them to Satan."

"A person who has never felt that pain can never know, especially if it is done by a merciless person. It is beyond description. I was crying in pain. I was praying in my own language."

The police were afraid they had killed him, Dyantyi said. He could not speak. "Although I was conscious, physically I was dead."

He was examined by a Dr Van Heerden, who apparently told the police to take him to hospital with

a mug of porridge. "He said: 'You must pour porridge into his mouth and into his nose.' Their mistake was that they thought I was dead."

But Dyantyi did not die, nor was this the end of his ordeal. He was arrested again in 1986, and held in Victor Verster where, he said, an attempt was made to poison him, a Comrade Fesi and then-activist Mr Trevor Manuel (now Minister of Finance).

After several operations in Groote Schuur and Somerset hospitals he was finally able to return home to Zwelethemba.

"If I could just see those people if they could come forward and confess, I think everyone could be relieved. The pain we felt was just like cancer," Dyantyi said.

After the hearing yesterday, TRC commission deputy-chairperson Dr Alex Boraine said Dyantyi's story would be investigated.

'He has stars on his shoulder ... and I am nothing'



PAINFUL MEMORY: Mr. Shu-Eib Karriem was a student representative council member in June 1985 when he was arrested and tortured by police. Today he has stars on his shoulder, "and I am nothing". Karriem was one of the first witnesses to address the Truth Commission in Worcester. **PICTURE: BENNY GOOI**

Kahn welcomes appointees

(252)
HENRY LUDSKI
25/6/96

WESTERN Cape attorney-general Mr Frank Kahn has rejected criticism by senior white male lawyers about the way affirmative action has been approached by the Justice Department

Kahn, who resigned from the Society of State Advocates earlier this year when it first threatened to go to court to stop the appointments, said colleagues who were pushing ahead with industrial court and legal action were being "short-sighted"

In terms of the first round of affirmative action appointments announced by Justice Minister Mr Dullah Omar over the weekend, Kahn's Cape Town office gets its first black deputy attorney-general and its third woman senior state advocate

Kahn has welcomed the appointments of Mr Percy Sonn and Mrs Tessa Heunis saying "Representivity must strengthen the arm of the law by bringing fresh insights and thinking into the prosecutorial process. Whereas white male advocates have done a sterling job, women and black professionals should be represented in the judicial system"

The issue should not be handled in a way which created "unrealistic expectations" or the perception of being "obstructive to career advancement", he said

He confirmed the appointments of Miss Lucy Lochner and Mrs Gaynor de Wee as junior advocates as "women are grossly under-represented in my office"

Heunis, commenting on her appointment, said the AG's office had been predominantly an "enclave of the white males" it's refreshing to see that the Broederbond isn't running the country any more, and that English-speaking women can finally be given a chance

Said Sonn "I can make a meaningful contribution to the AG's office, not only because of my experience but also because I bring representivity to the department"



BARRIERS BROKEN: Newly-appointed senior state advocate Mrs Tessa Heunis, pictured here with attorney-general Mr Frank Kahn, has finally broken through what she described as a "glass ceiling" of white male domination - after 10 years of "slowly" working her way up through the ranks in the office of the Western Cape attorney-general

PICTURE: ALAN TAYLOR

Truth body wins 'advance notice' appeal

Star 26/6/96

(252)

OWN CORRESPONDENT AND
STAFF REPORTER

There is no obligation on the part of the Truth and Reconciliation Commission to inform alleged perpetrators of gross human rights violations ahead of any hearing in which they could be implicated, the Cape Town Supreme Court ruled yesterday.

Mr Justice Friedman, considering an appeal by the commission, rescinded an earlier obligation imposed by Mr Justice King that it had to give advance notice to any person implicated as a gross violator of human rights at a commission hearing.

The ruling opens the way for the commission to hear evidence

about the poisoning of Eastern Cape activist Siphwo Mthimkhulu from Mthimkhulu's mother.

Joyce Mthimkhulu will testify today at a special hearing in Port Elizabeth.

In his earlier judgment, Judge King ordered the commission to allow former brigadier Jan Abraham du Preez and former general Nicolaas Jacobus Janse van Rensburg access to TRC documents which may incriminate them, and adequate notice of the hearing at which they may be implicated. The full bench hearing found that Judge King's judgment was "incorrect".

In April, Joyce Mthimkhulu, the mother of slain activist Siphwo Mthimkhulu, was to give evi-

dence before the commission concerning her son's disappearance and death. The two ex-policemen were informed shortly before the hearing that they would be implicated in Siphwo's death, and their application for timeous notice and access to statements was brought successfully in the Cape Supreme Court.

Three weeks ago the ex-policemen brought an application for the commission to be found in contempt of court, claiming the commission had not complied with Judge King's order.

The commission was then interdicted from hearing Mthimkhulu's evidence. The contempt application will be heard on August 7.

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Retired police general joins group of 22 sounding out amnesty

By ROBERT BRAND

A former top police general has joined the queue in this week's breakthrough approach to the Truth and Reconciliation Commission by a group of 22 policemen.

It emerged yesterday that the retired general contacted the policeman's lawyer since publication of reports that the group had written to the commission stating their intention to apply for amnesty.

Lt-Gen Bertus Steyn, a former senior security policeman and area commissioner for Pretoria, approached attorney Jan Wagener yesterday with a view to joining the amnesty bid, The Star understands.

The letter to the commission, sent with the blessing of former police minister Adriaan Vlok, former police commissioner Gen Johan van der Merwe and several other retired generals, was widely hailed yesterday as a breakthrough in the commission's quest to unearth the secrets of the past.

Although falling short of an actual confession or amnesty application, analysts said, the move could motivate other members of the former security forces to apply for amnesty.

The policemen listed 20 incidents for which they might seek amnesty, including the 1988 bombing of Khotsiso House in Johannesburg and the 1985 murders of the so-called Pebco Three in

Port Elizabeth.

Wagener said the group included several high-ranking officers, including a brigadier and "a few colonels and majors". They are serving and retired policemen.

Move may motivate others

Wagener stressed that none of the policemen had confessed to any crime and that they had not yet decided to apply for amnesty.

"Nobody is confessing about anything yet. There are no admissions - not from Vlok, not from the generals, not from individual

members."

He said the group had approached him for general advice on the amnesty process and he had drafted the letter, and including certain incidents "which could be come relevant if they decide to apply for amnesty", Wagener said.

He said Vlok and the generals' involvement at this stage amounted only to a promise of support should any of the 22 policemen decide to apply for amnesty.

Van der Merwe also denied that the generals had accepted responsibility for human-rights violations. "We had merely stated that we were prepared to provide background and be supportive in the possible amnesty application of a group of former and serving

policemen," he said.

But he added: "Should this process reveal that one or several generals should accept responsibility, they will be prepared to do so."

In such an event, the generals concerned would also consider applying for amnesty, Van der Merwe said.

Commission chairman Archbishop Desmond Tutu said the policeman's approach would be handled "carefully and correctly" in consultation with the chairman of the amnesty committee, Mr Justice Hassen Mall. Should the policemen decide to apply for amnesty, they would be treated "dispassionately and even-handedly", in the same way as any other amnesty applicant, he said.

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Widening net may have spurred letter

Stephané Bothma

PRETORIA — Court testimony about the involvement of former senior security policemen in murder and dirty tricks might have prompted this week's letter to the truth commission on behalf of former and present senior officers, legal sources speculated yesterday.

The letter from an attorney representing 22 former, as yet unknown, SA Police officers outlines 20 crimes including the 1985 Pe-bco Three murders at Port Elizabeth and the bombing of Khotso House and Cosatu House.

Commission chairman Archbishop Desmond Tutu said yesterday the attorney wrote that the officers were prepared to approach the commission with amnesty applications. He said the attorney told him this was supported by former law and order minister Adriaan Vlok and various former police generals, who "will accept,

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where applicable, collective responsibility and who may also apply for amnesty"

Tutu said reports that the generals themselves had written to the commission were not correct.

Several witnesses called by the State to testify against former Vlakplaas C10 commander Col Eugene de Kock in the Transvaal Supreme Court have implicated former police generals Krappies Engelbrecht, Basie Smit, Johan le Roux, Bertus Steyn and Nic van Rensburg in the unlawful killing of political activists and in fraud.

De Kock publicly warned last month that he was finally ready to "spill the beans" on the machinations of the security branch.

Transvaal attorney-general Basil D'Oliviera has said he is ready to execute warrants of arrest against several top former policemen as soon as his staff situation allowed him to proceed with the "first real third force trial".

(252)
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Sapa reports that former anti-apartheid activist Shirley Gunn, accused by Vlok of bombing Khotso House in 1988, will ask the commission for a copy of the letter by the 22 officers. She is suing Safety and Security Minister Sydney Mufamadi and Vlok in his personal capacity for R1m for defamation and wrongful detention. Moosa said Gunn would oppose any amnesty application by the policemen and would name them as co-defendants in her civil claim.

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Comment: Page 10

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Cape Town bombing in list of police admissions (252)

JOHN YELD
on the Truth Commission
APR 26/6/96

THE bombing of Community House in Cape Town is among the crimes which senior policemen are apparently admitting to as they consider applying for amnesty.

Other acts they are said to admit to include the bombing of the ANC offices in London, and the murder of young civil rights lawyer Beki Mlangeni through booby-trapped security policeman Dirk Coetzee. These are reported to be among more than 20 criminal acts listed in a letter to the Truth Commission by Pretoria attorney J. Wagener on behalf of 22 serving and former policemen, exploring possible amnesty applications to the commission.

In addition to high-profile criminal acts like the bombing of Khotso House, Cosatu House and the murder of the "Pebo Three" activists in Port Elizabeth in 1985, the list referred to in the letter is understood to include:

- An incident in which a policeman and his wife died at Hammanskraal police training camp in 1988.
- The death of a man at the police's notorious Vlakplaas training ground in 1991.
- The deaths of young ANC members attempting to use booby-trapped hand grenades.
- A limpet mine attack on the homes of policemen in Gauteng during the 1980s.

Other incidents for which the police are reportedly responsible are explosions in Atteridgeville, Mamelodi and Bophuthatswana in 1987, various cross-border raids by police units, explosions at Khanya House, Joubert Park, J.G. Strijdom Hospital, Councillors Hall in Soweto, electricity sub-stations at Sandton and Randburg, and at various homes of ANC members and at various homes of ANC Commission chairman Desmond Tutu.

announced that the letter contained the name of 22 serving and former policemen, and it is understood that several more are ready to join them. Their applications will all be supported by former Minister of Law and Order Adriaan Vlok and by former top police generals and commissioners Mike Geldenhuys, Johan Coetzee, Johan van der Merwe, Basie Smit, Bertus Steyn. The generals are reported to have said they would accept collective responsibility for the actions by the police, yet that the generals will themselves apply for amnesty, although there is no indication that the generals are prepared to apply for amnesty from the Commission.

It is understood that those named in the lawyer's letter are concerned that they will not be treated fairly by the commission, and want an assurance that it will act even-handedly. This means that ANC members and those of other liberation organisations granted indemnity must also re-apply for amnesty.

• Truth Commission reports - page 5

Family of councillor tell of 'merciless' township killing

JOSEPH ARANES
Staff Reporter

COMMUNITY councillors were often regarded as informers and outcasts by the residents they opted to serve, the Truth Commission heard at its hearing in Worcester

Many of them were either necklaced or hacked to death by elements within the anti-apartheid organisations in the townships

Zolani community councillor Douglas Zweni, 62, was one such person - labelled by his community as being an informer and part of the Amasolomzi vigilante group. He was hacked to death and his body dumped in a field on April 25, 1986

Yesterday his wife Nolusapho and his son Malinge told the Worcester hearings of the commission that their lives were destroyed after Mr Zweni was murdered

Mr Zweni said he was 16 at the time of his father's death. Township youths had often told him that his father was an informer and a sell-out

"On the day of his death, the area was bustling with activity and I knew something was wrong. My father had come home but had left again without telling us where he was off to," he said

"My mother sent my sister to look for him at our aunt's place but along the

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**TRUTH
COMMISSION**



way she found him lying in a field. His face was gashed open, his body was covered in blood and knife wounds, his left leg was broken and a large rock was lying near his head

"Police also found a large knife and a blank dompas (pass book) underneath his body"

Mrs Zweni said that when she heard the news she immediately went to the scene and saw his clothes were covered with blood. "You could see he was mercilessly killed"

She said that was when her life became a bitter struggle

"My children were all young when he died and I had to battle to get them through school, to clothe and feed them and my health also suffered. It was a traumatic time and it affected my mental state

"To make matters worse the community labelled us as informers and we were persecuted and called all sorts of names by the residents"

Police arrested four men but they were acquitted on the murder charge and found guilty of malicious damage to property and sentenced to community service for two years

Mr Zweni said he had no problems with the people of Zolani and thanked God that he was still alive after the ordeal

(252)

Prior notice rule quashed

Full bench of Supreme Court overturns decision on access to documents

DENNIS CAVERNELS
Supreme Court Reporter

THE Truth and Reconciliation Commission (TRC) is not obliged to give two senior policemen access to documents, or advance notice of a hearing which may implicate them in the death of a student activist, a full bench of the Cape Supreme Court has ruled.

This was the judgement yesterday of Judge President Mr Justice G Friedman, Mr Justice I G Farlam and Mr Justice D H Van Zyl, who set aside a judgement in April by Mr Justice E L King, after an appeal by the commission.

In his judgement, Judge King ordered the commission to allow former brigadier Jan

Abraham Du Preez and former general Nicolaas Jacobus Janse Van Rensburg access to TRC documents, which could incriminate them, and adequate notice of the hearing at which they might be implicated.

The full bench hearing yesterday found that Judge King's judgement was "incorrect".

In April, Joyce Mthimkulu, the mother of slain student activist Simphiwe Mthimkulu, was to give evidence before the commission concerning her son's disappearance and death.

The two ex-policemen were informed shortly before the hearing that they would be implicated in Simphiwe's death, and their application for timeous notice and access to statements was brought suc-

cessfully in the Cape Supreme Court.

Three weeks ago the ex-policemen brought an application for the commission to be found in contempt of court, claiming the TRC had not complied with Judge King's order. The commission was then interdicted from hearing Mrs Mthimkulu's evidence.

The contempt application will be heard on August 7.

After the contempt application was brought, the TRC filed an application for condonation - permission to file for leave to appeal against Judge King's judgement after the time allowed.

Last week arguments for condonation and the merits of the application for leave to appeal

were heard.

In yesterday's judgement, condonation was allowed, and Judge King's judgment was set aside.

The judges found that it was unnecessary for the commission to give the ex-policemen prior notice of the hearing, or to give them advance notice of what witnesses were likely to say.

The judges also found "there is no obligation on the commission to give notice before the hearing to any person who it has reason to believe, either from a statement in its possession or otherwise, will be implicated as a perpetrator of gross human rights violations".

They said if a person was implicated in crimes, and if the

commission intended making a finding against that person, he or she could make representations to the commission, or give evidence at a hearing.

Anyone implicated in crimes at TRC hearings, who intended making representations to the commission, would then be entitled to copies of witness statements and a transcript of the witnesses' evidence against him or her, the judges found.

The ex-policemen were ordered to pay costs.

Jeremy Gauntlett, SC and Donald Jacobs, instructed by the State Attorney appeared for the TRC. Louis Visser, Barnard Knoetze, and Ludwig Visser instructed by Jan Waegener appeared for the retired policemen.

Many hurt in 'senseless shooting sprees by police'

JOSEPH ARANES
Staff Reporter

IN 1990 the coloured community of Oukamp and the black residents of Zolani united to fight against the continued racism in Ashton - and once more the police retaliated with brutal force, the Truth Commission heard in Worcester yesterday.

Karel Opperman was on his way home when two policemen opened fire and shot him in the face. He was blinded in the left eye.

Mr Opperman told the hearing that on the morning of June

30, 1990, the area's women held a protest march in the town and many of the marchers had been arrested for attending an illegal gathering.

"I was unaware of the events and that afternoon Oukamp was very calm when I walked home from a friend's place. As I approached the corner of the street where I live, I saw two policemen pointing their guns at me and felt a burning pain in my face.

"Blood was running down my face and I realised I had been shot."

He said he ran home and as he washed his face, he col-

lapsed. His family members took him to Montagu Hospital but they were told to rush him to Tygerberg Hospital.

"At the hospital I was threatened by the police but luckily I managed to see a doctor who ordered the hospital security staff to look after me after he tended to my eye."

Mr Opperman said he was a mechanic and found it difficult to work under cars using only one eye. He told the commission that his biggest fear was losing the sight in his other eye.

"If this should happen I don't know how I would take care of

my wife and four children."

He told the hearing that he often saw the policemen responsible for his blindness, but always avoided them as he would not mind hurting them himself.

Commissioner Denzil Potgieter said the commission had looked into the events that took place in Ashton and had found it very disquieting to note that police had on many occasions gone on senseless shooting sprees injuring innocent people. "The commission has limited resources but we will see how we can help you and the other victims of the area."

Shot 12-year-old was bound to bed with leg irons

BEFORE Wessel London could celebrate his 12th birthday, he was shot by the police and bound with leg irons and shackles to a hospital bed while he tried to recover from his injuries.

He was another victim of the uprising that spread like wild fire in the Boland town of Ashton during the mid-1980s.

Mr London told the Truth and Reconciliation Commission's hearings in Worcester yesterday that the people responsible for shooting him, still lived happily in Zolani, while he and a number of other people carried the scars of past conflicts.

"Whenever I see them, I know I still hate them because of what they did to me, my family and the community. But although I still hate them, I don't show it and only communicate peacefully with them as if I have been reconciled," he said.

He said the only reason he could think of for the police shooting him was that they had thought all the residents of Zolani were part of the struggle.

Mr London said the police and the Amasolomzi, a local vigilante group, also had arrested and detained his mother, brother and sister and assaulted them as well.

Quiet day with friends shattered by police beating

A GROUP of friends had hoped to spend a quiet day listening to music and drinking beer, but their plans were shattered when police burst into their home and beat them up.

Tutu Lengs of Zolani told the Truth and Reconciliation Commission in Worcester that he was at home with his wife and three friends.

"It was December 1985 and we were sitting and enjoying ourselves with some beer and listening to good music when two police vans stopped and parked in front of the house.

Two policemen just forced their way into the house without asking. Behind them were vigilantes known as the Inkathas. They were working hand in hand with the police and were there to suppress the community.

Mr Leng said neither he nor any of his friends belonged to any political organisation. They were just ordinary people who liked to enjoy themselves.

"The Inkathas were carrying knobkerries with big heads and one of them hit me on the head. The others joined in and as

I fell I lost consciousness. When I woke some time later, the house was empty.

The police had taken his wife and friends away.

"When I regained consciousness, I thought I was paralysed because I couldn't make a move or stand up. Fortunately, a neighbour came to help me and took me to the Montagu Hospital.

"Here they only stitched up my arm and sent me home."

He said he was later helped by the Montagu Ashton meenskap (MAG) project and was taken to a private doctor

who was reluctant to help him.

"This doctor was very reluctant to examine me and was forced to do so by the Inkathas, who was part of the struggle. The doctor gave me painkillers and referred me back to the hospital for X-rays."

He said the organisation also helped him to lay a charge against the police and the vigilantes but nothing ever came of the matter.

"The only response I got was a letter from the Ashton station commander stating that the case had been dismissed."

Court rules in favour of truth commission

(252) BO 26/6/96
Linda Ensor

CAPE TOWN — A full bench of the Cape Supreme Court has found that the truth commission is not required to notify alleged human rights violators that witnesses intend testifying against them.

The commission was also not obliged to give alleged violators details of the allegations against them.

The judgment, on an appeal by the commission against an earlier ruling that it had to give adequate notice and documentation, removes a major administrative obstacle to its work. It also addresses concerns about potential threats to witnesses' security.

The head of the truth commission's investigative unit, Dumisa Ntsebeza, welcomed the judgment, saying it would greatly facilitate the work of the commission, which had to cover 33 years of apartheid rule in 18 months. "To have to give 30-day notices would have made our work impossible."

The commission had appealed against a judgment in favour of two retired security policemen, Jan du Preez and Nicolaas Janse van Rensburg, who complained they had not been given adequate notice to rebut the testimony of Joyce Mtinkulu, whose son Siphwo disappeared in 1982 after allegedly being poisoned in detention. The hearing of Mtinkulu's evidence, postponed on April 15 pending the outcome of the case, will be heard at a special sitting in Port Elizabeth today.

Continued on Page 2

Commission (252)

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BO 26/6/96
The judgment opens the way for confessed police hit squad commander Dirk Coetzee and former Cape Town University neurology professor Frances Aines to give evidence, probably tomorrow, on the case.

Judge President G. Friedman, with Judge DH van Zyl and JC Piliam, found the original judgment on the former policemen's application to be incorrect. The commission was not obliged in terms of the National Unity

and Reconciliation Act, common law or the interim constitution to give notice or information to the thousands of potentially implicated persons.

The commission was obliged to give notice to alleged perpetrators only if it contemplated making a decision detrimental to them, after a hearing which implicated them. The implicated person should be given information concerning his alleged involvement so he could answer the allegations. This included witnesses' statements and a transcript of the evidence.

The judges rejected the former security policemen's claim that they had a right to rebut allegations instantly.

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Top cops come in from the cold

Sowetan 26/6/96 (252)

By Rafiq Rohan
Political Correspondent

Police generals admit responsibility for bombings and Pebco deaths

PRESIDENT Nelson Mandela yesterday welcomed the move by 22 senior members and former members of the police to accept responsibility for apartheid era crimes

Mandela said the move by the generals would ease the task of the Truth and Reconciliation Commission

"I am sure many people will welcome the initiative taken by the generals," he said "There is an advantage in political organisations and members of the former government going to the TRC and saying 'We take responsibility for having adopted this policy and instructing those who were working under us to commit these offences'"

Yesterday TRC chairman Archbishop Desmond Tutu confirmed that a letter had been received from a lawyer representing 22 members and former members of the South African Police intending to approach the Amnesty Committee

"He has told me their actions are supported by Mr (Adriaan) Vlok (former minister of law and order) and various former generals of the SAP who will accept, where applicable, collective responsibility and who may also apply for amnesty," Tutu said

It has been reported that the police generals will accept responsibility for the bombing of Khotso House and Cosatu House in Johannesburg, the blowing up of the Randburg power station and the killing of the Eastern Cape "Pebco Three"

Former police commissioner General Johan van der Merwe said



General Johan van der Merwe is one of the top police officials who approached the Truth and Reconciliation Commission about human rights abuse committed by them during the apartheid era.

yesterday that he and the other generals did not apply for amnesty but had merely indicated in the letter that they were prepared to provide infor-

mation and support amnesty applications of "a group of former serving policemen" The generals would apply for amnesty if necessary.

'Security police played recording of my son screaming for me'

(252) CT 26/6/96

JACKIE CAMERON
CRIME WRITER

SHIRLEY GUNN is still haunted by the memory of two middle-aged policemen telling her she was a terrible mother while playing tape recordings of her frightened 16-month-old son screaming for her

Security policemen detained Gunn and her son, then separated them (putting young Haroon in a place of safety) and subjected her to this psychological torment to try to force her to confess to a bombing which she is adamant she did not carry out

This is one of the reasons she is determined to go ahead with a criminal and civil case against former minister of law and order Mr Adriaan Vlok and any other people who were involved in an alleged plot to frame her

Gunn, a trained ANC soldier, was detained for more than 60 days after police announced that she was seen entering Khotso House, Johannesburg in 1988, with a suitcase — shortly before a bomb blast in which more than 20 people were injured

In 1994, Gunn laid charges against Vlok. Police agreed to investigate, but have yet to show any sign of progress in their investigation, she said. She has also started civil proceedings to claim R1-million damages from Vlok

In a new development yesterday it emerged that a number of police generals — including the former national police chief General Johan van der Merwe — had signed a letter to the Truth and Reconciliation Commission in which they revealed they were "looking at the possibility of amnesty"

The letter is understood to have listed a number of crimes, including the bombing of Khotso House, Cosatu House, an electricity substation in Randburg and the murders of three Port Elizabeth Black Civics Organisation (Pebco) activists



STILL TORMENTED: Former ANC soldier Ms Shirley Gunn, who was detained without trial and blamed for the bombing of Khotso House in Johannesburg, with her son Haroon, 7, and two-year-old daughter Haanee. Haroon, 16-months-old at the time, was detained with his mother. Gunn says she and Haroon are still suffering from post-traumatic stress disorder after the detention ordeal

PICTURE THEMBINKOSI DWAYISA

Gunn is now demanding access to the letter, and will go to the Constitutional Court if necessary to try to obtain a copy

Her lawyer, Mr Waheed Badro-dien, said he believed Gunn had enough evidence to go to court now, but that information in the letter may strengthen her case

Gunn says she will also testify

about her suffering at the hands of the police before the Truth and Reconciliation Commission

She says, of the letter "If it is true that they (police generals) are admitting responsibility for the bombing, then there is not a single sense of remorse. This whole issue goes far deeper than just my case"

Nevertheless, Gunn believes

the people responsible for the ordeal she and her son were put through should be made to "pay" in some way

Gunn and seven-year-old Haroon are still suffering from post-traumatic stress disorder caused by the psychological anguish they experienced six years ago, she says

New salaries for state legal workers released

Souratan 27/6/96

(252)

JUSTICE Minister Mr Dullar Omar yesterday released the new salary structures for state prosecutors, advocates, legal administration officers, and members of the state attorney's office.

The Public Service and Administration Department forwarded the new grading system to the Justice Department last week.

All allowances had been abolished and incorporated into the new salaries, Omar said in a statement.

Warning of possible delays in the implementation of the new structures, Omar said personnel who did not receive their improvements immediately would

have their increases backdated to July 1.

State advocates received the highest average percentage increase of 14.58 percent, with increases ranging from 9 percent to 24 percent.

Prosecutors received increases ranging from 10 to 24 percent, with an average increase of 13.78 percent.

Legal administration officers received increases of between 9 and 24 percent (an average of 13.83 percent) and members of the state attorney's office received an average increase of 13.70 percent, with increases ranging from 9 to 25 percent. — Sapa

Murder probes may have triggered amnesty moves

20 27/6/96 (252)

Stephen Laufer

THE impending arrests of several former SAP special branch officers implicated in at least 35 murders during the 1980s, and investigations against others, lie behind the letter informing the truth commission that 22 serving and former police officers are contemplating applying for amnesty.

Transvaal attorney-general Jan D'Oliveira said yesterday that it was "too coincidental" that the list of cases mentioned in the letter to the commission mirrored the cases in which his special investigation unit had made greatest progress recently.

In many cases, investigations had proceeded far enough to make arrests and charges imminent.

The letter to the truth commission said the policemen were considering applying for amnesty in cases in which the special branch officers were believed to have murdered at least 26 people. The incidents listed included

two massacres in which 18 young Mamelodi residents were murdered, the bombing of the ANC's London office, the "Pebco Three's" disappearance and a number of cross-border raids.

The officers named in the lawyer's letter included at least one brigadier and other senior officers. "About half a dozen" were still serving in the SAPS, while others had either been suspended or took retrenchment packages when it had become clear they were under investigation. Others had taken retrenchment before falling under the attorney-general's scrutiny. Policemen convicted in the Motherwell car bombing case and some facing other charges were also listed.

The letter to the truth commission said prospective applicants had the support of former law and order minister Adriaan Vlok and seven retired police generals.

Arrests could be delayed by a staff

Continued on Page 2

Police

Continued from Page 1

shortage in the attorney-general's office, which had received no additional legal personnel despite being appointed to do the special investigations. A fifth of advocate's posts in his office were vacant. Arrests would take place only when lawyers were available to respond to defence challenges, D'Oliveira said.

Special branch officers implicated in the crimes and mentioned in the letter served in Pretoria, the Johannesburg area, the SAP technical division, the explosives and bomb disposal unit,

Pretoria special branch headquarters, and possibly in Bophuthatswana, where a massacre took place.

Investigators believe the 18 Mamelodi youths might have been lured into traps by special branch officers, who then killed them.

The mother of one of the young men killed in a KwaNdebele massacre said recently that her son and his friends had believed they were leaving SA under the auspices of the ANC's military wing, Umkhonto we Sizwe. She had gone to KwaNdebele after receiving news of his death, only to find that the young men had all been burned beyond recognition after being shot.

See Page 6

Attorneys accused of 'money laundering'

Susan Russell

INCREASING numbers of SA attorneys were getting involved in money laundering worth millions of rands, according to evidence obtained by a Transvaal Law Society-initiated independent inquiry into complaints against attorneys.

Retired magistrate Willem Krugel — the one-man commission — said yesterday he had received evidence that attorneys were involved in money laundering, fraud and other criminal activities. There was also evidence of unethical conduct by some attorneys in handling third party claims and of col-

lusion between members of the profession, financial institutions and estate agents in property transactions.

Krugel received 110 complaints or allegations against attorneys. There were 14 complaints of unethical or dishonest conduct in handling third party claims, most of which police were investigating. While not all complaints could be linked to specific attorneys, there were allegations of money laundering against five individuals.

The commission was approached by financial institutions with evidence of money laundering. Krugel did not name the institutions because they gave evidence on condition of confiden-

20 27/6/96 (252)
tiality. The commission was also given supporting documents whose authenticity was confirmed under oath.

The names of those implicated could not be revealed yet because there had been no time for them to answer the allegations. There was also no legislation criminalising money laundering.

Krugel endorsed a suggestion that an interim "watchdog body" be set up to investigate suspicious transactions.

Transvaal Law Society president Esmé du Plessis said investigations into the allegations of misconduct were already under way. He said implicated attorneys represented fewer than 1% of the society's 5 185 members.

Security policemen labelled as torturers

(252) Bd 27/6/94

PORT ELIZABETH — Former security policemen Gideon Nieuwoudt and Cornelius Roelofse were named in the truth commission hearings in Port Elizabeth on Wednesday as the main torturers of student activist Siphwe Mthimkhulu.

Mthimkhulu disappeared in April 1982 after a short political career during which he was detained, allegedly tortured and harassed by the security police. His mother, Joyce Mthimkhulu, told the commission yesterday her son had been detained a number of times. Once, after returning from a spell in detention, he had told her how Nieuwoudt and Roelofse had tortured him.

She has twice been gagged by court orders and prevented from testifying. However, after

a full bench of the Cape Supreme Court on Wednesday found that the commission was not required to give prior notice to alleged human rights violators, she was able to testify.

Nieuwoudt's attorney Francois van de Merwe said after her evidence they would "be considering their options before deciding whether or not to take any action after the revelations".

Mthimkhulu gave the commission graphic detail of how her son had described to her how he had been chained naked in a cold room and Nieuwoudt had trampled on his neck and body before inviting Roelofse to do the same.

They had whipped him with electric cords and pipes "They demanded that he speak the truth Siphwe said he didn't

know what they wanted"

Mthimkhulu confirmed that this was the same Nieuwoudt who had recently been convicted of killing four of his colleagues in a massive car bomb blast near Motherwell.

After a six-month spell in detention — Siphwe's last — he told her that he had been tortured day and night.

"He said to me the police have finished me this time," she said. The young activist's words turned out to be prophetic.

Siphwe could not walk properly or eat. He could not urinate and had to crawl. After being moved to Grootte Schuur Hospital in Cape Town for treatment and tests, it was found he had been poisoned by a chemical called thallium. His body swelled up and his hair fell out.

Siphwe was moved back to Port Elizabeth's Livingstone Hospital from where he disappeared without trace. His physical condition was so bad that he was in a wheelchair.

Mthimkhulu also mentioned former security policemen Major Gen. Nick van Rensburg and Brig Jan du Preez.

She said that they had been implicated by her squad commander Dirk Coetzee in the planning of her son's murder.

She made an impassioned plea for Coetzee or his squad member Joe Mamasela or anyone else to tell her where her son's body was buried. "If they can show me where the bones of my child are, I will be grateful. They must say where they took him, what did they do to him and how" — Sapa.

Omar releases new salary structures ⁽²⁵²⁾

PRETORIA — Justice Minister Dullah Omar released new salary structures for state prosecutors, advocates, legal administration officers and members of the state attorney's office yesterday.

The public service and administration department forwarded the new grading system to the justice department last week.

All allowances had been abolished and incorporated into the new salaries.

Warning of possible delays in implementation of the new structures, Omar

said personnel who did not receive improvements immediately would have increases backdated to July 1.

State advocates received the highest average increase of 14,58%, with increases ranging from 9% to 24%. Prosecutors received increases ranging from 10 to 24% (average 13,78%).

Legal administration officers received increases of between 9 and 24% (an average of 13,83%) and members of the state attorney's office 13,70%, with increases from 9% to 25% — Sapa

White male now less dominant species in prosecuting circles

(252) Star 27/6/96

STAFF REPORTER

While the hallowed portals of the prosecutors' offices at the Witwatersrand Local Division of the Supreme Court have been neither exclusively white nor male for some time, the appointment of three women as deputy attorneys-general is set to dilute the upper echelons of the white male enclave even further.

Chann de Beer, Helene van Jaarsveld and Sharmen Ebrahim have been appointed as deputy attorneys-general for the Witwatersrand, and Elbie Jordaan has been appointed to the Pretoria Local Division.

Another post was recently founded in Pietermaritzburg.

Kevin Atwell, a spokesman for

the office of the Witwatersrand attorney-general, said there was still one empty deputy attorney-general post in his division, with other empty posts in regions around the country, including Kimberley, Cape Town, Grahamstown and Durban.

He insisted that the shortage of senior people in the Witwatersrand division had not delayed cases that should be going to trial, saying they had prioritised matters and less pressing issues had been set aside.

He did say that the relief in the division could be short-lived as justice department employees had until the end of the month to decide whether to take the re-trenchment packages offered so new vacancies could open up.

De Klerk stands by the generals

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BD 27/6/96

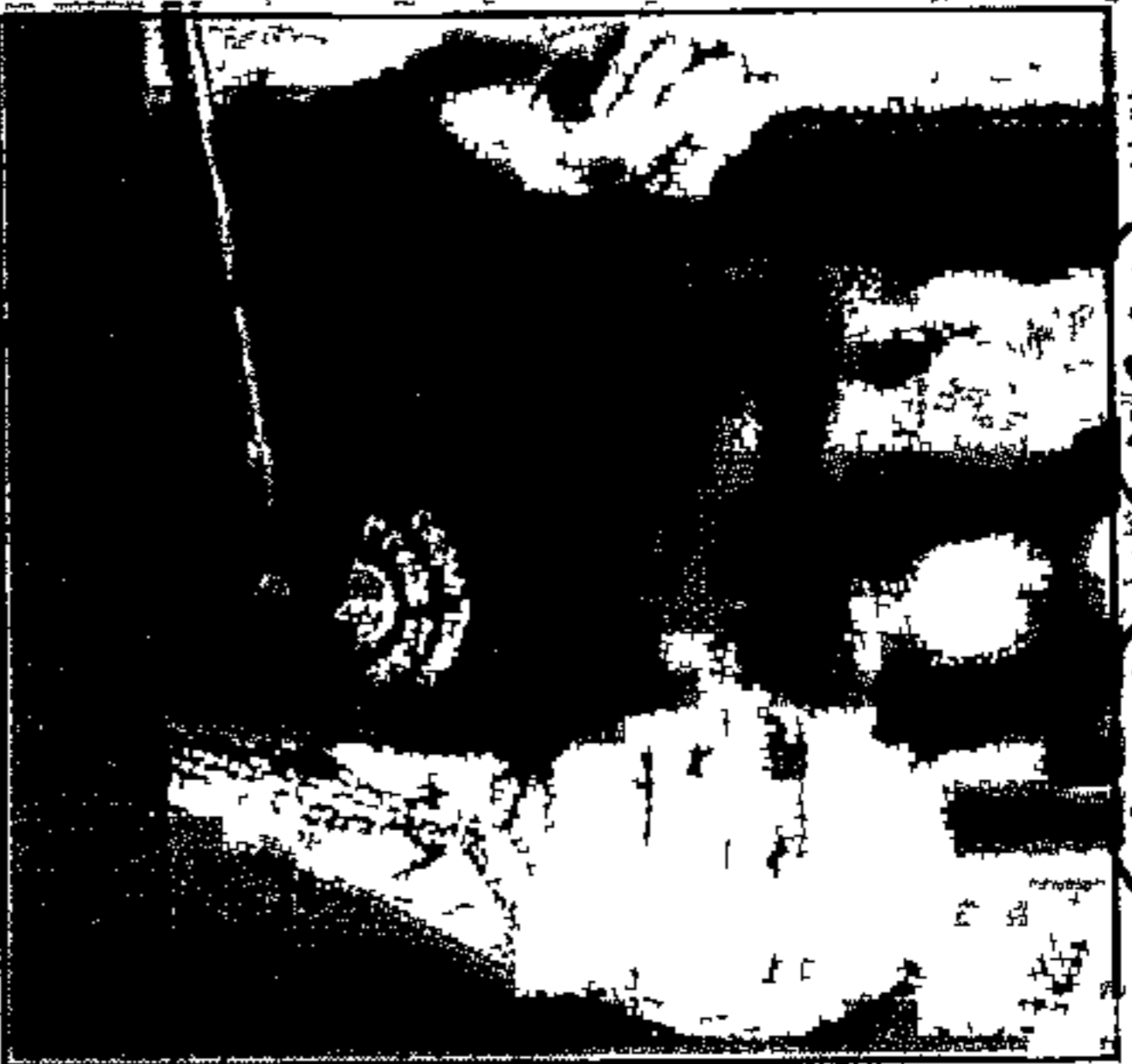
TYRONE SEALE
Political Staff

NATIONAL PARTY leader FW de Klerk will sign his party's Truth Commission submission that will defend former security forces members who strictly implemented counter-revolutionary policies.

Mr De Klerk says he accepts personal responsibility for the anti-revolutionary policies developed by the previous government. In the same way, he says, President Mandela should accept responsibility for his organisation's erstwhile commitment to the seizure of power by bloody revolutionary means.

But, he says, there is a difference between former security forces members who strictly implemented anti-revolutionary policies and those who used their own initiative in an "unreasonable interpretation" of these policies.

Speaking at a Cape Town Press Club breakfast today, Mr De Klerk was responding to the submission to the TRC of a statement by 20 top former police generals that they are prepared to accept collective



FW de Klerk

responsibility for certain human rights violations. These include actions previously ascribed to ANC operatives.

Mr De Klerk contradicted a statement two days ago by a senior National Party MP,

Johan Steenkamp, who said the generals were "free to do their own thing" and that Mr De Klerk's submission to the commission would not be on behalf of the previous government or the old NP.

"There is no question of us standing away from former members of the security forces who were implementing (counter-revolutionary) policies," Mr De Klerk said. Turning to the future of his party, Mr De Klerk predicted the NP would have a black leader one day.

He said his party was applying affirmative action internally, based on merit and experience, to ensure that its leadership reflected the NP support base.

Mr De Klerk said the time would come when the overwhelming majority of those who voted for the NP would be "black and brown and Indian", as well as most whites. "But in the final analysis, there will be a black or brown leader of the NP standing before you."

As a truly non-racial party, the NP would offer a political home to all South Africans who agreed on certain values, principles and policies.

Justice Department increases announced

CT 27/6/96 (252)

PRETORIA Justice Minister Mr Dullah Omar yesterday released the new salary structures for state prosecutors, advocates, legal administration officers and members of the state attorney's office

The Public Service and Administration Department forwarded the new grading system to the Justice Department last week

All allowances had been abolished and incorporated into the new salaries, Omar said in a statement

Warning of possible delays in implementing the new structures, Omar said staff who did not receive their improvements immediately would have their increases back-dated to July 1

State advocates received the highest average increase of 14,58%, with the increases ranging from

9% to 24%

Prosecutors received increases ranging from 10% to 24%, with an average increase of 13,78%

Legal administration officers received increases of between 9% and 24% (an average of 13,83%) and members of the state attorney's office received an average increase of 13,70%, with increases ranging from 9% to 25%

After consultation with the Minister of Finance, the new salary structure for magistrates had also been finalised, Omar said

"I wish to again express my appreciation to all personnel and magistrates for the patience they have displayed and for the further patience they have been called on to endure before they receive their well-earned increases," said Omar
— Sapa

for the past three months the
"huge clouds of dust" had covered

we cannot take off disregarding
what is happening around us"

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Truth body asks Mandela for 6 more months

Nov 28/6/96

(252)

More time needed to deal with mass of amnesty applications and requests to testify, says Tutu

ANDREAS VLACHAKIS

By ROBERT BRAND

The Truth and Reconciliation Commission has asked for an extra six months to complete its task

The TRC was given 18 months at its inception in November last year, but legislation allows the President to extend the deadline by a maximum of six months

Chairman Archbishop Desmond Tutu made the request when he handed the TRC's first interim report to President Nelson Mandela in Pretoria yesterday

Mandela said he could see no reason to refuse, but would consider the issue before deciding

Tutu said the commission needed more than the 18 months initially allocated to deal with a mass of amnesty applications and requests to testify

More than 1 000 amnesty applications had already been received, and the commission had been "inundated by people who want to tell their stories"

Transvaal attorney-general Jan D'Oliveira says the amnesty moves by 22 police officers backed by generals were linked to his own investigation into murders committed in the 1980s



President Mandela tries to keep a straight face after making a remark that has Archbishop Desmond Tutu breaking into laughter, along with other members of the Truth and Reconciliation Commission. As chairman, the archbishop had presented the president with the commission's first interim report and asked for an extension of its mandate.

CRIMINAL JUSTICE AGENCIES MUST BE FULLY INTEGRATED

FM 28/6/96

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Joint budget & planning imperative

In 1966, John Vorster sowed the seeds of discord in the criminal justice system when, on acceding to the Prime Ministership, he retained control of the police — for the first time separating law enforcement from the Ministry of Justice

It was personal power play Vorster had used the Justice, Police & Prisons portfolio to build his "strongman" image, and he wasn't about to leave that ladder for another to climb and challenge him

More than that, it was a natural development in the apartheid State's response to the incipient struggle for majority rule After all, why bother with the courts when, with powers of detention without trial, the police can mop up political opponents without recourse?

The police remained divorced from justice ever since, except for a few years in the Seventies, when Jimmy Kruger presided over both The subsequent era of P W Botha — his militaristic presidency, expansion of the State Security Council, Louis le Grange's, later Adriaan Vlok's, Law & Order Ministry — served to solidify the police's paramilitary identity, and harden the disconnection with Justice

Thirty years after that first fateful break, the once unthinkable has happened Vorster's prospect "too ghastly to contemplate" — majoritarian democracy — is a working reality

But the structural separation of criminal justice — the bureaucratic dysfunction that Vorster initiated and Botha refined — remains largely unchanged It is a systemic fault, and one that is at least as threatening to the success of

SA's war against crime as all of the manpower and equipment shortages, the training deficiencies and lack of facilities in the police, justice and prisons departments combined

Crime levels have been rising steadily for 40 years, says HSRC criminologist Lorraine Glanz That may accord with crime patterns worldwide But while crime has been rising, convictions have declined in SA over the last 20 years at least (see graph)

SA will not be able to counter the growing threat unless it acts decisively to ensure joint strategising, joint budgetary planning and full co-operation between the departments of Safety & Security, Justice and Correctional Services

The measures government has taken or proposed simply do not go far enough It's not that government is unaware of the gravity of the situation It has taken

a good shot at addressing the problem in the National Crime Prevention Strategy — a laudable document which presents a comprehensive vision for curtailing crime over the next 25 years

The strategy recognises that crime is not a monolithic phenomenon, there are many kinds of crime because there are many causes One can suppress crime temporarily with police action — such as the current police plan which includes an attempt to arrest 10 000 of SA's 237 000 wanted fugitives But that is like administering aspirin to a car crash victim To tackle the systemic causes of society's

"pains," one has to act holistically, and involve all relevant authorities — police, courts, prisons, social welfare, defence force, housing, as well as business and the private sector

Business has responded admirably — particularly with the establishment of the Business Against Crime (BAC) organisation that is helping the police and justice agencies to overcome their shortcomings and tackle the problems of crime-fighting and prevention The 100 BMW patrol cars handed to the Gauteng police is the most visible support so far, but business's most valuable support function may lie in its managerial capacity

BAC has engaged the Justice Department in a six-week exercise to identify and find solutions to major blockages in the processing of priority crime suspects BAC chairman Wendy Lucas-Bull says at least eight private-sector managerial specialists have been temporarily seconded to Justice for this purpose

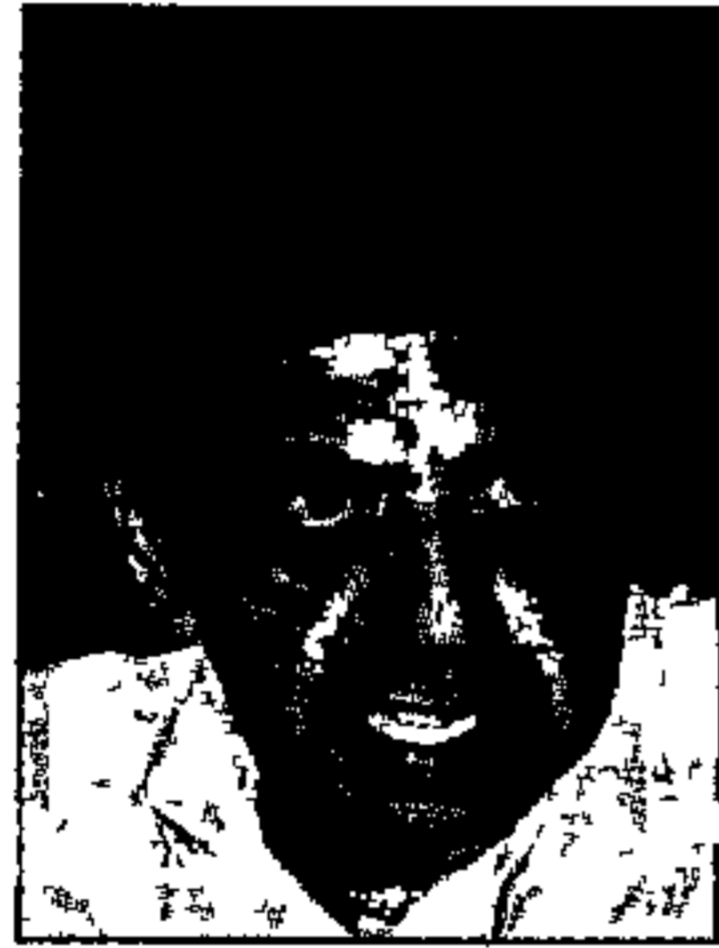
Lucas-Bull would not say this, but sources close to the criminal justice system say that without BAC's input the programme might have taken months, if carried out at all Yet business's capacity to help is limited by the confines of State structures Departments are often inimical to each other

Justice Minister Dullah Omar seems at odds with his own department He regularly accuses justice officials of racism and of trying to under-

mine the department's affirmative action policies Understaffed Attorneys-General, meanwhile, counter that senior appointments cannot be made because suitably qualified black staff are not available Whatever the truth of all this, these outbursts point to administrative failings within the Justice Department

A further symptom of systemic malaise is Omar's unwarranted public rebuke of

Continued on page 27



Dullah Omar



Sipo Mzimela



Sydney Mufamadi

Continued from page 24

National Police Commissioner George Fivaz last week, for supposedly not informing the Justice Department of the new police plan

Omar and Correctional Services Minister Sipo Mzimela should both have been briefed on the plan, not only by the police but by their own directorates. After all, the police plan is an annual undertaking stipulated in the Police Act for the Department of Safety & Security's budgetary planning. It should have been anticipated by other departments.

What's more, Justice and Correctional Services were both represented on the joint committee that sat for a year to compose the National Crime Prevention Strategy, of which the police plan is a function.

Yet neither Justice nor Correctional Services bothered to budget for implementing the Crime Prevention Strategy this year. Nor has Justice provided for the strategy in next year's draft budget.

Correctional Services has made some allowance for the crime prevention strategy in its 1997-1998 budget, but the department is already R859m in the red this year. Mzimela asked parliament last Friday for a 33% increase to keep his department afloat, but the request drew a frosty "totally unrealistic" from parliament's correctional services portfolio committee.

The police, meanwhile, are hoping to buy a R200m state-of-the-art automated fingerprint identification system that can instantly match prints nationwide. This should significantly improve fingerprint matching. The current manual process takes 14 to 18 days, causing prosecutorial bottlenecks and the often unwarranted release of dangerous suspects for lack of evidence.

Justice, with the assistance of business meanwhile, is planning to buy a national database to keep track of cases and accused. Correctional Services supposedly has a strategy but says little about it. We hear talk of something dubbed "the Butterfly Vision," which will see the erection of new prisons and installation of a computerised database by the end of the century.

But none of these projects appear to be co-ordinated. Duplication of resources is inevitable. Could prisons, for example, not benefit by linkage to the police's new fingerprint system? Could Justice's database be adapted to help the police locate stolen property? There seems to be

no willingness to find out

In an effort to minimise bureaucratic discord, the National Crime Prevention Strategy has established a joint committee of the Ministers of Safety & Security, Justice, Correctional Services and Defence to formulate crime-fighting policy, and another committee of directors-general to implement the policy. But this is too tentative, and will not overcome the mutual suspicions and animosities that exist between the State departments.

Government must act swiftly and boldly if it hopes to cut through the red tape and inter-departmental squabbles that continue to undermine the criminal justice system.

Mere committee-making is not enough, there must be political as well as

the restoration of justicial fluidity in a country wracked by social discords, which harbour the threat of political instability.

A merger of the three departments is not a solution in itself. But it may be the only way to ensure joint strategic and budgetary planning and bureaucratic co-operation.

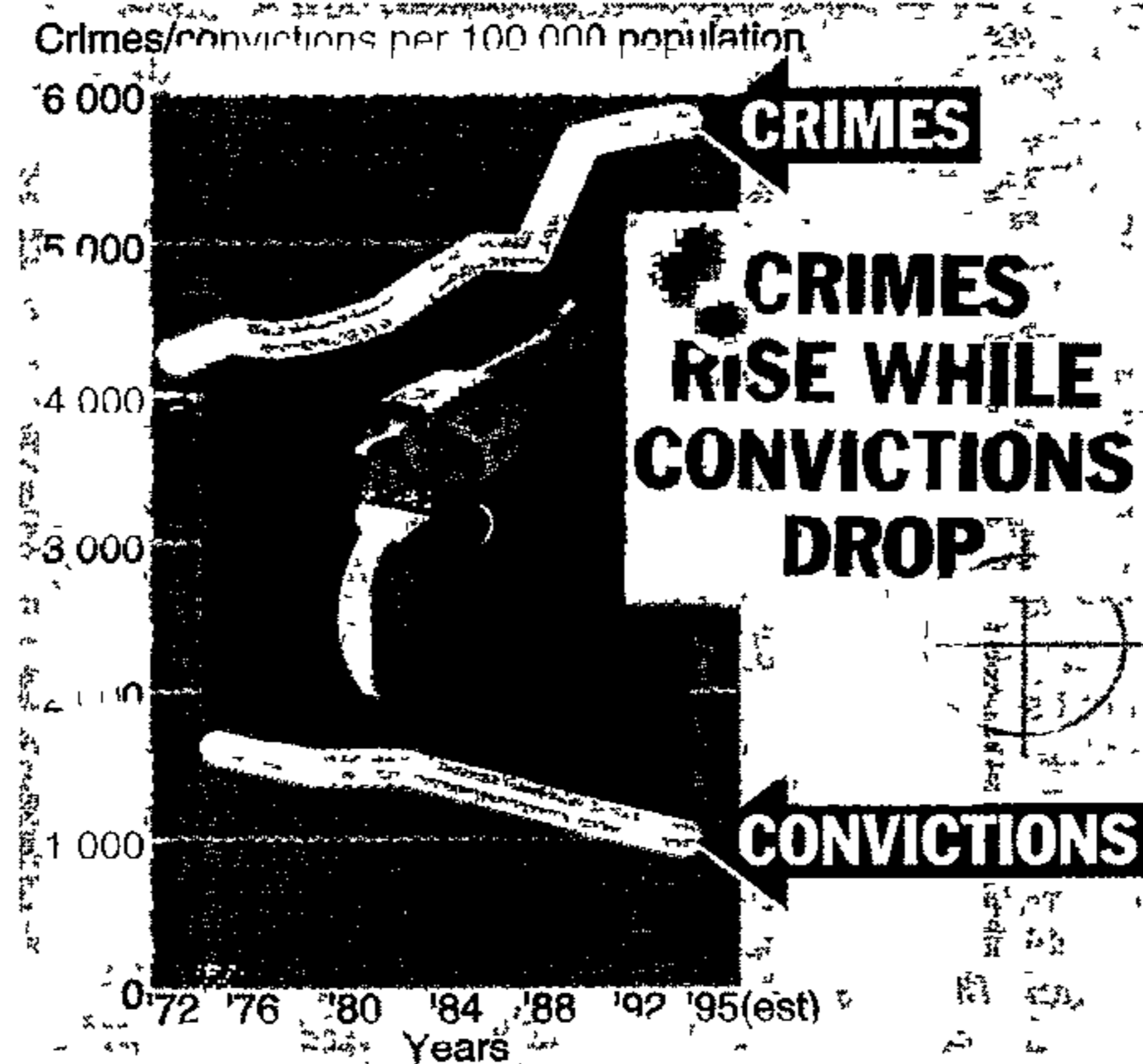
The vehicle for achieving this should be the establishment of a permanent secretariat at the highest level of the joint ministry. The kernel of such a secretariat already exists in the form of the Safety & Security secretariat which is headed by lawyer Azhar Cachalia.

This body currently enjoys director-general's status, and should be expanded into a Justice secretariat within, and at

the highest level of, the combined ministry to include the Directors-General of Justice and Correctional Services. This body should also consult closely with counterparts in related departments such as Defence and Welfare.

Linking of the police to Justice should not in any way compromise the independence of the judiciary. After all, the prosecutorial functions of the Justice Department have always been successfully separated from the judiciary.

All that would happen is that the police would be drawn into



administrative cohesion

It is necessary to physically combine the police, justice and prisons departments into a single ministry. Each department should retain functional separation under a Deputy Minister.

We recognise that such a step is politically sensitive in the extreme. But it might be tenable if, as a short-term interim arrangement, the three departments were placed under Ministerial control of the Presidency or Vice-Presidency.

This is no indictment of the performances of Safety & Security Minister Sydney Mufamadi, or Justice Minister Omar or Correctional Services Minister Mzimela. But rather a necessary step in

closer co-operation with the public prosecutors and Attorneys-General to enable a closer working relationship, and consequently better-prepared crime investigations.

ANC officials are slowly coming round to the need to consolidate the justice delivery system, although they still squirm away from the political dimension: a full merger of ministries.

The need to co-ordinate criminal justice is apparent to all concerned, but not yet the need for political and bureaucratic consolidation. We believe you can not have one without the other. Until government acts to achieve that end, the dissension and contradictions will continue. ■

Prosecutors wait to see promised salary increases

Star 28/6/96 (252)

Justice Minister Dullah Omar has said there will be a delay in payments.

By NORMAN CHANDLER
AND LARA SMITH

Johannesburg prosecutors have adopted a "wait-and-see" attitude to Justice Minister Dullah Omar's promise of improved salaries. According to Johannesburg's senior prosecutor, Brink Ferreira, morale at the magistrates' court is low and many staffers are unhappy about waiting yet another month.

Already, about 10% of his staff, 10 juniors and one senior, had applied for the severance packages offered to civil servants and two staff members would resign whatever the outcome, he said.

This follows Omar's announcement in Pretoria on Wednesday that there would be "considerable delays" in implementing the new salary grading system, which was received by his department from the Public Service and Administration Department five days ago. Officials were already preparing individual staff advice notices detailing the new salary scale applicable.

"While (staff) will not receive their improved salaries in July, they will receive them, including backpay where applicable, as soon as possible," Omar said.

In terms of the new scales, all allowances have been abolished and incorporated into the salary structure. Salary notches have also been changed.

State prosecutors - whose resignations over present salaries have led to a major problem in courts throughout the country - are to receive an average increase of 13,78%, with some getting 24%.

But poor salaries were only a part of the problem, said Ferreira. Staff shortages played a large role in the crisis facing the courts.

"It's a bit of a catch-22 situation. We train the people and as soon as they are able to work in the courts they resign because of the poor salaries."

It did seem as if the Justice Department was addressing the situation as staff vacancies were being filled, Ferreira added.

"At the moment we've got 129 prosecutors, which is only about five or six short of a full complement. In April we were between 18 and 20 short. You can imagine the backlog created."

Witwatersrand Deputy Attorney-General Kevin Attwell added that staff shortages in his office had been addressed "with urgency" and all vacancies, except two junior posts had been filled.

Dignity for those treated like dirt'

(252) ARG 29/6/96

In the eve of the Truth Commission's first Interim Report to President Mandela, Desmond Tutu denied it had created a wave of cynicism among white South Africans, saying instead it had touched many people in a way they never thought possible.

YELD on the Truth Commission

ELIZABETH - The Truth Commission is an incredible job of work by giving people were "treated like dirt" an opportunity to hear stories of being abused and to recover human dignity, says chairperson Desmond

gave this assessment on the eve of the handover of the Commission's first Interim Report to President Mandela on Thursday. Archbishop Tutu's remarks came at a media conference after the day of a two-day hearing here of the Commission's human rights violations committee.

As at this hearing that the mother of poisoned leader Siphiso Mthimkulu, who disappeared without trace in April 1982, finally got to tell her daughter Joyce Nobantu Mthimkulu twice had been blocked from testifying by two former security policemen whom she planned to implicate in some of her testimony when she spoke about her son's kidnapping, torture and - she believes - eventual murder and murder, all allegedly at the hands of security police.

Earlier Jan du Preez of security police headquarters in Pretoria and the regional security police chief in Port Elizabeth, Colonel Nick van Rensburg, won two Supreme Court applications, successfully gagging her until the Truth Commission gave them adequate notice of her allegations.

Her judgments were subsequently overturned and appeal by the Commission, but by the time Mrs Mthimkulu testified at the Commission's hearings this week, the two former policemen had been given the notice required in the original Supreme Court order.

Initially, Mrs Mthimkulu's reference to the two former policemen - both in her written statement and in her testimony at the hearing - was severely limited and was based solely on public newspaper reports about the Harms Commission dating back to April 1990.

Her full reference to the two men in her statement read "I have a number of these (newspaper reports) at home which I intend to bring to the attention on the day of the hearing."

On the 30th April 1990, the Eastern Province newspaper had an article in which Captain Petze was reported to have told the Harms Commission that the poisoning had not been effective and the eventual death of Siphiso was caused by one Brigadier Jan du Preez of security police headquarters in Pretoria and the regional police chief in Port Elizabeth, Colonel Nick van Rens-

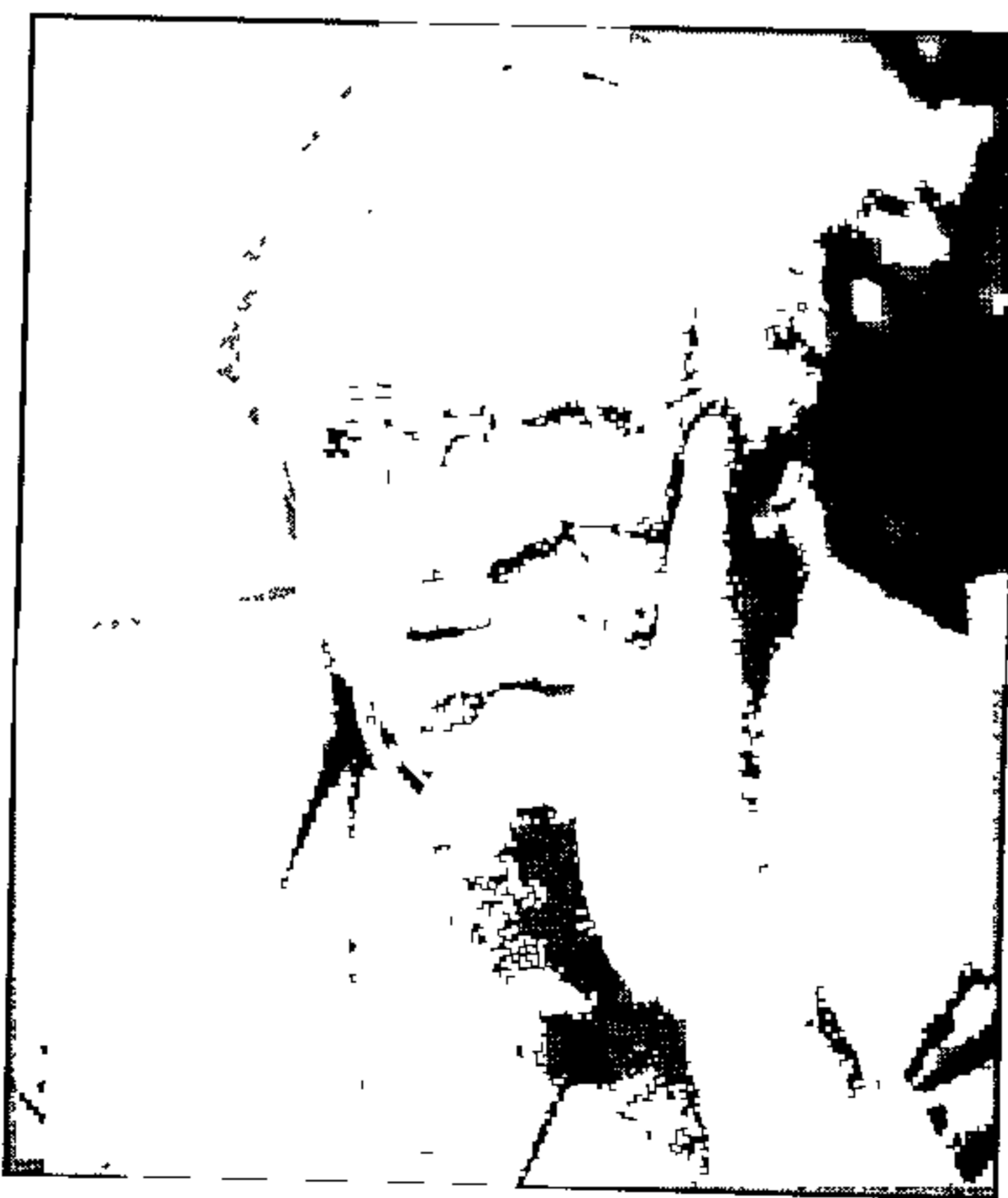
At the media conference after Mrs Mthimkulu's testimony, Archbishop Tutu was asked to comment on what the journalist perceived as a "wave of cynicism" among white South Africans about the Commission and the work it was doing. But Archbishop Tutu replied:

"I do not accept your premise. And even if it were (true), I think for my part that if we did absolutely nothing else, to have given those people who were treated like dirt an opportunity to tell their stories and to recover their human dignity, I would say we have done an incredible job of work."

In addition to providing a safe and sympathetic forum for the victims of human rights abuses to tell their stories and to recover their dignity, all who heard their stories - apart from the most callous and hardened of people - were touched by what they had heard, Archbishop Tutu said.

"In addition to coverage on television and so on, people are saying radio broadcasts have touched them in a way they didn't think was possible."

"So a fair degree of healing is happening in our land, to those who are open to it. I believe that when you get perpetrators coming forward in greater numbers, to begin to fill in the many blanks in the stories, people will begin to see that this commission is in earnest, and is going to achieve it."



□ **TUTU:** 'We've done an incredible job of work'

(truth and reconciliation) for the sake of the country."

In her response to the journalist, commissioner Mapule Ramashala, a clinical psychologist by profession, said there were many ways of dealing with the truth.

"What you see as cynicism may be a way of people saying 'It's not possible for people to have done this', a denial that South Africans were capable of this kind of cruelty. And each one of us will have to deal with this truth that we see on television. We're all going to have to deal with it in different ways - some by saying it's not possible, others that it's an exaggeration."

Reconciliation and healing in South Africa would take time, Dr Ramashala said, and ultimately it would require an open acknowledgment that terrible things had happened in the society.

Later, after listening to the heart-rending story of Theodora Tiyo, whose 11-year-old daughter Xoliswa was shot dead during protests in New Brighton, Port Elizabeth in August 1976, Dr Ramashala made an impassioned plea to South Africans to acknowledge what had happened in the past and to integrate this reality into their consciousness.

"When a child is born, parents dream," she said. "When children become of school age and begin to see what they could be, they also dream - dream of becoming a teacher, doctor, attorney, engineer, ballerina. But black South African children dared not dream, because dreaming was a significant part of sleep, and sleep was unsafe, even in your parents' home."

Xoliswa Tiyo had probably just started to dream about what she could become, Dr Ramashala suggested. There had been many role models for her in the Eastern Cape at that time, in the form of prominent black lawyers, teachers, nurses and clergy. But at this stage of South Africa's history - the height of unrest in 1976 - the many children like Xoliswa had been confused, Dr Ramashala continued.

"While everyone else's children were going to school, black children were dying. While everyone else's children were skipping with ropes on the street, black children in the townships were too afraid to either venture on to the streets or to look through the window of home or school. South Africa, this is not fiction - it did happen, and we need to integrate it into our consciousness."

"We need not only to mourn our children - the Xoliswas - but we also need to be outraged that their dreams differed, for our country has been cheated of the talent that could have been."

Omar's 'Judge' ruling defended

(252) ARG 29/6/96

PAUL OLIVIER
Staff Reporter -

JUSTICE Minister Dullah Omar's proposal that all judicial officers in future be called judges, whether they preside in lower courts or in the Supreme Court, does not aim to "erode the status" of high court judges, and should be seen as "elevating the position of magistrates"

Supreme Court judges have however, expressed "mixed feelings" on the issue, saying that the matter would be "discussed in depth at a meeting next month" Some judges feel their status will be eroded in the public eye should Minister Omar's proposals be followed through Other say it is a change that "people will get used to"

Mr Omar said "In South Africa magistrates were never regarded as the judiciary and were seen as government agents We need to restore the public's confidence in our lower courts, because 90 percent of the people who do come in contact with the law, do so through the magistrates' courts"

"We desperately need to transform our court system to raise the level of our judiciary and to streamline our courts This goes hand in hand with raising the level of specialisation, justice, professionalism and strengthening the independence of our magistrates'

■ Minister of Justice Dullah Omar has defended his proposal that from now all magistrates be referred to as judges too. The aim was to elevate the status of magistrates who performed a crucial task, he said.

courts.

"Foremost, training is needed to upgrade our lower courts and a higher status must be developed for these courts to try both criminal and civil cases, and to hear matters of family concern

"Calling magistrates judges in future is an element of the transformation of the courts and must be seen as part of creating a single judiciary in our country. It is of the utmost importance that people see magistrates' courts as part of the system"

President of the Cape law Society, Andries Landman, described the proposals as "far-reaching"

"It appears that the underlying intention of the proposal is to bring all judicial officers closer together and to emphasise that all courts perform equally important functions The Law Society is fully supportive of such intentions", he said

"However, given the history of the court structures and the fact that the different courts do not at present apply standard rules and procedures, it is a most serious step which should not be undertaken lightly and certainly not without full consultation with all the parties con-

cerned, most particularly the judges, whose status would be most effected by the change"

Mr Landman said before taking this step, "due consideration" should also be given to the results of any changes and whether they "could be perceived as diminishing" the importance of the training and experience which are taken into account before any judicial appointments were made

Bellville Magistrates' Court's additional presiding officer, Andre le Grange, said that fears about the status of judges were "totally unwarranted and smack of ignorance"

"As far as I know the minimum requirement to be appointed as a magistrate is a three year legal qualification and appropriate experience, plus an extensive six-week training course at the Justice School, and six months' probation

"Furthermore, before selection and appointment, these magistrates must over a period of six months submit 20 judgments which are scrutinised by the Magistrates' Commission, as well as senior regional magistrates"

He said the "plan for a single



Dullah Omar

judiciary" was overdue and the minister's "bold proposals" needed to be implemented as soon as possible

"The time has arrived for the judiciary to review their role as an independent organ in a free and open democratic society

"Ninety percent of all litigation, be it civil or criminal, is being dealt with in the lower courts.

"How can it be said that the status of a judge will drop if such proposals are implemented?"

Plan to call all judicial officers 'judges' seen as long overdue move, but some fear erosion of status

By PAUL OLIVER

Justice Minister Dullah Omar's proposal that all judicial officers in future be called judges, whether they preside in lower courts or in the Supreme Court, does not aim to "erode the status" of high court judges, and should be seen as "elevating the position of magistrates"

Supreme Court judges have, however, expressed mixed feelings on the issue, saying the matter would be discussed in depth at a meeting next month. Some judges feel their status will be eroded in the public eye if Omar's proposals are followed through. Other say it is a change that people will get used to.

Confidence

Said Omar "In South Africa, magistrates were never regarded as the judiciary and were seen as government agents. We need to restore the public's confidence in our lower courts, because 90% of the people who come in contact with the law do so through the magistrates' Courts."

"We desperately need to transform our court system to raise the level of our judiciary and streamline our courts. This



DULLAH OMAR: Confidence in lower courts must be restored

goes hand in hand with raising the level of specialisation, professionalism and strengthening the independence of our magistrates' courts.

"Foremost, training is needed to upgrade our lower courts and a higher status must be developed for these courts to try both criminal and civil cases, and to hear matters of family concern.

"Calling magistrates 'judges' in future is an element of the transformation of the courts and must be seen as part of a single judiciary in our country. It is of the utmost importance that people see magistrates' courts as

part of the system
May 29/6/96
(252)

According to the president of the Cape Law Society, Andries Landman, proposals to apply a uniform title to all judicial officers "are far reaching".

"It appears that the underlying intention of the proposal is to bring all judicial officers closer together and to emphasise that all courts perform equally important functions. The Law Society is fully supportive of such intentions.

"However, given the history of the court structures and the fact that the different courts do not presently apply standard rules and procedures, it is a most serious step which should not be undertaken lightly and certainly not without a full consultation with all the parties concerned, most particularly the judges, whose status would be most affected by the change."

Landman said that before taking this step, due consideration should also be given to the results of any changes and whether they could be perceived as diminishing the importance of the training and experience which are taken into account before any judicial appointments were made.

One presiding officer, Andre

le Grange, said fears about the status of judges were "totally unwarranted and smacked of ignorance".

"As far as I know, the minimum requirement to be appointed as a magistrate is a three-year legal qualification and appropriate experience, plus an extensive six-week training course at the Justice School, and six months' probation.

"Furthermore, before selection and appointment, these magistrates must, over a period of six months, submit 20 judgments which are scrutinised by the Magistrate Commission, as well as senior regional magistrates, before being selected and appointed."

Proposals

He said the "plan for a single judiciary" was overdue and that the minister's "bold proposals" needed to be implemented as soon as possible.

The time had arrived for the judiciary to review their role as an independent organ in a free and open democratic society.

"Ninety-percent of all litigation, be it civil or criminal, is being dealt with in the lower courts. How can the status of a judge drop?" Le Grange asked.

By BRETT ADKINS and
MARLENE BURGER

FOR two decades, Colonel Gideon Nieuwoudt was the scourge of those opposed to apartheid in the Eastern Cape.

His pasty face and ice-cold eyes struck terror into hearts that all too often ceased to beat after an encounter with the security colonel who promised victims he'd "make them famous".

On Thursday, widows and survivors of police torture packed the Port Elizabeth Supreme Court to see Nieuwoudt sentenced to 20 years in prison for the 1989 car-bomb murder of three black colleagues and an informer. At the same time his dark past was being painted in chilling detail just 10km away at a special hearing of the Truth and Reconciliation Commission.

The commission was told Nieuwoudt dressed as a priest to take in a student activist who was given electric shocks before being thrown onto a rock in the sea while his tormentors drank around a braai.

They heard how he and a colleague had flogged another young detainee with electrical cords, suffocated him with wet towels and put a full stop on the torture session by stomping on his naked body.

The mother of former Congress of South African Students leader Siphuwe Mthimku — who disappeared in 1981 — held up locks of his hair to show the effects of the rat poison which had rendered the 21-year-old a wheelchair-bound "cabbage".

Joyce Nobantu Mthimku said Siphuwe had been in excruciating pain when released by the police.

"When he tried to relieve himself, it was just painful drops. It was only blood that used to come out, a dark, thick blood.

"His whole body was swollen. He said the pain was like having electricity shocks."

She said Nieuwoudt had continued harassing her family for months.

"Once, he even posed as a Methodist minister when he came to my house. He put on a collar like a priest," she tol



EVIL INCARNATE... Gideon Nieuwoudt

The killer who wore a cleric's cloth but behaved like a son of Satan

ST 30/6/96

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the commission. With tears in her eyes, she described how "the white boers" had whipped her son with wet towels during his detention and given him braai meat covered in cigarette ash.

"I do not want to cry," she said. "I know this is my day — if I do cry, it is not due to pain, but to hatred."

The special hearing finally gave Mrs Mthimku a chance to have her say before the commission, after she had twice been gagged by court orders.

At an earlier sitting of the commission, one of Nieuwoudt's victims, businessman and former United Democratic Front activist Mkhoseli Jack, described how he had been beaten with a knobkerrie, doused in water when he passed out, and given the "helicopter treatment", whereby he was handcuffed and hung between two tables

"People have to know how busy he was," Mr Jack told the commission, adding that Nieuwoudt had made him drive around the townships with security policemen during detention, presumably in the hope that he would be seen as a collaborator.

But as Nieuwoudt was sentenced for the Motherwell car-bombing this week, Mr Jack said he felt no bitterness towards his torturer.

"He was working for a system. He worked for it overtime, he worked for it enthusiastically, sure, but it was a system.

"What's important here is that a lesson has been learnt and understood". The lack of animosity appeared genuine enough when Mr Jack came face to face with the former security colonel in the court foyer. They smiled, exchanged greetings, shook hands and

attention to the sandy-haired man who daily took a seat in the courtroom.

Little did they realise that he had been one of the best explosives experts in the old police force, who had spent 20 of his 24 years as a policeman in the now defunct security branch.

Then, on a June morning in 1993, erstwhile Judge Anton Mostert SC, shocked the packed public gallery by identifying Nieuwoudt as the man he believed could shed light on some of the Eastern Cape's most brutal murders.

That Nieuwoudt served his masters well is evident from the fact that, even after being implicated during the Goniwe inquest in the Motherwell car-bomb murders, he was promoted, ending his career in January last year as a lieutenant-colonel.

Although out on bail, he could soon find himself facing further charges.

Former Vlakplaas operative Joe Mamasela, who has admitted to being involved in the murders of 30 to 35 people and is now working with Transvaal Attorney General Jan D'Oliviera's special Third Force investigating team, has publicly named Nieuwoudt as one of those responsible for the deaths of the Peboco Three, Sipho Hashe, Qaqawuh Godolozu and Champion Galela.

The truth commission plans to subpoena Nieuwoudt to give evidence about the string of human rights violations in which he has been implicated by witnesses and further prosecutions may result.

Ironically, one of those who may hold sway over Nieuwoudt's future has first-hand knowledge of his past. The Eastern Cape's safety and security minister, Dennis Neer, told the commission he was tortured by Nieuwoudt after meeting ANC leaders in Zimbabwe and Lesotho in 1985.

At one point during interrogation, Mr Neer said, he realised just how precarious his position was.

"Nieuwoudt told me, Dennis, you are arrogant. I'm going to make you famous. That's when I knew I was in trouble, because most of the people Nieuwoudt promised to make famous, ended up dead."

Death-squad men may be refused option of amnesty

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By MARLENE BURGER

TWO former security policemen sentenced to prison this week for the Motherwell carbomb murders are among 22 old-guard members testing the amnesty waters in the hope of escaping criminal prosecution

Brigadier Wai du Toit, whose 15-year sentence handed down on Thursday in the Port Elizabeth Supreme Court summarily ended his 24-year career in the police, and former Warrant Officer Martiens Ras, who was sentenced to 10 years, are two of the policemen who have approached the truth commission offering to confess their roles in criminal acts carried out during the total onslaught era

The initiative has the support of a group of former police generals including Basie Smit, Krappies Engelbrecht and Johan le Roux, implicated by the Goldstone commission in third-force activities and currently under investigation by Transvaal Attorney General Dr Jan D'Oliveira

Du Toit, 45 and Ras, 34, along with Lieutenant-Colonel Gideon Nieuwoudt, were convicted of the murders of Warrant Officer Glen Mgoduka, Sergeant Amos Faku, Constable Desmond Mapipa and police informer Charles Jack in December 1989. The motive was to silence two of the men, who were

threatening to expose security police crimes, including the murders of Cradock activist Matthew Goniwe and three of his comrades in 1985.

Evidence by the former Vlakplaas commander Colonel Eugene de Kock — who agreed to co-operate with Dr D'Oliveira's team and will be a key state witness in future prosecutions — helped the court reach a verdict

Colonel de Kock, whose own trial on 121 charges, including eight of murder, is nearing its end in the Transvaal Supreme Court, testified that the Motherwell operation had been sanctioned by the then head of the security police's C section, Major-General Nic van Rensburg

The Motherwell murders — to which Du Toit, Ras and Nieuwoudt pleaded not guilty — are not among the 20 "incidents" listed in a letter to the truth commission on behalf of the 22 policemen. But the incidents do include the 1991 parcel bomb murder of Soweto attorney Bhekis Mlangeni, in which Du Toit — a technical expert allegedly responsible for the manufacture of many "dirty tricks" devices for covert operations in the 80s — has been implicated

The deaths in 1985 of the Pebco Three — Sipho Hashe, Qaqawuli Godolozu and Champion Galela — in which Nieuwoudt has been implicated, is also on the list, but sources say he is not among the 22 policemen

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The alleged involvement of several of the 22 in a number of the crimes mentioned in the letter has come to light in the De Kock trial and, according to Dr D'Oliveira, the overlap between the incidents listed and those his office is investigating, is "significant". However, if the approach to the truth commission was aimed at avoiding prosecution it could fail. Dr D'Oliveira intends pressing ahead with criminal charges in a number of cases

In addition, truth commission legislation was amended at his initiative late last year, and the commission cannot take on cases already under investigation unless the attorney general agrees

Dr D'Oliveira is unlikely to surrender the files compiled by his investigators over the past three years. The Motherwell trial's outcome will reinforce his conviction that the law must take its course. It is the first successful prosecution of former security policemen resulting from investigations by his team, appointed after the Goldstone commission's third force inquiry in 1993

Members of the team said it was "more than coincidence" that all the alleged crimes listed in the letter to the commission were "already in the public domain" — our investigations have reached the stage where arrests are imminent