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## NEWS

MBEKI WANTS TO MEET TRUTH BODY

## Witnesses showdown

**WITH TWO WEEKS** to go before the first hearings of the Truth and Reconciliation Commission, there is no clarity yet on a witness protection programme. **CHRIS BATEMAN** reports.

**D** EPUTY President Thabo Mbeki is urgently seeking a meeting with the Truth and Reconciliation Commission after hearing it has repeatedly failed to get a clear response from the Department of Justice about a witness protection programme.

He was reacting to claims by the commission's chairman, Archbishop Desmond Tutu, and vice-chairman, Dr Alex Boraine, that in spite of repeated attempts to secure the Justice Department's co-operation — and with two weeks before the first commission hearings in East London — no protection programme had been set up.

Tutu and Boraine last week reassured "anyone who feels their lives are

in danger", that "we will do all we can to ensure such a scheme is in place before the first hearings"

They revealed that one witness had already asked for protection and "special arrangements" had had to be made

Mbeki, approached at the RDP Infrastructure Investment Conference in the city late last week, said the government was not unsympathetic to the witness protection programme, "but we can't just pluck it out of the sky"

He said "The major parties are interested to find out what the approach of the commission is to its work so that they know how to engage with it — the conflict in the country was organised, so the question is how do we assist where

(252) CT 1/4/96  
they want to know the truth about a particular operation?"

He said he would seek a meeting with the commission "as soon as possible to discuss the entirety of their approach to their work — this hasn't happened yet, we don't know what their approach is"

Mbeki emphasised that "we don't want to tell them what to do — we want to understand what they are doing"

He said providing witness protection was "not a straightforward matter because inevitably someone will come on the basis of rumour which may not be true, so we need assessment criteria"

Hearings, based on preliminary statements, will take place in the city from April 22 to 26

The Justice Department has yet to respond to the Cape Times after two days of queries

Inquiry hires investigators

JOHN YELD  
on the Truth Commission

# Truth 'liar' in court

ARLg 2/4/96

(252)

Kwazulu victims slow to approach TRC body

Staff Reporter and Sapa

HUMAN rights lawyer and former conscientious objector Glenn Goosen has been appointed to the key post of national director of investigations for the Truth and Reconciliation Commission

JOHN YELD  
on the Truth Commission

A PORT Elizabeth man who is alleged to have lied to the Truth Commission, claiming to be a victim of human rights abuses and having knowledge of "Third Force" activities in the Eastern Cape, has appeared in Cape Town Magistrate's Court

A former policeman and regional representative of the National Intelligence Agency in KwaZulu-Natal, Lwandhle Magadhla, will head the commission's special investigations unit

Nzuzo Godfrey Matiwane, 29, of 20 Ncapavi Street, New Brighton, was arrested on Friday after a warrant of arrest for fraud was issued by the office of the attorney-general of the Western Cape. Mr Matiwane appeared in court yesterday. No charges were put to him and he was not asked to plead.

The appointments were announced at a media briefing yesterday by commissioner Dumisa Ntsebeza, who added with a smile, "I'm very confident they are not April Fools - far from it!"

The two men will work from the commission's head office in Cape Town, Mr Ntsebeza said

through an interpreter, Mr Matiwane, who was not represented, said he did

Mr Olwage ordered him to be held in the Sea Point police cells pending tomorrow's bail application

At a media conference shortly before Mr Matiwane's appearance, Truth Commission vice-chairman, Alex Boraine, said the commission had laid a charge against Mr Matiwane - whom he did not name - because it believed he had hindered it in the performance of its duties

Section 30 of the National Unity and Reconciliation Act, which brought the Truth Commission into existence, stated that anyone who hindered the commission in the exercise of its powers, functions and duties, or who "willfully furnished" it with false or misleading information, was guilty of an offence, Dr Boraine said

"The person concerned approached the commission as a potential witness and

made a statement to it. In the view of the commission, he deliberately lied to it and a charge against him was laid on Friday"

He confirmed Mr Matiwane had been the person for whom the commission had made special arrangements as the department of justice's witness protection programme was not yet in place

He had approached the commission's regional office in Gauteng unannounced, "posing as a victim with vital information" and saying he feared for his life

The commission had flown him to Cape Town from Johannesburg, accompanied by a senior commission staff member, where its investigation unit had begun checking his story

"We cannot afford to be cynical or disinterested (in potential witnesses) We have to take a person at their word," Dr Boraine said

Commissioner Dumisa Ntsebeza, who is responsible for the investigation unit, said

"the person" (Mr Matiwane) was "not unknown" and had testified to both the Goldstone Commission and Transvaal attorney-general Jan D'Oliviera's unit probing Third Force activities "In all these instances he has been found to be less than candid," Mr Ntsebeza said

Dr Boraine said the commission had been inundated with people who had genuine stories to tell

"It is simply not acceptable for the commission to the up its investigators, some of the commissioners and its staff"

Western Cape Attorney-General Frank Kahn declined to comment on Mr Matiwane's case but said that as a matter of policy, he wanted the public to know that his office would "respond very firmly" to anyone who attempted to mislead the commission

Mr Matiwane was held as a detainee in Transkei for more than four months after allegedly being involved in the SADF raid on a house in Umtata on October 19, 1993

Kwazulu victims slow to approach TRC body

Staff Reporter and Sapa

MANY human rights abuse victims in strife-torn Kwazulu-Natal fear for their lives and are reluctant to appear before the Truth and Reconciliation Commission (TRC), says commissioner Richard Lyster.

Mr Lyster, one of two commissioners appointed to head the commission's regional office in Durban, said on-going violence in the province and the Inkatha Freedom Party's opposition to the commission posed special problems for the body which is due to hold its first hearing in the region from May 6 to 9.

Mr Lyster said the commission had written to the IFF advising them that the commissioner's Durban office was "open for business" and inviting them to send victims to talk to debriefers

However, IFF leader Mangosuthu Buthelezi and provincial premier Frank Mdlalose had, as yet, been unable to find time to meet the commissioners.

Mr Lyster said one indication of the fear among victims was that more applications for amnesty had been received than requests to appear before the commission.

"The conflict of the 1980s is still having repercussions now. The province is still in a very serious conflict," he said

"In many instances, the warlords or policemen linked to human rights abuses lived in the same communities as the victims

"After testifying, they (the victims) must go back home. The attitude is: 'Why must I put myself at risk?'"

As a result, it was likely many of the hearings in the region would be held in camera



# Provinces' borrowing may face curbs

(252) BD 2/4/96

**Wyndham Hartley**

CAPE TOWN — Constitutionally required legislation to govern the borrowing powers of provinces — which will restrict central government guarantees — was tabled in Parliament yesterday

The legislation provides for the creation of a committee of the finance minister and provincial MECs to ensure that the borrowing of provinces does not "influence the national interest or SA's credit rating in foreign markets"

It also stresses that central government will not guarantee provincial loans except in the case of approved foreign non-marketable loans

The explanatory memorandum

to the Bill stresses that provincial borrowing must be affordable, and provision is made that the interest payable on loans shall not exceed a certain percentage of the budgeted revenue of that province.

The limit will be set by the finance minister

It is also provided that the provinces can borrow only to finance capital works and not operating expenditure.

The memorandum also stresses that certain capital market derivatives need to be treated with great caution, particularly when using public money

Unless authorised by regulation, investment of this type is prohibited, "the essential aim being prohibiting speculative activ-

ities with public funds".

Introduced by outgoing Finance Minister Chris Liebenberg, the Bill will, when approved, prevent provinces from using bridging finance as a form of revolving credit. It will be used only to raise funds for current expenditure in anticipation of current revenue

The floating of public loans in foreign markets will be prohibited and provinces will be discouraged from taking out foreign loans unless they are non-marketable, and then only with the approval of the finance minister if they are in the public interest

Provinces will be entitled to raise loans locally from the central government and other institutions, and issue stock and bonds



# Man charged with fraud for lying to commission

(252) BO 2/4/96

CAPE TOWN — A Port Elizabeth man, Nzuzo Godfrey Matiwane, 29, appeared in the Cape Town Magistrate's Court yesterday charged with fraud after he allegedly lied to the truth commission about "third force" activities in the Eastern Cape.

Matiwane, of Ncapai Street, New Brighton, was not asked to plead and will appear again tomorrow when he is expected to apply for bail. He will conduct his own defence.

Dressed in a grey windcheater and purple T-shirt, he appeared nervous, continuously wringing his hands during his five-minute appearance.

He was arrested on Friday after the commission laid a charge with the attorney-general's office in Cape Town.

In terms of the Promotion of National Unity and Reconciliation Act, anyone who "wilfully furnishes the (truth) commission with any information which is false or misleading shall be guilty of an offence".

Commission deputy-chairman Alex Boraine said Matiwane had arrived unannounced at the commission's Johannesburg regional office on Monday last week, claiming to have vital information about human rights abuses and saying he feared for his life.

He said Matiwane had immediately been flown to Cape Town under escort and placed in protective custody.

The head of the commission's investigative unit, Dumisa Ntsebeza, said Matiwane was well known to the Gold-

stone commission and Transvaal attorney-general Jan D'Oliviera's unit probing "third force" activities.

Boraine said the commission had incurred considerable expense in placing Matiwane in protective custody and flying him to Cape Town.

Meanwhile, a former regional director of the ANC's intelligence department, Lawandhle Magadhla, has been appointed chief of special investigations for the truth and reconciliation commission.

The commission announced yesterday that prominent Eastern Cape advocate Glenn Goosen — who acted for some of the witnesses in the second inquest into the death of Cradock activist Matthew Goniwe — had been appointed national director of investigations.

Magadhla retired from the SA Police in 1991 as a warrant officer and became a private investigator working for insurance companies and various political parties.

He was appointed KwaZulu-Natal director of the ANC's department of intelligence in 1994, a post he served in until early last year when he joined the National Intelligence Agency as its KwaZulu-Natal representative. He will now report to Goosen.

Goosen — who has his own legal practice in Port Elizabeth specialising in human rights and constitutional cases — will be responsible for the planning and execution of investigations for the commission. — Sapa.

## Commission remuneration

CAPE TOWN — The chairman of the Human Rights Commission was being paid a basic annual salary of R183 492 and full-time members R142 731, Justice Minister Dullah Omar said yesterday. (252)

Part-time members were also being paid R142 731 (ie, R71 an hour or part thereof), he said in a written reply to a question from DP leader Tony Leon.

Omar said that the president had not yet determined commission members' remuneration package and meanwhile they were being paid the same salaries in terms of proposals of the state expenditure department.

Full-time members also received a non-pensionable vehicle allowance based on the particular loan limits and official interest rate applicable to officials in the public service's management echelon.

All members were entitled to reimbursement for expenses incurred for subsistence for official purposes. — Sapa.

BD 2/4/96

# Thumbs up for witness protection

The move will make life easier for the Truth and Reconciliation Commission

**J**USTICE Minister Dullah Omar on Tuesday approved in principle a formal witness protection directorate, his spokesman Mr Barend Heystek said yesterday.

The decision followed mounting pressure from the Truth and Reconciliation Commission, which had repeatedly called for a formal programme to underpin its investigative work.

"The Minister of Justice has approved in principle the setting up of a national directorate for witness protection," Heystek said, adding that a formal announcement was expected later.

Omar's decision was related to the resignation of KwaZulu-Natal deputy attorney-general Chris Macadam, who had expressed "frustration" at delays in setting up the programme, Heystek said.

"Macadam felt there had been sufficient time to make a decision," Heystek said, adding the deputy AG would reconsider his decision following Omar's announcement.

Both Truth and Reconciliation chairman Archbishop Desmond Tutu and deputy chairman Dr. Alex Boraine have also

expressed concern about government delay.

At a media-briefing in Cape Town on Monday, Boraine said the commission had been in daily contact with the Justice Department, hoping to secure a programme before commission hearings began in a fortnight.

Macadam, who drew up a witness protection blueprint for the Government in December last year, felt a formal protection infrastructure was vital to the success of the Truth Commission.

Heystek yesterday declined to give details of the planned directorate.

Judicial sources, however, claimed the new structure would aim to emulate the successes of the witness protection programme in KwaZulu-Natal.

A police team, appointed to investigate a spate of recent murders on the south coast, has numerous witnesses in safe houses, KwaZulu-Natal attorney-general Tim McNally said yesterday.

The programme, administered jointly by police and justice officials, was largely responsible for a significant increase in violence-related arrests on the south coast, McNally said. *Sapa*

(252)

Souteran 3/4/96



# Truth desks to help process of reconciliation

(252) Sowetan 3/4/96

By Claire Keeton  
Features Writer

"WHEN he confesses, I will look at him and that's it. He will have to live with the bloody deed he has done. You can't go on pushing and wanting vengeance. It destroys you. You have to stop at some stage," said Phyllis Naidoo.

Her son, Sahdhan Naidoo, a 28-year-old Umkhonto weSizwe cadre, was brutally killed by the South African security forces in 1989, and Naidoo herself was parcel-bombed while in exile in 1979.

Now Naidoo is director of the truth and reconciliation desk of the African National Congress at its headquarters in Shell House, Johannesburg.

A veteran ANC leader and attorney, Naidoo is committed to the Truth and Reconciliation Commission. "I want to know who killed my child. I don't want punishment," she says.

"Most families who come here want to know the truth. They want to know why their child was killed, see the death certificate, know where the grave is and put their child to rest."

The ANC's National Executive Committee decided to set up a truth desk

last year after the Promotion of National Unity and Reconciliation Act was passed in July 1995.

Truth desk coordinator Advocate Mongezi Tshongweni says the ANC accepted the shortcomings of the Act as it was the result of a negotiated settlement with "give and take".

He says the Act equated abuses by the apartheid regime with abuses by the liberation movements even though the one side was fighting a moral struggle and the other to support apartheid.

"But we want to come clean and disclose what happened, for example at Quatro. We will tell the world," he says.

## Come forward

The ANC has encouraged its members to come forward and relate their experiences, and they have been coming to Shell House since December.

Tshongweni says he was appointed coordinator of the truth desk to oversee any national needs and problems the ANC might confront.

He says the ANC has started by establishing provincial desks as it could not service the whole country from Johannesburg.

"Some provinces, like the Eastern Cape and Gauteng, have already opened their desks and others are in the process of doing so."

"The national truth desk will act as a conduit pipe. We will direct people along the right way."

Tshongweni says, however, that the progress of the ANC's truth desk is determined by the progress made by the TRC. "We have to wait to see how their procedures work and adjust our

work accordingly."

The ANC's provincial truth desks will be responsible for taking statements and are hoping for assistance from organisations such as the National Association for Democratic Lawyers, Black Lawyers Association and Lawyers for Human Rights.

They are planning to work with non-government organisations, particularly those which have a history of responding to human rights violations.

## 'We are all role-players'

"The ANC will not work in isolation. We are all role-players and should participate together."

Some organisations have better experience than the ANC in how to handle cases and what mechanisms we should use," Tshongweni says.

"We see people are anxious, and as soon as we refer them to structures like the Khulumani Victim Support Group, they feel better. The ANC and Khulumani have a good relationship."

He says the principal duties of the ANC's truth desks will be to record information from victims and perpetrators on a briefing form. "This will be shifted through to us to prioritise. We are the nerve centre."

## Accused

Tshongweni also accuses the Returned Exiles Coordinating Committee of sending letters with distorted information to the families of ANC cadres, leading to great pain.

"They told people their children or partners were executed by the ANC and the families came to us." Tshongweni says they even sent a letter to his parents telling them his brother was dead, while his brother was in good health.

He says the ANC had to tell families that the RECC was hostile to the ANC and that they were distorting information. "We had to say 'It might have happened or not'."

"Most people who lost loved ones who disappeared or left the country came to the ANC. But they must remember we were not the only organisation in exile."

Many people who report to Shell House are frustrated by the long time they have waited for the TRC to start hearings. The ANC truth desk has explained to them that it took time to establish the TRC's infrastructure.



Phyllis Naidoo ... committed to the Truth Commission.

Naidoo says some people who come to the ANC are so poor they hope the TRC's Reparations and Rehabilitation Committee will assist them.

But, she says, most families are not coming to the TRC to benefit, they want the truth and the opportunity to bury their child with dignity.

• For further information about the truth desk, contact (011) 330-7157

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## Omar approves programme for witness protection (252)

ARC 3/4/96

DURBAN — Justice Minister Dullah Omar has approved in principle a formal witness protection directorate

The decision followed mounting pressure from the Truth and Reconciliation Commission, which had repeatedly called for a formal programme to underpin its investigative work

"The Minister of Justice has approved in principle the setting up of a national directorate for witness protection," a spokesman for Mr Omar said

Mr Omar's decision was related to the resignation of KwaZulu-Natal Deputy Attorney-General Chris Macadam, who had expressed "frustration" at delays in setting up the programme, the spokesman said

He said Mr Macadam would now reconsider his decision

Both Truth and Reconciliation chairman Archbishop Desmond Tutu and deputy chairman Alex Boraine have also expressed concern about government heel-dragging

Judicial sources claimed the new structure would aim to emulate the successes of the witness protection programme in KwaZulu-Natal - Sapa



## Police look on as union members storm Rhodes

GRAHAMSTOWN — Armed police stood by as protesting black students and workers stormed the Rhodes University administration building at lunch time yesterday to highlight their demands for an end to merit-based academic exclusion.

Negotiations are under way between the administration and representatives of the SA Students' Congress (Sasco), the Pan Africanist Students' Organisation (Paso) and the National Education, Health and Allied Workers' Union (Nehawu)

Shards of broken glass, and trails of blood, littered the hallways and steps of the administration building after the melee

Police, standing in readiness with tear gas canisters, did not intervene. *BD 3/4/96*

Lectures and tests were also disrupted and those who wished to continue with classes were intimidated by the protesters, who are calling for an end to merit-based academic exclusion and for the resignation of student dean Moosa Motara.

Screaming protesters hurled abuse at Motara and chased him from the administration building to his home yesterday morning where a heated confrontation took place

Petitions have been circulating among students calling for an end to the disruptions and for lectures to resume as normal

Dining halls have also been closed since university workers affiliated to Nehawu lent their support to the demonstrators and downed tools.

The demands for Motara's dismissal, on grounds of harassment and unfair treatment, have been rejected by the university

Vice-chancellor Derek Henderson said: "The student body's democratic rights have been abrogated by this disruption. The matter has reached an impasse because Sasco and Paso leaders have not brought any specific allegations against Motara for investigation" Under no circumstances would or could the university consider dismissing a member of staff without a full inquiry.

The unions said that many allegations had been brought against the student dean. However, Motara said last night the students had not brought any evidence to prove their allegations. — Ecna

## Activists' families in amnesty lawsuit

Susan Russell

LAWYERS acting for the relatives of four activists murdered during the apartheid era will file papers tomorrow seeking direct access to the Constitutional Court in a bid to prevent the perpetrators obtaining amnesty before their victims' families can sue them in the civil courts.

If successful, the families of murdered anti-apartheid attorney Griffiths Mxenge and activists Steve Biko, Matthews Goniwe and Dr Fabian Ribeiro could delay the Truth and Reconciliation Commission hearings, which are to start this month.

They are challenging the constitutionality of provisions of the legislation empowering the commission which the families believe will prevent them from instituting civil claims against the people responsible for the murders of their relatives.

The families wish to have an opportunity to claim damages from the perpetrators — in the case of Mxenge, former Vlakplaas chief Dirk Coetzee — before they are granted amnesty by the commission. Attorney Cyril Morolo, acting for the four families, said yesterday that if the Constitutional Court application was not heard by April 15, when the commission hearings were scheduled to begin, they would have to apply for an

*BD 3/4/96 (252)*  
urgent Supreme Court interdict to delay proceedings pending a determination of their case by the Constitutional Court

The families' fears that they could be prevented from seeking legal redress against the murderers of their relatives, have been fuelled by an application in the Pretoria Supreme Court by former security policeman Craig Williamson last week for a stay of a R1m civil claim against him pending his application for amnesty before the commission.

Williamson is being sued for R1m by the husband of anti-apartheid activist Jeanette Schoon who, together with their seven-year-old daughter, was killed by a parcel bomb in Angola in 1984.

The former security policeman has admitted that he was one of the security policemen who were involved in sending the bomb to the Schoon's home

Marius Schoon is suing Williamson for R200 000 on his own behalf for emotional and psychological damage and a further R800 000 on behalf of his son who was two-years-old at the time.

If Williamson obtains an order delaying Schoon's civil claim and is then granted amnesty he will not be liable for any claim against him afterwards

Judgment in Williamson's application is not expected until after Easter.



# Commissioner must go — IFP

Farouk Chothia

BD 3/4/96 (252)

DURBAN —The IFP yesterday called on truth and reconciliation commission member Richard Lyster to step down immediately because it claimed he was biased against the IFP and police.

The IFP also slammed the commission as "Stalin's show trials" in reaction to the recent appointment of former ANC KwaZulu-Natal intelligence and security department head Lawandhle Maghadla as head of the commission's investigation team. The commission's national investigations director was Glen Goosen, an ANC activist.

Lyster said earlier this week that many KwaZulu-Natal human rights abuse victims were afraid to give evidence as they lived in the same community as "warlords" and policemen linked to violence.

Lyster, a former Legal Resources Centre attorney, is one of two KwaZulu-Natal commissioners.

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# 'Delight' at ANC's new stance on property rights

BO 3/4/96

(252)

Lukanyo Mnyanda

THE South African Property Owners' Association (Sapoa) has welcomed reports that the ANC had softened its stance on a property clause in the new constitution, dropping its earlier insistence on linking compensation for expropriation to the state's ability to pay.

CEO Brian Kirchmann said he was "delighted" that the organisation seemed to recognise the importance of having a property clause in the constitution to protect present and future property owners from the possibility of having their land arbitrarily taken away by the state.

The ANC has reportedly offered to drop the clause linking compensation with the state's ability to pay with one stipulating "the need for effective land reform".

Kirchmann said: "SA is now a country of equal opportunity and people who were disadvantaged in the past are able to obtain property."

"It would be sad if, for example, 40 years down the line, a hostile government was able to deprive them of their property again," said Kirchmann.

The ANC's move was also likely to have a positive effect on investor confidence as many people who were interested in investing in SA were being kept away by the uncertainty regarding their

security of title.

"The softening of the ANC's stance is encouraging because people won't invest in the country if they don't think they will have security of title," said Kirchmann.

Sapoa supported land reform and did not believe it would be hampered by having a property clause in the constitution.

"In fact, having the property clause without making provision for land reform would be silly. The two go together, and our members are willing to assist with land reform," said Kirchmann.

Also welcoming the ANC's move, Sanlam Properties Asset Management GM Fannie Lategan said he was "more comfortable" now that the term, "the state's ability to pay", seemed set to disappear from the clause.

As previously worded, the clause would have been open to abuse and would have prevented courts from making binding judgments compensating people whose property had been expropriated.

But Lategan said he was opposed to entrenching land restitution in the constitution.

He said restitution was supposed to be a temporary measure aimed at addressing past imbalances, while the constitution "is supposed to last forever".

However, the ANC's new stance was a positive development because "the right to ownership is crucial".

# City Council should favour black lawyers

PETER DENNEHY

252  
3/4/96

ANY black legal firm allocated conveyancing work by the Cape Town City Council should receive twice the number of cases given to any white firm.

This is part of a joint proposal that three groups of lawyers made to the council, after it decided to abandon its old practice of giving all its conveyancing (land transfers) work to a single firm.

The three associations the council approached are the National Association for Democratic Lawyers, the Black Lawyers' Association and the Southern Suburbs Attorneys' Association.

The associations, who were asked to work out a common document, proposed that black firms should be given twice as much of the work as white firms.

All firms wanting to get work should be given some. The ratio of work allocation should not take the size of firms into account, the proposal said.

Members of the council's executive committee had problems with some of the suggestions. Their concerns were taken back to the lawyers, with the suggestion that they meet council officials to sort the problem out.

The associations said they had set up a sub-committee to deal with the matter, and would be in touch with the city administrator as soon as a response had been worked out.



## Protection plan set up

(252) CT 3/4/96

□ From Page 1

Justice Minister Dullah Omar said his department had seriously considered a witness protection programme and had also held talks with the Minister of Safety and Security as it could involve considerable expense. He wanted to ensure that taxpayers' money was not squandered.

"What I want is an effective programme which can be invoked by the commission, but which also makes provision for the need for witness protection in other crimes such as Third Force activities, drug and gang related cases."

# Justice Dept starts witness protection plan

CHRIS BATEMAN

THE country's top witness protection expert, Kwazulu-Natal deputy attorney-general Mr. Chris Macadam, won a moral victory yesterday when the Justice Department set up a national Witness Protection Directorate the day after he resigned in frustration at delays.

The move came 12 hours after the Cape

Times reported Macadam's resignation and three days after Truth and Reconciliation Commission (TRC) chairman Archbishop Desmond Tutu expressed grave concern at the lack of an official witness protection programme.

Macadam — whose chief complaint was of a mushrooming Kwazulu-Natal witness protection programme (so far 120 "clients" in safe houses) run by him and a

handful of people in their spare time without official back-up — said he would reconsider (his resignation) after the Easter break.

"Obviously I won't take any action which will result in the Truth and Reconciliation Commission's interests being unprotected, but I'd like to work out a solution which is best for all the country's witnesses," he said from Durban yesterday.

(252) CT 3/4/96

Macadam will spend his Easter break setting up a witness protection programme in the Eastern Cape.

The TRC's first hearings start in East London on April 15.

He is due to hold discussions with Justice Department director-general Mr. Jasper Nothe on Tuesday about heading the Witness Protection Directorate.

□ Turn to Page 3

# Tardy action to protect witnesses won't delay truth hearings

By ROBERT BRAND

The lack of Government action to establish a witness protection programme would not jeopardise the Truth and Reconciliation Commission's first public hearings, scheduled for April 15 in East London, a commission spokesman said today.

He was reacting to claims that

Justice Minister Dullah Omar's heel-dragging over the establishment of a structure to protect witnesses who appeared before the commission and criminal trials had led to concern among commission members.

Yesterday, Omar approved "in principle" the establishment of a formal witness protection directorate following pressure from the

(252) Star 3/4/96  
commission and other sources, including KwaZulu Natal deputy attorney-general Chris MacAdam, who resigned last week because of delays in setting up the programme.

Commission vice-chairman Alex Boraine last week expressed "deep concern" about the lack of a witness protection programme and said the commission was in

daily contact with the Justice Department, hoping to secure a programme before hearings began.

But the commission spokesman said there was "no suggestion" that the East London hearings could be delayed because of the lack of witness protection. The commission was able to take emergency steps to protect witnesses at this stage, he said.



# Goniwe widow behind Truth Commission

(252) Star 3/4/96

By **ROBERT BRAND**

The widow of murdered anti-apartheid activist Matthew Goniwe has distanced herself from a Constitutional Court challenge mounted by relatives of other slain activists against the Truth and Reconciliation Commission and says she is prepared to testify before the commission.

Nyameka Goniwe said yesterday she had been approached by the commission and asked to testify at the first public hearings in East London from April 15

Relatives of murdered civil

rights lawyer Griffiths Mxenge, Black Consciousness leader Steve Biko and Mamelodi doctor Fabian Ribeiro are preparing to challenge the commission in the Constitutional Court, saying the commission will deprive them of their constitutional right to seek redress through the courts.

Newspaper reports linking the Goniwe family name to the Constitutional Court bid were erroneous, Mrs Goniwe said

Mxenge's family have asked KwaZulu Natal Attorney-General Tim McNally to bring former Vlakplaas commander Capt Dirk

Coetsee to trial for the murder of Griffiths Mxenge 14 years ago, Sapa reports

In a letter to McNally, attorney Cyril Morolo said "Our instructions are to request that you proceed to prosecute Dirk Coetsee with the murder of Griffiths Mxenge on the basis of the admissible evidence he made in court"

KwaZulu Natal Deputy Attorney-General Ross Stewart confirmed receipt of the letter, but said no action would be taken pending the outcome of a reopened probe into Mxenge's death

# Truth body turns down request on application

(252) BD 4/9/96

CAPE TOWN — The truth commission has refused a request from lawyers on behalf of the Mxenge, Biko and Ribeiro families for a copy of former Vlakplaas commander Dirk Coetzee's amnesty application.

However, the families could still bring a court application challenging the ruling, the chairman of the commission's five-member amnesty committee, Judge Hassen Mall, told Sapa. In a letter to the commission last week, attorney Cyril Morolo gave notice of the families' intention to have the commission declared "null and void" by the Constitutional Court on the grounds it deprived them of their right to seek redress.

He requested Coetzee's application, saying it could be helpful in preparing their challenge. The commission was bound to comply with section 23 of the interim constitution giving "every person the right of access to all information held by the state . . . inso-

far as such information is required for the protection of any of his or her rights", he said.

Mall faxed a reply to Morolo yesterday, saying the committee had considered the request. "It is of the view that there is no legal basis on which the committee could accede to your request on any of the grounds set out in your letter." Morolo said he was not satisfied with Mall's reply as it did not give sufficient reasons for refusing the request.

Meanwhile, Bonile Ngqiyaza reports that the widow of slain activist Matthew Goniwe has expressed her willingness to testify before the commission. Nyameka Goniwe said she had been approached by the commission to testify at the first public hearing in East London.

Contrary to a Business Day report yesterday, she has distanced herself from the Constitutional Court challenge by relatives of the other murdered activists.



# New A-G De Vries aiming at improving staff morale

(252) Star 4/4/96

A popular choice among his colleagues, once he has a unified, efficient office, it will become easier to bring criminals to court speedily

BY SUSAN MILLER

The first priority of advocate Andre de Vries, the newly appointed Attorney-General of the Witwatersrand, is to unify his office and see it running efficiently

Quietly spoken, with 25 years' experience in prosecution, De Vries (50) is faced with a shortage of staff and reported low morale among staff

This is apparently caused by extremely long working hours, low pay and an affirmative action plan initiated by the Ministry of Justice and the Department of Justice

"I want to unite my new staff with my old staff because without a united office I will not be able to address all the problems facing us, especially that of a lack of experience among many of the younger staffers," said De Vries

He said it was imperative for the system to work because "if the justice system folds then the whole community falls into chaos and this plays into the hands of criminals"

He said his priorities were crimes such as the ever-increasing vehicle hijackings involving murder, organised crime and crimes of extreme violence

Reportedly the favoured choice of staff in the A-G's office, De Vries has worked under extremely stressful conditions himself, notably as senior public prosecutor at the Johannesburg Magistrates' Court from 1980 during a period of "critical shortage of staff"

His concern at understaffing at courts began at that time and he brought the critical position at the Johannesburg Magistrates' Court to the attention of the Hoexter Commission, which he said made recommendations which led to better professional benefits for prosecutors

He said the current staff shortage had been alleviated somewhat by recent appointments

"One senior position has just been filled, seven junior state advocates have recently been appointed, and I have been told that a number of middle management posts and that of one deputy attorney-general will be filled within the next two months," said De Vries

He said the junior positions had all been filled by state prosecutors who had worked in various magistrates' courts in the Witwatersrand district and had been chosen on merit by staff members from his office

"I can only hope my newly appointed deputies are fully qualified so they can help me with

management tasks and with the training of staff which I am very keen on doing," he said

De Vries, born in Brixton, Johannesburg, in 1945, joined the Department of Justice at the Johannesburg Magistrates' Court as a prosecutor in January 1968 and was admitted as an advocate of the Supreme Court on June 18 1968

He was transferred to the staff of the Attorney-General in 1969 and then to Johannesburg, where he has worked since

He describes himself as a "professional prosecutor of criminals"

enced public prosecutor to have to conduct a case against a senior defence advocate," he said

De Vries said more public prosecutors were needed and at the moment the Johannesburg Magistrate's Court was operating with a shortage of 17

"I have been involved in the training of prosecutors since 1980, and want to start a programme from this office so that senior staff members can advise and train junior prosecutors

"We will use our conference facilities perhaps on the week-

ed" by its introduction

"This is not a new situation. All our senior, or what we call promotion posts, have been frozen for the last four years and many of our less experienced staff members have worked long hours in very stressful conditions to keep the justice system going

"They see the new appointments and feel they are not being rewarded for their efforts," he said

Believing in the balanced application of the affirmative action programme, De Vries was not surprised by his own appointment as a white male because he believes merit will always be taken into account

Commenting on the controversial "kitshof" which was introduced at the Johannesburg Regional Court to deal speedily with vehicle hi-jackers, De Vries said he thought it was an excellent idea

The kitshof was disbanded after a Supreme Court ruling which found the decision of a magistrate not to grant a postponement in order to give one of the accused time to get the defence lawyer of his choice unconstitutional

"We will set this court up again and the problems which were there will be addressed," he said

De Vries is aware of public alarm at the prevalence of violent crimes and said there has been a definite increase over the years since he started working as a prosecutor

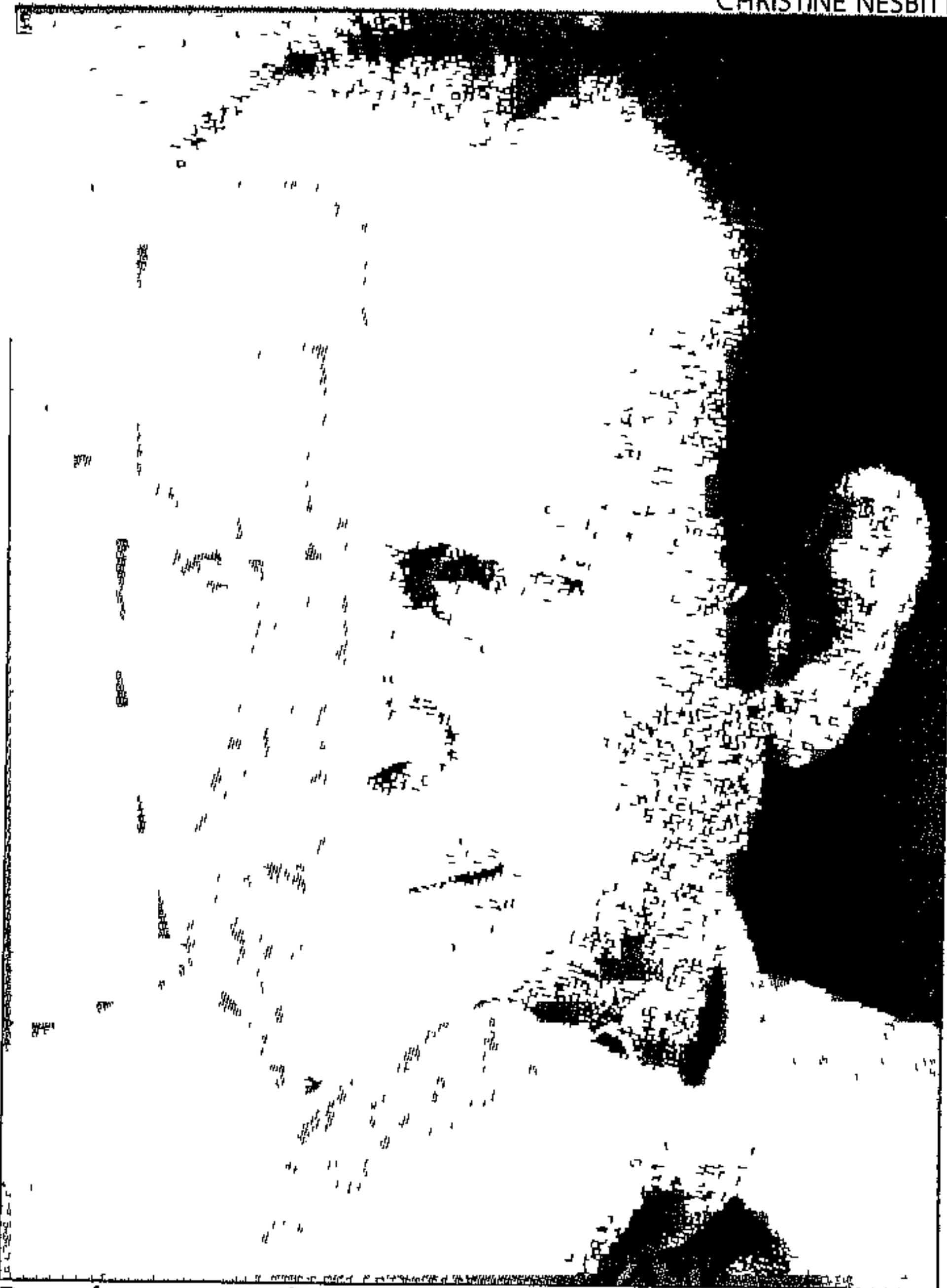
"In the 60s we had armed robberies, rapes and housebreaking but these were not accompanied by murder, as they are today. These days it seems to be the rule that the person who is raped or robbed is also killed and there has been a marked increase in the viciousness of crimes"

While he has no hesitation in stating his determination to combat violent crime, De Vries refused to get drawn into the much publicised debate on the merits of the death penalty

"We apply the law as we find it and since the Constitutional Court has ruled on the matter we are bound by that ruling," he said

De Vries said that there was no division between the Department of Justice and the Department of Correctional Services over the sentencing of prisoners, although he thought the practice whereby prisoners who had been sentenced to life imprisonment were eligible for parole review after 20 years was "being looked at"

"Once our staffing shortage is alleviated, we will be able to process cases faster," he said



CHRISTINE NESBITT

Been there .. De Vries understands the stressful conditions.

and is determined to get prosecutors the recognition they deserve as "professionals" in the legal field

"Prosecutors should be recognised as a separate and specific arm of the law," he said

De Vries said his ongoing concern was that prosecutors and other members of his staff should get job satisfaction and feel appreciated for their efforts so that the lack of money should not be the only factor in their staying or leaving their jobs

He said the inexperience and youth of many public prosecutors was an ongoing problem

"It is very stressful and soul-destroying for a young, inexperi-

ends or during the week. What prosecutors need is practical experience, as at the moment the only place they get this is in the magistrate's court"

De Vries said not one university in the country taught law students how to prosecute, only how to defend

"The prosecutor must be made to feel part of the legal profession and this situation is being looked at at the highest level," he said

While he believed that the affirmative action programme of the Department of Justice was being applied in a balanced manner, he felt it was understandable that some of the staff felt "reject-



# Triple barrage for the truth commission

Eddie Koch

**T**HE Truth and Reconciliation Commission this week faced challenges on three fronts just as it was gearing up to hear applications for amnesty later this month from agents who committed human rights abuses in the apartheid era.

Firstly, the families of four murdered activists announced they will launch a Constitutional Court application for the commission's hearings to be postponed so that they can sue the assassins.

Relatives of Steve Biko, Matthews Goniwe, Griffiths Mxenge and Fabian Ribeiro say the commission's provisions — which indemnify those applicants who succeed in obtaining amnesty from civil claims — is preventing them from claiming from damages in the courts.

The Mxenge family want to sue Dirk Coetzee, a former police hitman who has confessed publicly to orchestrating the grisly murder of the human rights lawyer. They will back the constitutional action to have the commission's hearings put on hold so that they go to court.

Secondly, a number of apartheid victims who appeared on Felicia Mabuza-Shuttle's TV talk show this week complained the commission was offering protection to the abusers — and well-paid jobs to its officials — while taking away some basic civil rights of those who suffered the most.

Finally, Marius Schoon, whose wife and daughter were blown up by a parcel bomb in Angola, is fighting a supreme court bid by superspy Craig Williamson, who wants the court to halt Schoon's R1-million damages claim.

Williamson admitted last year he helped plan the police project to send a parcel bomb to the flat in Angola where Jeanette Schoon and her seven-year-old daughter were blown up in 1984.

Schoon is contesting the supreme court application so that he can claim R200 000 for emotional damages and R800 000 for his son who was present in the room when the bomb exploded. He does not believe Williamson should be let off the hook for the grie-

(252) MFG 4-11/4/96  
some murder of his wife and believes that agent should stand trial for his role in it.

If Schoon, along with the families of the other four murdered activists, succeed in the court actions this could encourage similar claims ahead of the first public hearings by the commission, due to be heard later this month.

Alex Boraine, deputy chairman of the truth commission, told the *Mail & Guardian* that its staff were "deeply sympathetic to the suffering of the victims' families and to the points made in their statements".

He noted the amnesty clauses were part of the compromise at the World Trade Centre which made it possible for South Africans to take part in their first democratic elections. "Without that there would have been no end to the violence and many more people would have been killed or abused."

Boraine insisted the courts could work in tandem with the truth commission. The Malan murder trial, for example, was not put on hold because of its establishment.

Where serious human rights abuses were committed and applicants fail to obtain amnesty, victims would be in a much stronger position to obtain legal redress.

"There has already been an inquest into the murder of Matthew Goniwe and his colleagues. The court failed to find

those responsible, presumably because it is extremely difficult to do so," said Boraine.

"If Mrs Goniwe were to come to the commission now, she would have sympathy and compassionate assistance from a team of investigators who would be able to make another hard probe into who it was that carried out the brutal murder of the Goniwe four."

Boraine said it was unlikely the Constitutional Court would delay the hearings because the applicants did not represent the majority of people who suffered abuse under apartheid.

"What about the ordinary people, the little people? They have never had an inquest or the opportunity to sue their victimisers. We need a little patience so these people can have their social dignity restored."



Marius Schoon: 'Williamson must not be let off the hook'



# Public Sector Salaries 'Justified'

A survey of corporate headhunters reveals that salaries of highly paid officials in parastatals are commensurate with those in the private sector, reports **Philippa Garson**

**S**ALARY packages for highly paid officials in parastatals like the South African Broadcasting Corporation and Independent Broadcasting Authority are justified, say remuneration experts.

Recent allegations of squandering of government resources by IBA officials have prompted close scrutiny by politicians and the public alike of salaries of those in top positions in the likes of the IBA, SABC, Human Rights Commission and Truth and Reconciliation Commission.

Outgoing broadcasting minister Pallo Jordan claims the SABC and IBA's salaries are "market-related".

But, while salaries in the corporate world are partly determined by performance and delivery, executives in key government or parastatal posts are not scrutinised in the same way. Experts in the remuneration field believe performance of high flyers in parastatals should be similarly evaluated.

SABC chief executive Zwelakhe Sisulu earns R460 000 a year, Gert Claassen, chief operating officer, earns R370 000, radio chief Gown Reddy earns R350 000, and Jill Chisholm, head of TV and TV news, earns R250 000. IBA councillors earn R320 000 and IBA chairpersons around R411 000 a year.

Top salaries in these parastatals are similar to salaries of ministers and provincial premiers, who earn on average R470 000 a year. Directors general earn R464 000, while deputy min-

isters earn in the region of R372 000 and the two deputy presidents, R681 000. The president himself earns R784 350 a year.

A director of a leading mining house or public company like Eskom can earn almost twice as much as the president, begging the question of whether salaries in the private sector are not grossly inflated.

Salaries in the Human Rights Commission and Truth and Reconciliation Commission are more in line with top-notch jobs in the development sector. HRC chairman Barney Pitsoana earns R183 432 a year and full-time members get R142 731. Commissioners on the Truth and Reconciliation Commission will be paid between R200 000 and R250 000 per year.

According to Ruth Underwood of Action Appointments, which heads hunts for the development sector, a director of "a fairly large and stable NGO would earn a top salary of around R200 000 a year".

Martin Westcott, MD of PE Corporate Services, which undertakes salary surveys and headhunts for government and the private sector, believes the SABC salaries are reasonable. "Even though most of the top jobs were filled by people without appropriate experience, their salaries are still not excessive for the responsibility demanded by the positions." An executive heading up a "largish" corporation with a turnover of around R300-million a year could expect to earn between R400 000 and



Headhunter Martin Westcott: 'Their salaries are not excessive for the responsibility demanded by the positions'

PHOTOGRAPH BY RUTH MOTAU

R500 000 a year, says Westcott. However, a "risk factor" of around 20% would be built into this package, determined by the director's performance — crudely measured against company profits — unlike a parastatal head who could merely overspend and get bailed out by the Finance Ministry.

Michael Oliver of Sibson & Company (a subsidiary of Renwick) says a job equivalent to SABC chief executive in the commercial sector would be close on R700 000 a year plus an additional risk-related 25%. By comparison to government jobs, salaries like these may be high. But, given the mix of public and private components, criteria are not identical. "My own opinion is they are not out

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money when you deliver."

Another problem plaguing parastatals like the SABC is overstaffing. "There are far too many civil servants and bureaucrats. The public outcry is around the total cost of employment. It is time the manpower count is brought in line with the private sector," says Westcott. The gray train, in his opinion, has more to do with over-staffing than overpaying.

Some companies doing placements and salary surveys for the government — including Hay and FSA Contact — are reluctant to divulge information which is the privilege of their "client". They do, however, note that the government is beginning to introduce appraisal systems comparable with the market place in evaluating employees' performances "and are beginning to move away from the system of automatic increases", says Westcott. His company has been involved in introducing merit-based systems into the public sector.

Whether corporate-like appraisal systems for public officials are in place or not, it is still the function of Parliament to act as an effective public watchdog of the performances of those in key government and parastatal positions.

Richard Calland of the Institute for Democratic Alternatives (Idasa) Parliamentary Information and Monitoring Service (Pims) points to Parliament's role in ensuring people employed by government are doing their job. "Parliament should be looking closely at parastatals too. They are spending public money. The fact that they are a hybrid of public and private funds should call for even more scrutiny, he says.



## BILL OF RIGHTS

# UTOPIAN QUEST WHICH MAY AGGRAVATE THE MALADY

FM 5/4/96

## Opening a Pandora's box

George Orwell wrote "All animals are equal, but some animals are more equal than others" From that sinister formulation arises State oppression and, again in Orwellian phrase, "unfreedom" Is that to be our fate even as we celebrate an illusion of freedom?

The constitutional negotiators need to consider several profound contradictions that have crept into the draft text, if allowed to stand, the defined quest for democracy and decency will be undercut in ways that will seriously infringe on personal freedoms and even harm the economy

Last week, the Institute of Race Relations held a seminar on the Bill of Rights The speakers all stressed the primary intent of such entrenchments to act as a shield against the arrogance of the State So we gain the right to life, dignity, freedom, security, privacy, belief and the power to express it freely

Of course, matters are more complex The National Party wants the death penalty to be reinstated Cosatu wants to strike but no reciprocal employer right to a lock-out And all rights are subject to limitation — which is perfectly in line with world practice Countries cannot both wage war and guarantee liberty, for example

But there are subtler dangers

One lies in the introduction of socio-economic rights, whereby people have a right to demand of the State (for example) that it provides free education, health care, social security and the instruments to outlaw all forms of discrimination

As Race Relations' chief executive, John Kane-Berman, pointed out, "when people seek to enforce these rights and take them to their logical conclusion, the courts wind up in practice deciding, among other things, the size of the Budget deficit as

they order the government to build houses, lay on piped water, hire or import more doctors, and so on"

The ANC, he pointed out, has frequently sought to prevent "privatised apartheid" by outlawing it in the Bill of Rights He added "Several of the parliamentary opposition parties acknowledge that there may be problems in thus giving the State extensive powers to regulate private behaviour, but they fear that if they oppose the outlawing of private discrimination they will be branded as racists — which they certainly will"

But Kane-Berman also argues that the ANC has second thoughts about certain implications of this approach, certainly in relation to the socio-economic rights The ANC — with its populist, cradle-to-grave socialist conditioning — has gradually circumscribed the socio-economic rights to the point that they have become somewhat "half-baked"

As this category of rights now stands, a formerly "hard" entitlement to "access to clean water" has been softened by removal of the word "clean" The phrase "access to" itself is vague, and the socio-economic rights have been qualified by the words "Within the State's available resources," after "reasonable legislative and other measures" have been enacted

Thus what sound like inalienable rights become, as Kane-Berman suggests, "a

kind of constitutional consolation prize" Worldwide, governments promise socio-economic upliftment to their electorates If they fail, they pay the electoral penalty

Such social engineering is simply "the basis of party-political competition on a daily basis and at election time matters for ordinary legislation which can be changed as circumstances necessitate They cannot properly be dealt with by constitutional law To pretend that they can is to practise deception upon the poor and homeless"

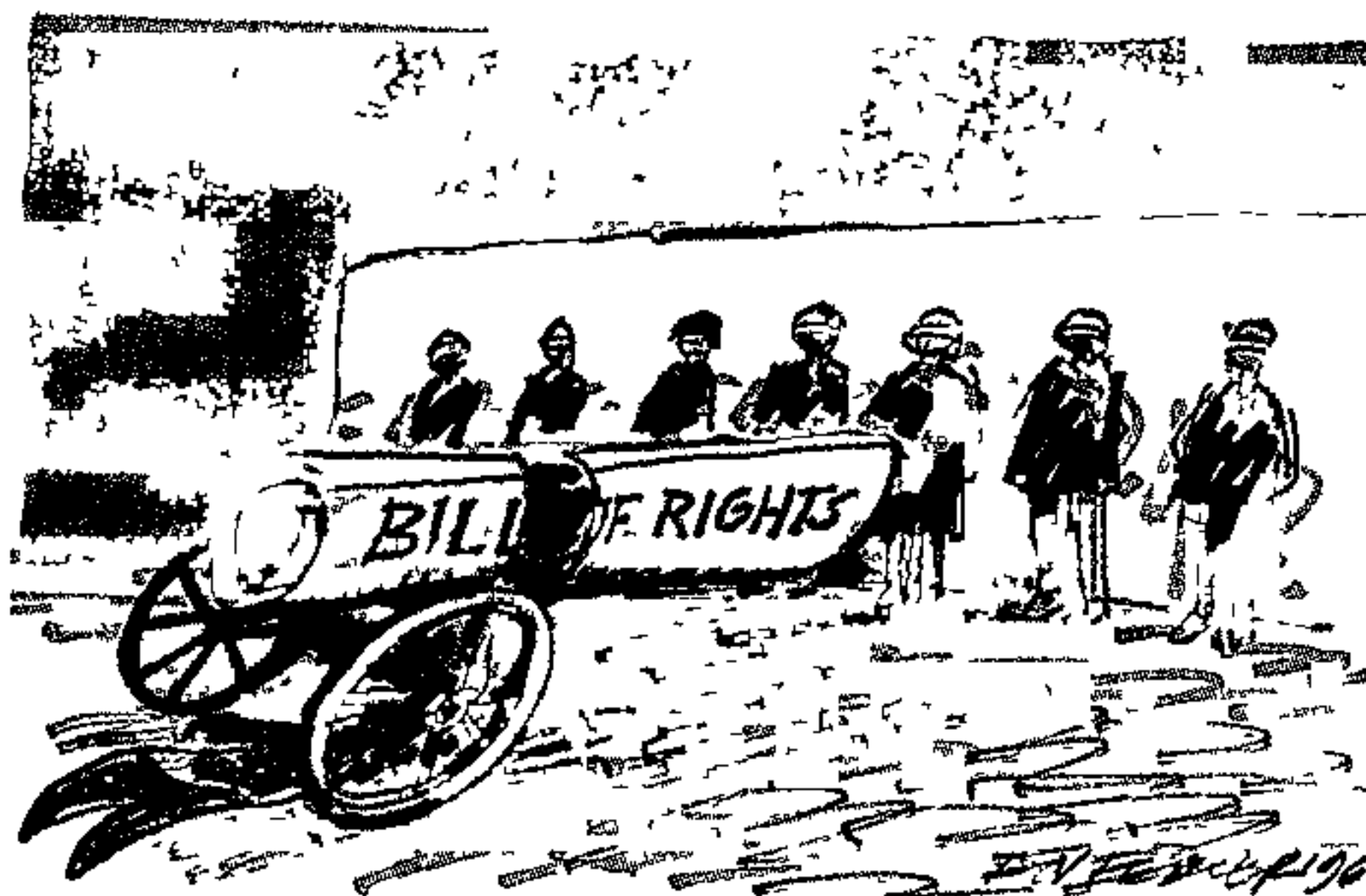
But what if a person challenges a lack of water or housing by appealing to the legal system — with the Constitutional Court at the apex — on the issue of "the State's available resources?"

Kane-Berman asks what view the courts would take if a homeless applicant argued that the State should translate available resources — "its capital assets, for example" — into funds for housing "Perhaps the judges will move in where the politicians fear to tread and order the sale of Mossgas, the SABC, Telkom, Portnet, Spoornet, and all the rest!"

The dangers of enshrining socio-economic rights — even in soft form — in the constitution are all too apparent But it is hardly likely that they will be excised

Perhaps an even graver flaw in the Bill of Rights lies in Clause 38 (2), which reads "The Bill of Rights binds all natural and juristic persons if applicable" A juristic person is defined (in Penguin's Concise Dictionary Of the Law) as "an entity, such as a corporation, that is recognised as having legal personality, ie, it is capable of enjoying and being subject to legal rights and duties"

The draft constitution enables what has been called the horizontal application of basic rights Anthea Jeffery, a researcher who spoke at the Race Relations seminar, considered this "horizontal" in the light of the equality clause While the





# Hanging ban will stay after secret talks deal

(252) ST 7/14/96

By CYRIL MADLALA  
Parliamentary  
Correspondent

THE ban on the death penalty will remain intact, while the Senate is to be scrapped after a series of deals concluded in secret by constitutional negotiators this week.

The deals, thrashed out during a three-day bosberaad at Arniston in the Cape, include constitutional clauses that

- Entrench the right to life,

- Ban hate speech that could cause harm,

- Replace the Senate with a national council of provinces, and

- Cut numbers of MPs

An upbeat Cyril Ramaphosa, chairman of the Constitutional Assembly, emerged from the talks confident that the May 8 deadline for the adoption of a constitution will be met.

Similarly excited was NP chief negotiator and secretary-general Roelf Meyer, who said "It will be possible to achieve our goals by May 8."

Petitions with more than one million signatures calling for the return of the death sentence were submitted to the Constitutional Assembly, but despite this and months of heated debate, the negotiators have agreed on a formulation which says "Everyone has the right to life."

This is virtually the same as the existing clause in the interim constitution, which says "every person shall have the right to life." Some of the judges in the Constitutional Court based their decision to outlaw the death penalty on this clause.

The deal also means the Constitutional Court will have to make a final decision on abortion.

The right to freedom of expression in the new constitution will not be extended to so-called hate speech.

Advocates of freedom of speech had fought for this right not to be diluted, but the ANC insisted that certain kinds of speech should not be tolerated.

It has also been agreed that the National Assembly should have 350 members instead of its current 400. Provincial legislatures can have a maximum of 80 members.

A significant breakthrough was a shift towards a more effective voice in Parliament for the provinces and local governments, by allowing them direct participation in a council of provinces.

The council, which is to replace the Senate, will consist of provincial delegations of six permanent delegates and four special ones each, including the regional premier or his representative.

The legislative authority of the country still rests with Parliament, which will have power to pass legislation on any matter including those in which provinces have concurrent powers. Where there is conflict between national and provincial legislation, the former will prevail.

Despite the remarkable progress made this week, other major hurdles are yet to be overcome.

On the Bill of Rights, agreement on inclusion in the labour relations clause of the right to strike and to lock out evaded negotiators. They were also still deadlocked on the vexatious property clause.

● See Page 4

# Buthelezi ready for the 'Truth'

(252) ARG 7/4/96

ULUNDI - Inkatha Freedom Party leader Mangosuthu Buthelezi said he was still prepared to meet Truth Commission chairman Archbishop Desmond Tutu for talks, even though he viewed the commission as a joke and a witch-hunt.

He also reiterated that IFP members who were victims of human rights abuses or who sought amnesty for political offences would not be stopped from going before the commission.

"It would be wrong for the party to stop IFP members from going to the commission," he said.

He said he endorsed a statement this week by IFP intelligence and defence spokesman senator Phillip Powell on the recent appointment of a former African National Congress regional intelligence director as the commission's chief of special investigations.

Mr Powell had said the IFP would be co-operating in signing its own death

sentence if it testified before the commission, which had become an employment vehicle for former ANC activists and an "ideological Trojan Horse" for the party.

Chief Buthelezi said he had first expressed reservations about the composition of the 17-member commission during a cabinet meeting.

"There are many people on the commission who are patrons of the former UDF (United Democratic Front) and ANC. The recent appointments make the whole thing even more of a farce."

The appointments also did little to dispel fears within the IFP that the commission would turn into a witch-hunt against political opponents, he said. However, despite his party's strong opposition to the commission, chief Buthelezi said, he still intended meeting Archbishop Tutu and his deputy, Alex Boraine, although a date for the talks had not been set. - Sapa.





**MATTHEW GONIWE . . . The TRC is likely to open its hearings with testimony from the Goniwe family.**

# Goniwe murder likely subject of first TRC hearing

**By CHIARA CARTER**

ON JUNE 7 1985 a message sent from the army's Eastern Cape command to the State Security Council in Pretoria suggested that UDF leader Matthew Goniwe and his colleagues be "permanently removed from society"

Fewer than three weeks later, Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlauti disappeared en route between Port Elizabeth and Cradock

The bodies of the four activists were found in their burnt out car near Blue Water Bay outside Port Elizabeth

A decade and two inquests later, nobody has been charged for the brutal murders

Now the Truth and Reconciliation Commission (TRC) is likely to open its hearings with testimony from the Goniwe family

While the TRC will only finalise which human rights violations cases will be heard next week, Goniwe's widow, Nyameka, is likely to testify at the first TRC hearings scheduled to begin in East London on April 15

# Asvat family may want probe

**By CHIARA CARTER**

THE TRUTH and Reconciliation Commission (TRC) might be asked to investigate one of the country's most politically sensitive murders - the 1989 killing of Dr Abu-Baker Asvat in his Soweto surgery

This weekend, the Asvat family confirmed they were considering going to the TRC

Asvat, who was known as the "people's doctor", was gunned down by a man posing as a patient on January 27 1989.

Two men, Thulani Dlamini and Zakhele Mbatha, were convicted of the murder but the Asvat family and Azapo, whose health secretariat was headed by Asvat, remain uncon-

vinced that the full circumstances of the murder have been uncovered

This weekend Asvat's brother, Dr Ebrahim Asvat, said his family were discussing whether they should ask the TRC to investigate

"We will take a decision once the TRC is up and running," Asvat said

Should the Asvats go to the TRC, the commission's investigating team would have to interview a range of prominent political figures, including Albertina Sisulu, who worked for Asvat at the time of his death

They would also have to examine a string of startling allegations that the Asvat murder was linked to the Winnie Mandela kidnapping case

Four youths were kidnapped in December 1988 from the Methodist

manse in Soweto

One of the four, 14-year-old Stompie Seipei, was found murdered at the beginning of January 1989 - a few weeks before the Asvat murder

The coach of Madikizela-Mandela's Mandela United Football Club, Jerry Richardson, was subsequently convicted of murdering Seipei, while Madikizela-Mandela and her housekeeper, Xoliswa Falati, were convicted of kidnapping

A series of claims were made that the two cases were linked and that the motive for Asvat's murder was not robbery

Police subsequently launched a fresh investigation into the murder and the various claims

During the Rand Supreme Court

murdered

Also relevant to the investigation is a murder trial currently taking place in the Port Elizabeth Supreme Court

During the second inquest into the Goniwe murders, Anton Moutser SC alleged that police masterminded a 1989 carbomb in Motherwell outside Port Elizabeth in which three black policemen and an Askari, an ANC member turned informant, were killed

He said the men were about to spill the beans about the Goniwe murder

Explosives expert Lieutenant-Colonel Gideon Nieuwoudt, Mayor Gerhardus Lotz, Director Wahl du Toit, Captain Kobus Kok and former Vlakplaas operative Marthinus Ras are presently standing trial for the four murders

The court has heard that Nieuwoudt and other Vlakplaas members travelled to Port Elizabeth on the instruction of former Vlakplaas commander Eugene de Kock

De Kock is presently standing trial on unrelated murder charges in the Pretoria Supreme Court

Case, Madikizela-Mandela claimed the youths were taken away from the church because they were being sexually molested

Her co-accused, Xoliswa Falati, alleged there was a link between the case and Asvat's murder because Asvat had examined the youths and could prove they had been sexually molested

The same allegation was made prior to the court case by Madikizela-Mandela

After Falati fell-out with Madikizela-Mandela, she was reported to have claimed a different connection - that Asvat was murdered because he had information about the Seipei murder

There was widespread speculation that Asvat had been called to tend to the badly assaulted Seipei and had advised that the boy be hospitalised

A co-accused and key witness who jumped bail, Katiza Cebekhulu, was reported to have said he had information linking the murders

After being held in a Zambian prison, Cebekhulu disappeared but is thought to be living in hiding outside the country

One of the men convicted of murdering Asvat, Thulani Dlamini, made a statement which was never admitted at the murder case, claiming that his co-accused, Zakhele Mbatha, had told him that he would receive payment from Madikizela-Mandela Mbatha denied this.

TRC PROBE? . . . murdered Dr Abu-Baker Asvat.

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murdered Dr Abu-Baker Asvat.

murdered Dr Abu-Baker Asvat.

murdered Dr Abu-Baker Asvat.



**TRC PROBE? . . . murdered Dr Abu-Baker Asvat.**

# Mxenge attorney gives Tutu option

(252) Sowetan 9/4/96

## Mxenge and Biko families want the killers to be charged for the deaths

By Joe Mdhlela  
Political Reporter

**T**HE CHAIRMAN OF the Truth and Reconciliation Commission, Archbishop Desmond Tutu, has been given until tomorrow to allow access to Dirk Coetzee's application for amnesty or face legal action.

An attorney acting on behalf of Griffiths Mxenge's family, Mr Cyril Morolo, has written to Tutu objecting to the commission's refusal to allow the Mxenge family access to the application in order to prepare an objection in court.

Morolo is also acting on behalf of the late Steven Bantu Biko's family, the family of the late Dr Fabian Ribeiro and the Azanian People's Organisation.

Morolo said failure to furnish contents of Coetzee's application for amnesty would result in legal action taken against Tutu.

Attorney and United Democratic Front activist the late Mxenge was assassinated in Durban in 1981. Coetzee, a former Vlakplaas hit squad commander and now a member of the African National Congress, confessed to have co-ordinated and planned the killing of Mxenge in Durban in 1981.

At the centre of Morolo's argument is the assertion that Coetzee should have been arrested immediately after his Pretoria Supreme Court's testimony at the De Kock trial three months ago.

Coetzee is now attached to the National Intelligence Agency alongside former colleagues who worked for the security branch during the apartheid years.

In his letter to Tutu, Morolo wrote "We note with regret that you deny our client his constitutional right to obtain

Dirk Coetzee's application for amnesty. Our client is not able to set out sufficient grounds to your satisfaction, as to what portions of the application he will use in his constitutional court case, before he is afforded an opportunity to peruse the application."

He said Tutu must state what requirements should be fulfilled "in order for my client to exercise his constitutional right to have access to the application."

Last week Morolo threatened to challenge the constitutional validity of the Promotion of National Unity and Reconciliation Act, arguing that the Act should be declared invalid as it was in conflict with both international law and the country's constitutional law.

Morolo has also been calling for Coetzee's arrest.



# Tutu confident of support for Truth

ARLT 9/4/96

(252)

JOHN YELD  
on the Truth Commission

MANY more South Africans want the Truth and Reconciliation Commission than are opposed to it, says commission head Desmond Tutu

He was speaking at an emotionally charged meeting in the Uluntu hall in Guguletu today, where about 100 people were introduced to some of the commissioners and several victims of human rights violations briefly told their stories

The first to speak was Cynthia Ngewu, mother of 25-year-old Christopher Ngewu, who told how her son had been shot dead by police during an ambush in Guguletu in March 1986

Police later claimed the seven victims shot during the ambush were suspected "terrorists" who had been planning to ambush a police vehicle. Wiping tears from her eyes, Mrs Ngewu recalled she had later seen on television how police had pulled her son's body into a police van with a rope.

Speaking to journalists after the meeting, she said she was willing to forgive but could not forget.

The meeting began with songs and dancing, and Archbishop Tutu was warmly welcomed. He said the commission was a compromise and that amnesty would have to be granted, adding, "It's going to be difficult"

He said the costs of the Eugene de Kock and Magnus Malan trials were "running into millions" and that South Africa could not afford to have many more of them.

The two trials alone were taking up a significant amount of court time and were costing a huge amount - "these are millions that could be spent in more productive ways".

Archbishop Tutu said people would have seen on television that there was opposition to the commission.

"It is important the world knows there are people who do support it."

"It is also important for the world to know that reconciliation is not cheap, and the Truth and Reconciliation Commission



Picture LEON MULLER, The Argus

**VICTIM:** Linda Madaka, paralysed after being shot in 1985, attends an emotionally charged meeting between some of the members of the Truth and Reconciliation commission and about 100 people at the Uluntu hall in Guguletu today.

was part of a negotiated settlement."

Archbishop Tutu stressed the issue of reparation would not equal full monetary compensation for victims of human rights abuses.

"They must not expect huge amounts of money, and ultimately our people must show the world that God has given us an incredible gift in Ubuntu."

"It is very hard to explain Ubuntu but part of it says 'I will forgive you'. It shows spectacularly in our president, but also in other people."

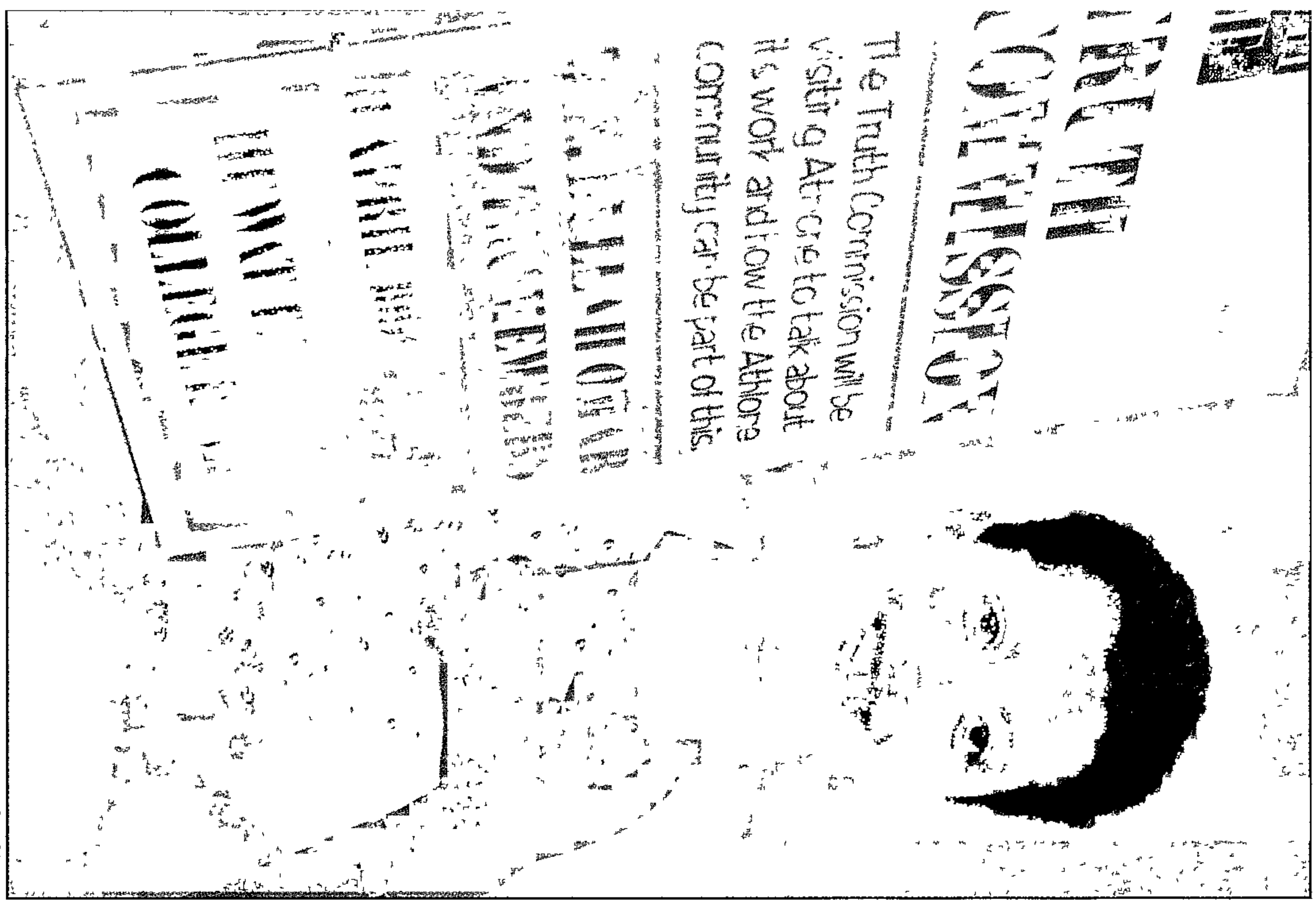
Speaking to journalists as he was leaving, Archbishop Tutu said they had been given



# A woman with 'a calling' for truth, compassion

**TRUTH COMMISSION**

The Truth Commission will be visiting Athlone to talk about its work and how the Athlone community can be part of this.



Picture JACK ESTRADA

**NOTHING BUT THE TRUTH:** Ruth Lewin, newly appointed Western Cape regional director of the Truth Commission, shows the poster advertising Thursday's public meeting in Athlone when commissioners and Justice Minister Dullah Omar will explain Truth Commission workings

The Truth and Reconciliation Commission is in full swing, with just over a week to go before its first public hearings to be held in the Eastern Cape. The commission's Western Cape office has been boosted with the appointment of regional director Ruth Lewin. Reporter **JOHN YELD**, who will be covering the commission for The Argus, spoke to Ms Lewin in her new office.

THE ninth floor of 106 Adderley Street - one of five floors housing the national and Western Cape regional offices of the Truth and Reconciliation Commission - is chaotic. There's a huge pile of new chairs in the corridor, waiting to go into empty offices. In several of these rooms, technicians are hard at work, putting in new telephone lines and installing computers.

Those telephones already installed ring constantly. In her own office near the end of the corridor, regional director Ruth Lewin seems unfazed by it all. Indeed, she appears to draw energy and inspiration from all the activity, although she's only been there for a fortnight.

"She comes in, she does the work, she cuts the nonsense," says one of her staff members admiringly. But then it's not an entirely new experience for the 36-year-old mother-of-two.

"It's been quite a natural progression," she says. "I was involved in organising the launch of the United Democratic Front and then I was asked to head up the administration for the Groote Schuur talks at the Lord Charles Hotel."

These were the talks that followed the unbaning of the African National Congress and the Pan Africanist Congress in 1990 and which paved the way for the later Kempton Park negotiations and the 1994 general elections.

"Basically it was a case of being asked at 11.30am and being there by 2pm, and when I arrived there was nothing," Ms Lewin said.

"And it was a similar situation with my position with the IEC (Independent Electoral Commission), where I was provincial administrator for the Western Cape region.

"We had to set up the this office, so Mary Burton (now a Truth Commissioner) and I literally unlocked an office and walked into empty space."

Before this job, Ms Lewin worked as private secretary for regional health minister Ebrahim Rasool. And it was her position as administrator in his office that allegedly led Western Cape premier Hennus Kriel to make a remark - attributed to him during a National Party election speech - about "the unqualified but pleasant enough girlie" who "made good" with her move to the well-paid Truth Commission post.

Did his comments hurt?

"I saw what he was doing. It is an election year and I understood the context," Ms Lewin replied.

"And I think he tried to soften the blow to me, but he actually probably worsened it by calling me a very decent little girl."

"That's what I felt the whole time I was working

in the provincial administration.

"They would talk about 'the girlie', and I had to insist on being called Mrs Lewin, even though that's not my married name.

"I don't want to make too much of it, but this attitude came out so clearly, and one's work wasn't appreciated by the former white, male, hierarchy of the province.

"And that's one of the reasons why I eventually left - they wouldn't acknowledge me.

"I don't have a degree.

"I don't have the formal qualifications which the civil service wants, and I couldn't get acknowledged, either in terms of rank or salary.

"This is the kind of dilemma that women are always faced with. So many people in South Africa have this rich experience which is completely denied (by the authorities).

"It's the same patronising thing - 'She's a decent girlie, you know?'

"And so it's almost like being denied.

"And, that kind of knocking for political reasons makes one feel quite awful."

Ms Lewin, whose husband holds a senior position in President Mandela's office, was brought up in Retreat by teacher-parents.

Her father was a respected community leader, one of the founder members of the civic movement in the 1940s. "I remember as a child our dinners were con-



**INTERFACE**  
JOHN YELD talks to RUTH LEWIN

stantly disturbed by people coming with a form to be completed or a letter to be written to the lawyer - that kind of service which was just so natural and voluntary."

Ms Lewin said she felt passionately about the work of the Truth Commission.

"And setting up systems here is absolutely critical, because accountability is important.

"At the end of this process we must be able to account fully.

"And that's what I learned from the IEC. In spite of all the negative reports about this commission, we lost absolutely nothing in the Western Cape.

"We could account for every vehicle, every piece of equipment."

There was a different emphasis in the working of the Truth Commission, Ms Lewin suggested.

"In the IEC the human element was important, but here the whole thing for me is creating a sensitive, caring environment which will encourage people to come in.

"We need to ask how we can really reach those people who we're wanting to testify, to help them come to terms with their past in a positive way."

This meant Truth Commission staff had to be especially sensitive in their responses, and part of her task was explaining this to her staff, Ms Lewin said.

ARK 9/11/95 (292)

"Because when people call, they won't say 'I'm a victim' in the language of the commission, or 'I want to make a statement'."

"They'll probably say they want to make contact with the commission and ask what it's all about, 'So you have to be sensitive to what it's probably taken for that person to make the initial contact, given the traumatic experiences that people have had'."

Such sensitivity and providing a caring environment extends to small details like ensuring that there are boxes of tissues in the interviewing rooms.

"Or a bottle of *versterk druppels* - rescue drops, the Dutch medicine my mother used," Ms Lewin laughed.

"But it's about being prepared, and I think at the end that is going to be real test for us - whether we've created this sensitive environment."

The Eastern Cape regional branch of the Truth Commission has been inundated with calls from victims wanting to testify about human rights abuses. Is it the same in the Western Cape?

"Not really - we haven't had that many yet," Ms Lewin said.

"But we're not too worried because we know the organisations are sitting with a massive amount of information.

"Churches and mosques and so on have already started the process of taking statements.

Also, the regional office hadn't been ready to receive victims.

But the statement takers had now been trained and had started work, Ms Lewin said.

Also, a public meeting is scheduled for Athlone for Thursday and the first advertising poster has just been completed, so the regional office was anticipating that the "steady trickle" of people would swell considerably in the coming weeks.

Are there any problems for the commission that are peculiar to the Western Cape?

"Not really, but I'm particularly conscious that we're also responsible for the Northern Cape as well, and I feel as regional manager I need to ensure that the balance is there.

"The Western Cape has always had so many more resources," Ms Lewin said.

Is there a reasonable level of awareness about the Truth Commission in the Western Cape?

"I think there's a fairly good sense of what the commission is all about," Ms Lewin said.

"I've judged that from the interviews for staff I've conducted, from computer-literate people through to those applying for a messenger's job.

"One such person's answer to me was that his understanding of the commission was that it would restore dignity, and I thought that was such a nice way of putting it."

Not all people were aware of the exact details of how the commission would operate - like the composition and function of its various committees.

"But, generally they feel well disposed to the commission and feel that it has to happen," Ms Lewin said.

"People have been coming in who have well-established jobs and yet who want to be part of it."

"It's almost like a calling."



## Councils slate protest action

Mduduzi ka Harvey

THE Soweto, Randburg and Sandton councils have condemned the unlawful protest action carried out at the three councils' municipal pay offices by the South Western Joint Civic Association last week over the illegal occupation of council-owned houses

The protests included the occupation of certain offices, and intimidation of staff. The councils have now vowed that any further action of this nature would be countered by council security and the SAPS. The association, which is led by councillor Basil Douglas, raised concerns that people illegally occupying the houses would be evicted over the Easter weekend. The councils confirmed no evictions would take place until specific instructions were issued, but this did not mean that legal processes would not be followed.

music at the Rand Easter Show in Johannesburg at the weekend. He is accompanied by Amilia Roggnt from Hungary. Picture: GARTH LUMLEY

# Law enforcement 'is riddled with problems'

Mduduzi ka Harvey

LAW enforcement countrywide was riddled with problems, including an under-staffed police service with low morale and an overloaded judiciary system which had led to a decline in prosecution and conviction levels.

Research conducted by the National Institute for Crime Prevention and Rehabilitation of Offenders (Nicro) indicated that there seemed to be also a perception among judicial officers that prison sentences were neither efficient nor effective and that the quality of cases taken to court for prosecution was often poor.

Contrary to the popular perception that prisons were overflowing because of an increasing stream of offenders sentenced to prison terms, the research indicated that in fact fewer people were being sent to prison. However, those who were jailed served longer sentences.

Judging by statistics compiled between 1977/78 and 1993/94, the law enforcement picture for SA was dismal, Nicro said. It appeared that

only a fraction of reported crimes eventually resulted in convictions.

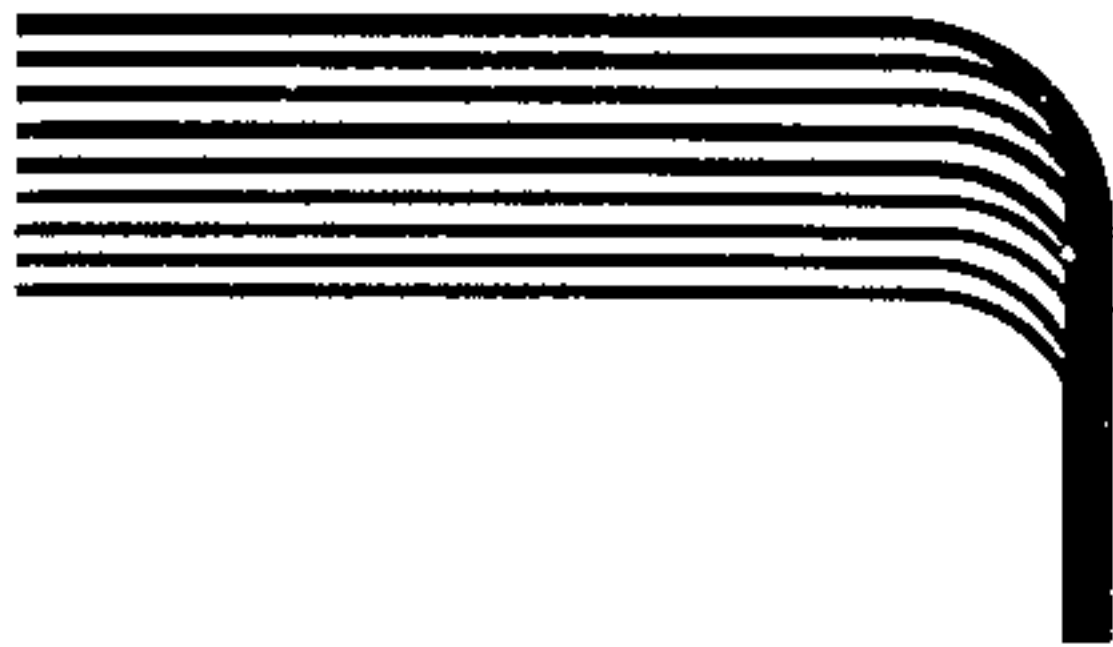
Of more than a million crimes reported to police in 1993, only 22% resulted in prosecutions, and of the total number of prosecutions, 77% resulted in convictions.

Alternatively, only 17% of reported crimes resulted in convictions.

It was found also that the number of convictions fell from a high of about 400 000 in 1984/85 to below 319 000 in 1993/94. In 1978, 22% of all convicted people were sent to prison without the option of a fine. This figure was said to have dropped to 15% in 1988/89 and rose to 16% by 1993/94.

This indicated that the number of people sent to prison had not increased but prisons were still overcrowded.

Nicro said statistics on prison terms explained the trend, indicating that the length of prison terms had increased substantially during the past 10 years. While less than 8% of offenders sent to prison were sentenced to periods exceeding two years in 1989, more than 20% were given such sentences in 1992/93.



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# Moment of truth Biko, Mxenge, Ribeiro challenge Truth Commission

By Mzimasi Ngudle

WYTERS for the families of slain human rights activists Griffiths Mxenge, Steve Biko and Dr Fabian Ribeiro yesterday filed their Constitutional Court application to challenge the validity of the Promotion of National Unity and Reconciliation Act.

The application spearheaded by the Azanian People's Organisation may halt the proceedings of the Truth Commission.

Instructing attorney Mr Cyril Morolo said the application would also be served on President Nelson Mandela as the first respondent, the Minister of Justice, the third respondent after the Government of South Africa, the Minister of Safety and Security and the chairperson of the Truth and Reconciliation Commission who are the fourth, fifth and sixth respondents, respectively.

Registrar of the Constitutional Court Ms Mathe Nienaber yesterday said that Judge President Arthur Chaskalson would soon give directions as to the date of hearing.

Representing the applicants in what will probably be a landmark hearing in the history of the Constitutional Court are advocates Mr Justice Phisoa, SC, and Mr Chris Mokodetso, who have solicited the assistance

of Professor Ziyad M. Ala, a constitutional law expert, who is now an associate professor at the Harvard University School of Law.

In papers before the court Mr Pande Lam Nefoloyhodwe, the deputy president of Azapo, which is the first applicant in the case said the Act took away the constitutional rights of the applicants by denying them civil recourses once amnesty was granted to people who had killed or maimed their next of kin.

"The Act denies the applicants and the public in general the basic right to have disputes settled in a court of law. The Act imposed on victims an

obligation not to seek redress in terms of the pre-existing legal channels but only as set out and within the framework prescribed by the Act. He said Nefoloyhodwe said the Act relieved the state of its obligation in terms of international and domestic law to prosecute and punish perpetrators of conventional war crimes, crimes against humanity and crimes against peace.

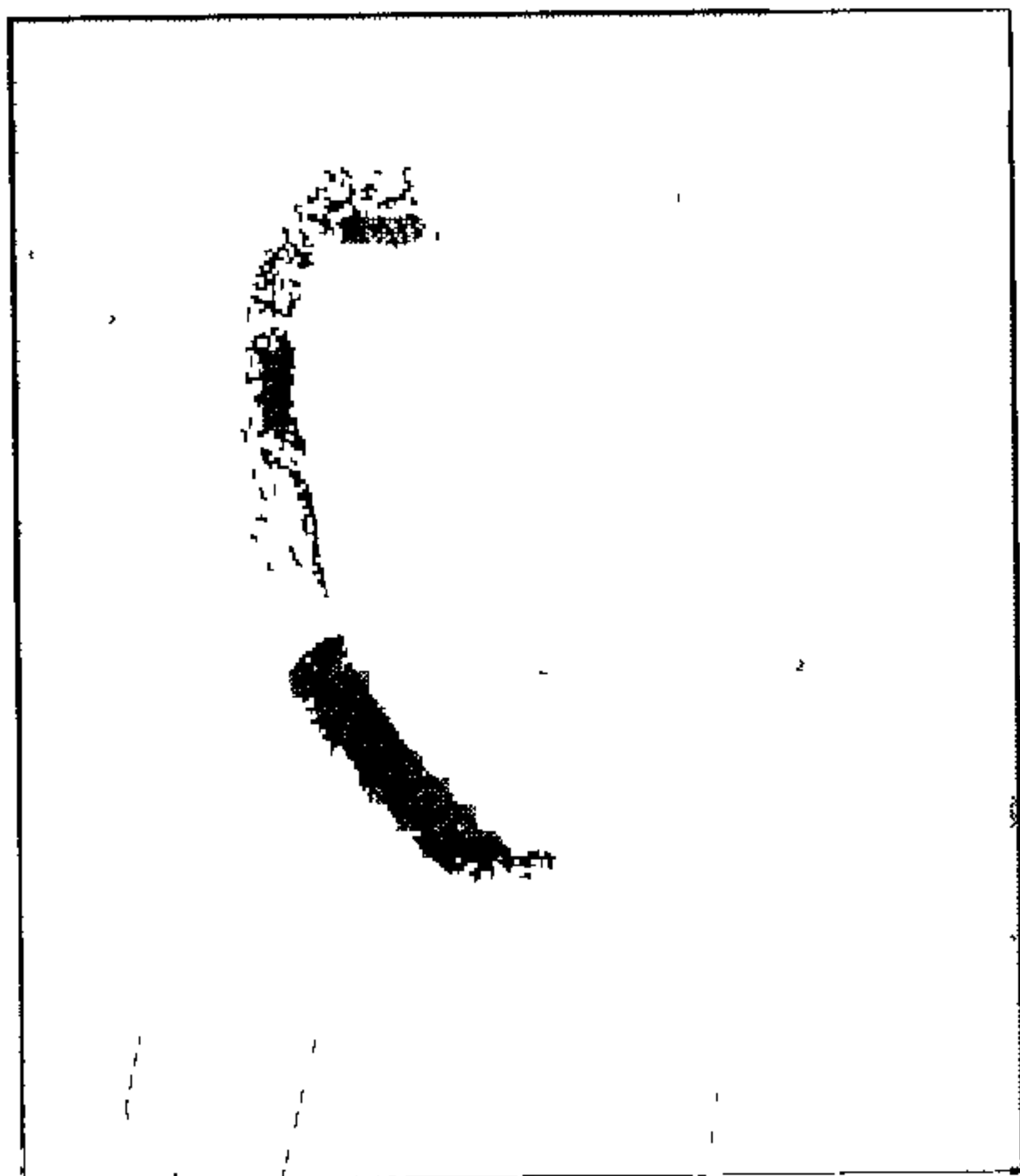
Nefoloyhodwe said the Act deprived the Constitutional Court and other courts of the land of their judicial powers, provided by Constitutional Principle Four.

This principle provides that the

Morolo had requested a copy of the application and it was relevant to his case. He said the Mxenge family wanted Coetzee, who admitted to planning Mxenge's killing, to be tried for the murder. Morolo said he would take legal action if the application was not heard over today.

(252) *Revised 10/4/96*





Demanding justice ... Chris Ribeiro (left) and Dr Barbara Ribeiro.

PICS JOE MOLEFE

# Victims say ANC has sold them out

(252) Sowetan 10/4/96

By Mzimasi Ngudle

AT THE TIME OF HIS DEATH, Dr Fabian Ribeiro was cited as a chief witness in more than 200 cases against policemen. He provided free medical help to victims of police brutality. He took photographs of the injured victims and encouraged them to lay civil and criminal charges against the police.

But he never testified. His eldest son, Chris, believes his father was killed to eliminate the evidence he had gathered of crimes allegedly committed by policemen.

This reasoning seems to tally with the bombing of the Ribeiro home in March 1986 in which a lot of incriminating evidence went up in smoke. Witnesses claim the house was petrol-bombed by soldiers.

Then, in September of that year, a would-be bomber changed his mind. He confessed to the family that he and three others had instructions to kill Ribeiro.

The family gave the would-be bomber taxi fare to flee and he went into hiding. But the agents of apartheid did not give up. On 1 December 1986, Ribeiro and his wife Florence were killed at their home in Mamelodi, near Pretoria.

## Security operation

The murders showed all the signs of a well-planned security operation to ensure the couple did not escape.

About 6pm that day, Chris saw his parents driving home as he was chatting to a friend about 10 metres from their home.

He saw them park a van in the driveway and then heard a bang. He thought they were closing the bonnet of the van. He then saw four people run out of the house and jump into a car. He gave chase.

The driver, a white man seated in the left back seat, jumped out and fired three shots at him but missed.

Chris ran back to his home to tell his parents that thieves had shot at him, only to find his father lying crumpled by the drain and his mother spread-eagled in the courtyard.

"The blood was gushing all over. I soon realised that my father was dead. There was no sign my mother was injured. When I picked her up, she just sighed," he recalled.

Within less than five minutes,

## Chris Ribeiro maintains the Truth Bill ignores those who suffered

**Reparation will be a decision which is abstract to the suffering we have been through. We want the right to proper compensation.**

police were on the scene - although nobody had summoned them. "In less than five minutes, white policemen were stationed at strategic positions in different streets," said Chris.

"Soon after, an ambulance came and an oxygen mask was put on my mother. The ambulance had to be kick-started. When we reached the hospital, both my parents were certified dead."

"There were policemen waiting at the hospital. When I came home, the police refused me entry. They instructed soldiers to prevent me from going in."

"Only after an hour and a half did they allow me to go in. Whether they were removing evidence or planting evidence, nobody knows. One of them said I was cheeky, adding 'Ons sal hom ook skiet' (We will shoot him too)."

The couple's deaths were preceded by several unsuccessful attempts on their lives.

Ribeiro's brushes with the law stretch back to the 1980s when he was detained and tried under the Terrorism Act. He was acquitted but two co-accused were jailed on Robben Island.

## Community work

Chris believes his father was targeted because of his tremendous work in the community. He took people's suffering to heart and assisted those fleeing into exile. He also helped victims of police brutality and collected evidence of this.

Chris and his two brothers, Andy and Joseph, had to drop out of college after their parents' death. "Bursaries in those days were not easy to come by," Chris said.

His elder sister, Barbara, was working as a teacher. She has now

qualified as a medical practitioner and has opened a surgery.

Asked about the Truth Commission, Chris said the family was not really comfortable with reparation. "Reparation will be a decision which is abstract to the suffering we have been through. We want the right to proper compensation. If my parents had not been killed, I would most probably have completed my studies today."

"The kind of compensation I would like is that which would put me in the position I would have been had my parents not died. I don't think it's impossible to work that out."

He added "Prosecution will go a long way to compensate for our injured feelings. It does not have to be money."

## Killers must be tried

"I want the killers to be tried. There should first be court cases and only thereafter can they apply for amnesty. Even then, I must still have the right as a victim to have the last say on their amnesty."

"If it is just a matter of truth revelation there will be no justice. It will be victimising the victims for the second time. The will of victims should be more important than any other considerations."

## No mandate

He said the Government did not have a mandate from the victims when they passed the Promotion of National Unity and Reconciliation Act.

"We were never given a chance to oppose the Truth Commission Bill. The ANC has sold us out. We voted the ANC into power because we wanted a consultative government that would listen to the voice of the oppressed. Now it has sold us out."

"I believe that justice is needed. By justice I mean prosecution. Truth is only one half of reconciliation, justice is the whole."

"The Government has really stabbed us in the back. It has blatantly and flagrantly violated our rights as victims. They are overlooking us and trying to appease the perpetrators."

Chris said a last resort would be to oppose amnesty applications.

# Scrutinising the role of the judges

By Claire Keeton  
Features Writer

"I WANT to walk the last steps my brother took on his way to the gallows handcuffed and hooded. I feel very angry. He was my 'lighty' but he died and I am here," said former Umkhonto weSizwe cadre and police officer Superintendent Thekiso Mogoerane.

His 23-year old brother, Mr Simon Telle Mogoerane, was hanged on June 9 1983 along with Mr Jerry Simano Mosolodi (25) and Mr Marcus Thabo Motaung (27) for fighting for Umkhonto weSizwe (MK), the ANC's armed wing.

Now Mogoerane's family - still suffering the pain of his execution - hope the Truth and Reconciliation Commission will confront the judicial system which ended his life.

Simon was sentenced to death on the basis of a confession which was tortured from him. The judge, Mr Justice David Curlewis, rejected his application that the confession was not freely made.

However, years later a former security policeman, who was also an ANC spy, Mr Matshwenyego "Swenki" Mokgabudi, said he had witnessed Simon's torture in the Compol Building in Pretoria.

"Is the TRC going to look at the Government's role? What will happen to the judges responsible for hanging people not supposed to be killed? What will happen to the families?" asked Thekiso.

Deputy chair of the TRC's Human Rights Violations' Committee, commissioner Yasmin Sooka, replied "One of the issues we have failed to look at is the role of the judiciary."

"I would encourage Thekiso to make a statement to start the process. I am keen to talk to him and the family."

Sooka said the TRC would have to look at the role of the legal system and other state organs. "The judiciary was supposed to be independent. Many whites say it was independent, while many blacks say it never was. We may need to review cases like this and Solomon Mahlangu's."

## Submissions

Fellow commissioner Dr Fazel Randera said the TRC had called on all organisations - including non-governmental, political, legal and religious organisations - to make submissions to the TRC to give it "as complete a picture as possible."

"I hope legal organisations will make submissions to the commission on the role of the judiciary and the legal process," he said.

Thekiso said the judge who condemned his brother to death sentenced him harshly to deter others from supporting the ANC or MK. But

it had the opposite effect. "That's what made me leave the country to join MK," he said.

Simon was educated in Vosloorus and later in QwaQwa, leaving after the 1976 Soweto uprising to join MK.

Arrested near Hammanskraal on December 28 1981, he and his two comrades were charged with high treason and 20 alternative charges in the Pretoria Supreme Court.

They were alleged to have attacked a power station, railway line and the Moroka, Orlando and Wonderboom police stations, leading to the deaths of a number of policemen.

The three men pleaded not guilty and told the court of their torture by the security police after their arrest.

## Rope around neck

Simon's lawyer, Mr Jack Unterhalter, said a rope was put around his neck and was tied to a tree in such a way that Simon was forced to stand on

the tips of his toes. A wooden pole was inserted between his legs and arms and he was suspended on it while being interrogated. He was subjected also to electric shocks.

## Rejected claims

However, Curlewis rejected claims of torture and said Simon's statement was made without coercion or inducement, and that he was satisfied with the police evidence.

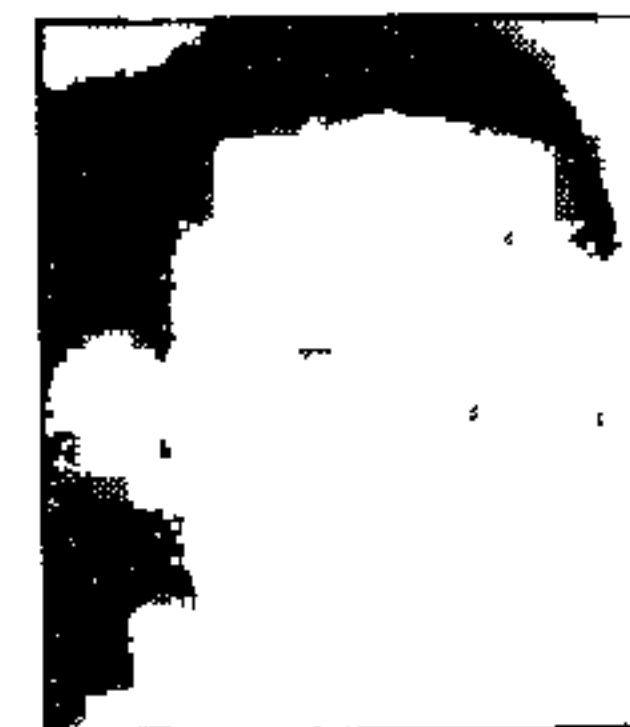
Thekiso said "What makes me mad is that Simon told the court how he was tortured but the judge called him a liar. He was an apartheid judge working in cahoots with the police. He was reputed to be a hanging judge. I have no respect for him."

In his judgment, Curlewis said he had no doubt the death sentence should be

imposed. The three men then jumped up and raised their fists, with Simon shouting "Amandla!"

In a poem Simon wrote, called *Flowers on Dead*, he said "Defiant to their death their cause they carry."

His favourite quote was "Man's dearest possession is life. Since it is given to him to live but once, he must live so as to feel no torturing regrets. Dying he can say all my life, all my strength, has been utilised for the finest cause: the liberation of mankind."



Hanged.... Simon Telle Mogoerane.

**All my strength has been utilised for a fine cause: the liberation of mankind.**

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# Tutu gets enthusiastic Guguletu hearings

## Emotion runs high at meeting as a mother tells how her son was shot dead by police

JOHN YELD  
on the Truth Commission

IF the ultimate success of the Truth and Reconciliation Commission is going to be measured in terms of the emotional responses of ordinary people, it has made a highly promising start.

When commission chairman Desmond Tutu arrived at the Umluthu hall in Guguletu yesterday for the second of a series of public meetings in the Western Cape to explain the role of the commission and to publicise its work, he was met by an enthusiastic crowd of about 100 people, several of them in traditional dress.

The meeting was organised in conjunction with Ilitha Labantu, a Guguletu-based organisation concerned with abused women.

There was much singing, clapping and dancing before the meeting began. Archbishop Tutu and Pumla Gobodo-Madikizela, who has been appointed to the commission's human rights violations committee, swayed and clapped enthusiastically on the stage while the audience took up the choruses on the floor.

Also on stage were truth commissioner and former Black Sash president Mary Burton and some of the "statement-takers" from the commission's Western Cape office who will be recording the stories of human rights victims in the region. Then, after a hymn and a prayer, it was time for serious discussion, which centred on the March 1986 shootings by police of seven young men who later became known as the "Guguletu Seven".

One of the victims was Cynthia Ngevu's son, and it was a poignant moment when she stood up from her front row seat and, in a voice shaking with emotion, recounted

how she had seen a television clip of police tying his body with ropes and dragging it into a police van.

Occasionally, she dabbed at her eyes with a small handkerchief as she spoke. Her daughter sobbed openly alongside her.

Archbishop Tutu, his hands folded in front of him, listened intently and afterwards hugged Mrs Ngevu as he left.

Mandisa Nonakali of Ilitha Labantu said counsellors were available in private rooms adjoining the hall to help those who were testifying come to terms with their pain and with the emotion of speaking in public.

"I understand you are opening up wounds. This is the right time for us to do that," she said. Most of the proceedings were in Xhosa, but Archbishop Tutu provided a brief summary for the mostly unilingual journalists there.

The commission had been born out of the Kempton Park negotiations, in which there had been "no clear winner and no clear loser".

"Some of the things that happened were a compromise," he said. The work of the commission was going to be difficult, he warned, but it would be comprehensive.

"We want to hear from everybody - every person."

Given the Truth Commission's statutory limited lifespan - it has to complete its work by the end of next year, and its final report must be available three months later - that is clearly going to be an impossible task.

The commission will need all the time at its disposal if it is to meet its objectives of providing as comprehensive a picture as possible of human rights abuses and violations in South Africa between March 1960 and December 1993.



**SOMBRE OCCASION:** A serious Archbishop Desmond Tutu, chairperson of the Truth and Reconciliation Commission, listens carefully during yesterday's public meeting in Guguletu as victims of human rights abuses and their families recount their experiences



(252) ARG 10/4/96



**PAINFUL MEMORIES:** Cynthia Ngevu, mother of one of the "Guguletu Seven" who were shot dead by police during an ambush in March 1986, shows journalists the copy of The Argus which reported the event.

**MOTHER'S ANGUISH:** Girlie Nyembezi tells her story during the Truth Commission's "outreach" meeting in Guguletu while Truth Commissioner Mary Burton listens



# Court threat to halt TRC

Political Staff

(252)

ARCHBISHOP Tutu and other members of the Truth and Reconciliation Commission have left Cape Town for East London to prepare for their first hearings amid threats of court action which could wreck the commission before it gets off the ground.

A lawyer for relatives of murdered anti-apartheid activists has given the commission until 4pm today to agree to postpone the hearings, scheduled to start on Monday.

Cyril Morolo said he would ask for an interdict if the commission did not comply.

Mr Morolo is acting for the Azanian People's Organisation and the families of Griffiths Mxenge, Steve Biko, and Fabian Ribeiro and his wife Florence.

They claim the commission's power to grant amnesty is unconstitutional because it deprives them of their right to seek redress in court.

Among those who have applied for amnesty is Dirk Coetzee, the former security police captain who has admitted to planning the assassination of Mr Mxenge.

Mr Mxenge's relatives want to sue Mr Coetzee for damages and have demanded he be prosecuted. If he receives amnesty, he will not be liable for civil damages or prosecution.

Mr Morolo yesterday applied to the Constitutional Court to ask for direct access to argue the relatives' case. He also faxed a letter to the commission asking it to postpone its first hearings until the court has ruled.

● See page 9



NO RIGHT TO REDRESS 'UNCONSTITUTIONAL'

# TRC challenged in court

(252) CT 10/4/96

**THE TRUTH and Reconciliation Commission is applying a law that unconstitutionally denies his clients' rights to redress, an attorney for families of murdered activists claims** **CHRIS BATEMAN and ROGER FRIEDMAN report.**

**A** CHALLENGE on the right of the Truth and Reconciliation Commission (TRC) to legally protect perpetrators of human rights violations was launched in the Constitutional Court yesterday as apartheid victims in Guguletu began telling their own horror stories to the commission.

Attorney Mr Cyril Morolo — who represents Azapo and the families of murdered activists Gif fiths Mxenge, Steve Biko and Dr Fabian and Ms Florence Ribatso — says the TRC is applying a law that represents an unconstitutional denial of his clients' rights to redress.

He claims the legislature had no right to pass the Promotion of National Unity and Reconciliation Act — in July last year — because it denied apartheid victims the right to see their abusers tried or to seek civil redress.

However, Archbishop Desmond Tutu, chairman of the commission, said yesterday he was adamant the commission's first hearings would go ahead despite the threatened court action.

"We are going to go ahead with the hearings until and unless there is a legal authority that stops us," Tutu told Sapa through his spokesman, Mr John Allen.

Morolo was due to serve papers yesterday on President Nelson Mandela, the government, Justice Minister Dullah Omar, Safety and Security Minister Sydney Mufamadi and the TRC.

The act provides for the establishment of an amnesty committee that can grant amnesty to persons who give a full account of abuses they committed — and protect them from future civil claims.

Among those who have applied is self-confessed former hit squad member Mr Dirk Coetzee, who has admitted planning Mxenge's 1981 assassination — and whom Morolo says his clients want tried for

murder.

Amnesty commission chairman Judge Hassan Mall said yesterday he found no legal basis for handing over Coetzee's amnesty application to Morolo as requested.

Morolo threatened legal action against Tutu unless this happened by close of business today.

At the Umlutu Centre in Guguletu years flowed as mothers who lost sons in a shootout with police in the township on March 3, 1986, related how police subsequently interrogated them and how some learnt of their loss by seeing gruesome police footage on television news.

Seven men police claimed were MK cadres died — at least three shot at point-blank range — in a gun battle outside the Dauryville Hostel in Nt, Guguletu.

Cape Times reporter Chris Bateman told the meeting three eyewitnesses described to him how police walked up to two prone victims and "frisked them off" and another "I'm was shot down while trying to live himself up, his hands in the air."

Mrs Sindiswa Piet said that after hearing "rumours" of a shooting in Nt, she went to her local police station, where she was told no documentation existed and was referred to the Salt River mortuary. As she walked into the mortuary, she stumbled across a trolley on which her son Christopher was lying, a bullet hole in his temple and coagulating blood "coming out of his nostrils."

Stifling sobs, Mrs Piet said that that night she switched on to the TV news and saw police pulling her son's inert body with a rope.

She said she wanted to know how an inquest could find nobody to blame for the deaths, why people were shot with their hands in the air, why her son's body was dragged around by rope and why guns were "planted" on the victims. Mrs Eunice Myya, who lost her

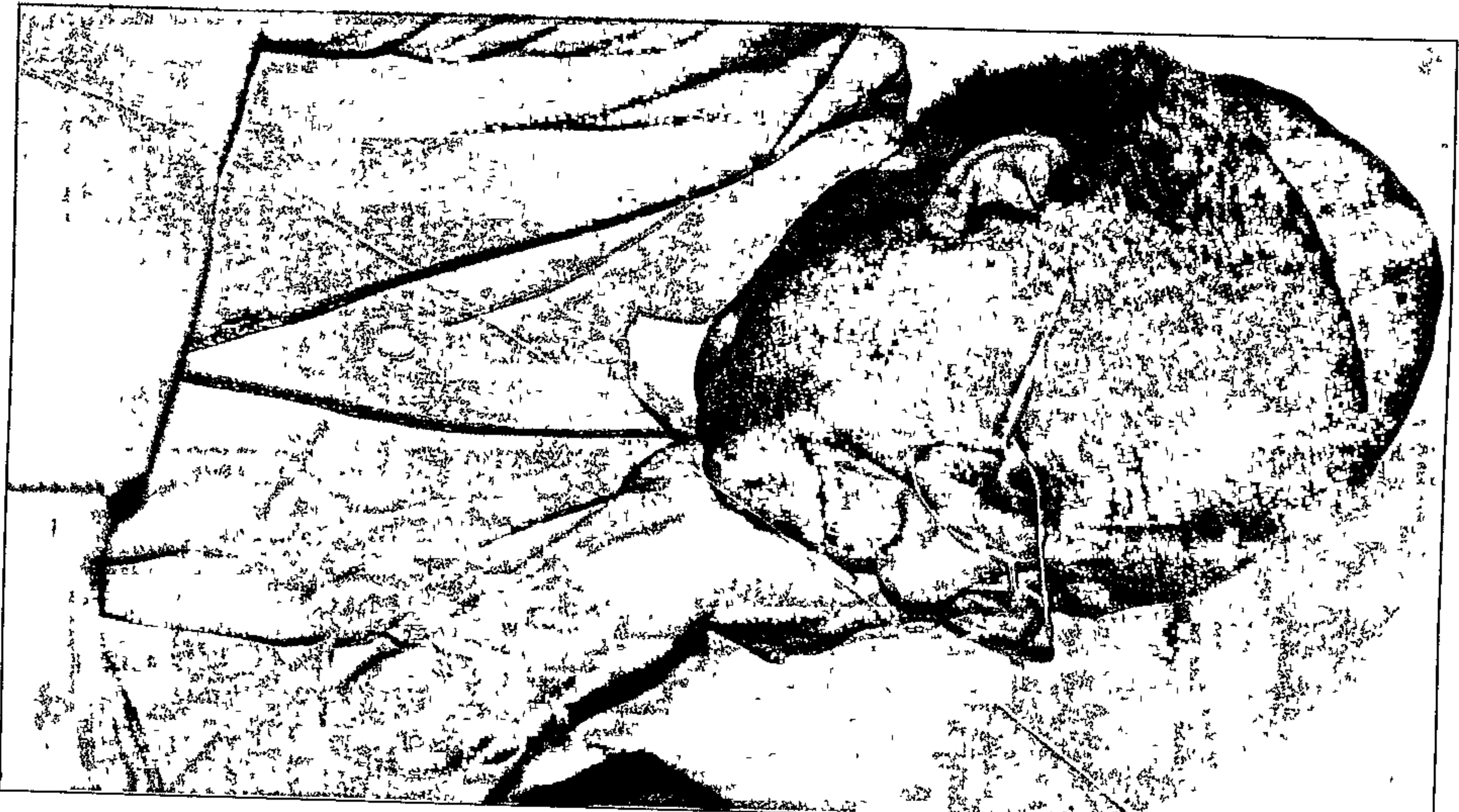


**RELIVING HORROR:** Mrs Gislie Webeza, 64, is comforted by Truth and Reconciliation commissioner, former Black Sash leader Mrs Mary Burton, before describing the late-night raids, beatings and detentions she experienced. Webeza said the Black Sash were her "real parents" during her years of torment.

only son Jabulani in the gun fight and first recognised him on that evening's television news, said police interrogated her for nearly four hours, asking her "over and over again" if he was ever out of the country. She told them he ate "every meal" with her at home.

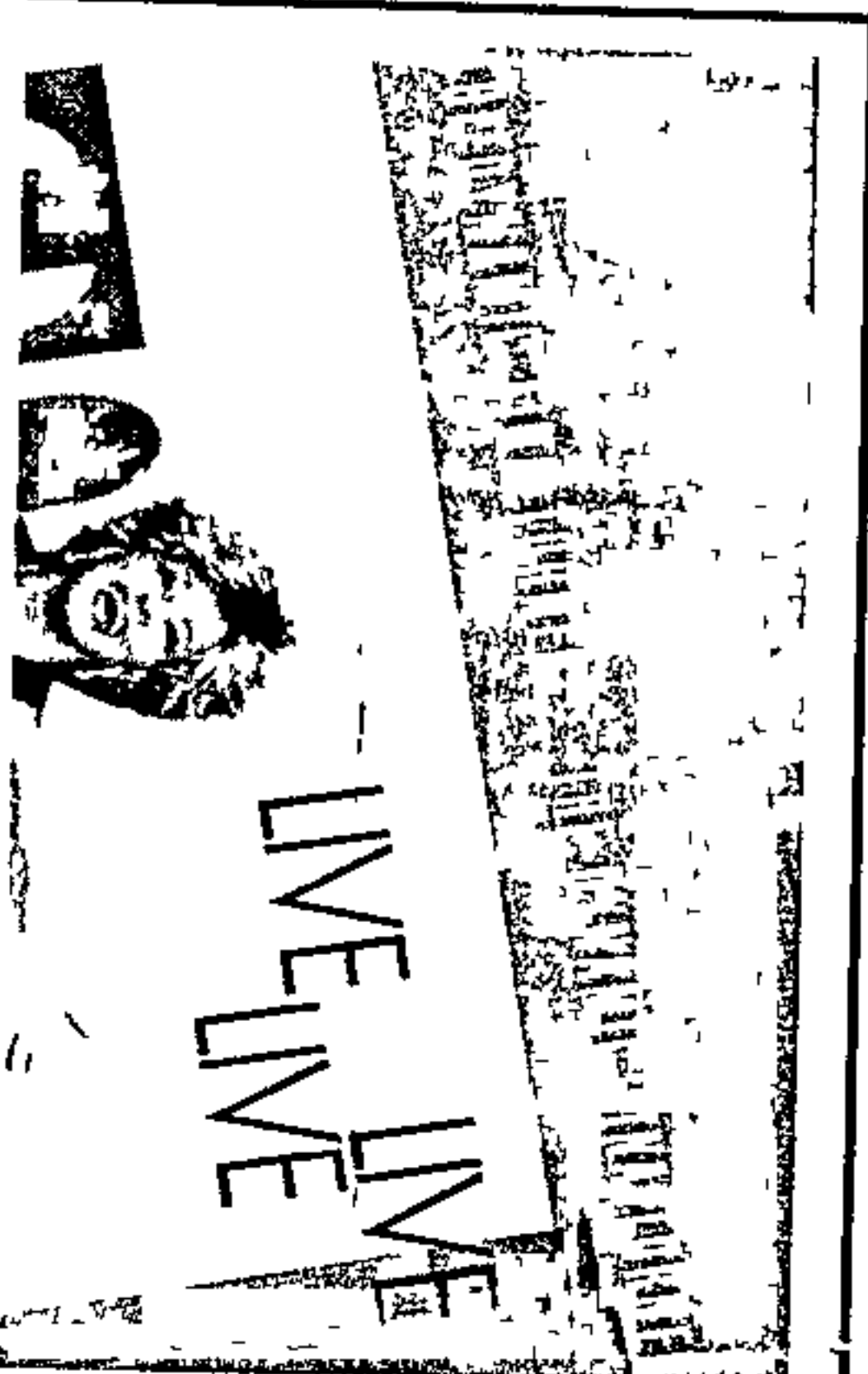
She also objected to the ANC "just coming and taking his coffin for the (mass) funeral — I didn't want that."

The director of the Guguletu based women's centre, Ilitha Labantu, Ms Mandisa Mookali, cited (unrelated) stories from women too ashamed to speak of being raped "inside their



**SOMBER:** Truth and Reconciliation Commission chairman Archbishop Desmond Tutu listens at a meeting of the commission at the Umlutu Centre in Guguletu yesterday as people relate their experiences of alleged human rights violations.

PICTURES: BENNY GOOL





# Hani slaying: Truth probe will reveal all

**BARRY STREEK**  
POLITICAL WRITER

THE Truth and Reconciliation Commission (TRC) would help South Africa to learn the full story behind the murder of Chris Hanu, President Nelson Mandela said yesterday.

He also said that 400,000 people throughout South Africa had received clean water for the first time in their lives since the government came into office — and five million would receive clean water by 1999.

Mandela opened a living memorial "to the former secretary-general of the

SA Communist Party, who was assassinated at his home in Boksburg three years ago yesterday, in the remote village of Lower Sabalele in the Cofimvaba district of the Eastern Cape where Hanu was born.

The R426 000 "memorial" brings fresh water within 200 metres of the 2 300 people living in Upper and Lower Sabalele where they had previously to walk up to 3,5km to fetch it from a stream or from a cattle watering dam.

Mandela recalled that he had said at Hanu's funeral that his home village did not have clean water when he was born

50 years previously and it still did not have clean water.

Yesterday's function was attended by 3 000 people, including members of the cabinet, the national and Eastern Cape parliaments, the business community and the diplomatic corps.

They also included Northern Cape Premier Manne Dipico, SA Cricket Board managing director Dr Ali Bacher and the former editor of the East London Daily Dispatch Mr Donald Woods.

Hanu's widow, Mrs Limpopo Hanu, paid tribute to the government for implementing the project, "Three years after his death, our tears

of sorrow have turned to tears of joy," Hanu said.

Water Affairs and Forestry Minister Kader Asmal said the provision of water to the two villages was Chris Hanu's monument and it would live forever.

"But we went further than that. We re-dedicated ourselves on April 9, 1994 to the great task of seeing that all the villages of South Africa will have water.

"We want you to share in the fruits of what Chris Hanu fought for — freedom from bondage, and thus creating the means for a happier and a more fulfilled life. And the full life must always include fresh water," Asmal said.

CF 10/4/96 (252)

# Commission gears up for first hearing

ARG 11/4/96 (252)  
*Members head for E Cape as court threat stalls*

JOHN YELD, Staff Reporter,  
Own Correspondent and Sapa

FEVERISH preparations are underway for Monday's historic first public hearings of the Truth and Reconciliation Commission in East London, in spite of the threat of an 11th hour urgent application for a court interdict against it

The commission's human rights violations committee, which is to conduct the hearings, met yesterday to finalise arrangements, and the commissioner responsible for the Eastern Cape, Bongani Finca, said they had about 28 potential witnesses lined up to testify on Monday

"There is no way after all the preparation and raised expectations of hundreds of thousands of people that we can postpone the hearings without being unfair to a vast majority of people," Mr Finca said

Yesterday the Constitutional Court returned papers filed for a challenge to the constitutionality of the Truth Commission, for technical reasons

The challenge is being led by lawyer Cyril Morolo, acting for the families of slain activists Steve Biko, Griffiths Mxenge, Fabian Ribeiro and his wife Florence

They are arguing that the Promotion of National Unity and Reconciliation Act, in terms of which the Truth Commission is constituted, provides for amnesty for those who confess to committing human rights abuses and thereby infringes their (the families') constitutional right to redress

A letter to Mr Morolo from court registrar Mathys Lourens said papers filed with the court were incomplete because supporting affidavits had not been signed. Also, notice motion had not been completed and no specific release had been sought other than a plea for direct access to the court

Mr Lourens sent the letter to Mr Morolo on behalf of Constitutional Court president Judge Arthur Chaskalson

"If these documents are completed and placed with me in proper form they will be placed in front of the president of the court," said Mr Lourens

The commission is planning to hear 20 cases during the four days of hearings in the East London city hall, at the rate of five a day - involving disappearances, murder, torture and death in detention

On Sunday commission chairman Desmond Tutu and other commissioners will attend a church service in East London's Mdantsane township. The official opening of the hearings on Monday morning will be screened live on SABC2



Picture ANDREW INGRAM, The Argus

**COVER GIRL** Kani Fani, right, a Cape Technikon fashion design student, models her own design - a dress made entirely of magazine covers. With her is Marie Groenewald in a dress made of blue masks designed by Mya Prass. These and other student designs are on display at the Free Creative fashion show at the Cape Technikon in District Six today



# PAC outlines its

## truth body stance

Mduduzika Harvey

THE PAC has decided to take part in the Truth Commission despite its opposition to the commission's policy of giving equal standing to the victims and the perpetrators of apartheid.

PAC secretary for political affairs Johnson Mlambo said his organisation was taking part in the commission solely to secure the release of hundreds of Apla members who, he said, were still in jail.

He said 52 Apla cadres were still being held at the Grootvlei prison in Bloemfontein.

PAC deputy president Motsoko Pheko said the commission had to be seen from the correct perspective as it had serious implications for the victims of apartheid and for the principles of international law. It would be immoral to put victims of apartheid and perpetrators on the same pedestal.

By equating these two sides, the country's political struggle would be criminalised, as it suggested that those who fought against apartheid were also guilty.

He called on government to pay the legal fees of Apla and other African forces which will appear before the commission, and demanded that they not be dragged before the commission to answer for crimes. Instead they should appear before a reparations commission to tell of the crimes of apartheid committed against them.

Legal assistance for Apla and

other liberation forces should start with a guarantee that none of its cadres would appear before the commission unrepresented.

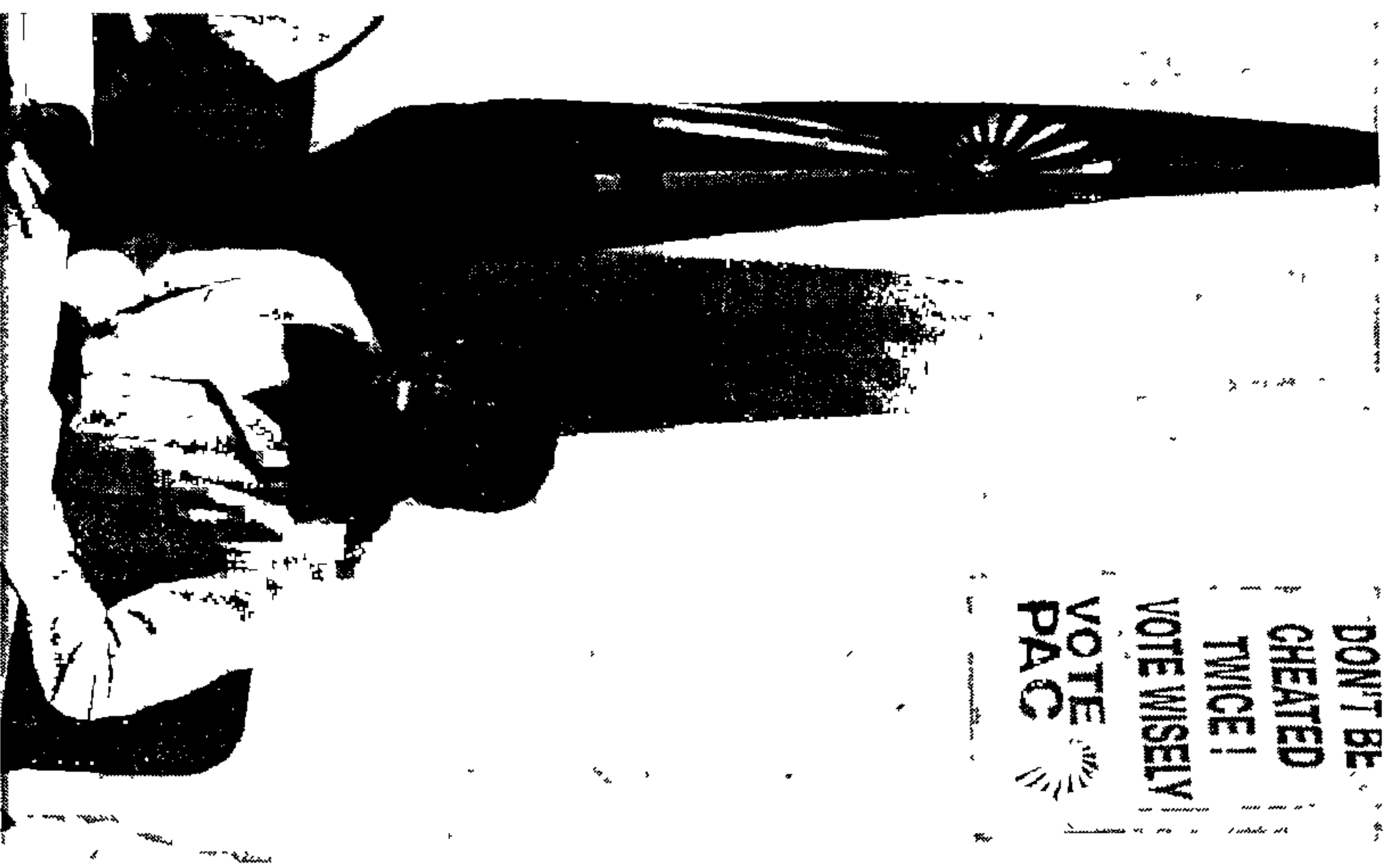
The fact that the commission could grant amnesty for armed anti-apartheid activities carried out before December 5 1993 had become a joke, Pheko said, as thousands of Apla cadres were still in SA jails despite the arbitrary cut-off date. This date and agreement had undermined and violated the international convention on the suppression and punishment of the crime of apartheid, he said.

In a bid to strengthen its faltering support base, to reconcile with its militant youth wing, and to shore up its dire financial setbacks, the PAC will hold a convention in September aimed at paving the way to a stronger organisation.

At a briefing in Johannesburg yesterday the organisation's secretary for political affairs Johnson Mlambo said the convention would be a more inclusive forum than other PAC congresses where strict constitutional requirements restricted participation to PAC members in good standing.

Mlambo said the convention would discuss policy issues with the aim of meeting current challenges. The PAC was expected to amend its constitution and code of conduct. Other aspects the convention would look into included problems of finance, leadership and the political positioning of the organisation, he said.

DON'T BE CHEATED TWICE!  
VOTE WISELY  
VOTE PAC



PAC political affairs secretary Johnson Mlambo at yesterday's party briefing in Johannesburg.  
Picture GARTH LUMLEY

# Omar confident TRC will survive challenge

ROGER FRIEDMAN

EAST LONDON: Justice Minister Dullah Omar is confident that a bid to have the Truth and Reconciliation Commission declared unconstitutional will fail

However, the lawyer preparing papers to apply for an urgent Supreme Court interdict to stop the first hearings on Monday, Mr Cyril Morolo, is equally confident

As legal brains across the country yesterday applied themselves to the constitutionality question, TRC commissioners held an all-day meeting here to finalise arrangements for next week's proceedings

Commission chairman Archbishop Desmond Tutu said "After all the preparations, people are eager to tell their stories and won't be stopped from that process"

Wherever Tutu has gone in recent weeks he has taken care to explain that the TRC Act is a negotiated settlement, and to speak of the virtues of compromise toward

ET 11/4/96

reconciliation

(252)

It appears the archbishop's arguments have failed to persuade the Azanian's People's Organisation or the families of four prominent victims of apartheid atrocities — Steve Biko, Griffiths Mxenge, Florence and Fabian Ribeiro

Morolo, their Pretoria-based lawyer, served notice on Tuesday that he planned to apply to the Constitutional Court to have the TRC declared unconstitutional.

Morolo gave Tutu until 4pm yesterday to undertake in writing that the commission would not proceed with the scheduled hearings until a resolution was reached on the act's constitutionality

Tutu, however, gave no such undertaking

Omar too said he would oppose the constitutional challenge

Morolo's application for direct access to the Constitutional Court was rejected as incomplete yesterday.

He plans to re-apply today.

□ To Page 3



# Challenge to TRC

□ From Page 1

CT 11/4/96 (252)

In an interview with the Cape Times, Morolo explained his client's opposition to the TRC. They were neither traitors nor trying to undermine the nation-building process, he says.

By granting amnesties, the truth commission was taking away his clients' constitutional right to civil remedies, he said.

While the state was prosecuting former defence minister General Magnus Malan, alleged Third Force operative Colonel Eugene de Kock and members of the AWB, the TRC was set up by the state to grant amnesties to other alleged killers.

"If the families of the victims of the Kwa-Makhuta massacre (for which Malan is on trial), can have access to the courts, why can't the Biko family?

"Those trials defeat the aims of the TRC. We don't understand what criteria they used.

"The families believe you cannot substitute the criminal justice system. They are seeking justice, not revenge.

"We want to establish a legal principle. I have requested the Minister of Justice to intervene."

The Justice Ministry, however, said any application to have the TRC declared unconstitutional would be opposed.

Mrs Ntsiki Biko, wife of Steve Biko, who died in detention, said "I have long been saying that I am opposed to the TRC. I'm still opposed to it."

Late yesterday, after his 4pm deadline had come and gone, Morolo said he had no option but to go ahead with his urgent application.

# Moment of truth for the Eastern Cape

**ROGER FRIEDMAN**

*(252) CT 11/4/96*

**EAST LONDON** The Truth and Reconciliation Commission's wheels are ready to start turning here — the culmination of six weeks of intensive activity across the length and breadth of the Eastern Cape

For victims of human rights abuses during the apartheid years, the process began with the placement of advertisements by the commission calling on people to tell their stories

Within two weeks, more than 200 people had responded

Six statement-takers were appointed in East London, Port Elizabeth, Cradock, Grahamstown, Umtata and Queenstown. The six then recorded the stories of the respondents. These statements were taken back to the commission's regional headquarters here to be sorted and listed in order of priority.

The commission was anxious its first hearing should represent as wide an area as possible, as well as

a variety (or an even spread) of cases

A shortlist was compiled and a needs-assessment completed for potential witnesses to prepare themselves for what is expected to be an emotional and draining experience.

The commission's aim is to afford further counselling and support services to witnesses immediately before they give evidence, and in the healing period afterwards.

"We feel we've been doing very

well," said the commission's Eastern Cape spokesman, Mr Phila Ngqumba, yesterday.

"As you know there are people opposed to the commission, and that's their democratic right.

"But we are saying this is the only legal avenue we have to deal with the past.

"We are confident of handling situations as they confront us."

Like constitutional court challenges?

Ngqumba smiles "You must ask the Archbishop."



# Omar confident TRC will survive challenge

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□ To Page 3

# Prisons woefully understaffed and desperately overcrowded

(252) Star 11/4/96

The Department of Correctional Services faced a staff shortage of 5 500 people and its current budget shortfall would run to some R400-million if the status quo was maintained, says correctional services commissioner Henk Bruyn.

The current budget was sufficient to fund a total prisoner population of 97 000, but prison populations already exceeded that by far, he added.

Speaking on SABC's current affairs programme Focus, Bruyn confirmed prisons were in a sorry

state and overcrowding was a problem in every province.

The 50 000 inmates across the country awaiting trial added to the department's woes. On average, prisoners waited for six months to be tried, although in extreme cases this could run to two years.

Bruyn said a documentary which depicted shocking condi-

tions at Pollsmoor prison in the Western Cape, screened by Focus

on Tuesday night, should not be taken as a reflection of what was happening in the prisons country-wide.

He said the prison was currently 209% over-

crowded as a result of having to serve all 123 courts on the Cape peninsula.

## Thousands awaiting trial part of the problem

A new prison should be opened within two months and two others would be commissioned within the next 12 months, he said.

The department would consider asking the private sector to provide off-budget assistance and help fund prison structures.

This would see the private sector putting up prisons and leasing them to the department. A new prison in Malmesbury would be funded on this basis, Bruyn said. — Sapa



# Families in 11th-hour bid to halt hearings

But commission chairman Archbishop Desmond Tutu says the hearings begin on Monday, unless the court stops them

By ROBERT BRAND:

Families of three murdered anti-apartheid activists will make a renewed bid today for access to the Constitutional Court in their battle for an urgent interdict to prevent the Truth and Reconciliation Commission holding its first public hearings on Monday in East London.

The Constitutional Court rejected the first application yesterday because it had been filed in-

correctly. They want a halt to the commission's hearings until the Constitutional Court has ruled on their objections.

The commission may have to wait until the weekend before it knows whether it can go ahead with the hearings. Archbishop Tutu and other members have already arrived in East London.

The families contesting the hearings are those of the late Griffiths Mxenge, Steve Biko, and Dr Fabian Ribeiro and his wife Flo-

rence. They say the commission's power to grant amnesty to murderers and other perpetrators of human rights violations is an infringement of their constitutional right to seek justice in the courts.

Their lawyer, Cyril Morjolo, asked Justice Minister Dullah Omar yesterday to intervene in the dispute. But the minister's spokesman, Barend Heystek, said he did not have authority to delay the hearings or intervene in the activities of the commission.

He added that Omar believed the truth commission legislation was constitutional and would oppose the families' attempt to obstruct the hearings.

"The minister's view is that the process and the law with regard to the Truth and Reconciliation Commission are constitutional and he will oppose any application to declare it unconstitutional," Heystek said.

In response, Morjolo said he would launch an urgent applica-

tion in the Pretoria Supreme Court because the families had no other option.

He said papers would be served on Omar and other respondents in the next two days and the application would be brought during the weekend.

Earlier, commission chairman Archbishop Desmond Tutu said he was determined that the hearings should go ahead, but that the commission would abide by the law.

(252) MTR 11/4/96

The court is expected to decide tomorrow whether the families' case should be heard. If the go-ahead is given, they would have to bring another application asking for the truth commission legislation to be declared unconstitutional. This process, could take months, and if the families succeed in getting a postponing interdict, the commission's work could be seriously delayed as it has a deadline of 18 months, expiring in May next year.

# Truth body may name 'offenders'

AP 12/17/76  
EAST LONDON — The names of human rights offenders might be made public at the truth commission's first hearings in East London next week, says commission deputy chairman Alex Boraine.

Many of the victims have insisted that, in order to tell the whole story, they have to mention names," he said yesterday. "We have no right to muzzle them." So there was a strong possibility perpetrators of abuses would be named.

Boraine said the commission was informing a number of people they had been implicated in "some pretty gross human rights violations." The commission's Eastern Cape office already has about 250 statements from alleged victims of human rights abuses, with 28 cases of disappearances, abductions and deaths in detention selected for the four-day hearing next week.

Eastern Cape commissioner Rev Bongani Finca said several people identified by victims as human rights abusers were "household names."

He gave no details that the commission had decided on Wednesday that it would inform the alleged perpetrators of allegations against them, he said. "We thought it was the right thing to do so they don't read about it in the newspapers or see it on television for the first time,"

Finca said chairman Desmond Tutu said witnesses' testimony would be protected by legal privilege.

However, he warned of tough action against anyone who used the hearings to deliberately mislead the commission with false claims. "Anyone who uses the commission to vilify someone, or to carry out a vendetta, will face criminal proceedings," the archbishop said — Sapa



Deborah Fine

TRANSVAAL attorney-general Jan D'Oliveria has accused the Public Services Commission and the Central Bargaining Council of being unappreciative of the plight of state prosecutors and "unable or unwilling to treat professionals as professionals"

In the April edition of the SA attorney's journal De Rebus, he said a crisis had developed in his office as a result of staff shortages, an increasingly demanding workload and high levels of despondency among professional staff

The legal establishment was no longer in keeping with the nature of the workload or the increasing demand for professional services. Crime had increased in volume and sophistication while state advocates were increasingly being allocated to criminal cases of

## State attorneys are 'not appreciated'

(252) PD 12/4/96  
significantly longer duration at the initial stages of investigation which in turn affected their availability.

D'Oliveria said he attributed despondency levels to outdated remuneration packages, career uncertainty and the unmitigated high stress caused by a work overload

At the root of the crises was the dissatisfaction among professional staff with regard to salaries and the affirmative action policies being applied by the justice department for new staff appointments and the promotion of staff.

Regarding salaries, D'Oliveria expressed appreciation for Justice Minister Dullah Omar's

attempts to improve the situation "The minister has recognised the salary crisis and has applied himself wholeheartedly to achieving proper remuneration for professional legal personnel," he said

However, Omar was restricted to achieving the best he could within the constraints of the Public Services Commission and the Central Bargaining Council

Society of State Advocates acting chairman, Billy Downer said the poor salaries of state advocates had led to an increasing number of resignations and the inability of the justice department to retain or recruit sufficiently experienced advocates

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## ANC, NP in urgent talks

Linda Ensor

CAPE TOWN — Electoral court chairman Judge JW Smallberger has summoned the legal representatives of the NP and ANC factions of the provincial committee for urgent talks today in a bid to reach an out of court settlement over their dispute for a model for rural government.

If the parties fail to reach agreement, the matter will appear before the Electoral Court on Monday. Members of the provincial committee were also invited to be on standby for consultation and, if necessary, to endorse any settlement.

A decision is urgently required before Tuesday next week if the rural elections are to take place on May 29 as scheduled.

That is the last day for the registration of parties which would appear on the proportional representation lists.

Sources said today's discussion would deal with the one outstanding issue left unresolved after urgent talks during the week, namely the composition of the district councils.

Whereas the NP wanted a 50/50 representation for town and rural councils, the ANC has argued for representation to be based on the numbers of registered voters in each area.

The ANC supported any attempt to keep the elections in the rural areas on track.

# Mandela acts over KwaMashu killings

BD 12/4/96

Farouk Chothia

DURBAN — President Nelson Mandela is scheduled to visit Durban's KwaMashu township next week in a bid to end the gang warfare that has disrupted schooling, following a decision by the KwaZulu-Natal cabinet to step up the security force presence in the township.

Teachers at 75 schools in KwaMashu, near Durban, have been on a stayaway since the early part of this week after a teacher, Joaquim Ndabe, was shot dead last month by gang members.

It is understood that two different ANC factions, including unemployed cadres of Umkhonto we Sizwe, have formed rival gangs which are fighting in KwaMashu's L section.

Their clashes have spilled over into other parts of the township. Ndabe was killed as his brother belonged to a rival gang.

An ANC KwaZulu-Natal safety and security spokesman told about 1 000 people at a meeting in KwaMashu yesterday that Mandela would visit L Section next week to hear the concerns of teachers and residents.

A representative of KwaZulu-Natal police commissioner Gen Chris Serrfontein, Mulder van Eck, said police-

men and soldiers had been deployed in the township to step up crime prevention operations.

Roadblocks were set up yesterday morning. If more security personnel were needed, there would be further deployments, he said.

The provincial cabinet decided unanimously earlier this week that additional security force members should be stationed in the township.

Ndaba Gcwabaza, the SA Democratic Teachers' Union KwaZulu-Natal secretary, said security force involvement was a temporary measure to deal with the conflict. Ultimately, community leaders would have to bring about peace.

He said it was heartening to know that Mandela had decided to visit KwaMashu, and the union was satisfied with ANC efforts to find a solution. The union hoped that classes would resume next week.

Sapa reports that thousands of children played in the streets as teachers stayed away after schools failed to open for the new term on Wednesday.

Gcwabaza said earlier this week the stayaway would affect about 85 000 pupils. "The stayaway is part of a major drive to normalise the situation in KwaMashu. It has never been plagued by political violence before."

## Students object to Zuma as chancellor

BD 12/4/96

Farouk Chothia

DURBAN — A group of ML Sultan Technikon students forced the closure of the campus yesterday to demonstrate against the appointment of Health Minister Nkosazana Zuma as the technikon's chancellor.

The SA Students' Congress-aligned students said Zuma should not have

been appointed until the controversy about the R14,2m allocated to the Sarafina 2 AIDS play was cleared up.

SRC campus co-ordinator Nkululeko Nzuza said students forced security guards to lock the gates before lectures. They were reopened later.

The SRC would take disciplinary action against two students who were behind the lock-out, Nzuza said.

## Families resubmit challenge to truth body

BD 12/4/96

Deborah Fine

THE families of three slain anti-apartheid activists have resubmitted papers to the Constitutional Court challenging the constitutionality of the truth commission after their documents, deemed incomplete by the Court, were returned to them on Wednesday.

Pretoria attorney Cyril Morolo confirmed his clients had submitted an amended set of documents to the court yesterday. He said the

papers included a new prayer asking the court to interdict the truth commission from starting hearings on Monday, pending the outcome of his clients' challenge.

Margaret Biko, wife of slain activist Steve Biko; Churchill Mxenge, brother of the late human rights attorney Griffiths Mxenge; and Chris Ribeiro, son of murdered doctor Fabian Ribeiro and his wife, Florence, have applied for direct access to the court.

They have accused the truth

commission of being unconstitutional in that it would deprive them of their right to justice, would deny victims of human rights abuses the right to seek redress and would relieve government of its obligation to punish human rights offenders.

Constitutional Court president Judge Arthur Chaskelson is expected to decide today whether the court will hear the application.

Comment: Page 6



# Truth witnesses to reveal transgressors' names

BY ROBERT BRAND AND SAPA

The Truth and Reconciliation Commission has started giving advance warning to alleged perpetrators of serious human rights violations, including some "household names", who are likely to be named by victims at the first hearings next week in East London.

"We thought it was the right thing to do, so that they don't read about it in the newspapers or see it on TV for the first time," commission member Bongani Finca said yesterday.

Commission vice-chairman Alex Boraine said some victims insisted on naming perpetrators of "some pretty gross human rights

violations" and the commission had decided not to "muzzle" them.

The hearings are scheduled to start on Monday. About 20 victims will tell their stories in public over four days.

But it is not yet certain the hearings will take place.

Cyril Morolo, a lawyer acting for families of murdered anti-apartheid activists, yesterday re-filed papers in the Constitutional Court, challenging the constitutionality of truth commission legislation.

His first application, filed on Tuesday, was rejected because it was incomplete. Morolo plans to approach the Pretoria Supreme Court at the weekend for an ur-

gent interdict to stop the hearings.

The families of Griffiths Mxenge, Steve Biko, and Fabian and Florence Ribeiro claim the commission's power to grant amnesty to perpetrators of human rights violations amounts to an infringement of their legal right to seek damages and prosecutions.

Commission chairman Archbishop Desmond Tutu yesterday reacted angrily to the families' court challenge, saying it had annoyed and hurt him. "I hope they (the families) get their come-uppance. The commission is supported by the vast majority of people in this country."

The hearings will take testimony from victims of political crimes ranging from state violence to left-

wing terror.

Although the commission has not released the names of people due to testify, it is understood survivors of East London's Highgate Hotel massacre, committed by suspected Apla members in 1992, will be among them.

Also expected to testify is Nyameka Goniwe, the widow of United Democratic Front activist Matthews Goniwe who was murdered along with three other activists, allegedly by the military, in 1985.

Tutu said witnesses' testimony would be protected by legal privilege. However, he warned of tough action against anyone who used the hearings to deliberately mislead the commission with false claims.

## Athlone mother tells 'truth' meeting that police said: 'Die vark is nou dood'

OWN CORRESPONDENT

Cape Town - Athlone mother Zana Ryklief will never forget October 15 1985. It was the day of the infamous "Trojan Horse" incident, when eight heavily armed policemen sprang from crates on the back of an unmarked railway truck and fired on a crowd in Thornton Road in an operation ostensibly aimed at arresting stone throwers.

Within minutes, three youngsters were dead and another 15 were injured. Speaking in the Hewat Training College hall last night, an emotional Ryklief told about 200 people attending a Truth and Reconciliation Commission outreach meeting of her experiences that day.

She recalled how she had tried to keep her restless children and some of their friends inside her home that afternoon as police

Casspirs patrolled the road outside.

But eventually one of the children insisted that he be allowed to go home. Moments later there was shooting in the street and 16-year-old Shaun Magmoed, a good friend of her children, had come into her home.

"He held his head and closed his eyes and died," she said. Police had then barged in and dragged Shaun out.

Ryklief said she remembered one of them saying, "Die vark is nou dood" (The pig is dead now).

"The whole day there were just Casspirs and policemen. It was a day I'll never forget. Every year on October 15 I remember that day," she said. After she had spoken, those in the hall stood for a minute to remember the dead.

Truth commissioner Dumisa Ntsebeza warned that horrific testimony was still to come.

# Tutu sets aside a 'crying room'

CT 12/4/96

(252)

ROGER FRIEDMAN  
STAFF WRITER

**EAST LONDON:** Archbishop Desmond Tutu is by his own admission an emotional man, and as chairperson of the Truth and Reconciliation Commission he will be hearing some gruelling testimony

That is why wherever the commission will be travelling to unravel South Africa's dark past a special "crying room" will be set aside

"It is going to be traumatic, but it is part of the price one has to pay in seeking to contribute to reconciliation in this wonderful country of ours," he said in an interview with *The Cape Times* yesterday

"You know I cry easily I cried when I heard Chris Hanu had been assassinated when I was in Rwanda and over Sebokeng

"I have already told people they have got to know that I cannot programme myself and say to myself 'Now you are going to be a toughie'

"I may break down And even if I don't the whole process will be very demanding"

The existence of the crying room was let slip by commission deputy chair Dr Alex Boraine during a tour of the commission's facilities in the City Hall here yesterday

Apart from the crying room — which Tutu says he and anyone else wishing to cry may



**REFLECTION:** Commission chairperson Archbishop Desmond Tutu, in the room where the first hearings in East London will take place on Monday, reflects on the task ahead.

PICTURE: BENNY GOOL

make use of — provision has also been made in the City Hall for pre-counselling and post-counselling rooms for people testifying before the commission

About 600 seats in the wood-panelled auditorium have been allocated to the public and a horde of foreign journalists have descended for the commission's first hearings here on Monday

Tutu said God and his family would sustain him in the difficult months ahead

"I must structure my life so that my support systems are in place I must be quite deliberate in ensuring that the commission does not short-circuit my family, that we have the so-called quality time together, and to look after my health

"We are going to have to

have our own spiritual discipline That is why the first thing we did at the start of the commission was to go into retreat — a day of quiet — trying to replenish our spiritual resources I had a six-day retreat

"If this, as we believe, is what God wants us to do, we will jolly well have to ensure that we swim"

● See Page 5



MINORITY TRYING TO UNDERMINE TRUTH PROBE

# Challenge: Tutu annoyed

ET 12/4/96 (252)

**EAST LONDON:** TRC chief Archbishop Desmond Tutu has hit out at those people challenging the commission's constitutionality. Staff Writer **ROGER FRIEDMAN** reports.

**A**RCHBISHOP Desmond Tutu, chairman of the Truth and Reconciliation Commission, is "annoyed" and "hurt" that a minority of South Africans are trying to undermine the commission by challenging its constitutionality, and says he hopes "they get their come-uppance"

Tutu told the final pre-hearing press conference here yesterday his annoyance was not personal "In fact, I am hurt for the many, many, many people I know in this country who want to tell their story."

The first hearings of the commission began here on Monday

Hours later, the ANC poured scorn on the Azanian People's Organisation and the families of prominent slain activists — Steve Biko, Griffiths Mxenge, Florence and Fabian Robeiro — who have

mounted a last-gasp bid to have the commission declared unconstitutional

"They may be unaware that their actions are in the interests of those who for decades sat in secret plotting some of the most heinous crimes the world has witnessed," said Mr Mcebisi Bata of the ANC's Eastern Cape provincial office

"They are the individuals and organisation who refuse to heed the verdict of the people which has been pronounced daily in our country since April 27, 1994," said Bata

Azapo and the three families are opposed to the commission granting amnesties to perpetrators of human rights abuses in exchange for full disclosure of their apartheid era activities rather than prosecuting them in court

Tutu pronounced himself "very pleased" with the preparations for next week's hearings, and said he would no longer defend the commission from those who sought to undermine it

"I would have been glad not to be on the commission, and I would have been glad to have enjoyed my retirement," he said

"The government must justify the commission, not us. It would appear self-serving"

Meanwhile, Eastern Cape commissioner the Rev Bongani Finca said arrangements for Monday were virtually complete

Altogether 28 people have been chosen to tell their stories during its first four days of the hearings from the over 200 applications from people wishing to tell the commission their stories

Finca said very few people who suffered human rights abuses at the hands of "liberation movements and those associated with liberation movements" had

approached the commission to testify

Although the commission wanted the first hearings to represent as wide a geographic area as possible, and as wide a variety of human rights abuses, those appearing next week would largely tell of atrocities committed by those forces sympathetic to the apartheid regime.

"Among the people coming next week are people still wanting to know the truth about what happened to their loved ones" said Finca

Commission deputy chairman Dr Alex Boraine added he still believed the best option for those families opposing the commission was to appear before it

The reality was that new evidence may emerge, which the families could then try to pursue in court, he said

"I feel very deeply for the many people who want more than the commission can offer"

# Truth commission: Agents 'bly op die bus'

(252) MTG 12-18/4/96

Eddie Koch

**N**O ONE can say the tacticians of the truth commission did not expect a battle. Only it came with surprising speed and ferocity from an unexpected quarter.

For months, commissioners have been warily watching the movements of what has become known as the sleeping dragon, agents of apartheid's death squads, for signs it will be provoked by scrutiny of its past.

Instead, in the week leading up to the commission's first public hearings, members of the army's most notorious brigade appeared to apply meekly and en masse for amnesty, while families of men and women killed in some of the worst atrocities of the 1980s launched an acrid attack on the integrity of the commission.

Far from breathing fire into a charged political atmosphere, many of the perpetrators of human rights abuse have adopted a more suave approach. They have engaged smart young lawyers to extract maximum benefit from the reconciliation machinery.

Lawyers for members of the Civil Co-operation Bureau, a network of hit squads and dirty tricks brigades set up by the army in the early 1980s, confirmed this week they had lodged a collective application to the amnesty committee of the truth commission for some of its members.

They refused to provide details but did not deny media reports that some of the CCB's best-known agents — including Staal Burger, Ferdi Barnard, Calla Botha, Chappie Maree and Slang van Zyl — were among the applicants. Nor did they say exactly what deeds their clients had admitted to committing, which is not surprising given that the angry families of their victims are lining up to seek justice and damages.

But early signs are that the perpetrators, with some exceptions, are giving away very little in the early stages. One newspaper reported that the CCB group is admitting only to acts already exposed in the media.

A former member of military intelligence, who says he is planning to make a full disclosure to the truth commission, told the *Mail & Guardian* there was a general perception among members of the old secret services that

they should not reveal all before testing the competence of the commission.

The agent added "Most of them have not yet decided to come forward [with full confessions]. They are waiting to see if someone [from among their ranks] is going to come forward and what this person is going to say. For the time being they are saying 'bly op die bus' (stay on the bus) and let's see who gets off. I don't know if any big secrets are going to come out just yet."

If this is an accurate reflection of tactics adopted by a significant group of perpetrators, it demonstrates how important it is for the truth commission's investigations unit to rigorously scrutinise all amnesty applications.

The truth and reconciliation law states that false or partial disclosure by people who apply for amnesty will lead to disqualification and open the agents to criminal and civil prosecution. It is the single punitive device in the commission's arsenal and its efficacy depends on the skill and capability of its investigators.

**'Let the truth commission do an investigation, but we wish to see justice taking its course. Wounds won't heal if there is only reconciliation without justice'**

So far, this is an unknown quantity, which is exactly why the perpetrators appear to be testing the waters. People involved in appointing the investigations team say some provinces, especially KwaZulu-Natal, appear to have a powerful combination of police investigators and academics, while other regions have not recruited so successfully.

Then there are the victims. This week senior members of the commission shrugged off a vociferous challenge by lawyers for the Biko, Mxenge and Ribeiro families to the legal and constitutional basis of the commission's amnesty provisions.

The families have challenged the constitutionality of the commission's provisions which rule out civil and criminal proceedings against perpetrators of human rights abuse whose applications to the amnesty committee

are successful. They suffered an early defeat on Wednesday when the Constitutional Court rejected their application for an urgent hearing because some of the formal procedures were not properly complied with.

But the victims' families have adopted another tack, saying they will apply for an urgent supreme court interdict over the weekend to stop the commission's first public hearing from going ahead.

"We are on track and will be starting on Monday," said Wynand Malan, joint deputy chairman of the commission's human rights violations committee, which will lead the hearings. "My experience is that there is little grassroots support for this opposition and that most ordinary people will go with the truth commission."

That claim, like the capacity of the truth commission's investigative team, is another stretch of uncharted territory to be crossed in the weeks to come. Initial signs are, however, that popular anger at the commission's perceived leniency towards perpetrators of human rights abuse runs much deeper than the officials care to admit.

Sapa reports about 30 victims of apartheid atrocities came out in support of the court actions aimed at challenging the validity of the truth commission at a prayer meeting organised by the African National Congress Youth League in Pretoria on Wednesday.

It appears a significant grouping within the ranks of apartheid's victims is lining up across party political lines to oppose the truth commission. It is widely known that Morolo's court actions are supported by the Azanian Peoples Organisation (Azapo), but Wednesday's meeting showed he was also getting significant support from sections of the ANC.

ANC Youth League treasurer Tshediso Kutu said: "Let the truth commission do an investigation, but we wish to see justice taking its course. Wounds won't heal if there is only reconciliation without justice."

● Relatives of Matthew Goniwe, murdered in the Eastern Cape in 1984, have denied reports in the media last week that they are supporting the legal challenge against the truth commission.



# Court won't stop Truth hearings

ARG 13/4/96 (252)

JOHANNESBURG - The Constitutional Court would not stop the first hearings of the Truth and Reconciliation Commission in East London, court registrar Marti Nienaber said

The Azanian Peoples' Organisation and the families of four slain anti-apartheid activists this week asked the court to rule on the constitutionality of legislation establishing the Truth Commission

The families claimed amnesty provisions in the Promotion of National Unity and Reconciliation Act were in conflict with the constitutional right to redress for past wrongs

Mrs Nienaber said the respondents - President Nelson Mandela, Justice Minister Dul-

lah Omar, Safety and Security Minister Sydney Mufamadi, the commission and the government of national unity - had three days to file notice that they would oppose the application

They would then have ten days to file argument, before the court considered whether the families had grounds for their application

The commission is preparing to hear testimony of alleged torture, murder and disappearances from 28 apartheid victims, during its historic first hearing starting on Monday - Sapa

See page 6

## Goniwe widow backs truth body

(252) Star 13/4/96  
The widow of slain United Democratic Front activist Matthews Goniwe gave her full support to the Truth and Reconciliation Commission yesterday but dismissed media reports that she intended testifying at the commission's first public hearings, which are to start in East London on Monday.

Nyameka Goniwe said she saw no point in going before the commission as the story of the 1985 murder of her husband and

fellow activists Sparrow Mkhonto, Sicelo Mhlauli and Fort Calata was already well known.

"It is time to give a chance to other people whose stories are not known. If I go and tell my story, I will not be saying anything that is new."

However, she would reconsider her position if new evidence was presented to the commission's amnesty committee.

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FROM PAGE 1

### ◆ Truth Commission

Star 13/4/96 (252)  
The committee may grant amnesty to people guilty of political offences who give a full account of their abuses.

Goniwe said she had been following the murder trial of former Vlakplaas police base commander Colonel Eugene de Kock in the hope that new details of the murders would be disclosed.

"We were hoping there would be evidence which could be followed up by the commission. There wasn't. Now we don't know what we can ask of the commission."

She said her family was still waiting for an out-of-court settlement from the defence force, following a 1993 court action in which the four families sued it for R1,6-million in damages.

The second inquest into her husband's death indicated security force involvement in the murders, she said.

"We've been told the settlement has been approved at cabinet level, but there seems to be a big problem in actually paying it out. We've been doing a lot of chasing about."

Piet Goosen, the Port Elizabeth attorney appointed by the defence force to deal with the case, refused to comment, saying he did not have a mandate from his clients.

Goniwe's message of support to the commission on Thursday came amid court action to postpone Monday's hearing, instituted by the families of four other murdered activists.

However, the Constitutional Court said yesterday it would not stop the hearings in East London from going ahead - Sapa



# It's all systems go as abuses of apartheid about to be revealed

By WILLIAM-MERVIN GUMEDE

On Monday the nation will get its first real glimpse into human rights violations committed during the apartheid era with the start of the first hearings of the Truth and Reconciliation Commission in East London.

Two weeks after that, hearings will start in Gauteng, setting in motion a long and arduous initial 18-month period that the commission is scheduled to sit. This week, the commission started notifying people implicated by witnesses as perpetrators of "gross human rights violations".

Dr Faizel Randera, a Gauteng member of the commission, said: "Everything is in place and hearings are set to continue, notwithstanding a Constitutional Court challenge by four families of victims to have the commission close shop."

The families of slain activists Steve Biko, Griffiths Mxenge, and Dr Fabian Ribeiro and his wife Florence petitioned the Constitutional Court to rule the legislation providing for the establishment of the commission unconstitutional.

Attorney Cyril Morolo, acting on behalf of the families, said his

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(252)

clients want the commission declared "null and void". They argue that amnesty for human rights offenders denies victims their constitutional right to seek redress. The families have threatened to apply for an urgent court interdict to postpone the commission's first hearings until after the Constitutional Court ruling.

On another front, Marius Schoon, whose wife and daughter were blown up by a parcel bomb in Angola, filed a R1-million lawsuit against "superspy" Craig Williamson. The former security policeman, in turn, has requested Mr Justice Mohamed Navsa to stop the claim for civil damages against him so that he can apply for amnesty.

Williamson admitted last year he helped plan the mission to send a parcel bomb to the flat in Angola where Jeanette Schoon and her 7-year-old daughter were blown up in 1984. Schoon does not believe Williamson should go free, and says he should stand trial for the role he played in the murder. If Williamson is granted amnesty he will not be liable for Schoon's or any other civil claim resulting from the parcel bomb. Previously, the commission was under fire from victims over the lack

of a proper witness protection programme. Khulumani, a Gauteng-based support group for survivors and families of victims of apartheid human rights abuses, protested against the absence of a clear witness protection programme.

If said several members of the group had been subjected to various forms of intimidation because of their intentions to make submissions to the Truth Commission.

Spokesman for the group, Tracey Maepa, said: "Many of those who were involved in third force activities are still in positions where they have the power and resources to make good their threats, and there is every reason for people who have been victimised in the past to feel unsafe."

Dr Alex Boraine, deputy chairman of the commission, said there was "deep concern" at the lack of a witness programme and that the commission hoped to secure one from the Justice Department before the hearings begin.

Delays in setting up a witness protection programme caused Kwazi Natal Deputy Attorney-General Chris Macadam, who drew up a blueprint for a protection programme for the Government last year, to

resign in a bout of frustration. Justice Minister Dullah Omar, under pressure, denied allegations that his department was dragging its heels in establishing a proper witness protection programme.

Omar then approved "in principle" the setting up of a national directorate for witness protection.

The Truth Commission, established under the Promotion of National Reconciliation and Unity Act, has sweeping powers to investigate political crimes committed in and outside South Africa between March 1 1960 and December 5 1993.

So far the Inkatha Freedom Party has expressed its reluctance to take part in the commission. An IFP spokesman said last week that by participating, the party would be signing its own death warrant.

The Pan Africanist Congress, initially opposed to the commission, said this week it would take part in it, despite having reservations "about the commission's policy of giving equal standing to the victims and the perpetrators of apartheid crimes".

PAC spokesman Johnson Mlambo said his organisation was taking part solely to secure the release of hundreds of Apla members who, he said, were still in jail.

Police force

# Nation set to bare its soul as first hearings start

WILLIAM-MERVIN GUMEDE

Argus Correspondent

AKG 13/14/96

(252)

**AST LONDON** - On Monday the nation will get its first real glimpse into human rights violations committed during the apartheid era with the start of the first hearings of the Truth and Reconciliation Commission here.

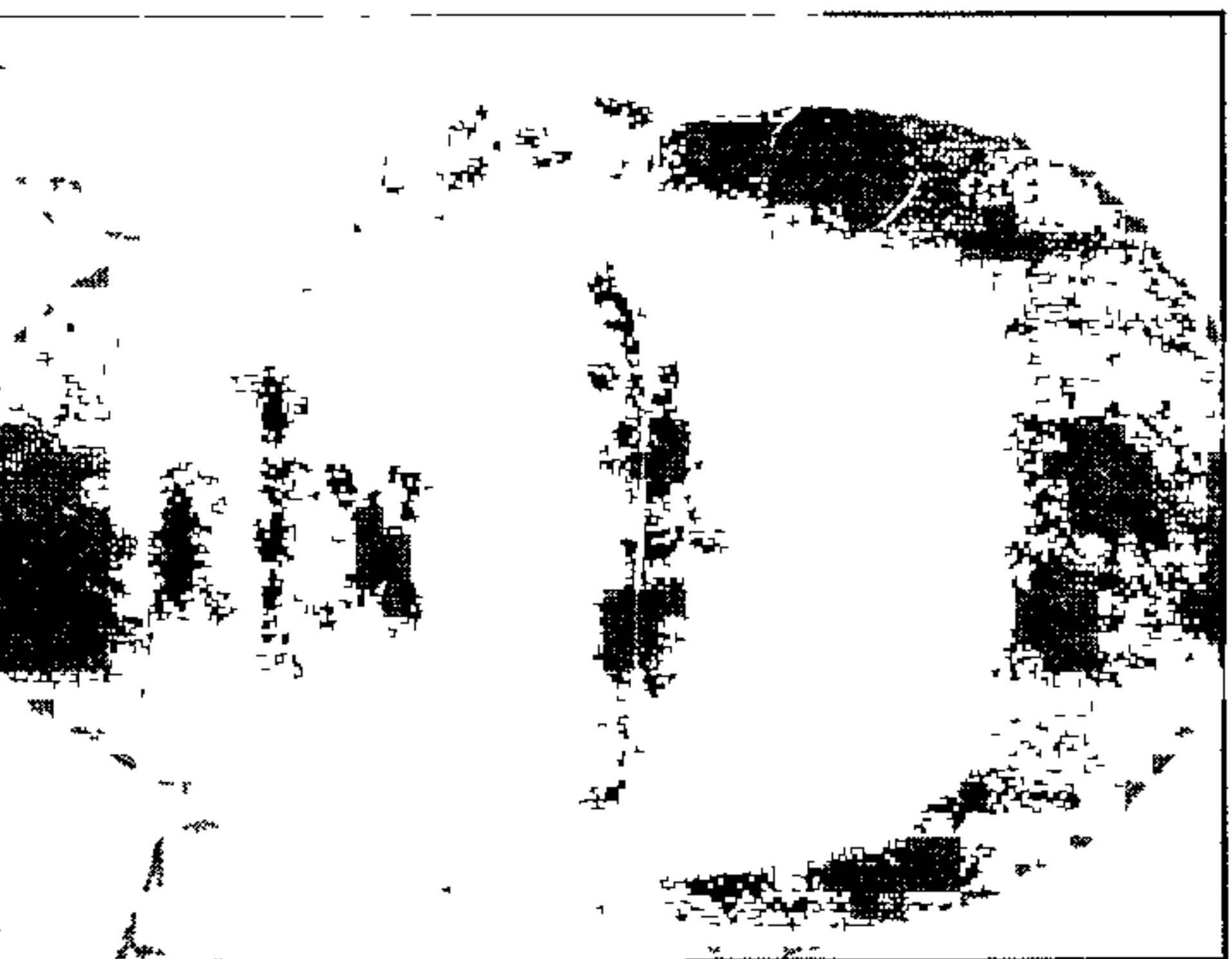
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"Everything is in place and hearings are set to continue, notwithstanding a Constitutional Court challenge by four families of victims to have the commission close shop"

The families of slain activists Steve Biko, Griffiths Ixenge, Fabian Ribeiro and his wife Florence petitioned the Constitutional Court to rule the legislation providing for the establishment of the commission unconstitutional

## Painful memories of bitter past to surface as South Africa sets out on its search for truth



**MARTYR:** The family of slain activist Steve Biko has challenged the establishment of the Truth Commission



**HEALER:** Truth Commission chairman Desmond Tutu offers comfort at a meeting held to discuss the commission in Athlone this week



**REASSURANCE:** Truth commissioner Mary Burton has tried to reassure families of victims that the commission is worthwhile





...of my... More... acting on behalf of the fami...  
 lies, said his clients, wanted the commission  
 declared "null and void".  
 They argued that amnesty for human rights  
 offenders denied victims their constitutional right  
 to seek redress.

The families have threatened to apply for an  
 urgent court interdict to postpone the commis-  
 sion's first hearings until after the Constitutional  
 Court ruling. The families requested a copy of former  
 Vlakplaas police hitman Dirk Coetzee's amnesty  
 application, which they said would assist them in  
 their challenge. Mr Coetzee previously confessed to  
 killing political activist Griffiths Mxenge.

The commission turned down the request. Arch-  
 bishop Desmond Tutu, the commission's chairman,  
 said in response to the families' challenge that he "is  
 annoyed and hurt. Not for myself, but for the many  
 people I know who want to tell their stories". He said  
 the commission was supported by the vast majority  
 of people in South Africa, and said that most church-  
 es and political parties had expressed their support  
 for it.

On another front, Marius Schoon, whose wife  
 and daughter were blown up by a parcel bomb in  
 Angola in 1984, filed a R1-million lawsuit against  
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**VICTIM:** Jeanette Schoon and her daughter were killed in a bomb blast in Angola 12 years ago



**IN THE GOLD:** Former spy Craig Williamson has lost his court application to stop a damages claim against him by the widow of bomb vic-

# Why should we forgive...?

(252)

AR 4 13/14/96

**JOHN YELD**  
 Staff Reporter

THE Truth and Reconciliation Commission, which starts its first public hearings on gross human rights violations on Monday, is grappling with the "really great religious questions" of the world - questions about guilt, punishment, repentance and atonement.

So says commissioner Mary Burton, who was responding to concerns raised during a meeting in Athlone earlier this week to highlight the work of the commission and to focus on gross human rights abuses in the Athlone area.

Among these is the infamous 1985 "Trojan Horse" incident in which three young people were shot dead by police hiding in crates on the back of a railway truck.

That some people harbour serious reservations about the commission was evident from some of the questions put to the five commissioners at the meeting in the Hewat Training College hall.

"Why were South Africans, who had been grossly abused, expected to forgive the perpetrators?", one woman asked.

"Is the Christian philosophy of turning the other cheek being imposed on us? This is a very noble gesture, on the part of the Truth Commission, but that is based on the assumption that people will be healed merely by talking about it, and I'm not convinced."

"Was there not an unconscious racist element involved in granting amnesty and asking the victims to forgive?", she wondered.

"Are we pandering to the idea that black lives are cheap? For example, we would never presume to say to the Jews, 'You must forgive' (for the Holocaust)?" Another woman retorted.

■ Some people still harbour serious

reservations about the Truth and Reconciliation Commission which starts its hearings on human rights on Monday.

get, and I don't think I will forgive easily too."

In response, Mrs Burton said the commissioners had to recognise the anger many people felt about the amnesty provision of the Truth Commission - "It is a very real anger in people's hearts".

The commissioners initially had found it difficult to accept that the amnesty form which alleged perpetrators seeking amnesty were required to complete contained no reference to repentance, Mrs Burton said.

"It (repentance) may come. It may lie in the hearts of some of the people who seek amnesty, but the law can't impose it on them."

The questions being asked by people about the commission's work were the really great religious questions of the world, she suggested.

"We've got a little piece of work to do that we hope, we think, will contribute to the healing."

"We will be answering these questions as we work. The proof of our work will come out as that work proceeds."

Fellow commissioner Mapule Ramashala said the healing process of South African society would not be achieved by the Truth and Reconciliation Commission alone, but by the whole nation - "by those who suffered directly and indirectly, because no-one was untouched", she said.

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said South Africa's constitution, while conferring fundamental rights on citizens, also imposed a serious obligation to grant amnesty to people who had committed acts associated with political violence.

"The government of national unity had to find a formula, a mechanism, to give effect to this constitutional provision.

"It has to conform, in some degree, to international norms and standards and the rule of law in its treatment of gross violations of human rights. At the same time, it has to promote tolerance, peace and understanding."

This "remarkable formula" was the Promotion of National Unity and Reconciliation Act, which brought the Truth Commission into existence, Mr Daniels said.

The issue of amnesty for people who had committed the most horrific crimes remained a highly sensitive and emotional issue.

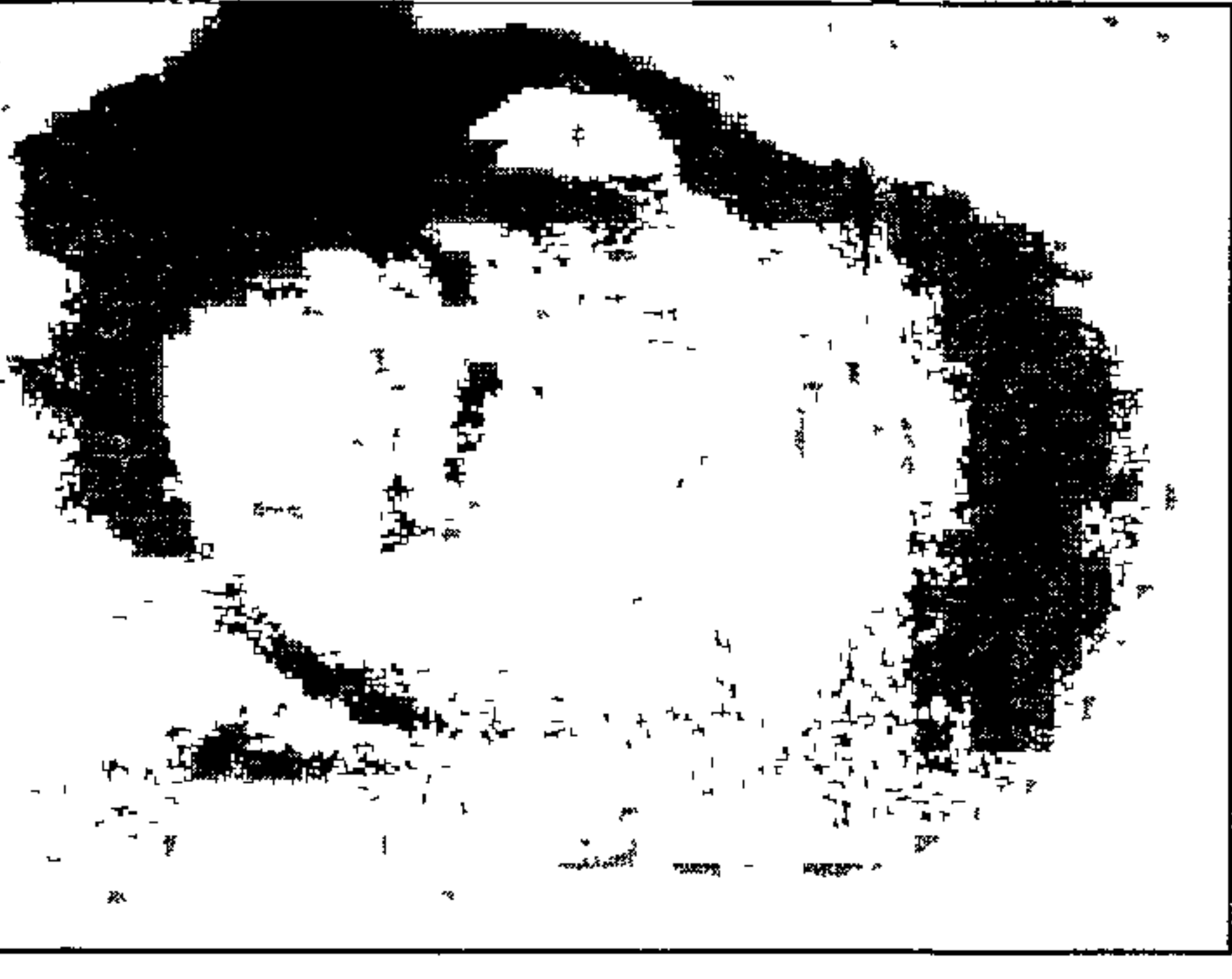
"It's hard to believe that there are people in this country who sat coldly behind closed doors and planned the permanent removal from society of people like Goniwe, Calata, Griffiths Mxenge and his wife Victoria and Imnan Haron.

"It's even harder to believe that there are people like district surgeons who, when examining detainees, failed to notice the assault signs, or, for that matter, professional people who assisted the CCB.

"The victims expect justice to be done in some form or another to alleviate their suffering and to facilitate the healing process. This too, the Act hopes to achieve." There was enormous support and justification in international law for Nuremberg-type trials, Mr Daniels said, adding "never again must we allow the fundamental



**DIRTY DEEDS:** Former policeman Dirk Coetzee has confessed to killing activist Griffiths Mxenge



**SLAIN:** The death of Eastern Cape activist Matthew Goniwe will be the focus of commission investigations. His wife has given her



# Day of truth dawns for terror victims

(252) ST/4/4/96

By MARLENE BURGER

SOUTH Africa's moment of truth is at hand. Shortly after 10 am tomorrow, the Truth and Reconciliation Commission will hear evidence from the first victim of human rights violations perpetrated under the apartheid regime in the Eastern Cape.

However, the families of four slain anti-apartheid activists have threatened to apply for an urgent court interdict in the Grahamstown Supreme Court on Tuesday to stop the commission if it goes ahead with the first hearing.

The widow of Black Consciousness leader Steve Biko and the families of Durban lawyer Griffiths Mxenge, and Mamelodi doctor Fabian Ribeiro and his wife, Florence, are waiting for the Constitutional Court to rule on their claim that the law governing the commission is unconstitutional because it denies victims of human rights violations the right to redress in the courts.

The families said that since the matter was now going to be heard by the Constitutional Court, it was incumbent on the commission to suspend the hearings.

However, the commission's chairman, Archbishop Desmond Tutu, said "unless stopped by a legal authority, we are going ahead... we have the support of the vast majority of people in this country."

Between 25 and 30 people will be called over the next four days in East London to testify on deaths in detention, disappearances of family members, abductions and violence related to party political rivalry. They will be followed by another 60 to 90 victims in Cape Town, Johannesburg and Durban before the first round of hearings ends on May 9.

The names of witnesses are a closely guarded secret for security reasons and will not be revealed until they take their seats in the East London city hall, chosen as the venue for the first hearings in view of enormous public interest.

About 600 people will be allowed into the public gallery for the hearings, but television viewers nationwide will be able to see the first two hours of tomorrow's session live on SABC2 from 10am.

The hearings will open with a prayer, a Xhosa hymn and the lighting of candles in memory of human rights victims. Witnesses will be granted "as much time as they need" to tell their stories, according to commission spokesman John Allen.

Afterwards, witnesses will be debriefed by members of the commission and, if necessary, given counselling to help them deal with the trauma of recounting harrowing events which, in many cases, will be made public for the first time.

A number of witnesses have indicated that they will name alleged perpetrators, and last week, the commission contacted a number of former and serving security force members - including some household names - to warn them of exposure. They were also invited to submit written responses to the allegations, and may ask to appear before the commission to answer the accusations levelled at them.

This week's hearings are the culmination of four months of fevered activity by the commission, appointed after the National Unity and Reconciliation Act was promulgated last December. The commission has a lifespan of two years and has been inundated with applications from victims.

Amnesty applications have been slower to materialise, but the deadline for these is not until December, and former security force members appear to be adopting a wait-and-see approach before committing themselves to full disclosure of past violations.

The amnesty committee chaired by Mr Justice Hassen Mall is not expected to deal with any applications until after the first round of victim hearings. Priority will then be given to applicants serving prison sentences.

Among those known to have submitted amnesty applications so far are former Vlakplaas commanders Dirk Coetzee and Eugene de Kock, whose trial on 121 criminal charges, including eight of murder, resumes in Pretoria tomorrow.



# Truth body to face moment of truth tomorrow

By CHIARA CARTER

TOMORROW is showdown day for the Truth and Reconciliation Commission — which faces an eleventh-hour Supreme Court bid to halt the commission, which coincides with its first hearings in East London.

The families of slain human rights activists Steve Biko, Fabian and Florence Ribeiro, and Griffiths Mxenge intend to ask the Grahamstown Supreme Court for an urgent interdict to halt the hearings.

Their lawyer, Cyril Morolo, this weekend confirmed that he had instructions to seek the interdict.

Morolo hit out at Truth and Reconciliation Commission chairman Archbishop Desmond Tutu for pressing ahead with the hearings despite a Constitutional Court challenge by the families.

Morolo said Tutu should do the "decent thing" and wait for the outcome of the Constitutional Court application.

But Tutu said the Commission would proceed, unless ordered to stop.

Earlier this week, Tutu said he was "annoyed and hurt" by the families' actions, and that the commission owed it to the many victims who did support the TRC to go ahead.

Chris Ribeiro said that his family was "hurt and offended" by Tutu's attitude.

"We have a democratic right to question the Truth Commission. We expected the bishop to respect our views," he said.

The families are arguing that the TRC's amnesty provisions for human rights offenders deny victims their constitutional right to seek redress in the courts.

The challenge was resubmitted to the court on Thursday after being rejected on a technicality. The amended papers ask the court to interdict the TRC until the case is heard.

See stories on Page 2, 4.

# 'I made a plan with Mxenge

**COURT ACTIONS brought by the families of three murdered anti-apartheid activists, including Durban attorney Griffiths Mxenge, could result in the first sitting of the Truth and Reconciliation Commission being prohibited. In a document in the possession of City Press, former security policeman and hit-squad boss Dirk Coetzee for the first time reveals full details of how the Mxenge murder was planned and executed.**

(252) CP 14/4/96

of the hit squad  
"I was in control of the operation  
The other Viakpias personnel involved were Captain Koos D, War-rant-Officer Paul E, Nofemela, Student Constable David F and askari Brian G

"In the mess hall of the single quarters of the CR Swart police station, I found a piece of meat, which I cut into four pieces and treated with strychnine I got the strychnine from Captain H of the police's security headquarters

"That evening we drove to Mxenge's home, where Almond threw the meat to the dogs  
"I left the planning of the details of Mxenge's murder to Almond and Joe My orders were that they were not allowed to shoot and that it had to look like a violent robbery For this reason they had to take some of his personal belongings, like his wallet, his watch and his jacket, and - if the occasion arose - also his car  
"I warned them to wear old clothes and shoes which I could later destroy They also had to make sure

their pockets were empty so that nothing could fall out at the scene - no cigarettes, no ID documents, no watches, etc  
"At one stage I ordered I and J (two askaris) to help Almond and Joe I told them to obtain a large hunting knife and two Okapi knives We arranged to meet at a certain bar every night  
"One rainy Thursday morning I found the four of them in the bar Joe was wearing Mxenge's jacket and watch and had his wallet I took their old clothes and Mxenge's possessions and placed in in the boot of my car They gave me Mxenge's car keys and told me the car was parked in a parking space right next to the entrance of the CR Swart police station  
"I fetched two policemen from the single quarters and fitted false number plates to the car The two policemen drove to the Golella border post, where Warrant-Officer K was stationed I knew him well  
"It was quite late when I reported to Brigadier A that the task had

been completed He was worried that we might have left clues at the scene

"After it had been arranged that the entire Viakpias unit would immediately return to Johannesburg from Durban, I went to the Golella border post where, as arranged, I met the two policemen with the car  
"Mxenge's brand new white Audi was parked in the garage of a vacant police home After that we went to a place near a river - was it the Pongola river? - where we burned Mxenge's possessions and his original number plates

## 'Burn it'

"We returned to Pretoria that night I asked Brigadier L what I should do with Mxenge's car Brigadier L ordered me to burn it  
"In the evening I and other people went back to Golella We fetched the Audi I drove it, while Koos clambered back and forth to remove the radio and speakers

"At a spot near the Bothashoop border post we stopped and poured petrol over the engine, the seats, in the boot and over the instrument panel around the steering wheel Koos struck a match - and that was that  
"On the Monday morning Brigadier B and Brigadier L decided that Almond, Joe and Spyker would each get R1 000 for their good work Later I received R3 000 from Brigadier B and divided the money among the three The radio from Mxenge's Audi was installed in Brigadier L's subsidised Mercedes 230E  
"I later heard that Brigadier L's Mercedes had been stolen and later recovered But the radio was missing  
"Later, after Brigadier B had told me the detectives could find no clue at the scene of the murder, I returned the four's old clothes and shoes to them  
□ Names mentioned by Coetzee in his account of the murder are not being published because the allegations have not been proven

MARK COETZEE begins his account under the heading *The Murder of Griffiths Mxenge*  
"During November 1981 four groups from Viakpias, were sent to Durban for observation purposes While in Durban I reported to Brigadier A every morning and afternoon One morning Brigadier A gave me certain background information on Griffiths Mxenge and said we would have to 'make a plan' with him Brigadier A said more than R100 000 of ANC money had passed through Mxenge's bank account in the past year and that the security police were trying to build

a case against Mxenge  
"When I agreed to 'make a plan' with Mxenge, Brigadier A said we should not shoot or abduct him, but rather let it look like a violent robbery Brigadier A took me to Captain B, who told me that Mxenge had four dogs  
"An important point is that I asked Brigadier A to arrange with Brigadier C that Joe Mamasela and Almond Nofemela (both askaris) be sent to Durban Joe and Almond did not drink or smoke and were both intelligent, healthy and fit, and, in my opinion, had the killer instinct I planned for them to form the heart



# Williamson fails to halt damages claim

(252) ep. 14/4/96

SOUTH AFRICA'S interim constitution did not oblige victims of past human rights abuses to abandon their civil rights or forgive the perpetrators and reconcile with them, a Pretoria Supreme Court judge ruled on Friday.

Judge Mohamed Navsa was delivering his ruling dismissing with costs former National Party-government spy Craig Williamson's application to stop a damages claim instituted against him by ANC member Marius Schoon.

Schoon's wife Jeanette and daughter were killed in a bomb blast in Angola 12 years ago.

Williamson applied for a stay in the civil proceedings against him and the Ministry of Safety and Security so he could apply to the Truth and Reconciliation Commission for amnesty.

Schoon opposed Williamson's application on the grounds that he had a civil right to sue the man who killed his wife and seven-year-old daughter and injured his young son.

Navsa found Williamson, who had not yet applied for amnesty, had not supplied sufficient facts to persuade the court he had a reasonable prospect of getting amnesty.

The judge said the terms of amnesty applications had come into operation only earlier this week. Williamson was free to apply for amnesty, just as Schoon was free to pursue his case.

"It cannot assist the cause of reconciliation that aggrieved individuals are thwarted in their quest for justice by the very court to which they turn for protection," he said.

Williamson has been given 10 days to respond - Sapa





# Harrowing tales related on first day of truth commission

Wynndham Hartley

**EAST LONDON** — The harrowing story of human rights abuses in SA began to emerge yesterday as witnesses told of suffering at the hands of the security forces and the Azanian People's Liberation Army in the truth commission's first formal hearings.

A day of high emotion, which saw five witnesses give evidence, was interrupted by a bomb threat which disrupted the hearings and by the threat of legal action to halt or limit the hear-

ings. The bomb threat came in the

midst of evidence by the first witness, Noble Mohapi, a colleague of slain black consciousness leader Steve Biko, who recounted a pattern of police ill-treatment culminating in her husband's death in detention.

A commission staffer sat with her, and later other witnesses, comforting them through proceedings.

Mohapi said it was 20 years since her husband was reported to have committed suicide by hanging himself with a pair of jeans in Port Elizabeth police

cells. She said she was happy the truth

commission process might identify those responsible. Her husband could not have committed suicide, she said, because of his belief in the struggle.

She described how the appeal against an inconclusive inquest finding was handled by activist lawyer Griffiths Mxenge, who was later killed by the security forces. During her repeated detentions she said she was tortured and given electric shocks. "Things are put on your body that make you jump and jump," she said

She described how she had been de-

med teacher training because she was the wife of a "terrorist" and how she had been detained because of her association with Biko.

In stark contrast was the experience of Karl Webber, a worker for animal rights, who was caught in a hail of AK-47 bullets and hand grenades during the Apla raid on East London's Highgate Hotel in May 1993. He lost an arm and partial use of his other arm in the attack, in which a friend and five others were killed.

## Truth

(252)

Continued from Page 1

BD 16/4/96

by the decision of the commission.

Webber survives on a monthly disability grant of R410 and must be helped to bath and shave. He said the state had not responded to his appeal for help in educating his daughter.

Elizabeth Hashe, Monica Godolozzi and Nomali Galela also gave evidence on the disappearance in the mid-1980s of their husbands Charles, Qagawuli and Champion, members of the Port Elizabeth Black Civic Organisation and known as "the Pebco Three". Hashe told how the men had been lured to the Port Elizabeth airport by a phone call from the British consul to meet them there.

The three gave harrowing and emotional accounts of the harassment they had suffered, including dismissal from employment, detentions and attacks

by armed men supporting the black councillors who opposed Pebco Galela said her house had been burnt down.

Commissioner John Smith said the mystery of the men's disappearances might be solved by developments in the trial of former Vlakplaas commander Eugene de Kock.

All three women said they hoped they would learn where their husbands were buried.

Earlier in the day, two calls from a man, one to the East London city hall venue of the hearings, and another to the Daily Dispatch newspaper, claimed a bomb was to explode shortly after 11am. The calls were made shortly after 10am.

Commission chairman Desmond Tutu stopped the proceedings. He said the police and the bomb squad had earlier swept the building, but that he wanted a further check in the wake of the threat. Nothing was found.

Picture: Page 3

BD 16/4/96

Webber said he would not be able to recognise the balaclava-clad man who "changed my life overnight". He would welcome further investigations by the commission into the Highgate attack, adding that justice should take its course and those who "did this to innocent people" should face the courts. Commissioner Dumisa Ntsebeza asked him what he would do if the Highgate attackers were granted amnesty. Webber said he would abide

Continued on Page 2

hearings



# Truth commission's day of drama

CT 16/4/96 (252)

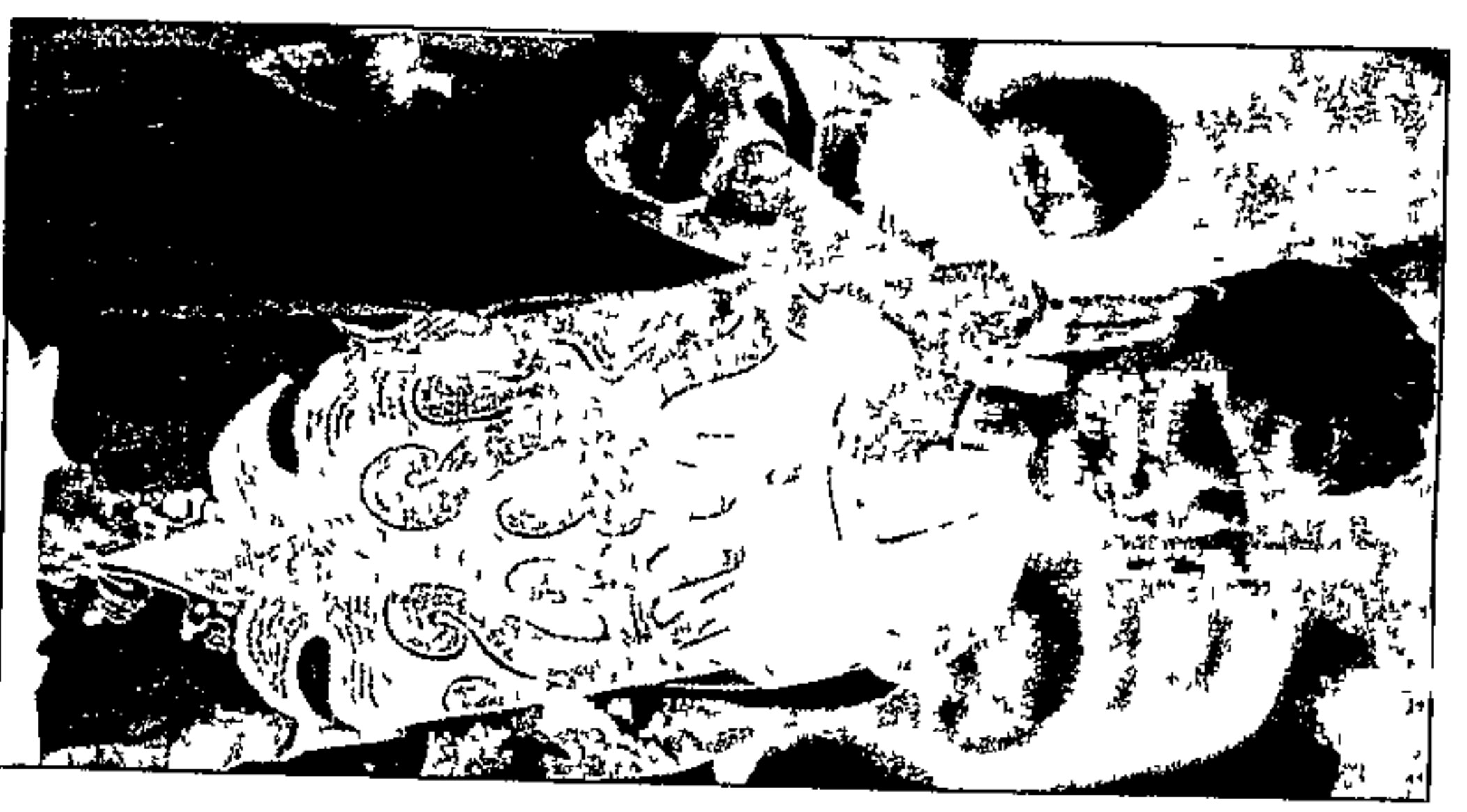
**EAST LONDON** The first witnesses were called here yesterday as the Truth and Reconciliation Commission began its hearings. Staff writer **ROGER FRIEDMAN** and photographer **BENNY GOOL** were there to record the proceedings.

**T**he Truth and Reconciliation Commission, fulfilling its pledge to investigate human rights violations by members of the apartheid security forces and the anti-apartheid liberation movements, got under way here yesterday.

The first witness called was Mrs Nohle Mohapi, wife of black consciousness leader Mr Mapepa Mohapi, who died in police custody 20 years ago — and the last was a white victim of the Highgate Hotel attack here in 1993.

The commission also heard, among others, the story of staunch ANC supporter Mrs Monica Godolozzi, whose husband, Qaqawuli, was abducted and disappeared in 1985.

The city hall auditorium, where the hearings are being held, had to be cleared to allow sniffer dogs in after police received two bomb threats — a third telephonic bomb threat —



**FIRST WITNESS** Mrs Nohle Mohapi takes the oath before testifying that her husband died in police detention. **PICTURES: BENNY GOOL.**

## Security blitz at TRC venue as bomb scares halt hearings

**ROGER FRIEDMAN**  
(252)  
CT 16/4/96

**AST LONDON** An iron curtain has been drawn around the city hall here after bomb threats interrupted the first witness telling her story to the Truth and Reconciliation Commission (TRC).

Moments after the auditorium had been cleared yesterday, a distressed commission chairman, Archbishop Desmond Tutu, returned to the venue to tell senior policeman Superintendent Rene Hackart: "We cannot allow this to happen again."

"This is the best way of alarming the victims

who have come to tell their stories."

The bomb threat disrupted the testimony of Mrs Nohle Mohapi, whose husband Mapepa Mohapi died in police custody 20 years ago.

Just before Tutu's approach, Hackart told the Cape Times police were reacting to two separate bomb threats. One had been phoned to a local newspaper and the other to police radio control.

The venue was cleared to allow sniffer dogs to sweep the entire hall.

In his opening address, immediately before Mohapi was called, Tutu had praised the police.

"Thank you to the police, who are providing security. As you can see they are our police," he said at the packed venue.

at 2pm yesterday — was ignored by the police, who were confident the venue was secure.

Mohapi spoke of her husband's death in his police cell — hanged with a pair of jeans — which police described as suicide.

Mapepa Mohapi was a close associate of Steve Biko, who also died in detention.

Mohapi, who was herself detained, tortured and banned, spoke of her fruitless 20 year search to find out the truth about her husband's death. She had never believed he had committed suicide.



She had discussed the TRC with her two children, and "as a family" they had decided to apply to tell their story.

"My hope is that the TRC will try to find out what happened to my husband and father of my children," she said.

Mr Karl Webber was maimed in the 1993 Mayday handgrenade and rifle attack on the Highgate Hotel, in which five people died.

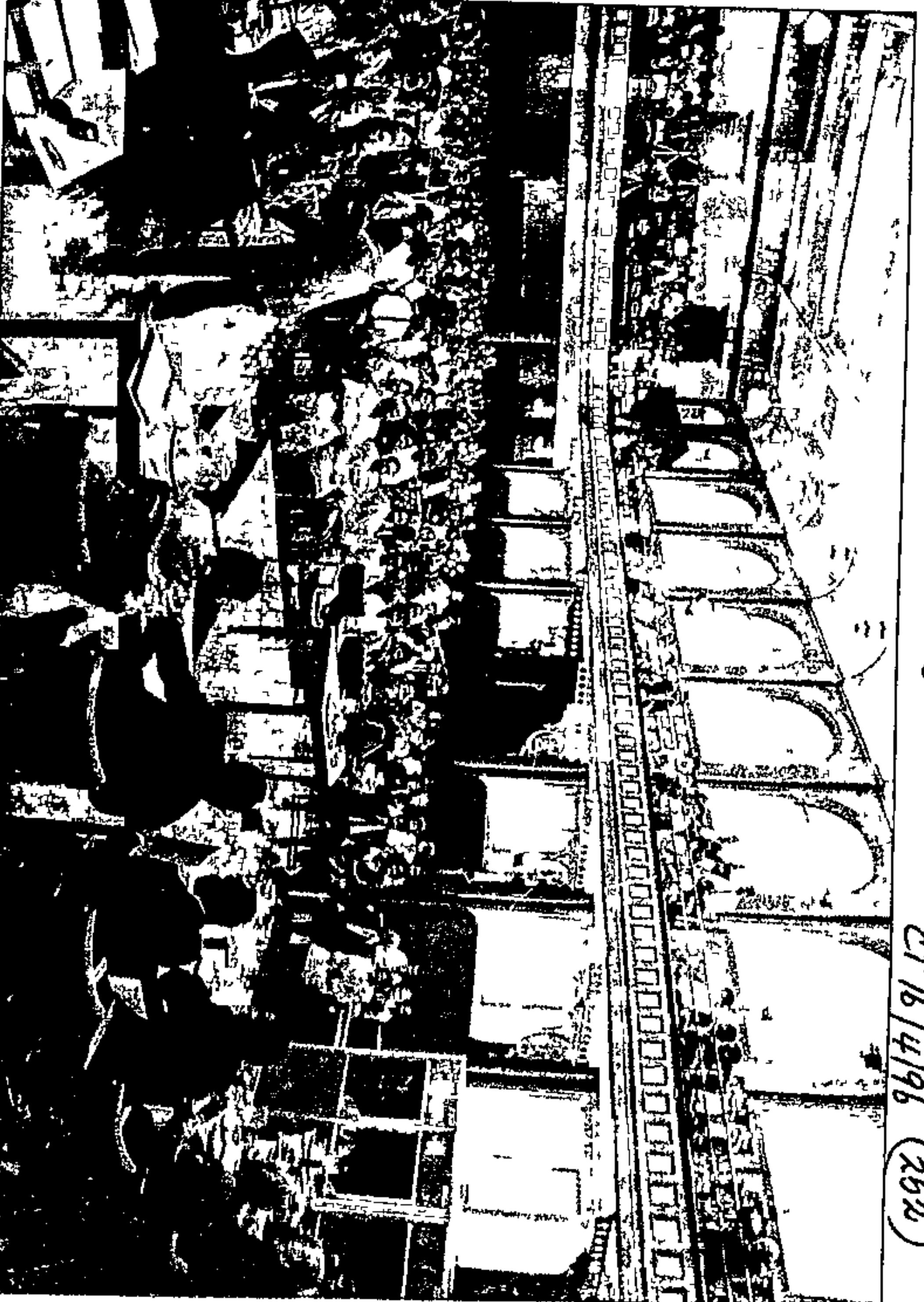
He lost his left arm below the elbow, has 60% use of his right arm and only two working fingers.

He said his productive life had been shattered. From earning a relatively decent living he was now reduced to accepting charity to supplement his R410 monthly disability grant.

Webber said he wanted justice to be done and had approached the TRC in the hope it would shed light on the identities of the attackers.

Asked by commissioner Mr Dumisa Ntsebeza what his attitude would be if the killers were granted amnesties, he said it would "hurt".

"It's not forgotten about. But if they are granted amnesty I will have to accept it. I am not a magistrate, but



**WRECKAGE** History was made in the East London city hall yesterday when the Truth and Reconciliation Commission began its hearings. The first witnesses were the wife of a slain black activist and the white victim of a terror attack.

I think they should be brought to trial so we can hear their side of the story before any amnesties are granted," he said.

Between listening to the Mohapi and Webber stories, the commission heard from the widows of three Port Elizabeth Black Civic Organisations (Pebco) activists who disappeared in 1985.

The three men — Sipho Hashe, Qaqawuli Godolozzi and Champion Gabela — were apparently abducted from Port Elizabeth airport

It emerged in a 1988 trial that they had later been seen at Alexandra police station. Their names were mentioned again at the trial of former Vlakplaas commander Colonel Eugene de Kock.

Mrs Elizabeth Hashe said she hoped the commission could help find her husband's body so he could be buried.

She also wanted a photograph of her husband seized by the police 10 years ago, and hoped to be "compensated" for his death.

Mrs Monica Godolozzi said she had been told by her mother-in-law the day after her husband disappeared that he had been arrested. She never saw him again.

"I request that God helps us to have the perpetrators come out with all the information. I would also like to bury my husband with dignity, and I would also request that I be given some support," she said.

Mrs Nomali Gabela said she realised she would never be able to "resurrect" her husband, but 10 years

after his disappearance she knew the truth would help heal her wounds. "I learnt that they were killed by police. There was an allegation he committed suicide. If they have killed my husband I would like him to be brought home so I can bury him."

● The families of three slain anti-apartheid activists backed down yesterday from a threat to undercut the Truth and Reconciliation Commission from continuing with its inaugural hearings in East London.

● See Page 3



# Security blitz at TRC venue as bomb scares halt hearing

ROGER FRIEDMAN

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(252) CT 16/4/96  
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The bomb threat disrupted the testimony of Mrs Nohle Mohapi, whose husband Mapetla Mohapi died in police custody 20 years ago

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The venue was cleared to allow sniffer dogs to sweep the entire hall

In his opening address, immediately before Mohapi was called, Tutu had praised the police "Thank you to the police, who are providing security. As you can see they are our police," he told the packed venue

At a media briefing after the rest of the proceedings had run smoothly, Tutu said he stood by his opening remark, although "we certainly would want (security) tightened up"

After the briefing, Superintendent Morris Grootboom, in charge of security, said the "tightening up" had already been effected

From today, the police intended cordoning off streets around the city hall to stop cars from parking in the area. They will maintain a 24-hour vigil around the venue until the end of the hearings on Thursday

TRC executive-secretary Mr Paul van Zyl said the commission's offices in Cape Town, Gauteng and KwaZulu-Natal had been contacted immediately after the bomb threats, and told to tighten up security

"The hall was swept this morning. But because it was the first day, and because in the nature of things we were getting systems in place, we couldn't be 100% sure that the sweep was watertight

"We have now been given the assurance by police at the highest level that the venue is secure and watertight"

Until yesterday, security surrounding the commission had been surprisingly lax, in the almost unanimous opinion of observers who have converged on the Eastern Cape from all corners of the globe

People entering the venue had to step through an X-ray machine, but bags they were carrying were neither X-rayed nor searched

On Sunday, after the TRC had repeatedly stressed the importance of the security of witnesses and begged the media's co-operation, a Canadian film crew was seen transporting a witness to a church service

One of the Canadians said the commission had asked them to "look after" the witness

# IFP to shun truth hearings

(262) CT 16/4/96

**OWN CORRESPONDENT**

DURBAN Inkatha would not participate in the Truth and Reconciliation Commission hearings, but would make available to the commission a dossier of crimes committed against the party, IFP leader Chief Mangosuthu Buthelezi said yesterday.

In a statement timed to coincide with the start of the TRC's hearings in East London yesterday,

Buthelezi said the IFP had considered the implications of taking part and had decided that it was "impossible for us to receive impartial treatment".

The TRC's composition was such that "it is less about bringing out the whole truth and reconciliation and more about entrenching an 'approved' version of our history. Our concern is not the truth's emerging, but whether the whole truth will emerge."



# TRC hears of

## Tears flow at truth hearing

(252)

From Page 1

Star 16/4/96  
with a pair of jeans

And Andrew Karl Webber, whose left arm was blown to bits by a hand-grenade thrown by suspected Apla terrorists into the crowded bar of the Highgate Hotel in East London, also wants justice

"What happens must happen," he said when asked what he would feel if the commission granted amnesty to the man who changed his life in a minute of terror three years ago.

But he added "I can't believe somebody could do this and just walk away. There is law and order in this country. He should be tried and the courts must decide what to do with him."

Webber, Mohapi, Godolozi and Galela may get their justice. Or the commission may decide that those who caused their suffering qualify for amnesty.

How they would react then, and whether this would lead to reconciliation, remains to be seen.

But yesterday's witnesses have already achieved one thing: they have told South Africa horrific tales of violence, repression and suffering, and these tales will be inscribed on the national memory forever.

# activist trio's disappearance

Star 16/4/96 (252)

All a weeping Elizabeth Hashe wants is to give her husband a decent burial, and recover the only photo she has of him

BY ROBERT BRAND  
East London

Commissioner Bongani Finca had his face in his hands. The hall was deathly silent, except for the sobs of Elizabeth Hashe, whose activist husband Siphiso disappeared 10 years ago.

Hashe was the second witness to testify before the Truth and Reconciliation Commission yesterday. Her husband was one of the so-called Pebco Three, members of the Port Elizabeth Black Civic Organisation who disappeared without trace after apparently being arrested by the security police in 1986.

All Elizabeth Hashe wants is to give Siphiso a decent burial. And she wants back her only picture of him, the one the police confiscated after his disappearance and never gave back.

And despite having told her story to inquest magistrates and Supreme Court judges, she wants someone to listen. "I just want the commission to have sympathy with me, to understand what I

went through when these things happened," Hashe blurted out before breaking down in tears.

Earlier, Hashe described how she and her husband had been a constant target of the Port Elizabeth police during the early 80s. Their house was petrol-bombed, they were both detained without trial, and they had become used to the kicking at the doors late at night to the cries of "Police Open up!"

Then, on May 8 1986, her husband received a message from a neighbour's telephone that he was to go to the airport to meet the British ambassador and Champion. They were together in Golela's car but his wives never saw them.

Qaqawu and Godolozi disappeared on the same day, May 8 1986.

Several witnesses later claimed they had seen the three together in the cells at the Alexandria police station near Port Elizabeth, but the police have steadfastly denied that they had been detained.

The three women suspect their

husbands are dead. They suspect there must be a policeman somewhere who knows how they died and where their bodies are. They want the remains because they want to bury them.

Nomah Galela and Monica Godolozi also want something else, justice. They want the commission to find those responsible for their husbands' deaths and bring them to trial.

This was, in fact, a recurring theme in the testimony of four of the five witnesses yesterday.

Nohle Mohapi, the first person to testify, said afterwards she could perhaps find it in herself to forgive now that her story had been heard by a sympathetic government. But almost in the same breath, she added that she wanted those responsible for husband's death to be charged and tried.

Her husband, Mapetla Mohapi, was a Black Consciousness leader and friend of Steve Biko. Mohapi died in detention in 1976. Police said he had hanged himself.

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## One truth probe fight dropped, another starts

BY ROBERT BRAND

East London - The families of four murdered anti-apartheid activists have withdrawn their bid in the Grahamstown Supreme Court to stop the Truth and Reconciliation Commission hearings which began yesterday.

But they will still attempt to postpone amnesty hearings expected to start at the end of May.

And an urgent application for a postponement of the hearings is being brought in the Cape Town Supreme Court today by a person likely to be named before the commission this week as a perpetrator of human rights violations.

The families' attorney, Cyril Morolo, said the current hearings

would not prejudice his client's rights, but an amnesty application by former Vlakplaas police captain Dirk Coetzee would do so.

The families claim the commission deprives them of their constitutional right to seek redress in court and want the amnesty hearings postponed until the Constitutional Court has ruled on their application.

Archbishop Desmond Tutu yesterday declared that the first day of hearings had been a success, despite bomb scares and concern about the slow pace of testimony.

"All of us are deeply moved by what we heard from the witnesses," Tutu said in East London.

About 1 000 spectators packed

the East London city hall and hundreds more crowded outside as the commission heard the stories of witnesses ranging from relatives of anti-apartheid activists who died in police custody to a man who lost an arm in an Apla attack on an East London hotel.

But the drama was not all in the hearings. In spite of strict security measures, two bomb threats were received and the city hall had to be evacuated once for a police search.

Meanwhile, IFP leader Mangosuthu Buthelezi said the IFP would not participate in the hearings but would make available to the commission a dossier of crimes committed against the party.

# ANC resists property clause concessions

David Greybe (252) PD 17/4/96

CAPE TOWN — The ANC would go to the polls rather than make concessions on a property clause in the new constitution, ANC secretary-general Cyril Ramaphosa told a top-level business delegation yesterday.

The private sector and DP are concerned that the latest property proposal could result in the courts reading the land reform sections as the "dominant meaning" of the clause to the detriment of property safeguards.

DP leader Tony Leon questioned "how a third-rate clause masquerading as a property-protection device, but which renders every homeowner in this country vulnerable, is achieving the social or political ends of the ANC".

He accused Ramaphosa of seeking "all-out (political) war" with his "threat" to cease negotiations and opt for a national referendum.

"With this kind of thing we can only expect the rand to disappear out of sight," Leon said. Ramaphosa had "completely contradicted" his recent statement that the ANC was seeking a constitution "agreed to by consensus".

Ramaphosa denied he had threatened the business delegation with a referendum to force it to withdraw its demand for a property clause which was stronger on the guarantee of property rights, including intellectual property rights. He had merely spelt out what would happen under the interim

Continued on Page 2

## Property (252)

Continued from Page 1 PD 17/4/96

constitution if the NP and DP backed down on a compromise property clause brokered by party advisers two weeks ago and, as a result, the new constitution failed to win the necessary two-thirds support in the Constitutional Assembly on May 8.

If that happened a referendum on the draft constitution would be held, and a 60% vote in favour of the draft would secure its adoption.

Ramaphosa said the ANC told the businessmen it was still "prepared to consider proposals which clarify the draft property clause". But any push to change the meaning of the clause would result in a referendum.

It was unclear yesterday whether

business could still rely on NP support on the property clause. A business representative said that on Monday NP negotiators were concerned about the chances of an "anti-ANC" vote securing the minimum 40% in a referendum when the ANC had won 62% of the vote at the 1994 election. The NP appeared reluctant to take on the ANC.

Ramaphosa said he had information the NP had told the businessmen they were "not going to disturb" the balance achieved two weeks ago. "The NP basically told them to go to hell," Ramaphosa said. However, Leon said NP leader FW de Klerk told him "the NP regards property as a bottom-line issue" NP sources were vague on the matter yesterday.

The business delegation included Sacob, Business SA, Afrikaanse Handelsinstituut, SA Agricultural Union and the Chamber of Mines.



# Tutu weeps as distraught truth commission witnesses call

Wynham Hartley

**EAST LONDON** — A distraught truth commission chairman Desmond Tutu broke down and wept at the end of the second day of revelations at the commission's first formal hearings.

Tutu's tears came at the end of another long and tense day involving legal challenges to the commission, and weeping and hysterical witnesses calling for justice or the return of the remains of their loved ones.

Singqokwana Malgas triggered Tutu's anguish after testifying about enduring more than 30 years of harassment, torture and 14 years in prison on Robben Island. Malgas wept when describing the torture he suffered at the hands of the police.

Later Tutu said at a news briefing: "I thought I had survived the session until that question about the torture." He observed that commissioners would have to seek ways of "enhancing their spiritual resources" to survive the two-year life of the commission. He said he had been asking himself whether he was the right chairman for the commission because "I am so weak."

Earlier two former security policemen succeeded in forcing the commission to delay testimony from a witness. The commission gave an undertaking in the Cape Supreme Court that evidence implicating former Brig Jan du Preez and former Gen Nick van Rensburg would be held back. However, it said the witness, Joyce Mkhmkhulu, would give evidence when the commission next visited the Eastern Cape.

To ward off an application for an interim interdict restraining the commission it was agreed that Mkhmkhulu would not take the stand. The application, in which the former policemen are demanding access to commission files to prepare a response, will be heard next week. Tutu said the commission had informed them that they could be named and had given them 30 days to submit responses.

Widows of the murdered "Craddock Four" — United Democratic Front activists Matthew Goniwe, Fort Calata,

**Tutu**

Continued from Page 1

ported by Sinduswe Mkhonto and Nombuyiselo Mhlawuli. An SANDF spokesman denied there had been a settlement with four families.

Mhlawuli and Mkhonto said they wanted the murderers of their husbands to face the courts. Mhlawuli said she wanted the hand severed from her husband at the time of his death, and apparently preserved in a bottle in Port Elizabeth, returned for proper burial. Calata told the commission that when her husband's body was found, hair had been ripped out, the tongue stretched, fingers chopped off and parts of the body eaten by dogs.

(252) PD 17/4/96

Bessie Mdoda introduced the first complaint against the ANC heard by the commission. She said her son, Xola, had gone into exile through Lesotho to join Umkhonto we Sizwe and she had not heard from him again. She said then MK chief of staff Chris Ham had assured her in 1992 that Xola was in good health in 1990 and would return.

When nothing came of the promise, a Mr Mofokeng at Shell House told her that Xola had been killed in a skirmish with police in 1984. Mdoda said she wanted to know if her son had died in an ANC camp or whether he had been killed. If he had died in action against police, she asked, where was his body? She wanted the commission to help investigate his fate.

Comment: Page 10

Sparrow Mkhonto and Sicele Mhlawuli testified that although the state had agreed to pay them damages, the matter had been stalled, apparently by the defence department, since February last year. The inquest into the deaths of the four found that the security forces were responsible but could not name those responsible. Nomonde Calata told the commission the widows had waited since February last year for the settlement. Her evidence was supported by four other witnesses.

Continued on Page 2

For Justice

# Ministries are asked to expedite settlements

(252) Star 17/4/96

By ROBERT BRAND

East London - The Truth and Reconciliation Commission has asked the Ministries of Justice, Defence, and Safety and Security to expedite an out-of-court settlement reached with the families of four murdered Cradock activists.

An out-of-court settlement was reached with the three ministries early last year for a reported sum of R1,5-million to the four families.

Thus follows testimony before the commission yesterday that the families have been waiting since February last year for their money while the three ministries dragged their heels over who should foot the bill.

Although not pointing fingers at any individuals, an inquest in 1994 found that either the police or the SA Defence Force had been responsible for the murders of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Siculo Mhlawuli.

The inquest was reopened after the discovery of a military signal dated three weeks before their deaths ordering that the four be "permanently removed from society".

Sindiswe Mkhonto, Nomonde Calata and Nombuyiselo Mhlawuli shook the commission with their emotionally-charged testimony.

The hearings had to be adjourned at one stage to allow Mrs Calata to recover in privacy.

Goniwe, Calata, Mkhonto and Mhlawuli, according to their testimony, had gone to a meeting in Port Elizabeth on June 27, 1985.

The next day, Mrs Calata said,

she read in the Eastern Province Herald that their burnt-out car had been found near Port Elizabeth.

The bodies of Mhlawuli and Mkhonto were found the next day by a fisherman at Bluewater Bay.

Both had been mutilated and partly burnt. The bodies of Goniwe and Calata were found almost a week later, also badly mutilated.

Mrs Calata had to identify her husband's body in the police morgue.

"They told me to be strong. I saw that his hair had been pulled out, that his tongue seemed to be very long, that his fingers had been chopped off.

"His whole body was full of wounds. On his legs you could see that dogs had had a go at him.

"I couldn't believe it, that the dogs had had their fill before I saw him."

Mrs Mhlawuli said her husband's death had had a devastating effect on the rest of the family.

His mother had a stroke, and his father died a broken man a few years later.

"He just walked around mumbling to himself 'Boere, you have killed my right hand'," she said.

The three women said they wanted the commission to find their husbands' remains so they could give them a decent burial.

They also asked for assistance in the education of their children.

And Mrs Mhlawuli said "I know you have to bury the things from the past, but I just want (Siculo's) hand which was chopped off. I heard it is in a bottle in Port Elizabeth."

Nyameka Goniwe is scheduled to testify today.



# Witnesses are looking for answers

They want to know what happened to their loved ones under apartheid

By Claire Keeton  
Feature Writer

**“I WANT TO KNOW WHO KILLED my father,”** Babalwa Mhlawuli (19) “I want my husband’s right hand given to me,” Mrs Nombuyiselo Mhlawuli said

“My wish is for a tombstone for my son,” Mrs Tony Lillian Mazwai said

“I want my son’s remains, his bones and ashes,” Mrs Ncediwe Mfetu said

“I want to see justice done,” Mrs Sindiswa Mkhonto said

These are the words of witnesses at the Truth and Reconciliation Commission hearings in East London. Amid tears and grim testimonies of human rights violations, they expressed their hopes to the commissioners

“Their wishes are so modest,” TRC chairman Archbishop Desmond Tutu said at the close of the second day’s proceedings on Tuesday

## Spoke of anguish

Mfetu, Mazwai, Mrs Bessie Nonceba Mdoda and Mr Singqokwana Malgas spoke of the anguish of their children’s disappearance, while the widows of the “Cradock Four” relived the horror of their husbands’ murder

Although the TRC is not able to provide compensation to the thousands of victims who have suffered gross violations under apartheid, the Rehabilitation and Reparations Committee will consider their needs

Deputy chairman Dr Alex Boraine said they were asking all witnesses what they expect from the TRC in

*Sowetan 18/4/96*  
order to put their limited resources to the best use

“We have conceded that there is no way the country will be able to meet the needs of all the people,” he said “We need to decide how to reach priorities. This way it is not just ourselves who decide, we are guided by witnesses”

Boraine said the TRC will do everything in its power to respond to victims “We are not simply going to listen, nod our heads and go away. We are determined to assist where possible”

For example, the same day the TRC heard evidence from the Cradock widows, they sent a letter to the Government ministers against whom they have lodged a civil claim – an attempt to facilitate a swift settlement

## Vicious murders

A second inquest into the vicious murders of Matthew Goniwe, Ford Calata, Sparrow Mkhonto and Sicele Mhlawuli in 1994 found the security forces were responsible for their death. But Calata’s widow, Nomonde, told the TRC the army had delayed the settlement since early last year

She gave a harrowing account of how the security police had harassed and threatened her and Ford from the time they had met until his death

Calata said her late husband came from “a struggle family”, and was named after Ford Prison by his grandfather while he was held there during the Treason Trial of the African National Congress

She also said Ford was a leader of the Cradock Residents Association and president of the local youth organisation



Archbishop Desmond Tutu with his wife Leah during a break in the Truth Commission hearings this week.

**“We are victims. We would like to know who killed my father. It’s hard to forget and forgive if you don’t know who to forgive”**

Praising the launch of the United Democratic Front, “an organisation with a vision”, Calata also remembered the harsh restrictions of the mid-1980s. At that time she was arrested, charged and heavily fined simply for wearing a “Free Mandela” T-shirt. She wept remembering how the police maltreated her husband during one of the many times they arrived at their house to detain him. Calata told the TRC that she and her husband slept uncomfortably when he returned from detention in May 1985.

While Ford was present, one policeman asked his superior “Can we do it now?” Ford told his wife “They

are planning something big”

On June 27 1985 he and his three comrades were killed near Port Elizabeth. Calata described how the Legal Resources Centre came to take a statement from her concerning her late husband

“I could not accept that he was ‘late’ I did not know what had happened,” she said. Her sister told her to wipe away her tears and be brave when she spoke to the security police. “They saw a strong person,” Calata said

The identification of Ford’s body was another traumatic experience. “I discovered his hair was pulled out. His tongue was long. His fingers were cut off. He had many wounds on his body. The dogs had already bitten him very seriously,” Calata recalled

But her torment did not stop there. The security police arrived at her home soon after she had buried Ford on July 20 and given birth to a son, Thumani, on August 8

“They said ‘You have a baby without a father. Do you not want us to be the father of the child?’” Calata said. The police tried to evict her from her home that day but her father organised money for her to stay on

In January 1986 she left for Johannesburg to escape the harassment, only returning to Cradock when it was quieter

An inquest into the deaths of the “Cradock Four” in 1989 failed to say who was responsible, but another inquest in 1994 found that the security forces had ordered the killings

Calata said she would like to know exactly who was to blame. “I do not know the reason for the cruelty but I need to tell my children who did this. I will not be teaching them to retaliate or to take revenge”

## Broad picture

The widows of Mkhonto and Mhlawuli followed Calata’s account with their own, painting a broad picture of deep suffering

Mhlawuli’s daughter, Babalwa, asked to speak to the TRC but struggled to find words in her sorrow. She said one policeman, who had raided their home when she was only eight, said that the truth would come out one day

Babalwa said “It is ironic the truth is focused on him now. We are the victims. We would love to know who killed my father. It is hard to forget and forgive if you don’t know who to forgive”

# An emotional and spiritual acid test

By Mzimasi Ngudle

THE second day of the hearings on human rights violations was an acid test for the emotional and spiritual strength of the Truth Commissioners, victims of human rights abuses and South Africans at large

After chairman of the Truth and Reconciliation Commission Archbishop Desmond Tutu bowed and sobbed heavily in reaction to the wailing of one victim, he made a poignant reflection on his role

“I wonder whether I am the right person to chair the commission. I am weak,” he said after deputy chairman Dr Alex Boraine had comforted him

A freedom fighter in his own right and no less a victim of human rights abuses, Tutu has many memories of the funerals of activists he conducted amid tight security restrictions and police iron-handedness

“We have forgotten how many funerals we had in those dark days,” he said

Tutu cried when former Umkhonto we Sizwe cadre Singqokwana Malgas, who is confined to a wheelchair as a

**“I wonder whether I am the right person to chair the commission. I am weak”**

result of police torture, broke down in tears at the end of his testimony

Malgas was not the first to cry. Mrs Ncediwe Mfetu, Mrs Lillian Mazwai, Mrs Sindiswa Mkhonto, Mrs Nombuyiselo Mhlawuli and her daughter Babalwa had also sobbed in front of the podium

The second day also had its fair share of tears. The Reverend Bongani Finca shed tears quietly shortly after Mrs Nomonde Calata testified

It was a catharsis – an emotional release that will hopefully lead to the healing of past wounds, and the forgiveness of the political wrongs committed in the past

The hearings will go some way to healing broken hearts. As Calata reportedly said after her testimony, the hearings left her bruised soul anointed

The dignity and modesty of the victims brought to the fore the indelible virtues of *ubuntu*. All they asked for was a better education for their children, the erection of tombstones and other basic needs

However, *ubuntu* cannot be stretched too far. It would simply be presumptuous and reckless to incise old wounds in pursuance of lofty hopes

Also, taking into account the controversies surrounding Chile’s experience with a truth commission, there is no proven link between confession on the one hand and forgiveness on the other

The whole exercise could simply end up as little more than a religious ritual. The role of the clergy in the struggle against apartheid is well known: they were fighting the evil of people against people

But to stand against retributive justice is a different matter altogether. The rest of the world has not done it

**“The whole exercise could simply end up as little more than a religious ritual”**

South Africa hopes to cut a lone path, which may go a long way to explaining why the TRC has so many members of the clergy

The danger is that the TRC will fast degenerate into a religious ritual, in which people who are ignorant of their rights will be converted to embrace peace at all costs

To this end, the TRC is fighting to win the hearts and minds of South Africans. Hence the battle of numbers

At a prayer meeting for the victims at an East London church, which was attended in large numbers, Tutu was on cloud nine, saying that the crowds showed that many people supported the commission

He made the same observation at the first hearing in East London’s City Hall on Monday

At the hearings there was also no clear understanding of what was meant by justice. When the victims asked the commission to see to it that justice was done, the commissioners asked what they meant by justice

This was when the head of the commission’s investigation unit, Mr Dumisa Ntsebeza, asked Highgate massacre survivor Mr Karl Andrew Webber and Mhlawuli whether they would be reconciled to perpetrators walking as free men in the streets

Webber answered in the negative, while Mhlawuli said she would gain nothing either way. Other victims were not asked what they understood by justice

Asked at a Press briefing whether such clarity would not help the commission in delving into the wishes of victims, Tutu said “Thank you. Sometimes we simply assume that we know what they say. It’s a good question. An incisive question”

One only hopes that such assumptions are not, at best, avoidance



# SAVING THE DEAD

## Human rights violators may face Truth Commission

By Mzimasi Ngudie  
and Claire Keeton

(253) *South African* 18/4/92

**S**USPECTED violators of human rights named in evidence before the Truth Commission may be summoned to appear to answer the allegations, the head of the investigation unit of the commission Mr Dumisa Nisebeza, said yesterday.

Nisebeza was speaking during the lunch break after hearing the testimony of Mrs Nyameka Gomme and Mrs Nonceba Zokwe. Mrs Gomme's husband Matthew died on June 27 1985 after security police had waylaid him and Sparrow Mkhonto, Sicele Mhlawuli and Qaqawuli Godolozzi.

Two inquiries into the killings ruled that no person could be held responsible. Some suspects refused to testify for fear of self-incrimination.

Gomme yesterday appealed to her husband's killers to appear before the Truth Commission.

### Crack the case

"We need to crack the case. We need an inside person. They must start telling the truth," she said. She said it would be difficult to think of amnesty for those responsible after the family of the "Craddock Four" had suffered such trauma.

"I need to know who they are. They would have to show remorse. I am not saying it would immediately make me happy, I would have to grapple with that. Healing takes a long time," she said.

Gomme's widow said she had been reluctant to appear before the commission because she had been "emotionally bruised" by the inquiries.

She also felt cynical after the

inquiry. "I had high hopes of the second inquiry and was so disappointed when the finding was announced."

Another witness, Mrs Charity Kondile told the commission she wanted them to help bring the killers of her son Sizwe to trial. Kondile said she had only discovered in 1990 that Sizwe, who disappeared in 1981, had been killed by police, who had tortured and shot him dead.

His body was later burnt by policemen who stood around laughing. Kondile said she had discovered this from testimony by Captain Dirk Coetzee at the De Kock trial.

"I accordingly request the commission to assist in bringing the perpetrators of this gruesome murder before the courts, to be charged and punished for what they did and the manner in which my son was murdered."

### Unsolved violations

Nisebeza refused to say whether evidence led so far would help his unit in investigating unsolved human rights violations. However, those named could be subpoenaed, he said.

Some witnesses named policemen responsible for the death of their next of kin. Mrs Nonceba Zokwe, whose son was shot dead at her Butterworth home in 1988, said two policemen whom she knew only by their surnames, Tyani and Gummeng, had killed her son.

The two policemen later escaped from police custody. Gummeng was later arrested in a foiled coup to oust former Transkei military leader Bantu Holomisa.

When the coup plotters were released later, Gummeng was not detained to face murder charges. Zokwe said Gummeng still walked the streets as a free man. She did not know Tyani's whereabouts.



## TOWNSHIP SOCCER BOOST

Safa executive president Solomon Morewa (centre) with Sowetan-New Nation Editor-in-Chief Aggrey Klaaste (left) and Bafana Bafana vice-captain Sizwe Motauing pictured in Moleletsane yesterday where R278 000 was given to the Soweto Football Association for the upgrading of soccer facilities in the township. Motauing received the same amount on behalf of the players for winning the African Cup of Nations.

PIC LEN KUMALO



# Truth probe hits serious problems

(252) *Sowetan 15/4/96*

By Waghied Misbach  
Political Reporter

Strong and persuasive arguments are being forwarded against the TRC

**H**AMPERED BY A lack of staff, a non-existent national communications strategy, a Constitutional Court challenge and vehement opposition from a number of political parties, the Truth and Reconciliation Commission is showing signs of cracking up

To be fair, the TRC has not had a great deal of time to get its act together. It has been little more than four months since the law was enacted which created the commission.

In that time, the TRC had to organise its structures in four regions (Gauteng, KwaZulu-Natal, Western Cape and Eastern Cape), recruit and train staff, ensure an adequate strategy to inform the public of its purpose, and deal with attacks from individuals and organisations about its credibility.

## Tight time frames

While recognising the tight time frame and the obvious commitment of the commissioners to make it work, the problems seem insurmountable at present.

But with only 18 months left for the TRC to complete its work, serious questions are being raised about whether it will be a worthwhile exercise.

Staffing has become a critical issue for the commission. In Eastern Cape, for instance, three statement-takers in the East London office are expected to deal with an average of 20 people a day.

The statement-takers have simply not been able to take comprehensive accounts and will have to follow up on many victims.

A further three statement-takers are out in the field, covering a wide area including Port Elizabeth, Grahamstown, Cradock, Uitenhage, Queenstown and East London.

Although the Investigative Unit in East London is "up and running", it is doubtful whether it has the capacity to investigate all the cases that will come before the commission.

It is certainly not good enough, as Commissioner Dumisa Ntsebeza - who heads the IU - said recently, to simply provide a "window" on the cases of the past.

What is the point then, of having the commission in the first place, if it cannot adequately investigate every single case?

The staffing issue has also affected the commission's ability to provide a communications strategy to inform the public of its work.

The crucial position of Communications Director has yet to be filled. Archbishop Desmond Tutu's media spokesman, John Allen, has been used as a stopgap measure.

The TRC has an Outreach Programme which is run separately by coordinators in each region, and is used to inform people in rural areas.

The TRC has also used other means to spread the word, including radio talks shows, organising meetings with non-governmental organisations and using the media in general to highlight its activities.

But the TRC has yet to reveal a nationally coordinated plan to reach a broader audience, either through posters or leaflets, or in the form of a more traditional advertising campaign in the print and electronic media.

## National coordination

The plan obviously depends on the appointment of a national coordinator. Allen said the TRC was "on the verge" of appointing someone a few weeks ago, but the person had withdrawn at the last moment. The post has now been readvertised.

Meanwhile, other pressures are lurking. The families of slain Black Consciousness leader Steve Biko, assassinated human rights lawyer Griffiths Mxenge and Dr Fabian Ribeiro and his wife Florence, and the Azanian People's Organisation have launched a Constitutional Court Challenge to test the validity of the TRC.

The families argue that granting amnesty goes against their constitutional right to seek redress through the courts.

It is a highly emotional charge that simply cannot be dismissed as the rantings of those seeking revenge or as political manoeuvring from the extreme left.

There is a real desire for justice from these people which cannot be denied. Refusing to accept that the killers of their families will walk free is not unreasonable.

The TRC's response to this challenge is that the commission was borne from a political compromise and that victims will simply have to accept the reality of the situation.

Tutu's response has been largely predictable. He has talked about the political compromise but has also preached about the Bible asking Christians to forgive, to "turn the other cheek".

## Impose his beliefs

But it is problematic for a church leader of his stature to impose his personal Anglican beliefs on victims who come from diverse backgrounds and have a wide range of beliefs.

Former activist Marius Schoon, whose wife and daughter was killed by the security forces, said in a letter to a Sunday newspaper that Tutu "has no right" to impose his beliefs on "all of us".

He wrote "As a religious leader, the Archbishop is completely entitled to make this type of appeal to his faithful. However, as chairperson of an important Government commission, it is important that the Christian ethic is not viewed as the law of the land. Not all of us are Christians."

Schoon said he was aware of "good political reasons" for the TRC's establishment. "These reasons do not include the imposition of Christian views on all of us. There is no feeling of forgiveness in my heart. There is no constitutional duty placed on me to forgive."

These are strong and persuasive arguments that have been articulated by a number of people disenchanted with the commission. It reveals that the basic premise of the commission is flawed.

There are no easy solutions. But there has to be some measure of justice for victims. Otherwise the current commission will amount to nothing more than a wasted exercise.



The voice of the past ... Archbishop Desmond Tutu embracing a relative of a victim of human rights abuse after an unofficial hearing of the Truth Commission in Gugulethu, Cape Town, last week.



EAST LONDON - The first day of testimony at the Truth and Reconciliation Commission here was interrupted by a bomb threat an hour after proceedings began.

Noble Mchapi was giving details of how her husband, Mapeta Mchapi, a black consciousness leader, had died in police custody in 1976, when she was interrupted by commission chairman Desmond Tutu, who said there had been a bomb threat.

"But police made a thorough search before the hearing started and assured us there was nothing," he said.

"The bomb disposal unit has searched, but we want them to come through again quickly. We apologise - it makes all of us aware that there are some people who will stop at nothing."

Hearings resumed about 30 minutes after the bomb threat.

Mrs Mchapi was the first of seven victims to testify.

Earlier, the 17 commissioners and additional members of the three committees filed into a city hall which was nearly full, with about 300 people attending.

After a hymn and a prayer, Archbishop Tutu gave a short welcoming address. Among those he thanked were the police for providing security.

Mrs Mchapi said her husband had first been detained in 1974 and had spent close to eight months in detention.

"No one knew his whereabouts - we went up and down searching for him and you'd never find in which jail he was." She gave details of life in detention under Section 6 of the then Terrorism Act and said these details were what Mr Mchapi taught with the black consciousness philosophy in black workshops.

A person who was arrested was alone, was not allowed visitors and had no reading material - "not even a Bible. That was a privilege, not a right."

A prisoner would be given a bucket to use as a toilet. "That stays with you, days and days, weeks and weeks, without being changed."

Police would force prisoners to agree that they were terrorists and would beat them with hosepipes and give them electric shocks. "They put these things that would make you jump and jump."

Police also put sacks over prisoners' heads to suffocate them, burnt their feet with cigarettes and applied psychological torture by telling them they were going to die in detention.

A policeman called Spyker van Wyk would make prisoners take their penises out and put them on a table and would say "I will hit your penis if you don't talk."

Prisoners were also kept naked.



**THE FIRST WITNESS:** Archbishop Desmond Tutu greets Noble Mchapi, the first witness to testify before the Truth and Reconciliation Commission when it opened today. Mrs Mchapi's husband, Mapeta, died in police custody in 1976.

Picture: LEON MULLER, Chief Photographer, The Argus

When Mr Mchapi was in detention, an off-duty policeman had brought her two letters written on toilet paper and had told her that he was being held at the Kei Road police station in the Eastern Cape.

"They had gone to this police station in an attempt to see Mr Mchapi but had been unsuccessful."

That day she had arrived home about 7pm and about 8pm there had been a "very strong knock" on the door. It was a Mr Fouché, a policeman, who had said to her "I'm here to tell you Mapeta hanged himself with a pair of jeans."

Mrs Mchapi said "He said it that blankly."

She refused to believe it because he had been a person with vision and had plans for his life and for the country.

# Bomb scares hats truth hearing











# Most parties agree on rights for gays

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The Argus Correspondent

GAY and Lesbian organisations got a major boost at the weekend when virtually all the political parties in KwaZulu/Natal, including the usually deeply divided ANC and IFP, stated their commitment to gay rights

Representatives of the ANC, DP, NP, IFP and ACDP addressed a meeting called by the KwaZulu/Natal Coalition for Gay and Lesbian Equality in Durban

The ANC and the DP went as far as accepting on their parties behalf the legalisation of partnerships between gay couples, and all the economic and social benefits this would mean

With the exception of the ACDP, all the parties supported the "equality clause" in the Constitution, which outlaws discrimination against people on various grounds, including sexual orientation

Again with the exception of the ACDP, they said that gay groups should lobby political parties because they did not always know what issues they should be addressing

Mercia Schoeman, convener of the

Coalition in KwaZulu/Natal, said the meeting had been called to find out political parties' attitudes towards gay rights

"We were pleased that all the major parties sent representatives to the meeting in the middle of their electioneering, and we intend to take up their offers to lobby them once the local elections are over," she said

Ms Schoeman said this was the first time representatives of all the major parties had shared a platform purely to address the issue of gay and lesbian rights

Ros Sarkin of the ANC told the meeting gay groups should come forward with their issues and promised that these issues would be taken up

She told the coalition that gay groups should submit a document to the ANC

Koos van der Bergh of the NP said his party could not support the idea of gays in the military and there was still some conflict among the NP's membership about the issue of gay and lesbian rights

Mark Louw of the DP, and deputy mayor of Durban, said his party accepted the right of gay couples to adopt children

## Zuma tours Germany

Kathryn Strachan

Health Minister Nkosazana Zuma left yesterday for Germany where she will discuss recruiting German doctors to serve in SA's neglected areas

The discussions with the German health department are part of the wider recruitment drive to get foreign doctors to work in remote areas in SA in terms of intergovernmental agreements. The recruitment drive of foreign doctors began with the import of 100 Cuban doctors who arrived in SA last month

However, there are still nearly 2 000 posts which need to be filled over the next two years in rural parts of the country

Department sources said it was also looking into recruiting doctors from Egypt

During the week-long visit Zuma and her delegation will also investigate how Germany has approached health issues such as its health insurance system and also how the private and public health sectors interact

# Truth commission hearings begin today

Wyndham Hartley

CAPE TOWN — The first formal hearings of the truth commission get under way today in spite of a Constitutional Court challenge which could end its existence and appeals from families of slain activists to halt its proceedings until the matter has been decided

While the Constitutional Court decided on Friday that it could not accede to an application from the Biko, Mxenge and Ribeiro families to put the hearings on hold, the challenge to the constitutionality of the commission will be decided in a few weeks

The truth commission itself has also turned down a request from the families to delay hearings until the application has been decided and this has again raised the possibility of an urgent interdict application being lodged in the Grahamstown Supreme Court to try and halt today's hearings in East London

The respondents in the challenge to the commission's constitutionality, President Nelson Mandela, Justice Minister Dullah Omar and the commission itself, now have time to formally announce their intention to defend the action and to supply heads of argument against the contention that the commission robs the victims of their constitutional right to legal redress

Of the more than 200 cases before

the commission's Eastern Cape office, 25 to 30 will testify during the next four days on human rights abuses that include deaths in detention, disappearances, abductions and violence resulting from party political rivalry.

Names of alleged perpetrators of these abuses and crimes are likely to be mentioned over the four days and some "well-known" people are expected to be named

According to the commission they have been informed of the possibility and given an opportunity to respond.

After the Eastern Cape hearings the truth commission will hold hearings in Gauteng, Western Cape and KwaZulu-Natal but the target dates for these hearings could be influenced by the lessons which will undoubtedly be learnt over the next four days. For example, no one knows how long individuals will require and, if perpetrators are named, how long it will take for them to be allowed a chance to put their side of the story.

The Constitutional Court challenge is the climax of weeks of controversy which includes the commission's first incident of a dishonest witness claiming to have knowledge of human rights abuses, a brush with the justice department over the speed with which a witness protection plan was being implemented and the choice of its staff being slammed as overtly political.

## Chemical workers to stage stayaway

Renee Grawitzky

THE chemical industry faces a national stayaway tomorrow when 40 000 Chemical Workers' Industrial Union members march in an attempt to break the deadlock with employers over the powers of the chemical bargaining council

Six unions party to discussions on the establishment of a bargaining council are demanding overriding powers for the central

structure while chemical employers supported the view that the separate subchambers should have overriding powers. Differences also existed over the number of sectoral subchambers

Marches will take place in Pretoria, Johannesburg, Port Elizabeth, East London, King Williams Town, Cape Town and Durban as part of the union's programme of action adopted at its national bargaining conference in March

Chemical employer co-ordinator Fanie Ernest said that overtime bans had begun in some companies while a large number of employers had held discussions with union representatives at plant level to implement plans to lessen the impact of tomorrow's planned action on production

The parties have agreed to meet later this week to discuss interim arrangements for wage negotiations this year



## Eastern Cape 'fitting' venue, says mayor

BECAUSE the Eastern Cape was the breeding ground for political leadership in the struggle against apartheid, East London's mayor Mr Lulamile Nazo believes it is fitting for the Truth and Reconciliation Commission to hold its first sittings there

Not only did this region produce sons of the calibre of President Nelson Mandela and Deputy President Thabo Mbeki, it also bore more than its share of human rights violations perpetrated by members of the old regime's security apparatus

"We feel very honoured to host the TRC because it will bring the city into the spotlight, and is a major step in the quest for reconciliation and nation building," said Nazo in an interview with the Cape Times

"The Eastern Cape is classified as the second poorest province in South Africa, and the reason for its degeneration is purely political

"The system deliberately excluded us from the economic mainstream. This all goes back a long time, to the wars of resistance fought on our soil centuries ago

"Like many others, I was a victim of apartheid excesses," said the former unionist and civics leader



## ANC comrades 'let Mxenge down'

LAWYER and former Robben Island prisoner Mr Griffiths Mxenge was found lying with his throat slit and some 50 stab wounds in his body near the Umlazi Stadium outside Durban on November 20, 1981

Ten years later, self-confessed former police hit-squad commander Mr Dirk Coetzee acknowledged partial responsibility for his death

Today, Coetzee is employed by the National Intelligence Agency — and Mxenge's brother, Churchill, is leading a last-gasp effort to have the Truth and Reconciliation Commission declared unconstitutional by the Constitutional Court

Mxenge feels his brother's ANC comrades have let him down. He objects to the commission on the grounds that if it grants amnesty to his brother's killers, civil proceedings will be ruled out

He dismissed claims that Azapo was using the TRC to gain political capital as "very ignorant", saying he remained a proud and loyal member of the ANC

Azapo lawyer Mr Cyril Morolo is handling the case on behalf of the Mxenge family, the Biko family and slain PAC activists Fabian and Florence Ribeiro

Mxenge said "At the funeral of my brother we were assured by today's politicians, who were activists then, that when the government of the people took over the country they would see to it that justice was done

"My brother's wife, Victoria, suffered the same fate he did four years after he was killed. Again, at her funeral we were given the same assurances"

Mxenge said those who gave the assurances included Justice Minister Dullah Omar, Sports Minister Steve Tshwete and Mrs Winnie Mandela

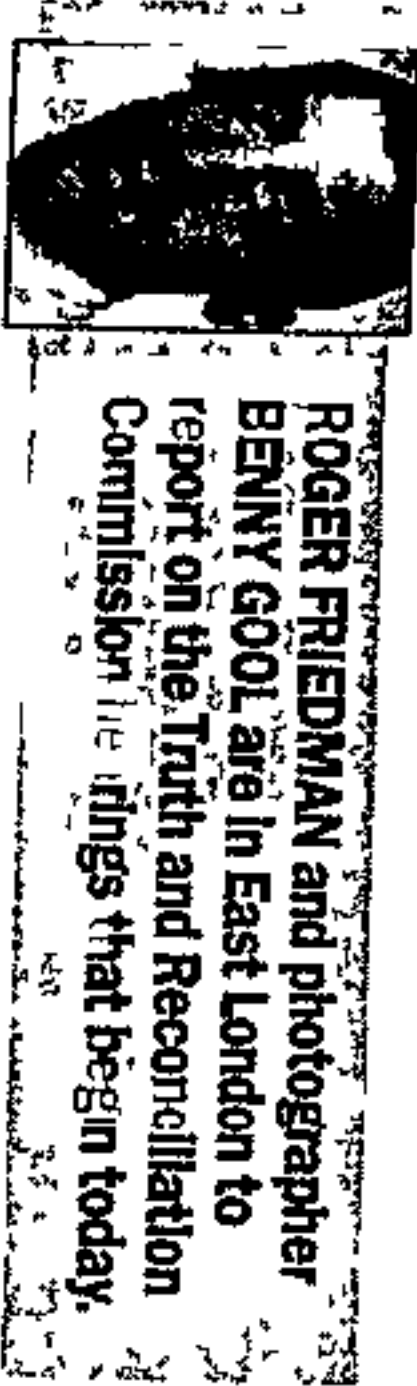
"I am taking this action, not out of revenge or vengeance, but to restore the dignity of my brother. My brother could not just die like a dog," he said





# South Africa's first day of reckoning

(252) CT 15/4/96



ROGER FRIEDMAN and photographer BENJI GOOL are in East London to report on the Truth and Reconciliation Commission hearings that begin today.

**T**HE Truth and Reconciliation Commission, a key element in the government's quest for national unity and to reconcile those driven apart by apartheid, gets under way here today.

Meanwhile, in Gauteng today, a legal team representing Azapo and the families of four prominent activists slain by apartheid agents — including Steve Biko and Gufi Mxenge — will launch a last ditch effort to stop the TRC in its tracks.

Attorney Mr Cyril Morolo said last night he had instructed an advocate at the Johannesburg Bar, Mr Modise Khoza, to approach Constitutional Court president Mr Justice Arthur Chaskalson, to make an urgent ruling on whether the TRC hearing could go ahead while the commission declared unconstitutional was pending.

In a rousing session to a packed prayer service for the commission in Mdantsane yesterday, chairman of the TRC, Archbishop Desmond Tutu, said God began to act to alleviate South Africa's suffering in 1990 when the prison doors began to open and political leaders were released.

"Today we have a government that all of us have elected. All of us are free, black and white — that is why we are called the Rainbow Nation," he said.

Moments later Tutu had the entire congregation on their feet,

raising their arms, clasping their hearts, and chanting "We are free, we are free. All of us, black and white together, the rainbow people of God."

The congregation included TRC commissioners and some of the witnesses who will tell their stories to the commission this week.

Tutu, whose antics on the pulpit reduced the congregation to gales of laughter on several occasions, was more solemn when he said the one lesson South Africa may teach the world — including the people of Bosnia and Rwanda — was "that we are ready to forgive and build a new kind of country."

This was only made possible by God's special gift to South Africa, the gift of ubuntu. After the service Tutu told journalists the commission would go ahead in spite of the Constitutional Court application — until and unless it is stopped by legal authority.

Morolo's response was that the TRC was holding the Constitution

at Court in contempt by going ahead with the hearing after an application to stop them had been launched but not yet decided.

At 9:45am today the commission, dignitaries, media and 600 members of the public who will be admitted to witness the historic first proceedings of the TRC in the city hall here will be asked to use in respect for the first witnesses of human rights violations who will be telling their stories this week.

At 10am Tutu will light a candle, a flame of hope, which will not be doused until the completion of TRC proceedings.

At 10:20am, the hearings begin. Twenty-eight witnesses will give evidence to the commission here before it moves to Cape Town, Gauteng and KwaZulu-Natal.

Among the first witnesses to tell their stories will be three widows whose husbands were killed by security agents in 1985. They are Mrs Nyami Goniwe, Mrs Sindiswa Mkhonto and Mrs Nomonde Calata. Their husbands, with Sicele Mhlawuli, died of multiple stab wounds outside Port Elizabeth.

A number of witnesses have said they plan to name perpetrators, and the commission had its work cut out over the past few weeks contacting both serving and



**MORE REPORTS AND PICTURES — PAGE 2**



**TRUTH SEEKER** Mrs Nyami Goniwe, widow of slain Eastern Cape activist Matthew Goniwe, at a prayer service for the Truth and Reconciliation Commission in Mdantsane yesterday.

retired members of the security forces to warn them that they were about to be exposed.

That is, if Morolo, Azapo, and the Biko, Mxenge, and Ribeiro families don't stop it first.

Morolo said that should Judge Chaskalson not rule in their favour, he intended applying for an urgent Supreme Court interdict in Grahamstown to stop proceedings until after the Constitutional Court has decided on the matter.

His clients opposed the TRC on the grounds that should its Amnesty and Reparation Committee grant amnesty to their loved

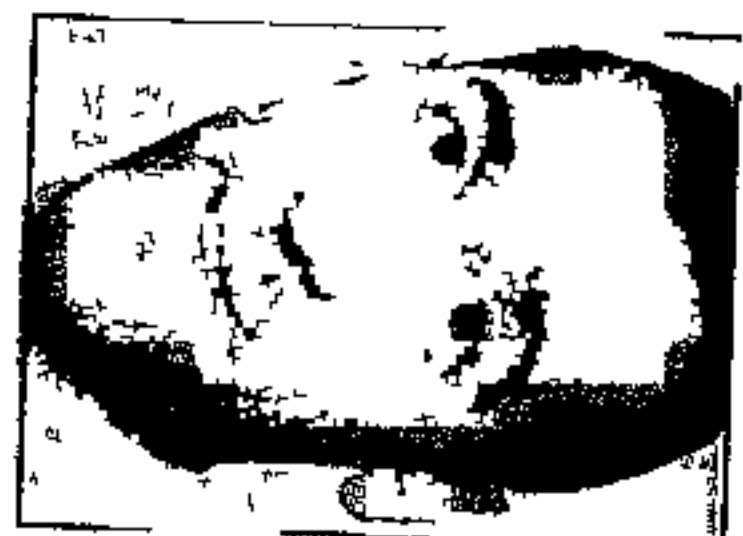
ones' killers they would have no further recourse to the courts. This, he believed, was unconstitutional. He added it was nonsense for people to assume the court application was politically motivated or

that Azapo was trying to gain political capital. While Steve Biko was a black consciousness leader, the Mxenges were in the ANC camp and the Ribeiros were PAC oriented.



# At least I will hear who killed my husband'

(252) CT 15/4/96



**ROGER FRIEDMAN** will testify at the East London trial of the Truth and Reconciliation Commission. He is the author of the book 'The Truth and Reconciliation Commission: A History'.

**T**HE charred and mutilated bodies of four of Cradock's most prominent activists were found outside Port Elizabeth

Matthew Goniwe, the general-secretary of the Cradock Ratepayers' Association, Fort Calata, Sicele Mhlawuli and Sparrow Mkhonto — all Eastern Cape

United Democratic Front members — were last seen at 9pm after attending a meeting in Port Elizabeth on June 27, 1985

Mkhonto was shot twice — once in the head — and all four received multiple stab wounds

Their bodies were turned after the men died, an independent

pathologist reported

The South African Police offered a 1 000 reward for information about the killings — and publicly suggested the four had died at the hands of lack consciousness group Azapo

The re-opened inquest into the murders in 1994 found they had been killed by unknown members of the security forces

The families still don't know who

killed them, and hope the Truth and Reconciliation Commission will finally shed some light on the matter

The Cape Times visited Cradock at the weekend and spoke to Mrs Nomonde Calata and Mrs Sindiswa Mkhonto — widows of Fort and Sparrow — as they prepared for the trip to East London

and the historic first hearings of the TRC

Calata said she would accept the TRC's decision should it grant amnesty to the killers, although it would make her "very sad"

"I have been living with this pain for so long. My wishes are that these people who did this

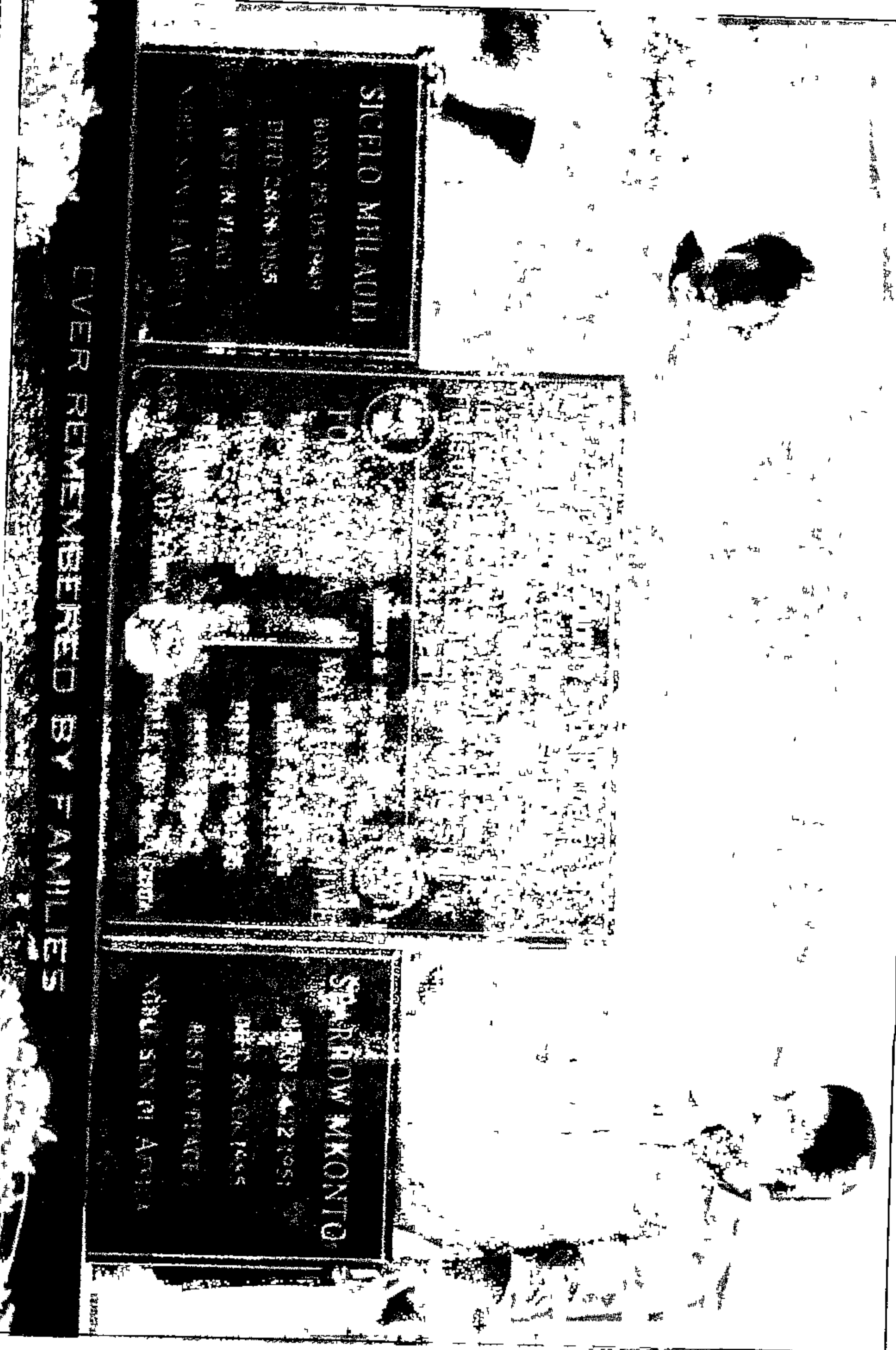
must be sentenced

"But, even if they are not, at least I will hear who murdered my husband, because I have always kept wondering who did it"

After enduring years of despair, false hopes and two inquests, Calata says she "has a feeling that something will finally come out"

"I don't know what it is. It comes from inside me. But, I suppose, it is

*"Sometimes when I am bending over to make the bed I think of Fort and I ask him why. Why does he not come to me in a dream and tell me what happened? Did he just die? Why does he not tell me who killed him?" — Mrs Nomonde Calata, widow of Fort Calata.*



**STILL SEARCHING FOR THE TRUTH:** Mrs Sindiswa Mkhonto and Mrs Nomonde Calata visit their husbands' graves in Cradock at the weekend. Sparrow Mkhonto and Fort Calata were killed alongside Matthew Goniwe and Sicele Mhlawuli by unknown security force members in 1985

only my faith"

Calata was not sure whether she supported the arms and functioning of the TRC, until visited by officials earlier this month

They explained that perpetrators named before the TRC's Human

Rights Violation Committee would not be granted automatic amnesties by the Amnesty and Reparation Committee

"I don't know what I expect from the TRC, I just have this feeling. Speaking at her husband's grave-

side, Mkhonto said she would testify before the commission in the hope it would arrive at the truth

"I want the TRC to search for truth. You cannot forgive something you don't know. If I can see them, if I can see who killed my husband, I will

feel much better, but I still want them to be punished," she added

Goniwe's widow, Mrs Nyami Goniwe, will also be telling her story this week

All four widows are still awaiting a promised payout from the state



# Support for view to establish family court

Law societies tell Hoexter Commission they believe Black Divorce Courts should be abolished and be incorporated into family courts associated with Magistrates' Courts

(252)

Star 15/4/96

By SUSAN MILLER

A representative of the Transvaal Law Society told the Hoexter Commission that both the TLS and the Association of Law Societies (ALS) supported the view that a specific family court, to deal with divorce among other issues, should be established

"It is very difficult to explain to a person who has travelled from a far away place to a court in Pretoria or Johannesburg and has been divorced after a hearing that lasts less than five minutes why the (uncontested) divorce should be so expensive and why it could not have been dealt with closer to his or her home," said spokesman CK Petty on Friday

Petty said both the TLS and the ALS thought there should be an office of the registrar of the family court attached to every Magistrates' Court and there should be simplified rules prepared for the family court

Mr Justice G G Hoexter, heading the commission formed to in-

vestigate the rationalisation of the provincial and local divisions of the Supreme Court, pointed out that a "proper family court would need a big welfare structure at-

## Uniform rules should be applicable

tached to it but there was nothing like that at the moment"

"The registrar at the Magistrates' Court should have the power to issue summonses and receive and exchange pleadings and the Magistrates' Court should have jurisdiction to hear unopposed and settled matters and grant divorces," said Petty

He said maintenance courts were already attached to Magistrates' Courts and children's rights would be protected because the family advocate would have to approve all agreements

relating to the custody of minor children

He told the commission that both the TLS and the ALS thought opposed divorces should be heard in a family court attached to the Supreme Court and that parties even in an unopposed divorce should have the right to appear in this court if they so wished Both societies believe the black divorce courts should be abolished and incorporated into the family courts associated with the Magistrates' Courts

It was pointed out by GS Mahuleke, a member of the Hoexter Commission that the black divorce courts dealt "smoothly, cheaply and easily" with divorces, including opposed matters Petty said attorneys practising in the various provinces which made up the "old Transvaal" did not always have similar interests

He said the TLS believed it would be advisable to have uniform rules applicable for both the Supreme Court and the Magistrates' Court



**OBJECTORS:** Mr Churchill (left) and Mr Livingston Mxenge cradle a portrait of Griffiths and Victoria Mxenge on a hilltop overlooking their graves

## 'I seek only the truth, not revenge'

(252) CT 15/4/96

MRS NTOMBIKAYISE GOLA will always mourn her eldest son, Tobani, who was killed with 27 others when Ciskei soldiers opened fire on ANC marchers at the Bisho Stadium in 1992

If the Truth and Reconciliation Commission can establish who fired the fatal shot, Gola finally will be able to sleep

The Bisho massacre, coming as it did in the early days of negotiations for a peaceful settlement, stunned South Africa and the world

"I support the TRC," said Gola, a single parent to two surviving children and sole breadwinner in an extended family that includes Tobani's girlfriend and son

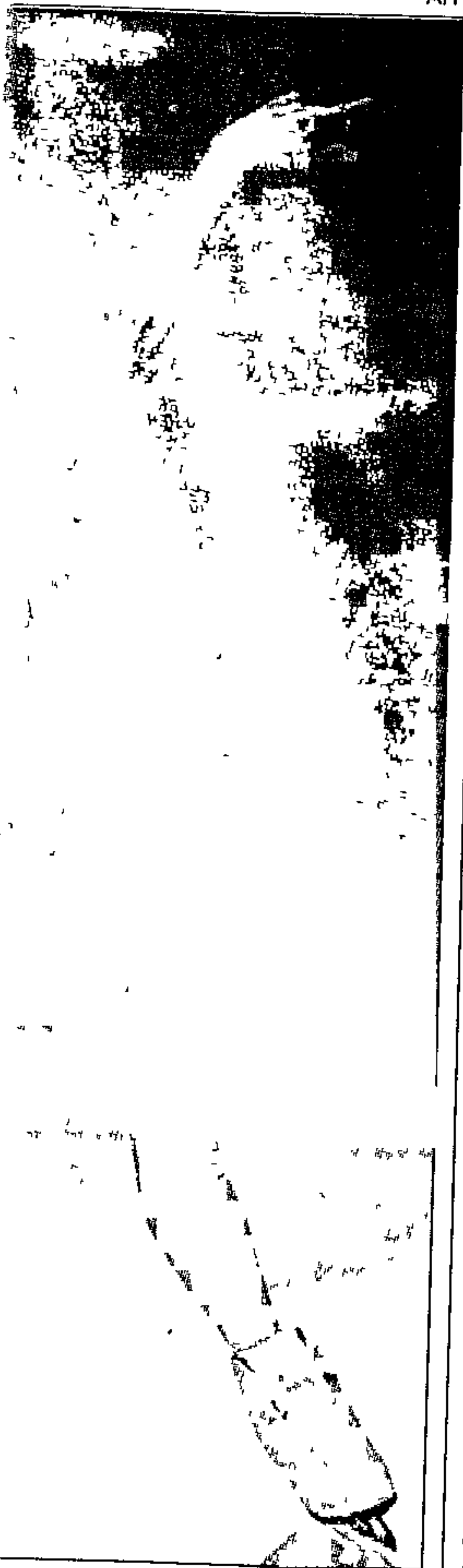
"I hope the TRC will help me find the truth about who pulled the trigger

"When that is revealed, it will stop all the grieving that I have and I will be able to live in peace with myself. I do not want revenge, only the truth"

Gola will not appear before the TRC this week, but intends to do so during one of its next visits to the region



AFP



won the pairs gold medal at the 1988 exhibition at the Masters of Artistic heart attack in November, aged 28.

# Most parties state backing for gay rights

By SUSAN MILLER

(252)  
New 15/4/96

Gay and lesbian organisations received a major boost at the weekend when virtually all the political parties in KwaZulu Natal stated their commitment to gay rights

Representatives of the ANC, DP, NP, IFP and ACDP addressed a meeting called by the KwaZulu Natal Coalition for Gay and Lesbian Equality in Durban on Saturday

The ANC and DP representatives went as far as accepting, on their parties' behalf, the legalisation of partnerships between gay couples and all the economic and social benefits this would entail

With the exception of the ACDP, all the parties supported the "equality clause" in the constitution that outlaws discrimination against people on various grounds including sexual orientation.

Again with the exception of the ACDP, they said gay groups should lobby political parties because they did not always know what issues they should be addressing

Mercia Schoeman, convener of the coalition, said this was the first time all major parties had shared a platform purely to address the issue of gay and lesbian rights

Ros Sarkin of the ANC said gay groups should come forward with their concerns and promised that these issues would be taken up

Koos van der Bergh of the NP said his party could not support the idea of gays in the military and that there was still some conflict among the NP's membership about the issue of gay and lesbian rights

And Ed Tillett of the IFP said that while his party did not have a document about its policy towards gay and lesbian rights, it backed the retention of the "equality clause" in the constitution and sought to eradicate prejudice against gays

# Truth hearings begin: bid to gag a witness

Star 15/4/96

(252)

Sniffer dogs in action and the police body-search everyone entering building. warning that allegations must not be wild

BY ROBERT  
BRAND  
East London



The Truth  
and Reconciliation

Commission's historic first hearings started here this morning behind a security cordon to protect participants, while it is still threatened with legal action to stop the proceedings

Police with sniffer dogs searched the town hall before the start of hearings at 10am, and other police searched every person entering the building

The commission was notified yesterday of likely legal action by lawyers for alleged perpetrators of human rights violations who could be named at the hearings. The lawyers have warned they intend seeking an interdict to prevent a certain witness testifying

The commission said last week any people due to be named by victims would be told in advance, rather than learn about the accusations from the media

And a challenge in the Constitutional Court by the families of four dead anti-apartheid activists

who say the the commission and its hearings are unconstitutional is due to begin in the Grahamstown Supreme Court tomorrow. The families are seeking an interdict against the hearings until the Constitutional Court has ruled on their application

But chairman Archbishop Desmond Tutu and other commissioners were adamant yesterday that the hearings would continue. "We are going ahead with the hearings until the appropriate legal authority indicates that we may not. We believe we are in accordance with the terms of the constitution," Tutu said after giving a sermon at a church in Mdantsane, outside East London

Last week the commission started informing people who were likely to be named by victims of serious human rights violations. It also cautioned witnesses who insisted on naming perpetrators of human rights violations to be "very careful" about the accuracy of their allegations, as those they named would not have an immediate right of reply, commission vice-chairman Alex Boraine said

As a direct result of this pro-

cess, he said, the commission had been approached yesterday by lawyers acting for "certain people" who were going to be named, asking the commission to postpone the hearings

The commission refused. "It is the victims' right to speak out," Boraine said. The lawyers then asked whether they could see the victims' statements, but the request was again refused because of fears for the safety of the witnesses. The witnesses' names were kept under wraps until today

The lawyers then told the commission they would seek an urgent interdict to bar a particular witness from testifying and to obtain that witness's statement, Boraine said

Witnesses were being kept in "safe places" under close guard

The commission hearings were due to start at 10am. The commission will hear up to six witnesses a day over four days

Most of them are the victims or relatives of victims of the security forces during the apartheid years

► More reports and picture .. Page 2





Ugability ... Archbishop Desmond Tutu prepares to address a media briefing while Alex Boraine receives a hug from a well-wisher at the opening ceremony of the Truth and Reconciliation Commission at the Assemblies of God church in Mdantsane near East London

# 'Ubuntu' signals generosity of many apartheid victims

(252) Star 15/4/96

By **ROBERT BRAND**

Mdantsane - In this sprawling township outside East London, just around the corner from the Bisho stadium where more than 20 people died not too long ago in one of apartheid's last bloody conflicts, South Africa yesterday started what many believe to be the final step in the transition to democracy

"Every black person should say 'I have suffered a violation of my human rights'," Truth and Reconciliation chairman Archbishop Desmond Tutu told about 1 500 people at the Assemblies of God Church in a service to herald the start of the commission's hearings today "But there are not very many who are saying 'I want revenge' Almost all are saying 'I want people to know what happened, then I will be satisfied' "

The commission had a difficult birth and even now, on the eve of the first hearings, it is facing opposition from families of murdered activists and the former security establishment, opposition which seems likely to go to court

But in Mdantsane yesterday, all that was forgotten as Tutu and his fellow commissioners faced a singing, ululating crowd

Among the churchgoers yesterday were about a dozen relatives of victims of the apartheid

conflict, some of whom are going to tell their stories to South Africa this week

Nyameka Goniwe, widow of murdered United Democratic Front activist Matthew Goniwe, is one of them. She said last week she did not intend testifying because she wanted to give others a chance to tell the world about their suffering

But she supported the commission and her presence in the packed church confirmed Tutu's insistence that the majority of South Africans supported the commission and its objectives

"One lesson we should be able to teach the world, we should be able to teach the people of Bosnia, Rwanda and Burundi, is that we are ready to forgive," said Tutu.

"We are building a new kind of country, a society where it does not matter whether you are black or white "

The service ended with the singing of the national anthems, including *Die Stem*

Two years ago it would have been inconceivable that a black congregation in one of the hotbeds of anti-apartheid activism would take to *Ons vir jou, Suid-Afrika* with such enthusiasm. It was, as Tutu pointed out after the service, a sign of the generosity of many victims of apartheid, the spirit of *ubuntu*

## Criticism by Tutu and Boraine of court challenge 'not fitting' - Azapo

By **MONDLI MIAKHANYA**  
Political Reporter

Truth Commission chairman Archbishop Desmond Tutu and his deputy, Dr Alex Boraine, came under attack at an Azanian People's Organisation symposium yesterday

Azapo deputy president Pandelani Nefolovhodwe told 50 delegates at a Truth Commission symposium in Soweto that Tutu and Boraine's criticism of a court challenge to the commission was not fitting of people of their stature

Azapo is spearheading a Constitutional Court challenge by some families of apartheid era victims. It argues that the amnesty

clause in the Promotion of National Unity and Reconciliation Act precludes victims from seeking redress in the courts, therefore breaching the interim constitution and international law

Nefolovhodwe said use of Christian philosophy in defence of the Truth Commission was wrong because SA was a secular state and because it misrepresented Christian doctrine. He also slammed Boraine for betraying his "liberal credentials" by casting aspersions on the court challenge.

Nefolovhodwe told the gathering that even if Azapo loses the case it would continue fighting the Truth Commission outside the courts



# Heart-rending

## Nomhle Mohapi sets the tone for Truth Commission sittings

By Mzimasi Ngudle

**T**HE first sitting of the Truth and Reconciliation Commission in East London was punctuated by a bomb scare, heart-rending testimony and even laughter as the much-awaited hearings got under way yesterday.

TRC chairman Archbishop Desmond Tutu announced a bomb scare 35 minutes into the sitting and the police searched the hall while people stood anxiously outside.

The bomb scare came when the first victim of human rights abuses, Mrs Nomhle Mohapi, widow of Black Consciousness Movement leader Mapetla Mohapi who died in police custody in 1976, was telling the commission that she could not believe that her husband hanged himself.

### Gruesome torture

Mrs Mohapi, who was also detained and placed in solitary confinement, told the commission about the gruesome nature of the torture meted out to her husband by the police at the Kei Road police station during detention.

A victim of the 1991 Highgate massacre in East London, in which five people died and seven others were injured, wants the perpetrators to be tried in a court of law.

Mr Karl Andrew Weber, who lost his left arm and also the use of his right arm during the attack, told the Truth Commission that amnesty should be considered once the assailants have been tried.

"Deep down in my heart it will be hurting to know that a guy who killed innocent people is walking free in the streets," he said.

Weber repeatedly said that he wanted justice to be done and that his case be fully investigated.



Archbishop Desmond Tutu greets Nomhle Mohapi before the historic opening session of the Truth and Reconciliation Commission in the East London city hall yesterday. Mohapi was the first witness to give evidence. Her husband Mapetla, a political activist, died in police custody during the apartheid-era.

PIC: CAPE NEWSPAPERS

After the hearing, Weber told *Sowetan* that he wanted his assailants to be prosecuted and that he would not be happy if they were granted amnesty.

"It is not for me to decide because I will not take the law into my own hands. This is for a court of law to decide," Weber said.

Weber was speaking shortly after the widows of the "Pebco Three" – Siphon Hashe, Qaqawuli Godolozzi and Champion Galela, who went missing in 1985 – had told their stories.

Mrs Elizabeth Hashe, Mrs Monica Godolozzi and Mrs Nomhle Galela all told the commission that their lives

changed for the worse after the death of their husbands.

Tutu said the victims would enjoy the same privilege as that enjoyed by witnesses in a court of law.

"Provided it is truth as they understand it and said in good faith," Tutu said. Elizabeth Hashe told the com-

mission "I expect the commission step into my tribulations. My children are not at school and I am struggling."

Some were helped to school by Sports Minister Steve Tshwete. "I will see what to do. I am struggling," she said.

Before the adjournment, the East London city hall sparked with anger as Hashe related her brushes with policemen at the height of her husband's United Democratic Front activities.

Asked whether she reported damages caused by policemen to her house, Hashe retorted, "How can we report the culprits to the culprits?"

After having had the first hearing, Tutu admonished the audience which was applauding and cheering, warning that the hearing was not a rally.

### Lured into a trap

Hashe disappeared together with Qaqawuli Godolozzi and Champion Galela after they were reportedly lured into a police trap.

The last time their families saw them was when they went to meet a British official at an airport after receiving a telephone call from a "UDF official".

Mrs Godolozzi asked the commission to help her find the bones of her missing husband so that she could give him a decent burial.

She also told the commission that she was unemployed and that she still wanted to further her education and that of her 12-year-old son who is now in Standard 3.

Mrs Galela told the commission that she would be glad if her children could know what happened to their father. She told the commission that she would like to lead a normal life after years of harassment by the police.

● See pages 2 and 11.

(252) Sowetan 16/4/96



# Evidence on generals halted

*Truth Commission holds fire after Supreme Court application to stop hearings* (252)  
AUG 16/4/96

DENNIS CAVERNELIS  
Supreme Court Reporter

THE Truth and Reconciliation Commission has temporarily undertaken not to lead any evidence implicating two retired police officers following their urgent application in the Cape Supreme Court

They are former brigadier Jan Abraham Du Preez and retired major-general Nicolaas Jacobus Janse Van Rensburg

Their application asks for an order preventing the commission from hearing witnesses or being presented with evidence about them at this week's Truth Commission hearings in East London, and for the hearings to be postponed

The matter will be argued in court on April 24

In terms of the court order issued today by Mr Justice E L King, the Truth Commission must file any opposing affidavits by Thursday this week and the two ex-police-men must file their replying affidavits by Monday

According to court papers, Brigadier Du Preez, of Pretoria, and General Van Rensburg, of Hartenbos, were last week informed by the commission of allegations against them

These stated that they were "involved in or had knowledge of the poisoning and/or disappearance in 1981/2 in Port Elizabeth of a person whose family has approached the commission for assistance. We understand he was acting as a member of the South African Police force at the time"

The matter was to have been heard before the commission in East London yesterday

Advocates for the parties were in chambers with Mr Justice King for most of yesterday and continued discussions today

Attached to the application is a letter addressed to the commission by Jan Wagener, attorney for General Van Rensburg and Brigadier Du Preez

The letter states that the letters sent to the two men by the commission are "vague in the extreme and my clients are unable to identify the incident of which they are about to be accused by some unknown witness, [they] have had no opportunity to investigate this matter [to] protect their fundamental rights, and will not be in a position to do so before 15 April 1996," and the procedure of the commission is "a procedurally unfair action (in terms of Section 24 (b) of the Constitution"

The letter demands that the proceedings of the commission be postponed, that the men be provided with copies of all statements and documents relating to the matter, or the application would be brought

An affidavit from Brigadier Du Preez, stated that he while he was not absolutely certain, he thought the matter was one which was investigated by the Harms Commission in 1990. The Harms Commission did not make a finding in the matter

"If the commission is in possession of the same evidence which came before the Harms Commission, it is clear that there is no evidence to implicate me in the specific incident"

● Reports, pictures on page 8

# Hearing adjourned as widow weeps

(252)

ARG 16/4/96

JOHN YELD  
on the Truth Commission

EAST LONDON — The Truth Commission hearings were adjourned for 10 minutes shortly after noon today when Nomonde Calata, widow of Fort Calata, one of the murdered Cradock Four United Democratic Front activists, broke down during her evidence.

Mrs Calata was telling the commission she had been extremely anxious after her husband and the other three murdered



activists including Matthew Goniwe, failed to return from a meeting in Port Elizabeth on June 27, 1985.

Mrs Calata said she had distributed the Eastern Province Herald

newspaper in the Cradock township and one of her children had pointed to a photograph in the paper.

"One of them said, 'Look mother, that is my father's car that is burnt'. At that moment I was trembling, I was very unhappy."

Friends had then taken her to Nyameka Goniwe, the wife of Matthew Goniwe. "Because I was only 20 at the time, I couldn't handle it."

Mrs Calata then burst into loud sobs and was comforted by Mrs Goniwe, Sindiswa Mkhonto and Nombwyselo Mhlawuli, the other widows of the murdered Cradock activists, and by a commission debriefer.

Truth Commission chairman Desmond Tutu then adjourned the hearing and Mrs Calata was led to a private room.

Earlier Mrs Calata said her husband arrived home in April from a UDF meeting and woke her up, telling her he had something important to tell her. He said they had been detained in Port Elizabeth and taken to Security Police headquarters in Sanlam Building. During questioning, one of the security policemen had said, "Lieutenant, can we do it now?"

Asked by the commission whether her husband had understood anything by those words, she replied, "He said they're planning something very big about us."



# UDF slayings recalled at hearings

(252) ARCS 16/4/96

## 'Goniwe four' died after secret signal

STELLE RANDALL  
Staff Reporter

ONE of South Africa's most notorious political slayings - the murder in June 1985 of Eastern Cape United Democratic Front (UDF) activists Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Whlawuli - was raised at the Truth and Reconciliation Commission today.

Their murder followed a signal sent by Military Intelligence that Mr Goniwe be "permanently removed from society".

The widows of all four were present at today's hearing. Of the four men, Mr Goniwe was the most prominent.

A secondary school mathematics and science teacher, he was convicted under the Suppression of Communism Act and jailed for four years by the Matanzima regime in the



Pictures LEON MULLER, Chief Photographer  
**OUR STORIES:** The widows, above, of the "Pebco Three" activists who apparently died while in police custody in 1985, tell their tales to chairman Archbishop Tutu and Eastern Cape commissioner Bongani Finca.



**CENTRE OF ATTRACTION:** Karl Webber, who was maimed in the 1993 handgrenade and rifle attack at the Hightate Hotel in East London, is surrounded by journalists after testifying to the Commission



In prison he obtained a Bachelor of Arts degree through Unisa. He was released at the end of 1981.

In 1983 he was appointed acting principal at a Cradock secondary school and became active in improving conditions at the school and in the community. He refused an attempt by the Department of Education and Training (DET) to transfer him to Graaff-Reinet in 1983, as he saw this as a means of removing him from community politics.

After school-protests in the area over the attempt to transfer him, Mr Gomme was dismissed by the DET and then detained under the Internal Security Act.

However, he continued to lead the struggle for better living conditions in the Cradock township of Langehale.

Rent increases in the township gave birth to the Cradock Residents Association in 1983, of which Mr Gomme was elected general secretary. He also acted as a rural organiser for the UDF.

On June 27 1985 Mr Gomme and UDF activists Mr Calata, Mr Mkhonto and Mr Mhlawuli went to a UDF briefing in Port Elizabeth. They never returned home.

Their burnt-out car was found off the Addo road the next day.

Five days later their charred bodies were found in a clearing between St George's Strand and Bluewater Bay on the outskirts of Port Elizabeth.

In February 1989, at the first inquest into their deaths, the presiding officer concluded that they had been killed by unknown persons.

Then, in May 1992 the New Nation newspaper published a military signal dated June 7 1985 - 20 days before the four men were murdered.

Evidence showed that the message had been ordered by defence force brigadier Joffel van der Westhuizen.

Marked top secret, the message said, among other things "It is proposed that the above-mentioned persons are permanently removed from society as a matter of urgency. Wide-

ed locally as well as nationally because of the importance of these persons, especially the former (Matthew Gomme), for the enemy, eg (a) interdicts such as recently in connection with the disappearance of Godolozzi, Hashe and Galela (Pecco officials), (b) reaction by leftist politicians such as Molly Blackburn (c) protests such as in the case of Oscar Mpepha in sympathy."

The publishing of the signal led to the inquest being reopened. However, this ended inconclusively last year, with no particular person in the security forces being charged with the murders.

The Pecco officials referred to in the message were Champion Galela, Gagawuli Godolozzi and Sipho Hashe who disappeared on May 8 1985 after they had gone to the HF Verwoerd airport in Port Elizabeth to meet a British diplomat.

The men were allegedly arrested at the airport and were never seen again. Four court applications brought to compel the police to produce the men were refused, on the grounds that evidence was not strong enough. Relatives of the three men appeared before the commission yesterday.

Other victims of human rights abuse who also appeared today were:

● Singqokwana Malgas, who was tortured in police detention in the 1960s because of his involvement with Umkhonto we Sizwe. Mr Malgas is confined to a wheelchair.

● Bessie Nonceba Mdoda whose son Xola Martin Jembe was killed either in an ANC camp or by security forces and Robert and Cecilia Kohl whose son Bully Alison Kohl was killed by police.

● Joyce Mthimkhulu whose son Sipho Mthimkhulu disappeared in 1981/1982 without trace after being tortured and poisoned with thallium while in police detention.

● Nonceba Zokwe whose son Sithembelwe Zokwe was killed by Transkei police.

● Billy Shiyane, an activist who was ambushed and shot at by unknown assailants.

## Like Biko she was chained to a grille ...

LIKE her murdered leader Steve Biko, Noble Mohapi was chained to a grille in the infamous security police headquarters in the Sanlam building in Port Elizabeth.

Her husband Manepha Mohapi, one of the founders of the Black Consciousness Movement in South Africa with Biko, had been found dead in the Kei Road police station cells in 1976.

Police claimed he had committed suicide but she had never accepted that, Mrs Mohapi told the Truth Commission. After his death, she was branded a "terrorist", was banned and unable to work as a teacher.

"Police kept harassing me and I think they were trying to dampen our spirits so that I could not go on (doing community work)."

They also tried unsuccessfully to bribe her to inform, as she was acting as Mr Biko's secretary.

"I was detained and in solitary for six months, and I could really confirm and believe what people said was happening in police cells," Mrs Mohapi said.

She wasn't allowed to change her clothes and was not given water to wash, even though she was menstruating.

"I was taken at night to Sanlam building - that's where the atrocities took place."

"I was fastened to a grille and beaten strongly. There's no chance to run away because the grille is holding you fast."

"I was beaten and then asked if I wanted to relieve myself. 'I had heard from others they would beat you until you wanted to relieve yourself.'"

Police had also told her that her youngest child had died and that they would not release her



for the funeral unless she signed a confession.

She was later released from detention under Section 6 of the Terrorism Act and was transferred to Grahamstown prison under Section 9.

"Grahamstown by comparison was like a hotel. There were beds and blankets not infested with lice."

She was released a month later and went to fetch her children.

"After his (Mr Mohapi) death, I was full of hate that can never be encountered. 'I hated all the police, I hated them for their oppression ...'"

"The hate stayed with me but I had to say 'Life, continue'. You have to be patient."

"We agreed as a family we will go to the Truth Commission and speak out about these things, about the difficult times."

"My hope is that the Commission will try to find out what happened, so the children will know what happened to their father."

"As I sit here I don't know. 'He was abducted from his home, healthy, supporting his family. 'I have the experience that he was tortured, yet no-one was blamed.'"

## Killer 'shouldn't just walk away'

KARL WEBBER was a senior inspector with nine years' service at the Animal Welfare Society in East London when his life changed forever on the night of May 1, 1983.

He was sitting in the ladies' bar of the Higgate Hotel in the city when a gunman wearing a blue overall, gloves and a balaclava arrived at the doorway and started firing at patrons with an AK-47 rifle.

Badly wounded, Mr Webber fell to the floor and watched as the gunman reloaded a fresh clip of ammunition into his gun and fired again into the bar before tossing in a teargas grenade, calmly folding the butt of his rifle and slinging it over his shoulder and leaving the scene. Five people died in the incident.

"My life has changed overnight to being a disabled person," Mr Webber told the Truth Commission yesterday.

"It's taken some time but I've accepted it. You have to carry on with the daily routine."

Mr Webber, who was the last person to testify on the first day of the commission's hearings yesterday, said the attack had happened "very quickly".

"He started shooting again. It was a couple of seconds or a minute, I don't know."

Mr Webber, who is now unemployed, lost the lower part of his left arm and has eight plates and pins in his shattered right elbow. He can't shave himself and needs assistance to bath.

"There are many other things I need to be helped with, so it is a bit difficult."

He lives off a R410 a month disability grant - "I don't think anyone can live on that amount. I had my private life now you have to rely on friends and charity."

Mr Webber said he believed justice had to be done, and that he was also speaking on behalf of others injured in the attack. "There is law and order in

this country. It's not for me to decide to take the law into my own hands. That's why I approached the commission."

Asked what he wanted the commission to do for him, he replied, "I've got through until now with the aid from friends and family, but I'm unemployed - it is a strain."

"I can't accept charity for the rest of my life. I want to be independent and to lead a normal life again."

He was asked by commission deputy chairman Alex Borame whether he wanted the commission to investigate further - no one has been arrested for the attack - and whether he would have any objections.

"Yes, I would like this. I do feel justice should be done. The person who did this shouldn't just walk away and be a free person. I want to know what political organisation was involved and who gave the orders."

Asked by Commissioner Dumisa Ntsebeza what his attitude would be to the attackers being given amnesty, Mr Webber replied, "This is not forgotten about. It will never be. It will be a hurt deep down inside to know the guy will walk away free, knowing he killed innocent people, disabled innocent people."

"And if it's granted (amnesty) one just has to accept it. But I think they should be tried and hear their side of the story before amnesty, to hear what their purpose was."

In other testimony, the commission heard of Charles Hashe, Gagawuli Godolozzi and Champion Galela - the so-called "Pecco Three" - who left their homes in Port Elizabeth on May 8 1985 to meet the British consul at Port Elizabeth airport.

The three activists of the Port Elizabeth Black Civic Organisation were seen by various witnesses being arrested at the airport and at least one of them

was later seen being held in Alexandria police cells, his face covered in bandages.

Although the Supreme Court heard applications to have the state produce the men, they were never seen again - and their devastated widows have appealed to the Truth and Reconciliation Commission to help them discover what happened to them so that they can be given "dignified burials."

The three widows sat together at the witnesses' table in the City Hall here yesterday and told the Truth Commission their stories.

Elizabeth Hashe was first, describing how she and her husband had endured years of hardship and harassment at the hands of headmen and police because of Mr Hashe's involvement in Pecco.

This included midnight police raids, banging on their windows and kicking items of sentimental value in the house. After Mr Hashe served seven years in Robben Island, they had "terrible times" with an inadequate income.

In March 1985 Pecco organised a highly successful three-day stayaway, and on the last night of the stayaway their house was bombed about midnight from a helicopter.

"I decided this helicopter was hovering just above my house and he [Mr Hashe] said 'Those are the Boers, what have we done?' There was a big sound, I saw fire, I didn't know what was happening. There was a very big hole that will take you to next door."

On May 8 Mr Hashe was summoned to Port Elizabeth airport to meet the British consul-general.

"He stood up, he was in a rush. I told him to put a hat on to hide his shaven head."

Mrs Hashe said her husband was away for a long time. "I became very anxious about what kept them so long. 'I was panicking all the time

but I kept on hoping," she said. Later, she had been summoned to the Sanlam building in Port Elizabeth where the Security Police had their office. "The room was full of policemen, all wearing safaris. I was scared."

"This white man Strydom with the very big face and a moustache said, 'Do you know your husband was found burnt at Veeplass?' We could only identify him from his waist down."

"I said 'He is still in your cells'."

There had been a court case in August 1988 in which a witness had said he had seen her husband at Alexandria police cells, Mrs Hashe said.

Mrs Hashe said she wanted police to return an enlarged photograph of her husband that was "very important" to her. "I want my husband to be exhumed or taken from where he is so that he can be buried with dignity."

Monica Godolozzi told the commission how her husband Gagawuli had become involved in Pecco and been elected president in 1981. There had been "problems" between Pecco and the township councillors.

On one occasion 45 armed men had come looking for him and threatened to kill him, but he had been away.

A few days later their car had been set on fire. "He [Mr Godolozzi] refused to move. He was a very stubborn man. I started crying because I knew what was going to happen," she said.

After he had gone to the airport with Mr Hashe, she had been told he had been arrested. "I learnt my husband had been taken to Alexandria two days later."

"If the perpetrators killed him, they should bring his remains so that I can bury him in a dignified manner and they should come and confess."



# Flood of requests to testify

(252)

ANC 18/4/96

THE Truth Commission is being "embarrassed by success" with a huge number of people from across South Africa asking how to make contact, following the first three days of hearings by its human rights violations committee here this week.

This was revealed by its deputy chairman Alex Boraine at a media conference at the close of the third day at which more harrowing testimony of state-sponsored murder, abduction, torture, detention, police harassment and false accusations of betrayal were heard.

Dr Boraine also said there was likely to be far more live television coverage of the commission, following negotiations with senior television executives who were "genuinely committed" to increased coverage.

He was responding to a question by a German journalist who asked whether it was fair to assume that South Africa was more interested in cricket - because SABC had cancelled scheduled programmes to cover the cricket cup



JOHN YELD reports  
from East London

to deprive people of their enjoyment of watching cricket.

Also, the issues of advertising and budgets were "harsh realities".

"But to be fair, there is a genuine commitment from the leadership of the SABC to show much more than they do.

"There is no doubt some people are switching off, but a lot more are listening and watching more than they used to," he said.

Commission chairman Desmond Tutu said the commission had held discussions with SABC group executive Zwelakhe Sisulu and television head Jill Chisholm last week,

"where they showed a real, genuine concern that they wanted to operate as a public broadcaster and that this was a crucial event in the life of the country."

"We didn't have to persuade them," Archbishop Tutu said.

Asked whether he thought the first three days of hearings had been successful, he replied "I wish I could ask you that. But for myself, if you have not been moved by what you have heard, you have to look at your humanity."

He said the testimony of women like the "Cradock Four" widows and King William's Town golf club shootings victim Beth Savage and of people's resistance to apartheid had been "mind-blowing".

"Aren't you proud to be human and to hear these women? There was no hope for apartheid, not a snowball's hope of succeeding, given the quality of people in this country."

Archbishop Tutu said the commission had the power of subpoena but would be loathe to use it. "We are trying to develop an ethos in which people do realise that the truth will make you free, in that in telling, the burden of guilt is lifted."

Dr Boraine said the commission was "not a private seance" in a

little town.

"It's a national event contributing towards national unity, and after three days I have no doubt that it will make a contribution to national unity."

He reminded people of the dire predictions before the commission started, including the saying that the government of national unity and even civil war "None of these things has happened," he said.

Archbishop Tutu said this round of four days of testimony would probably be completed today as scheduled.

"But it is quite deliberate that people will not be rushed. It is time-consuming but also very African - tell your story," he said.

Matthew Goniwe's widow Nyameka had told the commission that testifying had made her feel good and his elder brother had said it was like a weight being lifted from them, Archbishop Tutu noted.

"And we didn't do that ourselves - God wants us to succeed."

The human rights violations committee will hold four days of hearings about abuses in the Western and Northern Cape for four days starting on Monday. The venue has been moved to the Nico Malan Nursing College hall in Heideveld.



## A MOTHER'S EVIDENCE:

Nonceba Zokwe and granddaughter Mapia Mrs Zokwe told the commission her son's room had been torn apart by bullets.



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252

# Alleged killer police 'are still free men'

TWO Transkei policemen who allegedly murdered an activist in January 1988 by firing many rounds at him while his hands were handcuffed behind him escaped from jail a week before their trial and are still walking the streets as free men.

This emerged during a hearing by the Truth Commission's human rights violations committee yesterday when Nonceba Zokwe and her granddaughter Mampi testified how their 33-year-old son and uncle Sithembele Zokwe had died in Mrs Zokwe's Nqamakwe home in a hail of 55 bullets.

It was the fourth attempt on his life by the Transkei police, who had constantly harassed him. During one of the previous incidents, he had been shot in the head twice at point blank range, but had survived.

Press reports at the time of his death, placed before the commission as part of Mrs Zokwe's testimony, said Transkei police claimed Mr Zokwe had taken them to the home to point out explosives.

He had allegedly grabbed a gun from one of the policemen and had been shot by the five others. During a skirmish a hand-grenade had detonated.

Asked how the policemen who had entered the room with Mr Zokwe had escaped injury from the alleged hand grenade blast, Transkei's then police commissioner, Leonard Kawe, had replied that he had no details of this

aspect of the incident.

Truth commissioner Dumisa Ntsebeza, who helped the two women with their testimony, said Mr Zokwe's death was "one of the most bizarre stories of our time".

It clearly indicated state-sponsored murder and of the complete failure of justice.

Mr Ntsebeza, who was one of the attorneys who had tried to help the family after the murder, said "We tried very hard to get this nefarious killing into the courts of the land. We failed."

He described the killing as "unprecedented savagery".

Mrs Zokwe said her son had been involved in "the struggle" and had trained in Angola, Lesotho and East Germany. He had been arrested in Bophuthatswana and held in Protea Prison in Soweto before being deported and jailed in Transkei. He was later released.

"He was in and out of the cells."

The two men who allegedly killed Mr Zokwe - named to the commission only as Tyan and Gumengu - had been arrested. An assurance had been given that they would not be given bail but they had escaped from jail, Mrs Zokwe confirmed.

Mampi Zokwe told the commission she had been 14 at the time of her uncle's murder and had watched as the police had brought him handcuffed to their home.

## Survivor calls for reconciliation

EAST LONDON - Reconciliation is essential if South Africa is to succeed, a survivor of the 1992 King William's Town Golf Club attack told the Truth Commission here today.

Bob Stanford, who was badly wounded in the grenade and AK47 attack in which four people died, told the commission he had had eight operations over 18 months for injuries to his back, ankles, legs, buttocks and hand.

He still had shrapnel wedged between his bones, for which he was being treated, and was still on sleeping pills and painkillers.

Mr Stanford had been at the golf club function with fellow-survivor Beth Savage, who gave evidence here yesterday.

Mr Stanford, who confessed to the commission that his mental state had started deteriorating the year before the attack, after his wife's death, said stress had built up and had had a negative impact on his King William's Town legal practice.

The Law Society had lodged an application to have him removed as an attorney, an action he was opposing as

he wanted to remove his own name.

He said he remembered gunfire starting and looking up to see a person with a rifle.

He could see the light which the bullets were making.

"I remember thinking he must be a very bad shot, because all the bullets went over their heads. I can remember that, except the person next to me was shot and fell forward with blood pouring out."

"A ball of light, like a flash or a flame, suddenly appeared in front of me. That was the last thing I remembered of that."

"I woke up in an ambulance on the way to East London."

Asked what his feelings were about the perpetrators of the attack, he said many wrongs had been committed by both sides in South Africa's conflict.

"I was very resentful but after a lot of thought, maybe the people who did it were misguided and had no concept of the results that could occur."

He would accept whatever the amnesty committee of the Truth Commission recommended.





1996 APR 18

# Ex-police brass in plea to truth commissioners

DD 18/4/96 (252)

Business Day Reporter

FOUR former SAP commissioners have asked the truth commission for an undertaking that all policemen be notified, and given a chance to prepare a defence, if they are to be implicated in illegal acts at its hearings

Former commissioners Johann van der Merwe, Johan Coetzee, Mike Geldenhuys and Henne de Witt made the request in a letter yesterday to commission chairman Desmond Tutu

The letter came on the second day of the commission's first public hearings in East London, as more alleged perpetrators of human rights abuses were being named.

The former commissioners said they had been approached by former members of the SAP "who are concerned they may be implicated in subsequent hearings of the commission, without being allowed the opportunity to exercise their fundamental rights"

They said the commission was "morally bound" to extend its undertaking to former SAP Brig Jan du

Preez and Gen Nick van Rensburg to all former and current policemen

The commission agreed this week in the Cape Supreme Court to hold back evidence implicating the two men, pending the court's finding

The former commissioners said that if the commission was not prepared to do this, it should provide them with the names and addresses of all policemen "who may be implicated", so that they could approach the courts for relief.

"If you are going to follow the same procedure in subsequent hearings as in (this week's) hearings in East London, it is only fair that members and ex-members who may be implicated should have the opportunity to test such procedure," they said

Van der Merwe said the key problem was the vagueness of documents supplied by the commission to himself and national commissioner George Fivaz. It was often unclear which policemen were being referred to

They also asked Tutu whether the hearings would be confined to cases which met the criteria for amnesty.

## First joint housing venture launched

DD 18/4/96 (252)

Robyn Chalmers

NELSPRUIT — The first major joint venture between provincial government, banks and builders kicked off yesterday with the launch of a low-cost housing initiative, initially providing 6 000 homes within two years.

Mpumalanga premier Matthews Phosa estimated that the first phase of the Mpumalanga housing initiative, undertaken by Nedcor, Murray & Roberts and the provincial government, would generate about R450m for the provincial economy.

Phosa said that all the partners involved had committed themselves to using local labour which would boost

the subcontracting sector and help develop a whole supply industry, from bricks to roof trusses.

The state would contribute R90m to the initiative and Nedcor a further R100m in mortgage finance and bridging capital. Construction of housing units, which had started in Nelspruit, Secunda, Piet Retief, Barbeton and other areas, should be completed within 18 to 24 months.

Mpumalanga housing minister Craig Padayachee said the scheme would reduce the province's housing backlog, estimated at about 265 000 units. He estimated about 50 000 houses a year would deal with the backlog and meet new demands.



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# Truth commission hears about activist's gruesome torture

Wynndham Hartley

**EAST LONDON** — A spellbound truth commission heard yesterday how an Umkhonto we Sizwe (MK) activist was abducted in Lesotho while driving Chris Hani's car, brought to SA, tortured, poisoned and shot. His body was then burnt by state agents.

The commission also heard a survivor of the Azanian People's Liberation Army attack on the King William's Town Golf Club offer an olive branch to her attackers.

Another witness, Charity Kondile, told the commission the ANC had labelled her son, Sizwe, a traitor until former Vlakplaas commander Dirk Coetzee confirmed police had killed him. On a visit to Lesotho to try and find Sizwe in 1981 she had been shunned by the ANC because they believed her son was a traitor who had taken Hani's car and fled to join the police in SA.

At the time police told the Kondile family that he had been arrested in Port Elizabeth and released in 1981. She said Press inquiries about Sizwe had triggered a response from Coetzee, then in exile in London. Coetzee said he had seen Sizwe handcuffed to a bed in Jeffrey's Bay and that torture had left him with a brain haemorrhage. When warned by a doctor they had a "Steve Biko" case on their hands, Sizwe was taken to Komatipoort.

Her statement before the commission alleged Sizwe had been poisoned there, with a "Mr Neebling", a forensic expert, playing a role. "When he would not die one of them shot him ... and put him on a tyre which was then set

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p18/4/96

alight." According to Coetzee, the police were drinking beer and watching Sizwe's body burn.

She complained that although Hani had acknowledged a month before his assassination that Sizwe was not a traitor, the ANC had never publicly said her son had remained loyal. Her family, which had once sheltered Nelson Mandela and Oliver Tambo, had been ostracised as a result of stories that he was a traitor.

In supporting evidence, Vuyasela Pikh, former MK activist and now ad-

viser to Justice Minister Dullah Omar, said Hani had told them in Lesotho that he had given his car to Sizwe so that he could find a telephone to call his girlfriend. They were in conversation when he had stopped talking.

Earlier, Beth Savage described how shrapnel from a grenade thrown in the Apla attack on the golf club pierced her heart. Her heart had stopped beating but doctors revived her. Four of her friends had died in the attack, but she wanted to meet her attackers in a spirit of mutual forgiveness.

and death

# Ex-police brass in plea to truth commissioners

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# Victim disappeared in Chris Ham's car

ROGER FRIEDMAN

EAST LONDON: The Truth and Reconciliation Commission here yesterday heard a horror story of abduction, torture and murder.

An adviser to the Minister of Justice, Mr Dullar Omar, told of the disappearance from Lesotho of a childhood friend in the late Chris Ham's car.

Mr Gcumszwe Kondile was abducted by security forces, beaten and poisoned — but then shot dead because the poison did not work quickly enough, his friend Mr Vusumzi Pikoli told the commission.

The tale of Kondile's death was referred to in evidence before the Harms Commission some time ago, but was yesterday expanded on by his mother Mrs Charity Kondile and Pikoli.

Kondile, known as Sizwe, was apparently burned for nine hours on a pile of tyres.

Former policeman Dirk Coetzee told the Harms Commission that while the

body was burning "they (the police) were drinking beers and Sizwe's flesh was smelling good, just like a braai", Mrs Kondile told the TRC.

Coetzee's acknowledgement that he had watched her son die was terrible — but, in an awful way, something of a relief, she said.

Before Coetzee's admission, Sizwe's ANC comrades had suspected him of being a traitor. They snubbed her when she so desperately sought him just after he disappeared, and they ostracised her family.

Coetzee is now employed by the National Intelligence Agency.

Mrs Kondile said that Coetzee would be able to shed more light on the exact circumstances surrounding Sizwe's death in his testimony to the commission "if called to do so".

"It is my view that (Coetzee's) type of behaviour and (Sizwe's) killing was an extreme violation of human rights, a



gruesome murder tantamount to cannibalism and satanism," said Kondile. She requested the commission to assist to bring the perpetrators of this murder before the court to be charged and punished for what they did and the manner in which my son was murdered.

In his capacity as adviser to Omar, Pikoli helped draft the Truth and Reconciliation legislation which may grant Coetzee amnesty should he apply to the commission.

Pikoli said yesterday that according to his understanding of the legislation, amnesty would not follow automatically on application.

Pikoli explained that he had grown up with Sizwe — they had gone to school together, they were circumcised together, they both attended Fort Hare University, they became involved in student politics and left the country together for training in Lesotho.

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After returning from a mission in June 1981, Sizwe had seemed distressed that his girlfriend, Ms Nowi Tshiki, would not be paying him a planned visit. Chris Ham had heard of Sizwe's unhappiness and offered to lend him his intamous yellow Datsun SSS to find a public telephone to call Tshiki.

Later that night Ham returned to fetch his car, but he was never to see it, or Sizwe, again.

According to Tshiki, she was in the middle of a conversation with Sizwe when he suddenly stopped talking and all she could hear was the traffic.

Ham's car was driven over the border into South Africa — although there is no record of it having been done — and was later found on the border of Swaziland.

Pikoli said in the course of the struggle "we never feared death because it was an integral part. But what causes revulsion is the manner in which the people were killed."

● See Page 3

TRUTH PROBE: they?

# queueing up to talk

THYS DULLAART



the military will give him back the house that was taken from other people live there.

## Commission appeals to human rights violators to come forward with their confessions, and so aid healing process

(252) Star 18/4/96

By ROBERT BRAND  
East London

The Truth and Reconciliation Commission is being flooded by new applications from people who want to testify following publicity over the dramatic first three days of hearings

Vice-chairman Dr Alex Boraine said last night that victims of the apartheid conflict were phoning the commission from "all the corners of the country" asking to be allowed to tell their stories.

He appealed to perpetrators of human rights violations to follow suit: "It is the very nature of this commission that healing should take place not only through victims telling their stories but also through the voluntary confessions of perpetrators"

Boraine's appeal echoed the testimony yesterday of Nyameka Goniwe, the widow of Cradock activist Matthew Goniwe who was murdered by the security forces together with three United Democratic Front colleagues in 1985 Mrs Goniwe, who had initially been reluctant to come to the commission, said she was very happy to have been given the opportunity to tell her story again.

The murders of the Cradock Four were the subject of two judicial inquests, the last of which found the security forces were responsible However, the individuals who carried out the murders have not been identified Mrs Goniwe said she realised that the only remaining chance of finding out who had killed her husband

was if the perpetrators confessed to the commission.

That is what she wants, even if it means they may be granted amnesty "I'm not saying we will immediately be happy (if we find the killers) Healing takes a long time. But at least we can start"

Boraine described Mrs Goniwe's testimony as "highly significant" because it showed a growing realisation among many victims that the commission represented their only hope of coming to terms with the past.

He also thought the first three days of hearings had already had an impact on the country. "Everyone was listening to people telling harrowing tales with almost no bitterness If that doesn't promote reconciliation, nothing will."

Nine witnesses were heard yesterday. Among them was Beth Savage, who was seriously wounded in an attack on the King William's Town golf club in 1992 by suspected Apla members Four people were killed

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Robert Kohl wept as he told the commission about the death of his son Bully, who was shot by police during a march in Grahamstown. Bully was 17

Nonceba Zokwe had a horrific tale her son Sithembele, an MK member, was shot dead by two policemen in his house in Transkei in 1988 When she identified the body, it had a hole through the

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Dramatic hearings

► From Page 1

Star 18/4/96

(252)

The two killers, whom she named as Tyan and Gumengo, were arrested but escaped from jail. They have never been brought to book

Billy Shiyane, an activist from Mdantsane, recounted how he and three friends were ambushed by unknown assailants Shiyane's girlfriend died in the attack

Charity Kondile wanted to clear the family name According to former security policeman Dirk Coetzee, police kidnapped her son Sizwe from Lesotho in 1981, tried to poison him, and finally shot him dead and burnt his body However, many of his ANC comrades believed he had turned traitor and had never been killed Mrs Kondile believes the evidence backed up Coetzee's story and wants a public apology from the ANC

Priscilla Tabalaza wanted the commission to find out who was responsible for the death of her son Lungile According to police, he had jumped from the 14th floor of the security police headquarters in Port Elizabeth while being interrogated

Mxolisi Rwegana said Ciskei police or soldiers had shot his brother dead during a raid on his friend's house in Mdantsane



# Truth probe: they're queuing

## up to talk

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# Trainees set to cook up a storm in a container

(30)(179) ARG 19/4/96

MICHELLE LERNER  
Staff Reporter

TOWNSHIP residents are getting free training in how to run a successful business - and the opportunity to get started - as part of a programme to create jobs in disadvantaged areas

Under an Eskom programme, seven people have graduated from a 16-day training course and have launched the first of 36 "container businesses" to operate in the townships

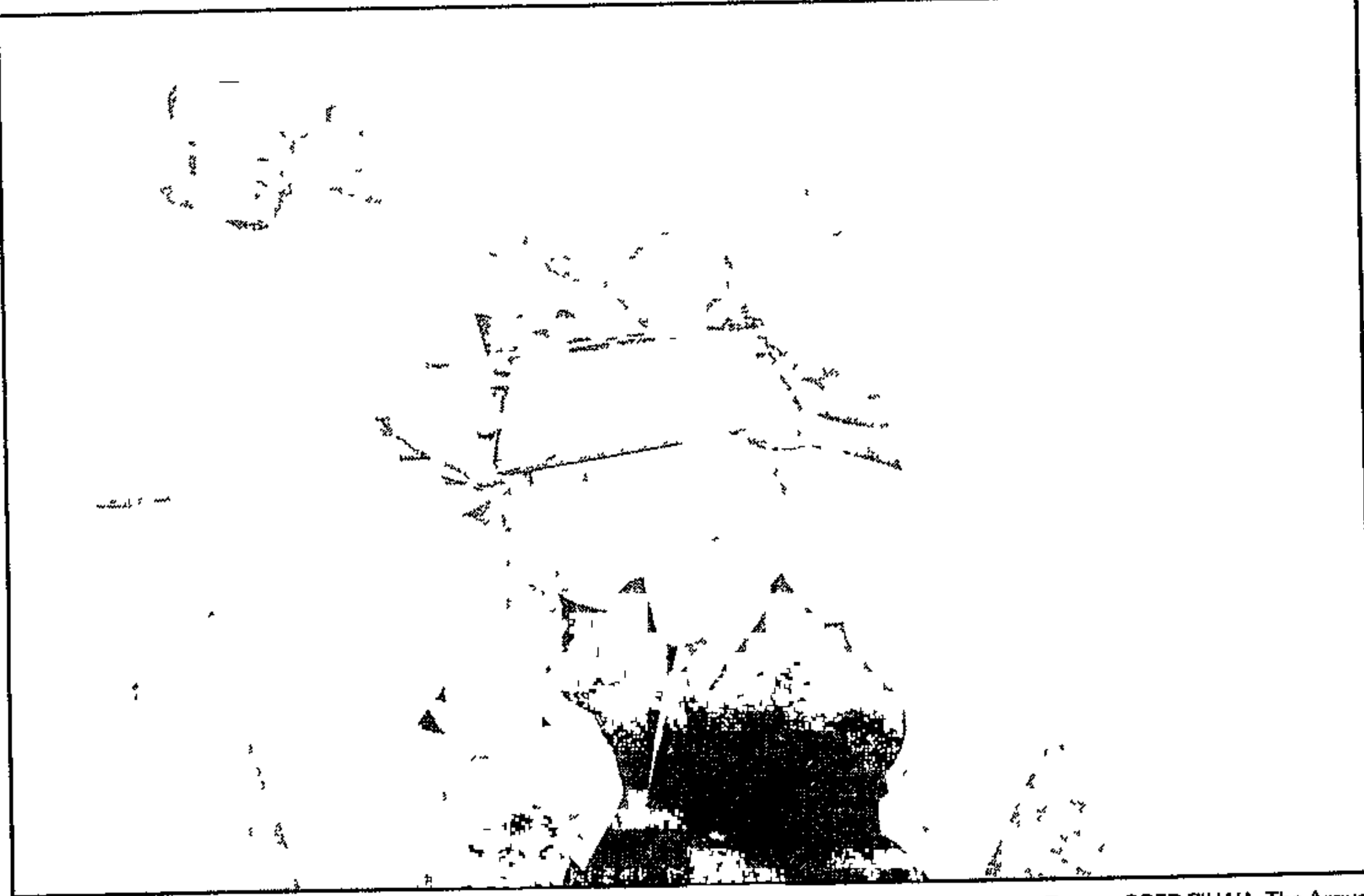
Now Eskom is handing over a fully-functioning, compact bakery to the group, under the management of Misincedisane Business Development Trust. Equipped with ovens, a freezer, electricity, running water and a nationally accredited certificate, the trainees are also armed with new skills and the confidence necessary for success

"This is an excellent opportunity for these people," said Dorian October, who provided some of the training

"They wanted to do something with their lives, but didn't have the education"

Beneficiaries say they will also expand the scope of what they've learnt to include other business endeavours

"Before, I didn't know anything about business skills and I couldn't make money," said



Picture OBED ZILWA, The Argus

**TASTY BUSINESS:** Displaying a freshly baked tray of pies, graduates of a training programme in business and baking skills get set to move their container bakery to Crossroads. From left, they are Joshua Balintulo, Jackson Mtya, Dorian October, Cynthia Lufele, Welfont Liwani, Elizabeth Monyeni, Nobalungisa Dyasi, Samuel Ngcwabe, and Tony Stokes, centre

Jackson Mtya, who also runs a small grocery stand in Khayelitsha "Now I know what I must do to make a profit. My business can finally grow"

Eskom is now looking to containerise laundromats,

butcheries and other services in the same way

During the next year, the company hopes to create nearly 200 jobs

Container businesses were easy and affordable to oper-

ate, said Eskom Test and Demonstration Centre manager Tony Stokes

Costs to the company were R20 000 in structure and equipment, and the same amount in training

## Teachers head for clash on proposed service conditions

ARG 19/4/96 (32)

Education Reporter

TEACHERS' unions look set to clash with each other over the government's proposed changes to service conditions

The state's proposals were tabled in the Education Labour Relations Council (ELRC) this week and negotiations around them are to begin on Monday. But one of the biggest teacher

unions, the South African Democratic Teachers' Union (Sadtu) has accused another leading player, the National Professional Teachers' Organisation of South Africa (Naptosa), of being motivated by racist policies

Sadtu has said it supports the offer by government and favours any move to integrate education and address imbalances

Sadtu was therefore in favour of the new severance package, which the state offered in place of existing schemes

But it is widely expected that the new severance package will amount to less than the old package

Sadtu accused Naptosa of encouraging teachers to take the retrenchment package

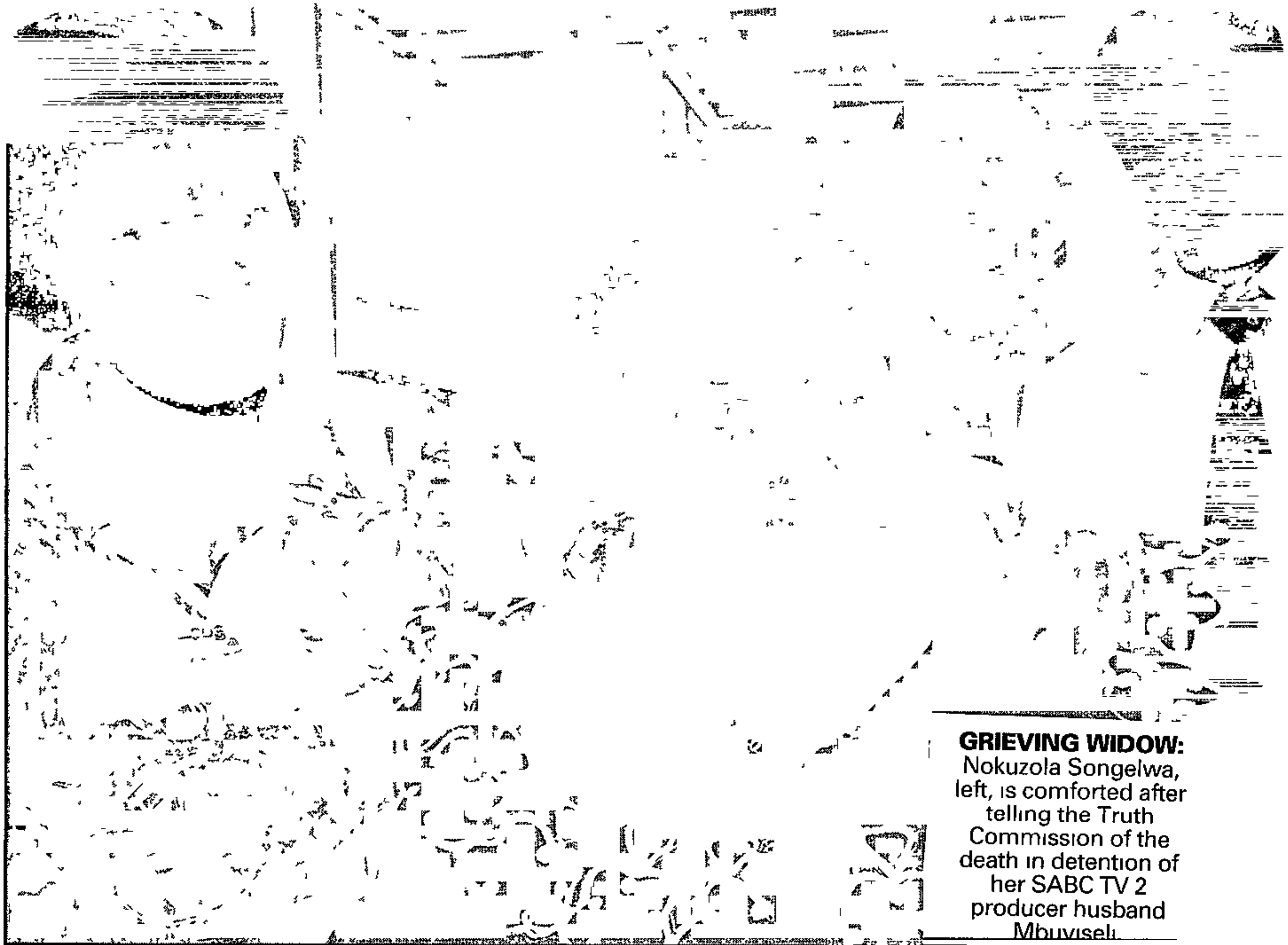
Sadtu said it was not pre-

pared to discuss teacher retrenchments in the ELRC

According to its own analysis, Sadtu said, the government's offer was aimed at "right-sizing" the public sector, which meant the restructuring of education to achieve equity

The union said the proposed severance package would ensure no teacher would be forced out of the system





**GRIEVING WIDOW:**  
Nokuzola Songelwa, left, is comforted after telling the Truth Commission of the death in detention of her SABC TV 2 producer husband Mbuyiseli.

# White warder left sick (252) detainee to die, says wife

ARG 19/4/96

A WHITE WARDER told a critically ill black asthma sufferer in detention that he would not get medical help for him because he was "a political man", the Truth Commission has heard

When the prisoner died, police reported his death to his family by telling two children - one of whom was his six-year-old daughter

The man who died, television producer Mbuyiseli Lionel Songelwa of Queenstown, was being held in jail here waiting to be tried on charges under the Terrorism Act, his wife Nokuzola told the commission's human rights violations committee on the last day of its four-day hearing yesterday

Although the Prisons Department had later held an internal investigation in which a prisons medical orderly, named as a Mr Crouch, had been charged with negligence, she had never been informed of the outcome, Mrs Songelwa said

Also, the Attorney-General had declined to hold an inquest, saying Mr Songelwa had died of natural causes, although his returned underwear had been stained with blood

Mrs Songelwa told the Truth Commission that Mr Songelwa, a producer for SABC TV 2, had come from a politically active family and had been highly active in Queenstown

At one point she had told him "I'm married to a whole UDF team"

During 1986, he had told her he was going to East London to report on a mass funeral that had been held in Queenstown. He did not return

She later learned he had been detained on Terrorism Act charges, and had eventually been transferred to cells in East London

She said she had been worried about the sea air in this city because her husband had suffered from asthma

On October 5, 1986, she had been told by her sister that two policemen had arrived at the family home in Queenstown and told the two children, aged 13 and 6, that her husband had died

No one else had been home at the time "The children cried hearing this news. They cried so loudly that the neighbours came"

Two men who had been fellow prisoners of Mr Songelwa - who both sat with Mrs Songelwa while she gave evidence but did not testify personally - had told her that her husband had had a severe asthma attack on the Saturday, for which he had been treated

"The next day just after lunch he was in a terrible condition," she said

"They tried to shout to the police but nobody turned up

"When a white man came, he also saw the situation Mbuyiseli was in and he said, 'Oh no, do you think I can help a political man?'" Mrs Songelwa said

She identified this warder as a Mr Els "They said he [her husband] had gone to drink water and had fallen. The next day he was taken away by a medical man and didn't return to the cells

"They said he was taken to hospital by police and they had come back without him and said he had died on the way to hospital"

Mrs Songelwa said police had known her husband was an asthma sufferer, and she asked the commission to establish why police had kept him in a potentially dangerous situation

She also asked them to establish why he had not received proper medical treatment, and why his underwear had been covered with blood

She would like financial assistance to erect a proper tombstone and to help with her children's education, she said

## Chopped-

EAST LONDON earlier this week chopped-off hand

An activist told had seen Sicele N with liquid white

police headquar Mr Mhlawuli w Four - United D murdered by the 5 in 1985 His body

Yesterday, Cra he saw a hand in a year after the mu policemen joking

bottle "They sh... it smelled th said it was the ha Jacobs said - S

**REMEMBER!**

**THE SERVICE TO COMMEMORATE YOM HASHOAH VEHAGEVURA - THE HOLOCAUST AND HEROISM**

WILL BE HELD AT  
**11 AM**  
ON  
**SUNDAY 21 APRIL**  
AT  
**PINELANDS JEWISH CEMETARY NO 2**

Professor Jocelyn Hellig, Department of Religious Studies, University of the Witwatersrand and a member of the Executive Council of the South African Jewish Board of Deputies, will deliver the main address

The service will be conducted by Cantor E Altschuler and Choir

The Jewish community is called upon to attend the service which is held under the joint auspices of the SA Jewish Board of Deputies (Cape Council) and The Union of Orthodox Synagogues of South Africa (Cape Council)

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- LADIES' WINTER
- LADIES' BOWLS
- MEN'S BOWLS
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# New watchdog will guard group rights

ARG 19/4/96 (252)

**CLIVE SAWYER**  
Political Correspondent

IN A significant concession to the National Party and the Freedom Front, the African National Congress has agreed that the new constitution will feature a commission to promote and protect the rights of cultural, religious and language groups

Agreed to by the three parties during all-night talks last night, the commission will be added to a list of institutions supporting democracy, which includes others such as the gender commission and the human rights commission

The aims of the new commission will be to promote respect for the cultural, language and religious rights of communities, and the promotion, development and attainment of humanity, peace, friendship

and tolerance among these communities on the basis of equality and free association

The commission will be empowered to carry out functions to be decided by future national legislation, including monitoring, researching, lobbying and advising on cultural, religious and language community rights

According to the agreement last night, the commission will have to be broadly representative, including gender representation, of the main cultural, religious and language groups in South Africa

Andries Beyers of the NP said the new body would go a long way to meeting the need for cultural empowerment. The NP had long campaigned for such a body

Constand Viljoen of the Freedom Front said the commission would be "an export item

to the rest of Africa", which was struggling with the issues it would address

Kader Asmal of the ANC said the commission would provide answers to "intractable" issues such as language and schooling

Doug Gibson of the Democratic Party said agreement on the commission had proved once again that South Africa was a "big country with a big heart, with room for all languages, cultures and religions"

The development was in line with a proposal that had been made in 1977 by Colin Egin, then a Progressive Federal Party MP and today a DP constitutional negotiator

The Constitutional Assembly hailed the agreement on the commission as a moment of great historical significance, noting the emotions evident among negotiators when they agreed on it



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# ANC to present view of past to truth commission

Stephen Laufer

SEVERAL senior ANC members would present the party's composite view of the period between the Sharpeville massacre and SA's first democratic elections to the truth commission in June, Gauteng deputy secretary-general Obed Bapela said yesterday.

The submissions would be made during hearings focusing on historic events rather than the testimony of individual victims of human rights abuse, as at present.

The submissions would provide a backdrop against which commissioners could evaluate the actions of individuals, including those ANC members accused of human rights violations.

Deputy Defence Minister Ronnie Kasrils was co-ordinating a working group which was preparing submissions on Umkhonto weSizwe's activities. SACP general secretary Charles Ngcakula and presidential communications chief Joel Netshitenzhe were

BD 19/4/96 (252)  
working on a history of the ANC.

Finance and fiscal commission chairman Murphy Morobe would make a presentation on the UDF period of the 1980s, when he was the organisation's publicity secretary.

The submissions would show that the ANC had been defending human rights during its struggle against a system which had been declared a crime against humanity by the international community, Bapela said.

The accusations of human rights abuses in ANC camps probed by the Motsuenyane commission would be addressed in the submissions. They would explain the murderous role of SA agents who infiltrated the ANC.

Bapela said it was unclear whether or not ANC President Nelson Mandela would appear before the commission to discuss the violations of his human rights. ANC opinion was divided, with senior figures keen to avoid a situation in which the country's leaders could appear to be in the dock.

## Community policing given more funds

Nomavenda Mathiane

THE Gauteng legislature has allocated 60% of its budget to community policing, with crime combating and investigations receiving 26,2% of the R63,496m for 1996/97.

Safety and security MEC Jessie Duarte told the Gauteng legislature that although policing remained a national competence, her department had requisitioned for more funds.

Duarte said the prevailing violence in Gauteng and KwaZulu-Natal had resulted in the provinces being regarded as priorities among provincial safety and security departments.

She said although Gauteng had brought down the level of political violence, crime and murder continued to plague the province.

Ten percent of the budget was allocated for the building of police sta-

tions in areas where there were none.

Diepkloof in Soweto, with a population of 1,2-million, was currently being served from a building not more than the size of an average family home. A site had already been identified and consultation with communities regarding the building of a police station were on track.

The Orange Farm community was served from an old farmhouse, while Alexandra township was currently being served by Wynberg. This situation renders policing to communities inaccessible, said Duarte.

Another 5% was budgeted for the building of five satellite police stations. Tembisa township on the East Rand would receive priority because its population of 1,8-million was served from a site too small to house the entire component of SAPS personnel of 391 members.

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# 'Huge claims from victims not expected'

Wyndham Hartley

EAST LONDON — The truth commission was not expecting huge compensation claims from the victims of human rights violations who testified in public hearings, commission chairman Desmond Tutu said last night

After four days of public hearings in the East London city hall, Tutu said one of the "extraordinary things" about the 30-odd witnesses who testified was that their requests were largely insignificant. Victims were requesting education for children and tombstones for the dignified burial of relatives.

Tutu stressed that the commission

was empowered to recommend reparation and not compensation. Recommendations for reparation approved by the president, including those for urgent interim relief, would come from the president's fund. He said Parliament would vote money for the fund and foreign donations would be channelled into the fund.

He did not fear that a flood of applications for hearings resulting from this week's media coverage would result in untested evidence being included in the commission's report.

Tutu said all commissioners were being trained in assessment of evidence and all those named would be

BD 19/4/96 (252)  
given the opportunity to reply to allegations before the final report was written. Opportunity for cross-examining witnesses will also be granted to alleged perpetrators, at the discretion of the commission.

Yesterday evidence was heard regarding an Azapo member allegedly incinerated by United Democratic Front activists during the battle between the parties in the mid-80s and two women killed by Ciskei police. Other evidence was about a man who vanished in PAC camps in Tanzania and testimony by ANC Eastern Cape legislature member, Joe Jordan, about alleged torture by the East London police.



STANDING OVATION FOR VICTIMS, WITNESSES

# First TRC session ends

**EAST LONDON:** Archbishop Desmond Tutu said yesterday he was astonished the victims of brutality could speak with so little venom. Staff Writer **ROGER FRIEDMAN** reports.

**T**HE emotionally draining four-day first session of the Truth and Reconciliation Commission ended yesterday as night fell here, with chairman Archbishop Desmond Tutu calling for a standing ovation for all the victims and witnesses of human rights violations whose terrible stories were told this week.

"We should all be deeply humbled by what we have heard, but we've got to finish quickly and turn our backs on this ugly past," Tutu told journalists afterwards.

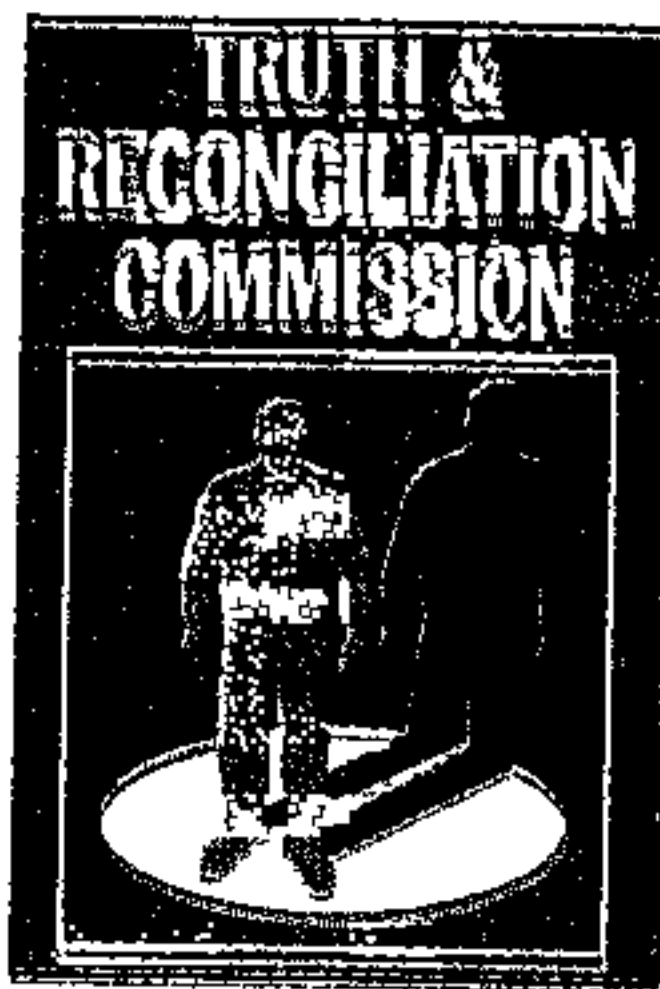
"We are engaged in a very serious thing. It is the healing of our land."

From deaths in police detention to disappearances from ANC camps; from the victims of so-

called terrorist attacks to the survivors of torture, from the mouths of widows who lost their husbands to the stories of children who lost their parents — all of these witnesses were characterised by a remarkable lack of bitterness.

This moved Tutu to say "We've been touched by some quite extraordinary people in this country. Specially the women, they were just fantastic."

Again, yesterday, the commission heard several stories. From an



**(252) CT 19/4/96**  
Eastern Cape MP who endured terrible torture, from the son of a former Transkei cabinet minister murdered by his own police, from the father of a girl apparently killed by the private police force that former Ciskei strongman Oupa Gqozo called his "peace force".

Tutu said he was astonished that the victims of such brutality could speak with so little venom. And that they wanted to forgive, that they wanted tombstones for the death and education for the young — not huge payouts from the state.

"Very few of us can be the same today as we were on Monday. The major purpose of the legislation is the rehabilitation of the human and civil dignity of those people

who were treated like dirt," he said. People such as Mr Joe Jordan, a member of the Eastern Cape legislature, who described his torture at the hands of a security policeman who called himself "Dr Labuschagne" and set about "treating his patients" with electric shocks and pounding boots.

People such as Mr Robert Stanford, injured in a rifle and grenade attack on the King William's Town Golf Club who said of the perpetrators "At the time I was very resentful. But after giving the matter some thought maybe they thought it justifiable, did not realise the consequences."

And people such as Bigboy Mginya from Grahamstown who, like other youths, were shot dead during a funeral procession.

Said his mother Mrs Tembisa Mginywa: "Each time there was a funeral, someone else would have to be buried."

## E Cape MPL tells of torture

**ROGER FRIEDMAN**

**EAST LONDON:** A member of the Eastern Cape legislature, Mr Joe Jordan, described yesterday the torture techniques of a security policeman who called himself "Dr Labuschagne" and prescribed electric shocks for his "patients".

Jordan, the final witness to appear before the Truth and Reconciliation Commission here, spoke of the suffering he endured after his arrest in 1985.

"He told me to strip. I could see that to resist would be a problem. There was a bench in the corner which had cuffs hanging from it, and ropes and belts. There were electric cables and what looked like a battery charger."

Jordan said he was fastened to the bench.

"The man with the beer stood up and asked me if I knew him. I said I did not. He said 'I am Dr Labuschagne. The reason I am here is to come and help you. I want to treat you for this communism disease you have.'"

"You can imagine for yourself electric current and water."

Labuschagne wanted to know from Jordan where his comrade Mr Steve Tshwete (now Minister of Sport) was. Jordan said he did not know, and the pain began.

"It stopped and he was asked if he had changed his mind about Tshwete's whereabouts. He had not changed his mind and the pain started again."

"They dragged me naked by my feet and refastened me to the bench. 'Dr Labuschagne' jumped with his boots on my chest, saying he was treating me."

Jordan was shocked all over his body and the soles of his feet were beaten till they were numb and he could no longer stand. Then he was suffocated before being shocked again.

His experience with the "doctor" was one of several abuses Jordan described.

He was in hospital for about nine months, after his lawyer had insisted he receive medical attention. Then he was arrested again.

Today Jordan is unable to drive long distances or stand on his feet for longer than 30 minutes.

# City truth probe starts on Monday

CT 19/4/96

STAFF WRITER

THE Truth and Reconciliation Committee (TRC) will be sitting in Cape Town from Monday

Five witnesses are due to testify on the first day of the Human Rights Violation Committee's hearings.

The hearing, over four days, will be held at the Nico Malan Nursing Home in Klipfontein Road, Heideveld, from 9am.

About 23 people are expected to testify, at the rate of five or six a day, said TRC Western Cape media liaison officer Ms Christelle Terreblanche.

She said the commission will only release the names of the witnesses on the morning that they appear.

Anyone who has not yet been approached by the TRC who feels he or she ought to testify before the commission should telephone 24-5161.

The hearings will be public. Several religious leaders and provincial politicians have been invited to attend the hearings.

It is expected that more than 100 seats will be available for members of the public.

They will be given on a "first-come-first-served" basis.

After the session in Cape Town, the TRC will move to Gauteng where the hearings will start on Monday, April 29.

This will be followed by hearings in Durban from May 6.



# Evidence has the Truth panel in tears

(252) 19/4/91 Star

LEON MULLER

Commissioners will receive counselling from psychologists and social workers to help them through the coming weeks of often harrowing testimony

By ROBERT BRAND  
East London

The harrowing tales told during the first two days of Truth and Reconciliation Commission hearings have taken their toll on the commissioners.

Several members of the panel were in tears yesterday during testimony and chairman Archbishop Desmond Tutu said commissioners

ed how policemen made fun of sympathy cards sent to her mother during a raid on their house days after Mhlawuli's mutilated body was found near Port Elizabeth.

Tutu said health professionals on the commission, including psychologists and social workers, had prepared a strict regimen for commissioners to follow during the next 18 months. This included spending "quality time with their families, counselling to 'enhance our inner resources' and talking to friends and family about what they have heard. "We are not going to survive otherwise," he said.

Tutu has meanwhile shrugged off a move by two retired policemen to suppress evidence due to come before the commission, saying he was "grateful" for the chance to argue the case in court.

The commission yesterday undertook not to hear evidence implicating Brig Jan du Preez and Maj-Gen Nick van Rensburg in the poisoning and disappearance of a Port Elizabeth activist until they have had time to study the allegations and prepare a reply.

The undertaking was made part of a court order in Cape Town yesterday when Mr Justice Edwin King postponed an urgent application by the policeman to, until 24 May. They had asked for an order to prevent the commission hearing evidence in public from Joyce Mkhankhulu the mother of Sipho Mkhankhulu, who disappeared



**Sisters in sorrow** the widows of three slain C (adock activists share a quiet moment at the Truth and Reconciliation Commission hearing in East London yesterday. The women are (from left) Matthew Goniwe's widow Nyamel a, Nombuyiselo Mhlawuli, widow of Sicele, and Sindiswa Mkhonto, widow of Sparrow

now testify at the commission's first sitting in Port Elizabeth, most likely in the second half of May. Du Preez and Van Rensburg were informed before the start of the hearings that Mkhankhulu wished to name them in her testimony. People implicated in criminal acts during testimony before

the commission have to be informed and given reasonable time to submit representations in reply. Du Preez and Van Rensburg claim the commission refused them access to the allegations against them, which denied them their right to prepare an informed reply. However Tutu pointed out the

commission had been "generous" by informing them before the hearing that they would be named. The law does not specify whether perpetrators should be informed of allegations before or after the claims have been made. Allegations made before the commission enjoy legal privilege

similar to that in court, and people making allegations in good faith cannot be sued for defamation. But if Du Preez and Van Rensburg succeed in getting a court order obliging the commission to give details of the allegations and sufficient time to respond before they are made in public, it would set a

precedent with a debilitating effect on the commission's operations. Witnesses may be scared to come forward if they know that their testimony would be given to perpetrators they want to name. **More reports, picture**

**I am weak ...**  
**I thought**  
**I was tough**  
**before**  
**today**

ers were receiving counselling "I don't know if I'm the right person to chair the commission, because I'm weak," an emotional Tutu said after yesterday's hearings. "I thought I was tough before today."

Tutu left the hall in which the hearings took place after the heart-wrenching testimony of Babalwa now 19, had recounted



# Interrogators showed me hand in bottle'

Star 19/4/96

(252)

## Activist tells Truth Commission of torture and assault during detention

By **ROBERT BRAND**  
East London

**N**ombuyiselo Mhlawuli's plea, earlier this week, for the return of her husband's chopped-off hand had a sequel at the Truth and Reconciliation Commission hearing yesterday.

An activist told the commission he had seen Sicele Mhlawuli's hand in a bottle while under interrogation at the security police headquarters in Port Elizabeth.

Mhlawuli was one of the so-called Cradock Four, United Democratic Front activists who were murdered by the security forces near Port Elizabeth in 1985.

His widow told the commission on Tuesday that his hand had been chopped off at the wrist. She said she had heard the hand was "in a bottle in a police station in Port Elizabeth" and asked if the commission could return it to her.

In his testimony yesterday, Cradock activist Madoda Jacobs said he had been interrogated at the Sanlam Building in Port Elizabeth in 1985, a year after the murders of the Cradock Four.

"They showed me a bottle filled with liquid. It smelt that is

where I saw the hand. They said it was the hand of one of those baboons," Jacobs said. "I knew Sicele was burned without a hand."

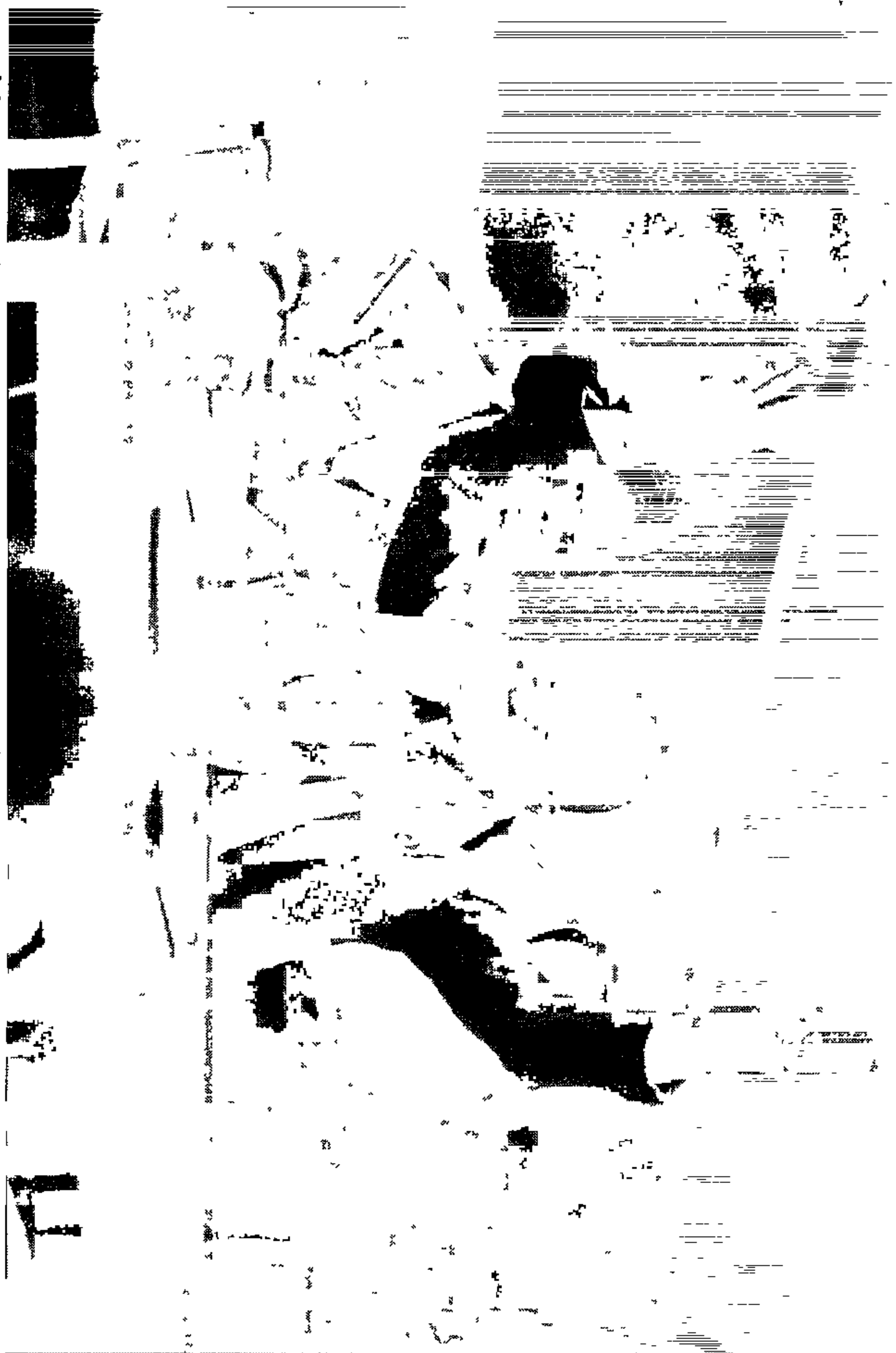
He named the policemen who showed him the hand as "Hattigh and Neuwoudt".

Jacobs was a student leader in Cradock during the 1980s. One of his teachers was Matthew Goniwe, the leader of the Cradock Four. Jacobs said - because of his association with Goniwe and his membership of the Congress of South African Students - he was detained without trial four times, once for longer than two years.

While in detention, he was repeatedly assaulted and tortured by police. In 1985 Jacobs was arrested in Cradock on suspicion of being involved in the murder of a policeman.

"They tore my shirt off, and my pants. Then they started hitting me, poured water over me, suffocated me. My blood was all over. I fell down, they were kicking me."

He was put in solitary confinement and released on bail three months later. He was never charged. Jacobs named the policemen who assaulted him as "Gouws, Verter, Hough, Bizane and Labuschagne".



Pain of the past... Sithulu Ndzumo re-enacts the position in which his father's dead body was allegedly found. His father died in detention in 1980 and was allegedly beaten to death by Transkei police. With him is commission social worker Nacawe Mafu.

## TRC work could become permanent - Tutu

By **ROBERT BRAND**

East London - A permanent structure could continue the work of the Truth Commission after completion of the current 18-month brief, chairman Archbishop Tutu said yesterday at the end of the commission's hearings in the Eastern Cape.

One of the recommendations we will almost certainly make to Parliament is that there be structural changes to what we have started. Among witnesses who told their tales to the commission yes-

terday were a woman whose son was killed because he belonged to the wrong political organisation, a man whose health and career were ruined after an attack by Apla guerrillas, and the son of a Transkei cabinet minister.

Nisomkazi Mata said her son Tembisi, a member of the Azanian People's Organisation, was burnt to death in a shack after an autonomous meeting with the Democratic Front members in Port Alfred.

Bob Stanford, a victim of the Apla attack on the King William's Town Golf Club in 1992, broke

down and cried several times during his testimony. Four close friends of Stanford's were killed in the attack. He was seriously wounded and the psychological impact on him was so severe that he had to give up his legal practice.

Sithulu Ndzumo said his father, Kolisile Ndzumo, was minister of the interior in the cabinet of Transkei ruler Kaiser Matanzima in 1980. He said his father's sympathy with the ANC had led to his arrest by the homeland's security police. His father died in prison of a brain haemorrhage a day after his arrest.

## Sexwale and Duarte to make submissions

Top Gauteng ANC figures, including Premier Tokyo Sexwale and Safety and Security MEC Jessie Duarte, are set to make submissions to the Truth and Reconciliation Commission.

Gauteng ANC deputy secretary Obed Bapela said yesterday the organisation was embarking on a campaign to get people to tell their stories to the commission. He said the Gauteng ANC would contribute to the organisation's collective submission to the commission - Political Reporter



# 'Boys would go to funerals, some would never come back'

Star 19/4/96

(252)

By ROBERT BRAND

East London - "People used to every time we bury a child another one gets shot. We made a habit out of funerals."

This was the reality of life in Grahamstown's black township, Joza, during the 1980s, according to evidence before the Truth and Reconciliation Commission yesterday.

Tembisa Mginywa told the commission about the death of her 18-year-old son Bigboy during a funeral procession for a child who had been shot by police.

On Wednesday another Grahamstown resident, Robert Kohl,

testified about his child who had been fatally shot during a funeral the same year.

"When there was a funeral we were very anxious because the boys would go there and some would never come back," Mginywa said.

One afternoon in 1986, Bigboy did not come back. Mginywa was told by a neighbour who was a nurse that her son had been shot by police during the funeral and was in hospital.

The neighbour reassured her. "She said he could talk and give his details. He was shot in the leg above the knee."

However, when Mginywa ar-

rived at the hospital she was told that Bigboy had died. Her ordeal was far from over.

Police restricted the funeral to 200 guests and gave her a list of people who were not to address the funeral-goers.

"I saw no reason why they should come and give orders if they had murdered my child," she said. But she had to comply. Then, during the vigil for her son, police fired teargas into her home and yard, stampeding the guests and extensively damaging the house.

On the day of the funeral, the procession walked into a cordon of heavily-armed police. Shots

were fired, and mourners had to run for their lives. Several were arrested, and the funeral service had to be hastily abandoned.

Nobody has ever been charged with Bigboy's death, nor have the police compensated Mginywa for the damage to her house during the police invasion of the vigil.

She asked the commission to consider financial compensation for the guests at the vigil for her son and wanted help with the education of her children.

► More reports, picture

## Haron family's TRC dilemma

□ From Page

(252)

"We want justice to be done. This should be on the conscience of De Klerk and his ilk who supported and implemented the system" CT 19/4/96

If the Haron family do decide to testify before the TRC, they will be hoping that the truth about the imam's death will finally be revealed.

The first official statement at the time of his death said he had died from natural causes and that no special inquiry was necessary.

The district surgeon attributed his death to coronary thrombosis.

However, at an inquest in February 1970, a post-mortem examination revealed that 26 bruises — some fresher than others — had been found on the imam's body.

One of Haron's ribs was also broken and a haematoma (blood clot) was found near the base of the spine.

The report found that 10 bruises on the leg had been suffered seven to 10 days before death, and another eight bruises had been sustained one to three days before death.

Police evidence was that Haron had fallen down some stairs.

The magistrate found that a "substantial part of the said trauma was caused by an accidental fall down a flight of stone stairs. On the available evidence I am unable to determine how the balance thereof was caused".

However, two specialists who gave evidence at the inquest found that all the injuries could not have been caused by the fall described by two security police officers, Genis and Van Wyk.

Van Wyk's name was also mentioned this week in testimony by Mrs Nohle Mohapi before the TRC in East London.

A police inquiry into the imam's death in March 1970 also proved inconclusive and did not provide sufficient evidence to serve as a basis for a prosecution.

Mrs Haron sued the ministers of justice and of police for damages totalling R22 000, and in 1971 it was reported that then Minister of Police Mr S L Muller disclosed that the state had made an ex-gratia payment of R5 000 to the widow.

The report in the local Muslim newspaper that covered Haron's funeral said more than 5 000 people had followed the bier and that the number had grown to 30 000 by the time it reached the cemetery.



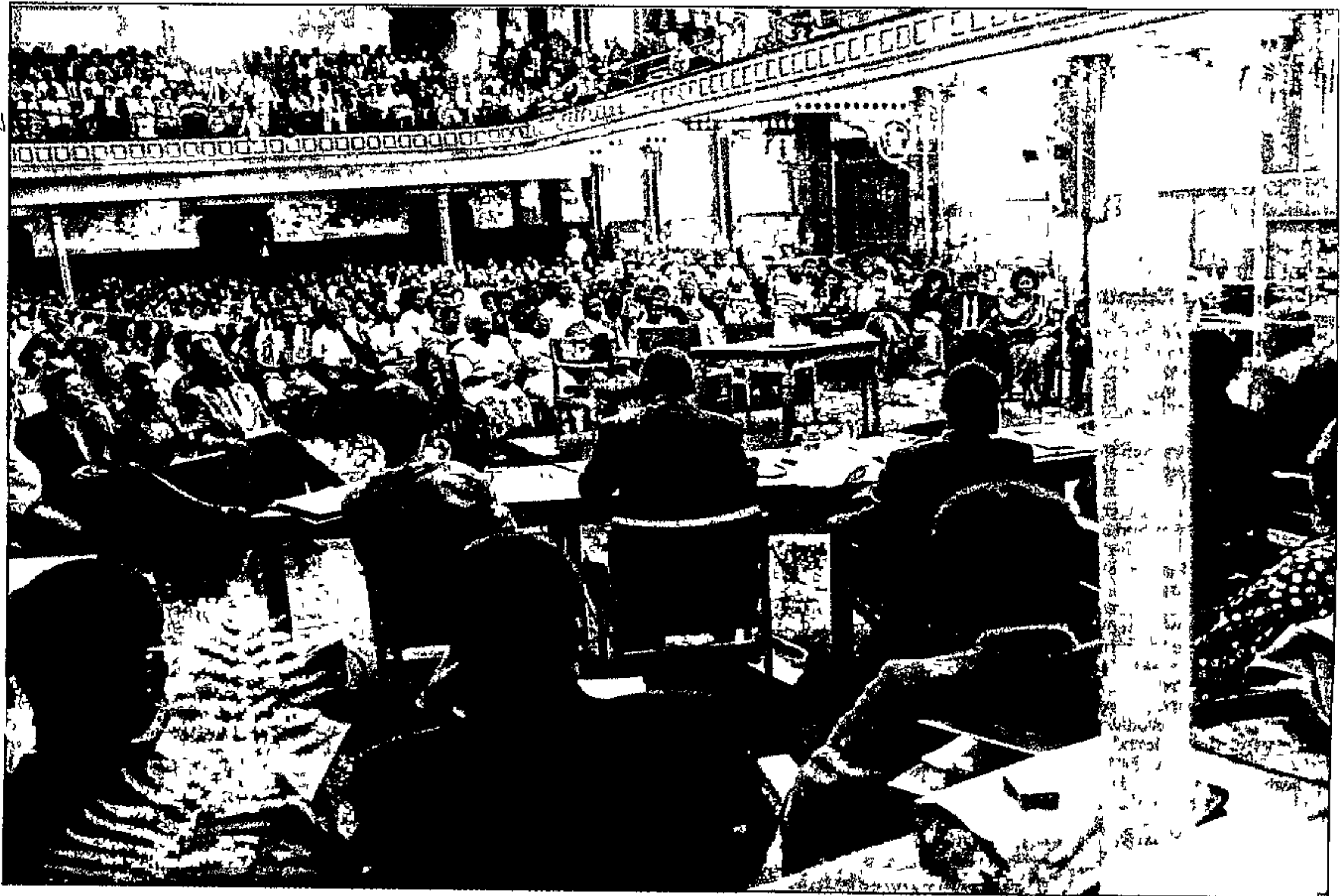
**TRIBUTE:** Mrs Galima Haron, widow of Imam Abdullah Haron, displays the copy of President Nelson Mandela's autobiography, Long Walk To Freedom, which he gave to her at Parliament yesterday. The message inscribed on the flyleaf reads: "To the Haron Family. Compliments and best wishes to a remarkable family which has sacrificed a great deal for the attainment of liberation in South Africa. N Mandela 18 4 96"

PICTURE: BENNY GOOL



The stage is set for drama. With the candle of remembrance burning in the foreground, the Truth and Reconciliation Commission got down to business in East London this week.

PHOTOGRAPHS  
REUTERS/SOUTHLIGHT



# Theatre of pain and catharsis

(252) & M+G 19-25/4/96

With Archbishop Tutu in the lead role the first sessions of the truth commission were like theatre, but for many it was the chance to release the pain of the past, writes **David Beresford**

**T**HE name of Karl Andrew Webber does not feature large in the story of South Africa's liberation struggle. But as he sat there clutching at the stump of his missing arm in the light filtering through stained-glass windows, there was a sense that he had carved out a small place for himself in South Africa's history books.

The huge burgundy curtains on the stage in East London's city hall provided a fitting backdrop for the 17 truth commissioners when they set about uncovering the horrors of the apartheid era on Monday. From the moment Archbishop Desmond Tutu clambered up onto the stage to light a "candle of remembrance" the proceedings smacked more of theatrical performance than judicial inquiry.

In the theatrical tradition there was even a publicity poster, a huge banner strung across the stage announcing the production. "Truth & Reconciliation Commission — Healing our Past." They even stalled to make sure the audience was in place, "Arch" — as the Anglican primate likes to be known — announcing a few minutes delay to give SATV time to cross to East London.

Then, being more of an archbishop than a theatrical producer, or chairman of commissions, he led his congregation in a Xhosa hymn before

delivering a short homily "We are charged to unearth the truth about our dark past, to lay the ghosts of that past so that they may not return to haunt us. That it may thereby contribute to the healing of a traumatised and wounded nation for all of us in South Africa are wounded people."

They were familiar ghosts which were paraded across the stage. The first was one of the best-known of South Africa's litany of deaths in detention — that of Mapetla Mohapi, a close friend and colleague of Steve Biko. His widow Nohle Mohapi, recounted the story with the familiarity of a tale often told since that night in 1976 when a police officer, "Fouche" knocked at her door and announced "I am here to tell you that Mapetla hanged himself with a pair of jeans."

But for all the familiarity, there was the recollection of passionate certainty in her voice as she recounted how she remonstrated

with Fouche "He was a person with a vision for the future. He had plans for his life for his family and his country as a whole. I said No, not Mapetla!"

Taken to the mortuary to identify his body she was confronted by a black policeman who laughed "They call

themselves leaders and they kill themselves!" he taunted her. One does not make jokes about death, Mrs Mohapi reminded the commissioners, adding with the weary remembrance of long time past "I really realised then that it was a long journey that we were going to make."

And so the performance rolled on. Or was it performance? At times it seemed more a group therapy session. The lawyers leading the evidence had been instructed by the commission to let the witnesses talk,



Looking for the truth. Commissioners Alex Boraine and Archbishop Desmond Tutu get some help

in the hope it would bring them a personal catharsis.

And the catharsis was there, as the women let loose their pain with accounts of the years of struggle raising children without fathers, suffering detention and beatings themselves and endlessly searching for the truth of what had happened to their loved ones and a chance to bury them.

The widows of the "Pepco 3" took the stand to tell of the mysterious phone call that summoned their husbands to the airport to meet a non-existent British consular official, never to be seen again. Robert Kohl, his wife Cecella at his side, described how police opened fire on a funeral

procession, killing their eldest son, Bully. At the mortuary "I could feel the cold had already crept into his body and I had to leave to be alone and think about it."

"I wish the commission could give me a tombstone for Siphtwe," Toni Lillian Mazwai said of her son, killed in a shootout with police in the Transkei Nombwyselo Mhlawuli just wanted a chance to bury her husband's hand which was chopped off when he was killed. She had heard it was being kept somewhere in Port Elizabeth, in a bottle. Nomonde Calata had been told that her husband's body was found with his hair pulled out, his fingers amputated and his tongue "was very long"

Nomonde's tears forced an adjournment and when the commission re-assembled "Arch" led them in the funeral lament, *Senzeni Na?* — "What have we done?" intoned the interpreter over the translator's earphones worn by the press. "What have we done? Our sin is kindness." And soon there were more tears, "Arch" breaking down and weeping as Singqokwana Malgas told of the police torture that had put him in his wheel chair of the acid that had killed his son.

Judicial commission? Church service? Theatre? Group therapy? Funeral? In the end, as in the beginning, it was none of those things. Because somehow it was all defined on the first day by that quiet little man, Karl Andrew Webber. Burly with closely-cropped hair and sporting a shabby track-suit top, he was the picture of that stereotype which is the white South African, a rugby player perhaps — a hooker, surely?

In fact he was an animal-welfare inspector who had made the mistake of going to a local bar for a drink on May Day in 1993 with a friend who had just flown in from Cape Town. The friend died with five others when the masked gunman walked into the bar and opened fire with an assault rifle.

"My life changed overnight," Webber said, describing his battle with his surviving, mutilated arm to dress, feed, bath and shave himself and to survive on state aid of R410 a month. "I've accepted it and I have to carry on with the daily routine of my life," he said.

An official from the commission — a black, middle-aged woman — sat next to Webber as he spoke, a comforting arm around his shoulder.

What was his attitude towards the truth inquiry, asked a commissioner? "Hopefully it is the start of a new beginning," he replied.



# Truth commission can't be fair

(252) MtG 19-25/4196

The Truth and Reconciliation Commission should not be treated like a court of law

THE Truth and Reconciliation Commission kicked off, this week, in an appropriately dramatic and South African fashion — with threats of litigation and bombs at the first hearing.

There will probably be plenty of both over the next two years, but the former represents the more fundamental danger (there being not much one can do about the bombs).

The commission's difficulty is that, while it will deal with matters of the utmost gravity, and of supreme importance to many individuals on both sides of the liberation struggle, it is not a court of law and does not have the power, entirely, to regulate its own proceedings.

While inquiring into the human rights abuses of the past, the commission will obviously make findings against members of the old security forces that will have the most severe consequences for their personal,

social and business lives. Who in 1996, for example, would wish to be seen employing, or even having lunch with a man who tortured 13-year-olds 10 years ago?

So when victims (or their relatives) implicate a security policeman and an army officer in the torture or murder of detainees — neither uncommon in the 1980s — that policeman or soldier has the right to challenge the evidence and say, in effect, "I am innocent." And if he has this right, he must have the right to legal representation to help him say it, which is where the problem begins.

The appearance of his lawyers will almost invariably lead, first of all, to a frustrating postponement of the proceedings, and then to a lengthy request for further particulars. Witness statements may also be required. Then would follow the thoroughly unedifying spectacle of a long, probing and probably ruthless cross-examination of someone like the hapless Nohle Mchapi, the first witness to testify at the commission (so far, she has been interrupted only by a bomb threat). If a half-way

decent cross-examiner was unable to shake her testimony, relating to events two decades ago, it would be most surprising.

Would this serve the purposes of either truth or reconciliation? It is improbable.

The commission may very well be unable to prevent any of this. In law it has a status not unlike an inquest or a statutory commission of inquiry, and it is now pretty much settled that anyone interested in the findings of such a body is entitled to intervene through lawyers. He or she is also entitled to approach the supreme court to correct any injustice or unfairness.

A good example of this was when the family of George DeAth, a newsman killed in the 1980s, many suspected, by black vigilantes acting at least with the tacit consent of the security police, sought to uncover the truth behind his death. They thought the magistrate who had conducted the inquest had displayed something less than a fearless commitment to justice in truncating the inquiry and refusing to hear certain evidence. The Appellate Division agreed and

ordered the magistrate to reopen the inquest and hear the evidence. This highlights the commission's dilemma. It would like to be fair to everyone. But is this possible?

Probably not, and one hopes that the commission will resist this temptation. Its very existence represents a huge compromise at the expense of victims. Because of it, they will never see their persecutors tried, convicted, jailed or executed for their crimes, neither will the commission's compensation ever match the civil measure of damages.

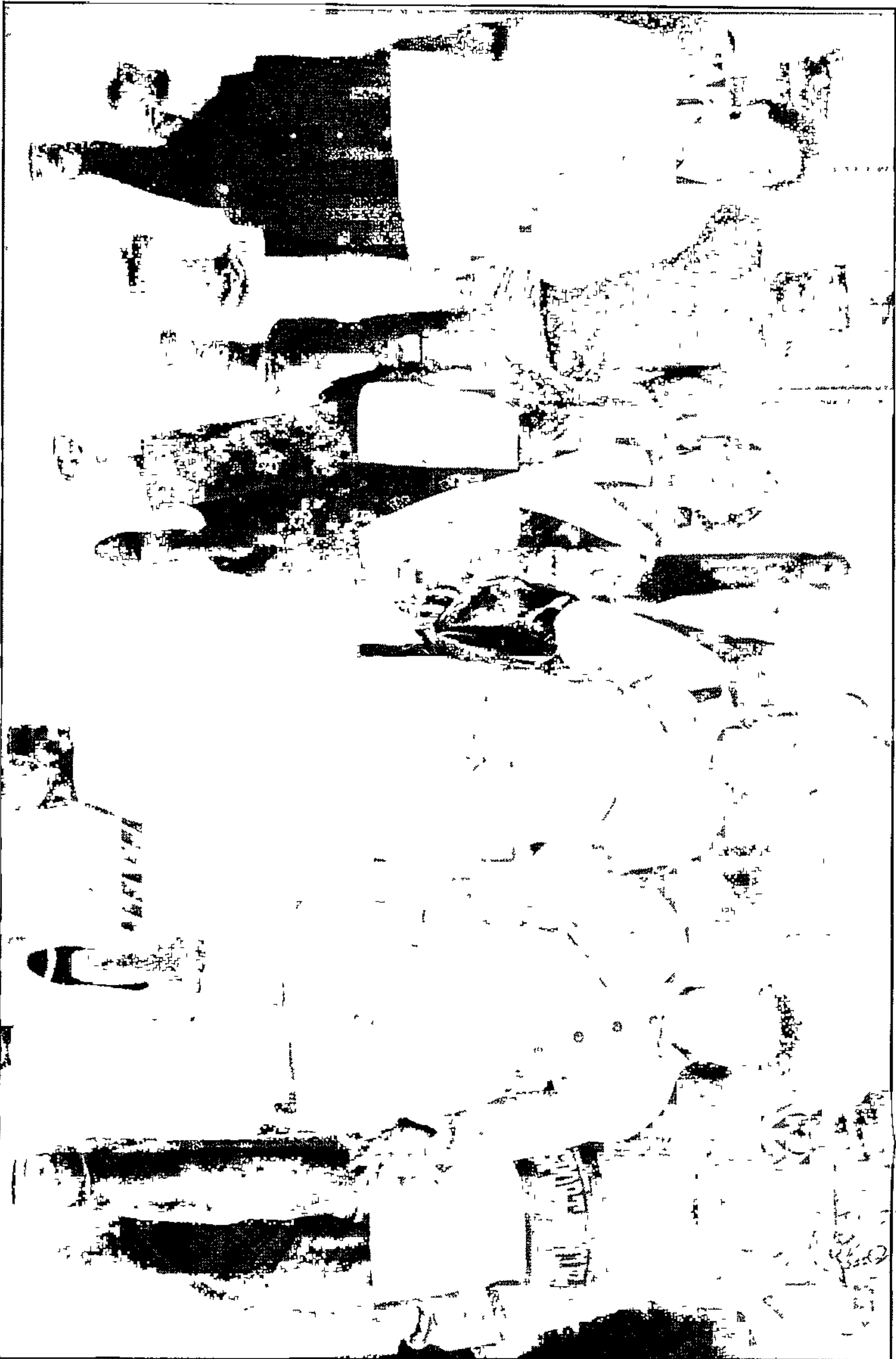
Simply by submitting to the commission, therefore, victims like Mchapi compromise their common law rights enormously, to top their pain and magnanimity with the indignities of trial procedure in what is not a trial, would try the forbearance of even a saint, and it ought not to be allowed.

And if that results in some reputations tarnished unfairly, then it must be seen in the political context of the relatively small price that the old order has paid for a peaceful transition, and not in the more narrow context of legal principle.

This is an occasional column on legal issues. Members of the legal profession are invited to submit contributions.



# 'I have never seen my husband's grave'



□ **THE TIES THAT BIND:** Three of the "Cradock Four" widows leave the East London City Hall this week after testifying to the Truth Commission about the murders of their activist husbands. From left, Nomonde Calata, Sindiswa Mkhonto and Nomsika Mkhonto, who is holding hands with her children Babalwa (on her right) and Ntsika. The widows were commended by commission chairperson Desmond Tutu for their close support of each other.

## Panel to meet for closed-door discussions on applicants seeking reprieve

THE Truth and Reconciliation Commission's amnesty committee said it would begin looking at amnesty applications next week, amid threats of court action.

The five-member committee will meet on Wednesday and Thursday behind closed doors in Cape Town to formally consider applications, committee chairman Mr Justice Hassen Mali said yesterday.

The committee would not call witnesses to present

further evidence, but might need to refer some of the 200 applications for further investigation.

Any decisions on the applications would be communicated to the commission judge. Mali said he wanted to meet the commissioners to discuss the publication of the names of applicants.

But the threat of court action still hangs over the committee. Attorneys for the Azaman People's Organ-

isation and the families of slain activists Steve Biko, Griffiths Mxenge and Fabian Ribeiro said they would seek a Supreme Court interdict next week to suspend the committee pending the outcome of their Constitutional Court challenge to the commission.

The three families argue that amnesty provisions in legislation governing the commission deprive them of their constitutional right to seek redress - Sapa

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(252)

■ As the process of South Africa's healing starts the country's history has been altered indelibly as the magnitude of suffering becomes discernible through the accounts of victims of human-rights violations.

JOHN YELD

(252)

APR 20/21/96

WHEN Cradock Four widow Nomonde Calata put her head back and wailed in anguish while recalling how she had first heard the terrible news about her missing husband Fort, a palpable shock reverberated through East London's ornate City Hall.

Until then, the testimony of victims of human rights violations during the first public hearings of the Truth Commission had been equally harrowing, but both the witnesses and the audience of about 400 present for most of the four days had been restrained.

There had been quiet sobs, a wiping of the eyes with tissues from the box placed next to the microphone of the witness stand, a few seconds' pause in the testimony, shaking hands, handkerchiefs pulled discreetly from pockets.

But the harsh outpouring of Mrs Calata's grief, still raw more than 10 years after her political activist husband's brutal murder at the hands of the security forces (according to the second inquest findings), changed that - and became a seminal point in the Truth Commission's proceedings.

The incident, midway through the second morning, was a very public confirmation of the realisation that the commission would indeed be dealing with memories of appalling physical pain, excruciating anguish and very deep anger.

The incident also confirmed that if truth and reconciliation were to be forged during and after its two-year term, this was only going to be achieved at great cost - a theme commission leader Desmond Tutu has repeatedly evoked in his comments about its task.

After Mrs Calata's testimony there could be no suggestion that the victims were exaggerating or that their testimony ought to be "objective".

It was also an unconscious signal to the witnesses who were to follow that their pain was being taken seriously, and that there was no need to hold back for fear of being embarrassed.

Though all the testimony of the victims was moving - "If you had listened to them this week and been unmoved, you should examine your humanity," Archbishop Tutu said in a time of his

altered - was their response to questions by the commission about what sort of reparations they were hoping for.

There were no requests for significant monetary damages. Instead, the emphasis was on financial assistance for education and, for many, some form of physical memorial.

One of these requests came from Tom Mazwar, who told the commission she wasn't sure she would be able to read them a newspaper report based on an interview she had granted at the time "because my tears are full".

She asked for a tombstone for her son Siphawe, who was killed in a shoot-out with police in Transkei in 1988.

"I have this really big wish for a tombstone because I didn't see him when he was put into the grave."

Nontuthuzelo Mpehlo, whose husband Mrick Fikile Mpehlo was murdered in Grahamstown in 1986 after years of victimisation for allegedly having betrayed Steve Biko to the security police - something he denied consistently - said she had lost everything in the wake of her husband's death and had been declared insolvent.

One of her children had a "special talent" but had been unable to pursue this as she had no money.

"Everything disappeared - the money, the shop, the house. I wanted money to give my children a good education, but I never managed."

Nokuzola Songelwa, whose husband Mbuyisele Lionel died while detained under Terrorism-Act charges in East London prison, said she wanted the commission to help her with money for education for their daughter and for a tombstone.

"She (my daughter) would say 'Mum, when are you going to erect a tombstone?' And I would have no answer."

Several of the victims also wanted personal items returned, such as photographs and diaries, which had been seized by police.

But Charity Kondile probably summed up the feelings of many of the victims when she told the Commission:

"All-in-all, the loss of our son cannot be measured in human and financial terms, as he was not just a statistic but a

TRUTH  
COMMISSION

LOCAL GOVERNMENT  
ELECTIONS



# DATES AND TIMES FOR THE ELECTION OF THE MEMBERS OF TRANSITIONAL REPRESENTATIVE COUNCILS

In terms of the regulation 100A of the Local Government Transition Election Regulations, 1994, notice is hereby given of the amendment of the date and time for the submission of registrations by parties for the election of transitional authorities to be elected on 29 May 1996 in rural areas, as published under Proclamation No 28 of 1996, from 12:00 on 1 April 1996 to 16:00 on 26 April 1996, for the transitional representative councils as set out in the Schedule below.

The returning officer will advise parties of any defects in their registration not later than 3 May 1996. Parties must hand in any corrected registrations to the returning officer not later than 16:00 on 7 May 1996.

Nomination Day in respect of these authorities will be 10 May 1996, when the returning officer will declare at 16:00 all accepted party registrations, symbols and candidates on party lists, at the offices of the transitional authority concerned, as well as the rejected party registrations, symbols and candidates on party lists.

The applicable forms for the registration of parties can be obtained from the returning officer at the offices of the transitional authorities concerned as set out in the Schedule below.

Eighty percent of the seats on a transitional representative council must be elected according to the system of proportional representation.

The day for election in the rural areas of the Western Cape remains 29 May 1996.

MR P J MARAIS

MINISTER OF LOCAL GOVERNMENT

## SCHEDULE

DISTRICT COUNCIL	TRANSITIONAL REPRESENTATIVE COUNCILS
West Coast	Vanrhynsdorp Vredendal Piketberg Clanwilliam Malmesbury
Breerivier	Matroosberg Witzenberg Wynland
Winelands	Paarl Stellenbosch
Overberg	Nuweberg Bredasdorp Caledon Swellendam Hermanus
South Cape	Outeniqua Mossel Bay Langeberg
Klein Karoo	Ladismith Callitzdorp Oudtshoorn Uniondale Bo-Langklouf
Sentrale Karoo	Beaufort West Prince Albert Laningsburg Murraysburg

people were affected dif-

ferently

For many the sight of wheel chair-bound Singokwana Malgas - struggling to speak because of his partial stroke and his sudden flood of tears as he recalled repeated torture at the hands of the security police - was too much to bear.

It was at this point that Archbishop Tutu broke down and sobbed, holding his head in his hands. Many others in the audience also wept.

For some the tears came while listening to Ncediwe Mletu, whose testimony was interrupted by her own sobs, as she appealed to the commission to help her find out what had happened to her husband, a University of Natal law student missing since 1987. "I have never seen the grave of my husband. My children have no father and they cannot even take beautiful flowers to his grave.

"Even if it is his remains that can be found, if he was burnt to death, even if we can get his ashes, the bones belonging to his body.

"No person can just disappear without trace. There will always be some remains.

"If I could bury him I'm sure I could be reconciled."

For this particular writer the ink on his notepad started smudging as he listened to 19-year-old Babalwa Mhlantli, daughter of one of the Cradock Four victims, pay tribute to her mother for showing such strength in the face of constant security police harassment and for her efforts to raise them on her own.

"I would like to say I'm proud of her - she's a good mother," she told the commission.

As the Cradock Four widows and their families left the witness stand the commissioners and audience rose in a spontaneous gesture of salute, and deputy chairman Alex Boraine, who has a close personal relationship with the families, mopped the tears from his eyes with his handkerchief as they left.

One of the most striking aspects of the testimony of the 33 victims - five more than originally sched-

While the victims receive five human rights violations weeks - first in Cape Town, starting on Monday, followed by Gauteng and KwaZulu-Natal - the second leg of the tripodic Truth Commission has yet

to get under way. This is the amnesty committee, and its first decisions will be crucial in determining how the commission's work continues.

The decisions rest on whether acts of human rights violation of amnesty applicants were committed within the context and bounds of legitimate political aims and philosophies - the so-called "proportionality" test, to be applied in conjunction with the so-called Norgaard principles defining legitimate political activity.

If this framework is interpreted liberally by the amnesty committee - consisting of three judges and two commissioners - the Truth Commission may be inundated with amnesty applications. If it is not, and many of the initial applications are rejected - opening the perpetrators to probable prosecution - the number of applications will probably remain low, with perpetrators hoping they will not be identified during proceedings.

Either way, the course of South African history has been indelibly altered after just the first week of hearings.

"Very few of us can be the same as we were on Monday," Archbishop Tutu said at the close of the East London hearings.

"We believe our country has taken the right course in the process of healing by hearing these stories." That process is going to take a long time - almost certainly longer than the commission's two-year lifespan.

Nyameka Gonnwe, widow of Matthew Gonnwe, told the commission at the end of her moving account "I think we're going to need a lot of energy and stamina, especially the reparations and rehabilitation committee, to try to engage people in a healing process - the pain is deep."

Now, at least, that process has started.

## New bid to stop amnesty hearings

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DENNIS CAVERNELLS  
Supreme Court Reporter

THE Biko, Mxenge and Ribeiro families will file an application in the Rand Supreme Court next week to prevent the proceedings of the Truth and Reconciliation Commission's amnesty committee.

The attorney for the families Cyril Mororo, said from Pretoria he had sent the TRC three letters asking them to suspend amnesty hearings until the Constitutional Court had resolved the families' application to have the amnesty provisions in the Promotion of National Unity and Reconciliation Act removed.

The families have argued that the Act has deprived them of their right to seek redress against alleged per-

petrators of human rights violations

Mr Mororo said the application would be filed in the Rand Supreme Court early next week.

Earlier this week Mr Mororo said he would file the application in the Cape Supreme Court, but instead sent the TRC a final letter, telling the commission that they would be proceeding with the application.

He said the State Attorney had filed a notice to oppose the application.

He said the families would not give up their struggle to have the amnesty provisions in the Promotion of National Unity and Reconciliation Act removed. "Even if we lose the matter in the Constitutional Court, we will take it up with the International Court in The Hague."

## Heideveld venue for Cape testimonies

THE Truth Commission's first Cape Town public hearings start on Monday, when its human rights violations committee listens to testimony of victims in the Nico Malan Nurses Training College hall in Klipfontein Road, Heideveld.

The original plan - to hold the hearings in the commission's offices in central Cape Town - was changed to provide more seats for the public and media, as well as better facilities for witnesses and commission staff.

About 23 cases of gross human rights violations in the Western Cape between March 1960 and December 1993 will be heard in four days of sittings - from Monday to Thursday, starting at 9 am.

Public tickets can be obtained by phoning Melani Burts or Lillian Mofojane at 245 161 between 12-2pm each day. The Cape Town hearings will be followed by four days' testimony in Gauteng and then KwaZulu-Natal.



# Commission moves to Cape Town

By ADRIAN HADLAND

The Truth and Reconciliation Commission moves to Cape Town on Monday for its second week of hearings into human rights violations.

After what commissioners and witnesses described as an emotional but successful first session in East London the commission expects to hear another 30 or so submissions from victims and their families.

The submissions will again concern serious human rights abuses by both the state and the liberation movement between March 1960 and December 1993.

"We want everybody to come if they have a story to tell," commission chairman Desmond Tutu said at the close of the East London session.

He said about 30 cases had been chosen for public airing in East London from more than 200 submissions. A similar situation existed in Cape Town as well as in the other provinces.

## Full picture

Commission researchers had divided the 33-year time-frame into smaller periods and tried to pick events illustrative of each of the periods in order that "as full a picture as is possible" could be drawn up, as required in the Promotion of National Unity and Reconciliation Act, Tutu said.

The hearings which will be conducted by the commission's human rights violations committee take place in the Nico Malan Nurses' Training College from Monday to Thursday.

After a week in Cape Town the committee will move to Gauteng for a further week and then on to KwaZulu Natal.

Following the completion of the four-week first round of the full commission will have an evaluation session in Cape Town, according to commission press liaison officer John Allen.

At the session, priorities for the commission's investigation unit will be determined while lessons will be drawn from the first round of hearings.

# Shock to the emotions as truth has its day

By JOHN YELD

When Cradock Four widow Nomonde Calata put her head back and waited in anguish while recalling how she had first heard the terrible news about her missing husband, it felt a palpable emotional shock reverberated through East London's ornate City Hall.

And then, the testimony of victims of human rights violations during the first public hearings of the Truth Commission had been equally harrowing but the witnesses and the audience of about 400 who packed the hall for most of the four days this week had been restrained. There had been quiet sobbing of eyes with tissues, a few seconds' pause in testimony, shaking hands, handkerchiefs pulled discreetly from pockets.

But the harsh outpouring of Calata's grief still ran more than 10 years after her political activist husband's brutal murder at the hands of the security forces (according to the second inquest's findings), changed that - and became a seminal point in the Truth Commission's proceedings.

The incident midway through the second morning, was a very public confirmation of the realisation that the commission would indeed be dealing with memories of appalling physical pain, excruciating emotional anguish and very deep anger and that if truth and reconciliation were to be forged during and after its two-year term, this was going to be achieved at great cost - a theme commission chairman Archbishop Desmond Tutu has repeatedly evoked in his comments about their task.

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Although all the testimony of the victims was moving - "If you had listened to them this week and been unmoved you should examine your humanity," Tutu said at one of his briefings for journalists - people were affected differently.

For many the sight of wheelchair-bound Sangqokwama Malgas struggling to speak because of his partial stroke and his sudden flood of tears as he recalled repeated torture at the hands of the security



OUT IN THE OPEN AT LAST The East London City Hall, which housed the Truth and Reconciliation Commission hearings this week, was packed below Alex Boraine and Archbishop Tutu share a private moment as all the anguish is relieved.

police was too much to bear. It was at this point that Tutu broke down and sobbed, holding his head in his hands. Many others in the audience also wept.

For some the tears came while listening to Needive Mfeti whose testimony was interrupted by her own sobs as she appealed to the commission to help her find out what had happened to her husband, a University of Natal law student who went missing in 1987.

"I have never seen the grave of my husband. My children have no father and they cannot even take beautiful flowers to his grave even if it is his remains (that can be found), if he was burnt to death even if we can get his ashes, the bones belonging to his body, because no person can just disappear without trace. There will always be some remains. If I could bury him I'm sure I could be reconciled."

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man Alex Boraine, who has a close personal relationship with the families, mopped the tears from his eyes with his handkerchief as they left.

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granted at the time, "because my tears are full". She asked for a tombstone for her son Sipitwe, who was killed in a shootout with police in Transkei in 1988.

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detained under Terrorism Act charges in an East London prison, wanted the commission to help her with money for education for their daughter and for a tombstone.

Several of the victims also wanted personal items such as photographs and diaries, which had been seized by police, returned. Charity Kondle probably summed up the feelings of many of the victims when she told the commission. "All in all, the loss of our son (Mk soldier Sizwe) cannot be measured in human and financial terms, as he was not just a statistic to us but a son we dearly loved."

While the traumatic and painful experiences of the victims will continue to be relayed in hearings of the human rights violations committee during the next three weeks - first in Cape Town, starting on Monday, followed by Gauteng and KwaZulu Natal - the second leg of the three-part Truth Commission has yet to get under way.

This is the amnesty committee, and its first decisions on whether acts of human rights violation of amnesty applicants were committed within the context and bounds of legitimate political aims and philosophies - the so-called "proportionality" test, to be applied in conjunction with the so-called "not-guaranteed principles defining legitimate political activity" - will be crucial in determining how the commission's work continues.

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**DROPPING A BOMB SHELL...** Bantu Holomisa is to hand the Truth and Reconciliation Commission new information on State sponsored atrocities in the apartheid era.

# Holomisa lifts veil on horrors

By CHIARA CARTER

BOMB SHELL documents outlining a pattern of systematic State sponsored human rights violations in the Eastern Cape are to be handed to the Truth and Reconciliation Commission

Deputy Minister of Environmental Affairs Bantu Holomisa this weekend said he would give the Commission files of information about the activities of the former government and its officials

Several former senior security officers are poised to provide the Commission with detailed dossiers about the State's strategy and the activities of the security forces.

The information includes details about secret agents, their handlers and their activities as well as links between the various security forces and attempts to destabilise the region up to a few weeks before the 1994 elections.

This information is likely to be

central not only to attempts by the Truth Commission to investigate individual cases of atrocities, but also to outline a broad pattern of human rights abuses in the Eastern Cape

The former officials named in the dossiers will be approached by the Commission for more information

This weekend Holomisa told City Press he intended testifying to the Commission about the previous government's involvement at the highest level in human rights violations

He would also hand over files of "sensitive documents" - and would name key figures. He said he also intended tabling a video

"My evidence and the documents will provide the Commission with strong leads about key figures and overall strategies," Holomisa said

It is not the first time Holomisa has stepped forward with information about undercover State activities

The former Transkei leader previously provided the information about the message sent from the Eastern Cape military headquarters saying that Cradock leader Matthew Goniwe should be permanently removed from society.

The information, once handed to the Commission, will be followed up by the Commission's unit of investigators which has the power to search premises and seize information

The Commission begins hearing cases of human rights abuses in Cape Town tomorrow

The hearings are likely to include some of the Western Cape's most high profile cases

These include the "Trojan horse" killings, the murder of the "Guguletu Seven", the shooting of several ANC guerrillas by police, the assassination of ANC leaders Michael Maphungwana and "Pro Jack" as well as vigilante activities in the region including the "witdoeke wars"

(252) CP 21/14/96



# 'Let them first show remorse'

By CHIARA CARTER

THE PLAINTIVE strains of *Senzeni na?* rang out at countless funerals, rallies and marches during the turbulent 1980s

This week, the song of suffering was again sung in the Eastern Cape – after Nomonde Calata, widow of slain Cradock leader Fort Calata, broke down giving testimony at the first hearings of the Truth and Reconciliation Commission in East London.

The song was a fitting choice, not only because the commission was hearing gruelling testimony about three decades of atrocities, but because most of the victims who testified were haunted by these questions: 'What have we done to suffer so? Who did these bloody deeds, and why?'

□ First to give evidence before a hushed audience in the City Hall was Nohle Mohapi, whose husband, Black Consciousness leader Mapetla Mohapi, died in detention twenty years ago.

The presence of Archbishop Desmond Tutu in purple robes, the prayers and hymns which began proceedings and the stained glass windows of the colonial hall gave the hearings a church-like atmosphere but Mohapi conjured up a very different ambience – the squalor and fear of apartheid's prison cells.

Elegant and poised, she spoke about the days of solitary confinement, banning orders and authorities who said detainees died after they slipped on a bar of soap.

Mohapi told how as a young woman she had learnt from her husband, slain leader Steve Biko and Barney Pityana to be proud of being black.

Held in solitary confinement herself, she described how prisoners were allowed no visitors, no reading material – not even a Bible – no exercise, no toilet, no washing facilities, just silence and torture.

She recalled her husband as a man who cherished a vision for his family and country.

Describing the night she had learnt of his death, Mohapi said: "We opened the door. It was Mr Fouché. He said, 'I am here to tell you that Mapetla hanged himself with a pair of jeans'."

"I said, 'No. Not Mapetla.'"

That cry has rung out for Mohapi for the past two decades. She asked the commission to find out, for her children's sake, what really happened that night

□ Another death in detention has haunted Priscilla Tabalaza since 1978 – when police said her adoptive son, Lungile, had committed suicide by jumping from a window.

"I'm hurt that at my age I still have no clue why our child died. His blood should be on their names," she sobbed

□ If the commission hearings are intended to be a healing ritual, providing catharsis for victims, many who testified sought another ritual – funeral rites. They asked the commission to find out what happened to loved ones who had

## Shadows still haunt victims of apartheid

vanished without trace, saying they wanted to give them a decent burial

□ A bitter Bessie Mdoda asked the commission to find out what had happened to her son, Xola Martin Jebe, who disappeared after joining the ANC

□ Elizabeth Hashe told how her husband, Siphon, had set off with fellow Port Elizabeth Civic Organisation leaders Qaqawuli Godolozzi and Champion Galela to meet with the British envoy at the airport in mid 1985

They never came back

Testifying of police harassment and financial straits, Hashe said, "I'd like my husband's remains so I can bury him in a dignified manner"

She added: "I'd also like an enlarged photograph which the police took away"

□ Monica Godolozzi and Nomali Galela told how they had followed up a series of leads but had not solved the mystery of their husbands' disappearances.

Galela said her husband's killers

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**'We can never wake them or bring them here again'**

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should confess. "They must say why they killed my husband. We can never resurrect them, never wake them or bring them here again," she said

□ Newedi Mfeti told about the disappearance of her husband, University of Natal student Phindile Mfeti. She begged for a chance to bury him

"Even if it is his remains, even if he was burnt to death. Even if it is his ashes, bones," she wept

□ Toni Lillian Mazwai told how her son, ANC guerilla Siphwe Hamlet, had died in a shootout with police in Umtata shortly after he phoned her from exile.

Mazwai said she wanted a big tombstone for her son because as a youngster Siphwe had big dreams. "He would say Lady, when I complete my studies you will not struggle any more"

□ Charity Kondile's son, ANC guerilla Sizwe, set off in Chris Hani's car to make a phone call in 1981 – never to return. The family found he had been detained by police and released in August 1981

His disappearance sparked rumours in ANC circles that Sizwe had deserted or turned traitor. But former Vlakplaas head Dirk Coetzee later told the Harms Commission that Sizwe Kondile had been tortured so badly at Jeffreys Bay

(252) CP21/4/96  
police station that police decided to kill him, rather than have another Biko.

Coetzee said police took Kondile to Komatipoort border where they first poisoned, then shot him. They burnt his body. Kondile said Coetzee's description made it sound as though police viewed the occasion as a braai. "It is tantamount to cannibalism," she said

□ The widows of slain Cradock activists, Fort Calata, Sparrow Mkhontc Sicelo Mhlauhi and Matthew Goniwe, described the events of June 27 1985 when their husbands disappeared on their way from Port Elizabeth

Nomonde Calata said her husband's body had been horribly mutilated. "His hair was pulled out, his tongue was long, his fingers were cut off, he had many wounds on his body. The dogs had bitten him severely. Even the dogs had their share."

She said "I do not know the reason for their cruelty. I just want to know"

Nombuyiselo Mhlauhi said acid was poured on her husband's face and his hand chopped off. The hand was rumoured to be kept in a bottle by police in Port Elizabeth

"We'd like it back," she said.

The depth of Nyameka Goniwe's emotion was clear as she described her husband as the family man, teacher, community leader and UDF rural organiser. "They hated him for raising the level of political awareness of people in the rural areas. He was seen as a communist, a terrorist and therefore a dangerous person who was a threat to the state."

Like the other victims, Goniwe was asked how she would feel if her husband's killers applied for amnesty. Like most of the others she replied that forgiveness was not automatic. "They must show remorse. Then we will see"

□ This week's hearings made it clear that time does not heal wounds. Even Tutu broke down when veteran activist Singqokwana Malgas described decades of harassment, crying as he told the commission about police torture

TRC deputy chairman Alex Boraine winced on hearing that ANC guerilla Sithembele Zokwe had died in a hail of 55 bullets in his Umtata home

Joyce Mtinkulu is waiting to hear if the courts will allow her to name the men she believes know about the torture, poisoning and disappearance of her son Siphwo in 1982

□ Beth Savage, who was injured in a suspected Apla attack on the King William's Town golf club in 1993, told of a hallucination of a man at the window – her nameless attacker

After she saw a photograph of her attacker in a newspaper, she felt at peace because she knew his identity

It is this nameless face at the window that haunts the other victims who testified – they need to know who were the abductors, torturers and killers

They need to hear what happened – and why



**GRIEF STILL FRESH . . .** Nomonde Calata, widow of murdered anti-apartheid activist Fort Calata, wipes her eyes during a church service in Mdantsane, East London, last Sunday. The service was held to mark the first sitting of the Truth and Reconciliation Commission. ■ Pic AP





By **WALLY MBHELE**

**GAUTENG MEC for Safety and Security Jesse Duarte, the wife of her deputy and another woman were allegedly stripped naked in detention – and white prison warders invited their colleagues to come and view their naked bodies.**

This startling allegation is likely to be told to the Truth and Reconciliation Commission as some high profile ANC politicians reveal their ordeal at the hands of security officers.

The ANC announced this week that some of its officials would testify before the "Tutu Commission" about gross human rights violations they had suffered under apartheid rule.

City Press was reliably told that Duarte, Constance Bapela (then Hlatshwayo) who is the wife of deputy MEC for Safety and Security Obed Bapela, and another woman who is now a councillor will, among other allegations, tell the Commission how they were stripped naked during their detention before male warders – who made jokes while watching their bodies.

Some of the prison warders allegedly touched them.

□ Approached for comment, Obed Bapela said: "There's a strong likelihood that they will approach the Commission on those allegations. They still have to make a decision"

□ The humiliation of the three women allegedly took place when they were detained at the Diepkloof prison during the 1986 state of emergency. They were also allegedly taken into isolation cells

City Press has established that the three women's wish to approach the Commission was inspired by the emotional testimony on Monday of Nohle Mohapi – widow of Black Consciousness leader Mapetla Mohapi who died in detention in 1976

Other women who gave harrowing details of their experiences were the wives of three Port Elizabeth civic leaders who disappeared without trace in 1985

Qawuli Godolozzi, Siphon Hashe and Champion Galela went missing after saying they were going to meet "an ambassador" at the airport

The wives of the Cradock Three – Matthew Goniwe, Fort Calata and Sparrow Mkhonto – who were found murdered and their bodies mutilated also testified

□ City Press has been told that Duarte and her fellow detainees will "probably" file their request next week. They were due to make a final decision on Friday.

Bapela is also set to approach the

■ **To Page 2**



**'Stripped'** (252)  
CP: 2/14/96

■ **From Page 1**

Commission to find out who bombed the Alexandra house where he was staying shortly after his detention

Although the ANC did not want to commit itself on whether President Nelson Mandela would give submissions to the Commission, it confirmed at a press conference that Duarte would testify

□ Bapela said the Gauteng ANC had begun identifying people who had experienced human rights violations in the past

The ANC said it needed information about its members who had died in exile or had been executed in Pretoria, killed and tortured in detention and those who had disappeared without trace

Those who were detained, tortured or who had suffered during various township massacres should come forward, Bapela appealed. Cases of missing activists like Stanza Bopape and others who had died in detention or were assassinated would also be given top priority

The ANC disclosed it had established a committee which would receive and co-ordinate information before transferring it to the Commission

□ At the time of going to press, City Press had not been able to get a comment from Duarte

□ See story and pic on Page 5.



# Detention deaths in spotlight

ALG 22/4/96

(252)

**TRC probe  
hears its first  
cases in W Cape**

**LINDSAY BARNES**  
Staff Reporter

THE Truth and Reconciliation Commission is hearing five cases of human rights violations during its first sitting in Cape Town today.

One involves William Henry LITTLE, who was injured in 1982 in a bomb attack, one of at least 26 carried out by the African National Congress on police stations, power stations and government buildings between December 1981 and November 1982.

Other evidence concerns Looksmart Solwandle NGUDLE, one of the first detainees to die under the 90-day detention law, passed on May 1 1963.

Only eight days after the law was passed, a series of arrests began and by November 7, 544 people had been detained. Soon thereafter, reports of serious assault, torture and deaths began filtering through.

As a member of the ANC and South African Communist Party, Mr Ngudle was active politically from the 1950s and worked for the progressive newspaper New Age.

He became head of the Cape division of Umkhonto we Sizwe in the 1960s and was responsible for recruiting MK members for military training outside South Africa. He was connected directly with the high command in Johannesburg.

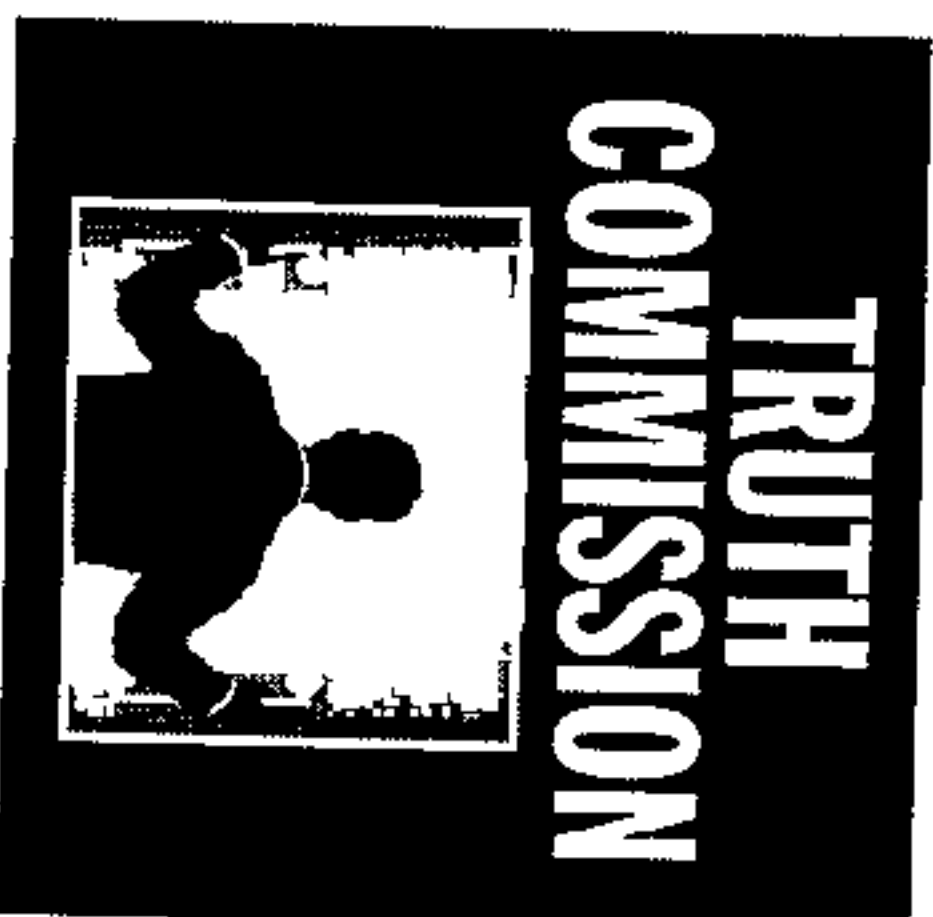
Mr Ngudle was detained on August 19 1963, and died on the night of September 4.

The district surgeon, who conducted a post mortem for the state, found no evidence of ill-treatment or injury and a medico-legal expert said it appeared Mr Ngudle had hanged himself.

At the inquest into his death in February 1964, counsel for the state said Mr Ngudle had initially refused to give information until September 4 when he had been interrogated all day and "the man became a coward".

He gave information that led to other arrests, but apparently then realised he faced death either at the hands of the judicial system or at the hands of his previous associates.

A Pretoria magistrate who



visited Mr Ngudle three times said that on the last occasion, Mr Ngudle had complained he had been assaulted and forced to make a statement. He had coughed up blood and died later that night.

The police denied assaults had taken place and evidence regarding police ill-treatment of 90-day detainees was ruled inadmissible.

The inquest found that Mr Ngudle committed suicide by hanging.

However, another prisoner had told an advocate that Mr Ngudle died as a result of torture, not suicide, according to information passed on to a doctor, G Lowen, who appeared at the inquest for the Ngudle family.

Appearing at the hearings on Mr Ngudle's behalf today

## Prominent visitors attend first day's hearings in city

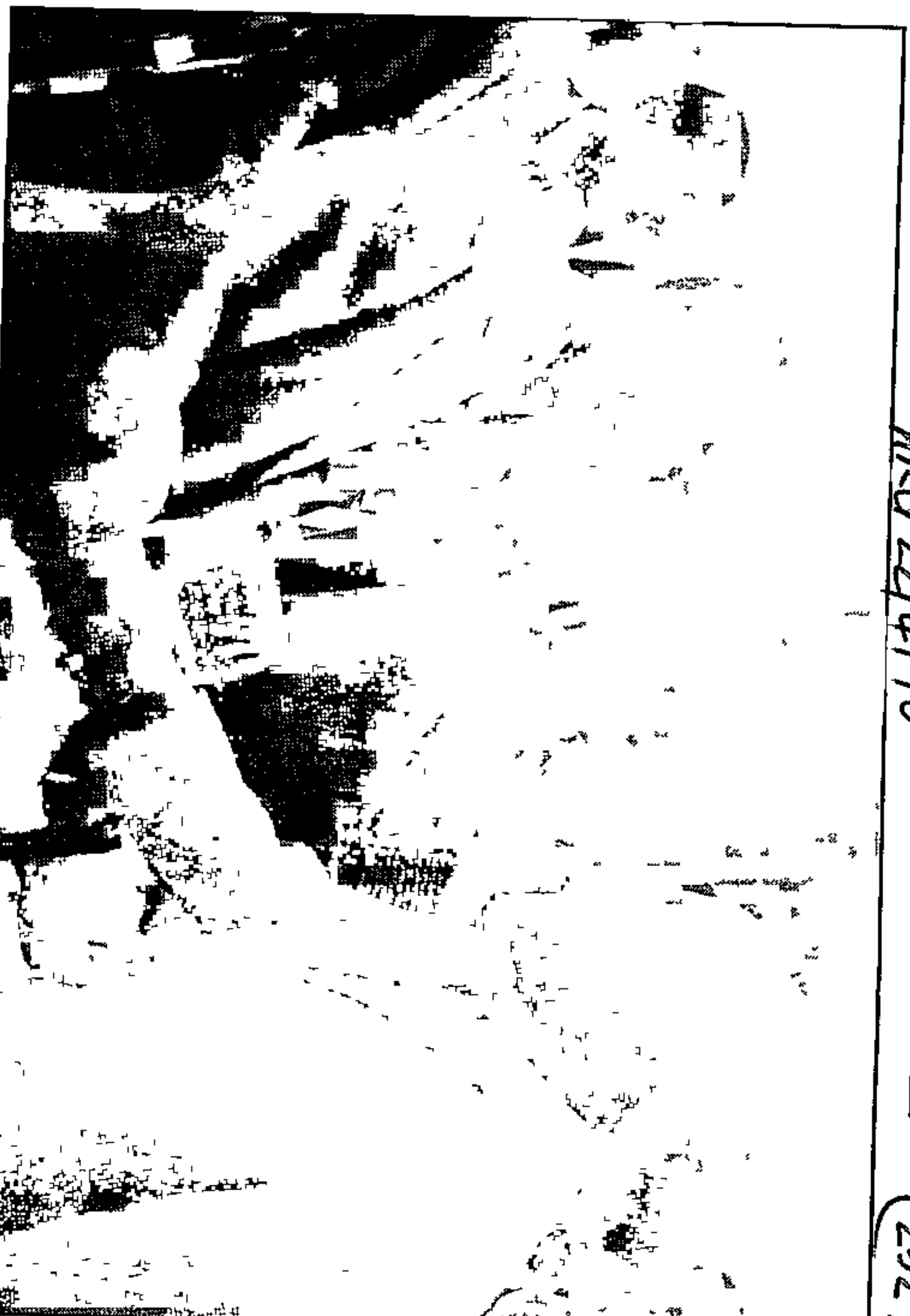
CAPE Town mayor William Bantam was among those who attended the first day of the Truth and Reconciliation Commission hearings here.

Other prominent visitors included Bishop Frank Reibel of St James Church in Kenilworth, scene of the 1993 massacre, ANC senator Christmas Tlivo, and visitors from Finland and Germany.

The stage of the Nico Malan Nursing College hall in Heideveld was decorated with a big blue banner featuring a white dove of peace with the words: "The Truth and Reconciliation Commission (Western Cape and Northern Cape) - Let the Truth be heard, unite a nation."

Unlike the East London hearing last week - where the commissioners and witnesses were seated at tables on a small raised platform at the front of the hall - today they were placed on the stage.

Two small South African flags



**WELCOMING HANDSHAKE:** Truth Commission chairman Desmond Tutu greets witnesses arriving at today's hearings in Heideveld.

are his son, Siyanda Howard Ngudle, and his wife, Beauty Nombulelo Ngudle.

In another case before the commission, evidence is to be heard about Isaac Ndazemsele.

hung from the sides of the stage and there were colourful displays of flowers and poplants at the edges and in front of the stage.

Commission head Desmond Tutu led the commissioners into the hall for the 9 am start.

The names of the five victims involved in today's testimony were read by commissioner Wendy Orr, and Archbishop Tutu asked the audience to stand as he greeted the victims.

After the National Anthem, a moment's silence for victim Khulile Ngudle, who died in detention in 1963, and a prayer, Archbishop Tutu made a short address.

He said testimony in East London last week had moved those who had heard it.

"This is not an easy thing, revealing your pain and trauma to the scrutiny of others... the nation, indeed the world, has been touched by what we have heard."

Picture: LEON MULLER, Chief Photographer

(Madiba) Rani, who suffered torture at the hands of police during the 1960s, when the ANC initiated a campaign of sabotage.

Several hundred people were sent out of South Africa from 1962 on to undergo military training.

Mr Rani is to give evidence of his torture.

Another case involves

Nomakula Evelyn Zweni, who will give evidence about shootings, torture and beatings by police during a campaign against pass laws announced by the ANC and Pan Africanist Congress in December 1959 and launched a few months later, leading to the shootings at Sharpeville and Langa.

The then commissioner of police was warned by PAC leader Robert Sobukwe of the launch of the campaign and was assured of its non-violent intentions.

The PAC called for people to leave their passes at home and to march on police stations and give themselves up for arrest.

This took place at Sharpeville in Vereeniging and Langa and Nyanga in Cape Town.

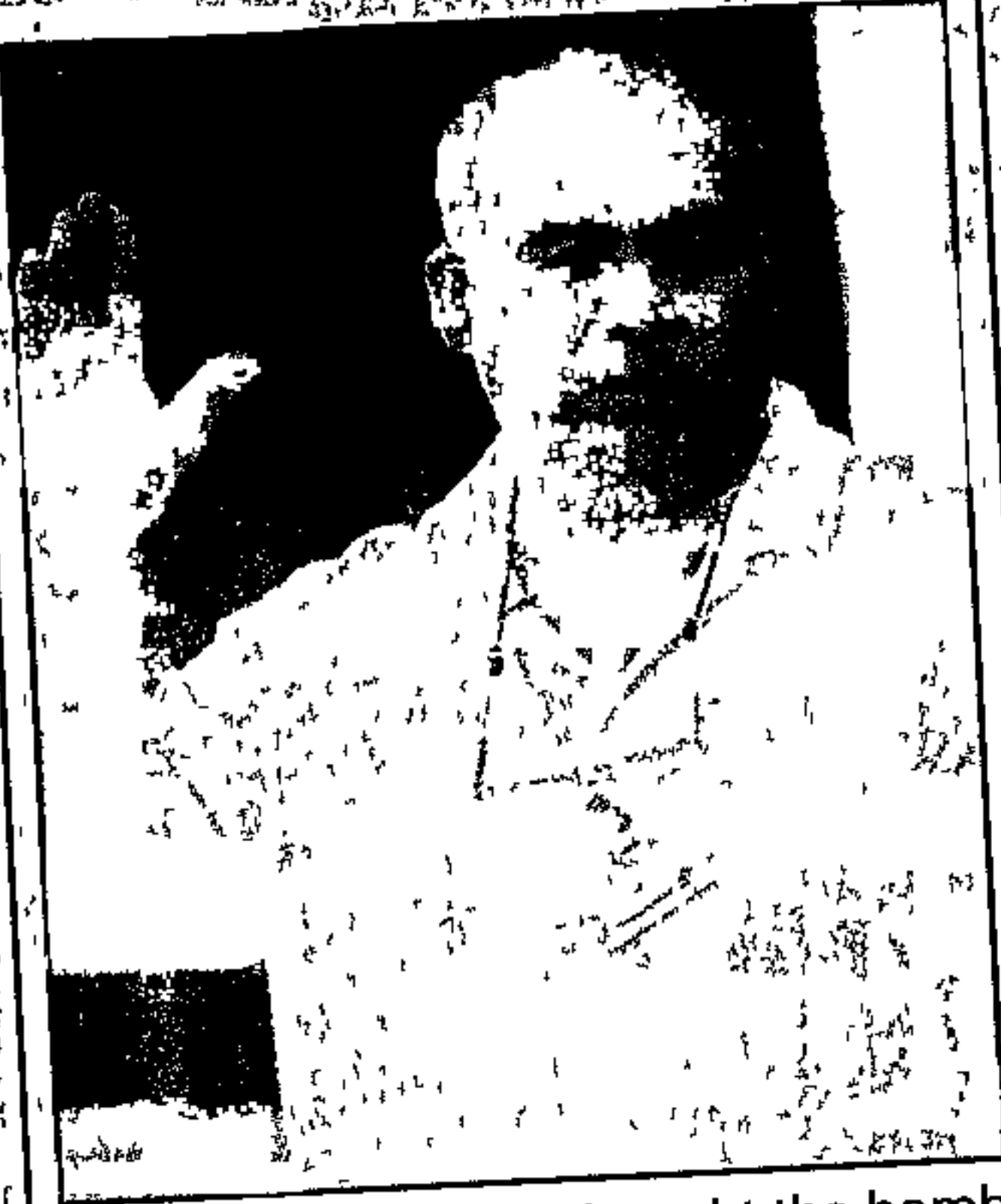
Other evidence will involve Johannes Petrus Henry Thus, who will testify how he was shot during a period of revolt stemming from the Soweto uprising of June 1976, which spread to the Western Cape.

From August that year, the Peninsula experienced mass disturbances, with 137 people dying between August 1976 and February of the following year. Of the 459 people injured, 107 were under 18 years old.



**HEALING HEARINGS:** The crowded hall at the Nico Malan Nursing College in Heideveld, where this week's Truth Commission hearings are being held.





**WILLIAM LITTLE:** I thought the bomb was a nightmare, but it was real.

# Lansdowne man tells of humiliation after blast

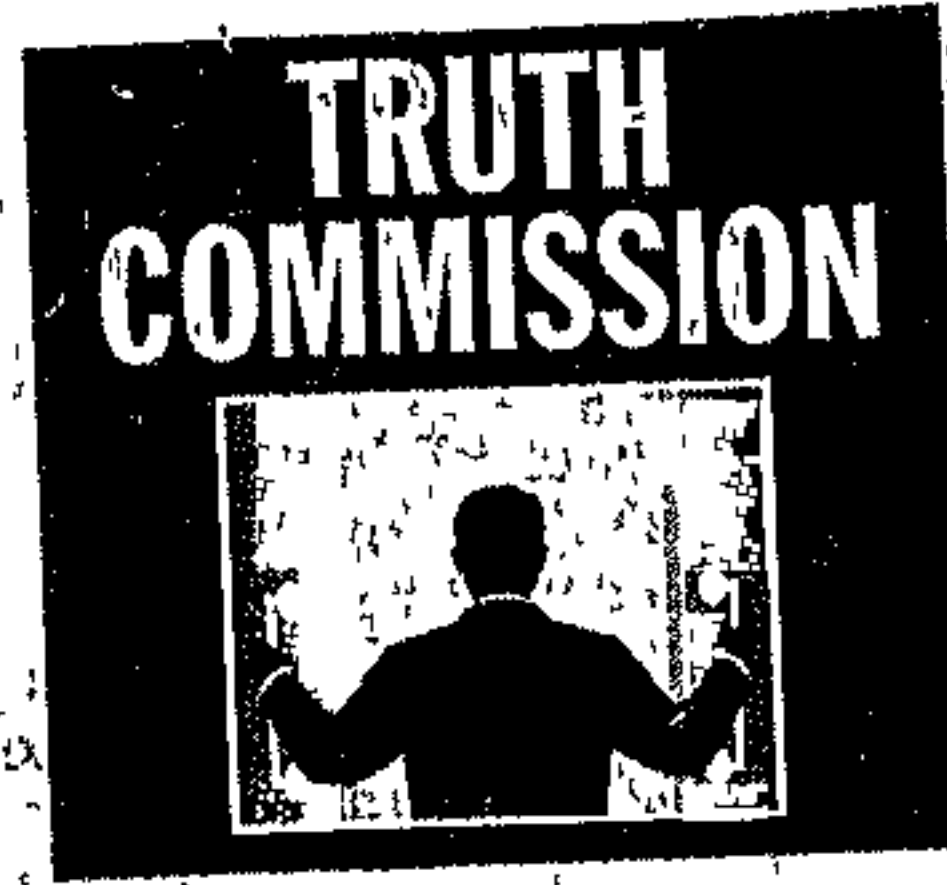
ARG 22/4/96 (252)  
JOHN YELD  
on the Truth and Reconciliation Commission

A LANSDOWNE public servant whose career was shattered after a bomb exploded in his office in Durban in 1982, was the first person to testify on the first day of the Truth Commission Cape Town hearings

The hearings of the commission's human rights violations committee are being held in the Nico Malan Nursing College hall in Heideveld

William Little, who was assisted by his 24-year-old daughter Taryn and the parish priest of the St Aidan's Anglican Church in Lansdowne, the Rev Erica Murray, was dressed entirely in white

He told the commission this was because of his religious belief in the Resurrection



He said he was approaching the commission in a spirit of reconciliation and forgiveness

"What has become very evident is that for the first time, many of us feel people are caring and people are listening"

Mr Little said he had been transferred to Durban as regional representative in the former department of coloured affairs

While they were in Durban, his wife had died during childbirth and he had been depressed by her death

On May 21, 1982, he had been working late and had gone to the toilet on the stairwell between the second and third floors of the building on the corner of Hermitage and West streets

He said he remembered using the toilets but could remember nothing after that

"I was hoping to wake up, that this wasn't real, but this was a nightmare"

His first recollection of the blast came later when he was standing outside in the street. A passerby told police he had heard a man shouting for help from the second floor and Mr Little realised this had been him

"Then it started coming back to me"

Mr Little said the offices had been completely destroyed "It was just one big gap there was absolute devastation. Ceilings were hanging down, steel cabinets became concertinaed"

Mr Little said he still had a Press cutting from the day headlined "Man caught with his pants down"

Mr Little said he had suffered acute anxiety and depression as a result of the attack

He had held an "extremely high-profile position" but had been transferred back to Cape Town as a clerk

"People left me alone because they were under the impression I was mental"

"It was extremely humiliating. I felt strongly it affected my career"

Mr Little said he had believed his eventual discharge from the public service should have been at a higher rank than that of deputy director, but his concern now was not for reparations

"My concern is with those who have little or nothing"

● More reports, pictures on page 6



BD 22/4/96

(252)

# Politics could be the undoing of truth commission

**WYNDHAM HARTLEY  
in East London**

**TRUTH** Commission chairman Desmond Tutu lit a candle at the start of proceedings on each of the four days during last week's first session of hearings. A cartoonist in an Afrikaans daily newspaper asked the question: "Is he lighting a candle or a time bomb?" The question punpoints the enormous dangers facing the commission.

These include the victims' expectations of substantial compensation, that the commission will succeed in unmasking perpetrators and will see to it that they are punished, and the awful possibility that the commission will compromise itself politically, rendering the entire process worthless.

While commission insiders insist that the process which has now begun is about healing, catharsis and confession, there is no doubt that the very foundations of the commission are political.

It was born in the political cauldron of the negotiated settlement which led to the election, and was formed in the tense political atmosphere of the government of national unity and Parliament.

The crimes it will hear about were, largely, politically motivated in the broader sense. It is firmly in the political domain.

If the commission allows its collective judgment to become clouded in the tears and pain of its confessional nature, and ignores the po-

litical dangers, it runs the risk of failing to meet the constitutional imperative to treat all victims, and indeed perpetrators, the same way.

The final witness last Thursday bears mentioning — Joe Jordan, an ANC member of the Eastern Cape provincial legislature.

On a day when 11 witnesses were processed, it was announced that he, in spite of not being on the list, would be the last.

Why? Where the testimony of others had been managed so as to save time, he was allowed to speak for an hour and 10 minutes in excruciating detail.

Hopefully, the latitude allowed was simply because politicians are difficult to shut up.

On a number of occasions, Tutu himself thanked witnesses for their contribution to "our struggle."

Victims of abuses committed in the name of that struggle, the families of councillors or policemen that had been murdered, for instance, will hardly find encouragement in these words to come forward and tell their stories. And if they do not, the truth commission will have failed in its mandate.

Tutu may well have been thinking about the extraordinary sacrifices people undoubtedly made in

the struggle for freedom and was not thinking politically; but perhaps he should have been.

Intentionally or not, the way in which the hearings have functioned in the first week has created the impression that the commission is poised to solve crimes committed many years ago, that it can reopen investigations and succeed where others failed.

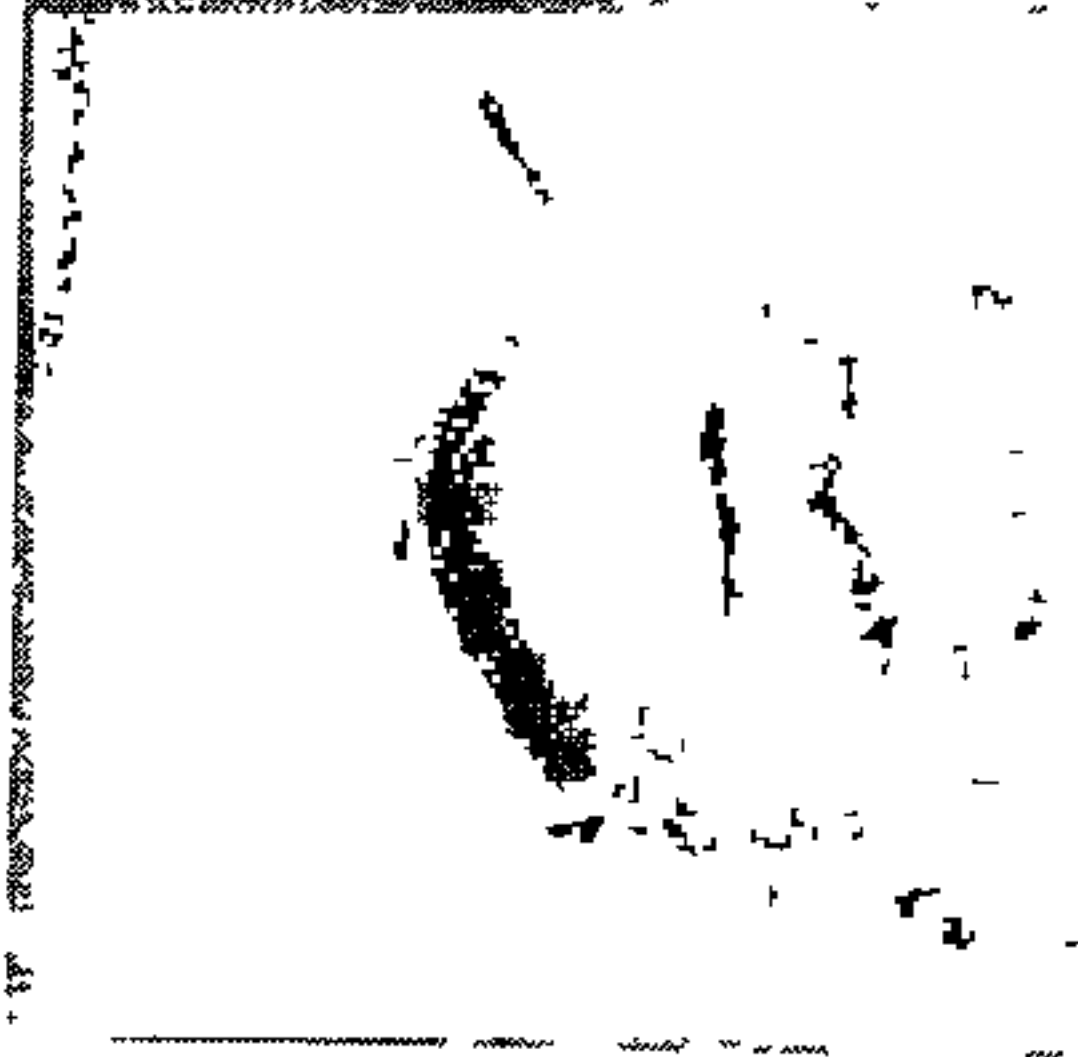
The reality is that while hundreds have applied to tell their stories, thousands more will never go anywhere near a truth commission office, let alone a hearing.

That is a simple fact based on the 33-year timespan of the violations and the maximum two-year lifespan of the commission.

The investigations unit of the commission is 60-strong for the whole country. For its members to solve previously stalled investigations is not going to be possible.

For example, is it likely that a new inquiry will take the case of Matthew Goniwe any further than exhaustive inquest investigations over the years? The impression given is that the commission will be able to do so. The reality is that new evidence will be largely brought through the granting of amnesty to the perpetrators.

The commission cannot possibly reinvestigate cases dating back more than three decades. It does not have the resources, and heightened



TUTU

expectations that this will happen can only discredit the commission in the long term.

Another issue related to the investigations function, which could also influence public acceptance of the final report, is how the victims feel about the punishment of human rights violators.

Many victims concluded their testimony by asking for the commission to find the culprits so they could

be punished in a court of law. Some were also distinctly unhappy at the thought that amnesty would be granted. But this is the commission's "real" investigative tool for breaking new ground. Amnesty for the truth — identifying those who should be punished by promising that they will not be punished — is the trade-off.

Thus the mechanism that will allow the commission to solve cases may also alienate it from some sections of the public. Indeed, when we consider the Constitutional Court challenge from the Biko, Mxenge and Rabero families, that process has already begun.

In recording at least one element of the truth — the reality as perceived and felt by victims — the week was an outstanding success.

Whether they suffered from state violence, attacks by liberation armies or inter-party rivalry, the victims' views are now firmly in the public domain and part of the public record. The young, the old, the infirm, the emotionally and physically harmed, have been able to place their "truth" on the record in a way previously denied to them.

Whether the truth commission can reconcile the various versions of the truth and produce a report that enjoys the general acceptance of the nation hangs in the balance. But, the process has begun, and there is no turning back now.

## BOOKS

# Shock murder<sup>(252)</sup> confession on TV

Star 22/4/96

By ROBERT BRAND

BERNARD

Cape Town - A former member of the police's Vlakplaas unit has for the first time publicly confessed his involvement in the killing of three Port Elizabeth activists

Sgt Joe Mamasela made his confession on SABC television yesterday, only days after the widows of the so-called Pebco Three had asked the Truth and Reconciliation Commission to probe the disappearance of their husbands in 1985.

The confession, in which Mamasela said he and his colleagues had been involved in between 30 and 35 killings, came on the eve of the second week of hearings, starting in Cape Town at 9am today

Mamasela implicated several senior members and former members of the security police in the murders of the Pebco Three. He said he had acted under the instructions of Col Eugene de Kock, the former Vlakplaas commander now on trial on charges of murder

Another policeman allegedly implicated is Col Gideon Nieuwoudt, mentioned by a witness before the commission last week as the person who showed him a hand preserved in a bottle. The hand is alleged to belong to Sicelo Mhlawuli, one of the Cradock Four who were slain weeks after the disappearance of the Pebco Three

In a letter sent to the SABC before last night's programme was screened, Nieuwoudt's lawyers denied the claims against him

The Pebco Three - Siphon Hashe, Champion Galela and Qaqawuli Godolozzi - disappeared in May 1985 after going to Port Elizabeth

also  
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## Shock murder confession

(252)

► From Page 1

Star 22/4/96  
airport to meet a British diplomat.

Mamasela said police had intercepted a call from activist Thozamile Botha to the British consulate to talk about funding for the PE Black Civic Organisation.

Police then phoned Hashe, pretending to be the British diplomat, to entice him and his colleagues to the airport. There, Mamasela said, the three were bundled into a minibus. They were taken to a farmhouse near Cradock where, he said, they were beaten and tortured to obtain information. The men were hit with an iron pipe until they died "one by one".

Mamasela is co-operating with Transvaal Attorney-General Dr Jan D'Oliveira in several murder investigations involving policemen.

Mamasela was named before the Harms Commission of Inquiry into police hit squads as one of a squad of four that operated under Capt Dirk Coetzee and murdered, among others, attorney Griffiths Mxenge. Before the Harms Commission, Mamasela denied being involved in any killings. It is not known whether he has applied for amnesty from the Truth and Reconciliation Commission.

Members of the commission yesterday expressed disappointment that Mamasela had chosen to make his confession on television.



CAPE FLATS FAMILY TO TESTIFY

# Son 'was shot by police captain'

(252) CT 22/4/96

THE Truth Commission is to hear allegations this week that a police captain shot dead a city pupil in 1976, writes **LINDIZ VAN ZILLA**.

**T**HE parents of a Cape Flats family whose youngest son was apparently the first person killed in the city during the 1976 student uprisings is to testify at this week's first Cape Town hearings of the Truth and Reconciliation Commission.

Mrs Rebecca Truter of Bonteheuwel still safeguards aged newspaper clippings from the day her son, Christopher, was killed during a student demonstration.

A press picture taken the day Christopher died shows a police captain firing his service pistol from a horizontal position. Mrs Truter and her husband John allege that this police captain, whom they named, was the man responsible for their son's death on August 25, 1976, near Bonteheuwel High School.

CAPE TOWN

VT.

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of Cape Town, Dr Stuart Convocation to attend a April 24 at luncheon adopt and affirm UCT's

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lawyer came out and said the case was finished, that the police captain had fired into the air."

Mr Truter said this was not true as the photograph clearly showed the captain firing horizontally. He also alleged that witnesses had seen the captain firing into the crowd of pupils.

Truter said "I think of my son everyday, and it still hurts."

Mrs Truter said that at the time of her son's death she worked as a char and her husband earned R8 a week, with which they had to support seven children.

"There were many days when we had no food. I was forced to take the elder children out of school."

She did not take Christopher out of school as he wanted to become a lawyer to "earn enough money so that his Mamma would never again have to make do."

Mrs Truter expressed anger that "the police captain" gets a police pension and sits high and mighty because he's got money."

She wants the TRC to "stop his pension so he can feel how I struggled."

Mrs Truter said that after the inquest a detective had told her Christopher's wound was caused by a brick thrown by a pupil.

at the TRC's Cape Town hearings at the Nico Malan Nurses' Training College in Helleveld this week. Christopher, 15, a pupil at Bonteheuwel High School, was shot in the head and spent five days in a coma at Conrade Hospital before dying.

Mrs Truter said "At the first inquest we stood in a corridor for hours. We didn't know what was going on inside. Then the



**SEARCH FOR TRUTH** Mrs Rebecca Truter, whose son Christopher was killed in a student demonstration in 1976, holds up a faded photocopy of a press photograph of a policeman firing his pistol, allegedly into a crowd of pupils. Truter believes he was responsible for her son's death. **PICTURE: BERNY GOOL**

## Imam's family to attend hearings

**ANEEZ SALEEM AND LINDIZ VAN ZILLA**

THE family of Imam Abdullah Haron, who died in solitary confinement in 1969, allegedly after sadistic torture by security police, will be present at the Truth and Reconciliation Commission hearings — but only as observers.

His daughter Fatima, a toddler when she last saw him, said she might attend the commission's Cape Town hearings this week.

"But I will only go to observe proceedings on behalf of my family," she said yesterday. "The entire matter of my

father's death remains very traumatic for the family, and appearing before the commission was very suddenly sprung on us last week. We have to consider all issues very carefully."

Inquest findings could not explain 26 bruises on the Imam's body as well as a broken rib and haematoma at the base of his spine. The magistrate found he had died of natural causes, probably after a fall down a flight of stone stairs.

His captors, the Van Wyk brothers Andries and Spyker and Major Dirk Genis of the security police, were never charged but the

Haron family alleged he had been beaten to death.

At the time of his death Haron had spent 133 days in detention under the 180-day detention clause of the then Terrorism Act.

Genis, now retired, has denied involvement in Haron's death. Told of the possibility of Haron's family testifying before the TRC, Genis said "I have nothing to hide." He denied he might apply for amnesty.

Andries reportedly died some time ago. Spyker (who allegedly earned his nickname because of torture methods involving nails) could not be traced.

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**ONE HOUR**



# 'Dirty tricks and torture'

(252) *ARLW* 23/4/96

## The shot that changed his life

THE TRUTH Commission today heard evidence of police torture and dirty tricks from former student activist Zenzile May who as a Congress of South African Students activist, was detained in 1980 for 11 months in the Transkei and South Africa.

He outlined to the commission in Cape Town how he was beaten, tortured and eventually had his name smeared by the police who intimidated that he was a paid informer.

Mr May told the hearing that he joined Cosas in 1979 and started organising branches in Port Elizabeth and Ciskei.

"During one of our campaigns, the school was closed and we were told to report back later in the year.

"When we arrived on the day, the police saw me and after a chase arrested me. They beat me until I made as if I was dead. Then they took me to a police station where I heard other pupils also crying. I was interrogated there before being thrown into the dog cage of a police van and taken to Queenstown."

He said he was again interrogated and beaten by sergeants Jordaan and Nel and a Captain Ven-ter.

"They put a plastic bag over my face and wanted to know who the people were that were influencing Cosas and were recruiting people for Umkhonto we Sizwe.

"On another day they dressed me in police camouflage fatigue and put a balaclava over my face and took me for a ride.

"After a while they stopped and threatened to kill me. Captain Venter walked about 20 paces before pointing his gun at me. He then fired a shot which missed me and after I told him that I had nothing to say they took me back to the police station."

Mr May said he stayed there for another two months before being charged under the Terrorism Act, but during the trial, the charges against him and two others were withdrawn.

On his release, he left Queenstown and went to Johannesburg to attend the funeral of Neil A. Set



By JOHN YELD and JOSEPH ARANES Staff Reporters



ZENZILE MAY:

Police captain "walked about 20 paces before pointing a gun at me. He then fired a shot."

who died in detention, and also to attend a meeting at Winnie Mandela's Brandfort home.

"I was arrested at Brandfort but was released after two days. I returned to Port Elizabeth and security police came to my house and took me away. They questioned me about my presence in Brandfort and asked me to work for them. I refused and the next day they released me.

"But later a police receipt with my name on it was found at a place where Cosas members normally hung out. This implied that I was a paid informer and caused division in the organisation with half

the people believing I was one. "I decided not to be active in politics any longer and kept a low profile. Thus and the fact that many people knew how I had previously suffered, probably saved my life."

He said the police often used this tactic to implicate people and often these people were killed in the townships.

"While the township may have committed the necklacing killings, it was often security police who were directly behind it."

His long-time friend and fellow Cosas activist Mr Lamani told the commission he was at the Cosas house when the security police dropped the receipt.

Mr Lamani said Cosas activists were at the house when the security police, including Gideon Nieuwoudt who is involved in a case relating to the bombing of a police vehicle, paid them a visit.

"He took a packet of cigarettes and small pieces of paper from his pocket and put it on the floor in front of him. As they were leaving after staying for about 30 minutes talking nonsense, Nieuwoudt picked up the cigarettes and some of the papers but left one slip on the floor.

"We jumped to pick it up and saw it was a receipt with Zenzile's name on it.

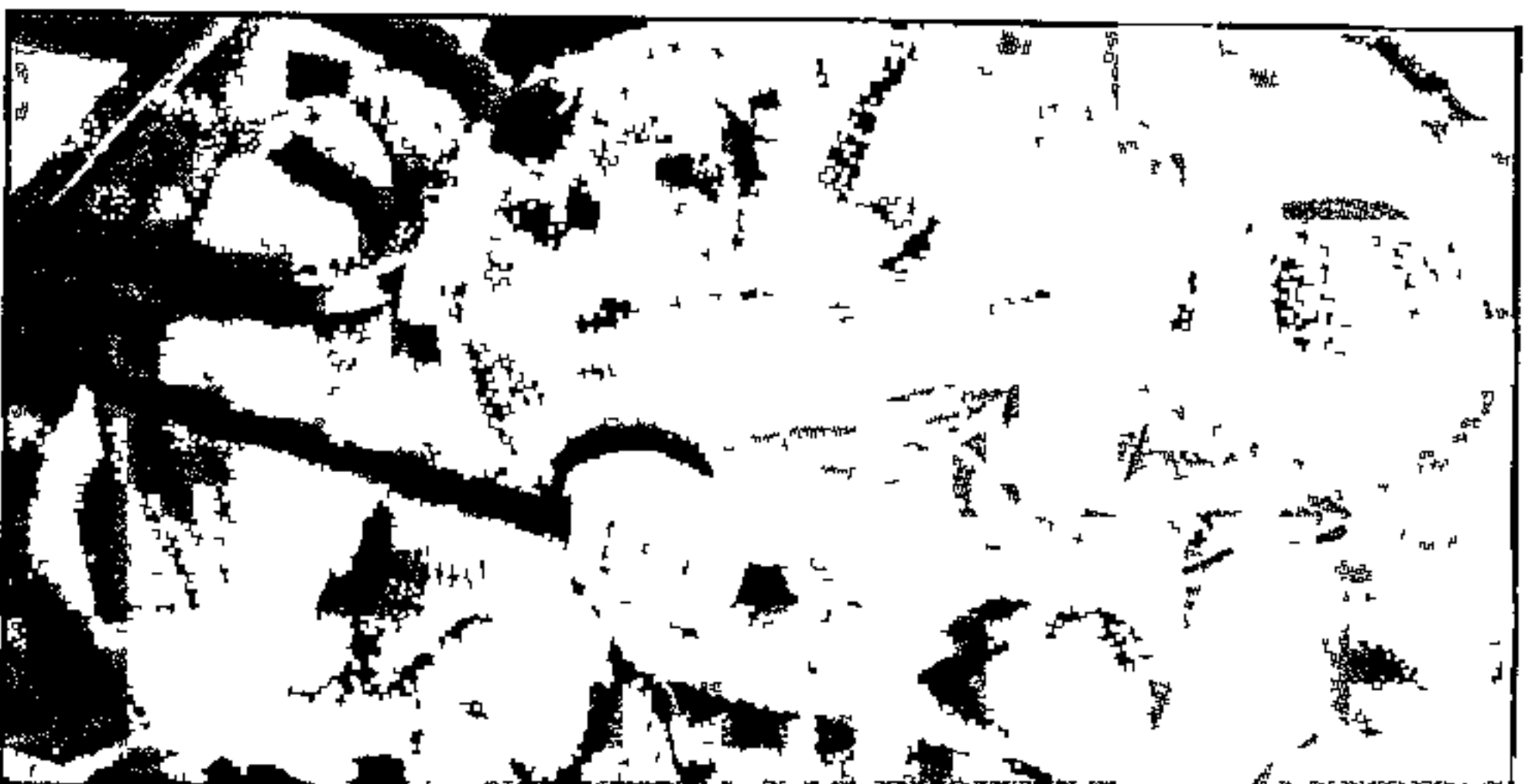
"The next day we convened a Cosas executive committee meeting to discuss the matter and we never could resolve the matter."

In his remarks after hearing the testimony Archbishop Tutu saluted the youth of the country for the remarkable way that they still smiled, loved and showed a lack of bitterness in spite of all the suffering they endured.

Archbishop Tutu had opened the second day of the hearing with a prayer and read extracts from two letters he had from members of the public yesterday.

In the first was a moving poem of hope that the commission would heal the country's wounds.

The other, in Afrikaans, was a passionate plea for forgiveness from the writer who had remained silent and ignorant while all the atrocities were being committed



JOHANNES TITUS: Shot by police while returning from the fish shop.

# Truth forum probe into missing three

THE Truth Commission's investigation Unit has begun an urgent probe into the whereabouts of the "Pebo Three" activists who disappeared in the Eastern Cape in May 1985.

This follows a request to the commission in East London last week by the widows of the missing men, and disclosures on television on Sunday evening by a former Askari (a turned ANC guerrilla) that he had witnessed their brutal torture and killing at the hands of security police in a disused farmhouse near Cradock.

Also, the commission has been told by Safety and Security Minister Sydney Mufamadi that he had ordered police national commissioner George Frvaz to deal with the civil claims of the "Cradock

FOUR" widows as "a matter of extreme urgency."

This follows faxes to Mr Mufamadi and other ministers by some of the widows had told the commission of financial hardship and the long delay in trying to get the claim settled.

A commission spokesman said yesterday that one of its objectives - as laid down in the Promotion of National Unity and Reconciliation Act - was to establish the fate and whereabouts of victims of gross human rights violations.

It had noted the claims made by one-time Vlakplaas Askari Joe Mamasele during the television programme and was aware that he had provided Gauteng Attor-

ney-General Jan D'Olivera with information about this and other incidents.

"As a matter of urgency, the Investigation Unit today began a special investigation into the matter and will be seeking the cooperation of the Attorney-General," said commission deputy-chairman Alex Boraine.

The commission welcomed information about gross human rights violations between 1960 and 1993 and appealed to anyone with such knowledge to approach the investigation unit, Dr Boraine said.

Answering journalists' questions, commission chairman Desmond Tutu said the commission had not changed its modus operandi since the application for

During one of the later states of emergency, Johannes had walked to the shop one day at 8.30am and had been picked up by police who had refused to tell her where he was being held.

Doctors at Groote Schuur, where she had gone to get special milk for her son, had finally traced him to Victor Verster prison where he was held for 14 days.

He still had regular treatment at a day hospital for his stomach. "Actually, he suffers a lot - he's more sick than healthy." Mr Tutu's wife Marilyn said they had three children.

Mrs Margaret Titus appealed to the commission to help her son's family as they had to live on his disability pension of R410 a month and maintenance grants for their children.

Archbishop Tutu responded "Thank you for coming to share your grief. We hope we can do something to help."

an urgent Supreme Court interdict against it by two former security policemen who were to have been named in East London in connection with the alleged poisoning of political activist Sipho Mthimkhulu.

The application is to be heard tomorrow.

The commission was still informing alleged perpetrators that they had been named in victims' statements and was asking for a written response, Archbishop Tutu said.

The commission would subpoena anyone it believed could help it to meet its objectives, but the investigation unit needed to look at specific cases first, Archbishop Tutu said.







# Fivaz told to pay 'Cradock four' widows R1,5m damages

Wyndham Hartley

CAPE TOWN — Safety and Security Minister Sydney Mufamadi has told police commissioner George Fivaz to deal with a R1,5m civil damages claim from the widows of the "Cradock four" as a "matter of utmost urgency".

Truth commission chairman Desmond Tutu disclosed the response from Mufamadi at the conclusion of the first day of human rights violations hearings in Cape Town yesterday.

The commission sent faxes to the departments of safety and security, justice and defence after being told that damages of R1,5m offered to the widows of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Scelo Mhlawuli had been stalled in the defence department for more than a year.

In 1994 an inquest found security forces responsible for their deaths. However, the SANDF said last week the SANDF had not been involved in a settlement with the families.

Commission deputy chairman Alex Boraine said the investigations unit had also taken note of former W/O Joe Mamasela's admission on television of his part in killing the "Pebco Three".

The wives of the three, Port Elizabeth Black Civic Organisation activists — Siphon Hashe, Qaqawuli Godolozzi and Champion Galela — said their husbands had vanished after being lured to the airport. Boraine said the investigators were seeking the help of Gauteng's attorney-general, whom Mamasela, a former Vlakplaas member, had been helping to probe violence.

During yesterday's hearings in Athlone, Beauty Ngudle told of events leading to the death in detention of her husband, Looksmart Ngudle, regarded as the first activist to die in jail after detention without trial was legalised in 1963. Although her husband told a magistrate he was assaulted by police and had coughed up blood, an inquest found that he had hanged himself with the cord from his pyjamas, she said.

The state buried Ngudle without informing his family and took the extraordinary measure of banning the dead man. His widow wants his bones returned so he can be buried properly.

Nomakula Zwemi told the commission beatings and police harassment during the pass law protests in 1960, as well as fears that police would kill her, eventually led to her exile in 1978. She claimed that during shootings at Langa near Cape Town on March 21 1960, more than 20 people died. The official toll for the incident was two.

Isaac Rami told how he left for military training in Tanzania in 1961. On his way back to SA he was captured by Rhodesian police and tortured.

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MYSTERY OF LANGA KILLINGS

# TRC told of mass graves

CT 23/4/96

(252)

**THE TRUTH AND RECONCILIATION Commission yesterday heard evidence from witnesses to the police shooting of protesters during a march in Langa against the pass laws in 1960, writes ROGER FRIEDMAN.**

**T**WO sobbing grandmothers have told the Truth and Reconciliation Commission of possible mass graves in Cape Town, where the bodies of scores of anti-pass demonstrators shot dead by police during unrest in Langa in March 1960 were apparently dumped.

The events in Sharpeville on March 21 that year led to an international outcry, the banning of the ANC and PAC, and the declaration of the first state of emergency — but little is known of what transpired in Langa that day.

Both the ANC and PAC announced in December 1959 that they would conduct campaigns against the pass laws. The PAC campaign was launched on March 21. It called for people to leave their passes at home, and to march to police stations and give themselves up for arrest. In Sharpeville, where about 15 000 people gathered, 69 were to lose their lives. In Langa the crowd was smaller — between 5 000 and 10 000 people. No one knows for sure how many were killed.

For decades Langa residents have claimed that dozens of marchers were moved down by police and buried in trenches in an open field near the N2. The existence of the trenches became an urban legend — yesterday the

Truth and Reconciliation Commission heard startling evidence that the legend could be true.

First Mrs Nomakula Zwen testified that she had seen more than 20 bodies scattered around the old bus terminus in Langa after the shooting stopped. Then her friend, Mrs Gristle Nyembezi, told the commission she had counted 175 fresh graves dug for the victims of the riots along NYS in Guguletu.

According to the Institute of Race Relations in its 1959/60 survey, three people died at Langa, including Cape Times driver Among weaponry police used to disperse the crowd was a Browning machine gun mounted on a Saracen armoured car.

The lead story in the Cape Times the following day, March 22, quoted then-Minister of Justice Francois Christiaan Erasmus saying it was impossible to give accurate figures of the casualties. A Cape Times reporter was quoted as saying "I myself saw at least 12 people who appeared to be dead".

A few days later, introducing the debate on the Unlawful Organisations Bill, Erasmus lashed out at journalists and clerics for sending out "deliberately false" reports about the disturbances "with the intention of besmirching South Africa".

Prime Minister Dr Hendrik



**THE HORROR:** Mrs Nomakula Zwen is overcome as she recounts a life of terror as an anti-apartheid activist. Zwen said she counted about 20 bodies at the old Langa bus terminus after police fired on demonstrators protesting against the pass system on March 21, 1960. **PICTURES: BENNY G.**

Verwoerd complimented the police on behalf of the House for their courage and efficiency in dealing with the riots. He turned down opposition requests for a judicial inquiry — saying this "could provide a platform for agitators" — but then changed his mind under international pressure.

Verwoerd appointed Mr Justice Martinus Diemont to investigate the Langa shootings. Diemont found that the police commanding officer was justified in ordering his men to open fire, and that the firing was controlled and had not carried on too long or in breach of the Police Standing Orders.

But the judge found that on their way back to the police station some policemen carried on firing from their vehicles. This shooting he condemned as unjustified and unlawful.

Yesterday, in their testimonies to the TRC, the two grandmothers relived the terror. "Bullets were flying all over. I had next to a shop and I asked God, 'Is it You who is allowing this? Is it You who wants us killed?'"

"The boers were shooting at us from Saracens. There were bodies strewn all over. I knelt down and tried to pray, 'God, I am begging you, God. We are tired of apartheid. A boer treats a dog better than a human being.'"

Nyembezi recalled counting the graves next to the NYS in Guguletu. "There were 175, I counted them myself."

Approaches were made to MP Mrs Helen Suzman and the Black Sash. "Mrs Suzman told us some thing like this would never happen again."

● The TRC announced yesterday it is to step up its investigation

**MORE REPORTS AND PICTURES — PAGE 3**

into the alleged killing by security policemen based at Vlakpaa three Port Elizabeth Black C. Organisation activists in 1985.

The announcement follows the screening on television of an interview with a security policeman. Warrant Officer Mamasele, in which he describes his part in the killings of Mr Siy Hashie, Mr Champion Galela, Mr Gagawulu Godolozu.

The activists' widows appeared before the commission in London last week.

Tutu said the commission would subpoena whoever deemed appropriate in its quest for the truth.

"We will even subpoena a President if it is necessary."

● Tutu also announced that the commission had been in touch with the Ministry of Safety and Security in an attempt to facilitate an urgent and prompt



**CRIPPLED** Mr Johannes Thus, who was almost killed by a police bullet in 1976, when he was 15, appealed to the Truth and Reconciliation Commission yesterday for financial assistance. ● See Page 3

# TV is missing out on truth hearings

(252) Star 23/4/96

BY CHERYL HUNTER

South Africa's grisly past is being related to the Truth and Reconciliation Commission for the first time, but most people will miss the revelations because the SABC does not have enough money to maintain live coverage of the event.

The purpose of the commission is to bring victims and perpetrators into the open and, most of all, to encourage reconciliation.

But it will not be as successful as planned if most citizens have no access to the hearings.

The SABC recognises this and has approached Deputy President Thabo Mbeki for additional funding, but there is no sign of it yet.

An SABC spokesman said they appreciated the importance of the commission and were investigating "all possible avenues of funding".

Commissioner John Allen said the commission and the SABC had had discussions about "what could become a very exciting pilot project allowing all South Africans to see the truth about the past".

"In overseas countries, the question of cameras in hearings is still controversial, but in East London this week we had cameras which were operated without intrusion into the hearings, but have given South Africans powerful television images which graphically illustrate the suffering and the pain of the past".

SABC news coverage of the commission continues, with two to three minutes every day and about 40 minutes of highlights on Sundays.



# Johannesburg

## sessions will hear stories of 30 witnesses

Cape Town - The Truth and Reconciliation Commission hearings in Johannesburg next week will take place at the Central Methodist Church on the corner of Pritchard and Smal streets.

The commission has announced that the hearings will run from Monday until Thursday.

A commission spokesman said its Johannesburg regional office had received hundreds of applications from people who wished to testify, among them well-known politicians now in important government positions.

Statement-takers had visited Botopong, Soweto, Pretoria, KwaThema and other areas in the past few weeks to obtain statements from potential witnesses.

Between 20 and 30 witnesses will be selected to give evidence.

■ The Minister of Safety and Security, Sydney Mufamadi, has instructed police commissioner George Fivaz to deal urgently with the state payout due to the widows of the men who became known as the Cradock Four.

This follows a fax sent by the Truth and Reconciliation Commission to Mufamadi and the ministers of justice and of defence last week asking them to expedite payment of a settlement reached with the widows.

An inquest held the security forces responsible for the murders of Cradock activists Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlawuli near Port Elizabeth in 1985.

Their widows told the commission in East London last week an out-of-court settlement had been reached with the state, but the money - believed to be R1,5-million in total - had not yet been paid to them.

■ Testimony from a witness in Cape Town yesterday that a district surgeon had refused to treat him after he had been tortured showed that "every area of life was dominated by a system (apartheid) determined to maintain itself against all odds", commission vice-chairman Dr Alex Boraine said.

Former MK soldier Isaac Ram said the surgeon - whom he did not name - had told him that he would "hand in pal" if he helped Ram. Thus showed that almost every area of society, including "unfortunately" even the medical profession, was under the sway of apartheid, Boraine said.

# Truth Commission begins investigation into Pebco Three murder claims

Cape Town - The Truth and Reconciliation Commission has launched its own investigation into fresh allegations by former policeman Joe Mamasela that the security police murdered three Port Elizabeth activists.

The commission's investigation head, Dumisa Ntsebeza, said he might subpoena people implicated in the murders by Mamasela

to testify before the commission's human rights violators committee.

Mamasela said on SABC television on Sunday he had been part of a team which had kidnapped the so-called Pebco Three from the Port Elizabeth airport in 1985 and taken them to an abandoned farmhouse near Cradock.

There, the three - Champion Galela, Qaqawuli Godlozi and

Sipho Hashe - were systematically tortured and beaten with an iron pipe until they died, he said.

He named two security police officers he claimed were involved in the hearings, including Colonel Gideon Nieuwoudt, who is standing trial in Port Elizabeth for four unrelated murders.

Nieuwoudt's lawyers have denied their client's involvement in

LEON MULLER

the killings.

The widows of the three asked the commission in East London last week to investigate the men's disappearance, find their bodies and identify the individuals responsible for their murders.

Commission vice-chairman Dr Alex Boraine yesterday said the commission had taken "particular note" of Mamasela's claims. He

said the investigations unit would start immediately and would seek the co-operation of Transvaal Attorney-General Jan D'Oliviera, to whom Mamasela has made a full confession.

Mamasela is a state witness in the trial of former security policeman Eugene de Kock, who faces seven charges of murder in the Pretoria Supreme Court.

Meanwhile, with the hearings in KwaZulu Natal less than three weeks away, the commission is still urgently seeking a meeting with IFP leader Mangosuthu Buthezi.

The IFP opposes the commission, and there are fears that IFP-aligned chiefs in the province could intimidate witnesses and prevent them from testifying.

# Grisly scars of 1976 police bullet displayed

R-1 rifle tore away stomach of Johannes Titus, then 15, returning from Cape Flats fish shop, Truth Commission told

REPORTS BY ROBERT BRAND  
Cape Town

Johannes Titus yesterday unbuttoned his shirt to show the Truth and Reconciliation Commission his abdomen, horribly disfigured by a police bullet 20 years ago.

Titus, now resident in Mitchell's Plain, was shot during rioting in Hanover Park, Cape Town, in 1976. He was 15 years old. The bullet, from an R-1 military rifle, tore away his stomach and split his entrails on to the dusty Cape Flats street.

His mother, Margaret Titus, found him in an ambulance with a medical orderly holding what was left of his intestines in both hands. The orderly, Mrs Titus told the commission, barked at her: "Don't get in here, *ky's klan wrek* (he's already dead)".

It was a time of huge political tension, with school children

fighting for the streets of Soweto. The "unrest" spread to the West-om Cape in mid-June. During the next six months, 137 people died on the Cape Flats, and 459 people were wounded by police gunshots, 107 of them younger than 18.

But Johannes Titus was not part of this upheaval. Mrs Titus said he was returning from a fish shop where she had sent him to buy food for his siblings.

Days later, a policeman came to her house and apologised for shooting Johannes, she said. He never told her his name.

Titus spent a year in various Peninsula hospitals and had nine operations to fix the hole in his stomach. Then he was charged with public violence and found guilty, but the magistrate decided he had suffered enough and imposed no further punishment.

# Witness tells of massacre of PAC protesters

Cape Town - Startling claims about the number of people killed at a PAC pass law protest in Langga, near Cape Town, were made before the Truth and Reconciliation Commission yesterday.

Witnesses claimed as many as 20 people were shot dead by police on March 21 1960. The official death count was two.

The demonstration took place on the same day as the Sharpeville massacre, where 69 people were shot dead.

Nomakula Zwem was part of the Langga crowd.

She told the commission bodies were strewn all over the place after police baton-charged and shot at the protesters. She counted at least 20 bodies, she said. She herself was beaten up by the police.

Another witness, Ginty Nyeenbes, said she had seen "hundreds" of bodies after the rally had been broken up by police. At the time, police denied per-

held him under State of Emergency regulations for 14 days at Victor Verster prison.

Today, Johannes Titus still cannot stand up straight. The stomach wound bends his body forward and he needs a stick to walk. He cannot eat solid foods and survives on ice cream and liquids. Mrs Titus said he needs treatment once a month. He has to support his wife and three children on a disability pension of R410 a month.

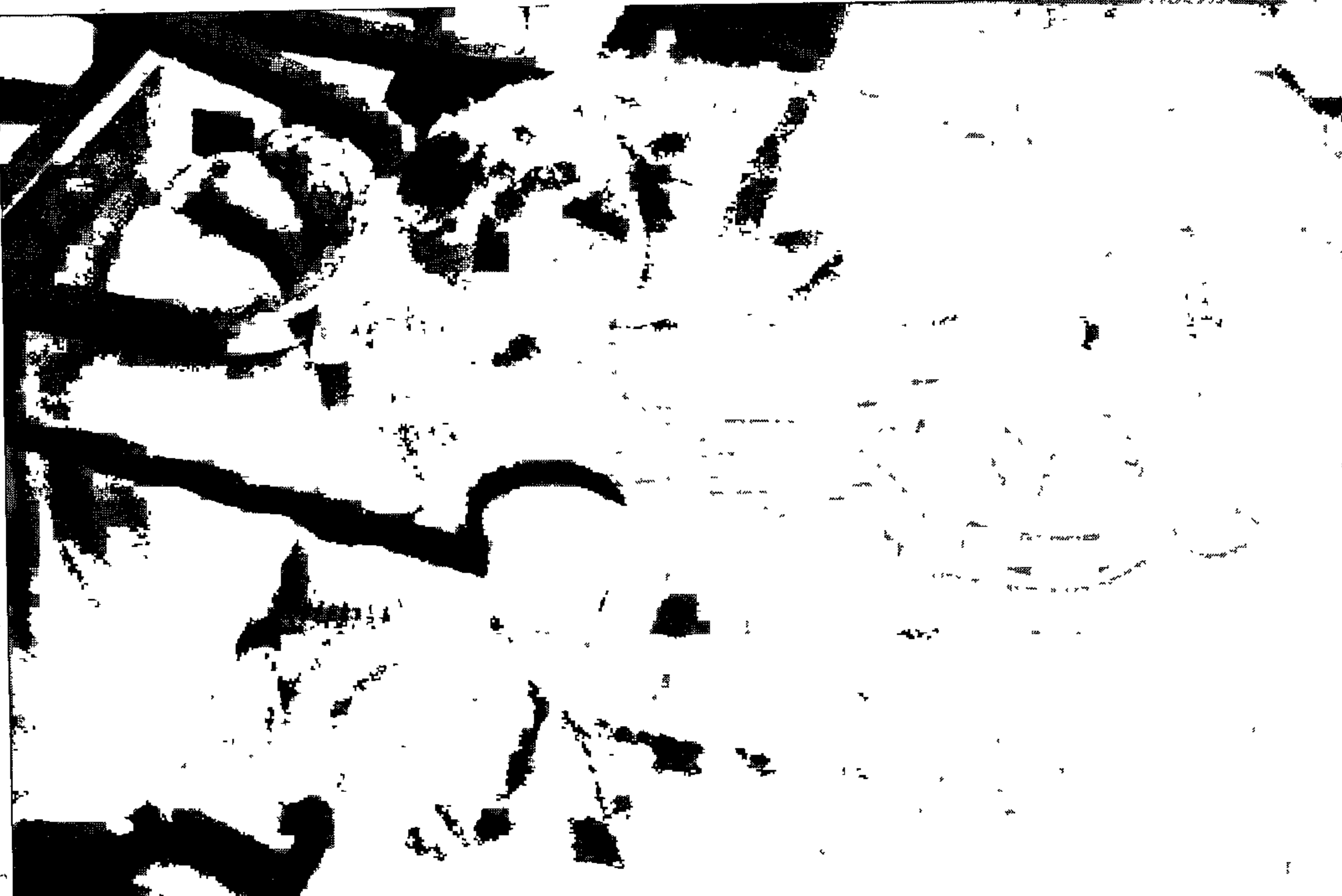
Mrs Titus asked the commission to grant her son financial assistance "because they have just received a house after waiting for 10 years and there is nothing in it".

Then she asked her son to show the commission his scars. There was a collective gasp from the audience as he lifted his shirt. Where there should be a stomach, there is just a huge red weal. Another piece of evidence that the scars of apartheid are real.

sistent rumours that dozens of people had died and were buried in secret trenches along the N2 highway next to Langga.

Zwem said "Bullets were flying all over. I had behind a shrub. The Boers were shooting at us from the Saracens (armoured vehicles) at the pass office".

Zwem said that after the shooting she didn't want to do anything. "I didn't even want to go to work at the white man's place. They treated us like monkeys".



Two decades later, and still in pain ... Johannes Titus, whose mother told the Truth Commission yesterday of his ordeal since a police bullet maimed and disabled him in Cape Town in 1976.



# Hope that TRC will find lost son

Sowetan  
24/4/96

(252)

Mnyakeni disappeared 10 years ago and his family wants another chance

By Sharon Chetty

**T**HOMAS MNYAKENI disappeared 10 years ago in the former KwaNdebele. He was last seen at a police station in the homeland but despite consistent efforts to trace him, he has not been heard of since.

Mnyakeni is among the many South Africans who disappeared or died under strange and mysterious circumstances during the turbulent apartheid years.

After a decade of searching, his parents, Jakob and Lettie Mnyakeni are hoping they will get another chance at finding out from the Truth and Reconciliation Commission what happened to their child.

Mnyakeni, who used to be known by the nicknames "Mobe", "Frans" and "Forman," was 20 years old and lived at 847 Tweefontein H section in KwaNdebele when he went missing on June 12 1986 at around 10am.

## Badly injured

With help from his friends, who were also arrested on that day, his parents and church workers were able to work out that he was badly injured and thereafter spent about three months in police custody.

From what they have been told, it appears as if Mnyakeni was injured at the hands of the notorious Mbokodo, a vigilante group led by Piet Ntuli, the homeland's minister of internal affairs (Ntuli was killed by a car bomb in August 1986).

Mbokodo, which was sponsored by the South African Police (SAP), spearheaded the homeland's drive for independence, stifled dissent and "took care" of anyone who opposed the bantustan government.

Mnyakeni's friend Lucky Msweni was at home on that day when he heard shots being fired and saw people running in the streets, shouting that Mbokodo was attacking the village.

**It appears as if Mnyakeni was injured at the hands of the notorious Mbokodo, a vigilante group led by Piet Ntuli**

Mnyakeni and Msweni were both running away from Mbokodo when they were separated in the confusion.

Msweni eventually managed to get back home but he was later found and sjambokked by Mbokodo members and taken away in a kombi.

Mbokodo drove him around Tweefontein H section for about three hours while they picked up people. SAP members then stopped the kombi and Msweni and the other detainees were transferred to the police van.

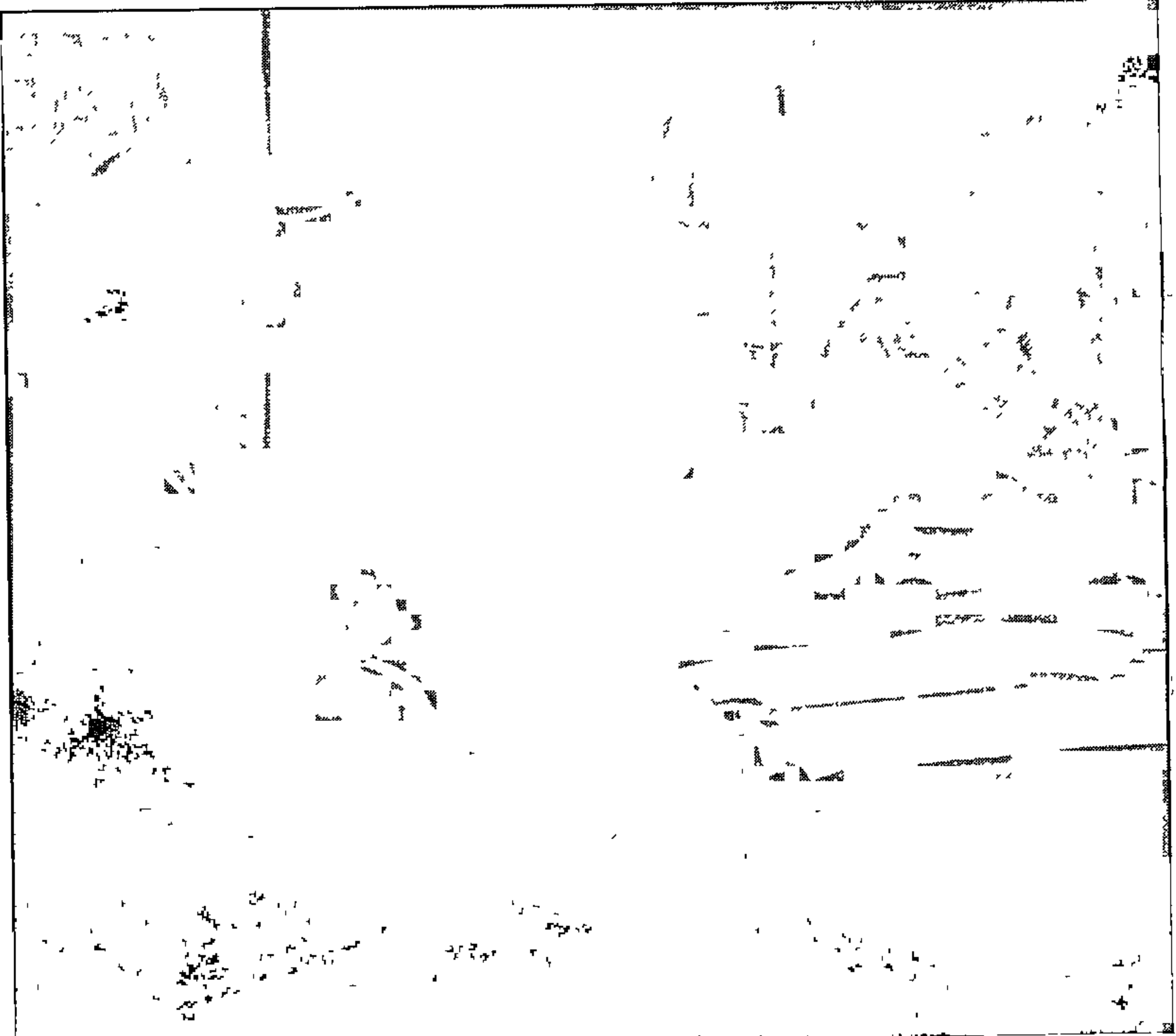
Again he was taken into another kombi and this time he was accompanied by two policemen in civilian clothes.

When the kombi was stopped in Tweefontein F section near a factory, Msweni saw that there were more security vehicles and policemen in blue uniforms assembled there.

A medical unit had been set up by soldiers and, as he needed attention, he went over for assistance. While he was being attended to, a white light delivery van, driven by one of the people in the area pulled up near him.

The van had no canopy and he could see several injured people in the back. As they were being removed, Msweni spotted Mnyakeni among them and went to him.

Mnyakeni's lower left leg was injured and he was bleeding profusely. He was moving his head as if in pain and although his eyes were open, he was unable to say anything.



Truth Commission deputy chairman Dr Alex Boraine and chairman Archbishop Desmond Tutu at this week's hearings in Cape Town. The commission is the only hope for the family of Thomas Mnyakeni, who went missing in 1986. PIC CAPE NEWSPAPERS

Two men carried Mnyakeni from the white van into a blue van, where he remained for a short time before he was carried to an ambulance.

This was a white kombi with a red cross on the side and it was driven by a black woman who wore a white uniform. A red light was flashing as the kombi drove off, recalled Msweni.

What happened next is uncertain. At least two people saw Mnyakeni at the Kwaggafontein Prison and he is believed to have been held in cell number four between June 18 and sometime in August 1986.

## Resumed search

When his parents resumed their search in July, they went again to the police station.

A woman behind the counter (they are not sure if she was a policewoman or not) said that Mnyakeni was on one of their lists. She however referred them to Siyabuswa and Denilton.

Soon after his disappearance, the parents went to the Kalafong Hospital. There, too, they were told that Mnyakeni's name was on a list and he could either be in ward 13 or 14. A thorough

search of the hospital yielded nothing.

His parents have no doubt that Mnyakeni was kept at the police station as he was seen there by more than one person.

Cell number four was apparently notorious because detainees taken in under the state of emergency were imprisoned there. Under the emergency, police did not have to charge or give reasons for the detention of people.

One witness is certain that Mnyakeni was held in cell four. He used to be detained in cell six and prisoners from both cells used to share a dice with which they played games. After a while, they got to learn who was being held where.

Mnyakeni, one of eight children, was neither a political activist nor prominent in the community, his parents say. Therefore, there appears to be no apparent motive for his disappearance.

Father Sean O'Leary, a Catholic priest who has done mission work in the area, has also tried investigating Mnyakeni's disappearance but has come up against blank walls all the

time.

With help from the Justice and Peace Department of the Southern African Catholic Bishops Conference (SACBC) and the Legal Resources Centre, the Mnyakenis sued the Minister of Law and Order in a civil claim for damages.

In their court affidavits, the police said they had no knowledge of Mnyakeni or his whereabouts. Nothing came of the case.

## Demand the lists

The SACBC has tried to help the Mnyakenis find out more from the police and hospitals but it has no authority to demand the lists which may be the only proof that Mnyakeni was once in those institutions.

This young man's disappearance is by no means isolated - he is among more than 500 cases which the SACBC has been dealing with.

They hope that the cases they have worked on will also be investigated by the Truth Commission and that at least some of the disappearances will be dealt with.

For the Mnyakenis, this is their last hope.



# Harrowing tale of 'Witdoeke' violence

(652) AR4 24/4/96



Reports by JOHN YELD and JOSEPH ARANES

THE Truth Commission has heard a harrowing account of violence during the "Witdoek" era in the 1980s when migrant labourers attacked residents of Cape Flats townships.

It was during this period that her husband Henry Kwisomba was killed and the family searched for 11 days before they found his body in the Salt River mortuary. Between November 28 and December 28 in 1986, at least 37 people were killed, 14 by the police and the remainder in fighting between the "Witdoeke" and the residents. Nearly 200 homes were destroyed.

Mrs King told the commission that a week before Christmas, she decided to take her three children on a holiday to her mother in Harrismith. "On my return on January 6, I was told my husband had been missing since Boxing Day. My in-laws had searched all over for him checking the hostpitals, the police stations and the mortuary but found no trace of him.

## Laughing policeman killed sons, say women

THE allegedly trigger-happy hand of riot policeman H.J.C. "Barrie" Barnard has loomed large over the past two days of Truth Commission evidence of gross human rights violations in the Western Cape.

But it was for his activities in the police's Reaction Unit (riot squad) in and around Guguletu that he became known and feared.

"I also tried to find out what had happened to my husband but nobody was prepared to tell me. People were too scared to speak about what was happening as they were afraid they would also be killed."

On their way to Groote Schuur Hospital they first stopped at the Salt River mortuary where the attendant recognised one of the friends and told him that there was somebody inside that looked just like him.

"I knew something was amiss as the friend and my husband both wore distinctive Afro hairstyles. We were shown the body and identified it as my husband."

shot dead the "Guguletu Seven" group of ANC guerrillas in controversial and disputed circumstances in 1986.

But it was for his activities in the police's Reaction Unit (riot squad) in and around Guguletu that he became known and feared.

His police record also seems to bear out testimony from several witnesses at the commission that police who allegedly committed gross human rights violations in the 1980s were

stopped and told us they were there to protect us and we should not fight.

A close friend of her husband, David Mofhale, then told the hearing that he was with Mr Kwisomba on the night he was killed.

"I was sitting at home when I heard a loud noise outside and a knock on the door. It was Henry and he told me that all the young men had to go to NY78 and block the road because the 'Witdoeke' were coming to destroy our homes.

## Father of assassinated Swapo lawyer to testify

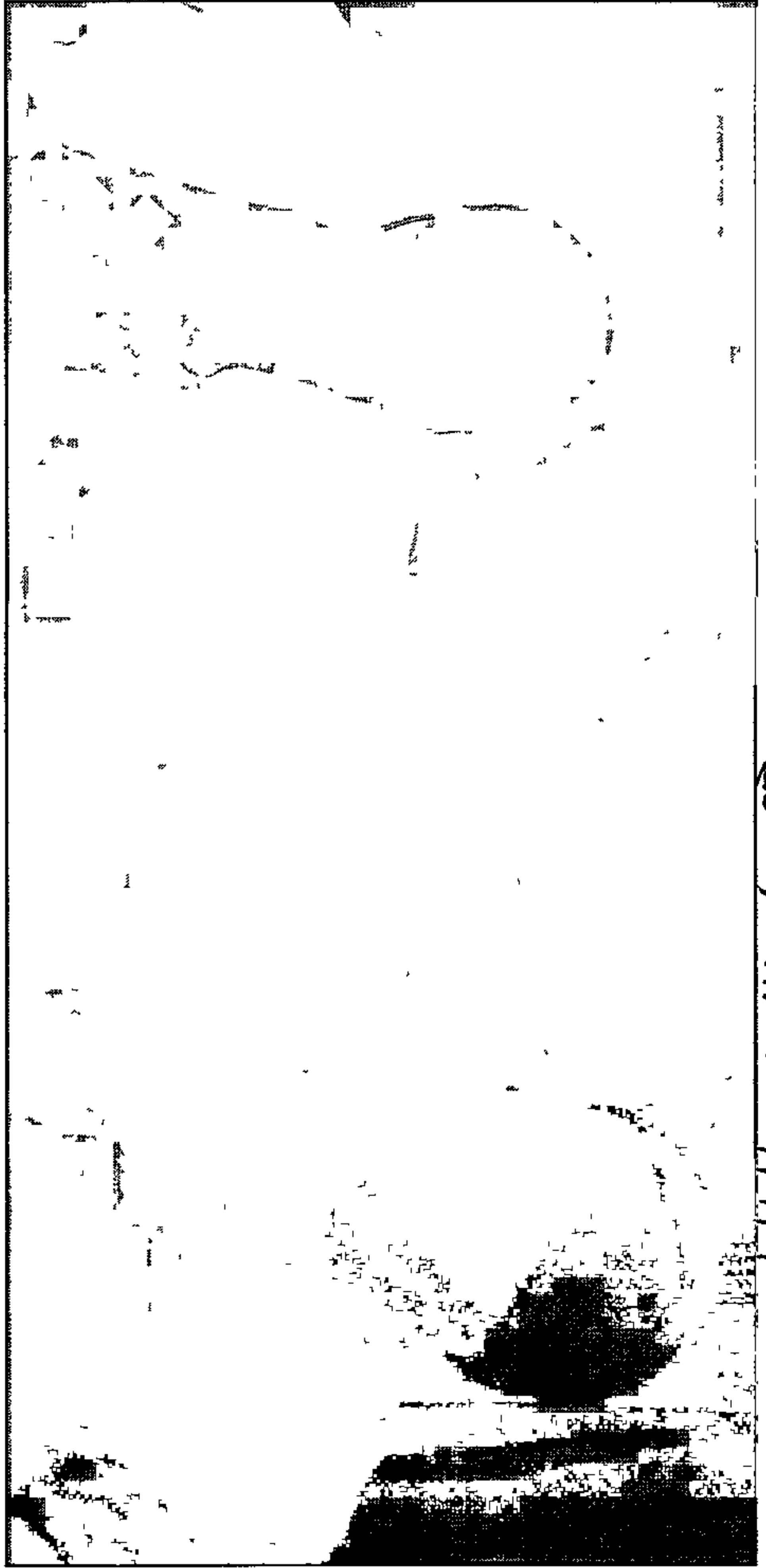
Staff Reporter

THE Truth Commission is today hearing evidence from Cape Town resident Wilfried Lubowski, whose son Anton, an advocate and prominent Swapo member, was shot dead as he was about to enter his home in Windhoek in 1989.

Allegations of Civil Co-operation Bureau involvement in his murder were rife after the murder, and although Irish national Donald Acheson was arrested and charged with Lubowski's killing, he was released for lack of extradition treaty existed between Namibia and South Africa, and key state witnesses as well as co-accused "Sana" Burger and "Chapple" Marree could not be forced to attend the trial.

The Harns Commission, set up to investigate Lubowski's murder, suggested he had received money from the SA Defence Force.

Others to appear before the commission today are Nokiki Gwedda, mother of Albert Kopola, who was shot dead in late 1985; Thelma Melane, sister of Ghana Vellein (no background information);



A MOTHER TESTIFIES: Mrs Cynthia Ngevu, left, and supporting witness Mrs Irene Mxinwa at the Cape Town hearing of the Truth and Reconciliation Commission being held at the Nico Malan Nursing College in Heideveld. Mrs Ngevu told the commission she had been told her son was shot about 25 times.

## 'Son was shot with his hands in air'

ONE of the so-called Guguletu Seven group of African National Congress guerrillas who was shot dead by police in March 1986 had his hands in the air when he was shot dead.

And some of the seven were lying on the ground when police shot them at close range in their heads, and weapons were later planted on their bodies to justify the killings.

This evidence at the two inquests into the deaths of the seven at NY1 Guguletu on March 3, 1986, was recalled by some of the mothers at the Truth Commission hearings in Heideveld yesterday.

Cynthia Ngevu, mother of Christopher Piet, told the commission a doctor said her son had been shot about 25 times.

"I was full of hatred because of the way my son was killed."

She had heard about the shooting incident and had gone first to Guguletu police station and then to the Salt River mortuary to see whether Christopher had been involved.

At the mortuary she saw him on a trolley with a wound in his head and there was blood coming from his ears.

Mrs Ngevu said she had told her family she wanted to watch television to see whether the shooting was on the news.

"I had heard rumours about the shooting but we didn't really know what had happened. I thought, 'Let me know about my child'."

At the inquest, she had heard that one of the seven had had his hands in the air when he was shot.

Responding to questions by commission deputy chairman Alex Boraine, Mrs Ngevu said she remembered witnesses at the inquest saying that six of the seven men had been killed by being shot at very close range, and that a Dr Van der Spuy of Groote Schuur Hospital had testified that he found eye-witness accounts more credible than those of the police.

Asked what she believed had happened, Mrs Ngevu said she often wondered to herself when she was alone why there were no survivors of the shooting.

"Why was there no warning to these people? Why were they not arrested? Why were they not shot in the legs?"

"Didn't these boers have any feelings at all? Why did they kill everyone?"

Eunice Myra told the commission that her 23-year-old son Jabulum was one of the seven who had died, and that she had first heard the news while watching television weeping bitterly as she testified.

Mrs Myra said "I wished this news could just rewind."

Her son's body had been badly mutilated and she had been told that a hand-grenade had exploded next to him.

She said the policeman involved had treated the seven "like animals".

had not known he had been involved and had sent relatives to search for him at hospitals and prisons.

"Our children didn't tell us anything about their activities because they were scared."

"The worst part was to actually see this in the newspapers and on television, to see them actually lying on the ground."

"I saw the bullet wounds on the left-hand side of the head and he had some other wounds in his back."

Mrs Mxinwa said the same guns which had been used to shoot the seven had then been placed on their bodies.

"I don't know how this was done."

Responding to a question by Dr Boraine, she said they had seen this on television and in the papers.

"Please forgive me I'm not sure about this, but it looks like the guns were just put on their chests - they were not in their hands. Please forgive me if this was not so."

Mrs Mxinwa also asked why police had shot all seven.

"What will the police gain from shooting everyone? Why weren't they arrested?"

"I asked myself these questions and I couldn't answer them."

According to research notes compiled for the commission, two inquests into the deaths of the seven were held, both of which found that no one was criminally responsible for the deaths. The testimony of witnesses was dismissed.



There was this particular policeman, everywhere. The policeman Barnard was just shooting at the children. Mrs Maphalane testified that Barnard had visited her after her son's death and had said "You know the children the ANC sent to throw stones? I'll shoot them - one by one."

# Neighbour tells of youth's death in toilet

An elderly Guguletu resident has told the Truth and Reconciliation Commission how her neighbour's 15-year-old son was shot dead while hiding in her backyard toilet in 1976.



Regina Gweyi, 71, told the hearing that in September 1976 there was chaos and rioting in the township. "It was the children and police who were causing all the trouble." She said her home, which was part of a long row of attached houses was near the corner of NY30 and NY3. On September 16 she saw many children running towards the houses.

"Some ran into the houses, while others jumped over the fences and hid in the backyards. Most of the people shut their doors as they were afraid the police would come into their homes," she said. "When I heard a noise in my backyard I looked through my bed-

room window and saw a white policeman with a red scarf around his head stand next to my neighbour's outside toilet and fire shots with his rifle towards my toilet.

"He then walked towards the toilet and dragged out two children by their legs, like dogs. One of the boys was dead and the other was gasping for air.

"The policeman then dug a hole in the yard and buried the brains of the dead child, who I then recognised as my neighbour's son, Sonny Boy Zantsi."

Nomvuyo Zantsi, 17, was not sure whether he was asleep or in pain or dead.

way through the policemen to check the vans and saw her brother's body and that of another youth in one of the big vans.

"I recognised him by his brown corduroy pants and started shouting his name as I was not sure if he was asleep, or in pain, or dead. He did not answer."

She said the policemen just asked her why her brother had thrown stones.

## Family's 'dark spot'

THE refrain which was heard in German towns close to Nazi death camps in World War 2 - "But we didn't know anything about it" - is being echoed in South Africa as gross human rights violations unfold before the Truth and Reconciliation Commission.

A 33-year-old church minister has sent a letter to commission chairman Desmond Tutu, asking for forgiveness for having turned his head or walked away from such violations.

Archbishop Tutu, who did not name the man, read extracts from his letter, written in Afrikaans, at the start of yesterday's hearing's of the commission's human rights violations committee.

The minister said his mother was a decent person who had tried to live correctly in relation to her fellow human beings.

"But she was also a child of her time. I spoke to her about the things that happened here over the past few decades and then I hear my grandmother's words like a refrain. But we didn't know anything about it."

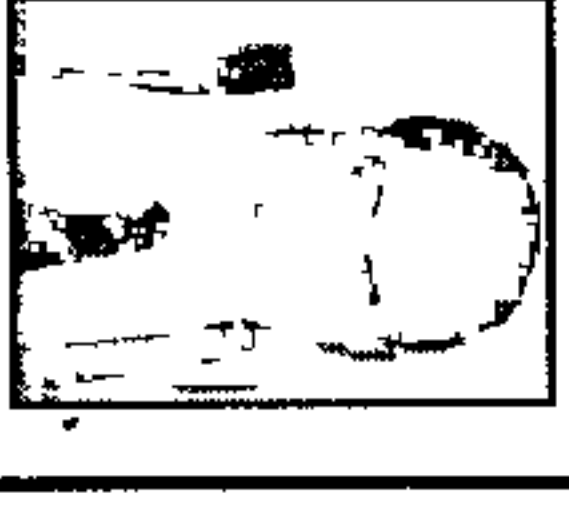
"That is the most difficult thing for me to believe, to understand and to accept."

"Then I know that in my family's past there is a terribly dark spot and it looks like a black hand which is sticking out in an appeal for help."

"And then I cry for that which happens, although there is nothing I can do to change it," the letter said.



DAVID MOLAPO



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Mrs Muya broke down and was unable to continue for several minutes.

She said officials at the inquest court had laughed when the seven's names were called. "We didn't know what they were laughing at - we didn't have interpreters."

Irene Mxinwa, whose son Mandla Simon was chased into bushes near the ambush and shot dead by Barnard and Sergeant Geoff MacMaster, told the commission site

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## Creation of a Broad Transformation Forum

# Reconstitution of the Governing Body and other issues

The present Council of the Technikon has decided to consult the public regarding the reconstitution of its governing body and to establish a broad transformation forum to meet this goal.

PEI SWARTZ  
CHANCELLOR



Cape Kaapse  
Technikon



# Missing Pebco 3 puzzle unravels

ARL 24/4/96 ~~ARL 2~~ (252)  
*Decision on prosecutions imminent, Gauteng A-G tells Truth Commission*

Staff Reporters

A DECISION on prosecutions is imminent over the disappearance of the "Pebco Three" Eastern Cape activists more than 10 years ago, the Attorney-General of Gauteng, Jan D'Oliveira, has told the Truth and Reconciliation Commission.

He said his investigation into the mystery is at a very advanced stage.

Commission chairman Archbishop Desmond Tutu said senior members of the commission's staff met Mr D'Oliveira yesterday after the weekend statements made on television by an "Askari" (ANC guerrilla who defected to the police), Joe Mamesela, about his and the security forces' role in the disappearance of the Pebco Three.

Last week at the TRC's East London hearings, the widows of the trio asked the commission to investigate their husbands' disappearance.

The three men were leaders of the Port Elizabeth Black Civic Organisation (Pebco). They were Sipho Hashe, Qaqawuli Godolzi and Champion Galela, who disappeared from Port Elizabeth airport in May 1985.

The Attorney-General's investigation into this matter is currently at a very advanced stage and we have been assured that a decision on the question of prosecution is imminent," said Archbishop Tutu.

He said the commission's investigating unit was also continuing its investigation into the matter and that the commissioners were bound to consult with the Attorney-General before compelling any person who appears under subpoena to answer questions which might be incriminating.

"We are working in collaboration with the attorneys-general and the justice system, as we do not want to jeopardise their work and don't want to stand in their way."

"The overriding requirement of the Truth and Reconciliation Commission is that it work towards reconciliation."

"But we also need to make it clear, especially to the widows of the Pebco Three, that we are not a toothless bulldog and will expedite matters as far as is possible."

More reports, pictures, page 13.



Picture LEON MULLER Chief Photographer

**TRUTH MEETING:** Truth Commission chairman Desmond Tutu meets Molly and Wilfried Lubowski, the parents of murdered lawyer Anton Lubowski. Mr Lubowski senior testified at the commission today.



# Mothers tell of hated police 'hero'

ROGER FRIEDMAN

WARRANT-OFFICER H C J "Barrie" Barnard — "the cop they couldn't kill" — was buried with full honours in May 1988 after dying in a shootout. The Minister of Law and Order sent a representative to his funeral.

He died a hero — to some yesterday, a succession of tearful witnesses testifying before the Truth and Reconciliation Commission spoke with loathing of their erstwhile foe.

Mothers cried as they recalled Barnard's cruel jibes about loved ones shot dead by police, his constant threats — some said they believed he, personally, had murdered their children.

The commission heard grueling evidence yesterday on some of the worst atrocities committed in the Western Cape. Of the Guguletu Seven killed in 1986, of students who died in the 1976 uprising, of Witdoeke, of burning shanty towns, of mayhem.

Aid, like a thread running through most of the stories, there Mrs. Barnard's name.

Mrs Cynthia Ngevu said she had been told Barnard and "Coetzee" had shot her son, Christopher, one of the Guguletu Seven. After they killed my child they got promotions and were given more money. But Barnard also died like a dog. The way my son died, all those people will die."

# QUESTIONS ABOUT SHOOTINGS REMAIN UNANSWERED

## Why did Guguletu 7 all die?

A SCHOOL in Guguletu should be named after the victims of a police shooting, a mother told the Truth Commission. LINDIZ VAN ZILLA reports.

THE mothers of four of the victims of the Guguletu Seven incident, in which seven young men were shot dead in controversial circumstances by police 10 years ago, yesterday questioned why not one of them had been left alive.

"Why did they kill everyone, why didn't they shoot them in the legs, why didn't they leave just one so that he could testify about what really happened?" Mrs Cynthia Ngevu said before the Truth and Reconciliation Commission in the city yesterday.

Ngevu's son Christopher, who was 25, was one of those killed on March 3, 1986, when police opened fire on "suspected guerrillas" outside a men's hostel in Guguletu. The others were Jabulani Moya, 23, Simon Mxinwa, 24, Zambonke Komle, Themba Mfihl, Zamsile Mjobo and an unidentified youth.

Ten years after the incident the mothers still do not know exactly what happened to their sons.

Witnesses said the men had been shot in cold blood, but police said at the time they had defended themselves after they came under attack.

An official version from then Police Commissioner General Johani Coetzee was that the ANC had planned an attack on a police vehicle and that "certain precautionary measures" had been taken — intimating that the police had been warned and had set a counter-ambush.

Police said a handgrenade was thrown at a police car, and the men fled, firing with small arms and AK-47 assault rifles. Twenty-two policemen were implicated in the incident. A court inquest found that all seven men died from bullet wounds sustained "in police activity for the combating of terrorism."

A Guguletu hostel cleaner and two hostel residents, however, related a different story at the time. The cleaner, who saw the tail-end of the shooting, said one of the men had



STRESSFUL: Archbishop Desmond Tutu, chairman of the TRC, yesterday showed the strain of listening to the harrowing testimony of Mrs Cynthia Ngevu, whose son Christopher was killed by police in 1986. PICTURE: BENNY GOOL

been shot while raising his hands above his head and trying to surrender, while another, who was lying severely wounded, was "finished off" at close range.

Cape Times writer Chris Bateman, who "discovered" the witnesses, was threatened with jail for refusing to divulge their identities, while then-deputy news editor Tony Weaver was charged under the Police Act for publishing news as she had only heard rumours

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# 24/4/96

# Policeman buried Sonny Boy's brains outside toilet

ROGER FRIEDMAN

She saw the police pulling her son's body into a van. "There was a rope around his waist. They were dragging him."

An hysterical Ngevu asked "Why did they drag my son, was he a dog? Were their hands so clean they couldn't even touch my son?"

She testified that the "poers" came back a few days later and joked about the whereabouts of her son.

She said that despite repeated requests for her son's death certificate, she had never been issued with one, and would like a copy.

Commissioner Dr Alex Boraine replied: "We will find that for you as a matter of urgency."

Mrs Irene Mxinwa said that at first she wasn't worried when her son Simon did not return home that night despite hearing a radio report that some "Russians" had been killed in Guguletu.

It was only a few days later that relatives found her son in the mortuary.

She testified that she had heard that "guns had been placed on top of the bodies, to imply that it was the victims who wanted to kill the police."

Mxinwa also said that at the inquest "a lot of Afrikaners was spoken and there were no interpreters. We couldn't understand what was going on."

Two inquests were held into the deaths of the men and at the second it was found that no-one could be blamed for the deaths.

When asked what could be done to honour her son, Mxinwa said a crèche, building or school should be named after the Guguletu Seven.

Ngevu and Mrs Venise Moya also told the TRC the policemen responsible for the shooting should be made to explain their actions.

"These boers must be put here, in front of the commission, so everyone can see them. They are with their families. They are happy. Our families are incomplete," Moya said.

SONNY BOY Zantsi, Fuzile Petrus Juqu and Lennox Thabang Maphalane had little in common — apart from being killed by the police before they turned 16.

Yesterday they were remembered in evidence before the Truth and Reconciliation Commission, which sat at the Nicó Malan Nursing College in Heideveld.

Zantsi was one of the first children to die in the 1976 student uprising in the Western Cape. He was shot in the head. A policeman was seen digging a little hole in the dust next to the outside toilet where he died — to bury his brain.

Mrs Regina Gwayi watched from her kitchen window.

"We were looking at the policeman. We saw him dragging the children. One was already dead. He was holding them by the legs, dragging them like dogs. The other boy was about to die, but he was still gasping for breath," she said.

"We saw the policeman digging a hole for the brains of the other boy. They were Sonny Boy's brains."

Sonny Boy died on September 16, 1976, in Guguletu. An inquest found no one



# Dominee pleads for forgiveness

A DOMINEE'S plea for forgiveness for the "pain and grief" caused by apartheid set the tone yesterday for the second day of the Truth and Reconciliation Commission's hearings in Cape Town.

Commission chairman Archbishop Desmond Tutu opened the proceedings by reading the letter from a 33-year-old dominee, whom he did not name.

"For me it is difficult to believe what happened and adjust to it. I weep for what happened even though I cannot change anything. I search in my soul for understanding," the dominee wrote.

"How is it possible nobody knew what was happening and nothing was done? How is it possible to atone for the guilt and shame and to live with it? I don't know what to do."

"I beg for your forgiveness. I am sorry for all the pain and grief. I say this with a wounded, broken heart. Forgive me the times I turned my head and the times I turned away." — Sapa

was liable for his death. He had died after throwing stones at the police.

Juqu died in Guguletu nine years later. Residents resisted bitterly when the state tried to force people to move to Khayathisa from their shanties in Crossroads, Nyanga Bush, Nyanga Extension, Portland Cement and the KTC squatter camps. In one clash, 18 people died.

A Lieutenant Oosthuizen told the inquest that about 400 people had stoned his vehicle and police responded with burst shot. He had later found Fuzile with gunshot wounds in the back of his head.

Mrs Nondzwakazi Elleenor Juqu told the commission that her husband, Mr Edward Juqu, had returned from the mortuary with her dead son's clothes.

"I have never seen a shirt like that with so many holes in it, as if the rats had eaten it," she said. "I told my husband we had to burn that shirt."

Sid 5 pupil Maphalane died a year after Fuzile. He apparently was shot in the back while running away from police in Lansdowne Road.

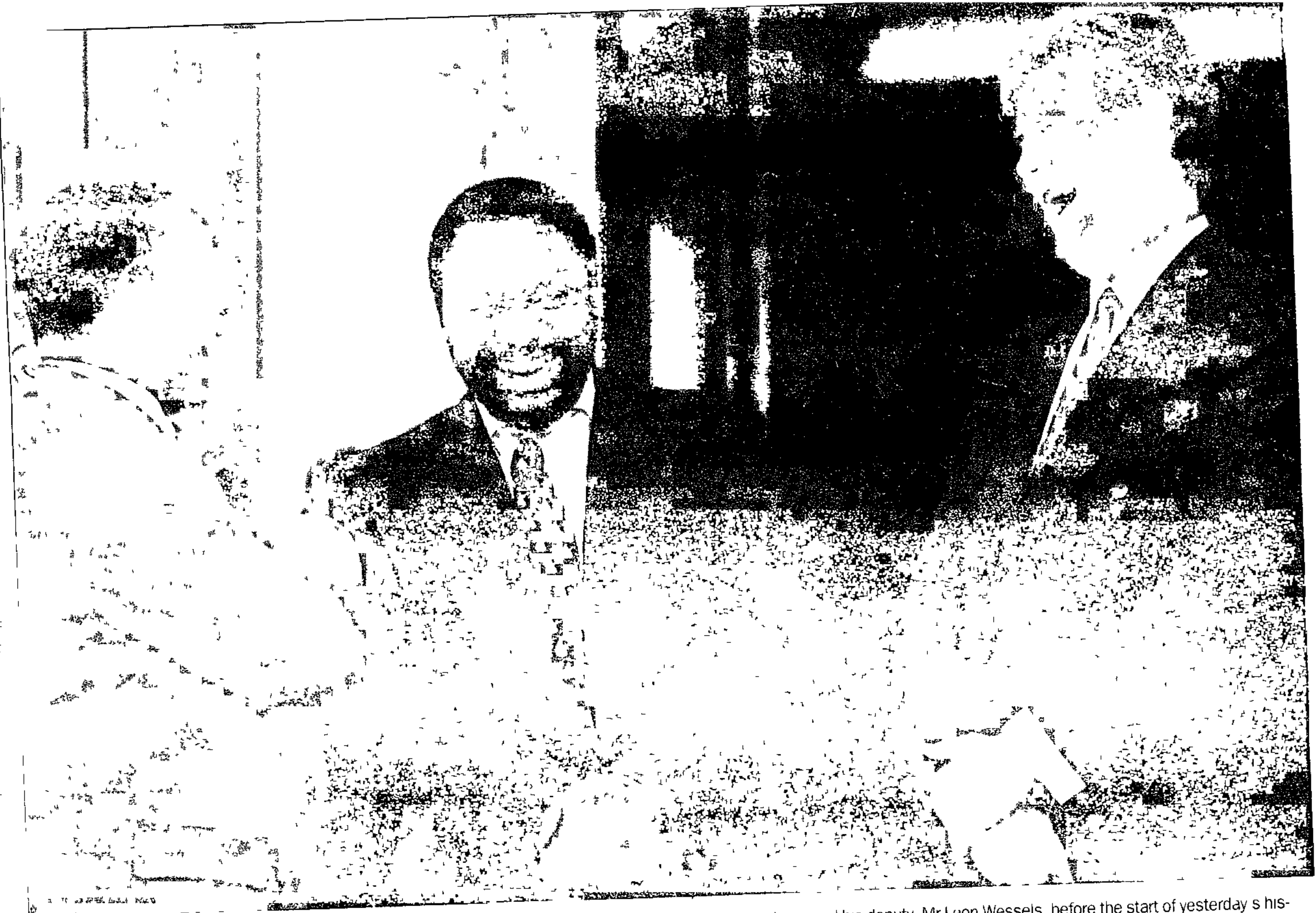
It was the time of the Witdoeke from Crossroads, who spread fear in the Nyanga and KTC squatter camps in 1986. Allegations of police complicity with the Witdoekes were rife.

At the inquest a Lieutenant Bester admitted killing Lennox. The boy had thrown stones, he said. The magistrate found he was not criminally responsible

Barnard's police career spanned 20 years, and he served as the driver for Major Dolf Odendaal, second-in-charge of the riot police. His record states he was a dedicated policeman who worked long hours "without pay and in exceedingly dangerous circumstances during which he at times barely escaped death".

In the townships he was dubbed the "cop they could not kill", and in the end they didn't — Barnard died in a shootout with a suicidal Sun Valley man.





**ALL SMILES:** Deputy President Thabo Mbeki, left, with Constitutional Assembly chairperson Mr Cyril Ramaphosa and his deputy, Mr Leon Wessels, before the start of yesterday's historic meeting of the assembly

**PICTURE: BENNY GOOL**

# Bill of Rights will ensure equality before the law

## **POLITICAL STAFF**

THE draft constitution is based on the separation of powers and entrenched powers for the provinces, within the overall concept of co-operative government. Central to the proposals is the supremacy of the constitution,

with the Constitutional Court having the power to interpret its provisions. The far-reaching Bill of Rights, parliament's entrenched powers, and independent "state institutions supporting constitutional democracy" will ensure that constitutional principles are maintained.

The Bill of Rights provides that everyone is equal before the law, everyone has a right to dignity, freedom and security, and that no one may be subjected to slavery or servitude. It also guarantees the right to privacy, freedom of religion, freedom of expression, assembly and

demonstration, freedom of association, freedom to exercise political rights, freedom of movement, property, housing, health, education, language and culture, and just administrative action. Some contentious clauses remain, including the right to life and the property clause, but the

bill of rights remains central. It provides for the indirect election of a president, a National Assembly elected proportionally, a cabinet appointed by the President, powers for the provinces and local government, an independent judiciary and a National Council of Provinces to replace the Senate.

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# Vlakplaas horrors recounted at TRC

By Waghied Misbach  
Political Reporter

(252)  
24/4/96

THE horrors of the Vlakplaas security police base yesterday dominated the Truth and Reconciliation Commission in Cape Town, where a former student activist recalled how torture and harassment forced him out of politics.

Former South African Student Congress executive member Zenzile May said he was tortured by former Vlakplaas operative Colonel Gideon Niewoudt in prison in 1987.

Niewoudt was accused on national television on Sunday night by another former Vlakplaas operative, Joe Mamasela, of brutally torturing and murdering three Port Elizabeth Black Civic Organisation activists. He is currently facing charges for a Motherwell bombing incident.

He said Niewoudt tried to frame him as a police informer by planting a police receipt bearing his (May's) name and an amount of between R500 and R600 with fellow members of the Sasco executive.

May also testified that Niewoudt asked him to spy on fellow Sasco members while he was earlier held in prison in Port Elizabeth. When he refused, Niewoudt attempted to frame him by giving Sasco members the police receipt.

## Well-known activists

While in prison, the police asked him to write out a number of sentences and to attach his signature to it in order to get a sample of his handwriting. He added that it was a well-known tactic of the police in the 1980s to pick up well-known activists and drive around with them in the townships to create the impression that they were cooperating.

He said the Sasco executive was divided on whether he was an informer or not. To escape victimisation he resigned his position and left politics.

"I felt embarrassed and humiliated to be accused by fellow Sasco members of being a police informer," he said.

The former activist said that he knew that some people had been killed by members of the community after being framed by the police.

"Although some murders were committed by people in the townships, the real murderers were the security police," he said.

May was one of 341 students arrested nationwide by security police during April, May and June of 1980. Of this number, 121 were from the Eastern Cape.

## Bullet-riddled body

A Cape Town mother, Ms Cynthia Ngewu, described how police dragged the bullet-riddled body of her son, with ropes around his waist, into a police van after he was shot and killed in the infamous "Gugulethu seven" killing in 1986.

Ngewu told the commission that she saw her son, Christopher Piet, on national television on the evening of March 3 1986 being dragged by police. She was one of four mothers who testified before the commission yesterday.

According to witnesses at the time, the men were killed in cold blood. Two of the men, Piet and Zambonke Konile, were "finished off" at close range while lying injured on the ground.

Piet was discovered with 16 bullet wounds in his body. Another man, Themba Msuli, was shot while waving his hands. He was shot again as he fell.

An inquest into the killing found no one responsible. But a doctor at Groote Schuur Hospital testified that he found the eyewitness account more credible than the police version.



# Truth body 'will not imperil prosecution'

Wyndham Hartley

CAPE TOWN — The truth commission would not wilfully jeopardise criminal prosecutions, but would have to demonstrate that it was not a "toothless dog" by demanding the testimony of alleged perpetrators of human rights violations, commission chairman Desmond Tutu said last night.

Tutu, speaking after the commission's second day of hearings in Cape Town, announced that a meeting had been held with Gauteng attorney-general Jan D'Oliveira over the startling developments in the "Pebco Three" case.

He announced that D'Oliveira had informed the commission that an announcement about prosecutions in the Pebco Three matter was imminent, and that the investigation was at an advanced stage.

The saga, involving three Port Elizabeth activists who disappeared without trace, is one of SA's most enduring political crime mysteries.

Last week in East London the commission assured the widows of the Port Elizabeth Black Civic Association activists that they would try to discover what had happened to their husbands, Siphon Hashe, Qaqawuli Godolozu and Champion Gcalela. On Sunday night former security policeman Joe Mamasela said on national TV that a certain "Deon Nieuwoudt" had played a role and that he (Mamasela) had been present when the men were killed.

Tutu said the commission's investigations unit would continue to probe the case but would consult D'Oliveira before compelling anyone to come before the commission and answer incriminating questions.

Further claims of security policeman Nieuwoudt's activities in the Eastern Cape in the 1980s emerged during evidence yesterday when a for-

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mer Congress of SA Students activist Zenzile May described to the commission how the security policeman had "framed" him so that it looked as if he was a "sell-out" so that the community would kill him.

In his evidence, and that of another Cosas activist Tango Lamani, it was alleged that Nieuwoudt had deliberately left a bogus receipt after a meeting with Cosas which gave the impression that May was a paid police informant.

May said he had only survived by dropping out of the political scene, and because he had a record of having been tortured by the police Nieuwoudt is on trial in the Motherwell bombing case in Port Elizabeth.

Tutu told a news briefing that the day's testimony had demonstrated an emerging pattern of "exquisite cruelty" by not informing relatives of the whereabouts of activists who had died.

Mothers of the youths killed in the so-called "Guguletu seven" incident, where medical evidence showed that six had been shot at extremely close range after being ambushed by the police, testified that they had found their sons missing on getting home from work. Frantic inquiries at hospitals, police stations and mortuaries were needed to find their children's bodies.

Eunice Miya told of her horror at discovering her son's death while watching the news on television. Irene Mxingwa said that on hearing about the seven deaths she did not think it possible that her son, "a good boy", was one of them. She claimed the police had obstructed her inquiries into the whereabouts of her son and that it was days before she learnt of his death.

Sisana Maphalane told the commission that her son had been killed during one of the clashes between police and youths in the mid-80s. Her 15-year-old son, Lennox, had just alighted from a bus when he was shot by police.

# Water rights targeted in discussion paper

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Linda Ensor

CAPE TOWN — Preferential rights to water running through a person's private property could be withdrawn, and the existing legislative distinction between private and public water abolished if principles for a new Water Act — to be gazetted on Friday — were adopted.

The draft set of principles, drawn up over several months by a panel of experts and ordinary people, appointed by Water Affairs Minister Kader Asmal, were finalised by a water law steering committee.

Other far-reaching principles included a new system of water rights, which provided for compensation where these were removed.

Also, there were principles that water required to meet peoples' basic domestic needs should be reserved and enjoy priority use; that the principles of public interest, sustainability, equity and efficiency govern the use of water; and that polluters should pay for the use of water for waste disposal.

Economic incentives and penalties should be used to reduce pollution, the consultation document of draft principles suggested.

Fundamental of all was the principle that "all water wherever it occurs in the water cycle is a resource common to all, the use of which should be subject to national control" National government, as the representative of public interest, was the custodian and manager of the nation's water resources.

This definition included ground water and water originating on private

property, and contrasted with the present Water Act, which recognised different legal categories of water, including private and public water.

One of the most important results of adopting this principle will be to enhance government's ability to control the abuse of ground water, where resources are overexploited on the basis of the water being "private", the document noted.

The other controversial principle was that "the location of the water resource in relation to land should not in itself confer preferential rights to usage". The effect of this would be that owners of land adjacent to a natural stream would not automatically be entitled to priority use. "There are many thousands of farmers and other people in the country who do not own riparian land (land adjacent to flowing water) and a fairer way of allocating water needs to be found," the document said. The document stressed, however, that rights to water use should be more substantial and carry stronger guarantees than existing rights, and should be allocated in good time "and in a manner which is clear, secure and predictable". The aim was not to penalise people who had rights but to improve the quality of water rights.

Furthermore, it was stated that the price of water should reflect the fact that it is a scarce national resource.

Deputy director-general Mike Muller said at a portfolio committee on agriculture, water affairs and forestry yesterday that the draft would form the basis of a consultation process involving workshops in each province.



# Apartheid aggressors 'also God's children' — Tutu

ROGER FRIEDMAN

AT the end of an emotional day of Truth and Reconciliation Commission hearings in Heideveld yesterday, Archbishop Desmond Tutu called on all present to remember that those who had upheld apartheid were also "God's children"

His reminder came after some of the Western Cape's most terrible apartheid atrocities were recalled in intimate detail

Last Tuesday, during the first round of hearings in the Eastern Cape, the East London City Hall was awash with tears — yesterday in Heideveld proved no different

Harrowing tales were the order of the day, with Tutu moved to describe the behaviour of the security forces as "exquisite in its cruelty"

But, in spite of the "extraordinary callousness, we must not make the mistake of demonising the people who have done this. They are just ordinary people"

The challenge facing the commission was helping to ensure that similar atrocities would never happen again and to avoid the situation where yesterday's oppressed became today's oppressors

Earlier, Tutu told the distraught father of a 15-year-old boy who had been shot dead by the police that the commission would not necessarily be able to "make right" all the hardships suffered by

apartheid's victims

"We cannot say we are gods or that we can make things right for you. We are all people and we come from this apartheid past and these hardships

"We would like it to change so that when a teenager comes home late we will not immediately start looking in the mortuary or the hospital or the prison

"If we are able to reach that stage it will be because of people like you who have come forward

"We would like there to be co-operation between blacks and whites so that in the new South Africa these things will never happen again"

● Meanwhile, OUR CORRESPONDENT reports that the TRC faces legal challenges on different fronts today

The families of four murdered anti-apartheid activists are expected to ask for an interdict preventing the commission's amnesty committee from starting its work. Two retired security policemen will be asking for a postponement of evidence about murdered Eastern Cape activist Mr Siphwe Mthimkhulu. Both hearings will be in Cape Town

ET 24/4/96

(252)

The Amnesty Committee, chaired by Mr Justice Hassen Mall, was scheduled to start considering applications for amnesty today, but a lawyer for the families of Griffiths Mxenge, Fabian and Florence Riberro and Steve Biko said he would bring an urgent applica-

tion today to prevent the committee meeting

The family has filed papers in the Constitutional Court and want the committee to suspend its operations

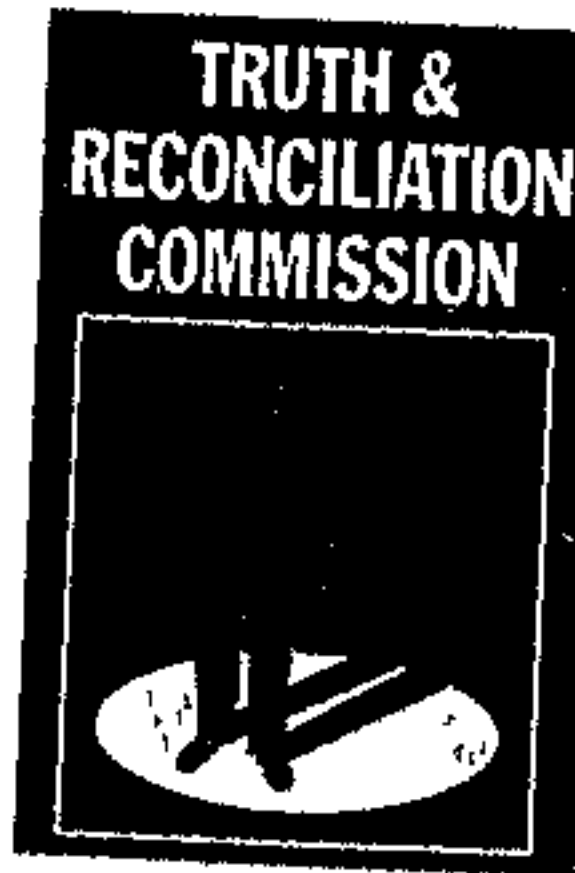
Tutu said yesterday the commission would abide by the court's decision. He said the application would "probably" be opposed by the Justice Department

the Justice Department

In another hearing, retired Brigadier Jan du Preez and Major-General Nick van Rensburg will be asking the court to compel the commission to give them an opportunity to study evidence implicating them before it is heard

A ruling in their favour could affect the commission's human rights violations committee. If the perpetrators have to be named in advance and the commission has to make witnesses' statements available to the perpetrators, it could endanger witnesses

● See Page 3



# Truth Commission urged to screen witnesses after 'obvious untruths' submitted

Star 24/4/96

(252)

BY HELEN GRANGE

Historians have sounded a warning to the Truth and Reconciliation Commission to screen its witnesses more carefully on the grounds that certain "obvious untruths" have already been submitted to it.

The warning follows testimony on Monday by witnesses who claimed that as many as 20 people were shot dead by police at a PAC pass-law protest in Langa, near Cape Town, on March 21 1960.

One witness claimed to have seen "hundreds" of bodies after the rally had been broken up by police.

However, newspaper reports at the time, as well as an account by the then Cape regional secretary of the PAC, Philip Kgosana, in his autobiography *Lest We Forget*, put the death toll on that day at four, including the burning to death of a Cape Times driver by angry rioters.

Two academics who wrote papers on the Langa marches, Dr Tom Lodge of Wits University's politics department and Rachidi Molapo, a lecturer at Venda University's history department, said yesterday the testimony heard was not a true account of what had happened.

"There is going to be a lot of

untruths based on urban legend and oral myths. Whatever the merits of the commission, it is not the kind of procedure that can be investigatory," said Lodge.

He said the commission played a valuable symbolic function but it was evident that it risked being a "commission of untruths". He thought the commissioners had a responsibility to make clear what they believed and did not believe, as there was no other compulsory legal procedure through which to cleanse testimony.

"There should also be some kind of screening of witnesses, failing which the truthful witness-

es will be discredited by the untruthful ones," he said.

Spokesman for the commission John Allen said the concerns raised by Lodge and Molapo were reflected in the questions asked by the commissioners at the hearings.

He said the commissioners were aware they faced hearing certain untruths and exaggerations, but "no more so than in the (judicial) courts". They were also phrasing their questions in such a way as to bring such untruths to the fore.

► More reports  
Page 3



# Mothers demand justice at truth probe

(262) Star 24/14/96

Four women, whose sons died in a police ambush in 1986, want to know the truth

By **ROBERT BRAND**  
Cape Town

The bloody battles for Cape Town's townships and squatter camps during the '70s and '80s dominated evidence before the Truth and Reconciliation Commission yesterday

Resistance to forced removals, the spread of the Soweto uprisings to the Peninsula, and recurring tensions between hostel dwellers, squatters and township residents turned the Cape Flats into the scene of some of the bloodiest clashes in South Africa's history, the commission heard

Among the witnesses were the mothers of four of the so-called Guguletu Seven, who were shot during a police ambush on March 3 1986

According to background information supplied by the commission, police claimed they had received information that a police vehicle would be ambushed by ANC guerrillas in Guguletu on the morning of March 3

Some policemen were positioned around the scene, while others drove a vehicle down the NY1 near the Daurybelle hostel

Police said a grenade was thrown at them and they returned fire in self-defence

Christopher Piet, Zambonke

Konle, Themba Mfuli, Mandla Mxunwa, Zanisile Mjobo, Jabulani Myra and one other were shot dead

According to witnesses, some of them were "finished off" while they were lying on the ground

One was shot while standing with his hands up

Two men were shot in nearby bushes

In addition, it was claimed that police "planted" weapons on the dead men to justify the killings

Witnesses said they heard verbal orders to shoot the injured

The witnesses' accounts were published in the Cape Times by journalist Tony Weaver, who later

stood trial under the emergency regulations for publishing untrue allegations about the police

He was acquitted after eyewitness testimony

A doctor at Groote Schuur who had examined the bodies testified that he found the witnesses' accounts more credible than those of the police

He testified that six of the seven had been shot dead at point-blank range

An inquest found no one criminally responsible for the killings, but the magistrate criticised the police for destroying vital evidence and failing to conduct a proper investigation

Cynthia Ngevu, mother of

Christopher Piet, told the commission her son had 16 bullet wounds when she saw his body at the Salt River mortuary

"Nobody knows the real story that's why I'm here," Ngevu said

Irene Mxunwa, Eunice Mya and Mrs Konle also testified about their shock upon learning about the death of their sons

"The policemen (involved in the killings) must be put here in front of the commission so that everyone can see

"We have this big lump in our throats. Maybe if they could be put in front of us that lump will go away," said Mya

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# Legal Aid Board back on schedule

(252) Star 24/4/96

Overdue invoices have been paid and up  
to 20 000 accounts brought up to date

By SUSAN MILLER

**T**here is good news for thousands of South Africans dependent on the Legal Aid Board for legal representation

It has apparently solved its problem of non-payment of attorneys and advocates, has paid most of its accounts and is back on track

Advocate Hilton Epstein, SC, a representative of the General Council of the Bar on the Legal Aid Board (LAB), said this week there had been a groundswell of negativity among advocates and attorneys towards taking work from the board because they had not been paid for months or even years

However, Tony Hutchinson, deputy director of the LAB, said they expected to sort out most of their backlogged accounts by the end of April

"There was a huge delay but up to 20 000 overdue accounts have been updated," he said

The LAB helps people on two grounds under Section 25 of the Constitution, which states that people are entitled to representation if they face a possible jail sentence and if they are indigent

Hutchinson admitted that people from the middle-income group and higher were not eligible for help in civil matters where jail was not an option as the board did a means test to determine whether someone was indigent

"The standard means test provides representation if an individual earns a net income of R500 per month or a couple brings in only R1 000 per month, plus R150 extra per child

Epstein said matters had improved recently after the Board brought in outside consultants who set up a computer programme for the administration of cases and payments

"Quite a number of advocates were threatening to apply for the liquidation of the Board because they thought their non-payment was because it was bankrupt, but it was only a shortage of administrative staff," he said

Hutchinson said feedback from advocates and attorneys indicated a great improvement in the payment situation

"Part of the problem was that the activities of the Board increased and so did our budget, but our administrative staff in our central office in Pretoria remained the same," he said

Hutchinson said the Board had helped individuals in civil matters when they had spent thousands of rands on lawyers' fees and had run out of funds

"We expect to deal with 100 000 criminal cases this year and about 15 000 civil cases," he said

He said the Board would also be taking over the *pro deo* allocation of cases from the Attorney-General

This office would allocate advocates to defend people facing a possible death penalty



# The mother who wants to forgive

(252) sowetan 25/4/96

By Khathu Mamalla

ACCEPTING God as her personal saviour has transformed Mrs Anna Matamela Dladlama

Dladlama, whose son Tshifhiwa Isaac Muofhe was killed in detention in 1981, does not demand the prosecution of those who killed her first-born child

Speaking at her home in Shayandima township, outside Thohoyandou, she said "I do not want those who killed my son to be prosecuted. I want to forgive them but I need to know who they are and what they did to my son."

"It is not possible to forgive somebody you do not know. Those who killed my son should admit their sin and they will have my unqualified forgiveness."

Relating the tragic story of her son, Dladlama said he was born on 28 September 1954 at Vhuladzi in the Nzhelele Valley.

He went to a local primary school and proceeded to Mphaphuli High School in Sibasa, where he became actively involved in the Student



Mrs Anna Dladlama ... wants to find out who killed her son so she can forgive them.

Christian Movement

He was one of the first members of the then Black Evangelical Christian Organisation, which later became the Evangelical Christian Organisation. After completing his secondary education, Tshifhiwa worked at a mine in Messina and later at an insurance company.

He married Lilian Davhana in 1979. The couple were blessed with a

**'The sad thing is that we were not even allowed to cry for him at his funeral. Police had warned us'**

daughter, Mulanga Muofhe, in July 1981.

Tshifhiwa continued to be involved in religious matters. "He won my soul to the Lord Jesus," said Dladlama. "More than anything else I knew him as a dedicated Christian."

She said she was shocked when she visited her cousin Patrick Mphephu, who was then the Venda president. He told her that Tshifhiwa was a "terrorist".

"Mphephu told me that he had information that Tshifhiwa *ndi tshifheta-shango* (terrorist). I told Mphephu I did not know anything about that. What I knew was that my

son was a dedicated Christian," said Dladlama.

On the evening of Monday November 10 1981 eight police cars arrived at Tshifhiwa's home and he was detained and taken to Matatshe Prison. He was accused of helping youths skip the country and join the African National Congress in the frontline states.

Two days later Tshifhiwa Muofhe was no more. Dr MJ Teichler, who conducted the post-mortem, found that he had died of multiple injuries with internal haemorrhage. Dladlama said her son's face was deformed.

"The sad thing was that we were not even allowed to cry for him at his funeral. Police had warned us to behave and not cry aloud or we would be arrested."

"Even those who knew me well, deserted me because they did not want to be seen to know me as they could be arrested. I was like an outcast."

"I remember one day when I asked for a lift. The driver stopped but just as I was about to get into the car, his wife warned him never to give a lift to the mother of a terrorist

and they drove off."

An inquest was later held but nobody was found responsible for Tshifhiwa's death. Dladlama said the Truth and Reconciliation Commission could help her find out the truth.

"I want the killer to tell the whole truth. They must admit that they killed my son - if they don't, the Government must tell me who killed my son because he died a day after being arrested," said Dladlama.

She said although Tshifhiwa was her son, in so many ways he was her father as he was the family's sole breadwinner.

"Today I am suffering because I lost my son. He died for this country but today nobody cares about those he left behind," said Dladlama.

She said she wished to testify before the TRC but she could not afford transport to Johannesburg, about 500km away.

"I do not want revenge. God has forgiven me my sins and I can't demand the prosecution of those who killed my son," said Dladlama, a devout member of the Assembly of God Church.

# A woman's agony over her husband

sowetan 25/4/96 (252)

For 12 years Mrs Jane Denga has watched her ill husband waste away

By Khathu Mamalla

WHEN JANE AND ALFRED Denga were married in 1976, he was a healthy and successful businessman who owned a scrapyard at Tshisaulu village outside Thohoyandou in Northern Province.

Today Mr Denga is mentally ill, he keeps scratching his head and his speech lacks logic, his business has also collapsed.

He was arrested by the notorious security police of Venda president Chief Patrick Mphephu and accused of harbouring "terrorists" in his orchard at Phuphidi village.

### Vivid memory

Mrs Denga still has a vivid memory of November 4 1983, the day her husband was arrested. "The arrogant policemen said Alfred also used his car to transport 'terrorists'."

"I didn't know anything about the things they were saying. After a few days, I was invited to see him at Tshulidzini Hospital."

"Just before I saw him, a nurse called me aside and inquired if my husband was mentally ill. I confidently told her that she was confusing him with another person. I maintained that my man was healthy."

"My heart bled when I started talking to him. He was no longer the same man I married. He was mentally ill."

"I do not know what they did to him. I guess they assaulted him so badly that they damaged his brain."

Mrs Denga said since then her husband had been in and out of hospital. He was referred to Weskoppies hospi-

**'They should not be afforded the luxury of simply letting us know what they did with impunity'**

tal several times. Her visits to him, she said, were mental torture.

She said it was difficult to describe the suffering she has gone through. Fighting back tears, she said "Maybe those who lost their loved ones are better off because perhaps they learn to forget and get on with their lives."

"I am constantly being reminded about this each day I see my husband. He has become a vegetable but I have to stay with him - he is my husband. I can't leave him because it was not his fault he was arrested and tortured."

### Sound discussion

She said it was difficult to hold a sound discussion with her partner but she was prepared to stay with him.

She does not know where she gets the strength to defy all these odds. "Perhaps my love for him is strong enough. For me, there is no other man," she said.

The couple have five children and Mrs Denga battles to feed and clothe them. Unlike some victims of human rights violations, Mr Denga was never compensated by the state. In fact, there was not even any investigation.



Mrs Jane Denga ... she has been supporting her mentally ill husband for 13 years. PICS KHATHU MAMAILA

His wife, who has been teaching since 1980, said it was hard. "We have survived but things would certainly have been a lot better if my husband was still mentally fit."

"Sometimes I feel like a widow because although my husband is still alive, he is dead in so many ways."

She said the African National Congress members who caused her husband to be arrested never visited her, and she felt abandoned. She said each time she saw them in town, they promised to visit but never showed up.

How does she feel about those who tortured her husband in detention? "They should definitely be punished. There is no way you can do such a thing and simply get away with it," she said.

She said she heard about the Truth and Reconciliation Commission on the news and was hopeful it could help her find out what happened to her husband.

"But while it is important for me to know what happened to my husband, it is even more important that those who destroyed his brain should be prosecuted."

"They should not be afforded the luxury of simply telling us what they did with impunity."

"These policemen were cruel and our society should be taught that those who wrong others are punished."

Mrs Denga said while she was prepared to testify before the TRC, she felt that Johannesburg was too far.

She explained she could not undertake such a long trip and leave her husband alone.

It would also be expensive for them to travel to Johannesburg.



JAL

# Lubowski parents in plea to TRC

(252)  
sawetan  
25/4/96

**T**HE parents of slain Swapo activist Anton Lubowski yesterday made an impassioned plea to the Truth and Reconciliation Commission to pave the way for the extradition of former Civil Cooperation Bureau members to Namibia to stand trial for his murder

Commission chairman Archbishop Desmond Tutu gave an undertaking the commission would approach Justice Minister Dullah Omar and the Ministry of Foreign Affairs to "find out the state of play"

### Planned in SA

Tutu's deputy, Dr Alex Boraine, said if Lubowski's assassination had been planned in South Africa it would be reasonable to expect that charges against the alleged conspirators be laid in this country

Lubowski was killed outside his

## Ex-CCB members extradited to Namibia sought to stand trial for murder

Windhoek home by a burst of fire from an AK-47 rifle on September 12 1989 An inquest found *prima facie* evidence his murder had been initiated by the CCB and carried out by Irish national Donald Acheson

The inquest findings named CCB operatives Ferdi Barnard, Wouter Basson, Slang van Zyl, Joe Verster, Calla Botha and Staal Burger as accomplices

"We went to Dullah Omar and he said he was waiting for Namibia to extradite these people," Lubowski's mother, Molly, told the commission yesterday

"He doesn't know why they haven't Namibia has now postponed the state's case indefinitely"

She was testifying on the third

day of the commission's hearings in Athlone, near Cape Town

"It is ironic that Anton fought for justice all of his life, but now there is no justice," she said "We request the commission to help us to remove hindrances so that our child's murderers can be tried in a court of law"

### Paid SA spy

Lubowski's father, Wilfried, asked the commission to investigate allegations by former defence minister General Magnus Malan that the slain Windhoek lawyer had been a paid South African spy "We want the commission to restore the good name and memory of Anton The allegations have been a tremendous blow to the family"



# Judiciary in the dock

(252) Sowetan 25/4/96

**S**OUTH AFRICA'S JUDICIAL system was in the dock at the Truth and Reconciliation Commission (TRC) hearings in the Eastern Cape last week.

Witnesses gave one example after another of how the police were guilty of extreme human rights violations and how the courts had intensified victims' pain by failing to deliver justice.

Many witnesses told of much suffering during the hearings in East London.

The 1992 death of community leader Sister Nonkuthalo Jeanette Mahonga in the Ciskei showed that the courts allowed policemen convicted of crimes to walk free.

Seymour mayor Mike Kota said he was an African National Congress leader with Mahonga in 1992, a time of intense conflict between the Ciskei police and ANC.

"During that time the police were assaulting leaders at a high rate," Kota said, explaining that he had slept at Mahonga's place on October 21 1992 to avoid being attacked.

## Loud knocking

"During the night I heard loud knocking and shouting 'Michael open! My house and children are burning.' I saw Mahonga with her chest and hair burning. She said that a petrol bomb was thrown at her."

Kota said he saw two men running away towards the police station and a car sped off. He said policemen shot at people who came to help them fight the fire.

Mahonga was taken to a clinic and then to an East London hospital, where she died five days later. A 1993 inquest found Constable Mlungisi Willie and "other people unknown to the court" responsible for the attack. But he was acquitted of murder charges by the Bisho Supreme Court because of insufficient evidence.

In another case Grahamstown policemen, who fatally wounded schoolboy Bigboy Mginywa at a 1986 funeral, were never charged.

Mginywa's mother, Tembisa, said she would like his killers — on the tenth anniversary of his death — to come and explain why they shot him.

## Funeral processions

She said: "During funeral processions it became a habit for police to shoot children. We knew when boys went to a funeral that some would not come back." But she never expected her son to die at a friend's funeral on April 13 1986.

Mginywa was walking in the procession when he was shot in the neck. No one saw who shot him from the police Casspirs. Police claimed Mginywa had thrown a petrol bomb.

His mother was told he was injured but alive in hospital. However, when she arrived she was told he had died.

Truth and Reconciliation Commission hearings so far have not only exposed gross human rights violations by the police, but also the inept handling of cases by the judiciary. Feature Writer **Claire Keeton** explains...



Mrs Nyamoka Goniwe, widow of slain leader Mr Matthew Goniwe, waits to tell her story at the Truth Commission hearings in East London.

Mginywa's night vigil was disrupted when police threw teargas, causing panic and extensive damage "Everyone wanted to save their lives and hid. The furniture was broken and reduced to rubble. We picked up cannisters inside every room of my house," she said.

She said policemen also fired shots at his funeral, forcing mourners to run away. But she refused to leave until she had paid her last respects at the graveyard.

"Bigboy was at an age that when I looked at him, he reminded me of his father," said Mrs Mginywa, widowed when he was six. "When I see children of his age, I always get emotional. I would like to be compensated."

Two witnesses testified about deaths in detention. In both cases, the victims were found to have died from natural causes with no-one held responsible.

United Democratic Front leader Mr Mbuyiseli Lionel Songelwa died in detention in 1985 when police ignored his cries during an asthma attack.

Mrs Nokuzola Songelwa said "Two fellow prisoners said he shouted for help. A white man came and said 'Do you think I can help a political man?' and went away"

The following morning, on October 5 1985, two policemen left a message with his young children that their father was dead.

"I want the TRC to investigate why the police were so slow to treat him. They must investigate why his underwear was covered in

blood if he died of asthma," Songelwa said.

Mr Sipilifu Ndzumo, son of former Transkei Cabinet Minister Mr Kolisile Ndzumo, said his father was tortured to death in detention in Idutywa because he was an underground member of the ANC.

On October 19 1980, when his father was arrested by Transkei police, he told his family: "I think I am going to be killed. Even if they kill my body, they will never kill my name."

Two days later, they found his body at the mortuary. "His face was swollen as if he was beaten. His arms were raised and hands bent forcefully as if by handcuffs," Ndzumo said.

A private post-mortem found his father had died of a brain haemorrhage although the official post-mortem claimed he had died of natural causes. The family wants the TRC to investigate.

A clear case of injustice was presented by the widows of the "Cradock Four". Their husbands were brutally murdered by security forces on June 27 1985 but the first state inquest found no-one responsible for their deaths.

The security forces were only found responsible at the second inquest in 1994 and, more than a year later, the widows have still not been paid out civil damages.

While the TRC is able to speed up the settlement of their case, it is unable to meet the expectations of most witnesses for justice. Its power to pursue justice was compromised in the country's negotiated settlement and is effectively limited to exposing past injustices.



# Amnesty drama

By Mzimasi Ngudle

AWYERS for the families of the victims of human rights abuses were last night engaged in a last-minute bid to interdict the Truth Commission from proceeding with amnesty committee hearings, which started in Cape Town yesterday.

Speaking from Cape Town, Mr Cyril Morolo, representing the families of the late human rights activists Steve Biko, Griffiths Mxenge and Fabian Ribeiro, said he was discussing the application for an interdict with Government lawyers.

Morolo said the application would go to court if both sides failed to reach an agreement last night.

## Granting of amnesty

The interdict comes amidst the three families' fears that the granting of amnesty will absolve wrongdoers from their common law liability to compensate the victims.

Also, the Truth Commission law provides that perpetrators, once granted amnesty, will not be liable to criminal prosecution.

The Biko, Mxenge and Ribeiro families have launched a Constitutional Court challenge to the validity of this law, which strips away centuries-old common law rights of the victims and their next of kin.

The Truth Commission law provides that the committee may, after considering an application for

amnesty, grant amnesty in the absence of the applicant without a hearing and inform the applicant accordingly.

The applicant would then be exempted from any civil or criminal liability, leaving the families with only one remedy, the possibility of reparation whose size and nature would be determined by Parliament and President Nelson Mandela.

The law gives power to the committee to grant amnesty to people who make a full disclosure of their gross human rights violations and satisfy the committee that such violations were associated with a political objective.

Meanwhile, Sapa reports that the amnesty committee will have considered between 60 to 70 applications by tomorrow.

A statement released by the committee said decisions to grant or reject amnesty could be made this week.

"If the papers covering an application are in order, the committee will examine its merits. It may ask for further investigation of a matter and it may afford applicants the opportunity to make further submission.

"However, it is conceivable that decisions to grant or reject applications could be made this week," the statement said.

The full commission would make such decisions public at its discretion. The committee said announcements on amnesty hearings would be made "in due course".

● See Pages 2, 16 and 17



Truth Commission chairperson Bishop Desmond Tutu meets Morley and Wilfred Lubowski, parents of slain lawyer Anton Lubowski. Anton was gunned down by an AK-47 rifle as he was about to enter his home in Windhoek on the night of September 22 1989. Lubowski senior testified at the commission in Cape Town yesterday.

PIC: ARGUS PICTURE SERVICE



**JOHN YELD**  
on the Truth Commission

PAN Africanist Congress co-founder Zeph Mothopeng was so badly tortured by security police using electric shocks while he was in jail that he had to be placed in a straitjacket

This evidence was given to the Truth Commission today by the deputy president of the senate, Govan Mbeki

Mr Mbeki also testified that he had been slipped a note by Western Cape Umkhonto we Sizwe leader Looksmart Ngudle while in Pretoria Central prison in September 1963, telling him he had been badly tortured. Mr Ngudle died in detention

Mr Mbeki, who was held during the Rivonia treason trial, said Mr Mothopeng had been brought into the bathroom in jail where the prisoners were cleaning their "balies" - prison slang for chamber pots

"I was stooping and cleaning mine and he stooped next to me to clean his "balie" and told me he was being tortured

"He then showed me on his hand small rings indicating that it was caused by electrodes" Mr Mbeki said he had told the story to his comrades

"Early in the evening Zeph started bellowing and knocking at his cell door, saying he wanted to get out - they should allow him out"

"He started bellowing and did so right through that night. The following morning they put him in a straitjacket and that ultimately silenced him"

Mr Mothopeng and Mr Mbeki were on trial for the first MK operations in the country. Mr Mbeki was discharged on a technicality.

Mr Mbeki said he believed Mr Mothopeng had served three years for that conviction. "He came to Robben Island and discussed what he intended to do (about the torture) and he sued the minister and other officials"

That case was heard in Pretoria and Mr Mbeki was subpoenaed to give evidence. "In that case they brought in a torture machine, and when Zeph saw that machine he broke down again, so that when I came to give evidence, he was not in court"

"Those of us who knew him before and saw him afterwards knew that Zeph was never again the Zeph Mothopeng we had known, but he was now raised to be president of the PAC"

Testifying about Mr Ngudle, Mr Mbeki said he had met him in Pretoria Central jail during 90 days detention

Mr Ngudle passed him a note saying he was being heavily tortured

"The following morning before breakfast a voice came from under the cell door to say they had killed Looksmart," Mr Mbeki said

ictures, page 20.

*Co-founder never the same after electric shocks, Govan Mbeki tells TRC*  
(252) AKG 25/4/96

# PAC chief's torture ordeal

Govan Mbeki





# Mother's 'necklace' killing described

ART 25/4/96

(252)

**DAUGHTER'S** grief-stricken cries punctuated horrifying Truth Commission testimony about how a group of young "comrades" had held down her pregnant mother, put a tyre on her and then poured petrol over her and set her alight - and prevented anyone from going to help her.

Yesterday was the first time that the daughter, Busisiwe Kewana, learnt the exact details of how and why her mother Nombulelo Delato had been severely burnt in the Colesberg "location" (township) in October 1985.

Mrs Delato died in a Bloemfontein hospital three days later after giving police the names of the perpetrators.

It was the first case of "necklacing" that the commissioner of human rights violations committee has heard since it started public hearings last week.

Mrs Delato's niece Thonama Malit testified that the comrades had refused to allow Mrs Delato to be buried at Colesberg, calling her an informer and threatening to burn down



Reports by JOHN YELD and JOSEPH ARANES

the church if the burial went ahead.

Mrs Malit said other possible reasons for Mrs Delato's "necklacing" were that Mrs Malit's uncle was a policeman who had lived in Colesberg.

Because the comrades had been unable to attack him they had picked on another member of the family.

Also, Mrs Delato had broken a consumer boycott of local shops and had been found with meat she had bought.

rades R100 and begged for their forgiveness, and had been given a letter by their leader stating she had been forgiven, Mrs Malit said.

But the leader had been the one who had later ordered her to be set alight.

Answering questions from commissioner Dumisa Ntsebeza, Mrs Malit said Mrs Delato had been under the impression that she had been forgiven for breaking the consumer boycott and that she was safe in the township.

On the day of the attack the comrades had chased her and had pulled her from a house where she had attempted to hide.

"They beat her up and put a tyre on her and poured a petrol bomb on her. One of them held her feet and then they started setting fire to her. There was no-one who could stop this."

The police had been looking for Mrs Delato but had got lost, Mrs Malit said.

"The police arrived when she was already burnt. They



**BUSISIWE KEWANA** "necklaced" her mother was "necklaced"

could hear her screaming. She was already alight.

"She couldn't run, she was just walking slowly. She tried to go to them but she couldn't get there."

By the time she approached the police, her clothes had been burnt off and she was naked, Mrs Malit said.

# Police demand right to defence

**DENNIS CAVERNELLS** Supreme Court Reporter

**THE** Truth and Reconciliation Commission has conceded in the Cape Supreme Court that it did not give two retired police officers sufficient notice before it was to hear evidence implicating them in the alleged abduction and murder of a student activist.

The TRC last week undertook not to lead any evidence at its hearings in East London which related to or implicated retired police brigadier Jan Abraham du Preez, and retired major-general Nicolaas Jacobus Jansse van Rensburg in the alleged crime, until judgment was handed down in their application hearing, which began yesterday.

Letters to the retired policemen from the commission alleged they were "involved in or had knowledge of the poisoning and/or disappearance in 1981-82 in Port Elizabeth of a person whose family has approached the commission for assistance".

The TRC later said Joyce Mthimkhulu, mother of Siphuwe Mthimkhulu, a Congress of South African Students activist who was allegedly poisoned, "indicated that she wished to name alleged perpetrators of human rights violations".

Brigadier Du Preez, of Pretoria, and General Van Rensburg, of Hartenbos, were informed on April 13 of the allegations. The matter was to be heard before the commission in East London on April 15.

Lewis Visser, appearing for the former policemen, argued that their rights were being infringed in terms of the constitution and common law.

He said if they were only allowed to present their case once evidence against them had already been heard, "then the damage is done".

"The evidence of affected persons must be heard then; either simultaneously or very soon after," said Mr Visser.

He said that in terms of the constitution, "there are no rules of procedure" for the TRC. "In other commissions implicated persons had the right to

bring evidence, to give evidence, and to cross-examine witnesses. Why doesn't this happen with the TRC?" time is a cheap concession to make for the truth.

He said there would be no point in allowing written representations to be made after evidence had been heard.

"Witnesses should be cross-examined after they give evidence, and (implied) persons should be allowed to give evidence and bring evidence."

Mr Visser said the rights of the policemen were infringed by the short notice given to them of the hearing, "and because they were not initially granted access to information they needed, they were refused statements to which they were entitled."

In papers, the TRC conceded that after evidence had been heard which might implicate the two former police officers, they would be supplied with witnesses' statements and copies of transcripts of the evidence against them.

"This concession does

show that the (TRC) has now come to realise that the applicants are suffering prejudice and is now concerned about that prejudice."

The TRC also conceded that the retired policemen were entitled to be represented at the hearings by "some other person", which was taken to mean by a legal representative, according to the papers.

Mohammed Albertus, SC, appearing for the TRC, said the policemen would have to show that they had "clear rights, and that those rights have been unlawfully infringed (by the TRC)".

During the proceedings Mr Justice E.L. King suggested that it was not too late for the parties to try to reach a mutual agreement in the matter.

The hearing continues today. Mr Justice King presided. Mohammed Albertus, SC and Ismail Janne appeared for the TRC, instructed by the State Attorney Lewis Visser and Barnard Knoetzer appeared for the policemen, instructed by Jan Wagener.

St James massacre survivors and senate deputy chairman testify

**Staff Reporter**

**VICTIMS** of the St James Church massacre in Kenilworth in 1993 are testifying at today's Truth and Reconciliation Commission hearings in Cape Town.

Eleven people were killed and 53 injured in the armed attack which took place during the evening service on Sunday, July 25.

Four men stormed into the Church of England, firing machine-guns and throwing handgrenades at a congregation of nearly 1 000 people, who included Ukrainian and Russian seamen.

Among those testifying will be Paul Williams, who was seriously injured in the attack.

Also testifying in today's hearings is Mark Fransch, whose brother Anton Fransch was an Umkhonto we Sizwe (MK) guerrilla killed in a shootout with police in Church Street, Crawford, on November 17 1989.



**MOLLY AND WILFRIED LUBOWSKI** they said the trouble began when their attorney son, Anton, publicly joined Swapo

# Charge Lubowski killers, TRC urges

**A** MOST seven years after their son was assassinated in Namibia, Molly and Wilfried Lubowski of Cape Town could see the people responsible for Anton Lubowski's death, brought to book.

The Truth and Reconciliation Commission, at its hearing in Cape Town, has intimated that it will press for charges to be brought.

At a briefing after Mr Lubowski's parents and sister gave evidence at the hearings, commission chairman Desmond Tutu and his deputy, Alex Boraine, said they would approach Justice Minister Dullah Omar about charges relating to the planning in South Africa of Mr Lubowski's murder in Namibia.

And they will ask the Department of Foreign Affairs to raise with Namibia its failure to request the extradition of the alleged murderers, who worked for South Africa's former Civil Co-operation Bureau (CCB).

These were the men named in the 1994 Namibian inquest chaired by Mr Justice Levy.

"If it is true - and the allegations seem to be true - that the crime against Anton Lubowski was planned in South Africa, it is reasonable to ask that charges be brought against them here in this country," Dr Boraine said.

During her evidence, Molly Lubowski said although Donald Acheson had pulled the trigger that killed her son, he got his orders from Staal Burger, Chappie Marais, Ferdi Barnard, Calla Botha, Siang van Zyl and Wouter Basson.

Mrs Lubowski said her son had been raised with politics in opposition to apartheid and as a child of God who regularly read the Bible.

Mrs Lubowski, who gave evidence in Afrikaans, said their troubles had started the day in 1984 when Anton had publicly joined the South West African Peoples' Organisation (Swapo).

"After that his life was constantly in danger and he got many death threats. Pamphlets with his face on and a target superimposed over it full of bullet holes were sent to him in the post."

Mrs Lubowski outlined how her lawyer son became involved in defending Swapo supporters and members, and how he engaged in resistance politics leading to his arrest on a number of occasions.

"They wanted to break him because he was a threat to the National Party government both at home and internationally, as he was a known anti-apartheid fighter."



Arqns

25/4/92

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# Amnesty hearings halted

Supreme Court Reporter

# Witness tells of seven-hour gun battle

THE amnesty committee of the Truth and Reconciliation Commission has undertaken to suspend all amnesty hearings pending the outcome of an 11th-hour application brought against it.

The application, filed in the Cape Supreme Court late yesterday, asked for the TRC to be restrained from granting amnesty until an application brought by families of murdered activists in the Constitutional Court - which challenges the amnesty provisions - is finalised.

The matter will be heard today.

Gyrl Morulo, attorney for the families of Steve Biko, Griffiths Mxenge and Fabian Ribero, said TRC legal staff had agreed to suspend amnesty hearings.

THE Truth Commission has heard evidence of the dramatic events on November 17, 1989, when African National Congress fighter Anton Fransch, 20, died in Athlone after a seven-hour gun battle with the police.

Neighbour Basil Snayer gave an eyewitness account of what happened on that day.

Mr Snayer said he lived next to the house in Church Street where the shooting took place and arrived home at midnight when about 30 minutes later he heard the

first shots.

"I was in the kitchen with my wife and we immediately dived to the floor for cover. We then phoned the Athlone police and were told that they were aware of what was happening.

"For the next couple of hours the shooting continued unabated."

Mr Snayer said when the police left he inspected his neighbour's house and saw the walls and ceilings of the room were splattered with blood.

"There were pieces of clothing, hair and

flesh smeared on the walls.

"I came to testify at the hearing because I want to correct the impression that Anton and other young cadres, like Ashley Krriel, Robbie Waterwich and Coline Williams, were communists or people influenced by communists, but young brave soldiers who died in the service of their country."

He said throughout the shooting he had never once got the impression that the police wanted to capture Mr Fransch.

"I am convinced they could have gassed him or starved him out of the house."

# Expect no deal, necklace culprits warned

(252)  
JOHN YELD

on the Truth Commission

ARG 25/4/96  
PEOPLE involved in necklacing may not be eligible for amnesty, warns Truth Commission chairman Desmond Tutu.

The practice of burning people to death by placing a petrol-soaked tyre around the neck and lighting it was out of proportion to political objectives, and most would say that the perpetrators of such acts should therefore not qualify for amnesty, he said.

He was speaking at a media conference after another day of raw emotion, tears and anger at the Cape Town hearings of the commission's human rights violations committee.

Explaining the criteria for amnesty laid down in the Promotion of National Unity and Reconciliation Act, Archbishop Tutu said the issue of "proportionality" was one of the most important of the criteria which the commission's amnesty committee had to use to decide whether perpetrators of human rights violations qualified for amnesty for their deeds.

A perpetrator might qualify for amnesty on all the other grounds, such as full disclosure and political motivation, but if the means - for example a horrendous atrocity - was out of proportion to the objective, amnesty would not be granted, Archbishop Tutu said.

"Let me give you a very straightforward example if you stop people breaking a boycott and you do it by intimidation, scaring someone might not be too horrendous.

"But if you necklace someone, the amnesty committee would have to decide whether that means justified the end, and most people would say it was out of proportion."

His deputy, Alex Boraine, pointed out the difference between indemnity, which was well-established in South African criminal law, and amnesty, which could apply to people already convicted and serving jail sentences.

He said the amnesty committee still had to decide how to interpret and apply the amnesty criteria laid down in the Act.

"I think we should wait for that."

Archbishop Tutu said the commissioners were bound by their brief to promote national unity and reconciliation, and were going to do "our damndest" to rehabilitate perpetrators.

"We are not going to condemn them to hell. They have been carrying a heavy burden of guilt, and to lighten that we would say it is important to state everything (they have done), but also to help them recover their ubuntu (humanity)."

"And we are hoping that what they tell will lead to the point that they are able to say 'I'm sorry', and one or two of them have indicated they want to say 'I'm sorry' on a face-to-face basis."

● More reports, p



# Steps to bring Lubowski killers to court

BO 25/4/96

(252)

Wyndham Hartley

CAPE TOWN — The truth commission will take steps to have the named alleged killers of Swapo lawyer Anton Lubowski brought before an SA court

This emerged yesterday at commission hearings, where the Lubowski family gave evidence and asked the commission to force the issue with Justice Minister Dullah Omar

Viola Lubowski, mother of the 37-year-old politician killed by AK-47 fire in front of his Windhoek home on September 12 1989, asked the commission to help remove obstacles so that the men found responsible by the

Namibian High Court could be brought to justice. She stressed that the Civil Co-operation Bureau had planned Lubowski's assassination in SA while Namibia was still under SA control.

The inquest judgment handed down by Namibia's Judge Harold Levy said hitman Donald Acheson and former bureau operatives Staal Burger, Chappie Maree, Ferdi Barnard, Calla Botha, Slang van Zyl and Wouter Basson were responsible.

She and her husband, Wilfried, said they could not explain why, despite the inquest judgment and personal approaches to Namibian President Sam Nujoma, nothing had been done to

have the men extradited for trial

Commission chairman Desmond Tutu said Omar and Foreign Minister Alfred Nzo would be approached on the extradition issue. His deputy, Alex Boraine, said it was reasonable to ask for charges to be brought here because planning a murder in SA was a crime. He said Omar would be approached.

Wilfried Lubowski said his son's killers should not be absolved of their crime. Omar had assured him murderers would not qualify for amnesty.

Meanwhile, the amnesty committee began work yesterday on about 70 ap-

Continued on Page 2

## Lubowski

(252)

Continued from Page 1

BO 25/4/94  
plications. The committee said its decisions, which would be final, would be forwarded to the full commission for announcement "at its discretion". Amnesty hearings would not be held at this stage, and when gross rights violations demanded them, "all interested parties will be notified".

Evidence was also led concerning five United Democratic Front activists

in Colesberg, who already have amnesty, who necklaced Nombulelo Delato because she was related to a policeman and had broken a consumer boycott. This was the testimony of Delato's cousin, Thomzama Maliti, who said the activists had been freed after President Nelson Mandela's release. Delato's execution had been ordered despite the fact that she was an active UDF member and had paid a R100 fine for breaking the boycott.

After Delato had been set alight the activists stopped anyone from helping her, Maliti said.

# Truth body's notice 'too little, too late'

BO 25/4/96

(252)

Linda Ensor

CAPE TOWN — There was a prima facie case that the rights of two retired security policemen had been infringed by the truth commission, Judge Edward King said in the Cape Supreme Court yesterday.

During legal argument, the judge said the commission had failed to give the two men adequate notice that incriminating evidence would be led against them. The notice given was "too little, too late".

He said it was common cause between the parties to the dispute that insufficient notice had been given, and emphasised the need for the commission to draw up rules of procedure. The court was told this was being done.

Counsel for the commission, Mohamed Albertus, said the commission was not a court. If it granted alleged perpetrators the right to cross-examine and present evidence it would not finish its work in the time stipulated.

King was hearing an urgent application for an interdict brought by former brigadier Jan du Preez and former general Nicolaas Janse van Rensburg, alleged to have been involved in the poisoning and/or disappearance of Phil Mtshkulu in 1981/82.

Du Preez and Van Rensburg asked the court to order the commission not to hear incriminating evidence before they had been given proper notice and access to the relevant documents so they could respond.

The policemen were informed by the committee that evidence would be heard between April 15-18 in East London. This, counsel Louis Visser argued, was insufficient time.

Du Preez said it was unfair that

untested and "probably unsubstantiated" allegations against him would be made public while he would have only 30 days to make written representations about them. Commissioner Wendy Orr, in an opposing affidavit, said many victims feared intimidation if they testified against their alleged persecutors.

The commission considered it prudent to withhold the identity of witnesses and their statements from people whom they were likely to implicate until they had testified.

The policemen could have attended the hearing and made written representations within 30 days, she said.

Another urgent application was brought yesterday by the Azapo's Nontsikelelo Biko, Churchill Mxenge and Chris Ribeiro asking for a court interdict against the commission preventing it from granting amnesty pending the outcome of their application to the Constitutional Court.

Azapo deputy president Pandelani Nefolovhodwe said Biko, Mxenge and Ribeiro intended to bring civil suits against the alleged murderers of Steve Biko, Fabian Ribeiro and Griffiths Mxenge, and amnesty granted would prejudice their constitutional rights. The matter was postponed until today.  Meanwhile, Sapa reports "Doep" de Bruyn — counsel appearing in the Port Elizabeth Supreme Court for five men accused of murdering three policemen and an informer at Motherwell in the Eastern Cape by booby-trapping their car — accused the commission of selective treatment of alleged perpetrators of human rights abuses. He said one of the accused, Gideon Nieuwoudt, had never been informed he would be implicated at the commission.

## ANC drops demand on poll

BO 25/4/96

(252)

Farouk Chothia

DURBAN — The ANC has dropped its demand for a blanket postponement of KwaZulu-Natal local government elections, proposing that elections for the Durban metropolitan council and 58 of the 61 transitional local councils go ahead on May 29 once voters' roll irregularities have been addressed.

The ANC said there had not been a "continuation of widespread" political violence in the Durban metropolis. Violence was confined to "isolated areas". The only local council elections which should be postponed were in Estcourt, Mandini and Vryheid. The 58 other councils were free of serious violence.

The ANC presented a written submission to the presidential committee looking into KwaZulu-Natal's election preparedness.

The committee, made up of representatives of all parties, is meeting be-

hind closed doors.

The ANC said that as a precondition for elections in the identified councils on May 29, the "very serious" problems associated with the voter registration process and its product — the voters' rolls — had to be rectified.

The ANC therefore wanted voter registration to be reopened for one day (it suggested May 6) and revision courts to sit again a week later to finalise supplementary voters' rolls. Parties should also be allowed to protest against problematic registrations, and candidates should be given the opportunity to finalise incomplete nomination forms.

It said conditions for free and fair elections existed in only a "small minority" of tribal areas.

A source close to the committee said the IFP was strongly opposed to the ANC's proposal that the elections should be staggered.



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# TRC call for probe into Lubowski's assassination

CT 25/4/96 (252)

**ROGER FRIEDMAN**

THE Truth and Reconciliation Commission is to ask Justice Minister Dullah Omar to expedite the stalled investigation into the assassination of prominent Swapo member Mr Anton Lubowski.

At Lubowski's inquest, Mr Justice Harold Levy found that he was shot outside his Windhoek home in September 1989 by a professional hitman, Donald Acheson, who acted on instructions from the shadowy SA Defence Force division, the Civil Co-operation Bureau.

But nobody has ever been convicted for the murder.

Former defence minister General Magnus Malan announced in Parliament that Lubowski had been a paid South African military spy.

The claim was widely rejected by those who knew Lubowski, but the Harms Commission suggested it might be true.

Yesterday Lubowski's parents, Wilfried and Molly, and his sister Anneliese, begged the TRC to "finally expose those responsible and to restore the good name of Anton".

Mr Lubowski said it was clear that the investigation into his son's death "was plagued by misinformation, obfuscation,



**TARGETED:** Mrs Molly Lubowski holds up a death threat — a pamphlet with her son Anton's face on it that had been used as a target for shooting practice. **PICTURE: BENNY GOOL**

subterfuge and lies .. and the conduct of the prosecuting authorities of Namibia was clearly irregular".

Mrs Lubowski said she listened every Sunday to the radio church service with Anton's Bible on her lap.

The verse chosen for April 24 — the date of the family's

appearance before the TRC — was from Romans 8.

It said: "What will we say of these things . if God is with us, who can be against us."

After the hearing, commission chairman Archbishop Desmond Tutu said he planned to approach Omar to discuss

□ Turn to Page 3

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# Woman necklaced because brother was a policeman

CT 25/4/96

(252)

LINDIZ VAN ZILLA

THE first account of a necklacing — the ghastly ritual of placing a tyre around a victim's body, dousing them with petrol and setting them alight — was heard by the Truth and Reconciliation Commission yesterday.

Mrs Nombulelo Delato was killed in the Karoo town of Colesberg in 1985 by the necklacing method. She had been pregnant at the time.

Yesterday her daughter, Mrs Busisiwe Kewana, testified before the commission that "comrades" had taken her mother and burned her. She had been studying in Queenstown at the time and had received tidings of her mother's death by telegram.

However a family member, and a witness to the killing, testified about the horrific sequence of events — from Delato being pointed out as an alleged police informer to her gruesome death by necklacing.

Mrs Thonzama Maliti said that on October 10, 1985, Delato had been chased and caught by a group of young men who stripped her



ORPHANED Busisiwe Kewana

and poured petrol over her.

"They beat her up, then put a tyre around her," said Maliti, a cousin of Delato.

She testified that one of the men ignited Delato's feet, "she was burning" and walked around naked. The comrades allowed no one to help her, nobody could stop this and she died.

Delato had been politically active and keenly supported the United Democratic Front.

However, suspicions of being a police informer started to fall on her, due in part to the fact that Maliti's uncle was a policeman.

"The comrades burned her because my uncle, Fezile Maliti, was a policeman."

Maliti also told the TRC of another incident leading up to Delato's death. At the height of the political unrest in the town there had been a consumer boycott of white-owned shops.

She said: "Delato went to the butchery to buy meat, and the comrades told her her house was going to be burned."

Later she tried to clear her name, and paid R100 to the comrades "as forgiveness for buying the meat".

Maliti said Delato, who at that stage had been living in the town, had asked to come back to live in the township. She said Delato returned to the township under the impression that she had been forgiven. "She was killed while she thought she was safe."

A man named Xolile was the one who had accepted the R100, and he was the one who said she must be burned, she said.

Kewana testified that her mother suffered a final indignity in that "the comrades didn't allow her to be buried in Colesberg".



# 'Ex-cops needed more time to prepare defence'

CT 25/4/96

(252)

**EUNICE RIDER**  
SUPREME COURT REPORTER

THE Truth and Reconciliation Commission's lawyers yesterday conceded before the Cape Supreme Court that they had not given two senior ex-police officers enough time and information regarding evidence which was to have been led against them, in order for them to protect their good names.

They have asked Mr Justice E L King to make a decision on how much time should be given to alleged perpetrators regarding forthcoming evidence before that evidence is led.

Last week Major-General Nic van Rensburg and Brigadier Jan Abraham du Preez brought an urgent application before the court to postpone TRC evidence implicating them in the poisoning and disappearance of Siphiso Mfinkulu in 1982, saying that they had only been notified that evidence was to have been led against them two days before the planned hearing in East London, and that they had not been given any detail on the incident.

They argued that once the evidence was led against them, they would only have the opportunity

to respond and try to salvage their reputations by means of written submissions, which would not receive the type and extent of press coverage that the initial evidence against them would receive.

This was blatantly unfair and they had a right to know what they stood accused of well in advance of the hearing of evidence, they said.

During argument between counsel for the former officers and the TRC, the judge said on several occasions that the policemen did indeed have the right to adequate information.

"It is a question of procedural fairness. They should

be given proper opportunity to defend themselves and give their evidence shortly after evidence is given against them," he said.

The judge said Du Preez and Van Rensburg had not asked him to deny witnesses their freedom of expression, only to postpone the hearing of evidence.

Argument will continue today

## Azapo court action halts hearings

**SUPREME COURT REPORTER**

TRUTH and Reconciliation Commission amnesty committee hearings have been postponed pending the outcome of a Supreme Court application by Azapo and the families of three slain activists, who

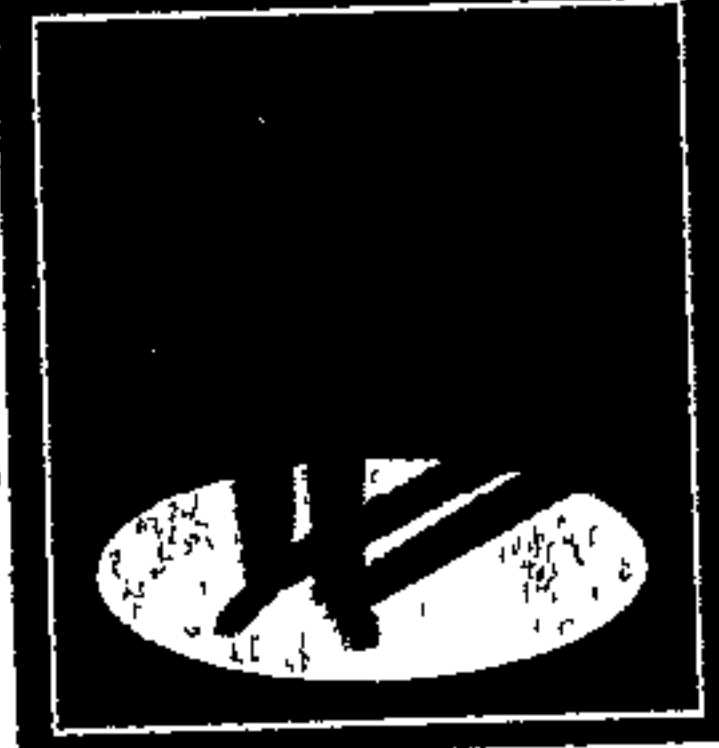
wish to have the amnesty clause dropped from the Truth and Reconciliation Act, so that they may take retributory steps against those who committed human rights violations.

This was agreed yesterday between the TRC and the families of Mr Steve Biko, lawyer Mr Griffiths Mxenge and ANC activist Dr Fabian Ribeiro.

The families of the slain activists filed papers for their urgent interdict against the consideration of amnesty late yesterday afternoon, saying they had also asked the Constitutional Court to overturn the amnesty law for human rights offences.

The application will be heard this morning.

**TRUTH & RECONCILIATION COMMISSION**



# Lubowski's (252) mother's plea

□ From Page 1 CT 25/4/96  
the possible extradition to Namibia of the former CCB agents named by the inquest judge

Commission vice-chairperson Dr Alex Boraine said if the allegation was true that the assassination was planned by South Africans in South Africa, it was reasonable to ask for the charge to be investigated in this country

At the time there was no extradition treaty between Namibia and South Africa. The persons named as co-accused did not voluntarily submit themselves for trial. Nor did the witnesses present themselves to give evidence. Acheson was released for lack of evidence

# Shot: Mom shows shattered leg (252)

ROGER FRIEDMAN

CROSSROADS residents fiercely opposed government efforts to force them to move to the sandy wasteland it called Khayelitsha — and 11 years later Mrs Nomatise Tsobileyo still carries shotgun pellets in her body as a result

Eight months after Tsobileyo was shot, schoolboy Mlandeli Mqikela was beaten almost to a pulp by police outside a shop in KTC — he still suffers from headaches, memory loss, black-outs, chest pains and mood swings

Yesterday Tsobileyo, who testified before the Truth and Reconciliation Commission, lifted her skirt to show her shattered leg. She did

not show her other injuries

Tsobileyo found herself caught up in the mass action by Crossroads residents against their forced removal on February 18, 1985. "The people did not want those houses in Khayelitsha. It was like a desert and it was far from town."

The police were firing teargas. Separated from the crowd, she found herself holed up in an outside toilet to escape the fumes.

"When I came out of the toilet, I saw a Boer and he saw me. He shot me in the left leg. I was just turning around and he shot me. I bled so heavily, the basin they were holding to catch the blood was full," Tsobileyo said.

She had several operations. Although she can walk again, she

still carries a number of bullets in her body. She asked if the commission could help with her children's schooling and her continuing medical expenses.

Mqikela was a New Crossroads Std 7 pupil when he was attacked on October 2, 1985 — a time of school boycotts.

He said yesterday he was on his way home to Nyanga East from a meeting in New Crossroads when police cornered him near KTC Bazaar. Police and soldiers hit him with batons and kicked him.

His father went to some lawyers and a charge was laid with the police. But the case was thrown out and Mqikela's father, Mr Private Mqikela, was ordered to pay the costs.



THURSDAY  
APRIL 25, 1996 ★

NOT ALL WHO CONFESS ARE ELIGIBLE

# 2 000 rights violators apply for amnesty (252)

CT 25/4/96

**THE TRC's** amnesty committee began its hearings behind closed doors this week, in the face of a court challenge. **ROGER FRIEDMAN** reports.

**T**HE Truth and Reconciliation Commission's amnesty arm is in session in Cape Town, considering whether the first batch of applicants meet the prescribed requirements. Among the applicants are human rights violators who have asked to meet their victims to personally apologise for their actions.

The commission has apparently received about 2 000 requests for amnesty, but will only consider 60 or 70 applications this week.

The amnesty committee is meeting behind closed doors and will conclude its deliberations today, while the committee on human rights violations continues public hearings at the Nico Malan Nursing College in Heideveld until tomorrow.

"It is conceivable that decisions to grant or reject applications could be made this week," the committee said in a statement yesterday. "Such decisions will not be

announced by the committee, but will be forwarded to the full commission for it to announce at its discretion and in terms of the Act."

The amnesty provision in the Promotion of National Unity Act — which, in essence, offers amnesty to those who committed atrocities in exchange for full public confessions to their crimes — has proved one of the most contentious aspects of the legislation.

Its constitutionality is being challenged in court by the families of some prominent slain activists.

At a press conference after yesterday's hearings in Heideveld, commission chairperson Archbishop Desmond Tutu outlined his understanding of when and how amnesties would be granted.

The perception that all persons who confessed to their crimes and applied for amnesty would be successful in their applications was false.

Tutu said those applying for

amnesty would have to confess to all their apartheid sins and would have to be able to show the crimes were politically motivated.

But, perhaps most importantly, perpetrators applying for amnesty would have to convince the committee that the crimes they committed were justifiable, given what they were trying to achieve.

Those whose crimes were "overbrutal" or "horrendous" would battle to convince the committee they qualified for amnesty.

By way of example, Tutu said, the state may have used intimidation to halt consumer boycotts. But if the intimidation included necklacing people, it would clearly not be in proportion to the objective of breaking the boycott.

Commission vice-chairperson Dr Alex Boraine said the amnesty provision was a key element in the negotiated settlement that led to the first democratic elections in 1994.

Certain negotiating parties had favoured a general amnesty, which might have proved even more contentious.







# Victims of new order

**T**HERE WAS A GREAT DEAL of weeping at the Truth and Reconciliation Commission hearings in Cape Town this week, but there seemed to be just a touch of boredom among commissioners – and journalists – creeping into the proceedings towards the end

Journalists were searching desperately for an exciting angle to the story as the testimony unfolded

On Wednesday, for instance, the hacks could be heard muttering in the media centre that the case of assassinated activist Mr Anton Lubowski would only be heard towards the end of the day

Even TRC chairman Archbishop Desmond Tutu, tearful and emotional in East London, was back to his old self, chuckling out loud on a number of occasions

## Reaction to testimony

At one stage, TRC vice-chairman Dr Alex Boraine, in reaction to the testimony of a victim on his harsh prison experiences, quipped "So it wasn't exactly a five-star hotel" That brought a loud guffaw from Tutu, seated next to him

That even His Grace could be becoming more desensitised to the emotional outpourings was not unexpected Not that the testimony was any less heart-rending for the victims

Four mothers from Guguletu township, a stone's throw away from where the hearings were taking place in Athlone, relived the day they discovered their sons had been killed by police in the infamous "Guguletu Seven" killings

"Why did they have to drag my son into the van with those ropes tied around his waist? Why did they have to treat him like that? Did they think that they were cleaner than him?" asked Mrs Cynthia Ngewu

## Police brutality

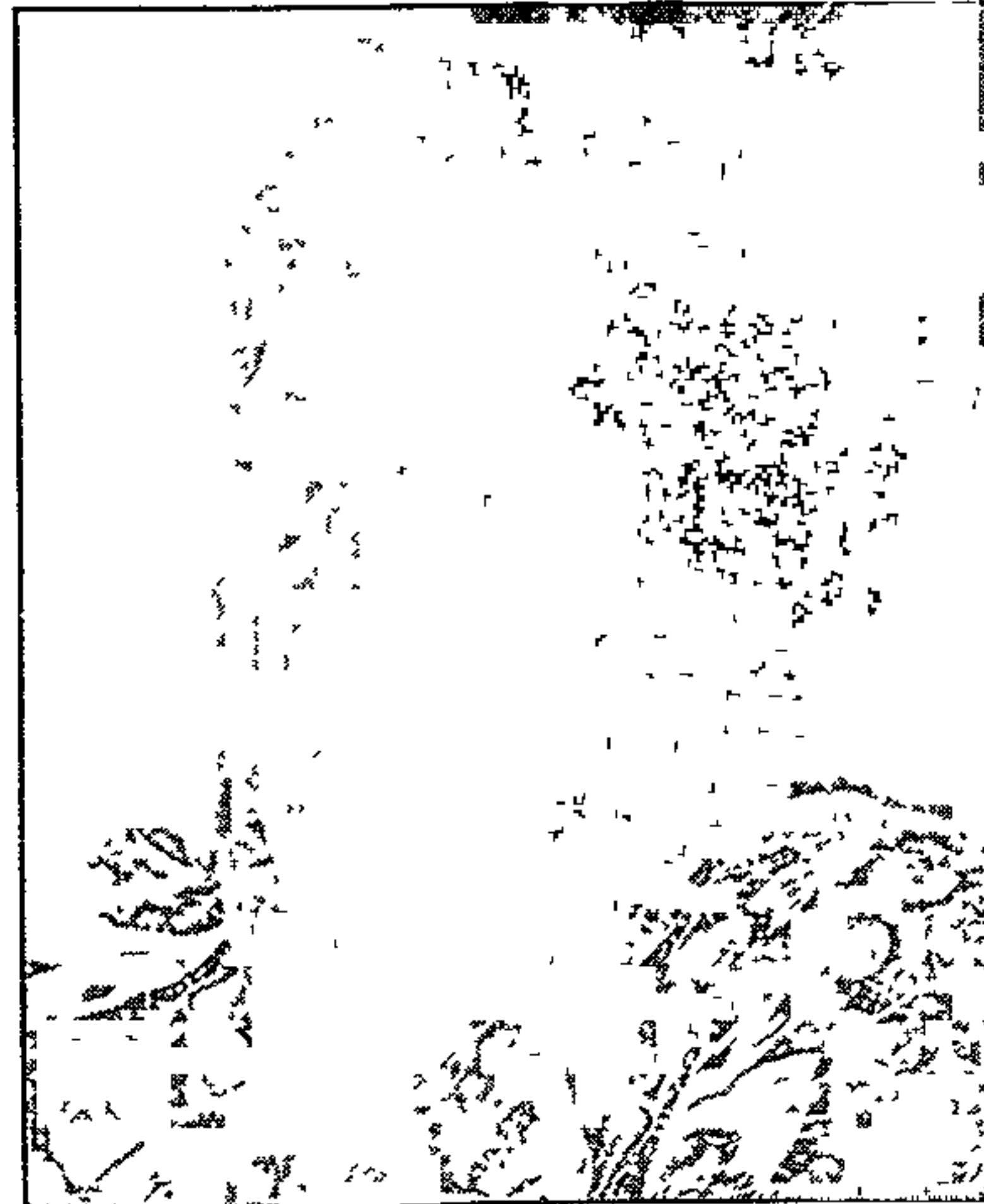
She had seen the police drag the body of her son, Mr Christopher Piet, on national television the day he was shot She said she wanted the policemen who killed her son to appear before the commission and explain why they simply shot him and did not try to arrest him

Earlier in the week there were shocked gasps when Mr Johannes Titus showed the commission his scarred and sunken stomach He had been shot by police during the 1976 school riots in the Cape Flats

He was 15 at the time and his life was to change forever He underwent nine largely unsuccessful operations to reconstruct his stomach Now he cannot eat solid foods and lives largely on custard and ice cream

Titus did not speak While he sat slumped

Archbishop Desmond Tutu and his team have a tough assignment – unearthing apartheid atrocities. But what does this do to their emotions as individuals? Political Reporter **Waghied Misbach** reports... (252)



Mrs Eunice Moya is overcome with emotion as she talks about her son Godfrey's death in a police ambush in Guguletu in 1986.

PIC AFP

against his wife Marilyn, his mother, Margaret, recounted the story in a voice quivering with emotion

Only this time Tutu did not break down as he did in East London At times he appeared tired, his face drawn Perhaps other things were weighing on his mind, including the pending Supreme Court challenge to the TRC's Amnesty Committee scheduled for this week

But what should also be weighing on his mind is how the country is going to deal with trying to compensate families for the loss of relatives and the torture they suffered

It is not in the commission's brief to provide compensation for apartheid's atrocities But time and again Tutu comforted victims at the end of their testimony saying "Thank you for sharing your grief We hope we can do something to help you"

But what can the commission do to help?

*Rowe* 26/4/96  
Tutu will now have to go to Johannesburg and then Durban, listen to further horror stories, and simply express the same sentiments in a hundred different ways for the next 18 months

How, for instance, will the TRC compensate Titus and Ngewu, and the other mothers who saw their dead sons lying in the streets, riddled with bullets?

What will Tutu tell the families of the "Pebco Three" or the other wives and daughters who testified in East London about compensation? And when he has to give amnesty to the killers, what will he then tell the families?

They will surely be angry at Tutu and his fellow commissioners when the Amnesty Committee starts dishing out their political forgiveness diplomas next month

## Victims want justice

Even though Tutu has been faithfully pointing out the functions of the TRC, many of the victims who testified this week said they wanted justice But providing justice is simply not part of the TRC's brief

These are questions that are surely weighing heavily, not only on Tutu but on other commissioners too

They all talk about simply fulfilling their mandate – which means they will record the stories of victims, give amnesty, make recommendations on reparation and rehabilitation, and then hand their report to President Nelson Mandela early in 1998

The only logical conclusion is that the TRC will provide the public at large with some sort of history of an evil past The cathartic nature of the hearings will undoubtedly also provide some victims with a degree of relief

The commissioners are obviously committed and caring individuals But they are simply the victims of this new political climate

In the final analysis, no matter how unsatisfactory the outcome, they will have to get on with their normal jobs after the hearings And journalists will simply move on to the next big story

# TRC holds fire on granting amnesty

(252) Sowetan 26/4/76

By Mzimasi Ngudle

**T**HE TRUTH COMMISSION yesterday undertook not to grant amnesty to human rights violators pending the outcome of an application for an interdict launched by the families of the victims of human rights abuses

The undertaking was made in an agreement — which was made a Supreme Court order yesterday — between lawyers acting for the commission and for the families of Griffiths Mxenge, Steve Biko and Dr Fabian Ribeiro and Azapo

The court ordered respondents to file answering affidavits before April 30 and the applicants to file their replying affidavits before May 2

The order bars the amnesty committee from granting amnesty until the ruling on the application, which will be heard on May 6

Truth Commission spokesman Mr

## Commission undertakes to wait for outcome of application for interdict

John Allen said the committee would continue considering amnesty applications but would not grant amnesty

Azapo president Mr Mosibudi Mangena said the organisation was pleased with the outcome so far

### Justice in the end

"It is all very well and heartrending to see our people telling their stories and crying while overcome by emotion. It will, however, be a tragedy if there is no justice in the end," he said

Mr Cyril Morolo, representing Azapo and the three families, is applying to interdict the commission from granting amnesty pending a Constitutional Court decision on the validity of provisions of the Promotion of Nation-

al Unity and Reconciliation Act relating to amnesty

The Act grants powers to the commission to grant amnesty to persons who make a full disclosure of their human rights offences and who satisfy the commission that such offences were associated with a political objective

Once granted amnesty, the offenders will not be civilly or criminally liable, leaving the victims with only reparation to look forward to

Azapo and the families contend that the act strips away long-standing common law rights of the victims to seek redress in courts, which includes compensation for loss of support, earnings and damage to property

See pages 3 and 14



ANTICIPATION: People prepare themselves to hear the horror stories



# Weeping and laughing, they hear the truth

LINDSAY BARNES  
Staff Reporter

(25A) ARG 26/4/96

THEY laughed a little and cried at times, gasped at tales of gruesome wounds and shook their heads in disbelief at the senseless cruelty of the security police

But mostly the 150-strong crowd that turned up to hear witnesses pouring out their stories to the Truth and Reconciliation Commission listened in alert and respectful silence

Many had taken time off work to be present and the reasons they did so were varied and personal

Marjorie George, whose father had been a caretaker at Heatherdale Primary School when the infamous Trojan Horse attack took place, was there to give "moral support" to witnesses

The proceedings were cathartic for her "In the past we were scared to talk and now people talk freely," she said

At times some people appeared to be nodding off while on other occasions they were sitting up in shock, or murmuring recognition of perpetrators' names as witnesses rattled them off

Many, like Bridget Thompson and Manuel Barange, were there to show their solidarity with the victims of violence and their families

Said Ms Thompson, who was a political activist in the Grahamstown area in the 1980s "I have cried a lot after reading newspaper clippings on this commission and to be here, actually hearing people tell their stories, makes it an issue of today and not one of yesterday"

All the way from Paarl was Isaac Benjamin, who would prefer to see perpetrators of violence brought to book

"But if the holding of the Truth Commission prevents human rights abuses from happening again, it will be alright. It will be a victory for us"

Sitting with their teacher Fatima Kimmie were four senior pupils from Cathkin Secondary School who had come to witness the workings of the commission firsthand and hoped to engage the archbishop in a public debate

Witnesses broke down and cried while giving evidence and members of the audience, tissues in hand, cried too

People squirmed uncomfortably in their seats when a mother described how her husband had left her after their teenage son suffered from brain damage after an attack by police and had become difficult to live with

Facial muscles tensed as she confessed that sometimes she, too, wished her son had died in the vicious shooting as her life with him had become unbearable

Faint whistles of shock were heard when a woman showed the damage done to her leg by a bullet from a police gun and described how she still had birdshot lodged in her vagina

And as Molly Lubowski, the mother of assassinated Swapo leader Anton Lubowski, read out a testament to her son, sobs were audible from the crowd. Many were there to support his parents

They clapped when Mrs Lubowski who, after breaking down, said the murderers should be brave enough to face the consequences of their actions

After hearing the stories of witnesses, many in the crowd expressed their difficulty with forgiving perpetrators and hoped instead that justice would be done

Still, they said the Truth Commission could teach South Africa's courts a lesson in treating witnesses with warmth and empathy

Said Lynia Morilly "Watching the way those counsellors comforted the witnesses and listening to the soothing voices of the translators calmed me down when I was upset. I think our courts could learn something from this"

During the proceedings, the premises were cloaked by a police task force of 150 personnel. On standby was a Metro training centre with a doctor and a 40-strong rescue team

On the property were surveillance teams, bomb disposal units and explosives sniffer dogs

Public order policing patrols were posted outside the venue

■ See page 11.

# Defence dept 'bought car for top IFP official'

BD 26/4/96

DURBAN — The former government's defence ministry had authorised the purchase of a brand new Volkswagen Jetta for IFP deputy secretary-general Zakhele "MZ" Khumalo after a massacre of 13 people at KwaMakutha in 1987, the Durban Supreme Court heard yesterday.

This emerged during cross-examination of confessed IFP murder squad operative Bhekisisa Alex Khumalo, who is testifying in the murder trial of former defence minister Gen Magnus Malan and 19 others, including MZ Khumalo. They have pleaded not guilty to charges of murder, attempted murder and conspiracy to commit murder arising from the massacre.

Leading yesterday's cross-examination, defence counsel Jeff Hewitt said a secret military signal issued by the defence ministry in September 1988 had led to the purchase of MZ Khumalo's car to assist him with "IFP activities".

Hewitt said MZ Khumalo had requested a new car due to "the enormous amount of kilometres" he travelled while performing IFP duties.

The Jetta became the focus of the proceedings after Bhekisisa Khumalo alleged he had noticed it parked at the scene of a "mock hit squad attack" near Ulundi on the day before the KwaMakutha attack, January 21 1987.

However, Hewitt said the military signal proved that the car had been

bought only in 1988 and could therefore not be linked to the massacre.

The attack was allegedly intended to kill United Democratic Front activist Victor Ntuli and carried out by an IFP murder squad that received training from the SADF at a secret island base in the then South West Africa's Caprivi Strip.

IFP trainees were allegedly transported back to KwaZulu-Natal to take part in a covert operation, Operation Marion, aimed at undermining the ANC and its allies in the province.

MZ Khumalo is alleged to have been partly responsible for the recruits' activities after their return to the province. Earlier in the trial the court heard the 1988 military signal had been prompted by a meeting between MZ Khumalo and one of Malan's officers. Khumalo had allegedly requested a meeting with Malan after some of the trainees became "restless", the court heard. The signal also allegedly instructed military officers to speed up Operation Marion.

Earlier yesterday, Bhekisisa Khumalo said the military intelligence officer allegedly responsible for ordering the massacre had been informed beforehand that Ntuli did not appear to live at the target house. He said he had reported this information to Opperman, who later ordered the murder squad to carry out the attack. — Sapa.

## Truth body wants more TV coverage

Stephen Lauffer

(252)

THE truth commission hearings had begun to "flush out" perpetrators, and it had added impetus to their inclination to talk and name others, commissioner Russell Ally said in Johannesburg yesterday.

His remarks followed the announcement that the first public hearings of the human rights violations committee in Johannesburg would start at the Central Methodist Church on Monday.

The commission was "very disappointed" at the SABC's failure to provide live TV coverage of its hearings beyond the opening ceremony in East London, especially in view of the ease with which funding was found for

sports broadcasts, commissioner Yamin Sooka said.

The commission's work was of national importance, and it was essential the electronic media should accompany it to the rural areas.

Talks were under way between the commission, Deputy President Thabo Mbeki and SABC CE Zwelakhe Sisulu in an attempt to obtain funding for greater coverage.

Commissioners aimed to hear nine or 10 cases each day next week in Johannesburg, excluding the May Day holiday, Sooka said. Witnesses would cover the period 1960-1993, and would include "some prominent cases," although names remained confidential until the hearings for security reasons.

BD 26/4/96



# Truth body will not grant amnesties until case is over

Linda Ensor  
and Wyndham Hartley

CAPE TOWN — The truth commission gave an undertaking yesterday that no amnesties would be granted by its amnesty committee before a Supreme Court application, postponed yesterday to May 6, was finalised

The undertaking was given to legal counsel for Azapo, Nontsikelelo Biko, Churchill Mxenge and Chris Ribeiro, who have applied to the Constitutional Court to have the amnesty process declared unconstitutional

The three will bring civil actions against alleged perpetrators. Ribeiro has instituted action in the Durban Supreme Court against former Vlakplaas operatives Dirk Coetzee and Almond Nofomela.

Truth commission spokesman John Allen said the undertaking would not prevent the amnesty committee from considering applications for amnesty

At the commission hearings in

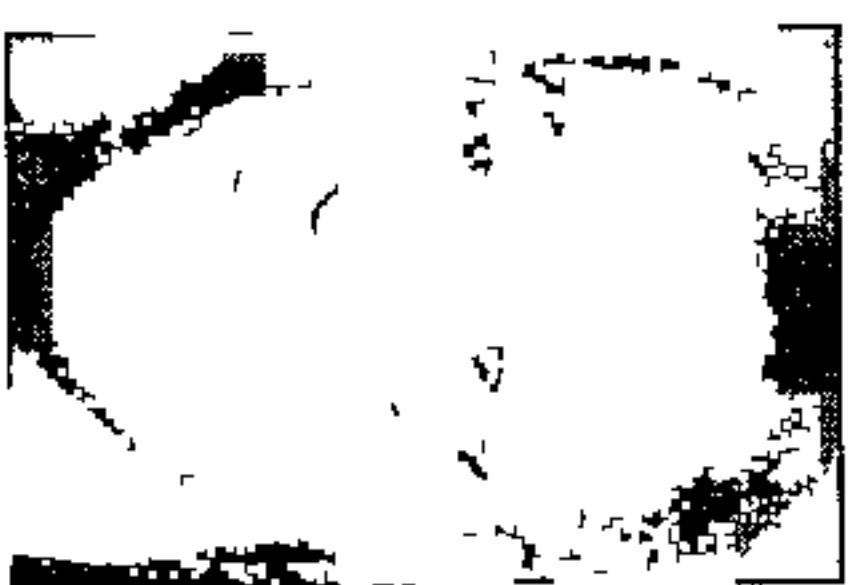
BD 26/4/96 (252)  
Athlone, a witness said a policeman who had been present at her daughter's death by police gunfire in 1989 was guarding the commission when she arrived yesterday. Cornelia Otto, whose 16-year-old daughter, Ewette, was killed in protests against the white election on September 6, 1989, said she recognised the policeman. She had earlier described how her daughter was lighting tyres in the street when police fired. She claimed there was no warning shot and said the inquest had found protesters were throwing petrol bombs. Commission deputy chairman Alex Boraine said at a news briefing that Otto had not suggested under oath that the policeman was responsible.

ANC Senate deputy president Govan Mbeki gave evidence on Looksmart Ngudle's death in detention in 1962. Mbeki said Ngudle had sent him a note saying he was being tortured. Two days later Ngudle was dead.

See Page 2

# Police 'were determined to kill lone MK guerrilla'

(252) CT 26/4/96



**ANC GUERRILLA** Anton Fransch, 20, was shot dead by police in a seven-hour battle in Athlone last night. He was the only guerrilla to be killed in the attack. He was shot by police in Athlone last night. He was the only guerrilla to be killed in the attack. He was shot by police in Athlone last night. He was the only guerrilla to be killed in the attack.

Anton Fransch, a 20-year-old ANC guerrilla, fought a lone and courageous battle against an "army" of police who never intended to "take a prisoner, but to kill one", an eyewitness told the Truth Commission yesterday.

Fransch, a trained Umkhonto weSizwe guerrilla, died on November 17, 1989, after a seven-hour gun battle with police at a house in Athlone.

Neighbour Mr Basil Snayer yesterday described the attack on Fransch by up to 40 heavily armed policemen as a full-scale military attack on the enemy.

Snayer asked why police, who at that time were so adept at dispersing crowds of thousands of people, did not use other methods of flushing Fransch out.

"Anton could have been tear-gassed out, or starved out over several days," he said. Instead, he said, the police kept firing, using an assortment of weapons including heavy artillery. A police Casspir was also used to batter down the wall at the back of the house.

Snayer said the shooting started at about 12.30pm and continued unabated until 7.45pm. "The longest the firing stopped was for about half a minute." He said during all this time "Fransch was never given the opportunity to give himself up."

He said one policeman kept shouting in Afrikaans "Come out you f---, today you are dead."

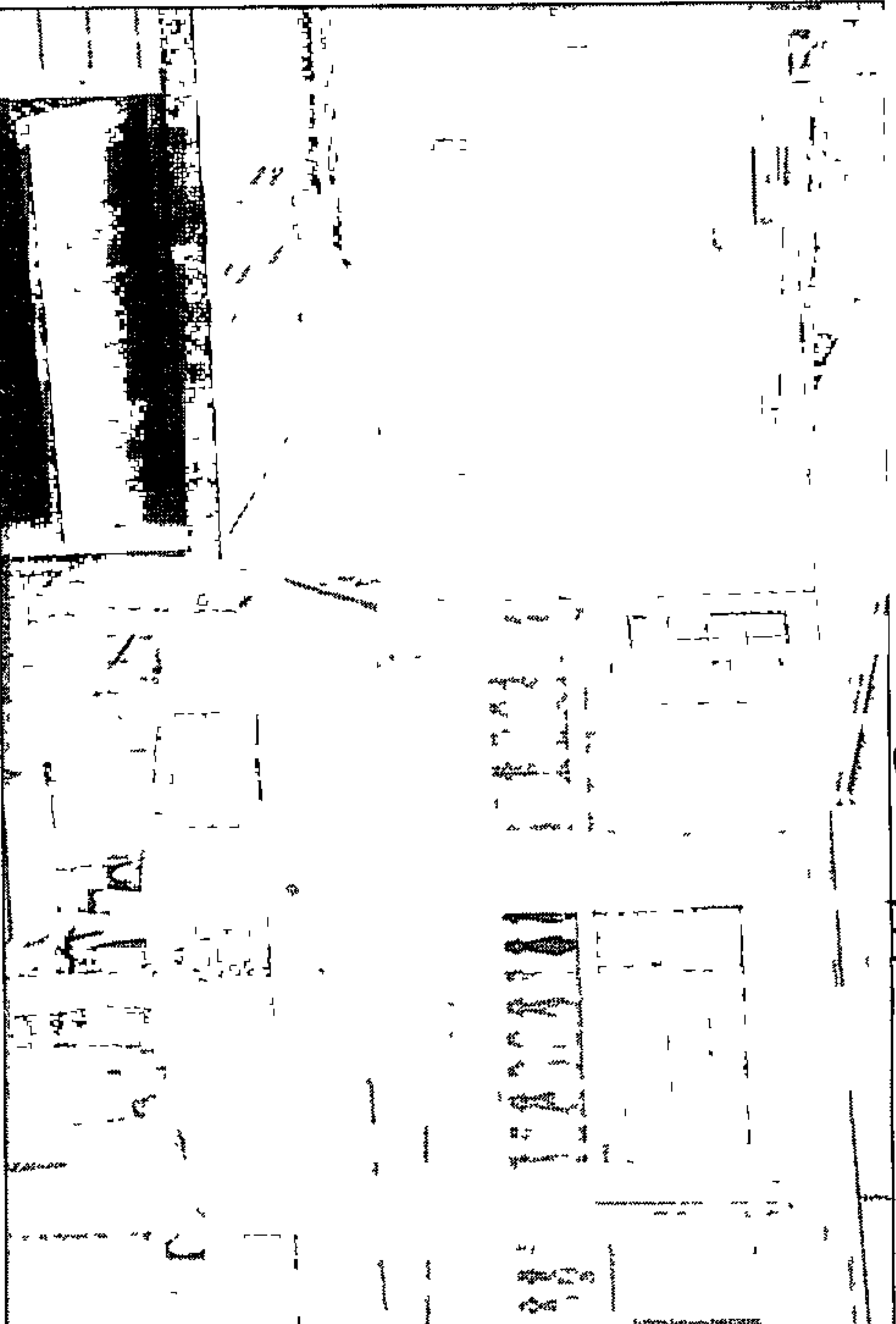
Fransch died as a result of a hand-grenade explosion within the small confines of the room in which he had been holed up. He had allegedly been armed with an AK-47 assault rifle and a small handgun.

Snayer said the walls and ceiling had been splattered with blood, and "there were pieces of clothing, hair and flesh smeared on the walls."

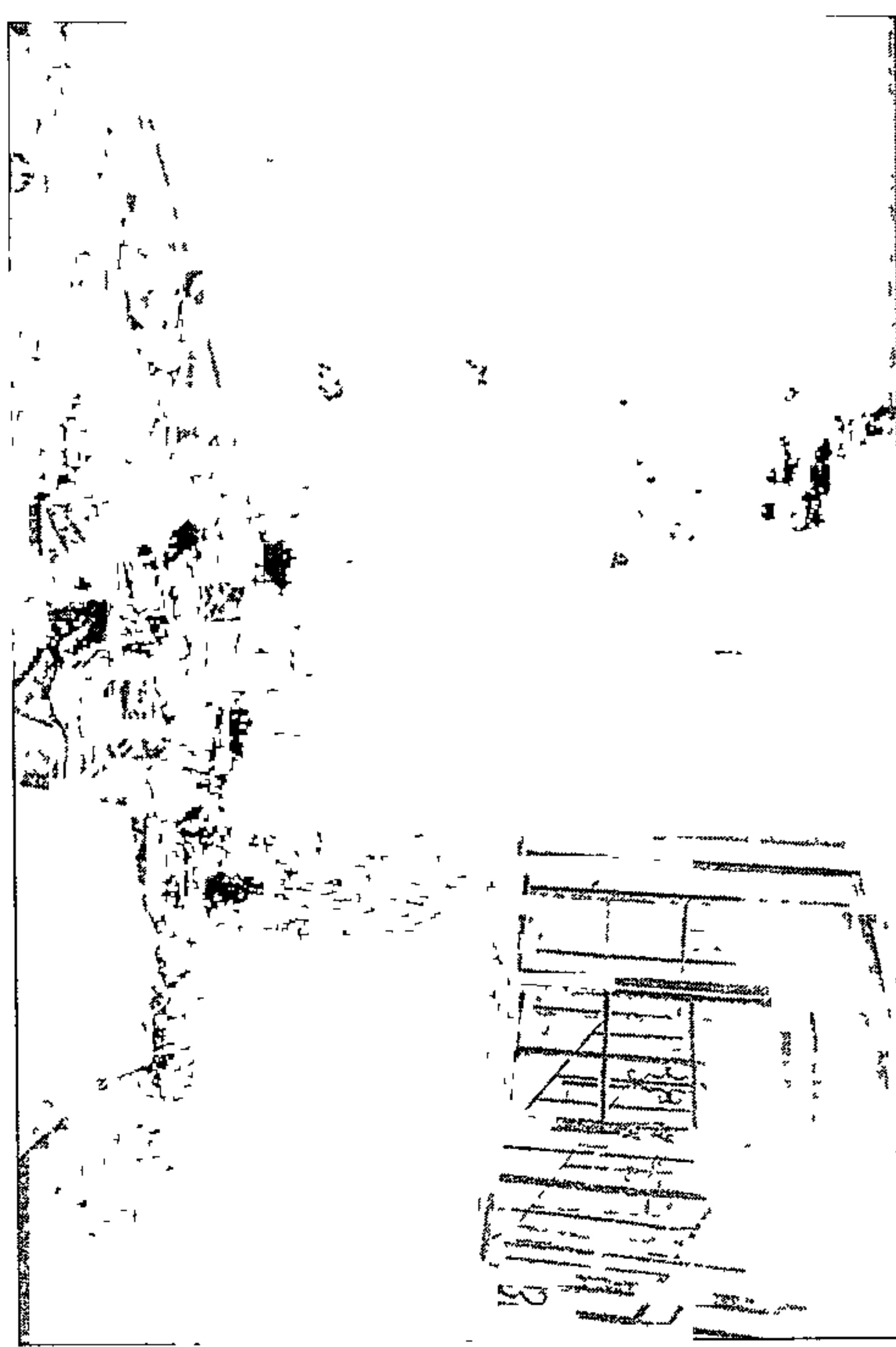
Snayer also cast doubt on a police version that Fransch blew himself up with his own hand-grenade.

He testified that a policeman had climbed onto the roof of the house where Fransch was hiding. "I saw an arm movement, as if he was trying to catch or throw something and then there was a loud explosion."

He said the time lapse between the arm movement and the explosion could very well have meant that an explosive device had been thrown through the window. Snayer ended by saying the "myth that young cadres such as Anton, Ashley Kriel, Robbie Waterwitch and Coline Williams were communists or people influenced by communists should be expelled."



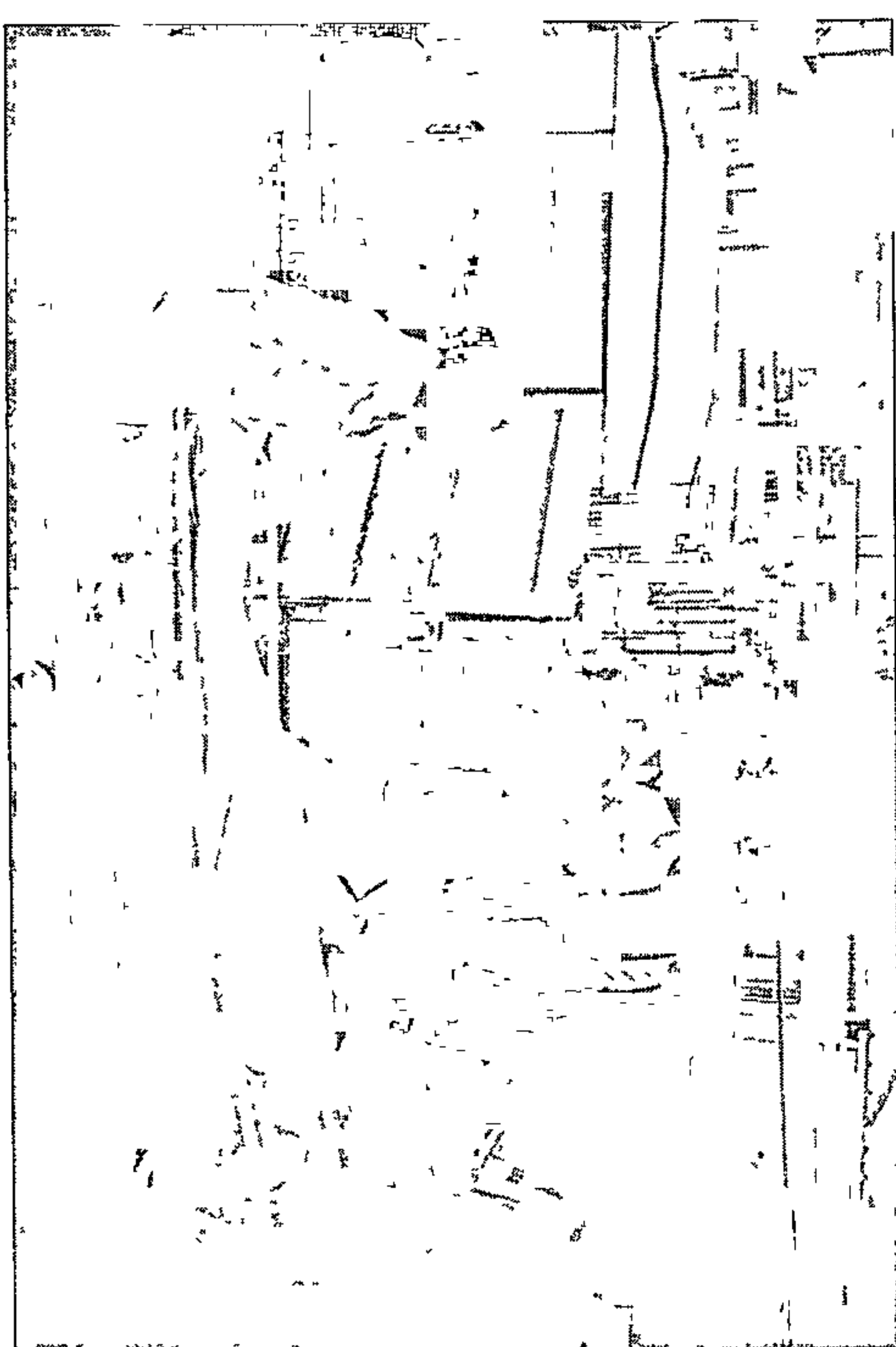
**THE END:** This was the hand-grenade explosion which ended Anton Fransch's seven-hour resistance and cost him his life. PICTURES: BENNY GOOL



**THE AFTERMATH:** Bloodstained, pockmarked walls testify to the violent death of MK cadre Anton Fransch in this room.



**DESTRUCTION:** Police gather at the back of the house where Anton Fransch died. A police Casspir used in the siege is parked amongst the rubble of what used to be the back wall.



**FALLEN CADRE:** Police remove the shrapnel-torn body of MK cadre Anton Fransch from the house where he had been trapped.



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## Teacher forgave attackers' TRC generosity is ordered

**LINDIZ VAN ZILLA**

A VICTIM of the 1993 St James Church massacre, which left 11 people dead and 55 injured, told the Truth and Reconciliation Commission yesterday that he had forgiven his attackers because this was his duty as a committed Christian.

City school teacher Mr Paul Williams was wounded in the spine when four gunmen burst into the church in Kenilworth on July 25, 1993, and blasted the congregation with machine-gun fire and handgrenades.

His spinal injuries left him with a paralysed left foot and areas of numbness in other parts of his body.

Williams said he had forgiven his attackers out of brotherly love.

"I bear no grudges. There is no bitterness in my heart," he said.

His comments of forgiveness were echoed by Mrs Marilyn Javens, whose husband Guy was killed in the attack.

Asked by commissioner Dumisa Ntsebeza whether she would be willing to forgive the attackers, she replied: "I already have."

**EUNICE RIDER**  
SUPREME COURT REPORTER

JUDGMENT was reserved in the matter of two former police officers who applied to the Cape Supreme Court for more information regarding evidence before the Truth and Reconciliation Commission that was to have implicated them in gross human rights violations.

Counsel for the TRC conceded that they had not given Major-General Nic van Rensburg and Brigadier Jan Abraham du Preez information and enough time to be able to defend themselves, but said they had only been given information "out of generosity", as the TRC was not obliged to do so.

Mr Justice E L King made the TRC's "generosity" an order of the court and reserved judgment indefinitely.



# Omar looking into Von Lieres's retirement

**Mungo Soggot**

JUSTICE Minister Dullah Omar said this week he was awaiting "certain information" about the controversial retirement of former Witwatersrand attorney general Klaus von Lieres and Wilkau, but had yet to launch an official investigation.

Malan in Durban, where he is understood to be earning R6 000 a day plus R600 an hour for additional consultations. Omar said his department had accepted Von Lieres's resignation on the grounds of ill-health "on the basis of a medical certificate which indicated Von Lieres was suffering from an irreversible medical condition". He said an official investigation had not yet been launched and he was waiting for more information before commenting on the matter.

Comments last month from African National Congress justice spokesman Willie Hofmeyr, who said taxpayers deserved some answers since they had made Von Lieres instantly wealthy. Hofmeyr expressed concern about Von Lieres's agreement to defend Malan after doctors had pronounced him unfit for his post as attorney general and had advised his immediate retirement.

Von Lieres had a fiery relationship with his employers, taking the Justice Department to court in 1994 for denying him a promotion he said had been promised him by the then justice minister, Kobie Coetsee. He applied to the Transvaal Supreme Court to confirm his promotion to deputy director general of the department, but this failed. Von Lieres claimed there had been a conspiracy between senior Justice Department officials to deprive him of his promotion.

Klaus von Lieres and Wilkau: Gets a R12 000-a-month pension

(252) mtg 26/4 - 2/5/96



# Woman recognises child's 'killer' outside TRC venue

CT 26/4/96 (252)

ROGER FRIEDMAN

THE mother of a pregnant woman shot dead by police sobbed uncontrollably as she told the Truth and Reconciliation Commission she saw one of the policemen allegedly involved in the killing, guarding the venue when she arrived to testify yesterday.

Evette Otto was 16 when she lost her life while setting up a tyre barricade on Valhalla Drive, Bishop Lavis, at the height of the defiance campaign on September 6, 1989. These were turbulent times. The last whites-only election was held that day, the NP was losing its grip on power and Archbishop Desmond Tutu had just been arrested.

Youths had fought running battles with police throughout the afternoon near Valhalla Drive, and just before 9pm Otto set out with some friends to join the action.

"I shouted at Evette. I said 'If the Boere come now they will shoot you.' I had just said those words when it happened," her mother Mrs Cornelia Otto said.

The commission seemed unprepared for Mrs Otto's answer when asked if she would recognise any of the policemen she saw that night. "This morning when I entered the hall one



**GRIEVING:** Mrs Cornelia Otto pictured in 1989 after the shooting of her daughter

stood there (outside) a big man with a blue suit, and when I looked him in the eye, he saw me and looked away.

"I would really like the commission to get hold of this policeman so he can come and ask my forgiveness for what he did to my daughter."

But the policeman — apparently a sergeant based at Manenberg Police Station — had already left when Mrs Otto emerged from her debriefing session to face the press.

She had last seen him at the mortuary soon after Evette's death. When he saw her, he had burst into tears, Mrs Otto said.

she did not know the policeman's name. His name is known to The Cape Times.

She did not know whether he had killed Evette. There were several policemen at the scene that night, and they had started shooting from their van as they turned into Valhalla Drive.

Superintendent Gerard Victor, the national security co-ordinator for the commission, said the police had deliberately deployed young, relatively inexperienced members to guard the venue to avoid the embarrassment of any of them being named as perpetrators.

It was possible the policeman Mrs Otto saw had resembled one she saw the night of her daughter's killing, but it was also possible that he was deployed outside the venue.

The commission's Human Rights Violations Committee has concluded its first session in the Western Cape, and moves to Gauteng and KwaZulu-Natal over the next two weeks.

After KwaZulu-Natal, the commission will split up and hold simultaneous hearings all over the country. Vice-chairman Dr Alex Boraine said the commission would hold "many more hearings in the Western Cape, Northern Cape, Southern Cape and the Boland."

● See Page 3

# Truth Commission bares its teeth

By WILLIAM-MERVIN GUMEDE

The Truth and Reconciliation Commission would exercise its right to subpoena alleged perpetrators of human rights violations when it sits in Johannesburg on Monday, Gauteng commissioner Yasim Sooka said this week.

Sooka said the TRC was not a toothless body and had the power to call people implicated in human rights violations to appear before it.

"Although we respect the individual right of persons who wish not to come forward, the TRC Act allows for alleged perpetrators who are reluctant to appear to be brought to the commission," Sooka said.

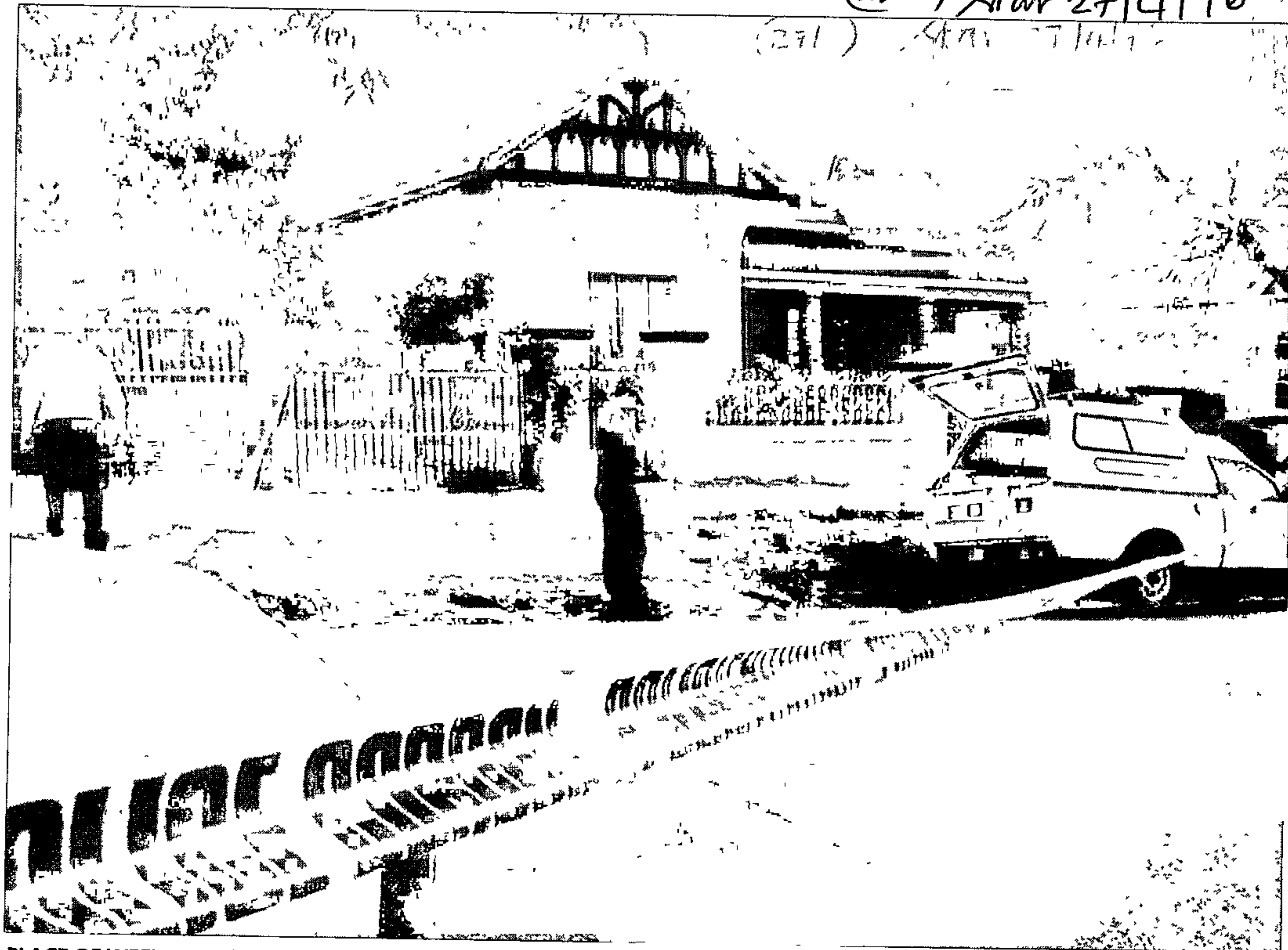
Fellow commissioner F. J. Randerera said many alleged perpetrators had already been informed that they had been implicated by witnesses and victims. "We had some practical difficulties in contacting some of the alleged perpetrators, as many of them do not work or stay at the same addresses as when the crimes were committed."

On Monday, the Gauteng leg of the hearings begin at the Central Methodist Church in Johannesburg. Sooka said revelations were expected to be just as emotional as those at the opening hearings in East London two weeks ago. Several high-profile cases of human rights violations are expected to be heard.

Sooka said the publicity around the hearings had helped to "flush out" perpetrators. "Many of the perpetrators have come out in the open after the hearings, and talked about their involvement and named others. It is likely that many other perpetrators will do the same in the coming weeks."

Sooka complained about the SABC's failure to provide live television coverage of its hearings beyond the opening ceremony in East London, especially in view of the ease with which the public broadcaster could obtain funds for sport. The commission's work was of national importance and it was crucial that the electronic media should cover it adequately, especially for the far-flung rural areas, Sooka said.

Discussions on increased funding for coverage are taking place between the commission, Deputy



PLACE OF WEeping Police investigate the scene where Wits University academic Dr David Webster was shot dead in 1989

President Thabo Mbeki and SABC chief Zwelakhe Sisulu

The commissioners declined to name people who had applied for amnesty, but said "several high-profile people involved in apartheid crimes have approached the commission for amnesty"

Commissioners hope to hear about nine or 10 cases each day next week, excluding the May Day holiday. The commission, established under the Promotion of National

Reconciliation and Unity Act, has sweeping powers to investigate political crimes committed in and outside the borders of South Africa between March 1 1960 and December 5 1993.

The commission has begun contacting South African missions and embassies in foreign countries, calling on people to get in touch with the commission's representatives.

For security reasons, the names of witnesses will remain secret until

the hearings.

Sooka said the hearings would lift the veil on many of the train massacres, disappearances, incidents of torture, deaths in police cells, taxi violence and inter-organisational conflicts in the region.

One revelation will be the account by the family of an activist who was hanged in what they believe was a wrongful execution. The case is expected to focus attention on the role prosecutors, magistrates and

judges played as partners in human rights violations against ordinary citizens.

The assassination of Wits University academic Dr David Webster in May 1989 will also be a major focus of the hearings. Webster, at the time the extra-parliamentary movement's top expert on assassinations and vigilante attacks, was gunned down only days after completing a report on assassinations and abductions by the security forces.



# Cape activists resist truth hearings

The truth commission hearings in the Western Cape might have missed the full picture of human rights abuses committed there, **Rehana Rossouw** reports

**U**NITED Democratic Front (UDF) activists, who bore the brunt of the state's iron fist in the Western Cape, did not show up at the Truth and Reconciliation Commission's hearings in Cape Town this week.

Resistance to testifying at the TRC was particularly high in the Cape, where many victims and their relatives expressed misgivings about the

process. But their absence could give the public a skewed idea of the extent of human rights violations perpetrated against opponents of apartheid.

UDF and former Umkhonto weSizwe operatives had in the 1980s claimed on numerous occasions, including at court hearings, that security police had shot them and tortured them during detention.

Former UDF leader, Johnny Issel, now a member of the Western Cape Provincial Legislature, said this week he saw no purpose in testifying at the TRC. He had been detained and tortured on numerous occasions in the 1970s and 1980s and was banned. In 1989 he brought an application to the supreme court in an attempt to stop police harassment.

In an affidavit he described his fears that the police would "shoot to kill" him. "I was confronted by a member of the security forces at the home of my wife's parents. He took out his gun and wanted to shoot me, but my wife came between us and prevented him from shooting me."

"If my wife had not prevented him, I could have been killed or seriously injured."

He also described an incident in February 1989 where 50 policemen wearing balaclavas arrived at a party he was attending. He hid in bushes and overheard one policeman shout to another that he would kill him if he spotted him.

Issel said he still believed today that the police meant to murder him. "They

told me they were going to kill me and they made numerous attempts to do so. It was premeditated and planned. Thank God I'm a survivor."

Issel said he had been tortured by several security policemen, including some whose names have already come up at TRC hearings. He also named others who had not only tortured him, but members of his family as well. Yet, he is not prepared to share this with the TRC.

"I don't think I'll get lasting peace if I go to the truth commission and give them my story. All I will be doing is giving them more time on television," he said.

Other victims of security policemen who were members of what was called the Terrorist Detection Unit in the

Western Cape also claimed this week that they had been tortured. They also said they would not testify at the TRC.

During the 1980s, the Terrorist Detection Unit detained scores of people and produced two major terrorism trials. Both trials started after people were held for months in solitary confinement, and in both instances, trialists told the courts how they had been tortured.

In one case known as the Yengeni trial (MP Tony Yengeni was accused number one), trialists initiated steps to have a security policeman prosecuted abroad for crimes against humanity and torture. They claimed they were beaten, chained, suffocated and shocked at the security police's offices in Culemborg.

One of the trialists, who asked not to be named, said this week he believed there was a "culture of silence and self-denial" in the Western Cape. He had not considered testifying to the TRC about his experiences in detention.

"This is going to sound strange, but it's something we just don't talk about. If any of the people who had undergone torture speaks out, it's almost as though others believe they are bragging, that they believe they had been stronger or tougher than the rest," he said.

"I agree someone needs to break that culture of silence if the TRC is to hear the full story of the atrocities committed in the Western Cape, but it's not going to be me."

Another former UDF member who claimed she had been tortured by the security police said she would not testify at the truth commission as it was nothing more than a "church service".

"I was at the truth commission's public meeting in Cape Town last week and it was pathetic. They had people singing *Senzzena* (What have we done?) We know what we did, we opposed apartheid, a crime against humanity," she said.

**W**e told our stories before, there were court cases, there was media exposure, there were international campaigns. People know what atrocities were committed. Why must we now come again and sit in front of television cameras so everyone can see us cry? I'm not a victim, I'm a survivor.

"Why must we reconcile? If a murder was committed, justice must take its course in the courts of law. The TRC can't stop that from happening."

The family of one of the most respected leaders to emerge from the Muslim community in Cape Town, Imam Abdullah Haron, has not yet decided whether to testify before the TRC. Haron died in detention in 1969 after being held by security police at the Caledon Square police station. Police said he had fallen down a flight of stairs.

Despite a personal appeal from TRC commissioner Mary Burton and a visit to President Nelson Mandela last week, the Haron family attended the hearings as observers, not participants. They want Haron's killers to be brought to justice in a court of law and are reluctant to offer them an opportunity to apply to the TRC for amnesty.

TRC representative John Allen said in response that the process was completely voluntary and although an attempt was made to make the hearings as representative as possible of all cases, it was not always possible to do so.

"The commission appealed generally for people to come forward, we are making no distinction between high-profile and lower-profile cases," he said.



Assaulted, Nomakulu Zwini treated herself after she had been severely

## Torture victims were given no help

Rehana Rossouw

**T**HE failure of some magistrates and members of the medical profession to assist victims of human rights abuses emerged as a theme in the Truth and Reconciliation Commission's Western Cape hearings this week.

The family of Looksmart Ngudle, a journalist and Umkhonto weSizwe operative who died in detention in September 1963, testified that they did not believe a police account that he committed suicide.

Although a district surgeon who conducted a post mortem for the state had found no evidence of ill-treatment or injuries on Ngudle's body, the TRC heard evidence that he had been tortured. Corroborating witness, Senator Christmas Tinto, who had been detained at the Caledon Square police station while Ngudle was interrogated there, said he heard policemen celebrating one evening. "They were saying, 'We got Looksmart'. I don't even think they knew his surname."

Tinto said he had seen security police beating Ngudle and named two of them as Sergeant Spyker van Wyk and a Sergeant Greeff. "I was in a cell directly facing a flight of stairs. The security policemen came rushing up with him, kicking him and beating him as they climbed the stairs."

"They pulled out his beard on half of his face and he was bleeding heavily from his mouth. My cell was opened and they threw him in. They were surprised to see another person in there and pulled him out. During that short period Sergeant Greeff and Sergeant Van Wyk were beating him up."

Ngudle was transferred to Pretoria and was visited on three occasions by a magistrate and an interpreter. On the third visit he complained that he had been assaulted and had coughed up blood as a result. He died the next day.

Isaac Rani, who had been kidnapped in the then-Rhodesia and brought to South Africa to face charges of leaving the country without a passport, told the commission he had been beaten by the police until he vomited blood.

A doctor came to see him while he was in detention, but he did not expect the doctor to help him as he would probably have been killed if he did.

"I was tortured and beaten up for three days. The doctor came and said there was nothing he could do for me. He told me I only have a month to live," Rani said.

Nomakulu Zwini, who testified that she had been assaulted by police in 1960 during the pass law protests and again in 1976 during the student uprising, told the TRC she couldn't go to hospital for treatment "because we would be identified as rioters".

Her husband was shot in the shoulder at the Langa anti-pass protest on March 21 1960, and she removed the bullet herself. After she was severely beaten in 1976, she also treated herself. "My face was swollen, every part of me was swollen. Nobody takes you to the hospital because then you just get beaten again. The best thing is just to treat yourself in your own house," Zwini said during her testimony, during which she broke down in tears several times.

Margaret Titus told the commission how her son Johannes had been shot in the stomach by police in 1976. He was hospitalised for a year and had nine operations to close the gaping hole in



Another victim: Johannes Titus was shot in the stomach by police

his stomach. Johannes lifted his shirt during the hearing to show the concave hollow in his stomach.

"Before Johannes was released from hospital the police came there and said he must go to Pollsmoor (Prison). The doctor said he was too sick to go. After he was released we got a subpoena for court. The magistrate said he had already been punished, he didn't need further punishment."

Titus said she was not sure what the charges were against Johannes. He had been on his way to buy fish and chips for his siblings when he was shot, and she was told there was no rioting in the street where he had been walking. The policeman responsible had come to her house afterwards to apologise, but she could not remember his name.

Nomvuyo Zantsi, whose brother Sonny Boy (15) was shot and killed by police in September 1976, said her father had attended the inquest into his death at the Wynberg Magistrate's Court. "He came back and told us nobody was to blame. The magistrate said the kids threw stones at the police. It really affected my father mentally.

Why did they have to shoot as much as that? Why didn't they just arrest the boys instead of killing them?"

Sisana Maphalane told the commission she did not take legal action against the police when her 15-year-old son was shot dead by police. "They will just say the children were throwing stones and there won't be any case."

Edward Juqu, whose son Fuzile was shot and killed by police, told the TRC how rudely he was treated by Salt River mortuary staff when he went to look for his son there after he did not come home one night.

Juqu had gone to three hospitals and had searched wards before going to the mortuary. "My son had been shot, and no one came to tell me he was at the mortuary. When I got there they tried to chase me away, they said I was wasting their time. They told me to sit down. Then I saw him lying there on his stomach. His whole back was covered in bullet holes." Juqu became increasingly emotional as he told of his search. Abruptly, he refused to say more. "My heart is broken," was all he would say.



# Truth commissioner is haunted by her history

Claims of fraud have surfaced to haunt truth commission official Hlengiwe Mkhize. **Stefaans Brümmer** reports

**T**RUTH commissioner Hlengiwe Mkhize, head of the truth body's reparations committee, is at the centre of a storm over the "collapse" of a non-governmental organisation racked by allegations of maladministration.

In February remaining staffers of the National Children and Violence Trust (NCVT), founded by Mkhize, were dismissed — after they had passed a vote of no-confidence in Mkhize and her co-trustees. Several former employees have made serious allegations, but ask to remain anonymous for now.

The *Mail & Guardian* is in possession of documents in which foreign donors were alerted as early as December about "concerns" over the way the organisation was run, and in which, inter alia, a "trustee" states that his signature was faked in the deed of trust. Mkhize acknowledged this week that it was not the "trustee's" own signature — a fact which will probably invalidate the registration of the trust.

At the centre of the dispute are questions over the extent to which Mkhize, co-chair of the board of trustees, was still directly involved in running the organisation during the process of disassociating itself from which tensions came to a head.

Mkhize, who became director of mental health and substance abuse in the Department of National Health last August, maintains she removed herself from the day-to-day activities of the NCVT when she started in that position, and asked that questions be put to her co-chair, Dr Cecil Manitshana. Said Mkhize: "It is not something that I feel responsible for. Since last July I have not been in a position to make any firm decisions."

However, a former employee claimed that Mkhize was still in charge "by remote control" from her Department of National Health office in Pretoria.

The *M&G* also has information that it was Mkhize herself who in December interviewed Patronella Molefe for the post of director, responsible for the day-to-day administration of the NCVT from its national office in Johannesburg. The *M&G* is also in possession of minutes of a meeting in January where Mkhize was present, and references in other documents to at least a degree of involvement since August last year.

Until Molefe started as director in January this year, Mkhize herself held the post of director — on paper at least. But Mkhize maintains that since August another national office employee, Paul Ntsooa, had "acted" as director.

Molefe started as director on January 3, a post she held until February 12, when she was dismissed together with other employees. From the documentation in possession of the *M&G* it appears she thought she did not have full access to information relating to the administration of the organisation.

Minutes of a meeting held on January 7 show Molefe was already concerned about her own position. According to the minutes, Mkhize and one other trustee were present at the

meeting. Neither co-chair Manitshana nor Ntsooa — who by then had been dismissed — were present.

Manitshana, contacted late during the *M&G* investigation, said he could not be expected to answer questions at short notice.

The organisation, known previously as the Children and Violence in South Africa Project, was founded in the early 1990s by Mkhize, a clinical psychologist, who was then a member of Wits University's Psychology Department. The project, aiming to help children exposed to violence, was administered by the university.

There is some uncertainty about the exact time it was started — documentation prepared for funders say 1990, although Wits' deputy registrar (research) Marge Cairns said in writing this week that "as far as I am aware, the project was initiated in 1991 and established in 1992".

In intervening years, up to nine regional "networks" were set up in different parts of the country to counsel children and train communities in dealing with the effects of violence on children, and donor funds became available from Radda Barnen (Swedish Save the Children) and other local and foreign donors.

In 1994 the organisation started a process of disassociating itself from Wits, and on October 16 last year it was finally registered with the Master of the Supreme Court in Pretoria as an independent trust, with seven trustees, including Mkhize and Manitshana. On October 31 the last funds still administered by Wits were transferred to the trust.

In April 1994 already, Mkhize had started a relationship with the United States-based funding agency, the Christian Children's Fund (CCF). In an agreement reached on April 26 1994, the CCF agreed to give NCVT \$62 700 for the remainder of the year — \$60 000 in cash and the rest in the form of a notebook computer. The agreed budget earmarked R2 500 a month for each of three co-ordinators (who head regional networks), among other expenses.

But soon dissatisfaction from the "networks" set in, with claims that expenses for items such as travel or catering at workshops were not being met. Co-ordinators complained they were not being paid their expected remuneration.

On December 26 last year, a member of the regional network in Kagiso wrote to a Luanda-based representative of a funding agency which appears to be the CCF, complaining "about how things are handled" at the trust and "poor or lack of communication" between the trust and the network.

A follow-up letter from the Kagiso co-ordinator to the same funder's representative in February stated that "the situation has worsened" and alleged "corruption and embezzlement of funds".

Meanwhile, on January 31 this year, Mark Shomer, the CCF's director of contracts and grants, wrote to director Molefe in reply to a query from her: "I was surprised by your comment that you did not know whether the \$30 000 for the second term [the second installment of the CCF's

\$60 000 grant] was received and how it was spent. Our records show that on September 12 1995, CCF wired \$30 000. Letters from Hlengiwe Mkhize (September 20 1995) and Dr Manitshana (September 21 1995) thanked us for the transfer.

"I hope you are able to confirm that these funds were properly received. It was my impression that this was NCVT's main source of funding for the past few months."

Matters came to a head late in January when delegates from the networks and national office staff met in Johannesburg for the NCVT's annual "strategic planning meeting". Mkhize and other trustees did not attend.

The minutes of the session note several demands for greater transparency, among other things in "the recruitment of staff, their conditions of service, salaries and contracts" — and state that "the feeling of the delegation was that the current board of trustees was illegal — meaning that its appointment was against decisions taken in a strategic planning meeting held in January 1995 [which held that the networks should be represented on the board]".

On February 12, the national office staff and co-ordinators were dismissed by Manitshana. Several have lodged complaints with the Department of Labour, alleging the Basic Conditions of Employment Act has been contravened in that they were not paid or were underpaid.

Specific allegations include:

- That the Rev Michel Barrette's signature was faked in the deed of trust when the trust was registered last October. Barrette was overseas at the time. He lodged a complaint with the Master of the Supreme Court earlier this month, pointing out that although he had expressed a willingness to serve as trustee before he left the country, he first wanted to see the final text of the deed before deciding, and that the signature was not his.

Mkhize said this week: "When the trust was formalised, we showed the lawyer and auditor the correspondence [which indicated Barrette's willingness to serve] and either a lawyer or auditor said he could sign for him."

This is illegal, and probably invalidates the registration as the deed stipulates a minimum of seven trustees — and Barrette was the seventh.

Barrette complained to the trustees this year, but received the written reply that "it is shocking for the trustees that you have chosen to question their credibility and you are even exploring ways of having the trust investigated".

- An employee states that she saw cheque counterfoils relating to three separate occasions during the second half of last year when Mkhize had written herself cheques ranging between about R3 000 and R5 000 for services rendered to the trust. Mkhize denied she had issued any such cheques, or that she had been remunerated by the trust at all since it separated from Wits.

- The notebook computer donated by CCF as a grant in kind to the NCVT has been in the personal possession of

Hlengiwe Mkhize: Denies claims of fraud

PHOTOGRAPH  
RODGER BOSCH



Mkhize ever since it was donated. Mkhize said the donors knew she had it, and it was "agreed" she would continue using it. A representative of CCF in the US said this week: "She knows it is for the use of the trust."

- Ntsooa, the "acting director" — who was dismissed by the NCVT in December — wrote to Mkhize on January 26 pleading poverty. The *M&G* has what appears to be a copy of this letter, in which he says he includes a cheque issued by the National Peace Accord Trust (NPAT) to the NCVT. He states that the cheque is due to the NCVT on the basis of a contract he signed with the NPAT during 1995 "for Mpule's input in Katorus".

Former employees claim the cheque had been claimed from MPAT in January, even though the services of "Mpule" had been terminated at least the month before. In his letter to Mkhize, Ntsooa asks "whether it is possible for you to negotiate that I be given another cheque to the same value by NCVT in exchange from the one from NPAT, because if we were to ask [illegible name] to issue another cheque in my name it might complicate matters even worse".

Mkhize said this week that in spite of her knowledge of the apparent irregularity, "I couldn't prosecute him because I felt as a person he should

not be buried."

The Department of Health confirms this week that Ntsooa had served as consultant to its Directorate of Mental Health and Substance Abuse, of which Mkhize is formally still head, for three weeks in February.

- Financial statements for the trust were not submitted to CCF in January, as specified in the funding agreement with CCF. The CCF representative said they were "still expecting it" but that it had not become a matter of too great concern yet.

Mkhize said this week she believes she was unfairly targeted by former employees, whose bitterness stemmed from expectations for disbursements from limited funds. "People working at a low level though there was money, and were making more and more unrealistic demands."

The CCF representative said he was aware "that there are different versions of the story" to that put by disenchanted employees, and that the budget — which CCF accepted could be applied flexibly — and further budget proposals which have been made but had not been implemented may have raised false expectations.

This week's evidence at the truth commission, PAGE



# Witnesses tell of cruelty and extraordinary callousness

(252) APR 27/4/96

■ The "exquisite cruelty" of apartheid officialdom was shocking, **JOHN YELD** reports on the Truth Commission hearings.

IN another time and place, Edward and Nondzvakazi Jugu of Guguletu would have grown old together peacefully - a regular Darby and Joan, enjoying the love and respect of their family.

But like several million other parents, they had the misfortune to watch their children growing up during the conflict that engulfed South Africa for most of the 1970s and 1980s - and, like so many others, had to bear the torment of witnessing those children die in the struggle.

Like salt in their already unbearable wounds, many of these parents had to endure the callous disregard of a system that sent them from pillar to post in their quest to complete the formalities of death - finding the bodies, being subjected to endless police questions and harassment, watching with bitter disappointment as inquest magistrates went through the motions and trying to obtain death certificates.

Their stories, so similar in many ways, yet also so individual, were repeated time and again at this week's public hearings of the Truth Commission's human rights violations committee - the first in the Western Cape.

At one point commission chairman Desmond Tutu remarked that testimony at the hearings, in the Nico Malan Nursing College hall in Athlone and in East London the week before, seemed to show "a pattern of intensifying pain and cruelty" in that people had not been told of the whereabouts of their dead or missing loved ones.

"There was an 'exquisite cruelty' involved in not telling people what had happened," Archbishop Tutu said.

"Almost all the witnesses testify to the anguish they experienced in not knowing, in having to run around and meeting extraordinary callousness," he said.

Mrs Jugu told the commission how her 15-year-old son Fuzile went missing after joining a protest in Crossroads in February 1985.

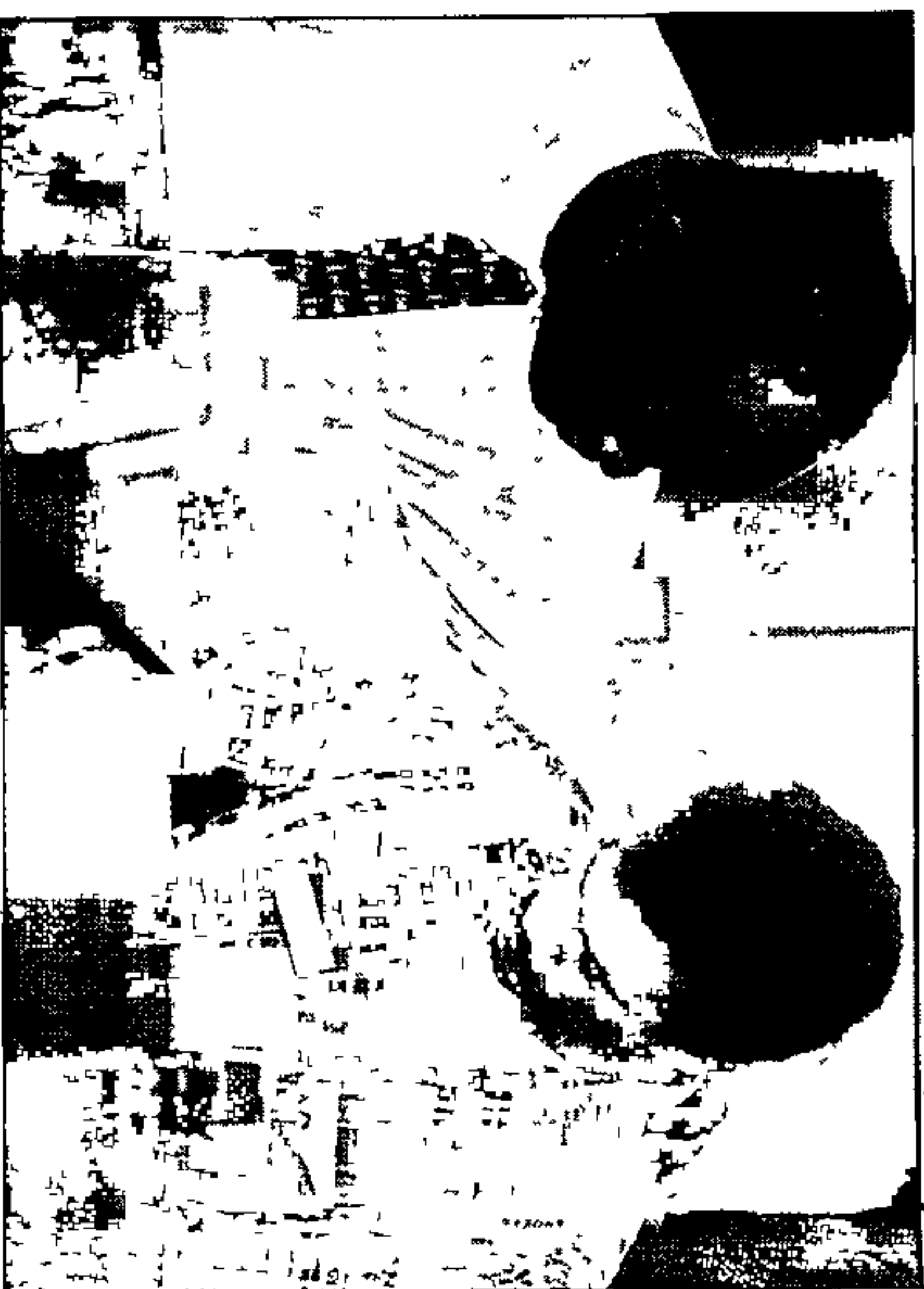
After an anguished evening spent phoning hospitals, her husband had set out to search for their son the following day.

Eventually he had tracked down the body, riddled with shot, to Salt River mortuary. His bloody clothes were evidence of the force with which he'd been shot dead, Mrs Jugu told the commission.

"I have never seen a shirt with so many holes - it was as though rats had been eating it," she said.

Then it was Mr Jugu's turn, while his wife sat quietly next to him - not touching, but clearly bound by the common bond of pain for a dead child.

Wiping his eyes and nose with a tissue before speaking, Mr Jugu testified how he had unsuccessfully searched all the wards at Tygerberg Hospital before turning to police stations, where he had been roughly told, "We don't know anything. You're wasting our time. Sit over there." Eventually he had been told his son's body was in the mortuary.



□ **OVERCOME** Mark Eugene Fransch breaks down during a Truth Commission hearing as he recalls the impact of the death of his MK brother, Anton, in a shoot-out with security forces in 1989.



□ **HORROR RECALLED:** Shepherd Kama (left) and Richard Phikani (right) relive personal experiences of cruelty and brutality during yesterday's hearings by the Truth Commission's human rights violations committee in Cape Town.

Makrothi said "Because even when your dog has been knocked down by a car, you pick it up and put it in a certain place."

Asked whether he had felt he was "among enemies" at the inquest, Mr Makrothi said "I was very scared because I thought this Mr Barnard was looking at me with hatred."



□ **SHAKING ON PEACE** Archbishop Desmond Tutu smiles as he greets Reverend Frank Rafter of St James's church in Kenilworth, scene of a terror attack in July 1993 at the start of yesterday's hearing by the Truth Commission's human rights violations committee.

1991 Mr Johnson did not get proper treatment at the hospital and had been left in a wheelchair, instead of being taken into intensive care, Mr Kama said. He had died at the hospital.

Mr Kama had signed a death certificate from the police, who had neglected to get a death certificate from the police when he arrived at the police station.

was assassinated in 1989.

"The assassination and subsequent defamatory allegations made against Anton have been a tremendous blow to our whole family, but particularly the family of Anton and his good name and memory," Mr Lubowski testified. "That people still have the psychological and physical

Publicity has helped 'flush out' violators

**WILLIAM-MERVIN GUMEDE**  
Own Correspondent

THE Truth and Reconciliation Commission (TRC) will exercise its right to subpoena alleged perpetrators of human rights violations when it sits in Johannesburg on Monday, said Gauteng commissioner Yasim Sooka.

Sooka said the TRC was not a toothless body, unlike ordinary commissions, and had the power to call people, implicated in human rights violations to appear before the commission.

"Although we respect the individual right of persons who wish not to come forward, the TRC Act allows for alleged perpetrators who are reluctant to appear to be brought to the commission."

Fellow commissioner Fazel Randera said many alleged perpetrators had already been informed that they had been implicated by witnesses, and victims.

"We had some practical difficulties in contacting some of the alleged perpetrators as many of them do not work or stay at the same addresses as when the crimes were committed."

On Monday, the Gauteng leg of the hearings begins at the Central Methodist Church in Johannesburg. Sooka said revelations were expected to be just as emotional as those at the opening hearings in East London two weeks ago.

Several high-profile cases of human rights violations are expected to be heard by the commission. She said the publicity around the hearings, had helped to "flush out" perpetrators.

"Many of the perpetrators have come out in the open after the hearings and talked about their involvement and named others. It is likely that many other perpetrators will do the same in the coming weeks," Sooka said.

The commissioners declined to name perpetrators who had applied for amnesty but said "several high-profile people involved in apartheid crimes have approached the commission for amnesty."

The commission has begun contacting South African missions





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## "Sir, do you know how deep this wound is? The wound that the two of us have, myself and my wife ... if the commission can try to heal this wound. It's because I cannot rest and my wife had this big lump on her throat because of her son ..."

It was accusations like this against Mr Barnard, repeated by numerous witnesses throughout the week, that prompted Purnla Gobodo-Madikizela to comment that if Mr Barnard had been responsible for all the incidents related to the commission this week - "all the killing, the amputation, the total dehumanisation of people" - there were two pressing questions that needed to be answered. "Was there no policeman on the force in the Peninsula who could stop him in his tracks? And was our legal system so hopeless he couldn't be brought to a court of law, to justice?" she asked. But it wasn't only policemen who came in for criticism of being unfeeling and callous - magistrates, prosecutors, inquest officials and perhaps most tellingly, even doctors and hospital staff, were also strongly criticised by several witnesses.

Shepherd Kama told how he had tried to get treatment at Groote Schuur Hospital for his severely injured brother-in-law, Mzimkhulu Stanley Johnson, who had been shot by "Kitskonstables" wearing balacavas in Khayelitsha in the proceedings the commission's deputy chairman, Alex Boraine, remarked that every sphere of life in South Africa had been dominated by an apartheid system determined to maintain itself against all the odds and that the military, police, parts of the legal profession, magistrates and even some doctors had been mobilised in its defence. Giving his testimony to an audience so silent you could almost hear the proverbial pin drop, Mark Fransch told how the horrific death of his brother, ANC guerrilla Anton, during a police shoot-out in 1989, had left its mark on their mother. "She's still very sick from that day on. The trauma that she's going through is nobody's business."

"She suffers a lot. We talk about Anton and she passes out," Mr Fransch said. Molly and Wilfried Lubowski told the awful tale of another Anton - their son, the Windhoek advocate, who had been shot in the small of his back. His left leg is still paralysed and he experiences pain, and numbness in various parts of his body. Elsie Gishie was wounded in a horrific attack in 1976 in which her 67-year-old husband Jackson was struck on the head with an axe and died on the way to hospital. In the car on the way his 15-year-old son Bonisile had been smeared with his father's blood, Mrs Gishie testified. "He is still psychologically affected."

She still has shotgun pellets in her chest and arms from the shooting. "I lost my life, my husband. Everything I had was burnt," she said. Veteran ANC leader and present deputy president of the Senate, Govan Mbeki, said the former political prisoners had suffered at the hands of the security police. "We suffered in various ways, but for the top leaders this was mostly psychological warfare. But for those we led, the young MK cadres, they came to Robben Island and they were wrecks." Irene Mxirwa, mother of one of the Gugulethu Seven who were shot dead by police in an ambush in 1986, said that the policemen responsible should be made to testify. "These boers must be put here in front of the commission so that everyone can see them. Our families are incomplete now. We still cry today. We still have this lump in our throats. 'Maybe if they're put here in front of us this lump will go away,' she said. Archbishop Tutu said the commissioners were listening with horror to the accounts. "We realise that we are a country that is wounded. We are wounded people seeking healing. We want to express our revulsion at the 'awfulnesses' that are recounted to us. "But I think our country has been deeply touched and moved by the incredible magnanimity and generosity of spirit of those who have been the victims of these foul deeds. "Somehow we are going to have to keep telling ourselves we are an incredible country with some incredible people," he said.

## Sharpeville 6 man guilty of axe attack

**Own Correspondent**  
JOHANNESBURG - Former Sharpeville Six trialist Duma Khumalo has received a six month prison sentence, suspended for five years, in the Vereeniging Magistrate's Court for malicious damage to the same court. In addition, he was ordered to do a years community service and must report to the police every day for a year. Khumalo stormed into the Vereeniging Magistrate's Court last year and smashed court property with an axe. His action, he told the court yesterday, was

part of a campaign to protest his innocence and to request a retrial after being wrongfully convicted of the murder of a Sharpeville councillor during an uprising in 1984. Khumalo said his disruption of court proceedings was "a desperate bid to draw attention to my plight", after writing to President Nelson Mandela, Justice Minister Dullah Omar and Gauteng Premier Tokyo Sexwale asking for their intervention. Gillian Teresa Eagle, a clinical psychologist who has treated Khumalo, told the court "some form of correctional supervision would represent the most humane form of punishment".

## Gauteng hijackings 'down'

Hijacking in Johannesburg had dropped by 60 percent over the past two months, Minister of Safety and Security Sydney Mufamadi said this week. He told a Business Against Crime conference that this drastic decrease in the crime that had become the scourge of Gauteng was partly due to "specific crimes being subjected to detailed analysis" and a range of specific measures being taken to combat that particular crime. Johannesburg district commissioner Frans Malherbe confirmed the minister's statement, saying "There are 60 percent fewer hijackings in Johannesburg, Sandton and Randburg now than there were six weeks ago" - Own Correspondent

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# Prospective judges will have to disclose secrets

By CARMEL RICKARD

(252) ST 28/4/96

WOULD-BE judges applying for posts on the Bench will have to fill in a detailed questionnaire, compiled by the Judicial Service Commission, which asks, among other things, whether the candidate has ever belonged to a secret organisation.

This follows concern among some members of the profession over disclosures that certain judges belonged to the Broederbond or were Freemasons.

Up to now, candidates were asked to supply the commission with a CV. However, chairman of the commission, Chief Justice Mick Corbett, said that the detail given by candidates in their CVs varied tremendously and was in some cases inadequate.

The commission had therefore decided to introduce the questionnaire, which would also help obtain as much relevant information as possible from candidates before they were interviewed.

While the CVs of some candidates have run to dozens of pages, others have been far shorter, and that of one senior advocate was a mere 12 lines long.

Asked to comment on whether the questionnaires would be made available to the media, Judge Corbett said they would be treated in the same way as the CVs were under the old system — the commission would regard the information contained in the questionnaire as confidential, but

would not prevent information being divulged to the media by a candidate.

The questionnaire contains four sections. The first elicits standard personal information, including details about health, but also asks candidates for details of their membership of any political organisation, past or present, and whether they have been involved in community and other organisations in the last 10 years. It also asks candidates: "Are you now or have you ever been a member of a secret organisation?" It requests the name of the organisation and dates of membership as well.

The second part focuses on a candidate's legal background, questioning the main areas of legal interest and involvement, major publications and court experience.

Section three inquires about financial details, including business interests and directorships held by a candidate, and asks what steps he or she would take regarding these directorships and private interests if appointed to the Bench.

The last segment asks if there are any circumstances which could cause a candidate "embarrassment" in undertaking the office of a judge. It also asks whether the candidate has been convicted of an offence involving dishonesty, violence or any other "disreputable or dishonourable conduct", and if any legal professional body has ever found the candidate guilty of any unprofessional or disgraceful behaviour.

# Victims of Cape violence lay bare their pain

By ALAN DUGGAN

TALES of brutality and courage unfolded before the Truth and Reconciliation Commission in Cape Town this week as witness after witness recounted experiences of violence and cruelty — and yet showed a remarkable willingness to forgive

More than 40 people were called to testify during the four-day session of the commission's human rights violations committee, held at the Nico Malan nurses training college in Heideveld

Their testimonies dealt with some of the most infamous events in the Cape's past

These included the death of an Umkhonto weSizwe guerrilla, Anton Fransch, after a police siege in 1989 (he died when a hand grenade exploded), the St James Church massacre of 1993 (11 people died and 55 were injured), and the bloody clashes in 1986 between "witdoeke" from Crossroads — allegedly backed by police — and squatters from rival factions.

A name that cropped up repeatedly was that of Warrant Officer Barrie Barnard

He was accused of taunting mothers about children who'd been shot dead. One witness described how the policeman had jeered at township dwellers, urging them to come out and fight.

Warrant Officer Barnard was shot and killed in 1989 by a mentally disturbed man in Sun Valley, near Cape Town. His death reportedly triggered wild celebrations in Peninsula townships

One witness, Cynthia Ngewu, testified that Warrant Officer Barnard and a policeman named Coetzee had shot dead her son Christopher



HAUNTING TESTIMONY . . . Molly Lubowski holds up one of the bullet-riddled pamphlets distributed in Windhoek before her son's assassination in 1989  
Picture: JUSTIN SHOLK

(252) ST 28/4/96  
"Barnard also died like a dog," Mrs Ngewu said

After several witnesses had told of their struggle to obtain information about relatives injured or killed in police actions, the commission's chairman, Archbishop Desmond Tutu, remarked "There seems to be a pattern of intensifying pain and cruelty in not telling people where their loved ones can be found"

He praised the women who had come forward for their "incredible nobility of spirit"

One witness, Zenzile May, described how he was beaten and tortured — and then set up by police in 1980 as a collaborator, effectively alienating him from student politics

He said security policemen had visited a known hangout of activists from the Congress of South African Students while he was away and left behind a slip of paper bearing Mr May's name and forged signature

The slip purported to be a receipt for R600, implying that Mr May was a paid police informer

Although the students' congress leadership were divided on the authenticity of the receipt, Mr May had

to quit his activities for fear of being killed by outraged comrades

"All I want is for these guys (the police) to acknowledge their illegal activities and clear my name," he told the commission

On Wednesday, the grim-faced parents of the slain Swapo lawyer Anton Lubowski pleaded before the commission for his killers to be brought to justice

Mr Lubowski, who had been the target of a vicious hate campaign for publicly supporting Swapo, was shot dead on September 12 1989 outside his home in Windhoek

"There is no doubt that the death of Anton resulted from a politically motivated assassination," said his father, Wilfried Lubowski

Mr Lubowski's mother, Molly, told the commission that those responsible for ordering her son's assassination were Staal Burger, Chappie Maree, Ferdi Barnard, Calla Botha, Slang van Zyl, Wouter Basson and Irish national Donald Acheson, whom she described as "a professional murderer"

● The truth commission's human rights violations committee moves to Gauteng this week



# Tears, anger and relief as the truth emerges

By ALAN DUGGAN

EACH of the witnesses who stepped up to testify before the Truth Commission in Cape Town this week was asked how they thought the commission could help them.

Their requests were simple — medical assistance, a death certificate, a name inscribed on a memorial or help in locating and burying the bones of a loved one.

Some shed tears as the memories came flooding back, a few became angry while recounting grisly stories of beatings and torture.

But mostly they felt an overwhelming relief, a catharsis that could come only when the truth was known.

The TRC's human rights violations committee sat for four days at the Nico Malan nursing college in Heidelberg, where more than 40 witnesses from all walks of life told their stories.

Although all were asked to take an oath, the proceedings in no way resembled a court case and the commissioners — including two advocates — were invariably gentle.

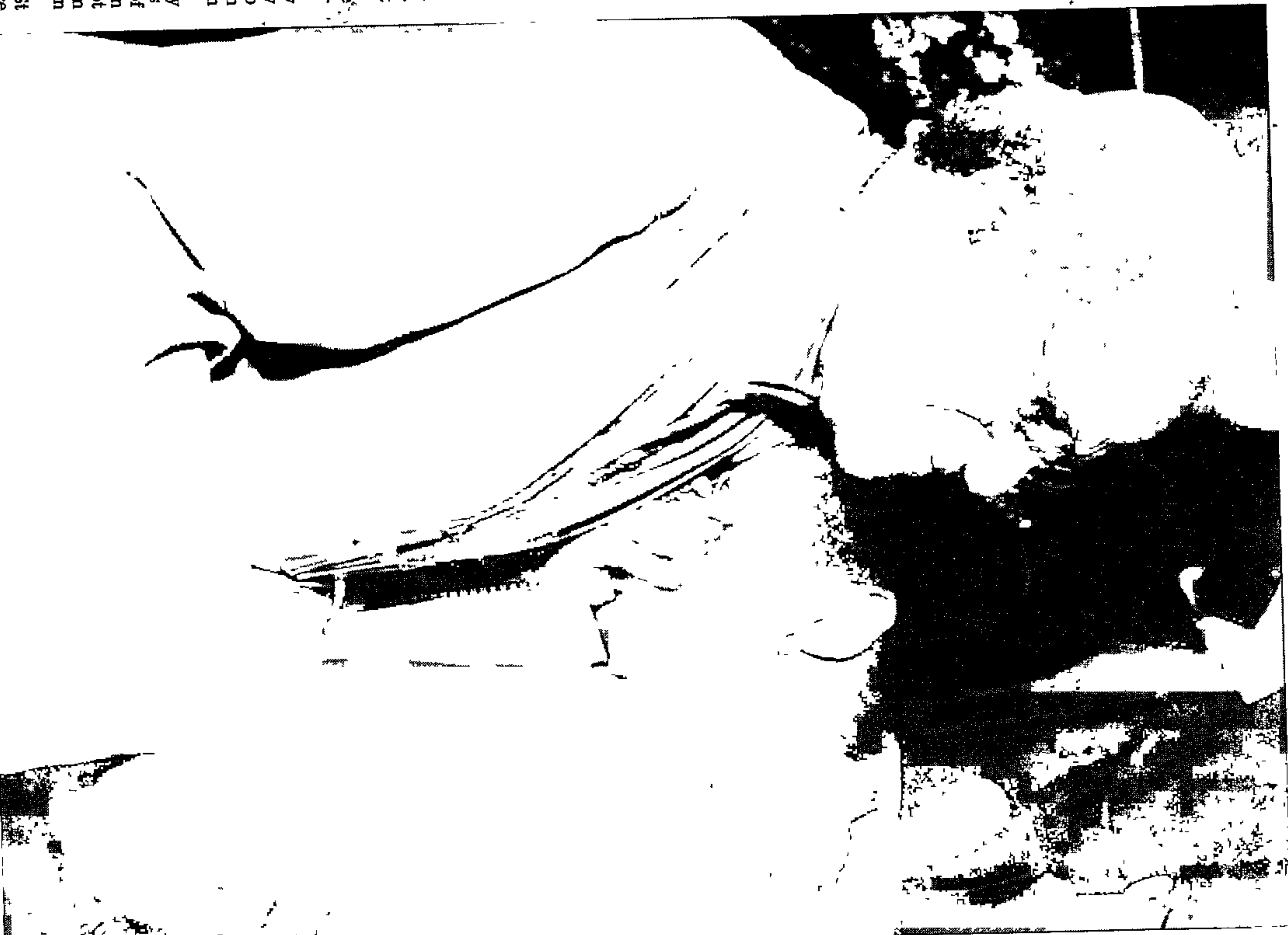
Commented the commission chairman, Archbishop Desmond Tutu, at the end of the session "A wonderful things have been done in our land, atrocities committed on both sides.

"We hope the generosity of spirit and magnanimity shown here by people who should be consumed with anger will provoke an answering generosity."

Much of the testimony was about pain and loss. The parents and sister of slain Swapo lawyer Anton Lubowski had no doubt about who had killed him and gave the commission names.

Victims of the 1993 St James Church massacre spoke of terror and forgiveness. Strong women from the townships described how they battled to find out how their husbands and children had died, prompting Archbishop Tutu to comment on the "exquisite cruelty" of security forces.

More subtle strategies



COMFORT . . . Archbishop Desmond Tutu, chairman of the Truth and Reconciliation Commission, comforts a colleague after four days of harrowing testimony in Cape Town. Picture: JUSTIN SHOLK

psychiatric treatment and told the TRC the blast effectively ended his career.

● Sivanda Howard Ngudle, Beauty Ngudle — son and widow of Looksmart Ngudle, journalist and head of uMkhonto we Sizwe in the Cape, who was alleged to have hanged himself while in police custody in September 1963.

He was one of the first detainees to die under the 90-day detention law. Senate Deputy President Govan Mbeki and Senator Christmas Trinto testified that Looksmart was tortured while in Pretoria Central prison. Said his widow "I just want his bones to come back so we can bury him."

● Isaac Ram — he told the TRC he left the country to undergo military training and was arrested in the former Rhodesia in 1962, taken to South Africa and tortured.

At one stage, after he had coughed up blood, a doctor gave him only a month to live. He named a Major Fred van Niekerk as one of the men who tortured him.

At one stage a commissioner remarked "I'm amazed that you can still laugh at all this." Replied Mr Ram "Why would I be angry? There's no enemy of mine in this house."

● Nomakula Evelyn Zwem — a political activist who told of many violent encounters with police spanning a period of 17 years. She recalled the Langa shooting of March 21 1960 when "bullets were just flying everywhere."

Police beat her regularly then and again in the 1970s. She said "We must have reconciliation. If you don't take the pus out of a wound, it will never heal."

● Margaret Thus — she testified how her son Johannes, a father of three, was shot in Cape Town in September 1976 while on his way to buy fish, suffering severe abdominal and other injuries. He had to undergo eight operations and was still physically and mentally disabled.

Mrs Thus said a policeman from Philippolis visited her afterwards and apologised for shooting her son.

Mr May asked the commission to investigate the incident and help clear his name. Here is the first day's diary of shame.

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FLASHBACK: Three churchgoers join in prayer minutes after the 1993 St James Church attack, which cost 11 lives. Shortly afterwards the church congregation announced they had forgiven the killers. Picture: ALAN DUGGAN

## I would hug my attackers, says survivor of massacre

By ALAN DUGGAN

SURVIVORS of the 1993 St James Church massacre in Cape Town gave the Truth and Reconciliation Commission a harrowing account of their experiences this week as they relived the attack that took 11 lives and left many other churchgoers maimed.

Testifying at the TRC's first sitting in Cape Town, schoolteacher Paul Williams told how he joined the congregation on July 25 1993 and was listening to a duet when suddenly the church doors were flung open and a man appeared in the entrance.

He heard a gunshot and saw a hand grenade hurtling towards the pews.

"It was still airborne when a second person opened fire with a machine gun, spraying bullets randomly across the congregation. Everything seemed to be moving in slow motion. I could see flame coming from the rifle's barrel."

Scrambling to take cover under the crowded pew, he began to pray — and suddenly felt a bullet thudding into his lower back. "There was a lot of pain and my lower body became numb, as if it had been ripped away from my upper body."

Seconds after the firing stopped, fellow churchgoers rushed to Mr Williams' aid, ripping off his jersey and stuffing a sleeve into the gaping wound in his back. He was left with a paralysed left foot and other leg injuries. He told the commission he still suffered severe pain. Asked how the commission could help him, Mr

**'Everything seemed to be moving in slow motion. I could see flame coming from the rifle's barrel'**

of the attack. Two of his children were in the congregation and he experienced a sinking feeling when he heard of the long lines of ambulances.

Entering the church, he saw bodies in the aisles and blood everywhere. "It was a night of unbelievable horror and heroism."

Bishop Rethel told of a grandmother who took a little girl to the toilet and returned to find the child's mother had been killed, and of a man who lost his life while shielding two girls.

The attack on a church full of worshippers struck a raw nerve in the community, he said. But having heard the testimony of many other victims of violence, their experience paled into insignificance.

He said the congregation had "unanimously" extended forgiveness to the killers and his own son, Bruce, had visited one of the perpetrators in prison and given him a Bible.

Commission chairman Archbishop Desmond Tutu said the congregation had displayed "incredible generosity" after the massacre.

● In April last year a PAC member from Khayelitsha, Gemkhaya Christopher Makoma, was sentenced to an effective 23 years imprisonment for his part in the attack. Three other men, all allegedly Apla members, were arrested early this year and are awaiting trial. Basie Mziki, 19, former SANDF major, Sipho Schemiso Sinywe Nonxuba, 30, and former SANDF corporal Thobela Mlambsa, 29, will stand trial in the Cape Supreme Court on Au just 5



Williams replied "I'd like to establish who the real perpetrators are, and why they did it. Their timing was out the democratic elections were already in place. What they did was totally unnecessary."

"But there's no bitterness in my heart towards them. If I came face to face with them, I'd be prepared to hug them."

Another witness, Mrs Marilyn Javens, told the commission she was next to her husband Guy when the attackers burst into the church. "We saw a man holding a gun and moving it from side to side."

She and her husband ducked down. "I prayed, there was screaming then lots of noise."

She called to her husband but he didn't reply. "An usher felt for his pulse and I asked 'Is he alive?' The usher shook his head. I couldn't believe he had died."

She saw Bishop Frank Retief arrive "with a look of absolute horror on his face."

She didn't see it as a political attack, Mrs Javens told the commission. "Our church is not involved in politics. They were just men who came in and shot." Questioned by a commissioner about her feelings, she responded "Judgment isn't here — it's when you die I have forgiven."

Bishop Retief told the commission how he rushed to the church on being told

# Amnesty to be probed

By ALAN DUGGAN

THORNY questions on amnesty for human rights violators and retribution for their crimes will be tackled in the Cape Supreme Court next week when the Truth and Reconciliation Commission (TRC) takes on lawyers for Azapo and the families of slain activists Steve Biko, Griffiths Mxenge and Fabian Ribeiro.

The families claim the amnesty is unconstitutional and have filed papers in the Constitutional Court.

Meanwhile, the TRC's amnesty committee, chaired by Mr Justice Hassen Mall, has undertaken not to grant any amnesty until the issue is settled. In terms of an agreement between the parties, the committee was allowed to continue this week's closed meetings on 60-70 applications.

It is believed the commission has already received about 2 000 amnesty applications, including some from people who have asked for an opportunity to apologise personally to victims for their actions. According to the terms of the Promotion of National Unity and Reconciliation Act, hearings will be held only when applications relate to "gross violations" of human rights.

At a press conference this week, TRC chairman Archbishop Desmond Tutu made it clear that the amnesty was conditional and perpetrators would not automatically be granted amnesty if they confessed to their crimes. They would have to prove political motivation and show their actions were justifiable in terms of their goals.

"For example, if you were clubbed because someone didn't like your haircut, that person would not qualify because his action was not politically motivated."

Citing the enforcement of consumer boycotts as another example, the archbishop said "If you scared somebody, that might not be too horrendous, but if you necklaced somebody it would be out of proportion."

Full disclosure of human rights violations was also a prerequisite for amnesty, stressed the commission.

Said the archbishop "The perpetrators are part of our society and we're going to do our damndest to rehabilitate them."

Questioned on the amnesty committee's role, he dismissed suggestions that they might "get in the way" of the Attorney-General.

"We are working with the Attorney-General, but there is the overriding requirement that we work for the promotion of national unity and reconciliation." He added "It's important for people to know that the committee is not a toothless bulldog."

● In a Supreme Court action, two retired police officers, Brigadier Jan du Preez and Major-General Nic van Rensburg, this week brought an urgent application for more information on evidence that could implicate them in human rights violations.

They said they were notified only two days before last week's hearing in East London, and had had no time to defend their reputations.

Mr Justice E L King reserved judgment.



# 'MAMASELA KILLED MY GIRL'

**"I HAVE been hunting Joe Mamasela for eight years - and will oppose him getting amnesty."**

CP 28/4/96 (252)

By **WALLY MBHELE**

**THE MOTHER** of a seven-year-old Vaal Triangle girl who was shot dead in cold blood eight years ago was shocked to see her daughter's alleged killer on television - confessing to hit-squad activities.

Joe Mamasela in a television interview confessed he had been involved in the hit-squad killings of about 30 anti-apartheid activists

He said he would seek amnesty through the Truth Commission

An angry Ellen Sesele said "But he did not confess to killing my little daughter Melody - who was innocently riding a bicycle

"I have been hunting Joe Mamasela for eight years - and will oppose him getting amnesty. I want to give evidence to the Truth Commission - but I want Mamasela prosecuted," said Sesele

She said Mamasela, known to be a policeman, and his wife and child had been her neighbours for two years in Evaton before the killing

After Melody had been shot Mamasela showed no remorse, she said. Instead he had intimidated mourners at her funeral with an automatic rifle.

She and her then husband had decided to bury Melody in Maokeng township in Kroonstad instead

"I had laid a charge against Mamasela with the police - but



**PROSECUTE HIM!** ... pleads a tearful Ellen Sesele.

Picture: **SIWE RADEBE**

when I returned from Melody's funeral the Mamaselas had disappeared. I never heard of them again - until he appeared on television

"There was an inquest and a neighbour told the court she had seen Mamasela firing at children near his house during the funeral of a schoolboy shot dead by police

"The neighbour described how Melody had been hit - but the inquest court did not name Mamasela as the killer and no attempt was ever made to arrest him"

City Press spoke to the neighbour - who confirmed Sesele's story, but asked not to be named

Sesele said Mamasela, his wife Nompoti and son Sizwe, then aged about five, had kept to themselves

"He had frequent braai parties at his house, attended by burly black men and an occasional white. He was obviously a plain-clothes policeman - although he said he was unemployed. There was a lot of tension in the township on the day of the schoolboy's funeral and Mamasela

might have felt threatened - but there was no reason to open fire on children playing innocently

Describing Melody's death, Sesele said she had been in her house "when I heard loud reports. I rushed out and saw my other two children running into our yard. I saw Melody's bicycle lying a distance away, its wheels still spinning, and ran towards it

"I found her body lying near the bicycle as if she was asleep. I picked her up and found she was still alive

Sesele and her husband rushed Melody to hospital - and saw Mamasela standing "emotionless" in his yard, holding an automatic weapon

Doctors resuscitated the child - but she died the same day

Sesele said mourners who had come to sympathise were frightened when they saw Mamasela patrolling his yard with the automatic rifle, keeping them under surveillance. No doubt he feared a reprisal, she said.

The family then decided to bury Melody in Maokeng

The child's death shattered the family - and the Seseles' marriage ended in divorce

An Evaton policeman told City Press he had realised Mamasela was a policeman when he arrived at the Evaton police station one day, produced his police appointment card and asked to use the phone to call his superiors in Pretoria

Mamasela was later seen at the Police College in Pretoria with another self-confessed hit-squad member, Almond Nofomela

Both men were part of the notorious Vlakplaas hit squad

# Youth 'bore brunt of Cape police brutality'

By CHIARA CARTER

ALLEGATIONS of police executions, brutality directed at youths, the deliberate fostering by the State of divisions within squatter communities and evidence which raises serious questions about inquest court findings were key themes of the Truth Commission hearings in Cape Town this week

The name of a dead policeman, Warrant-Officer J C J Barrie Barnard, popped up in many of these accounts as township mothers recalled with loathing the man they knew as "Rambo" Barnard

A policeman for more than two decades, Barnard was close to another policeman whose name was mentioned to the TRC - Major Dolf Odendaal, second-in-charge of the riot squad

A short man who spoke fluent Xhosa, Barnard was at the forefront of police activities during the 1976 uprising, the 1980 unrest, the Witdoek terror of the mid 1980s and the insurrection which began in 1984

He was shot dead in May 1988 by a suicidal man in the suburb of Sun Valley. Police buried Barnard with full honours but township residents rejoiced to hear of his death

■ The mothers of the Gugulethu seven who were shot dead by police ten years ago recalled Barnard

Christopher Ngewu (25), Jabulani Moya (23), Simon Mxinwa (24), Zambonke Konile, Themba Mfuli, Zanisile Mjobo and an unidentified youth died when police opened fire on suspected guerillas near the Dairybelle hostel in Gugulethu. Police claimed they fired in self-defence but eyewitnesses said the seven were shot as they raised their hands in surrender

This version was backed by a doc-

(252) CP 28/4/96  
tor who found that six of the seven were shot at close range

Cynthia Ngewu, mother of Christopher, said: "They (the police) got promotion after they shot my child. But Barnard also died like a dog"

She described how she saw on television news her son's body being dragged by a rope "Were their hands so clean they couldn't touch my son?" she sobbed. Irene Mxinwa said when she could not find her son, she thought of Barnard because he "used to do bad things to the children"

■ Another mother, Novuyo Priscilla Zantsi, said her son, Sonny Boy (15), was shot from a car linked to Barnard in September 1976. A witness told the commission she saw a policeman digging a hole next to an outside toilet to bury the boy's spilt brains

■ Sisana Maphalane said Barnard had threatened to kill her son, Lennox (15). After the boy was shot in the back by a Lieutenant Bester in 1986, Barnard gloated about it. Police said the boy was throwing stones.

■ Another youth police claimed was shot because he was throwing stones was Ezra Maseko (15). On October 21 1985, Khayelitsha police told his mother, Phyllis, "Your son is in the van. He is dead"

Maseko told the commission that her daughter had seen Ezra shot in the back by Constable Thembele Mayongo and that Mayongo had turned the boy over and shot him again to "finish him off"

■ Mlandeli Walter Mqikela was a schoolboy when he was dragged from the house where he was hiding in KTC and severely beaten by police in October 1985

"My sin was to wear a uniform," he told the commission. His testimony and others underlined the ex-

tent to which youths, some mere children, bore the brunt of police brutality

■ Another theme in this week's hearings was the bitter history of land struggles in the peninsula

Many of the incidents took place during resistance to the state's attempts to force squatters to go to Khayelitsha, a sandy wasteland on the outskirts of Cape Town

Residents from Crossroads, Nyanga Bush, Nyanga Extension, and Portland Cement squatter camps all supported the "Asiyi eKhayelitsha" (We are not going to Khayelitsha) campaign

But the state played up divisions within these communities and the mid 1980s saw "witdoek wars" which displaced tens of thousands of people. Police were accused of siding with the vigilantes and playing a key role in the conflict

■ The TRC also heard about an unsung hero, Khulile Looksmart Solwandle Ngudle, who died in police custody in 1963

Police said he hanged himself, his family say he was tortured. Ngudle was a member of the ANC and the Communist Party who worked for the publication "New Age"

In 1960, he became head of the Cape division of Umkhonto we Sizwe. Senator Christmas Tinto told the commission that he had seen Ngudle badly tortured two days before he died. Tinto said: "They came rushing with him, kicking him, beating him up the stairs. I noticed half his beard was pulled out. He was bleeding from the mouth"

■ Another unsung hero, Nomakula Evelyn Zweni, a stalwart of the Poqo uprising, told the commission that the police shooting of pass law demonstrators on March 21 1960 in Langa left more than 70 people dead, not two as reported



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"The neighbour described how Melody had been hit - but the inquest court did not name Mamasela as the killer and no attempt was ever made to arrest him"

□ City Press spoke to the neighbour - who confirmed Sesele's story, but asked not to be named

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□ Mamasela was later seen at the Police College in Pretoria with another self-confessed hit-squad member, Almond Nofomela

Both men were part of the notorious Vlakplaas hit squad



# Students were targets

**M**ANY types of human rights violations have been exposed during the first two weeks of the Truth and Reconciliation Commission (TRC) hearings, but there is a common thread to most of these cases — the victim was a student.

Parents and partners have testified that students were shot at funerals, tortured by police, killed in running battles and died in detention.

The roll call of names of fallen heroes is a long one, particularly for students, starting with student activist Mr Mapetla Mohapi on the first day of the commission's hearings.

Students were the foot soldiers of the Black Consciousness Movement in the 1970s and the United Democratic Front (UDF) resistance to the state in the 1980s and consequently the first targets of state repression.

The key role played by students, intensifying after 1976, and the relentless efforts of the security forces to undermine their contribution has been a recurring theme at the hearings.

One of the reasons why Cradock teacher Mr Matthew Gonwe was murdered by the security forces was that he had gained popular support among the students of his community.

While many students died on the streets from police gunfire, others were singled out for severe harassment, including being smeared by the police as informers.

In fact, several alleged informers or their relatives came before the TRC to tell their side of the story and clear their names.

## Smeared as informer

Their stories ranged from lesser-known cases like Port Elizabeth student activist Mr Zenzile May to widely publicised cases like assassinated South West African People's Organisation leader Mr Anton Lubowski.

May said in Cape Town that he was threatened with poisoning and smeared as being an informer by the police after Mr Siphwe Mthimkhulu had been disabled by thallium poison.

Lubowski was shot dead outside his Windhoek home on September 12 1989 and an inquest found his murder was linked to the covert military unit, the Civil Cooperation Bureau (CCB).

His parents appealed to the TRC last week to pave the way for the extradition of CCB members to Namibia to stand trial for his murder.

The commission has already approached South Africa's foreign consulates to assist victims outside the country who wish to come before the TRC.

The Lubowski case is one of many high-profile cases that have been presented to the TRC, often as a last attempt by relatives to find out what happened to their loved ones and who was responsible.

Many of the witnesses to the commission

The key role played by students during the struggle and the relentless efforts of the security forces to undermine their contribution has been exposed. As a result students were targeted, **Claire Keeton** reports

(252) *Samuel* 29/4/96



**Mrs Nomhle Mohapi told the Truth Commission about her husband's death in detention.**  
PIC CLAIRE KEETON

have been women, either the mothers or partners of victims but few of them have been youths.

Four mothers of the "Gugulethu Seven" in Cape Town told commissioners how they painfully found out their children were killed during a police ambush in Gugulethu on March 3 1986.

## Fired in self-defence

Police said they fired in self-defence but a doctor who examined the bodies found that six of the seven had been shot dead at point-blank range.

The deadly role played by Warrant Officer Barrie Barnard in the townships was mentioned in this case and four more stories involving fatal shootings.

"The more we hear cases, the more we get a sense of pattern and process. We are trying to reconstruct our history and get a better sense of the past," said Human Rights Violations committee member Dr Russell Ally.

Even though historical detail may be distorted by fading memory and exaggeration, a broad picture is taking shape.

Until now, most accounts have concerned atrocities committed against leaders of the Black Consciousness Movement, the UDF and

the African National Congress (ANC)

For example, the first cases heard in East London were the killing of Steve Biko's colleague, Mohapi, in 1977 and the abduction and disappearance of another of his comrades, Mr Phindile Mfetu, in 1988.

The TRC also heard about the disappearance of the UDF's "Pebco Three" and the murder of the UDF's "Cradock Four" in 1985 and the killing of the ANC's Mr Siphwe Mazwai by Transkei police in 1988.

Most cases before the TRC have shown that the security forces waged a violent campaign against their opponents from the 1960s, which worsened after they were given sweeping powers by the 1985 state of emergency and subsequent declarations.

The police have been accused repeatedly of shootings, ambushes, torture, deaths in detention and disappearances. However, the TRC has not restricted its hearings to reports of state violence and third force activity.

It has also included reports of inter-organizational conflict, township battles, exile disappearances, guerrilla attacks, urban bombings and homeland repression.

## Forced removals

Individual cases have highlighted the context in which victims suffered. In Cape Town the commissioners heard stories about resistance to forced removals and passes, the 1976 student uprisings, clashes between migrant workers known as "Witdoeke" (often supported by the police) and township residents in Crossroads and KTC, and a necklacing case at a time of community conflict.

The East London hearings indicated that the abduction and murder of political leaders by South African and homeland security forces was not uncommon in the Eastern Cape.

Commissioner Advocate Dumisa Ntsebeza described the killing of Mr Sithembele Zokwe in 1988 by Transkei police as "one of the most bizarre stories of our time of state-sponsored murder and an unforgivable failure of justice."

Third-force and taxi violence will come under the spotlight at the Gauteng hearings this week, and next week the relatives of those killed in fighting in Kwazulu-Natal will tell their stories.



# Tutu hits out at critics of the TRC

JOHN YELD

on the Truth Commission

JOHANNESBURG - Black consciousness leader Onkgopotse Tiro was blown to pieces by a parcel bomb delivered through his letterbox in Botswana in February 1974, and South African police refused his mother permission to return his remains to South Africa for burial, the Truth Commission heard here today

At the Methodist Church in central Johannesburg, this morning, its Human Rights Violations Committee started its third round of

hearings on atrocities committed between 1960 and 1993

Opening proceedings, commission chairperson Desmond Tutu hit out at critics of the commission, saying it was acting strictly in accordance with the legislation. He said he was "disturbed and distressed" that the commission was being accused of unfairness for not giving alleged perpetrators enough notice of allegations being made against them.

He said the Promotion of National Unity and Reconciliation Act had been passed by a democratically elected parliament. "If people have problems, it must be directed not at the commission but at the national assembly, which passed the law."

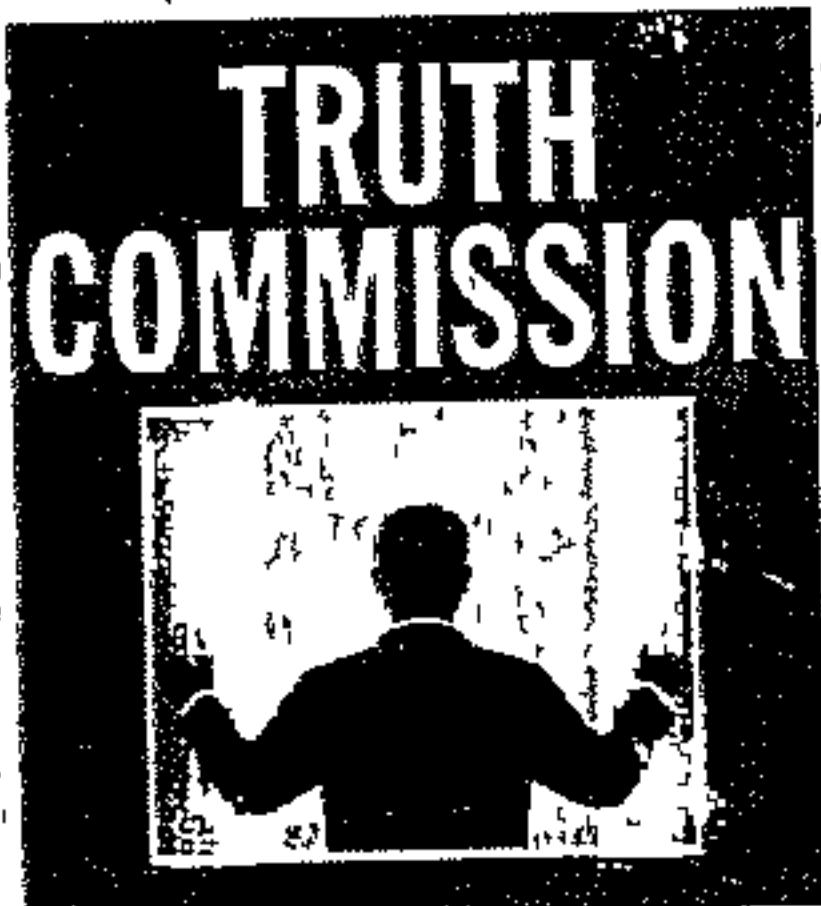
The act stated that victims and survivors would be accorded an opportunity to tell their story and it said that there had to be a bias in their favour.

Archbishop Tutu said apartheid had been an "evil and vicious system" which had denied most South Africans their fundamental human rights.

Perpetrators had defended "that awful system".

"It is precisely because of our record as fighters for justice and human rights that alleged perpetrators must be thrilled, because we defend to the death their rights for which we struggled so that they and all of us could today enjoy these rights."

"If they [the perpetrators] could get up and say 'sorry', they would be overwhelmed by the response of the survivors of this vile, evil system."



Archbishop Tutu also lashed out at certain sections of the media, saying they appeared to be doing their best to discredit the commission.

He said they were spreading an "insidious poison" and he advised them that he might use legal powers relating to contempt.

He did not name the newspapers concerned, but was believed to be referring to the Afrikaans Sunday press.

Archbishop Tutu referred to a letter of support from a junior youth group in Mitchell's Plain, which included messages of greetings and pictures of children, which he described as "very heartwarming".

He also referred to a resolution from the management of the Dutch Reformed Church, which said it was appealing to all its churches to assist the commission and that they accepted responsibility to help perpetrators who were members of the church.

One of the guests of honour at today's hearing was former president of Costa Rica and Nobel Laureate Oscar Arias, who was applauded by the audience.

Moleseng Anna Tiro, the mother of Onkgopotse Tiro, testified how she had heard that her son had been killed in Botswana on February 1974.

She said he had graduated from the University of the North at Turfloop the previous year but had subsequently been expelled for political activities.

She had gone to Botswana on getting the news and had seen her son "in pieces".

The Botswana police had been very helpful and had gathered the pieces and taken them to the mortuary.

"I asked the South African government to give us permission to transport him to South Africa to bury him and they said 'no'."

"I buried him there in Botswana. I don't know what to say because I really wanted to bury him in South Africa."

She asked the commission to help her find out who had killed him and said she would like his remains to be returned to South Africa.

Archbishop Tutu told Mrs Tiro that her son's name had been frequently used at rallies. "Our nation regarded him as a hero - we were proud of him."

## THE CAPE

# It's police who hold up trials, justice chiefs say

LINDSAY BARNES (252)  
Staff Reporter

APR 29/14/96  
CAPE Attorney-General Frank Kahn and Minister of Justice Dullah Omar have lashed out at police for calling on the courts to speed up petty theft cases

Instead they blame police for the delays

Mr Omar said excessive delays of theft trials were not in the interests of justice and there was a need to speed up trials, but that the impression this had nothing to do with the police was wrong

"The reality is that in almost all cases when dockets are handed to the prosecutors, the police ask for cases to be postponed for further investigations and to obtain the records of previous offences of the accused"

Furthermore, charges were often withdrawn at the request of police once they realised there was insufficient evidence as a result of incomplete investigations

Earlier, police spokesman Wicus Holtzhausen said police were doing their job in arresting culprits, but when the docket went to court it was out of their hands

Manpower was being tied up tracing petty offenders who had skipped bail

He believed a possible solution to the court delays was a system used by the traffic department whereby offenders were fined on the spot and paid up at the magistrate's court

But Mr Kahn said this was no solution, as it would transform theft into a business

"I don't say the system is perfect, but this suggestion is not the right one," he said

Furthermore, bail was not a form of anticipatory punishment and could not be considered as such

"The delay (in court cases) often lies in waiting for proof of previous convictions, otherwise cases could possibly be dealt with in days"

If the police could devise a system to locate previous convictions within days or hours, that would go a long way to solving the problem

The police were computerising criminal records and once this was operational, this would speed up the process, the attorney-general said



## ANC prepares to unmask spies

Tim Cohen

CAPE TOWN — The ANC is preparing a "huge" submission to the truth commission with the intention of providing a context to the "struggle" — and preparing the way for unmasking ANC members who were agents of the former government.

Mpumalanga premier Mathews Phosa, on the ANC team preparing the submission, said it would provide a context for the positive and negative aspects of the struggle. It would be a detailed document dealing with the stages in the fight against apartheid from 1960 to 1994.

These included the bannings in the 1960s, events surrounding the 1976 school boycotts and the emergence of the mass democratic movement.

The aim would be a "total indictment of apartheid." The document would also deal with blemishes in the record of the movement and attempt to put these incidents into context.

"Whatever is going to be said, there

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## Struggle

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Continued from Page 1

is a context to it," Phosa said.

What had taken place in ANC training camps would not be ignored, he said, suggesting that evidence presented to the Motsuenyane commission could be attached to the submission.

Phosa said it was certain ANC members who had worked for the former government would be unmasked during the hearings.

"The pressure will become just too great," he said, indicating the ANC was

still in the process of deciding how to deal with these cases when they arose. "These people were in every sector."

The document would not only give the ANC's point of view, but other views as well, including how the international community saw apartheid.

A committee structure with many substructures had been established to "mobilise resources in civil society", to work on the submission and to ensure that witnesses presented evidence to the commission, he said.

The document was still being drafted. It was not clear when it would be submitted formally, but it would have to be soon, Phosa said.

# Mayor seeks truth on deaths

THE alleged murder of a young man by a shopkeeper is among the cases the mayor of Robertson, Mr Peter Brumby, wants the Truth and Reconciliation Commission to examine

Brumby has five "unsolved" murders that trouble the Boland town. He led a delegation to Parliament last week. Carl Niehaus told ANC MP Mr several men allegedly killed by the security forces. He intends to approach the TRC. The purpose of the group's trip was to discuss conditions at the Robertson prison. Giving details of the murders, Brumby said

● Mr Jacques de Bruin, 18, had been shot, allegedly by a shopkeeper. His mother had not recovered from his death.

● Mr Kose Buys was picked up by police and his bullet-riddled body found later in a garbage bag.

● Gerald Nyhl, 14, died after being shot in the head during a demonstration.

● Farmworkeriker Mr Johan Jones died of shot wounds on the same day.

● Mr Arno Dus Demas was hospitalised and died after allegedly being tortured or assaulted.

# VICTIMS 'READY TO FORGIVE'

# Tutu's plea to aggressors

**JOHANNESBURG:** The Truth and Reconciliation Commission will sit here from today. Among events covered will be the 1976 student riots and the murder of David Webster, writes **ROGER FRIEDMAN.**

PEOPLE who committed human rights violations under apartheid should "stop splitting hairs" and approach the Truth and Reconciliation Commission to apologise for helping to defend an indefensible system, Archbishop Desmond Tutu said here yesterday.

"They will be amazed at the generosity of the victims surprised that we will be prepared to embrace them," Tutu the commission chairman, said at a service of reconciliation and healing.

The commission will unravel more of apartheid's legacy in it hearings today. These are likely to deal with the assassination of Wit academic David Webster in 1989 and the 1988 arrest and subsequent disappearance of

Mamelodi Civic Association member Stanza Bopape. Writings are also expected to testify on taxi violence, the 1976 student uprising, bombs planted by the liberation movement and the alleged wrongful hanging of an activist.

Yes, tears will be shed at the Central Methodist Mission in Pritchard Street today — if the hearings held thus far in East London and Cape Town are anything to go by.

However, at yesterday's non-denominational service in the commissioner's honour, the song of an African drum, singing, ululating and joyfulness were heard.

Muslim, Jewish, Hindu and Christian leaders, including Mr Beyers Naudé, were there. So were dignitaries including

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# Bid to control arms sales

## POLITICAL WRECKER

THE South African government has a plan to control arms sales to the former president of Costa Rica, Mr Oscar Arias. Tutu said he had been "deeply touched" by the courage, dignity and bravery displayed by the witnesses. Another South African miracle was busy unfolding, "in spite of ourselves"

However, he hoped the generosity of the victims would promote an "answering generosity on the part of those who may be considered perpetrators". Although some had come forward, wanting to confess and apologise, he urged more to join the queue.



# Jo'burg truth hearings start

Star 29/4/96 (252)

Perpetrators of human rights violations named in testimony before the Truth and Reconciliation Commission to be given a brief chance to tell their side of the story

By Robert Brand

THEMBA HADEBE

The Truth and Reconciliation Commission starts its hearings at the Central Methodist Church in Johannesburg today, hoping to address some of the concerns which emerged during two weeks of testimony in East London and Cape Town

Chief among these is the problem of untested allegations made in testimony before the commission. Cross-examination of witnesses is not allowed and perpetrators named by their victims have not yet been given the opportunity to reply.

The commission has announced that perpetrators who are present when named by their victims this week would be allowed a short time to take the witness stand and give their side of the story. They will not be allowed to cross-examine the witnesses.

It was also reported that the commission would use its power of subpoena this week to call alleged perpetrators of human rights violations to testify.

As with the hearings in East London and Cape Town, perpetrators likely to be named this week have been informed. But the commission is sticking to its policy of withholding details of witnesses' statements.

The Cape Town Supreme Court is expected to rule next week whether the statements should be made available to alleged perpetrators before the evidence is aired in public.

The commission's human rights violations committee, chaired by Archbishop Desmond Tutu, will sit every day this week except on May 1, Workers' Day.

The mother of a man killed in a parcel-bomb explosion in Botswana 22 years ago was the first witness scheduled to testify before the commission today.

It will also hear evidence about the 1983 Church Street bomb in Pretoria, the 1985 Amanzimtoti bomb blast, deaths in detention, torture in ANC camps, and police brutality.

It is also expected to hear evidence about the bitter battles in the East Rand townships before the 1994 election and the 1976 Soweto uprisings.



Pensive . Archbishop Desmond Tutu at a service at the Central Methodist Church in Johannesburg yesterday. The TRC moves to Johannesburg this week.

Evidence will also be heard from the North West, Mpumalanga and the Northern Province.

The violent repression in the former KwaNdebele homeland

during the 1980s is expected to be a major focus of the hearings.

Lists of witnesses will not be released until the day they testify. Commission officials would not

confirm that Gauteng Premier Tokyo Sexwale, safety and security MEC Jessie Duarte and ANC legislator Obed Bapela would be among the witnesses.

The Constitution: The Constitutional Assembly has produced its last working draft of the final Constitution before

# Bill of Rights emerges after 2

29/3 — 3/4/92

# A

**FRICAN** National Congress MP Wilhe Hofmeyr's eyes are large pools of limpid exhaustion as he gazes onto the first page of the Bill of Rights. Wearing a pen and starts "We have made progress here, we've taken out that word there, and we have brought this clause round here." Flicking through the pages, he ticks the Freedom of Expression clause, makes a grammatical change in the Freedom of Religion clause and ticks one word in the Freedom of Occupation clause. These changes — which on paper seem so small and technical — represent the progress made after weeks of hard bargaining between the party negotiators on the Bill of Rights, as they edge forward to agreement.

When Hofmeyr turns to the Property clause, he just passes his hands over the clause and murmurs under

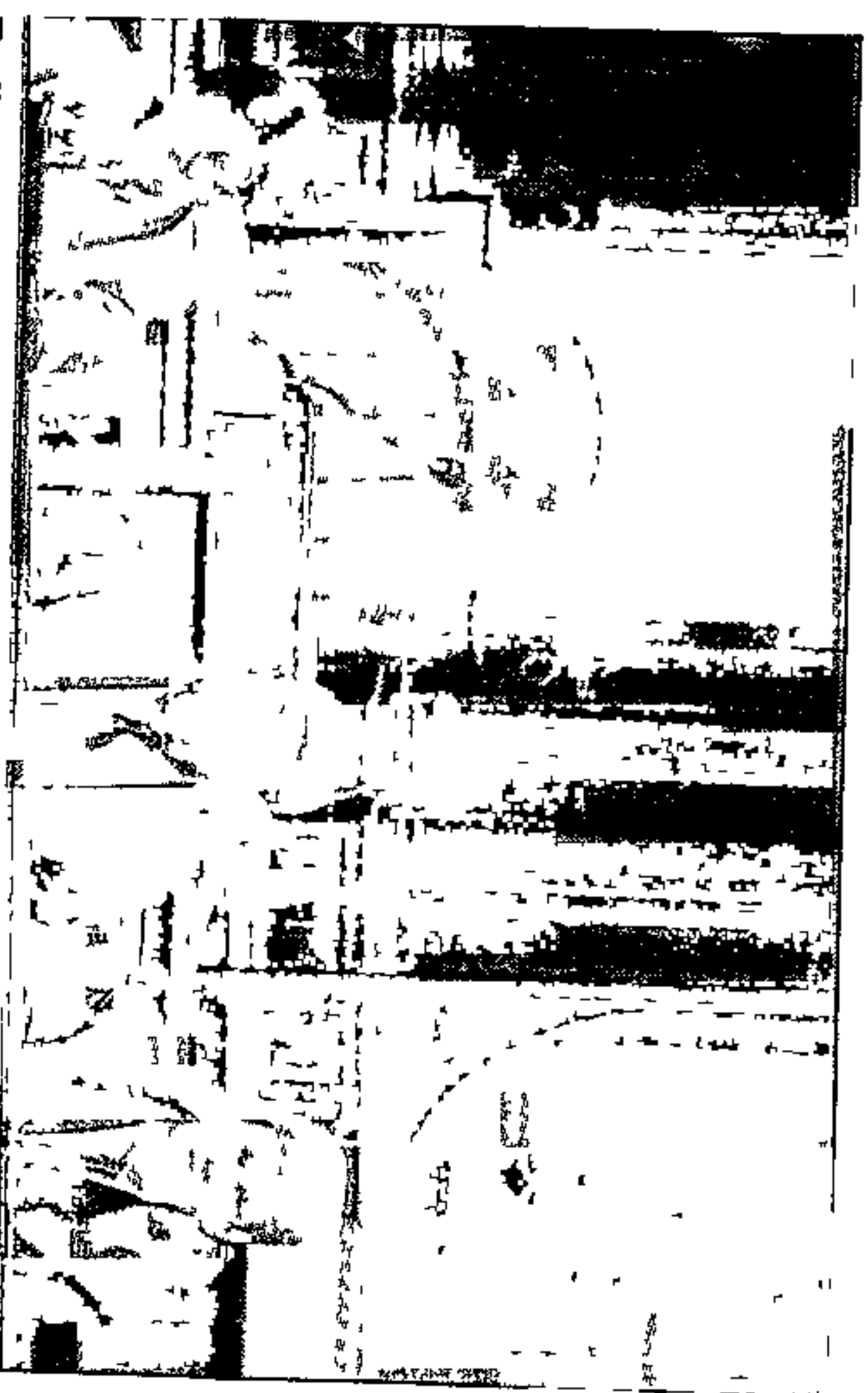
## The rights that didn't make it

- Since the first working draft of the Constitution was distributed in November last year, submissions have been pouring in to the Constitutional Assembly offering more proposals for the negotiators to work with, some of which have been ignored. These are the suggestions that have not made it into the Bill of Rights:
- 1) Freedom of the individual from prohibitive taxes
  - 2) A clause to protect the aged
  - 3) Students' rights to organise other students
  - 4) The right to play sport
  - 5) The right to leisure, rest and holidays
  - 6) The right to own firearms and the right to self-defence. (The Constitutional Assembly received 14 410 submissions calling for the right to own firearms to be protected by the constitution.)
  - 7) The protection of the rights of Rastafarians
  - 8) The protection of animal rights
  - 9) The right to breathe
  - NGOs continue to complain that the Constitutional Assembly has appealed for input from the public, but is not prepared to engage in public dialogue on what has been submitted.

his breath, "too sensitive, too sensitive to even talk about"

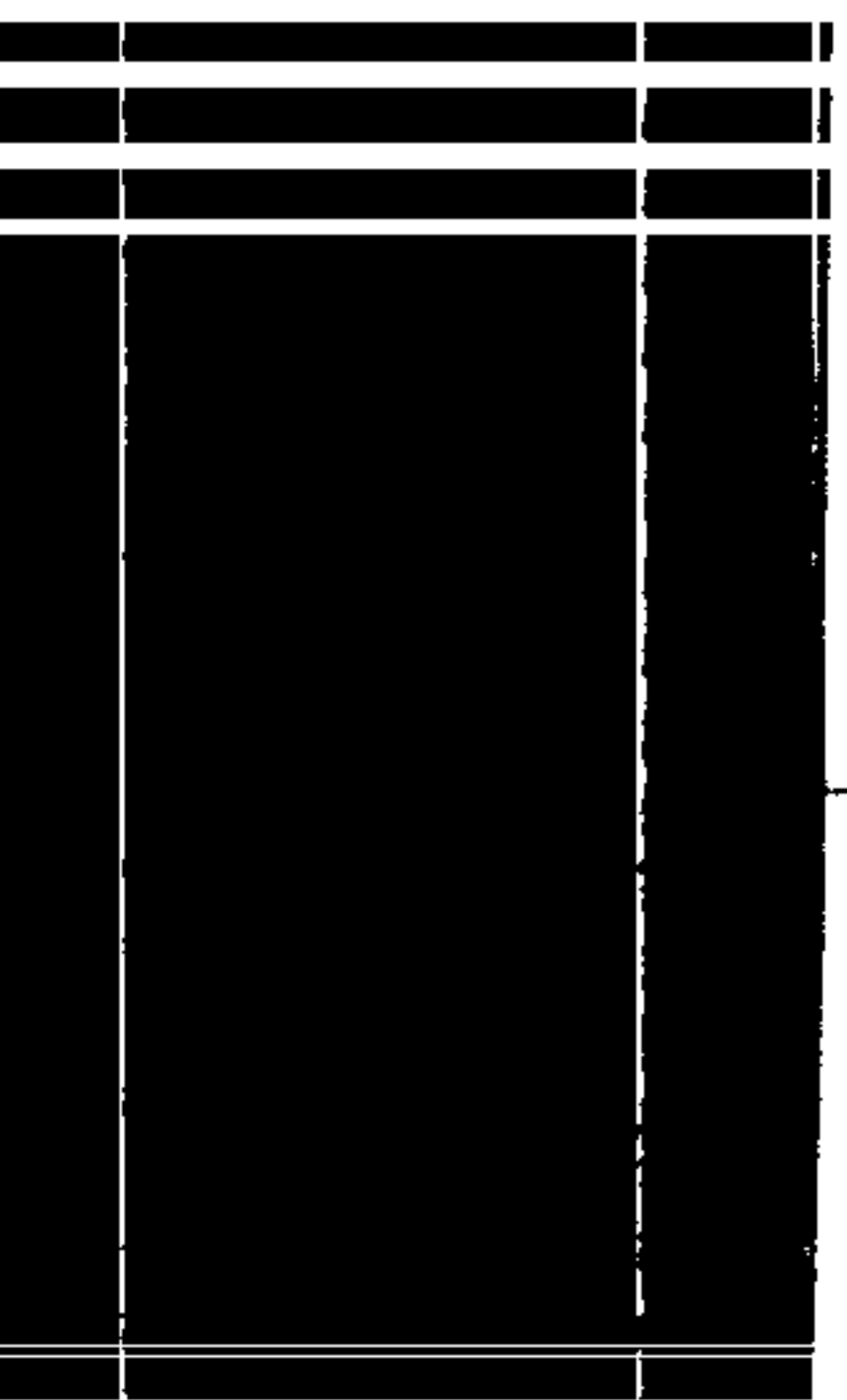
**The Property clause** This has become the site of intense struggle between the political parties, the

ANC essentially fearing that a property clause would stand in the way of state-driven land reform and the National Party, Freedom Front and the Democratic Party concerned that



Endless talks: Constitutional Assembly executive director Hassen Ebrahim (left), Cyril Ramaphosa (centre) and Leon Wessels (right), during constitutional negotiations in Parliament. PHOTOGRAPH RODGER BOSCH

a property clause was needed as a necessary protection for property-owners against the state. The parties are, in devising a formulation, trying to balance the two positions as well as write into the Constitution the sort of compensation necessary should the state expropriate land. The fact that there is a property clause in the Bill of





the May 8 deadline. It will be finalised at a bosberaad this weekend, reports **Marion Edmunds**

# marathon of give-and-take

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Rights indicates a major concession from the ANC, which originally opposed it being there at all, with backing in that stand from Cosatu. Whatever the final formulation, it is expected that the ANC negotiators will have to do a hard-sell to convince their constituents of the outcome. This is not a clause which will be resolved easily.

**The Right to Life** This is a major stumbling block within the Bill of Rights because it has political implications for the death penalty and abortion. The key disagreement is between the ANC and the NP. The ANC is opting for a clause that simply says "Everyone has the right to life". The Nats want a formulation that makes the death sentence possible. This issue has been deadlocked, and there are hopes that parties will find agreement in Arniston.

The Democratic Party's chief rights negotiator Dene Smuts says she believes the only way to move from this impasse is to opt for "everyone has the right to life", because the deadlock of principle between the ANC and the NP, in her view, is implacable.

Interestingly enough, since November last year, the Constitutional Assembly has received 186 376 petitions in support of the constitutionalisation of the death penalty, and 9 604 petitions calling for the right to life to ou-

rive because it limits the extent to which the executive or Parliament can override the Bill of Rights to implement legislation considered important for the running of the country.

Recently, a formulation has been found that appears at this stage to satisfy all parties, following lengthy tussles between the ANC and the DP about the extent to which rights could be limited, the DP wanting a stricter test than the ANC.

The ANC has justified its position on the Limitation clause, saying, by way of an example, that the Bill of Rights ought not to stand in the way of legislation aimed at beefing up policing powers to reduce crime. In response to criticism that the Limitation clause waters down the Bill of Rights, Hofmeyr responds "We don't think that in South Africa rights should be as broadly defined as in a stable democracy such as the United States but the limitations clause puts us solidly where the vast majority of democratic rights-based countries are."

The DP's Smuts says the solution lies in moving to a formulation which ensures that rights are invaded as little as is reasonably possible. "If there is a weak limitation clause, all your rights can be piled to a point where they constitute

## Provincial powers remain the stumbling block

**A**s the parties move into intense negotiations about "provincial powers" at an Arniston bosberaad, the African National Congress is trying to dismiss the suspicion that its latest drafts on provincial competencies do not comply with the constitutional principles, inherited from the multi-party negotiations at Kempton Park.

The constitutional principle in question states that provincial powers cannot be substantially reduced in the final Constitution. It was specifically put into the interim Constitution to appease the hardline federalist Inkatha Freedom Party, and to coax it into participation in the 1994 elections. ANC MP and constitutional expert Professor Dirk du Toit said this week: "The Democratic Party is taking a stand against co-operative government. It wants a situation where the provincial governments are in competition for power

against the central government. What we are looking for is a model which engenders an atmosphere of consideration among national and provincial governments, an atmosphere of support, respect, acknowledgment and co-operation."

The model of a national council of provinces, which allows for provinces to represent their interests at national level, is becoming more entrenched by the week. In fact, the idea has sold so well that interest groups such as traditional leaders, *volksstere*s and local government enthusiasts are trying to secure permanent places.

The squabble comes over a chapter on provincial competencies which is meant to outline how many powers provincial governments control and under what circumstances the national government can override these powers.

The ANC is happy with a formulation which states that national legislation overrides provincial leg-

islation if it has to achieve a national objective. The DP's Colin Eglin says this gives the central government an open-ended license to override the provincial legislation and that it would undermine the constitutional principles.

The ANC is also pushing to make local government a separate tier of government and not a provincial competency, as it was in the interim Constitution.

The chapter on local government has been left blank in the fourth draft of the final Constitution, as negotiations hot up behind the scenes, but no one is confident enough to put anything on the table.

The NP's secretary general Roelf Meyer says he does not believe the current model of provincial powers is unconstitutional. "We need to fine-tune some of the differences that exist regarding the interpretation of the latest draft, so that there should be no difficulty in understanding what it means," he said.

## Freedom and Security of the Person

At this late stage, this right remains contentious because it could have an impact on future abortion legislation, although the issues affected by the right go much further than that, and include protection from torture and detention without trial. While none of the parties wants the right to abortion on demand constitutionalised, the NP is concerned that the right, as it is currently drafted, could tilt judgments on future legislation towards the liberalisation of abortion. Insiders say internal disputes within the NP will have to be resolved before this clause is finalised.

**ANC MP Willie Hofmeyr.** 'We don't think that in South Africa rights should be as broadly defined as in a stable democracy such as the US'



The ANC is arguing that there is no international precedent to the right to lock-out and therefore it ought not to be in the Bill. Further, the ANC argues that the property right gives employers control over who is on their property so there is no further need for a right to lock-out to be entrenched in the Bill of Rights.

The DP is arguing that writing the right to strike into the constitution and not the right to lock-out will give the right to strike greater influence in the common law.

"If the one — the right to strike — is constitutionalised and not the other, then the equivalence see-saws out of balance," said Smuts.

**Limitation of Rights** This section of the Bill of Rights remains highly sensitive.

cannot be applied," she said.

Smuts believes that the recent formulation of the Limitations clause which proposes a "proportionality mechanism" succeeds in saving the Bill of Rights from over-imitation.

### The scaffolding supporting the Bill of Rights

commentators are increasingly concerned that politicians will have too much influence over the institutions created by the Constitution to uphold the Bill of Rights. While the method of appointment is not finally signed and sealed, the clause in the fourth draft dictates that the Public Protector, the Auditor General and the members of the Human Rights Commission, the Commission for Gender Equality and the Electoral Commission are to be appointed by parliamentary committees, staffed by politicians.

Professor Jeremy Sarkin, the national chair of the Human Rights Committee, believes this method of appointment is dangerous.

"Each political party chooses one person to suit their own ideological position and then he is their person and through them the politicians can control the commissions. This will weaken the groups that are meant to be checking that the politicians uphold the Bill of Rights. What we need is for those commissions to be chosen by civil society."

Politicians involved in the negotiations disagree with Sarkin. Both Hofmeyr of the ANC and Douglas Gibson of the DP retort "As MPs, politicians are the elected representatives of civil society, so therefore we are well placed to make the selection."



# SA's bill of rights taking shape, but some issues still unresolved

*Opening clause affirms that new measure will become cornerstone of the country's democracy*

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CLIVE SAWYER, Political Correspondent

ALTHOUGH significant issues in the future bill of rights remain unresolved, the likely list of rights to be available to South Africans when the new constitution comes into effect is taking shape

The opening clause of the bill, already agreed to by negotiators, affirms that the bill of rights will be a cornerstone of democracy in South Africa

"It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom"

The state will have to respect, protect, promote and fulfil these rights

In a significant breakthrough for many groups which have borne the brunt of prejudice and discrimination in the past, the bill bars unfair discrimination by the state on grounds including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth

A provision in the equality clause to provide for affirmative action is still being negotiated

The bill protects the right to human dignity and to freedom from slavery, servitude or forced labour

It confers the right to privacy, including the right not to have one's person or home searched, property searched, possessions seized or privacy of communications violated

While freedom of religion, conscience, thought and belief are guaranteed, not all parties have yet agreed to a clause allowing religious observances at state or state-aided institutions

The bill guarantees freedom of expression, including freedom of the Press and other media, and the freedom to receive and impart information and ideas, as well as academic freedom

A clause ensuring freedom of artistic creativity has been objected to by the African Christian Democratic Party, which claims it amounts to constitutional licence for pornography

Other rights conferred by the bill include the right to assemble, demonstrate, picket and present petitions, providing this is done peacefully and unarmed

Rights of freedom of association and to make political choices are included

# Police Win Truth

DENNIS CAVERNELLIS  
Supreme Court Reporter

## Supreme Court rules on access to TRC documents

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# Test

TWO retired senior policemen have won a crucial application in the Cape Supreme Court allowing them access to Truth and Reconciliation Commission (TRC) documents.

This test case could have far-reaching implications for the TRC, the court has indicated.

The two officers brought the application to defend themselves against allegations of involvement in the death of a student activist in Port Elizabeth.

The commission undertook two weeks ago not to introduce any evidence at its East London hearing that involved or impli-

cated retired police brigadier Jan Abraham du Preez and retired general Nicolaas Jacobus Janse van Rensburg in the alleged crime, until judgment had been handed down at the hearing.

"(This application) is a test case, and if it has far-reaching implications, then so be it. I cannot be concerned with political repercussions," said Mr. Justice E. L. King, at the hearing last week.

Judge King today interdicted the TRC committee on human rights violations from hearing or receiving information which would affect the two policemen - until

they had been given advance notice of hearings where evidence which would implicate them would be heard, and the time and place of the hearing.

Judge King also ordered the TRC to give the policemen access to witness statements and other documents which would allow them to "identify events, incidents and persons" which may implicate them in alleged crimes.

The commission sent letters to the retired policemen alleging that they were "involved in or had knowledge of the poisoning and/or disappearance in 1981/82 in

Port Elizabeth of a person whose family has approached the commission for assistance."

The TRC said that Joyce Mthimkhulu, mother of Siphwe Mthimkhulu, a Congress of South African Students activist, who was allegedly poisoned, "indicated that she wished to name alleged perpetrators of human rights violations."

The matter was to be heard before the commission in East London on April 15.

The TRC was also ordered to pay the retired police officers' legal costs.

Counsel for the former policemen, Lewis

Visser, said earlier that the men had a right to be notified of the hearing beforehand, so they could get legal advice to protect themselves.

"People's lives are going to be destroyed, some people are guilty, but many may be innocent."

He said the two former policemen did not want to stop the TRC hearing evidence, "but the rights of implicated persons are just as important as that of others."

Mr. Justice King presided. Mohammed Albertus SC and Ismail Jamie appeared for the TRC, instructed by the State Attorney Lewis Visser and Barnard Knoetzer appeared for the policemen, instructed by Jan Wagener.

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# 'Suicide' (252)

## beaten to death, says mother

JOHN YELD  
on the Truth Commission

JOHANNESBURG — Teacher and activist Ahmed Timol, alleged by security police to have jumped to his death from the 10th floor of John Vorster Square, was beaten to death during his five days in detention, his mother told the Truth Commission today. Speaking in Gujarati and wiping her eyes as she spoke, Hawa Timol said she refused to accept that he had committed suicide, and that his death still haunted her every day.

The 30-year-old teacher, an activist in the Indian Congress, ANC and South African Communist Party, was alleged to have jumped to his death on October 27, 1971, after being arrested at a roadblock five days earlier. Mrs. Timol told the commission she had seen her son's body after it had been released and had noticed that he had been assaulted.

"He was full of blood, his whole face was covered in blood. They hit him very badly. They ripped off all his nails and the coffin was also filled with blood."

Mrs. Timol said she wanted to know who had assaulted her son and who had informed on him.

"It was 25 years ago and I will never forget what happened — I need to know."

During the five days he had been in detention, security police had repeatedly harassed the family and their servants and had arrested another of her sons, Mohamed, Mrs. Timol told the commission.

When she had asked to see her son in detention, security police had said to her "You will not see your son again."

"I then said to the policeman he should go home and ask his mother what it was like for a mother to rear a child and not see him."

The security police had come back again and one of them had pushed her violently into her seat.

"I stood up and asked why and one of them told me my son had jumped from the 10th floor."

"I told them that I did not believe my son had committed suicide and that they hadn't looked after him. I want to know who assaulted him. It was 25 years ago and I will not forget what happened — I need to know. I told them if my body had a zip, they could open it and see the ache inside."

She and her late husband had been interrogated intensely after her son's death. He had been a teacher at an Indian school and had been well liked by his pupils.

"I cannot be expected to forgive at this stage," she said.

Mohamed Timol told the commission he did not want to talk about his own detention but wanted to make a statement in support of his mother and what she had gone through.

"She's been living through this every day of her life for the last 25 years."

"She refused to accept that he committed suicide and refused to accept that bruises on his body had been caused prior to his detention, as found in the inquest — he was beaten to death."

"She doesn't know who to forgive."

Mr. Timol said prominent pathologist Jonathan Gluckman had been an observer at the post mortem which had been held after Ahmed's death, and had given evidence at the inquest held between April and June in 1972. "His contention was that there were bruises and torture marks on his body that could have only been caused during his detention."

# Son died for SA's freedom — father

Stephen Laufer

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**EIGHT**-year-old Cornu Smut was a hero who died for SA's freedom, his father Johan told the truth commission in Johannesburg yesterday, saying most whites would not have understood the evils of apartheid without his death in an Amanzimtoti bomb blast.

The boy's grandmother, who was injured in the blast while on holiday on the south coast with her husband and grandson, still could not understand why he had called for peace negotiations with the ANC following his son's death, Smut said.

However, as a small businessman he had seen people denied their democratic rights struggling to pay for essentials, and had understood why the country's black majority went to war.

Smut said he had subsequently met the parents of the ANC guerrilla hanged for the bombing. He had been happy to greet them in his house and tell them he bore them no grudge and carried no hatred in his heart.

Knowing what had happened to his son, and why, had given him peace, and he still felt the same way about his son's part in bringing change to SA. Smut called on those responsible for the transgressions of apartheid to apologise, saying the population as a whole could not apologise for something it had not been aware of.

His testimony came at the end of a day during which President Nelson Mandela paid a surprise visit to the hearings in the Central Methodist Church in Johannesburg. Mandela has-

tened in silence as Gerald Thebe told of beatings by police with iron bars while in detention which had left him in need of psychiatric treatment. He also sat through a lengthy statement by former MK cadre George Dube on his imprisonment and maltreatment in an ANC camp in Angola.

Mandela told the commissioners he believed they were "doing a magnificent job". Until SA knew what crimes had been committed in the past, there could be no genuine reconciliation.

He was confident the commission would ensure all victims of human rights violations would feel justice had been done. His presence confirmed the commission was made up of men and women of great integrity from across the party political spectrum.

The commissioners also heard details of the killing of ANC activist Abraham Thro by parcel bomb in 1974, the shooting of Jerry Mthembu by security forces in Alexandra in 1986, the torture in police detention of Paul Hlongwane in 1960 and 1987, and of the deaths in detention of Nicodimus Kgothe and James Lenkoe in February and March 1969.

Kgothe's son Ben told of visiting his father in the Silverton police station, where he was lying injured on the floor. Asked what had happened to him, he said he had shipped on some soap while bathing.

"The policeman present, a Sgt Geldenhuys, told my father to tell the real story," Kgothe told the commission. "He didn't like the treatment given to my father."



Truth commission chairman Archbishop Desmond Tutu, top left, at hearings in Johannesburg yesterday. Commissioners Bongani Finca, Ale Borane, Tutu, Mahomed Fazel Randera and Wynand Malan prepare for proceedings, top centre, while Belgian Co-operation and Development Minister Reginald Moreels gave interviews after the hearings, right. Also there were Moleseng Thro, lower left, whose son Abraham was killed by a parcel bomb in Botswana in 1974, and protesters, bottom centre.

Pictures: ROBERT BOT-

## ID card will replace book

**CAPE TOWN** — An identity card was to be introduced to replace the present green identity document, the home affairs department said yesterday. This would coincide with the imple-

## Call for councillors to be fired over service arrears

**CAPE TOWN** — Western Cape local  
Linda Ensor  
BD 30/4/96

## Healers help in killings

**PETERSBURG** — commission of inquir into witchcraft-related killings in Northern Province has found some traditional healers contribute to the killings.



from the Christusdal council recently stood in a by-election and regained their seats. The mayor of Groot Brak



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NE

'I DON'T HATE YOU,' VICTIM'S DAD TOLD BOMBER'S PARENTS

# 'My son died for freedom'

**JOHANNESBURG:** The father of an eight-year-old victim of the Amanzimtoti bomb blast says his lack of bitterness led to his being branded a traitor **ROGER FRIEDMAN** reports

**H**IS son, aged eight, died when a bomb ripped through a shopping centre in Amanzimtoti just before Christmas 1985, but he was not bitter, Mr Johan Smit told the Truth and Reconciliation Commission here yesterday

Few whites had taken the trouble to understand the struggle for freedom and had dismissed members of the liberation movements as terrorists, Smit said

"I thought my son was a hero because he died for freedom, for people who were under pressure"

Smit was the last witness to speak yesterday and took the stand shortly after a surprise visit by President Nelson Mandela

Smit said his son, Cornio, had been visiting his grandparents

They were doing their Christmas shopping at the Sanlam Centre when the bomb exploded

Smit spoke of the pain of flying to KwaZulu-Natal to identify his son at the mortuary — and of insisting that he look for a small scar beneath Cornio's chin before he would believe his boy was dead

But he was not bitter. His lack of bitterness had led to his being condemned as a traitor by elements in his Pretoria community

Later, he was to meet the parents of the young bomber, Andrew Zondo, since executed "I had no grudge against them. It was actually a rebellion, it was war. Evil things happened that the generals did not always plan. I felt glad to be able to tell them I did not hate them"

Smit said his mother, who was injured in the blast, did not feel quite the same way. Said commission chairman Archbishop Desmond Tutu "We have really got to take our hats off to you"

During his visit, Mandela listened stony-faced as a former freedom fighter, Mr George Dube, described being tortured by comrades in an ANC camp in Angola

Mandela declined to comment on Dube's testimony. He did not wish to pre-empt the findings and it would be inappropriate for him to comment on allegations against the organisation he led

Dube spoke of his three years in custody at an ANC "rehabilitation centre" at Kibashe in Angola. He told of being "beaten nearly every day" and made to work as a slave

Immediately after telling his story, he was whisked away to a witness protection centre. He is only the second person to be placed in the commission's wit-

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ness protection programme

Mandela's arrival had taken everyone, including Tutu, by surprise. He strode into the Central Methodist Church in Pritchard Street while a former Robben Island fellow inmate, Mr Gerald Thebe, was telling how his torture at the hands of the security police had left him mentally disturbed. He was still on medication

Tutu immediately vacated his seat on the podium to allow Mandela to give an impromptu address

Mandela said he had found the commission's hearings most encouraging. He remained convinced that setting up the commission had been in South Africa's best interests

"Until we know what crimes were committed against the innocent people there will never be reconciliation in the proper sense of the word," he said "I did not appoint it as a commission of any organisation, least of all the ANC"

# Sticking points on Bill of Rights stay

CT 30/4/96

(252)

PARTY negotiators failed to reach agreement last night on the key sticking points in the Bill of Rights for South Africa's final constitution.

Clauses on education, property and the right of employers to lock out striking workers remained unresolved, the constitutional committee was told by Senator Mohamed Surty (ANC) on behalf of the sub-committee dealing with the section.

Discussions were to take place overnight and this morning, after which it would report back to the constitutional committee, scheduled to restart at 10am.

It was hoped the education clause could still be resolved last night, Surty said.

Mr Willie Hofmeyr (ANC) said there were only "four or five" significant outstanding issues, and the rest could be finalised soon.

Mrs Sheila Camerer (NP) said more time was needed to discuss other amendments.

The death penalty issue remains unresolved, as does the clause on the limitation of rights.

DP leader Mr Tony Leon said he had had discussions about the limitations clause with President Nelson Mandela and NP leader Deputy-President F W de Klerk, and the matter should stand over.

The committee reached consensus on a number of technical aspects of the chapter on the Bill of Rights.

The Freedom Front and African Christian Democratic Party asked the committee to insert the words "In humble submission to Almighty God" in the preamble to the final constitution.

The ANC's Dr Blade Nzimande said this would not cater for the minority of atheists in the country.

Nzimande said the preamble still referred to God in the second last line: "May God protect our people."

However, the ANC would accede to a request from the NP and the FF that respect should be paid to those who had built the country in addition to the current provision honouring "those who suffered for justice and freedom in our land".

The constitutional committee decided a multi-party committee should be formed to try to find agreement on the preamble, or to identify what the remaining dispute might be.

● It was reported yesterday that the Constitutional Assembly had received 1 990 334 public petitions during the two phases of public comment on the constitution-making process and a constitutional draft.

More than 1 001 246 people signed petitions for the retention of Afrikaans as an official language, and 650 000 people had indicated that Parliament should remain in Cape Town — Sapa



# Tutu defends TRC's credentials

CT 30/4/96 (252)  
**ROGER FRIEDMAN**

JOHANNESBURG: The Truth and Reconciliation Commission's credentials as champions of human rights, justice, fairness and reconciliation "should not be disputed", chairman Archbishop Desmond Tutu said at the start of the first day of hearings here yesterday.

The commission was not a witch-hunt, and the perpetrators of apartheid human rights violations should be "thrilled" that the commission intended defending their rights "to the death".

Clearly, Tutu felt those guilty needed encouragement to come forward and confess their sins. He

has been actively engaged in encouraging them to do so, almost each time he speaks in public.

In his opening remarks, he read a letter of support from the General Synodical Commission of the Dutch Reformed Church, and then the terrible stories were allowed to unfold. The half-empty Central Methodist Church was to hear stories from all sides of the political spectrum, from deaths in police custody to taxi violence, torture and letter-bombings.

There were tears, a revolutionary song, and a standing ovation for President Nelson Mandela.

Mrs Moloseng Tiro appeared in connection with the death of her

son, activist Abraham Tiro, who died in a letter-bomb explosion in Botswana in 1974.

Mrs Sarah Mthembu spoke of the security forces' shooting of her son Jerry, in Alexandra in 1986.

Mr James Simpson told of the injuries he sustained in the Church Street bombing in Pretoria in 1983.

The commission heard 11 witnesses in all, its most productive day since hearings began in East London a fortnight ago.

"We want the world to know that we condemn all violence. The truth must triumph eventually and that will be our salvation," was how Tutu summed it up.

# Changes in draft Bill of Rights will affect Constitutional Court decisions

By HELEN GRANGE

Future rulings by the Constitutional Court will need to take cognisance of changes to the Bill of Rights in the new draft-constitution once it becomes law, but these are unlikely to affect rulings already delivered, according to legal experts

The new draft constitution has seen the removal of two provisions in the Bill of Rights' limitation clause - which gives the court guidelines as to how and when civil rights may be limited or curtailed

The removed provisions include the requirement of proof that a limitation on a right is necessary, and the requirement that under no circumstances may the "essential con-

tent" of a right be negated

Johan de Waal, a public law lecturer at Stellenbosch University, said the removal of these provisions would give the Constitutional Court more flexibility

"It means the State won't have to prove that a limitation is necessary. It has now been watered down to a factor to be considered

"Also, the provision preserving the essential content of a right has been problematic because courts had difficulty interpreting the meaning of 'essential content' and how that meaning could be applied practically

"It tended to create an absolute bar on limitations and led to inflexibility," he said

De Waal added that the new limitation clause had confirmed the Constitutional Court's interpretation of the limitation clause to date, but had just given it a firmer hand

The new draft Bill of Rights is also different in that it includes such socio-economic rights as rights to housing and water as well as a special limitation on so-called "hate speech"

Clauses on property rights, labour rights and education rights are still being hotly debated by the parties

The draft constitution will be voted on in Parliament on May 8, when it needs a two-thirds majority of the 490 members of the National Assembly and Senate

Star 30/4/96 (252)