

PUBLIC SECTOR - GOVT. JUSTICE

JUNE → JULY

16

TRC's duty is to see justice has been done

(292)

Ray 11/16/197

What might turn out to be the most difficult task of all remains, finding a restitution policy that is affordable and satisfies all victims



By Rowan
Beebe

It is now nearly 15 months since the Truth and Reconciliation Commission held its first public hearing in East London.

That hearing, an intensely emotional occasion in the full glare of the world's media, was the start of a remarkable journey for the TRC's human rights violations committee. It has travelled the length and breadth of the country gathering more than 11 000 statements and listening to the testimony of 1 800 victims over 180 days of public hearings in every province.

The committee's information gathering process comes to an end with a last public hearing in Ladybrand, Free State, at the end of this month. Has it worked?

"It has gone very well," says Mary Burton, the commissioner in charge of statements gathering. "Through the statements we have taken, not only in the human rights violations committee but also through the amnesty process, we will be able to offer a very good picture of what happened during the apartheid conflict."

In spite of a host of legal problems, organisational mishaps and political muddling, most analysts agree that the human rights hearings have been highly effective in bringing home to South Africans of all races that apartheid caused immense suffering.

"Many South Africans became aware through this process of the background to

apartheid oppression and exactly what had been happening during that time, and that is a very positive thing," says Ian Liebenberg, a constitutional researcher with the Human Sciences Research Council.

It has also undoubtedly brought inner peace and healing to a handful of victims in another report on this page, the wife of murdered activist Sipho Hashe explains why the TRC brought her the peace that had evaded her for so long.

As an information gathering process and, to a degree, an instrument of healing, the human rights violations hearings were successful - but that is not enough, says Liebenberg.

"It is unlikely that everyone is going to say 'fine, we've heard everything, now let's go home'."

The process still has to deliver what it promised, not only truth, but also a measure of reconciliation.

If the "truth phase" is to make a contribution to reconciliation, Liebenberg says, two things are crucial. It should be perceived as legitimate by the general population and it should be complemented by a "justice phase", essentially meaning effective restitution, because the amnesty process precludes retributive justice.

The present disagreement with the National Party has plunged the commission into a legitimacy crisis, and chairman Archbishop Desmond Tutu is said to be incensed that it has drawn attention away from the commissioner's task and achievements.

He now could have major implications for the TRC if it loses legitimacy in the eyes of sections of the population.

"The experience in other countries which have had similar commissions, such as Chile and Argentina, has shown that



VIANY GUMENES

eventual success depends on a broad national legitimacy," Liebenberg says.

Some analysts, including the SA Institute of Race Relations president Hermann Gillmore, believe the TRC has shown itself to be biased and has therefore already lost legitimacy in the eyes of a significant section of the population.

Indeed, Gillmore argued in an article in The Star recently

that the TRC is becoming a source of division rather than an instrument of reconciliation. He said the composition of the commission should have been more representative of the political spectrum. It could then have produced minority and majority reports which could be debated in public.

But this would defeat the purpose of the exercise, others say. Part of the commission's

mandate is, in effect, to write one history of the apartheid conflict, drawn from the experiences of victims from both sides of the battelines.

The Government went out of its way to ensure there would be representation from all the different political perspectives (on the commission), says veteran anti

apartheid campaigner Beyers Naude. "Where they did not succeed, it was because of a lack of response from others. To now come and accuse the TRC of bias is unfair."

Another factor which could undermine the commission's legitimacy is the proposed KwaZulu Natal peace pact, with provisions for secret amnesty deals for the province's war lords

This could well be unconstitutional, because it would give a province the power to interfere in the mandate of an institution set up by the national Government and it would be grossly unfair to those who have had to confess in public to get amnesty.

Any suggestion of a blanket amnesty without public disclosure is in direct contradiction to the commission's mandate, Liebenberg says.

Although the human rights violations hearings have been all but completed, the commission still has a huge task ahead of it - and there are serious obstacles in the way.

The spotlight now shifts squarely to the amnesty committee, which will continue sitting until mid December and perhaps beyond. The investigative unit and the research department will continue to check and corroborate statements, make preliminary findings and submit them to the human rights violations committee for decision. The framework of the commission's final report has already been drawn up, the next eight months will be spent giving substance to it. The report will be presented to the president on March 15 next year.

The most urgent problem facing the commission now is to complete the amnesty process before the expiry of its mandate on December 15 without taking any shortcuts which could undermine the integrity of the process or land it in a legal minefield.

The amnesty committee, which will soon be expanded from five to nine members, has received more than 8 000 applications. Only 1 200 have been dealt with and 70 amnesties granted. In the remaining six months, the committee will have to go through 6 900 applications.

Some of them will take con-

siderable time two weeks have been set aside for the Janusz Walus and Clive Derby Lewis hearing, more than a month for a group of former Eastern Cape security policemen who have confessed to the murders of the Cradock Four, the Pecco Three and a number of other activists.

Concluding this huge task in the 130 working days it has left will be, quite simply, impossible for the committee in its present form.

Legislation to enlarge it has already been approved and by September, the committee hopes to be able to function in three separate panels, with two hearing amnesty applications simultaneously in public while the third deals with administrative matters.

Even so, commissioner Denzil Potgieter conceded in a recent interview with a Sunday newspaper that the task may prove beyond their capabilities. Moves are already afoot to extend the amnesty committee's mandate beyond the December 15 deadline.

After that, what may turn out to be the most difficult task of all awaits: finding a restitution policy that is affordable and satisfies the victims that justice, after all, has been done.

Truth unfolds

The TRC's human rights violations committee has begun its final public hearing in Ladybrand, Free State, at the end of this month. The hearing will be the last of a series of public hearings held in every province. The committee has gathered more than 11 000 statements and listened to the testimony of 1 800 victims over 180 days of public hearings in every province.

Some of them will take con-

Alex Boraine must resign from TRC, Nats demand

POLITICAL STAFF

The confrontation between the National Party and the Truth and Reconciliation Commission increased today with a formal NP demand that TRC deputy chairman Alex Boraine resign forthwith

The demand was reportedly delivered to the TRC with a threat that the NP would take it to court if Dr Boraine did not leave. According to Nat-supporting newspapers, an NP letter also demanded an apology from TRC chairman Desmond Tutu, for remarks he made after the NP's

second submission last month.

Archbishop Tutu would not respond yesterday, saying he had heard nothing from the NP yet and was not prepared to "discuss the matter through the media"

The letter refers to the TRC's allegedly biased and aggressive handling of NP leader FW de Klerk during and after the NP's second submission to the commission last month. It threatens the TRC with legal action unless.

Archbishop Tutu apologises unreservedly for his remarks and undertakes to stick to the letter of the TRC legislation, which demands even-handedness from members of the commission

(252)

ARLG 2/6/97

Dr Boraine resigns immediately as deputy chairman and commissioner

Glen Goosen, head of the TRC's investigative unit, undertakes never again to be involved in any investigation of the NP

NP spokesman Anneke Greyling confirmed the letter would be handed to the TRC today, but would not elaborate on legal steps the NP was considering

The NP has previously expressed its anger over the TRC's handling of its submission, claiming commissioners' questioning of Mr De Klerk was too aggressive and revealed bias. The ANC representatives, in contrast, were handled with kid gloves, the NP said

Legal experts were perplexed about the legal action which the NP might take, pointing out that the party's claim of bias was largely a matter of opinion on which most courts would be reluctant to rule

"Given the nature of the TRC's work, and the fact that it is largely focused on the deeds of the former NP government, it would be extremely difficult for the NP to prove bias or unfair treatment," a senior advocate commented today

"In any event, no court is going to tell the commission that Dr Boraine has to resign, or that certain TRC commissioners may not deal with certain matters. That is not the role of a court"

Nats to deliver 'ultimatum' to TRC

Star 2/6/97

(252)

Legal action threatened unless Archbishop Tutu apologises and Dr Alex Boraine resigns

STAFF REPORTER

The National Party will deliver an ultimatum to the Truth and Reconciliation Commission today, threatening to take the commission to court unless it accedes to a list of demands including the resignation of Dr Alex Boraine as deputy chairman.

The NP will also demand an apology from TRC chairman Archbishop Desmond Tutu for remarks he made after the NP's second submission to the TRC last month.

Tutu would not respond yesterday, saying he had heard nothing from the NP and was not prepared to discuss the matter through the media with them at this stage.

The letter refers to the TRC's handling of FW de Klerk during and after the NP's second submission to the commission last month.

It claims Tutu's remarks at a press conference after the submission revealed bias against the NP, as did the questioning of De Klerk by TRC members during the submission.

The letter threatens the TRC with legal action unless Tutu apologises unreservedly for his remarks and undertakes to stick to the letter of the TRC legislation, which demands even-handedness from members of the commission.

Boraine resigns immediately as deputy chairman and commissioner; and

Glen Goosen, head of the TRC's investigative unit, undertakes never again to be involved in any investigation of the NP.

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The NP has previously expressed its anger over the TRC's handling of its submission, claiming commissioners' questioning of De Klerk was too aggressive and revealed bias.

The ANC representatives, by contrast, were handled with kid gloves, the NP said.

The ultimatum follows talks on Friday between NP officials and their legal representatives

Dear

EDITOR

Write to: The Editor, Sowetan,
P.O. Box 6663, Johannesburg 2000

Short letters are preferred and none is considered unless it is signed, with the writer's full address. You may indicate if you want to use a pseudonym but these are not encouraged.

Equip all schools

BECAUSE of what I call forced integration at learning institutions, high schools, universities and technicons are becoming casualties of a culture obsessed with battle fields and racial hatred

I know many readers will be quick to say learners who go to these schools are not forced, but I am adamant they are because of a lack of facilities at black schools. My interpretation is forced integration

The gradual involvement of armed white parents at school upheavals must not be underestimated. It shows how unsafe and unsecured our children are at the so-called multiracial institutions

The solution is right in the hands of the Government and parents who should, in a solid partnership, ensure that black schools and institutions are well-equipped and staffed so that learners can get viable education on their doorstep

Only then should we talk of spontaneous integration. Black children who want to go to white schools would be doing so of their own volition

As a loving parent I believe in averting any catastrophic situation before it occurs. Without being pessimistic, I have a feeling that the unending faction fights in multiracial institutions will one day be the beginning of a civil war

If our children want to be taught by whites in some subjects, what is stopping us from employing whites at our schools rather than sending kids to white schools where racial hatred has not settled down yet

ROSENBERG HALANA,
Phofung, Carletonville

What criteria, Omar?

ACCORDING to media reports attributed to Justice Minister Dullah Omar, 100 trainee prosecutors have been selected to meet the shortage of qualified personnel in the Department of Justice in order to 'fast-track' judicial procedures

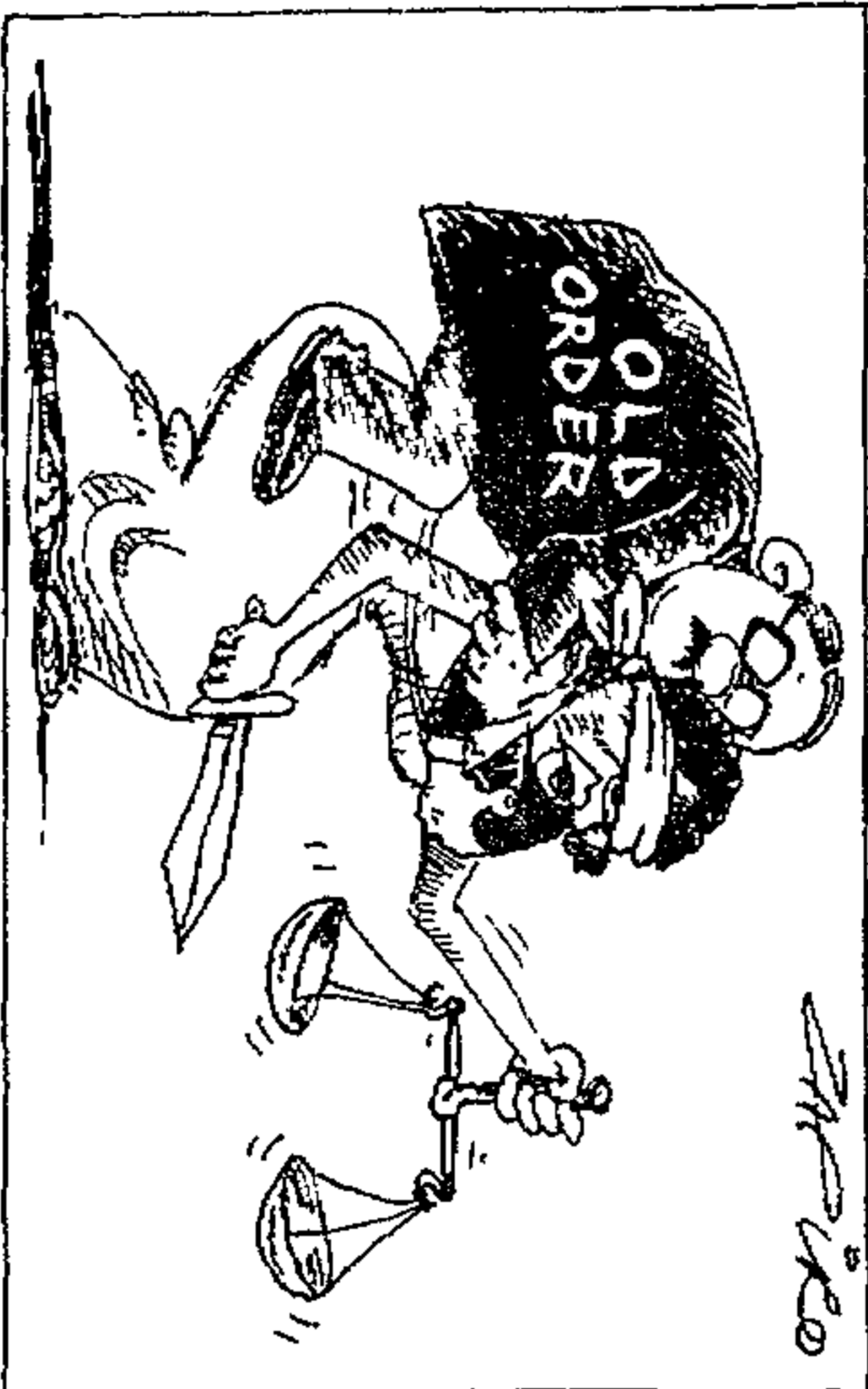
In view of the endemic shortage of qualified personnel - a reason often advanced for the tardy and ponderous dispensation of justice - this development is indeed commendable

It is an honest endeavour by a well-meaning minister to give practical effects to the adage "justice delayed is justice denied"

But being far-removed from the day to day situation on the ground, the Honourable Minister is perhaps not fully aware of what is really going on in the courts

Selection of these prospective trainees was left entirely in the hands of senior prosecutors. It would serve the interest of transparency if a detailed breakdown of all the candidates selected, with their respective qualifications, race and gender, were to be published

It would also be interesting to know of the qualifications of the "senior" prosecutors who were involved in the selection procedure in each of the regions. Is a lowly qualified white prose-



cutor a suitable person to evaluate and select a more highly qualified black?

I ask, with respect, because it is common knowledge that most senior incumbents in the Department of Justice are appointees of the previous discredited regime which operated under a certain racist ethos

The justice department, together with the police service, were the hand-maidens who gave practical effect to the policy of the Government of that dark period

In fact, the justice department was the nerve-centre for implementing a policy that was universally condemned as "a crime against humanity". Under normal circumstances, with the

advent of a diametrically new order, such incumbents would have been relieved of their positions in toto with immediate effect

What criteria could officials with such baggage have used in the selection procedure of trainee prosecutors?

I know of one black applicant with BA, LL B degrees who has been trying unsuccessfully to get a position in the Department of Justice since 1992

Needless to say she was unsuccessful even in her recent application for the position of trainee prosecutor in three different centres

Her two years' courtroom experience as a candidate attorney didn't count for anything. And we hear of an endemic shortage of qualified personnel in the Department of Justice. It doesn't make sense

Hence my belief that the responsible minister might not be fully aware of the goings-on on the ground. I am almost positive that the selection of the trainee prosecutors is racially skewed

Remember, we are dealing here with a people who have used every conceivable devious trick against blacks, as revealed in the TRC hearings. And what has been exposed there is probably only a fraction of the whole truth.

BHAN MAHABIR,
Durban

Words of Faith

I am a stranger on earth; do not hide your commands from me.
My soul is consumed with longing for your laws at all times.

Psalms 118.19-20

TRC's last-ditch effort to reach more victims

(252) for
April 1997

By Bobby Rodwell

THE HUMAN RIGHTS violations committee of the Truth and Reconciliation Commission will begin the process of winding down its public hearings in all provinces by the end of this month.

Although 10 000 statements have been taken nationwide, there is concern that many stories of human rights abuses have not yet been told.

The TRC has recently expanded its capacity to take statements from survivors and families of survivors of human rights abuses.

It has trained and deployed 110 designated statement takers (DSTs), through a project funded by the Belgium government. The DSTs come from non-governmental organisations, community-based organisations and church structures across the country.

The DSTs will give support to the 32 full-time statement takers presently employed by the TRC. However, the Khulumani Support Group, an organisation for victims of human rights abuses, argues that it is more than just the personnel capacity of the TRC that

Victims who have not told their stories will be left out of reparation

primary source of research and information

Secondary sources are the research and investigations carried out by the TRC. Without practical information about the operations of the TRC it is very difficult for victims to come forward to tell their stories.

According to the Johannesburg office's communications officer, Laura Pollecut, the main obstacle has been the extremely low budget allocated to communication both at national level and within the provinces.

Also when the TRC implemented budget cuts in August 1996, communication was one of the areas that experienced severe budget cuts.

"This has meant that the TRC has been paid to use advertising to only a limited degree and has had to rely on the media to publicise its work," says Pollecut. "While the media, particularly the SABC through its news and TRC Special Reports have been very good in

covering the work of the TRC, the problem is that the media covers events, and does not necessarily give out information about the actual workings of the TRC."

She argues that personal contact has been most effective in bringing about an understanding of what the TRC does. However, this means that information is limited to where the TRC actually goes.

People's rights

While statement takers working in a particular area may give information on the TRC process, it affects only people who have heard of the presence of the TRC in their area.

"It is ironic that while there is so much media coverage, there remains so little real information about what people's rights are with regard to the operations of the TRC. It is the duty of the TRC to get information to people," says Eric Dinnan.



A witness collapses during a Truth and Reconciliation Commission hearing. Although 10 000 statements from victims have been taken nationwide, there is concern that many stories of human rights abuses have not yet been told

The lack of information runs the risk of creating animosity towards the TRC. For example, many people do not know that the TRC is only responsible for writing a policy about reparation which the Government will implement after the TRC process.

Also lack of information clearly impedes the statement taking process. "The most impor

those people that did not tell their stories will not be able to get reparation. "What Khulumani would like to see is a review of what has been covered in records of incidents as well as geographical areas covered. We need a methodological campaign with a good communication strategy between now and the end of the TRC

Special effort

"The major problem is that there is so little information available to people. We are concerned that the TRC has not made a special effort to communicate with victims."

"In our experience victims find it very difficult to find out what is happening and how to prepare to take their cases to the TRC. This has resulted in a lot of people not coming forward," says executive member of Khulumani, Maggie Friedman.

"What we have seen is an extremely haphazard process of statement taking. It is difficult to know who has come forward and who has not. This has been particularly difficult in rural areas," says Friedman.

Dan Ntshane, vice secretary of the committee established to prepare for statement taking and public hearings in the Moretele district of North West province, agrees.

"When the TRC came to the Moretele district we were given two weeks to inform people in our area that statements would be taken. The Moretele district is very rural, with some 52 villages spread over a huge area and transportation between villages is very difficult."

Tribal structures

"While the committee worked extremely hard to get information out, we found that we were working from scratch because people have so little knowledge about the TRC. They may have heard of it but generally do not know what it does."

"In rural areas we work through tribal structures. We found that in some cases the chiefs gave out information about the statement taking, but in others they did not. This resulted in a very uneven process," says Ntshane.

Since the inception of the TRC over a year ago, it has come under criticism for its weak communication strategy. Statements from people on human rights violations are important as the

TRC: Last chance to be heard

AS a statement taker for the Truth and Reconciliation Commission, Frank Mohapi has listened to and recorded cases brought before the TRC for more than year.

"It never gets any easier," he says. "It is one of the most difficult jobs I have ever done. Often people are relating their stories for the first time and you have to be very sensitive to this."

"There are days when the stories one hears are so chilling that you ask yourself whether it is possible for one human being to do these things to another," says Mohapi. "Then I have to take a break, look up at the sky and try to get some hope."

"Of course the important thing for us as statement takers is not to get involved. We have to show compassion and give support but we cannot allow ourselves to become too involved."

With only 32 permanent statement takers across the country, the TRC has to date taken 10 000 statements. Of these nearly half have been taken by the Johannesburg office where Mohapi is one of eight people serving the whole of the old Transvaal (Mpumalanga, Gauteng, North West and Northern Province).

Public hearings

One of the problems is that people think of the work of the human rights committee as public hearings. We try to downplay the public hearings and ensure people that whether their statement goes to a public hearing or not, it is as important," says Mohapi.

"Again, people often think that once the TRC has held public hearings in their district, they can no longer give their statements. That is why we try to downplay



Truth and Reconciliation Commission statement taker Frank Mohapi has to listen to chilling stories and show compassion - but can never allow himself to get involved.

the public hearings

"What is heartbreaking is when we get cases where parents and relatives have absolutely no idea of what happened to their daughters or sons. Because of the nature of the struggle they often knew nothing of their child's activities. Having been an activist myself is useful because I can often direct them about certain incidents that I am aware took place in certain areas."

But that does not always help in the search for their children and rela-

"Because of the lack of information we do a lot of public education before taking statements. We often have to explain the basic structure of the TRC covering the human rights violations committee, amnesty committee and reparations and rehabilitation committee and how they operate."

"For example, one day we arrived in Tamba in the Moretele district of North West to take statements. There were 50 people to give their statements. Once we had explained what the TRC does and the parameters of its work, at least 30 people decided their stories did not fall within the TRC."

Human rights

For Mohapi the saddest part of his job is realising that the majority of black South Africans, particularly in the rural areas, have come to accept human rights abuses as the norm.

"I often realise that the person I am talking to believes that it is fine for police to burst into a private home for no apparent reason, or for a person to be spoken to as though they are an object, not a person. It is very painful."

The lack of information about basic human rights has led Mohapi and his colleagues to refer cases that do not fall within the TRC Act to organisations such as Lawyers for Human Rights and the Legal Resources Centre.

"We have realised that many people see the TRC as their last hope of being heard," explains Mohapi.

No matter how difficult it gets, Mohapi feels that it is an important job to do in the interest of future generations.

"We need to let people know what happened and make sure that it never happens again."

Research finds 'media, govt colluded'

BP 3/6/97

Stephen Lafer

FREEDOM of Expression Institute (FXI) researchers had been amazed at how closely the media owners' association — the Newspaper Press Union (NPU) — had "colluded" with the previous government in limiting press freedom, especially on matters affecting defence and the police, the author of a truth commission submission said yesterday.

The NPU's system of voluntary self-control had amounted to a "policy of appeasement", with media councils and codes of conduct imposed without reference to working journalists, one of the study's authors, Hendrik Bussiek, said. He was speaking at the presentation of the study to the truth commission.

Black lives had generally been stereotyped as problem-ridden, with blacks seldom portrayed as citizens able to shape their own lives according to their own aspirations. Combined with a lack of balanced reporting on the anti-apartheid struggle, this had deepened the racial divide.

"It contributed to an atmosphere in which gross human rights violations became possible," Bussiek said.

Editors had been forced during the years of National Party (NP) government to surrender part of their role — that of gatekeepers of the news — to the state, the study found. Proprietors, boards and managements of the English press had been motivated strictly by financial interests, with little or no regard for the ethics of professional journalism.

This meant that the self-perception of the mainstream English-language newspapers as the "opposition press" had been only partially correct. They had opposed the NP, but had placed themselves firmly within the parameters of the white parliamentary political spectrum.

Regarding the closure of the Rand Daily Mail in 1985, Bussiek argued that "a principled or crusading stance against apartheid was regarded as bad for business".

The paper's closure had served as a warning to all other papers and had caused a disastrous exodus of journalists from the profession.

The Afrikaans press had been open about its connections to the government, the study's authors write. Dissent from those who began to realise apartheid could not work was met with dismissals.

Government had achieved its objective of controlling and manipulating information in order to protect the SA Defence Force from public scrutiny when newspaper companies had entered into agreements accepting certain restrictions in return for the relaxation of others. Agreements with the police had allowed prepublication control of news by the authorities, and the police commissioner was given a say in choosing reporters accredited to cover unrest.

The mainstream press of all languages had failed to cover the liberation struggle or the political aspirations of SA's majority according to professional standards. Liberation movements had been demonised or declared out of bounds.

Bussiek said researching the 86-page document for the FXI had been like "working on a political

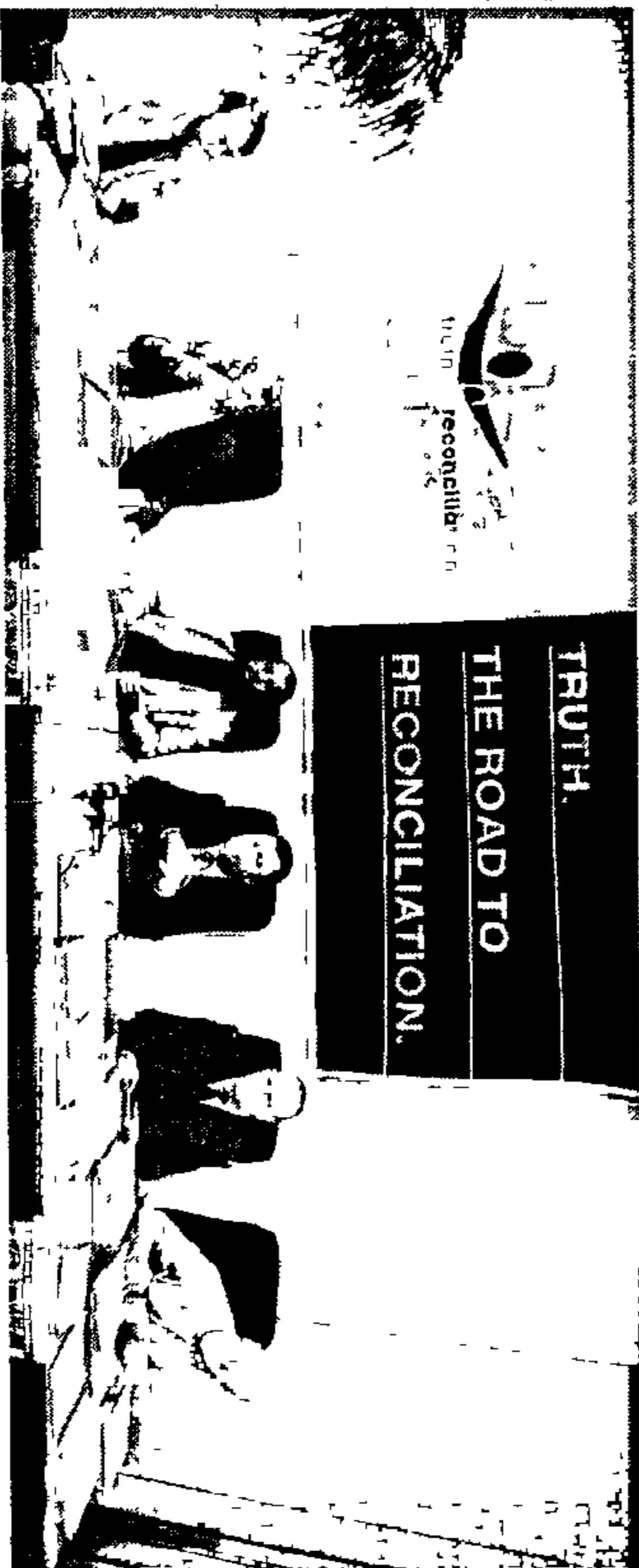
thriller". As correspondents for German media he and his co-researcher Christel Bussiek had approached the task "as outsiders with no baggage of their own".

"We are neither in the revenge nor the whitewash business".

The study also reflects on the environment in which the media operated. The industry was vulnerable to disciplinary attacks from government, and wide-ranging legislation had curtailed coverage of matters deemed sensitive to the state.

Editors had generally not defied the law, but had tried to find loopholes which would allow continued reporting. Ever tightening legislative controls had led to self-censorship, and the golden rule had become "when in doubt — leave it out".

The alternative press had demonstrated from 1985 on that restrictions on press freedom were in fact less rigid than the mainstream media had come to assume.



The Freedom of Expression Institute's submission to the truth commission in Johannesburg yesterday outlined the Newspaper Press Union's collusion with the previous government.

Picture ROBERT BOTHA

Media bosses, 31 informers 'colluded' with apartheid

CT 3/6/97

(252) (213)

JOHANNESBURG. Agreements between the Newspaper Press Union (NPU) and the police and military led to collusion between media management and the apartheid-era government, the Freedom of Expression Institute (FXI) said in its report to the Truth and Reconciliation Commission released yesterday.

Leaders of apartheid-era media should be subpoenaed to explain their role in maintaining apartheid. The NPU's agreements restricted the work of journalists and editors and amounted to appeasement, FXI executive member, Mr Clive Emdon said.

Media organisation managers were well aware that they were colluding, he said. The FXI received the names of 31 media workers who served as informers for the apartheid government, and passed them on to the TRC.

Emdon said the FXI's report illustrated how the media was pinned down during the apartheid era to allow gross human rights vio-

lations to go unreported, and how the former NP government rendered the media useless and used it to disseminate propaganda. The Afrikaans press and the SABC were seen as an arm of government. Senior SABC managers served on the State Security Council.

The FXI said there was extensive government interference in the presentation of news on both television and radio, and the dissemination of propaganda through news programmes became second nature to the SABC, and "there is no doubt the SABC brainwashed a substantial section of the whites into believing the government's version of affairs and even into supporting its policies".

Emdon said after the 1976 uprisings black journalists were more on the receiving end of state repression than their white counterparts.

TRC commissioner Mr Denzil Potgieter says they await statements from others, including SABC employees. — Sapa

Boraine won't quit, shrugs off NP threat

ROGER FRIEDMAN

THE Truth and Reconciliation Commission would not be held to ransom by the National Party, the commission's deputy chairperson Dr Alex Boraine said last night.

Earlier the party had requested his resignation, as well as an unconditional apology from commission chairperson Archbishop Desmond Tutu by noon tomorrow.

Tutu was on the receiving end of a sternly-worded letter from

lawyers acting for the NP yesterday, which questioned whether he and Boraine were fit and proper persons to act as commissioners, and threatened legal action if they failed to apologise and step down, respectively.

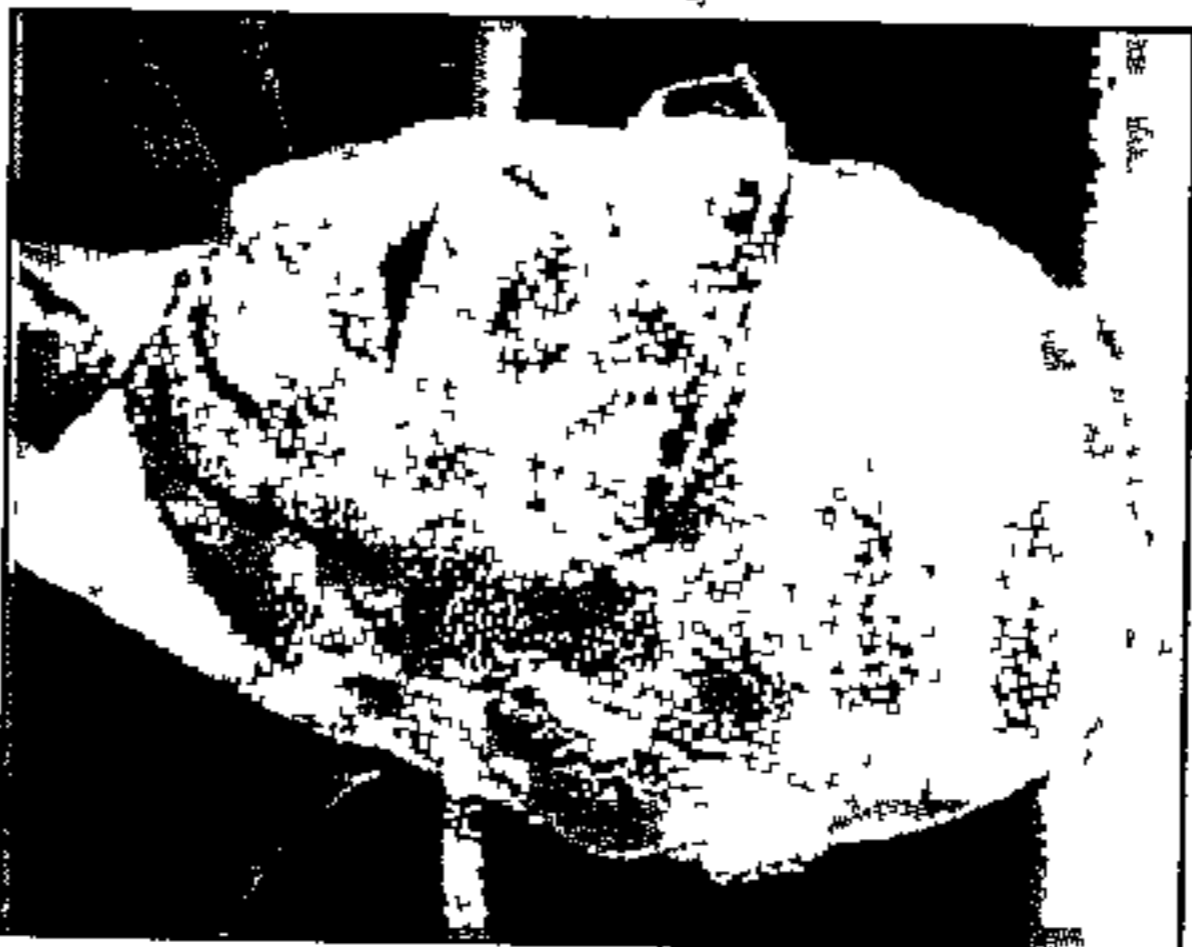
Claiming that the NP was victimised by the commission during and after the second submission by party leader Mr F W de Klerk three weeks ago, the lawyers also requested the suspension from all NP-related investigations of the commission's national director of investigations Mr Glenn Goosen, who had cross-examined De Klerk

Should the commission fail to respond "appropriate legal proceedings" would be instituted, the NP's attorneys, De Klerk and Van Gend warned.

Tutu's remarks to a press conference the day after the NP submission — to the effect that he could not understand how De Klerk could claim not to have known about human rights violations because he, himself had informed him on several occasions — allegedly militated against the legal requirement that he serve impartially and without bias or prejudice, the attorneys said.

The remarks allegedly harmed the credibility and integrity of the TRC and gave rise to "serious concerns" as to whether Tutu complied with the legal requirements that he be a fit and proper person without a high political profile.

Statements by Boraine were allegedly also contrary to the provisions of the Promotion of National Unity and Reconciliation Act and "confirmed beyond doubt" that Boraine was not a fit and proper person to be a commissioner, who should never have been appointed



AGGRIEVED: F W de Klerk

as such

Goosen's "interrogation" of De Klerk was "contrary to the ordinary rules of fairness applying to proceedings of the nature of the commissions, and revealed his own prejudice and bias," the attorneys alleged.

The conduct referred to has seriously tarnished and undermined the independence and impartiality of the commission and has resulted in our client becoming the victim of your Dr Boraine and advocate Goosen's



'NO RANSOM': Alex Boraine

partiality and bias.

"We place on record that our client has at all times attempted to assist the commission in its attempts to achieve its goals and objectives as set out in the Act but that, as a result of the conduct complained of, our client was obliged to suspend its voluntary co-operation with the commission," they said.

The suspension of the party's co-operation with the commission is apparently not viewed with much trepidation by some senior

(252)

ET 3/6/97

members of the commission. In the light of the NP's second submission, which they did not view as particularly enlightening, these members questioned whether the NP had ever seriously co-operated with the commission.

Tutu told a press conference last week that if the NP did not cooperate voluntarily, the commission would use other means to gather the information it required in terms of the Act.

Boraine said last night he discussed the issue with Tutu after the letter, trumpeted in the Afrikaans media on Sunday and yesterday, finally arrived at the commission's offices late yesterday. They had agreed that the requests did not only affect them and Goosen, but the entire commission, and should therefore be discussed by the entire commission.

The commission was scheduled to meet next on June 19, and it was impossible for the commission to react to the requests by noon tomorrow, he said.

"They must do what they want to do. We cannot be held to ransom when we've had no chance to discuss the issue with our colleagues," Boraine said.

Top Nats get 'Nuremburg trials' threat

Star 4/6/97

(252)

Justice Minister likens the National Party to a 'professional criminal pleading innocence' in casting itself as a victim

STAFF REPORTERS

Justice Minister Dullah Omar has entered the row between the Truth and Reconciliation Commission and the National Party, threatening to subject members of the former Government to Nuremburg-style trials if the party did not co-operate with the truth body.

The NP, which has long accused the TRC of being biased towards the ANC, gave the commission until noon today to respond to its demands for an unconditional apology from TRC chairman Archbishop Desmond Tutu and the resignation of deputy chairman Dr Alex Boraine.

The party claims the TRC prejudged the outcomes of probes into the country's past by condemning leader FW de Klerk's failure to take responsibility for atrocities committed by apartheid era security forces.

Speaking in Parliament yesterday Omar likened the National Party to a "professional criminal" pleading innocence

He accused the NP of trying to destroy the work of the TRC in a "reckless game" which threatened the future of South Africa.

He said he would personally ask the attorneys-general to prosecute any NP members who had not applied for amnesty and were found to have committed a crime.

"I am amazed at the temerity of the NP. It reminds me of the way in which a professional criminal acts in a court of law.

the NP is trying to cast itself in the role of a victim. If you listen to the NP you would come to the conclusion that it was the NP who was the victim of pass laws, job reservation, land robbery and the terrible states of emergency."

Sapa reports the NP's Sheila Camerer was almost drowned out by heckling ANC members as she warned of the "crisis" facing the TRC.

With nine months to go before the commission had to complete its report, only 1200 of the more than 7 000 amnesty applications had been dealt with, she said.

One of the problems was inefficiency among TRC staff responsible for processing the applications, she said. "And yet employees will no doubt also demand hefty retrenchment packages."

Madala Mzizi (IFP) labelled the TRC the "Truth Revision Commission" which was creating the myth that only one side of the apartheid conflict had been responsible for atrocities.

"The IFP is amazed that the NP has suddenly woken up and found that the TRC is a monster with clear partisan leanings that is not promoting reconciliation but resentment and revenge."

Jaco Maree (NP) accused TRC national investigations director Glenn Goosen of unethical behaviour in his "aggressive" questioning of De Klerk when he recently appeared before the commission.

Maree suggested that Goosen, an advocate, should be reported to the Bar for improper conduct.

The TRC said yesterday it had referred the NP's threat to its legal department.

NP acting like pro criminal, Omar charges

TRC will not apologise (252)

Justice Minister Dullah Omar has likened the National Party to a "professional criminal" pleading innocence, during an acrimonious debate in the National Assembly on the Truth Commission.

His remarks yesterday were followed by a TRC statement that it would ignore today's NP deadline for an unconditional apology from commission chairman Desmond Tutu.

Mr Omar yesterday accused the NP of trying to destroy the work of the TRC in a "reckless game" which threatened the future of South Africa.

He said he would personally ask the attorneys-general to prosecute any NP members who had not applied for amnesty and were found to have committed a crime. "I am amazed at the temerity of the NP. It reminds me of the way in which a professional criminal acts in a court of law. The NP is trying to cast itself in the role of a victim. If you listen to the NP you would come to the conclusion that it was the NP that was the victim of pass laws, job reservation, land robbery and the terrible states of emergency."

ARC 4/6/97
The NP demanded on Monday that Archbishop Tutu apologise by noon today for having criticised the party's presentation on apartheid to the commission last month.

The party also demanded the resignation of deputy chairman Alex Boraine, who, it said, had made similar remarks violating the commission's charter to remain politically impartial.

Asked today if the commission would ignore the deadline, Mr Boraine replied "Absolutely. We have 17 commissioners in every part of the country and it's simply impossible to bring them together at inconvenience and expense to discuss a matter really we are not persuaded needs that drastic attention."

Mr Boraine denied he had over-stepped the commission mandate at any point.

"I was focusing on the need for political accountability," he said.

"What we're trying to ascertain is, where does the buck stop?"

NP spokeswoman Sheila Camerer said that if the commission ignored the deadline, the party would consult its lawyers on legal action. - Sapa-Reuter

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Use of corporal punishment now denied to courts

CAPE TOWN — Legislation to scrap corporal punishment as a sentencing option in SA courts was approved by the National Assembly yesterday.

The Abolition of Corporal Punishment Bill, which flows from a Constitutional Court ruling that this form of punishment is unconstitutional, was opposed by the Inkatha Freedom Party (IFP), Freedom Front (FF) and African Christian Democratic Party.

Introducing the debate, Justice Minister Dullah Omar said it could be argued that the scrapping of corporal punishment limited punishment options for juveniles, but this did not mean sentencing alternatives did not exist and his department had asked the SA law commission to investigate.

Omar said that while the National Assembly's justice committee had decided the legislation should not apply to institutions falling under the welfare department, the National Council of Province's committee, to which the bill would now be referred, said it would adopt another view.

The National Party's Dirk Bakker said his party welcomed the measure as an important step towards creating a human rights culture. Madala Mzizi (IFP) said it seemed "madness and extraordinarily short-sighted" to abolish corporal punishment as a criminal sanction under prevailing circumstances. It was cost-effective and had a high deterrent value.

Corne Mulder (FF) said it could be bad to expose juveniles to hardened criminals in jail.

The Democratic Party's Douglas Gibson said that while his party supported the bill, he was concerned magistrates might be tempted to send people to prison with its adverse influences, where previously they had the option of imposing cuts. — Sapa.

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Bill outlaws corporal punishment

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Madala Mzizi (IFP) said it seemed "madness and extraordinarily short-sighted" to abolish corporal punishment as a criminal sanction.

Dr Corné Mulder (FF) said it could be bad to expose juvenile petty offenders to hardened criminals in jail.

Douglas Gibson (DP) said his party supported the bill because it believed in the rule of law and constitutionalism, but he was concerned that magistrates might be tempted to send people to prison where previously they had the option of imposing cuts.

ACDP leader Kenneth Meshoe said the Constitutional Court's reasoning on punishment of juveniles did not bear scrutiny. The court's function was "not to make moral decisions for the rest of us" - Sapa.

(252) Star 5/6/97

Medics come clean on how they kept Biko affair quiet

Star 5/6/97 (252)

Conspiracy of silence surrounding activist's death revealed at last

MEDICAL CORRESPONDENT

The Medical Association of South Africa has finally given details of how it suppressed details of the revolt by leading academics and doctors against its stance on the doctors of the late Black Consciousness activist Steve Biko

Two weeks before the Truth and Reconciliation Commission hearings on medical complicity in human rights abuses, the South African Medical Journal has published letters written 17 years ago and suppressed by a "deliberate conspiracy" of the then Masa hierarchy and the SAMJ's editors

Biko died in detention in September 1977

After the inquest, the statutory body charged with investigating professional misconduct, the South African Medical and Dental Council (SAMDC), decided not to follow up charges of unethical conduct against Dr Ivor Lang and Dr Benjamin Tucker,

who had treated Biko before his death.

This was despite inquest evidence that the doctors had issued a false medical certificate and subordinated their patient's interests to those of the security police

The decision was backed by the Medical Association of SA (Masa), the non-statutory professional society for doctors.

An SAMJ editorial in support of the SAMDC decision appealed to members to "temper their concern with a modicum of unemotional savvy".

The decision unleashed savage criticism

Among the letters unearthed by a special researcher appointed by Masa is an emotive, three-page letter of resignation from Dr Stuart Saunders, then vice-chancellor of the University of Cape Town

Saunders said he was forced to come to the conclusion that he could no longer belong to an organisation which had concluded that a charge of unethical conduct against the Biko

doctors should not be sustained without a public inquiry

"The ethical issues raised by Biko's death go much further than the immediate tragedy

"The whole question of society's trust in and regard for the profession is at stake," he wrote.

The board of Wits University's faculty of medicine, supported by its Medical Graduates' Association, called on the SAMDC and Masa's federal council to explain their conclusion in the face of the evidence

"The Wits faculty board is unable to see how the issuing of a false medical certificate can be reconciled with the requirements of medical ethics," wrote the dean, Professor Phillip Tobias

Lang and Tucker were later found guilty of improper and disgraceful conduct after five doctors - Trefor Jenkins, Frances Ames, Edward Barker, Leslie Robertson and Tobias - applied to the Supreme Court to force the SAMDC to reopen the case

CONCERNS SEEN AS 'CONSPIRACY'

Medical body comes clean on Biko furore

AT THE time, the SA Medical Association quashed complaint from doctors on its handling of the Biko case. Now it has re-examined its stance. **WILLEM STEENKAMP** reports.

SEVENTEEN years after suppressing a doctors' revolt over the refusal to take disciplinary steps against two practitioners about the death in detention of black consciousness leader Steve Biko, the SA Medical Association (Masa) has decided to come clean

Masa's new stance is reflected in reports and excerpts from doctors' letters at the time in the June edition of its publication, the SA Medical Journal (SAMJ), and comes barely two weeks before the Truth and Reconciliation Commission (TRC) is to hold hearings on medical complicity in human rights abuses

The SAMJ articles stem from a Masa decision two years ago to re-examine its role in human rights development, resulting in Masa ethicist Mr Gavin Damster compiling the association's submission to the TRC.

Biko died in detention in September 1977. After the inquest into his death, the SA Medical and Dental Council (SAMDC), the statutory body responsible for investigating professional misconduct, decided in 1980 not to press charges against district surgeon Dr Benjamin Tucker and his colleague, Dr Ivor Lang.

This was despite evidence at the Biko inquest that the doctors had issued a false medical certificate, and that they had subordinated Biko's interests to those of the security police

The SAMDC decision was unanimously supported by the executive committee of Masa, the non-statutory doctors' society.

This outraged doctors country-wide, and provoked a rash of letters to the SAMJ. But Masa's federal council decided that the letters should not be printed, saying the SAMJ should not be used as a polit-

ical platform.

Among the most vociferous complainants were Dr Stuart Saunders, then vice-chancellor of the University of Cape Town, and city obstetrician Dr Jack Eisenberg

In an angry three-page letter to the SAMJ, Saunders said "Having read the official record of the evidence given at the inquest of the late Mr Biko with great care, I am forced to the conclusion that I can no longer belong to an association

which came to the conclusions recorded

"The ethical issues raised by Mr Biko's death go much further than the immediate tragedy — the whole question of society's trust in and regard for our profession is at

stake," he wrote

What had apparently annoyed Saunders most was an anonymous editorial in the SAMJ of August 1980, by Professor J N de Klerk, chairman of Masa's federal council, in which he had supported the SAMDC decision not to act against Tucker and Lang and had said that "much harm can be done to the profession in this country if we do not temper our concern regarding (the Biko case) with a modicum of unemotional savvy"

Eisenberg wrote three letters to the SAMJ, one of which he was told had never arrived and the others were returned to him with the excuse that they could not be printed for fear of lawsuits and charges of unethical conduct being brought against both him and the SAMJ

According to the editorials and articles in the latest issue of the SAMJ, in September 1980 Masa secretary-general Dr C E Marais Viljoen wrote to the SAMJ's assistant editor, a Dr Turner, to say that

(252)

after Masa's stand on disciplinary steps against Tucker and Lang the matter was considered "provisionally closed"

But doctors carried on writing letters, prompting Turner to ask for advice on what to do. Viljoen replied. "We cannot allow the SAMJ to become a political platform for attacks on the government, the Medical Council or, least of all, Masa — which Prof Saunders and Dr Eisenberg are apparently determined to do"

Doctors and groups of doctors, including Wits Medical School Dean Professor Phillip Tobias and his faculty also wrote to the SAMJ on the Biko case — but none of their letters were ever published

In a 1982 SAMJ supplement, Viljoen expressed his belief that the protesters were part of a total onslaught-style conspiracy to upset the political situation at the time.

"It would be naive in the extreme to come to any other conclusion than that this is a well-planned and co-ordinated attack aimed not so much at the Medical Association of South Africa or against our health services as against the country itself."

Disciplinary steps were eventually taken against Tucker and Lang, but only in 1985 — and then only after a Supreme Court action brought against the SAMDC by Tobias, Professor Trevor Jenkins of Wits and the SA Institute for Medical Research, Professor Frances Ames of UCT and Durbanites Dr Edward Barker and Dr Leslie Robertson

Tucker was struck off the roll and Lang was found guilty of improper conduct

Contacted last night, Eisenberg said that at the time he had felt that the medical treatment given to Biko was "not completely correct", but that he could not recall all the details of his involvement in the matter

"I can't comment on Masa's latest stand, as I haven't seen (the SAMJ) yet," he said

Efforts to trace Saunders, Ames and Tobias for comment last night were unsuccessful

'The ethical issues raised by Mr Biko's death go much further than the immediate tragedy.'
— Stuart Saunders

Vlok agrees to help truth commission

(252) BD 6/6/97

CAPE TOWN — Former law and order minister Adriaan Vlok has agreed to testify at a special truth commission hearing on the State Security Council later this month.

Vlok said he was prepared to assist the truth commission "as far as possible" in their inquiry into the activities of the State Security Council between 1985 and 1987. He had not been given any information about the nature of the hearing or what questions would be put to him. "But I am willing to co-operate fully with them," Vlok said.

Commission chairman Archbishop Desmond Tutu announced plans for the hearing last week, saying subpoenas would be issued soon.

The State Security Council was a powerful cabinet committee chaired by then state president PW Botha.

In its submission to the truth commission, the African National Congress described the State Security Council as a "super cabinet" which effectively ruled SA at the height of the apartheid conflict.

The truth commission has said it will name those who have been subpoenaed to attend the hearing only once the notices have been served. However, among those who served on the State Security Council during the period under review by the truth commission were former defence minister Gen Magnus Malan, former justice minister Kobie Coetsee, former foreign affairs minister Pik Botha and former constitutional affairs minister Gerrit Viljoen.

Malan knew of the hearing when interviewed yesterday, but he was not prepared to say "through the media" whether he was prepared to testify.

Coetsee refused to confirm that he was in discussions with the truth commission in preparation for the hearing. "I am not going to reply to that question. I cannot say yes or no," he said.

PW Botha's private secretary said the former state president was preparing for the publication of his biography this month and had not been officially informed of the State Security Council hearing.

□ The Free State chief-state pathologist has identified the remains of four men exhumed by the truth commission from a farm in Alwal North during April as being those of four MK cadres who were killed in August 1981.

Prof Jan Botha identified the remains as the bodies of Gauteng provincial premier Tokyo Sexwale's brother Lesetsha Joseph Sexwale, Anthony Sugarboy Dali, Thabiso Isaac Rakobo, and Mthimkhulu Mavuso — Sapa.

Chaskalson takes Omar to task on delays

(252) / 8/6/97

Justice Minister apologises for
his department's failure to amend
an unconstitutional law in given time

BY ROBERT BRAND

Justice Minister Dullah Omar today apologised for the Department of Justice's failure to meet a deadline to amend an unconstitutional law dealing with the right of prisoners to appeal against their sentences.

The minister and his department were rebuked yesterday by Constitutional Court president Arthur Chaskalson for not carrying out the court's instruction. Chaskalson said in a written judgment that this indicated a "sorry tale" of bungling and official neglect and was inexcusable.

Appeal for more time rejected

"I would like to apologise for the failure to comply timeously with the original order of the Constitutional Court. Appropriate steps are being taken to remedy shortcomings in our system to ensure that due and timeous attention is accorded to judgments of our courts," Omar said in a statement.

The court rejected an application by Omar for a further 18 months to amend the law. The offending section now becomes invalid.

The case, the first of its kind, demonstrated "the importance of a prompt response by the Government to any order" made by the Constitu-

tional Court, Chaskalson said.

The case arose out of a Constitutional Court judgment in December 1995 declaring a section of the Criminal Procedure Act invalid but giving Parliament until April 30 this year to amend it.

The section denied a convicted prisoner the right to pursue an appeal without legal representation unless a judge had certified that the appeal had reasonable grounds of success.

The court ruled it unconstitutional because it infringed on a prisoner's right of equality before the law and the right to appeal to a higher court. Scrapping the section outright would have placed a great burden on the judiciary, so the court gave Parliament time to bring the law into line with the constitution.

Five days before the deadline expired, the state attorney filed a notice on Omar's behalf applying for an extension. But the court said it would not allow bureaucratic bungling to ride roughshod over the constitutional rights of prisoners.

"It is now more than three years since the interim constitution came into force. Throughout this period, convicted prisoners have been denied important constitutional rights, and this state of affairs cannot be allowed to continue," Chaskalson said.

"In view of the matter's importance, one would have expected a prompt reaction by the Department of Justice to the court's order. The delays were inexcusable."

TRC interpreters find confessions take toll on their lives

By **DAISY JONES**

This week a group of 90 Magistrates' Court interpreters locked themselves in a room and refused to speak to the press or the deputy chief magistrate Ramour as it they were protesting against a lack of hearing in the courts.

The Truth and Reconciliation Commission (TRC) started out with 18 contract interpreters to perform the biggest ever interpreting project in South Africa.

Unlike court interpreters, the TRC's interpreters - who are generally new to the profession - were given two weeks training. They are regularly away from home for weeks at a time, and they are expected to be quick yet calm while interpreting shattering tales of horror.

According to Dr Theo van

Zyl, who runs the Language Reconciliation Programme (LFP) at the University of the Orange Free State, the interpreters can speak in any one of our 11 vernaculars - which has been of great significance for the recognition of African languages, and also for the dignity of the speakers themselves.

The TRC's interpreters are currently earning R3 000 or less per month - compared with the almost R1 000 fee that freelance interpreters apparently command for each hearing.

"I've reached a point of absolute frustration," English-Afrikaans-Xhosa interpreter Angela Sobey told The Star this week.

Sobey says the travelling and the emotional control required by her job have sapped her of her energy and supporting her six-year-old son and herself on her meagre salary

has left her disillusioned and frustrated.

Sobey, who started her career as a court interpreter, says languages are her first love. Interpreting is something she "really enjoys doing".

She is committed to the TRC's process and first got involved before it was even up-and-running, doing administrative work while commissioner candidates were being interviewed.

Now Sobey says, "I am like a maniac the way I have to run all over the show.

"I didn't see myself travelling this much," she says, adding that she is lucky if she is home for one week a month. As for the words she has to speak "No amount of training could have prepared me for what I had to deal with," Sobey says. "Sometimes we are criti-

Star 6/6/97 (252)

cised for carrying emotion in our voices. You've got to keep your voice tone, but in the booth the tears are rolling down your face."

An interpreter fluent in seven languages who asked not to be named says she headed a national call when she left her job as a community developer to work for the TRC.

She says she arrived for her first hearing with faith in the process of seeking the truth and encouraging reconciliation, but now she is "not prepared to accept all this nonsense".

"None of us is happy," says Sobey. Yet the small group of contract workers seconded by the LFP to work for the commission have never met as a group to discuss working conditions.

They complain that because the LFP deemed it "too expensive" to bring them together, the interpreters had been refused permission to meet as a group. This means they have had "no opportunity to speak with a unified voice" about salaries, Sobey says.

Her colleague says although the TRC now treated their interpreters as "part of the team" - and no longer as "some equipment they had rented" - bosses at the LFP are "playing hide-and-seek" when it comes to salaries.

Van Zyl told The Star the salaries of the interpreters had been determined "in terms of their performance and how often they worked".

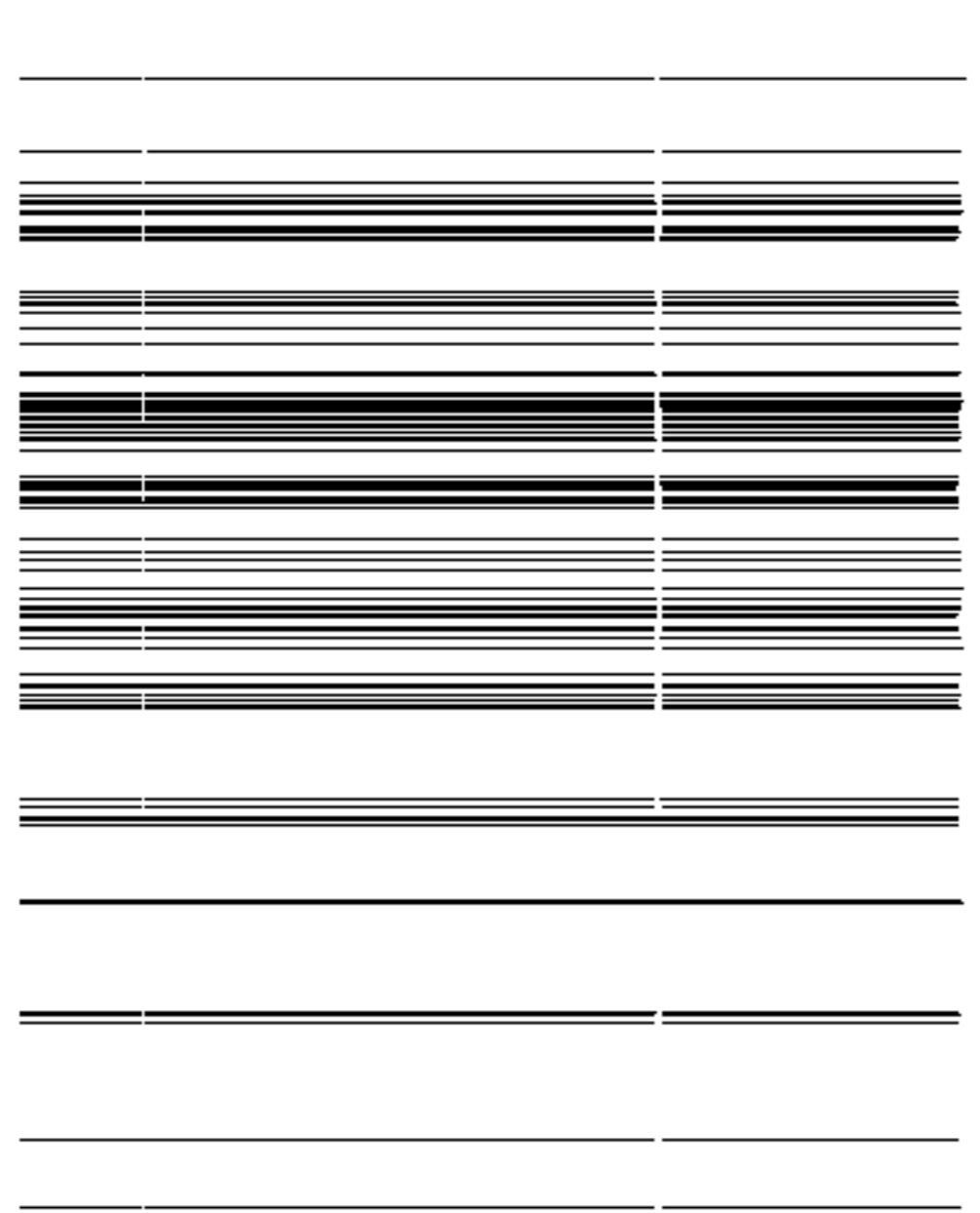
Afrikaans and Zulu interpreters worked more often than Tsonga and Venda speakers, for example.

Interpreters could qualify for salary increases on the basis of merit, he said.



NEXT WEEK
With the TRC's human rights violations hearings rapidly drawing to a close, next week sees a hive of activity with hearings in all four provinces.
The Star will bring you a full wrap-up of the activities of the human rights violations committee, including assessments of its achievements and failures in Durban, KwaZulu Natal, a hearing will focus on the training of IFP recruits in

June 9 The Star will bring you direct coverage. The violence in Cape Town's squatter camps will come under the spotlight at a hearing starting on Monday June 9 at the St Gabriel's Catholic Church in Gugulethu. It will be preceded by a church service at 3pm on Sunday at the Anglican Church in Nyanga East, led by Archbishop Desmond Tutu.
On Thursday June 12 a hearing focusing on children during the apartheid conflict will be held at Uncle Tom's Hall, Orlando East, Soweto.
On June 11 and 12 there is an amnesty hearing in Mpumalanga, at the Nelsville Town Hall, Grace Street, Nelspruit.



Constitutional Court raps

Justice Dept's 'bungling'

OWN CORRESPONDENT

JOHANNESBURG: Justice Minister Mr Dullah Omar and his department have been sharply rebuked by the Constitutional Court for a "sorry tale" of bungling and official neglect which caused it to miss a deadline to amend an unconstitutional law

The department's inability to bring the law dealing with prisoners' right of appeal into line with the Constitution was "inexcusable", Constitutional Court president Mr Justice Arthur Chaskalson said in a written judgment delivered yesterday

The court rejected an application by Omar for a further 18 months to amend the law. The offending section now becomes invalid

The case, the first of its kind, demonstrated the importance of a prompt response by government to any order made by the Constitutional Court, Chaskalson said.

The case arose out of a Constitutional Court judgment in December, 1995, declaring a section of the Criminal Procedures Act invalid but giving Parliament until April 30 this year to amend it

The section denied a convicted prisoner the right to pursue an appeal without legal representation unless a judge had certified that the appeal had reasonable grounds of success

The court ruled it unconstitutional because it infringed on a prisoner's right of equality before the law and the right to appeal to a higher court

Scrapping the section outright would have placed a great burden on the judiciary, so the

CT 6/6/97 (252)
court gave Parliament time to bring the law into line with the Constitution

Five days before the deadline expired, the state attorney filed a notice on Omar's behalf applying for an extension

But the court said it would not tolerate bureaucratic bungling to ride roughshod over the constitutional rights of prisoners

"It is now more than three years since the interim Constitution came into force

"Throughout this period of three years, convicted prisoners were denied important constitutional rights, and this state of affairs cannot be allowed to continue," Chaskalson said

"In view of the importance of the matter one would have expected a prompt reaction by the Department of Justice to the court's order. The delays were inexcusable"

The order was brought to the department's attention two months after the judgment, and it took a further seven months before a consultant was appointed to deal with it

He produced a written report within two weeks, but it was only submitted to Omar three months later, a year after the original judgment

Omar approved the recommendations, but it took another four months of inaction — among other things because the relevant file was misplaced — before Omar filed his motion for an extension of the deadline

Chaskalson said he was aware of the difficulties facing the new government during the transition to a new order, but these had been taken into account in the "generous" amount of time given to amend the Act

Rev Allan Boesak, to whom this question relates, being given a Rolls-Royce defence such as this one for white-collar crime. In addition to this, when will we ever find some money for the victims of crime if we have more than R600 000 to spend on the accused in a case like this?

The MINISTER OF JUSTICE Chairperson, the reference to a Rolls-Royce defence is obviously designed to draw the attention of the media and I reject that notion with contempt.

In so far as other details of persons who received legal aid are concerned, I am quite prepared to make these details available. Off the cuff, I would say that I am aware of a couple of cases where people charged with fraud have received legal defence which has cost the State thousands and thousands of rands.

I must say in general that I am very concerned about ensuring that we have a legal aid system which will benefit the maximum number of people, particularly those who can least afford legal defence. We are looking into the whole question of the legal aid system in our country so as to ensure that the money of the taxpayer is properly utilised.

In this regard we are looking at extending the public defender system, a greater role for legal aid clinics, a role for paralegals and perhaps a reduction in the role of the judiciary system.

Business interrupted in terms of Rule 199(3) of the Standing Rules of the National Assembly

Legal costs incurred in case brought against Minister

*11 Mrs S M CAMERERER asked the Minister of Justice

- (1) Whether any legal costs were incurred by him as Minister of Justice in the case brought against the Minister of Justice and others as a result of his Department's affirmative action programme by the Public Servants' Association of South Africa and Mr S J A Swanepoel as applicants, if so, what were the costs,
- (2) whether he as the Minister intends appealing against the decision in favour

of the applicants, if so, what are the estimated costs that will be incurred in this regard,

(3) whether he will make a statement on the matter? N1327E

The MINISTER OF JUSTICE

- (1) Yes Up to date the costs incurred amount to R217 525,90

- (2) An application for leave to appeal was heard on 17 June 1997. Judgement was reserved. The costs incurred thus far amount to R26 600,03. It is not possible to give an estimation at this stage what the total costs in this regard will be.
- (3) No

Legal Aid Board: Satisfactory aspects for claims/accounts

*12 Mrs S M CAMERERER asked the Minister of Justice

- (1) Whether any unsatisfactory aspects relating to the Legal Aid Board's claims and accounts had been brought to his Department's attention as at 13 November 1996,
- (2) whether he or his Department has taken any steps in this regard, if not, why not, if so, what steps,
- (3) whether he will make a statement on the matter? N1328E

The MINISTER OF JUSTICE

- (1) There have been many complaints relating to the Legal Aid Board's handling of the accounts submitted by attorneys. Various professional and controlling bodies of lawyers have also complained as a result of which meetings were held between, for example, the Association of Law Societies and representatives of the Department.
- The Department has also urged the Legal Aid Board to ensure that all accounts are dealt with expeditiously and to address problems of administration should they exist. I personally communicated with the Chairperson of the

Legal Aid Board, who is a respected judge of our High Courts and he has personally assured me that problems relating to the accounts are being attended to.

- (2) As indicated, I have been in constant touch with the Legal Aid Board. At the same time I wish to point out that the Legal Aid Board is an autonomous body administering its own accounts.

- (3) As the Honourable Member is aware, the Justice Portfolio Committee of the National Assembly held very thorough public hearings with regard to the work of the Legal Aid Board. The Legal Aid Board has given an undertaking that all outstanding accounts would be paid soon.

The Legal Aid Board is in the process of improving its system of appointing officers on its staff. In my own assessment of the situation and from information obtained from the Legal Aid Board, there will be a problem relating to finances unless more funds are made available to the Board. The whole working of the Legal Aid Board and its possible restructuring are matters presently under consideration in the Department.

Database on Virodene users

*14 Rev K R MESHOF asked the Minister of Health

- (1) Whether she or her Department is in a position to furnish a database containing the names of persons using the Virodene drug, if not, why not, if so, when will such database be available,
- (2) whether there are any indicators to show that the application of the drug has either a negative or positive effect, if so, what are the relevant details? N1330E

The MINISTER OF HEALTH

- (1) The Department of Health and myself are unable to provide the database containing the names of persons using the Virodene Drug. The study was carried out by researchers at the

University of Pretoria. More importantly, to prevent discrimination for patients with HIV/AIDS it would be unethical for anyone to publicly name persons afflicted with the disease.

- (2) The protocol submitted to the Medicines Control Council (Council) will, if approved by the Council, be used as a basis for clinical trials to determine the effect of the drug.

New questions

State hospital patients referred to private hospitals

*1 Mr M J ELLIS asked the Minister of Health

- (1) Whether patients at State hospitals are ever referred to private hospitals when insufficient facilities are available for the treatment of such patients at State hospitals, if so, (a) under what circumstances and (b) what was the cost to the State of referring such patients for treatment to private hospitals during the latest specified period of 12 months for which information is available,
- (2) whether she will make a statement on the matter? N1416E

The MINISTER OF HEALTH

- (1) Not all Provinces have answered, so the question cannot be adequately answered. I therefore urge the hon member to table the question in the Provincial Legislatures.
- (2) No

Escape from Durban prison

*2 Mr D H M GIBSON asked the Minister of Correctional Services

- (1) Whether any of the 28 awaiting-trial prisoners who escaped from the Durban prison in March 1997 have been recaptured, if so, how many,
- (2) whether any prison employees are being investigated in connection with the

Doctors fingered for

252

7/6/97

The myth that health professionals and institutions will always respect the Hippocratic oath, putting patients first and promoting health, has been shattered in a 300-page document submitted to the Truth and Reconciliation Commission. Adele Baleta reports

Draconian measures that prohibited black medical students from examining white patients, the indiscriminate "harvesting" of organs from black corpses and the implication of medical scientists in allegedly devising chemicals for dirty tricks are some of the issues to be examined at the Truth and Reconciliation Commission's two-day health-sector hearings this month

The submission to the TRC was released exclusively to the Saturday Argus and is a work in progress by the Health and Human Rights Professional Accountability Project - a joint initiative of the Trauma Centre for the Victims of Violence and Torture and the Department of Community Health at the University of Cape Town

The project involves a network of health professionals and human rights activists from around South Africa

The commission's health hearings are being co-ordinated by commissioner Wendy Orr who was a young district surgeon when she successfully won a court interdict to stop the torture of detainees in Port Elizabeth in the 1980s

The document begins to explore the way in which health professionals complied with apartheid ideology, contrary to the higher tenets of healing

But research fellow Laurel Baldwin-Ragaven, who co-ordinated work on the document, pointed out that the climate of racism and apartheid ideology facilitated and permitted the abuses

Individuals and organisations, including the SA Medical and Dental Council (SAMDC), the Medical Association of SA, the SA Military Services and the SA Nursing Association will make submissions

The aim of the hearing is to search for the truth behind what happened in the health profession under apartheid so that South Africans know where accountability lies. The process is not solely concerned with "digging up" the past, but rather about creating an ethical framework to guide health professionals in the future to actively build a culture that will protect all people in need of health services

There is consensus that it's only possible to implement recommendations if everyone understands the system in which these gross violations of human rights were possible, so that they are never allowed to happen again, with the participation of the health profession

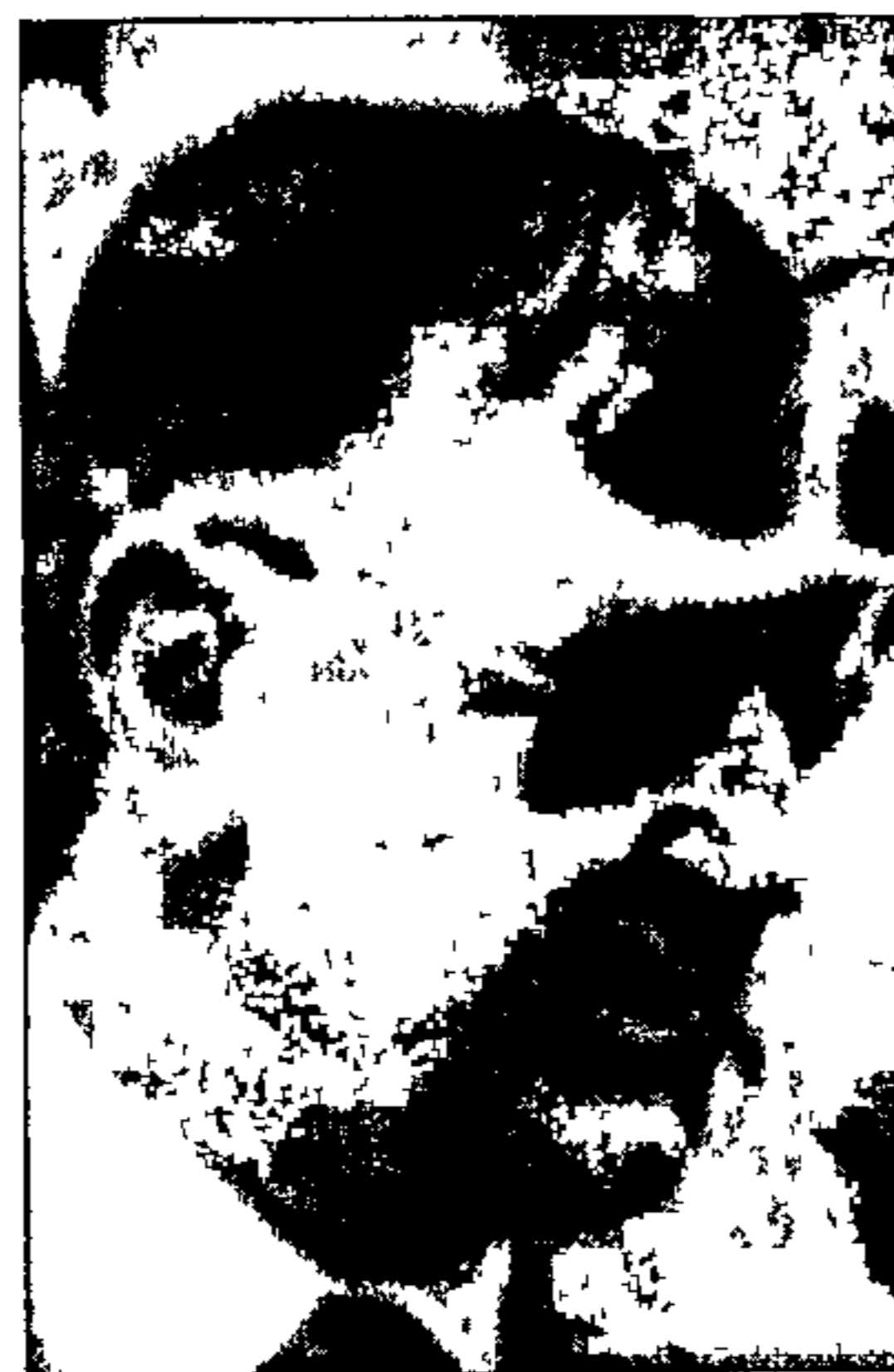
The report reveals shocking details reminiscent of the nazification of medicine in Germany during the 1930s and 1940s

Health professionals were actively involved as perpetrators, facilitators and enablers and passively as silent bystanders

But the report also documents instances where individuals and progressive organisations resisted compliance with the



Lang: implicated in the death of Steve Biko



Neethling: headed the Police Forensic Laboratory

apartheid state

It talks about ordinary health professionals who perceived that they had choices even in repressive situations. A doctor who was working in Baragwanath Hospital

always insisted that her patients be unmanacled and that prison staff leave the room during consultations with her detained patients so that confidentiality and dignity were never breached

The report puts paid to the notion, believed by many in and outside the profession, that there were just

a few bad apples like doctors Lang and Tucker, who were implicated in the death of Black Consciousness leader Steve Biko in 1977

Instead, Dr Baldwin Ragaven said. "The



Dr Laurel Baldwin-Ragaven: 'the rot permeated every aspect of the profession'

rot permeated every aspect of the profession, including training institutions, hospitals, clinics, private practices, state health authorities and district surgeons, particularly in relation to the treatment of their detainee patients or the lack thereof"

She said human rights abuses in the health sector occurred in a specific context.

An article in 1980 in the Cape Times claimed that the decision not to discipline Dr Lang and Dr Tucker had been an executive one, taken by only five members of the SAMDC who were all Broederbonders

A brief review of the list of Broederbond membership at the back of *The Super Afrikaners*, published in 1978, revealed a

startling number of also health professionals

It also revealed that an life, including the services, were co-opted by

whose to the winning minds Africans. From before alleged strict doctors cation of

ificates, denial of propering detention and even cover up signs of such as the residual The document

'The rot permeated especially the treatment of detainee patients'

'It will be difficult for them to use the defence that they didn't know'

ed for abuse of oath

ARLT 7/6/97

(252) (12)



Orr: won an interdict to stop torture of detainees



Tucker: also implicated in Biko's death

Ragaven: 'the rot permeated every aspect of the profession'

every aspect of the profession, training institutions, hospitals, private practices, state hospitals and district surgeons, in relation to the treatment of patients or

human rights health sector specific con-

1980 in the aimed that not to discipline Dr Tucker executive only five

of the list of Broederbond at the back of *The Super* published in 1978, revealed a

startling number of members who were also health professionals

It also revealed that all sectors of civilian life, including the health and social services, were co-opted by the military's Joint

Management Committees, whose brief was to respond to the "total onslaught" by winning the hearts and minds of all South Africans

From previous hearings before the commission, allegations of abuse by district surgeons and private doctors varied from falsification of records, death certificates, denial of proper medical care during detention and even collusion on how to cover up signs of human rights violations, such as the residual effects of torture

The document contends that many of

It will be difficult for them to use the defence that they didn't know

When you become a doctor or nurse, you are held to a higher moral code

come clean on the past

The authors said the document was all the more "disturbing" because the bulk of it was derived from material that was part of the public record at the time

These sources included newspaper articles, archival material, progressive health publications, inquest findings and court judgments

"For this reason it will be difficult today for health workers and their professional bodies to use the clichéd defence that they simply did not know what was happening at the time," say the authors

The document includes

■ Accounts of how black mothers waiting to be admitted to Red Cross Children's Hospital with their sick children had to lie on cold floors while beds reserved for white patients remained empty

■ A report in the mid-eighties by an anti-war publication on the involvement of military health personnel in human rights violations, including attempts to reprogramme the sexuality of gay recruits

■ A report that Wouter Basson (then a Major-General in the SA Defence Force) helped develop chemical weapons

■ Information which will put forensic services under the spotlight when the case is revisited of Phillip Mutsi, who died in detention from a large subdural haematoma and midbrain haemorrhage compatible with a history of major head trauma The pathologist accepted the police history that Mr Mutsi "fell off a chair" while having a seizure and died

■ The report of a State psychiatrist who was invited as an expert witness to assess the risk of Neil Aggett's committing suicide The psychiatrist had never met Aggett during the latter's lifetime

A submission appealing to the commission's investigative unit to probe allegations concerning Lothar Neethling, a former head of the Police Forensic Laboratory in Pretoria, who effectively closed down the newspaper, *Vrye Weekblad*, following a series of civil claims for defamation which he won on appeal He was alleged to have devised at least two chemicals used for "dirty tricks"

■ Allegations that police intervention in hospitals and clinics included breaches of confidentiality between doctor and patient, interference by security forces in clinical decisions and security forces pressurising health workers into doing or allowing things that were not in the interest of their patients, for example, the early discharge of patients into police custody

■ The history of academic institutions which reinforced the apartheid policy by discrimination against black students at

every level Harsh measures included black students only being allowed to study with ministerial consent at white universities Also, black students were not allowed to practice on white cadavers

There have been challenges as to why doctors should be particularly targeted to admit responsibility for collaboration with the apartheid regime, but Dr Baldwin-Ragaven said

"When you become a doctor or nurse, you are held to a higher moral and ethical code, particularly with regard to patients"

the individuals and organisations responsible for abuses have reaped extensive benefits through their participation

"There are those who are still working and operating in the health sector, who hold senior positions in professional organisations, the military, universities and in the public health services," Dr Baldwin-Ragaven said.

She said there were at present a number of significant Bills before Parliament that would change the face of health services But unless the profession was held accountable for the past,

true transformation would be impossible

The rationale behind the hearing was that it should not be like the Nuremberg Trials and it was expected that it would take a long time for health professionals to

Doctor-vigilante treated his own victims - claim

ADELE BAULETA
STAFF REPORTER

The bizarre case of a Western Cape rural doctor who donned a balaclava and ran with gun-wielding vigilantes by night, only to slip into a white coat by day to treat the victims of the group's attacks on township residents, is to be exposed to the Truth Commission.

The harrowing story of the Ashton GP who joined the "vetkatte" (fatcats) vigi-

lantes on house-to-house searches to root out "comrades" in Zolani township in the late 1980s will be heard by the Truth and Reconciliation Commission later this

Doctors fingered, page 23

month. It will be one of several accounts of how members of the medical profession collaborated with apartheid.

Leslie London of the University of Cape Town's department of community health

will tell the story as part of his submission to the commission's health sector hearings on June 17 and 18.

In papers in the possession of Saturday Argus, Dr London said he heard of the Ashton doctor on his monthly visits to the town, 120km from Cape Town, in the '80s.

Dr London, a member of the National Medical and Dental Association, was a primary care physician at the Ray Alexander Clinic in Paarl at the time.

ARG 7/16/97 252 To page 3

Doctors hope TRC sessions will prove to be healing

From Page 1

ARG 7/16/97 (252)

The case is one of three relating to his experiences in rural areas.

Dr London's submission to the commission includes a statement by Zolani resident Jacob Nel about the night he was viciously beaten up in his home by a group of armed, balaclava-clad men, some of whom were police and others vigilantes.

He said the doctor, who was in police uniform and wearing a handgun, "just stood and watched what was happening". Ironically the injured man said he was told that he could not see a doctor because "everything was closed even the doctors". He identified the doctor, who was wearing an open balaclava at the time.

Dr London says: "It struck me: how can a doctor fulfil the ethical requirements of the Hippocratic Oath and the Declaration of Geneva and still be part of an armed group of vigilantes?"

He said the case was one of many examples of health care having been corrupted by the ideology of the apartheid state, which led to serious compromises in the human rights of ordinary South Africans.

"In the culture of the conservative rural environment in which I worked, the bonds between doctor and security man were stronger than those between doctor and patient.

"Moreover, the ideological dehumanising of black people by apartheid, particularly activists as terrorists, communists and revolutionaries, distorted the doctor relationship beyond recognition and gave rise to opportunities for the abuse of human rights to go unchecked."

Dr London said he believed such cases should be used in the future training of health professionals to prevent the recurrence of situations where they could be drawn directly or indirectly into policies and practices that abused human rights.

The submission is one of about 20 from the health profession, including several case studies of human rights abuses, which will form part of the two-day hearings.

Several international health and human rights organisations will attend the hearings including Amnesty International, the British Medical Association, the American Association for the Advancement of Science and the World Mental Health Federation.

Omar strikes fatal blow to death penalty

ARG 9/6/97

(232)

CLIVE SAWYER
POLITICAL CORRESPONDENT

Justice Minister Dullah Omar will today table legislation in Parliament to abolish the death penalty.

The Criminal Law Amendment Bill comes two years after the Constitutional Court decided capital punishment was inconsistent with the interim constitution.

The Criminal Procedure Act and the Defence Act both provide for the death penalty, and there are references to it in several other Acts.

The new bill also makes provision for changing the sentences of people already sentenced to death.

These cases will be referred back to the trial courts for re-sentencing.

Under the previous system, there was no deadline for instituting prosecution for an offence that carried the death penalty.

Instead, the new Bill provides that there is no deadline for prosecutions where the death sentence would have been possible.

It will require regional courts and High Courts to impose compulsory minimum sentences for offences listed in the bill.

However, presiding officers will be allowed to impose lighter sentences, provided they give reasons for not giving the prescribed sentence.

The clause providing for minimum sentences will expire two years after the approval of the bill, but the president, with the concurrence of Parliament, will be authorised to extend it for one year.

The clause on minimum sentences provides:

■ Not less than 15 years' jail for murder, when a dangerous weapon or firearm is used, rape, when a dangerous weapon or firearm is used, or when accompanied by assault with intent to do grievous bodily harm, where psychologi-

cal harm is caused, or of a girl younger than 14, robbery with aggravating circumstances or of a motor vehicle, certain drug offences, and dealing, smuggling or illegal possession of firearms, explosives or armaments.

■ Second offenders for these crimes will get at least 20 years, and third and subsequent offenders, 25 years.

■ For first offenders, not less than 10 years for indecent assault on a boy under 14 or a girl under 12, for assault with intent to do grievous bodily harm to a child under 12. This minimum will also be imposed for housebreaking with intent to commit murder, rape or robbery, as defined above.

It will apply to any crime related to exchange control, corruption, fraud, forgery, uttering or theft involving more than R500 000, where it is proved that the crime or offence was committed by a syndicate or people involved in organised crime.

PW gets access to state documents to answer TRC queries

Cape Town - President Mandela has granted former state president P W Botha access to Cabinet and the now defunct State Security Council minutes dating back to the apartheid era to enable him to answer questions before the Truth and Reconciliation Commission.

Commission chairman Archbishop Desmond Tutu personally intervened to ensure that Botha had the necessary funds to pay his legal representatives to conduct the research. Confirming this yesterday, Botha's lawyer said the question of financial assistance had been a stumbling block which had prevented his legal team from getting to work sooner on the commission's questions. The questions, which were sent to Botha some months ago,

cover the period from 1960 to 1989, when Botha resigned and retired to his home at Wilderness near George.

Botha's lawyer was reluctant to divulge details of the questions but confirmed they related to policy decisions, specific incidents, strategy shifts and differences in management styles between Botha, his predecessor John Vorster and his successor, F W de Klerk.

He said the financial assistance secured by Tutu would enable his team to carry out the research necessary to answer the questions fully.

"I want to give credit to Archbishop Tutu for obtaining this assistance," the lawyer said.

Tutu also granted them access to documents in the Truth

Commission's possession.

Mandela agreed to make available documents kept by his office and gave permission for the lawyers to peruse State Security Council and Cabinet minutes in the national archives.

The lawyer said Tutu had been in contact with Botha several times since their meeting last year at the latter's Wilderness home.

Tutu was anxious for the questions to be answered as soon as possible.

However, replying to the scores of questions was expected to be a "mammoth task", the lawyer said.

"We're going to have to consult intensively with Mr Botha. It is going to be a massive exercise," he said.

But answering the questions would not be uppermost in Botha's mind following the sudden death of his wife Elize (75) on Friday.

According to family members, he was emotionally distraught and battling to come to terms with what had happened.

It was not known whether the launch of his authorised biography would go ahead as scheduled on June 27 at the Karos Hotel in Wilderness.

Asked whether Botha had been notified of the Truth Commission's planned public hearing on the State Security Council later this year, his lawyer said "Some of the questions posed by the TRC deal with the functioning and decisions of the State Security Council." - Sapa.

Star 9/6/97

(252)

Paper trail of the KTC war

CT 9/6/97

(252)

"BLACK-ON-BLACK VIOLENCE" portrayed black people as enemies, while using them to achieve the apartheid state's strategic objectives, writes **ROGER FRIEDMAN**.

THE recipe for fomenting what the apartheid-regime dubbed "black-on-black violence", using overt and covert police operations as key ingredients, is detailed in an encrypted document compiled at security police headquarters in Pretoria a week before the destruction of KTC camp.

Members of the Truth and Reconciliation Commission will soon bear the recipe in mind if they question subpoenaed community leaders and personnel at a special KTC hearing in Guguletu starting today at 8am on a Monday morning.

Days ago to the day, members of the anti-UDF Peke organisation, usually loyal to Crossroads leader and present ANC Party MP Mr Mkhobongwana, were on the adjoining township. Its destruction took them just

days, thanks, by all accounts on their own, to the police. On the fourth day then-president Mr P W Botha imposed a state of emergency. June 16. He did so, he said, on the advice of security experts who told him the entire country was an area "for radical and revolutionary elements".

The encrypted document — one of which were sent to, among others, the State Security Council head of the defence force and police area commissioners — conveys the extreme sense of alarm which informed the government.

That apartheid-era "swarm" of June 16" approaching, the contents of the document were "The present unrest situation should be allowed to continue longer. The multi-dimensional attack on the RSA must now be carried out at all costs and the situation normalised."

ANC plans to make use of all the emotional content attached to that day, for further politicisation and mobilisation of the masses and unity in their ranks. These actions, including sit-ins and boycotts, were

apparently being planned by the "enemy" in the run-up to June 16. "If the support the enemy gets from the masses is sufficient, and the success of its protest actions is satisfactory, it can be expected to continue the momentum."

Later, under the heading "Operational Guidelines" and the sub-heading "Counter-mobilisation", the document orders police to "act as follows to motivate residents in black areas to clash with the revolutionaries (a) Counter-mobilisation must be carried out at area level (b) Communities must be encouraged to defend themselves and take action. Where necessary

this should be done in a clandestine manner"

KTC, on the outskirts of Crossroads, was viewed largely as a United Democratic Front area. It came into being in 1983, after the establishment of the Nyanga Bush, Nyanga Extension and Portland

Cement settlements. In 1983 the government announced its plan to create the new township of Khayelitsha.

By 1985 serious political divisions had begun to emerge in Crossroads. Ngxobongwana was attempting to distance himself from the UDF after a spell in detention, while the UDF was becoming increasingly dominant in the satellite camps.

It was at this point that the government announced plans to upgrade Crossroads, but not without the removal of a large number of squatters occupying land earmarked for development.

Tension simmered until May 17, 1986, when it boiled over. By May 21, the Portland Cement, Nyanga Bush and Nyanga Extension camps were razed, with the alleged active participation of security force members. On June 9 it was the turn of KTC.

Writer Ms Josette Cole said "At the end of the 27-day war an estimated 100 people were dead and 70 000 were turned into refugees in the land of their birth."

Today, victims of the Crossroads violence will tell their stories to the commission, sitting at St Gabriel's Church



OFF TO WAR: The cruel tools of two worlds come together at Crossroads as a combatant armed with sticks passes a few metres of barbed wire that fences the squatter communities

FILE PICTURE

Mandela gives P W access to old security minutes

PRESIDENT Nelson Mandela has granted former president Mr P W Botha access to apartheid-era cabinet and State Security Council minutes to enable him to answer questions from the Truth and Reconciliation Commission.

Also, commission chairman Archbishop Desmond Tutu has intervened to ensure Botha has funds to pay his legal representatives to conduct the research.

Confirming this yesterday, Botha's lawyer said finances had been a stumbling block to his legal team's getting to work on the TRC's questions. The questions cover the years 1960 to 1989, when Botha resigned.

His lawyer was reluctant to divulge details of the questions,

but confirmed they related to policy decisions, specific incidents, strategy shifts and differences in management styles between Botha, his predecessor Mr John Vorster and his successor, Mr F W de Klerk.

"I want to give credit to Archbishop Tutu for obtaining this assistance," the lawyer said.

Tutu also granted the lawyers access to documents in the TRC's possession. Mandela agreed to make available documents kept by his office and to allow the lawyers to peruse Security Council and cabinet minutes in the national archives.

However, replying to the scores of questions was likely to be a "mammoth task", the lawyer said. — Sapa



IFP boss slams commission

Botswana 9/6/97 (252)

THE Truth and Reconciliation Commission had become a problem in itself, which threatened the ongoing efforts aimed at bringing about peace and reconciliation, Inkatha Freedom Party president Chief Mangosuthu Buthelezi said yesterday.

Addressing supporters at the inauguration of IFP branches in Inchanga in the KwaZulu-Natal Midlands, he said his party had lost any confidence in the possibility that the TRC may bring about any reconciliation in the country.

The commission has become so engulfed in its own arrogance and quest for sensational-

ism that it has now chosen to immerse itself into the dustbin of history to pull out of it (dustbin) the most discredited and questionable witnesses, such as Daluxolo Luthuli, to tarnish the IFP with half truths and fabricated lies," Buthelezi said.

Luthuli, a former political commissar of a group of 206 IFP supporters who were trained in the Caprivi Strip in Namibia in 1986 by the former SADF, was this week scheduled to testify at a special Durban TRC hearing on the activities of the Caprivi trainees but the hearings have since been postponed - Sapa

Justice Dept Crisis

By Rafiq Rohan
Political Correspondent

The Department of Justice is facing under the weight of the high crime rate and may collapse unless it urgently receives financial assistance

Also the crisis in the criminal justice system may mean that a fundamental human right — to a speedy, fair and just trial — as guaranteed in the new Constitution is being flouted by the Government

This state of affairs is outlined in a bulky document presented to Parliament by deputy director-general of justice Mr Hussain Ebrahim and other officials on behalf of Minister of Justice Mr Daulah Omar yesterday

Sawwan 10/16/97

The document presented during the meeting of the portfolio committee on justice also outlines budget proposals pinpointing areas which need finance

It points out that the department has campaigned for increased funding over the past years but this has been to no avail and that the fight against crime — through the justice system — was being hampered seriously

"The increase in work as a result of crime and (adherence to) the provisions of the new Constitution has now reached critical levels and unless funds are provided for the needs of the department, it would seriously have to consider extreme measures as to cease certain activities with a view to strengthening the

administration of justice and in particular the courts," the document states

It says the Constitution pointed to a just, fair and speedy trial as a fundamental right but the department can not fulfil this unless funds are made available "in particular to the courts and prosecutorial authority"

In concrete terms, the department needs to create 1 347 posts

Increased workload

"Existing staff have to absorb the increasing workload and as a result of this had to perform 406 119 hours of voluntary unpaid overtime service for the period July 1 1996 to June 30 1996"

The document paints a grim pic-

ture of the prevailing situation at court.

It says that the department is experiencing problems in keeping court rolls within accepted norms and they are "out of control"

This has led to cases not being dealt with speedily enough
Nearly every aspect of the criminal justice system is feeling the pinch and is unable to function adequately

● The Office for Serious Economic Offences is seriously lacking in skilled staff at a time when the country is experiencing an increase in white collar crimes the document

● It says that more security officers need to be appointed to guard

(252)

magistrate's courts to stem the flow of burglaries and stop the number of arson attacks on court buildings

Between July 1995 and April this year there have been 100 burglaries, four arson attacks, six armed robberies and eight bomb threats to these government buildings

● The Legal Aid Board is under threat of collapse due to an increasing workload in terms of new laws, while the public protector needs R1 billion to establish regional offices in all provinces

● Other areas that need addressing are the training of staff improving facilities in an élite-sourced class and provision of additional funding on the part of law assessors

Justice set to go on hold as cash for staff runs out

CLIVE SAWYER
POLITICAL CORRESPONDENT

The Department of Justice has told the treasury it will consider freezing some of its activities unless it is given more money for staff.

In a draft budget proposal, submitted to the departments of Finance and State Expenditure, the department said it had campaigned in the past years for increased funding for staff "to no avail".

"The increase in work as a result of crime and the new constitution has now reached critical levels," it warned.

Unless more money was granted, the

department would not be able to adhere to the fundamental rights in the new constitution, including the right to a speedy, just and fair trial.

In the 1995/96 year, staff had to do 406 119 hours voluntary unpaid overtime. Last year, more than R22-million was paid out for overtime.

If funds for required expansion needs were provided, the department would be able to set up 73 new courts countrywide, which would mean being able to handle an additional 17 520 cases a year.

The report proposed spending more than

To page 3

Justice in balance as cash runs out

From page 1

R150-million on boosting security. Courts have been the scenes of attacks on witnesses and staff, burglary and arson, said the report, which proposed hiring more than 2 700 additional security staff.

Additional funding of R1-million was needed to enable the Public Protector to establish regional offices in each province.

For legal aid in terms of the constitution, the department's submission proposes spending R124-million in the 1998/99 year, R189,1-million in the 1999/2000 year and R276,2-million in the 2000/2001 year.

For the Legal Aid Board, the department proposes R134-million next year, R176-million the following year, and R232-million in the 2000/2001 year.

It proposes additional funding of R11-million next year for the Human Rights Commission, R13,9-million the year after that, and R16,6-million in 2000/2001.

It wants R9-million for extra staff for the Office for Serious Economic Offences.

Justice ministry 'needs 1 300 new posts'

BD 10/6/97 (252)

Wyndham Hartley

CAPE TOWN — More than 1 300 new posts needed to be created in the justice department for it to be able to maintain law and order under the enormous burden created by the crime wave, the department said yesterday.

In its budget proposals for the next three years, contained in a document tabled at a meeting of Parliament's justice committees, the department said the increase in crime levels had had a negative effect on the ability of the courts to cope. Provisions in the new constitution had also affected work levels in the department.

"Government's commitment to fight and prevent crime has had an immense

effect on the ability of the courts to deal with matters brought before courts of law," the report said. This led to negative perceptions of the courts. "The country can ill afford a situation where the citizens of a country have no confidence in the courts of law. The courts need an efficient and effective administration of justice which is staffed to meet the needs of the people in order to instil confidence in the courts of law."

It listed as major concerns the lack of skills, particularly of prosecutors, largely as a result of poor salaries. The department planned a pilot project designed to lighten the administrative burdens of prosecutors.

"The department has a need for the creation of 1 347 posts of various grad-

ings. The inability of the department to fund the required posts has reached critical proportions and unless funds are provided, it will no longer be able to maintain law and order.

"The shortage of personnel has led to a severe cut in service delivery, overcrowded court rolls and the detention of accused persons in prisons or other facilities for long periods of time."

The department said there were two models for its budget over the next three years. The first was a "costing from zero" option designed to maintain existing policies. The second dictated that there would be no growth in expenditure over the next three years, and would mean it could not even maintain its present levels of service.

New bill to expunge statutory references to the death penalty

(252) 0010/6/97
Wyndham Hartley

CAPE TOWN — Execution by a military firing squad as a result of a ruling by a court martial will be outlawed along with all other references to the death penalty when legislation tabled in Parliament yesterday finally becomes law.

The Criminal Law Amendment Bill will expunge all references to the death penalty from SA's statute books to bring it into line with the ruling by the Constitutional Court outlawing capital punishment.

Debate on constitutional changes to reinstate the death penalty will begin again in earnest when the Parliamentary justice committee holds public hearings on the legislation. The ruling African National Congress (ANC) is expected to come under renewed pressure to change the constitution, from opposition parties and indeed from within its own ranks.

The bill will amend the Defence Act, the Correctional Services Act, the Mental Health Act, the Government Service Pension Act and the Criminal Law Amendment Act of 1988. Sections of three other general law amendment acts which make provision for the death penalty will also have to be repealed.

All references to the death penalty will be repealed including those which allow those on death row to appeal to the minister of justice for clemency and petitions to the president for a stay of execution. Also to be repealed will be provisions which allow pregnant women to be sentenced to death under certain circumstances.

The bill will also provide for compulsory minimum sentences for certain crimes, effective for the next two years unless it is extended by the president with the concurrence of Parliament. If the two-year limit is not extended, then minimum sentencing will lapse and again be left in the hands of the judiciary.

Minimum sentences of 15 years in prison for a first offence are compulsory for: murder, when a dangerous weapon is used, rape, when a dangerous weapon is used or is accompanied by assault with intent to do grievous bodily harm, or in the rape of a girl under 14 years of age, robbery of a motor vehicle or where there are aggravating circumstances, or any offence relating to the dealing or smuggling of firearms, explosives or the possession of an automatic or semi-automatic firearm or explosives.

A second offence will earn a sentence of not less than 20 years and a third of not less than 25 years.

A minimum sentence of 10 years will be imposed for: the indecent assault on a boy under the age of 14 and a girl under the age of 12 if bodily or psychological harm is inflicted; assault with intent to do grievous bodily harm on a child under 12, house-breaking with intent to commit murder, rape, or robbery, any crime or offence relating to exchange control, corruption, fraud, forgery, uttering or theft of amounts in excess of R500 000, if it is proved that the offence was committed by a syndicate or group with a common purpose to commit organised crimes.

Justice Department urgently needs R156-m to jack up security at courts

Star 10/6/97 (252)

POLITICAL STAFF

The Department of Justice has asked the Treasury for more than R156-million to hire more than 3 000 security staff for its buildings countrywide, after a spate of killings and assaults of witnesses, burglaries and arson attacks.

The plea is contained in a draft budget proposal submitted to the Departments of Finance and State Expenditure for possible inclusion in next year's Budget.

A total of 722 out of 811 Department of Justice buildings countrywide have no security. The police were over-extended, the department said.

"It is an inherent right of witnesses and also of staff members to be protected from criminals."

Criminals were reverting to severe measures, including arson, to intervene in the justice process. In the past few years, witnesses had been killed or injured and offices ruined in arson attacks.

Letters from 117 offices asking for urgent implementation of security measures had been received between July and April, the submission said.

Minimum security required metal detectors, x-ray machines, fences, security lighting, burglar proofing, and securing of cash halls and counters

Only 23 buildings had 24-hour security and 26 had part-time security. Between July last year and April there had been 100 burglaries at Department of Justice offices, six armed robberies and eight bomb threats

At least 2 766 security officers would have to be hired. Hiring 2 954 security officers would cost R147,7-million and 236 security guards R9,1-million.

■ The Department of Justice said it would consider freezing some of its activities unless it is given more money for staff

In the draft budget proposal the department warned that "the

increase in work—as a result of crime and the new constitution has now reached critical levels".

Unless more money was granted, the department would be unable to adhere to the fundamental rights in the new constitution, including the right to a speedy, just and fair trial.

In 1995/96, staff had to do 406 119 hours voluntary unpaid overtime. Last year, about R22-million was paid for overtime.

The department said a new court management system, involving greater decentralisation, was to be implemented by no later than next month.

If funds for required expansion needs were provided, the department would be able to set up 73 new courts countrywide, which would mean being able to handle an additional 17 520 cases a year.

Among other needs, South Africa was bound by international obligations and its own laws to expand the family advocate system.

Omar tables law abolishing death penalty

(252) 10/6/97

Convicts on death row will be resentedenced and minimum sentences have been laid down

POLITICAL STAFF
Cape Town

Justice Minister Dullah Omar yesterday tabled legislation in Parliament which will officially abolish the death penalty

The Criminal Law Amendment Bill comes two years after the Constitutional Court's decision that capital punishment was inconsistent with the interim constitution

The Criminal Procedure Act and the Defence Act both provide for the death penalty, and there are references to it in several other acts

The bill also makes provision for changing the sentences of people already sentenced to death. These cases will be referred back to the trial courts for resentencing

Under the previous system, there was no deadline for instituting a prosecution for an offence which carried the death penalty

The bill alters this by saying there will be no deadline for prosecutions where the death sentence would have been possible

It will require regional courts and High Courts to impose compulsory minimum sentences for a set of offences listed in the bill. However, presiding officers will be allowed to impose lighter sentences, provided they give reasons for not giving the prescribed sentence

The clause providing for minimum sentences will expire two years after the approval of the bill, but the presi-

dent, with the concurrence of Parliament, will be authorised to extend it for a year at a time

The clause on minimum sentences provides for not less than 15 years' jail for murder, when a dangerous weapon or firearm is used; and not less than 15 years' jail for rape, when a dangerous weapon or firearm is used, or when accompanied by assault with intent to do grievous bodily harm

Rapists will also get not less than 15 years if psychological harm is caused or they rape a girl younger than 14

There will also be not less than 15 years for robbery with aggravating circumstances or robbery of a motor vehicle; certain drugs offences, and dealing, smuggling or illegal possession of firearms, explosives or armaments.

Second offenders for these offences will get at least 20 years, and third and subsequent offenders, 25 years

For first offenders, not less than 10 years for indecent assault on a boy younger than 14 or a girl under 12; or assault with intent to do grievous bodily harm on a child younger than 12

First offenders will also receive not less than 10 years for housebreaking with intent to commit murder, rape or robbery, as defined above

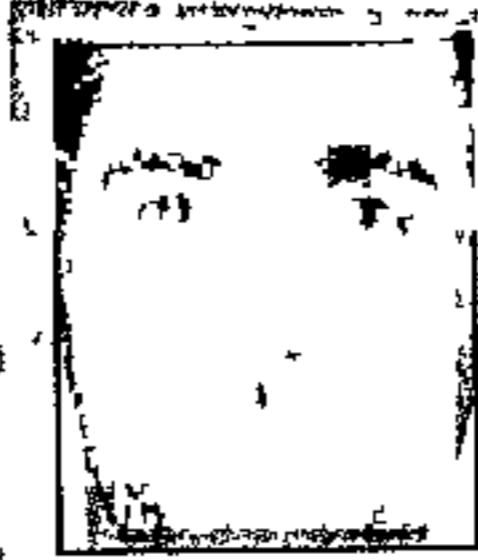
They will also not get less than 10 years for crimes related to exchange control, corruption, fraud, forgery, uttering or theft involving more than R500 000, where it is proved that the crime was committed by a syndicate or people involved in organised crime

EMOTIONAL ACCOUNTS OF CARNAGE

TRC told of Crossroads

Killings

(252) CT 10/6/97



FINDING HIS SON Who was abducted by Witdoeke, lying on a mortuary floor, will trouble him all his life, John Dyan Finye has told the TRC. **ROGER FRIEDMAN** reports

ACCOUNTS of depravity and bloodshed have been common at the Truth and Reconciliation Commission's hearings in the past 14 months, but at times they have been overwhelming — as they were yesterday.

The focus was the conflict, in 1986 in the Crossroads area, between the police-backed "Witdoeke" vigilantes and pro-democracy "comrades" that culminated in the destruction of KTC squatter camp on June 9, 10 and 11.

The number of lives lost may never be known. The commission's research department has compiled a list of 59 people who died between May 17 and June 11.

Survivors of the conflict, set against the backdrop of the apartheid government's desire to remove residents of Crossroads' satellite squatter camps, including KTC, to Khayelitsha, told their stories in St Gabriel's Church, Guguletu, yesterday.

Former community leaders, including National Party MP and former Witdoek leader Mr Johnson Ngxobongwana, are to give their account today and former policemen and government officials, tomorrow. Witnesses who are to speak today and tomorrow have been subpoenaed.

Mr Lukhanyiso Finye and Mr Vuyani Dyabuza were killed by members of the Witdoeke in Old Crossroads on May 25. They and several friends had been "arrested" at a roadblock on Lansdowne Road.

Dyabuza's girlfriend, Ms Ruth Gibisela, said their car was surrounded by men who had white cloths on their heads. They were taken to a dam, known as the "Red Sea", where they

were assaulted and shown a headless corpse floating in the water.

Because Gibisela's hair was permed, the men were convinced she was a comrade and refused to believe that she and her friends had been on their way to Khayelitsha.

Gibisela said they were taken in a police vehicle to a large shack, which they called a police station, in Old Crossroads. There, she and her young women companions were interrogated and made to appear before a "magistrate".

They were released after paying "fines" of R25 each. Gibisela did not see Finye and Dyabuza again.

The next day, Mr John Dyan Finye and Dyabuza's father went to the Salt River mortuary to search for their sons' bodies.

"When we got into the first room, this man and I were shocked," Finye told the TRC yesterday. "The drawers were opened right around the room. It was full of bodies. This was only the first room in the mortuary. We could not find them in that room."

"Underneath, it looked as though we were in a butchery. It was full of blood. The bodies were lying in the blood, the shelves were full of bodies."

"We went into the second room. Even there, it was the same. It was impossible to walk. In some cases you had to walk over the bodies. The shelves were full, from the first shelf to the fifth shelf. What was more shocking was the blood on the floor."

"Some of the bodies on the floor looked like people who had been burned, they looked like burned wood. We did not find my child in that particular room."

"We went to the third room and it

was the same situation there. We went through all the drawers and we could not find him. We also looked on the floor. There were bodies lying there on their backs, in blood that resembled water. In the third room, which I believe was the last room, we finished looking on all the shelves.

"When we went to a corner of that room we looked on the floor and we saw my son lying there."

"I want to say, this is one thing that (will trouble) me for the rest of my life — to find my son lying in that room in that condition, having done nothing, killed innocently."

The funeral for Finye and Dyabuza — as well as two others, Mr Ayanda "Ace" Silika and Mr Elliot Sondzandsa Phillip — was also harrowing. Pallbearers, confronted with approaching police Casspirs and clouds of teargas, had to drop the coffins in the road.

Mr Jan van Eck, then a member of the Progressive Federal Party's unrest monitoring and action committee, described this as "sheer police provocation."

"It (was) part of a whole campaign of harassment of a community that (was) being forced to move," Van Eck said.

"If this (had) happened at a white funeral, there would have been a civil war."

Among others who testified were Mrs Notayini Nomangesi Galaweni, who said her husband, Mr John Galaweni, had been shot dead by the late Warrant Officer Barne Barnard, Ms Yvonne Kalohi, who said her son, Mr Monwabisi Mgabi, had been killed by Barnard; Mr Lennox Sigwela, in a wheelchair, who said he had been disabled since being assaulted by Witdoeke, Ms Winnie Nkosi of the United Women's Organisation, who was abducted by Witdoeke and held in a container for four days; and Mr Mandla de Villiers Siquaza, whose father, Mr Archibald Siquaza, was necklaced, allegedly by comrades, on Christmas Eve, 1985.

NIP to take legal action against Tutu

Wyndham Hartley

CAPE TOWN — The National Party (NP) said yesterday it was proceeding with legal action against the truth commission as it had not received replies to its demands for the resignation of commission deputy chairman Alex Boraine and an apology from chairman Archbishop Desmond Tutu.

The row between the commis-

sion and the NP has been simmering since last month, when Tutu and Boraine spoke out against the way in which NP leader FW de Klerk had answered commission questions on May 15.

Legal representatives for the NP responded by writing to the commission on June 2 demanding Boraine's resignation and an unconditional apology from Tutu. The NP claimed the conduct of

Tutu and Boraine transgressed the commission's mandate to investigate the truth in an even-handed manner.

The NP was particularly unhappy with the remarks made by Tutu and Boraine the day after its testimony was heard.

The party demanded a response to its demands by June 5. The commission said that it had to wait for the next full meet-

ing of the body, scheduled to be held on June 19, for the matter to be discussed.

The NP, through its lawyers, agreed to wait provided the commission undertook, on an urgent basis, to respond to the NP by noon on June 20.

However, a letter in reply from truth commission legal officer Hanif Vally said that the commission was not prepared to give any

undertakings regarding the urgency of the matter.

Vally suggested that a meeting be arranged between the commission and the NP on June 20 to discuss "the issues of concern."

The NP's lawyers wrote a letter to the commission yesterday and described the commission's refusal to recognise the urgency of the matter as "utterly unacceptable conduct."

Commission
252
20 11/6/97

"The letter said that this amounted to "clear non-compliance with the reasonable condition on which our client (the NP) agreed to the extension of time requested by you (the commission)".

"Accordingly our client has been advised that it has no alternative but to proceed to approach the High Court for the necessary relief," the letter said.

Victims decline offer to meet attackers

(252)

BD 11/6/97

EAST LONDON — Four civilians gunned down by Apla soldiers told the truth commission yesterday they declined an offer to meet their attackers

Eastern Cape truth commission chairman Bongani Finca said Apla had asked that victims come forward and meet them in a spirit of reconciliation — but had found no takers

He was speaking at the commission's hearings in Mdantsane into the May 1993 Apla attack on the Highgate Hotel pub in East London in which five people were killed

All four victims who appeared before the commission yesterday said they would not like to meet their attackers

Doreen Rousseau, 60, was with friends in the Highgate bar when masked gunmen opened fire. Rousseau told the commission she was hit in the leg

She said people were lying in pools of blood, screaming and choking on tear gas

She had no medical aid or income and was spending part of her R430 monthly grant to pay

for several operations

When Finca asked her if she would like to meet her attackers, Rousseau said softly "Oh no, please"

After hearing other evidence, Finca said "We are dealing with an event which has been roundly condemned as a brutal and senseless act of violence. It is very difficult to come to terms with the fact that this event happened at a time when negotiations were taking place for peace for this country"

He said commissioners were quizzing victims about whether they wanted to meet their attackers because of the request from the Apla high command

"From what we heard today, it is not going to be an easy decision (on whether to organise a meeting) But we are committed to the spirit of reconciliation"

Apla has been linked to

□ The 1992 raid on the King Wilham's Town Golf Club in which four people were killed and 17 injured,

□ The 1993 St James Church massacre during which 11

churchgoers were killed, and

□ The 1993 attack on the Heidelberg Tavern in Observatory in which four people were killed

Apla members involved in attacks on civilian targets should not get amnesty, said the victims of the Highgate Hotel massacre. Two of those who appeared were severely disabled by the attack, and two lost their husbands

Neville Beling, 24, told the commission he had been in the bar of the hotel with a cousin when a man appeared at the doorway and opened fire

Beling was shot in the leg and three times in the back. Four years later, he takes 600 tablets a month to control his pain, sleep and balance

He told the commission "I don't feel (the attackers) should get amnesty"

"If they knew what we went through, the pain and suffering

I can't describe the pain. Some days I felt like I was dying — and I was dying. It is hard to forgive a person for that"

Beling's father, Neville, said the attack had "taken 20 years off our lives"

He was also opposed to amnesty "These were innocent people. They had nothing to do with political issues"

He said said financial compensation should be paid to victims as a priority "The ball is in the court of the government. They must just pay out"

Bernice Whitfield, whose husband Deric drowned in his blood after being shot in the chest during the attack, said she had little hope that the commission would benefit anyone

"I don't want to be here. I am wasting my time. I am here because God sent me"

"Why do we waste time opening our wounds? No-one feels anything for us"

Whitfield said she "had no grudge against anyone" Jesus would judge the perpetrators.

The Apla high command has applied for amnesty for all attacks it might have ordered but the application has still to be heard — Eena

Court restructuring findings under fire

Wyndham Hartley

CAPE TOWN — The Hoexter commission into the restructuring of courts came under fire in the national council of provinces justice committee yesterday for recommending that at least three provinces should not have their own division of the high court.

The commission recommended that North West, Northern Province and Mpumalanga should simply have local divisions of the high court which fall under Johannesburg and Pretoria. Gauteng, in contrast, should have two provincial divisions in both centres.

Judge Hoexter also came in for sharp criticism for refusing to address the committee on the findings of his commission. The committee may summon the judge to address it because they do not have a full understanding of the recommendations.

Provincial spokesmen for North West, Mpumalanga and Northern Province said that there should be provincial divisions of the high court in Mafikeng, Middelburg and Pietersburg rather than placing them under the control of Gauteng. They stressed that this was the "feeling" in the provinces and that no official provincial position yet existed.

Gauteng delegates said that there was a general feeling that the province could accommodate two provincial divisions but there were problems with jurisdiction which still had to be resolved. The commission recommended that Randburg and Sandton fall within the Pretoria division but this was finding opposition from legal practitioners in Johannesburg.

The committee would finalise the council's position in August.

252

BD 11/6/97

NP goes to court over 'TRC bias'

Cape Town - The National Party said yesterday it would continue to seek a high court ruling of bias against the Truth and Reconciliation Commission (TRC)

The new low in relations between the party and the commission followed an NP demand on June 2 for a public apology from TRC chairman Archbishop Desmond Tutu

"We will ask the high court for a ruling that Tutu, the TRC and vice-chairman Alex Boraine have demonstrated a clear and consistent bias against the National Party," NP justice spokesperson Sheila Camerer told Reuters

She said the party was acting on the advice of lawyers af-

ter the rejection by the TRC's lawyers of an ultimatum demanding Boraine's resignation and a public apology from Tutu

The row erupted after former president F W de Klerk made a second submission to the TRC on May 14 in which he denied responsibility for torture and assassinations committed by apartheid police in the name of white rule

The atmosphere during De Klerk's testimony was in sharp contrast to the almost jovial tone during Deputy President Thabo Mbeki's testimony on human rights violations committed by the ANC in its war against white rule

Mbeki admitted and apolo-

gised for killings, beatings and rapes committed by ANC guerrillas during 30 years in exile.

De Klerk apologised for the harm caused by the approved policies of the all-white government prior to 1994, but said police hit squads which targeted members of President Nelson Mandela's movement did so without his consent

Boraine criticised De Klerk later for refusing to accept responsibility for the actions of his government and Tutu told a news conference that De Klerk's testimony had brought him to the brink of tears - Reuters

► More reports

(252) Stan 11/6/97

Victims of hotel massacre still bitter

After 11/6/97 (2572)

Survivors tell Truth Commission of terror they felt when Apla cadres burst into hotel and opened fire

By DAISY JONES
East London

Doreen Rousseau (57) still wakes up at night from "terrible nightmares" to see, framed in her doorway, a balacava-clad man, shooting with an automatic rifle

It is more than four years since the night of May 1 1993, when masked gunmen burst into the Highgate Hotel in East London and opened fire on patrons in the bar, killing three people

After the shooting, "everybody was screaming and lying in pools of blood", she told the Truth and Reconciliation Commission yesterday

Blood was spurting out above her knee from a wound "about the size of my hand" and her friend forced his elbow into the wound to stop the bleeding - "without success".

Rousseau had four operations on her leg. She lost her job

and her right hand, her hearing was damaged, and her diabetic condition was aggravated

"Those who killed and injured innocent people should be found and brought to justice," she said.

But Rousseau balked at the

66 They should be sorted out, these people

suggestion that she meet those members of the PAC's military wing, the Azanian People's Liberation Army, who applied for amnesty for the attack

Neville Beling junior was 20 years old when he was shot in the left arm and three times in the left hip. He had numerous

operations. He lost his job and currently takes 600 pills a month. He uses crutches to walk.

His father, Neville Beling senior, told the commission: "He's disabled for life. He has no future"

Beling senior said victims of attacks like the Highgate Hotel shooting should be prioritised by the Government "These were really innocent people. They had no connection with political or criminal activities whatsoever"

Beling junior told the commission he believed his attackers should be denied amnesty and serve full sentences in jail. Beling senior concurred. He said the Apla men had been led by Satan. "They should be sorted out, these people... in a very harsh manner"

Boyce Wheeler (42) died in the bar. His wife Francina said she and her family were still bitter about "what we've been through and what we've lost"

Bernice Whitfield lost her husband Derrick John (42) as a result of the shooting

She said she was "totally devastated" by the shooting, and she and her three children were forced to move from their suburban home to cheaper accommodation

Months later "I didn't have a slice of bread", said Whitfield. "No one feels anything for us. Nothing has been done and nothing will be done."

Referring to other attacks against whites, such as the Mago's Bar bombing and the King William's Town Golf Club shooting, she said "The renegades are being paid by the Government like big heroes while we have to battle to make ends meet"

Whitfield said although she considered her testimony to the TRC to be a waste of time, she would "very much appreciate" financial assistance from the commission. "I would like to

be more comfortable". Commissioner Bongani Finca said the TRC had been asked by the Apla attackers to facilitate a meeting between the perpetrators and victims. Although it would be difficult to encourage the victims to "come

65 My son is disabled for life

to terms with our ugly past", Finca said the TRC's task was "to continue to knock on your doors, even after (the commission's) process has ended"

A wreath-laying ceremony was led by TRC panellists at the Highgate Hotel after the testimony of the four victims.

TRC, NP set for High Court battle

ROGER FRIEDMAN

ET 11/6/97

(252)

THE National Party and the TRC are headed for a showdown in the High Court over the party's calls for the resignation of commission deputy chairperson Dr Alex Boraine and for an unconditional apology from chairperson Archbishop Desmond Tutu.

NP justice spokesperson Ms Sheila Camerer yesterday released a spate of correspondence between the NP's lawyers and the commission after the NP's second submission last month. The last letter said the NP had been advised to pursue the matter in court.

On June 2 the NP demanded that Boraine resign, Tutu apologise and the commission's national director of investigations Mr Glenn Goosen be suspended from all NP-related investigations by midday the next day.

The party had reacted to what it perceived to be the victimisation of its leader Mr FW de Klerk by the commission, during and after his presentation of the second submission. Both Tutu and Boraine were flabbergasted by De Klerk's apparent lack of knowledge of apartheid-era atrocities. The NP said Goosen was too strenuous in his cross-examination of De Klerk.

Legal officer Mr Hamif Vally replied that the commission wished to discuss the matter at its next full meeting on June 19, to which NP lawyers responded that would be fine — provided the TRC undertook that should the matter go to court it would co-operate in having the matter determined urgently. The TRC evidently did not make this undertaking.

Boraine's response last night was: "We are puzzled by their reaction."

Cattle slaughter plan after KTC attack

'Feast was to be reward for witdoeke'

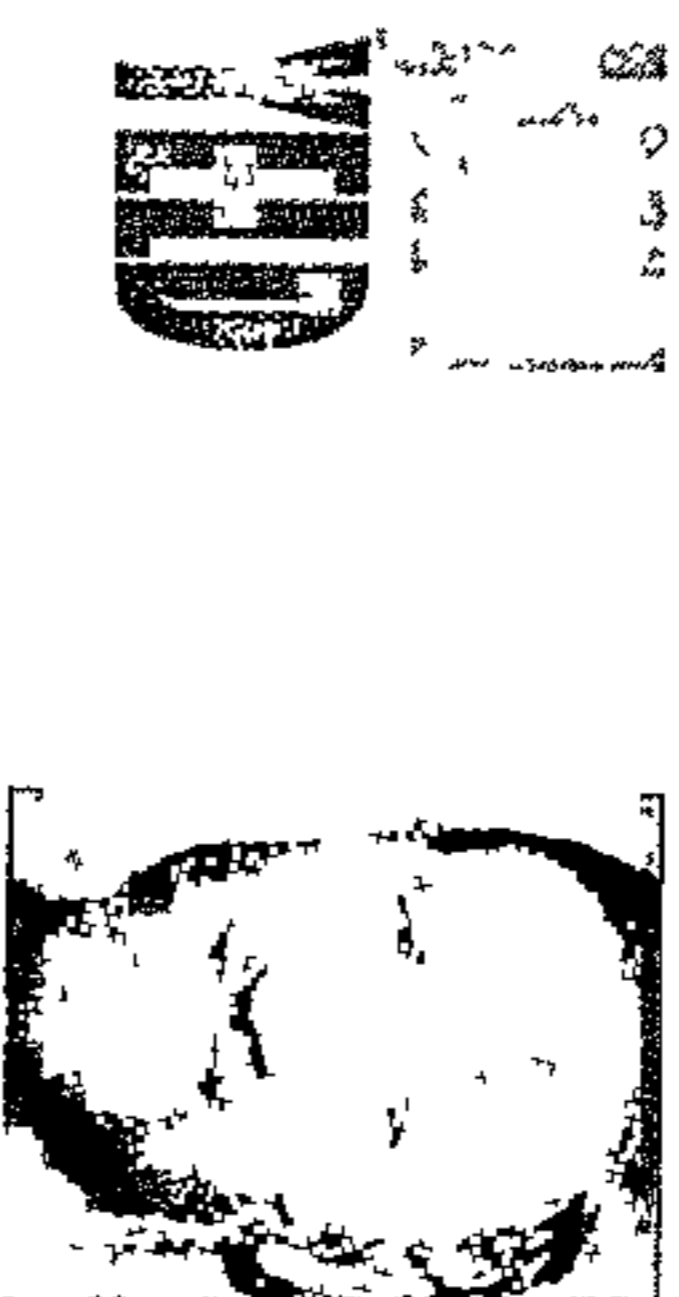
A top secret document sent to the State Security Council on the first day of the three-day "witdoeke" attack on the KTC squatter camp asked for R3 000 for a "victory feast" for the witdoeke in the form of a ritual cattle slaughter.

The document, dated June 9 1986, was sent from the Western Province Joint Management Committee (JMC) - the regional structure of the shadowy, nationwide security system of the former government.

It continued "Finality, however, will not be reached before June 11 1986, when we will be in contact again." By that date, several thousand shacks in KTC had been razed and an estimated 60 000 of its residents were refugees.

The document was one of several "top secret" and "secret" communications between the State Security Council and regional security structures which were submitted to the Truth Commission yesterday on the final day of its three-day "special event" hearing focusing on violence in informal settlements in the Peninsula in 1985/86.

In May and June 1986, KTC and three satellite squatter camps were attacked by



ON THE TRUTH COMMISSION

witdoeke - also known as "fathers" or the conservatives - who were mostly from Crossroads and who owed allegiance to conservative leaders such as Crossroads mayor Johnson Ngxobongwana.

The police and other state officials have consistently denied colluding with the witdoeke in the attacks - also in their testimony during a Supreme Court action for damages by homeless squatters.

But some truth commissioners and a member of the commission's human rights violations committee said the secret documents provided clear evidence that the state had been directly involved in the conflict, which cost at least 57 lives.

AKG 12/6/97 (292)

Commissioner Mapule Ramashala said the June 9 document referred to a specific celebration anticipating victory for the witdoeke.

"It places the hand of the state right squarely in the middle of it (the conflict). This document in fact confirms complicity (in) the annihilation of the satellites, including KTYC."

Commissioner Dumisa Nisebeza, who heads the commission's investigative unit, commented afterwards "It is quite clear in my mind that there was that kind of involvement by the State Security Council."

Pumla Gobodo-Madikizela, a member of the commission's human rights violations committee who organised the KTC hearing, said both the documents and the forthright testimony by former Crossroads town clerk Ricky Shelhase yesterday had indicated that the state had been trying to create "a kind ofbantustan" at Crossroads.

"It is very clear that the government was manipulating the violence, setting up the two groups ("comrades" and "witdoeke") and then pulling back so that it seemed like a war."



LEON MULLER
Remembering the past: retired colonels Dolf Odendal, left, and Trevor Vermeulen at the TRC hearing



KTC: THE AWFUL TRUTH



Trophy: three policemen pose hunter-style in a picture believed to have been taken at the height of the KTC conflict between 'witdoeke' and 'comrade'



Crime evidence: bodies of people hacked to death, probably by 'witdoeke', in the 1986 KTC violence

Photos reveal brutal truth of KTC war

ARC 12/6/97

(252)

name, contacted the newspaper earlier this week. He said he had no problem with giving all his particulars to the TRC and asked to be put in touch with its investigators.

The Cape Argus handed enlargements of some of the photographs to Mr Ntsebeza today. He said he believed the photographs would be useful - "especially because we are looking at expanding (our evidence) on the State Security Council connection with violence in the area."

Ms Gobodo-Madikizela said similar pictures were presented at the inquiry earlier this year into the deaths of the so-called

"Guguletu Seven", shot dead by police in controversial circumstances in 1985.

The owner of the pictures admitted he had originally planned to sell them overseas but friends had warned him not to.

"I was told they (security forces) would blow my head off and I was scared at the time. But now from a moral standpoint I personally want to see them published - most definitely. Go for it," he said.

The Cape Argus has given TRC investigators his name and telephone number.

See page 5

Blacks 'treated like animals'

JOHN YELD
ON THE TRUTH COMMISSION

A photograph of three policemen posing hunter-style, one with his foot on their "trophy" - the body of a black man killed in political violence - is proof that security forces treated black people "like animals".

This is the assessment of Pumla Gobodo-Madikizela, a member of the Truth Commission's human rights violations committee, who said the photograph demonstrates very clearly the brutality of the police and the animalisation of black

bodies that was so common" under apartheid.

The photograph was given to the commission today and the head of its investigative unit, Dumisa Ntsebeza, ordered an immediate investigation.

"I've told my investigators to try to find out who these policemen are," he said.

The photograph was one of several given to the Cape Argus by a Mitchell's Plain man.

The man, whose conscience was fired by the TRC's "special event" hearings this week into violence in the Peninsula's informal settlements in 1985 and 1986, said the

photographs had been taken in KTC while it was being destroyed by "witdoeke" (comrades) in 1986.

The man acquired them from a friend who worked at a picture processing business years ago.

They appear to have been taken by a policeman or soldier.

The pictures, nearly all of which are too gruesome to publish, show violence victims who have been hacked to death with sharp instruments and "necklace" victims some reduced to charred bones and others

ARC 12/6/97 P.T.O. To page 3



Land Claims Court Judge-President Fikile Bam applauds as recently appointed Chief Justice Ismail Mahommed opened the Land Claims Court in Randburg yesterday. Picture LORI WASELCHUK

Control of land vital, says judge

252) Louise Cook 8012/6/97

PROPER control of land was crucial for justice, stability and development, making the land claims court a key component of SA's transition, Chief Justice Ismail Mohammed said at the official opening of the court in Randburg yesterday.

"It is the competitive claim to land which makes up so much of our history and military, economic and political conflicts," Mohammed said.

Land claims court president Fikile Bam said the jurisdiction of the court was limited to specific land issues which related to racially motivated events since 1913.

"The land restitution process is not reconcilable with Roman-Dutch law — it is a product of the SA constitution."

Bam said the court's immediate priority was to decide the extent to which tribal chiefs represented communities claiming land

"This was necessary so as to avoid further social disruption," he said.

The court was established about a year ago and eventually found permanent premises in Randburg.

However, more than 15 000 land claims lodged so far, only 50 had reached the court by way of the restitution commission.

Bam said it was hoped that most of the land claims would be settled between opposing parties, which would make adjudication unnecessary.

Telkom cable plan to link SA and Malaysia

Business unit managing executive Rhynie Greeff said yesterday that France was the fifth party to sign up for the project, which has an estimated cost of \$280m.

Other groups to have signed, which, with France Telecom, would account for about \$200m of the capital cost, were Telekom Malaysia,

Mauritius Telecom and Cable & Wireless.

Greeff said France joined the project because it wanted to connect its Reunion island to the international information superhighway. France Telecom was also involved in the Sea-Mewe Three cable which links east to west in the northern hemisphere.

Should something happen to the cable in the north, making traffic impossible, traffic could eventually be diverted through the southern hemisphere, Greeff said

Telkom also recently announced plans to lay a cable hugging the west coast of Africa from Cape Town to Senegal, costing up to \$400m.

Proposal for special amnesty 'was flawed'

(252) BD 12/6/97

A PROPOSAL by the African National Congress (ANC) that there be special amnesty for ANC and Inkatha Freedom Party (IFP) members in KwaZulu-Natal had serious flaws, the SA Communist Party (SACP) said yesterday.

In its peace plan for KwaZulu-Natal, the ANC suggested at the weekend the creation of a special board within the truth commission whereby the parties' members would apply for special amnesty to make full, in-camera disclosures about their involvement in political violence.

The SACP said the idea of special amnesty failed to locate the conflict in KwaZulu-Natal within a wider national context "Other provinces and other political parties will wonder why they should be excluded from special provisions," the SACP said yesterday.

On the issue of IFP president Mangosuthu Buthelezi being offered a senior national position, the party said it was "mystified. We were under the impression Buthelezi already occupied a senior national position."

The party said such offers should first be discussed by the ANC national executive committee and its partners before being made public. — Sapa.

252
HRC backs justice
department funds plea
CT 12/6/97

JOHANNESBURG. The South African Human Rights Commission (HRC) yesterday came out in support of the Department of Justice's plea for a substantial increase in its budget allocation for 1997/98

"As one of the state institutions whose funds are channelled through the Department of Justice, we know how impossible it is to be expected to undertake tasks with inadequate resources," HRC spokesman Mr J S Mojapelo said in a statement.

The Justice Department delivered a presentation to the parliamentary portfolio committee on justice this week, highlighting the increasing demands on the system. "These demands increase with urgency because of escalating crime and perceptions of a breakdown in the administration of justice," said Mojapelo.

"In addition, the department has been given responsibility for constitutional bodies like the HRC. Likewise, it has to deal with the mandate to establish a culture of human rights, and yet (lack of) resources make it virtually impossible."

Mojapelo urged the Treasury to consider the department's request seriously to restore confidence in the administration of justice. — Sapa

Thousands of children traumatised, TRC told

(252)

Argus 13/6/97

Of an estimated 80 000 held without trial about 25% were aged under 18

By Robert Brand

Nomonde Ntabeni was 16 when she was shot through the stomach by police in Soweto in 1976. Potlako Sabsoshego was 17 when he was detained and severely assaulted by police in Daveyton in 1986, permanently blinding one eye.

Ntabeni and Sabsoshego survived to tell their stories to the Truth and Reconciliation Commission yesterday.

Many others were not so lucky, the commission heard during a special hearing on the

under apartheid, about 25% - 20 000 - were children, and at least a quarter of them were tortured while in detention.

"South African children have suffered unbelievable trauma as a result of apartheid, which was, in effect, a war against children," said Diana Scott of the National Children and Violence Trust.

"There is a generation of children whose daily life experience was characterised by horror, and that remains a central factor in their perception of who they are today."

Although no children under the age of 18 testified at the hearing, for fear of further traumatising them, a number of adult witnesses related their experiences as children during apartheid.

Further evidence was given by non-governmental organisations, children's-rights groups, social workers and the commission's investigative unit.

The hearing was opened by Graça Machel, companion to President Nelson Mandela, who warned that violence against children was not a thing of the past.

Machel said wars until recently had resulted in the deaths of mainly soldiers. Now, in a world where nothing seemed sacred, the target had switched to children and other civilians.

She joined non-governmental organisations and welfare workers in calling for new initiatives and more resources to deal with traumatised children.

At least 5 children died while in police custody

effect of the apartheid conflict on children.

An estimated 1 750 children under the age of 18 died in political violence between 1960 and 1989, according to a submission by Max Coleman of the Human Rights Committee of South Africa.

Another 517 children lost their lives between 1990 and 1994.

At least five children died while in police custody for political reasons, Coleman said.

Of the estimated 80 000 people detained without trial



Grim record... a Mitchell's Plain man says he obtained this and other photographs of the KTC informal settlement in Cape Town in 1985 and 1986 while the camp was being destroyed by "witdoeke".

Hitsquad sent by Hami to eliminate agents - testimony

Nelspruit - Chris Hami, late general-secretary of the South African Communist Party, sent a hitsquad to eliminate two of Mpumalanga's leading ANC politicians, the amnesty committee of the Truth and Reconciliation Commission was told yesterday.

Amnesty applicant Derrick Skosana (26) testified before the committee that former African National Congress Mpumalanga secretary Joe Nkuna told him that Hami had ordered the execution of a number of "enemy agents".

Included on a hitlist of alleged double agents were Mpumalanga finance MEC Jacques Modipane and public works MEC Jackson Mthembu. Skosana said the list of alleged double agents also included then ANC treasurer Johannes Shabangu.

Skosana said he was a member of a hitsquad sent to eliminate the alleged double agents who had attacked Shabangu's house.

Skosana said Modipane's house was not attacked because he was not at home when the hitsquad visited him.

'Trophy photo shows callous attitude'

Cape Town - A photograph of three policemen posing hunter-style, one with his foot on their "trophy" - the body of a man killed during political violence - is proof that callous security forces treated black people "like animals" during the apartheid era.

This assessment comes from Pumla Gobodo-Madikizela, a member of the TRC's human rights violations committee, after viewing photographs given

Six people were in Shabangu's house during the attack on November 11 1992, including Mpumalanga's sports, culture, arts and recreation MEC Lassy Chirwayo.

Skosana said his cousin, Peter Mhisi, was also in the house at the time of the attack.

"I know I did something wrong but I was under the impression that it was the right thing to do for our movement at that time. And I am really sorry for what I have done," said Skosana.

He said he would not have attacked Shabangu's house if Nkuna had not said that the instructions came direct from Hami, and that Hami had asked for a progress report on the elimination of double agents.

Skosana is serving a five-year jail sentence for the attack.

Nkuna, who is serving seven years for the attack, and his brother, Conrad, who is serving five years for the same attack, have already testified before the committee.

Hami was killed by right-wing assassin Janusz Walus in April 1993 - Sapa

to the Cape Argus newspaper by a Mitchell's Plain man.

The man said the photographs were taken in KTC informal settlement while it was being destroyed by "witdoeke" vigilantes in 1986. They were given to him by a friend and appear to have been taken by a policeman or soldier during the conflict - Own Correspondent.

More reports

Unto the third or fourth generation

There will be no grand release when the truth commission's final report is tabled, writes **Antjie Krog**

THE commissioner spreads the photos on the table. A slope of tamoekie grass, a wind-blue sky, some fresh soil

"He shows us the place we dig we find red topsoil mixed with black subsoil we know and then the spade hits something"

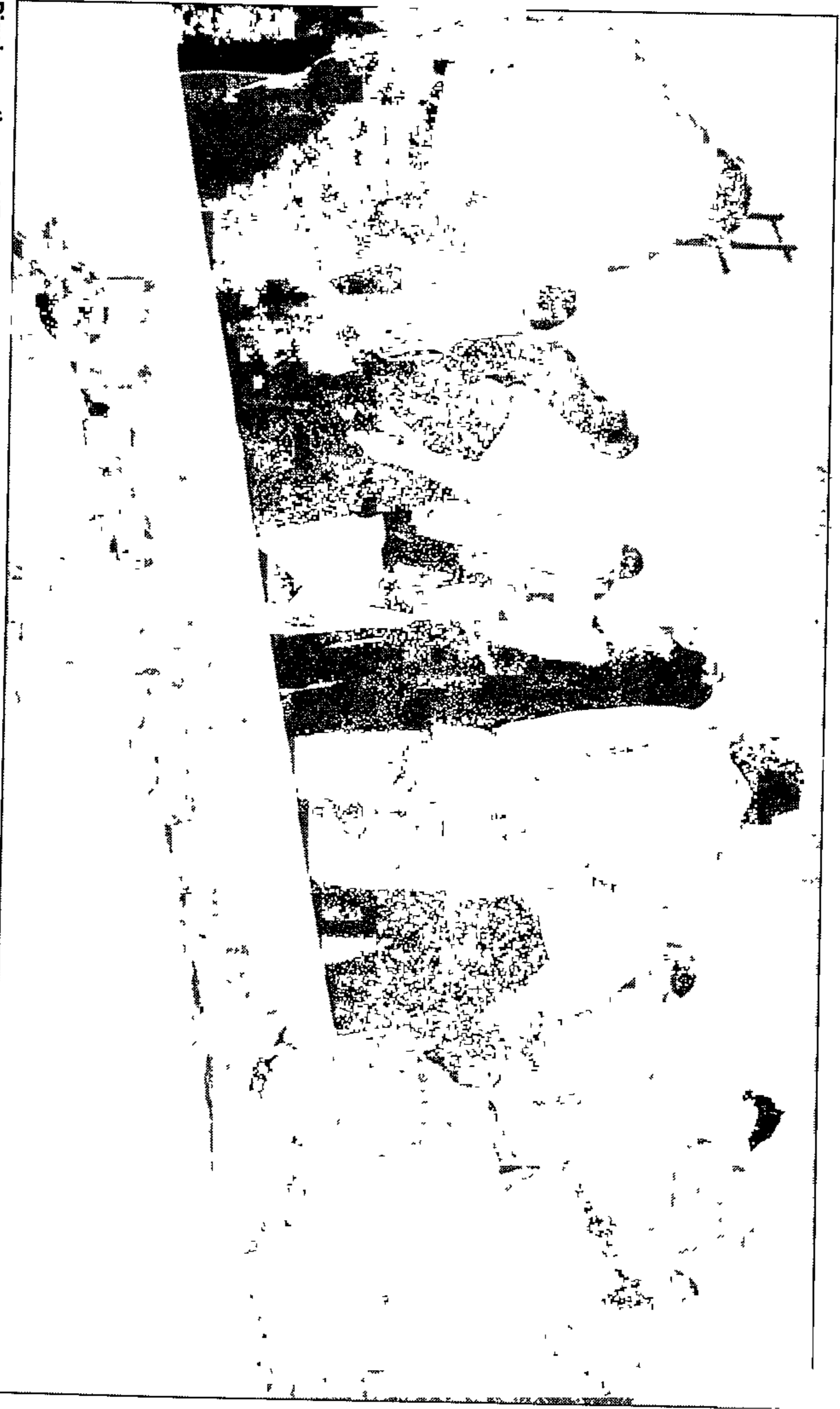
"She was brave this one, hell she was brave," says the grave indicator, the perpetrator, and whistles softly through his teeth "She simply would not talk"

The skull has a bullet hole right on the top "She must have been kneeling" says the commissioner

Ribs Breastbone that once held heart Around the pelvis is a blue plastic bag "Oh yes," remembers the grave indicator "We kept her naked, and after 10 days she had made herself this party" He sniggers "God she was brave"

The commissioner's eyes are burned in the brilliant yellow of anger It is he who said "Sometimes at night I wake up with a rage pounding in my breast as if to wipe me out like a veld fire"

It was he who tried during the last half-hour of FW de Klerk's political submission to pin down a connection between National Party policy and the deaths in KwaZulu-Natal But like the commissioner's lawyer, like the other commissioners, he failed De Klerk and his hostile delirium



Digging up the past: 'Everything of, in and around the dynamics of the truth commission has been underestimated'

other We buy food for each other, we live each other's stories — we experience the process through a thousand eyes Every second person in the street looks like a commissioner,

Anti-truth commission attitudes blast into the open The commission is bombarded with demands and legal threats, Parliament besieged with truth commission debates, TRC re-

(252) **MTG 13-19/6/97**

PHOTOGRAPH COURTESY THE SUNDAY INDEPENDENT
Constand Viljoen A modest group Viljoen speaks as if he wants to capture something, bring back something, confirm some essence of Afrikanerskap that is wholesome

filled with rage. People swamped with fury and desperation. Desmond Tutu's skin hangs dull and loose from his face, his shoulders covered in defeat. I want to go to him in one of other infantile gesture. To kiss his ring, to touch his dress. When De Klerk walked out, it was as if something forever slipped through my fingers.

Speechless, I stand before Tutu. From whence will words now come? For us. Us hanging, quivering, ill, from this soundless space of the Afrikaner past? What does one say? What the hell does one do with this load of skeletons, shame and ash?

That was the day — the day the "Big Dip" began. The Day of the Undeniable Divide. One moment the people of this country were the closest they have ever been, the next they were further apart than they have ever been.

The NP started mobilising on anti-truth commission sentiments. Those in and around the commission began to feel the futility of the dream of reconciliation.

What we have hoped for will never be. "One cannot leave now," says a colleague. "One must see the process through, otherwise one will be dangling in the air forever."

We ask the commission about plans for the end of the year. Any ceremony to conclude its workings and set people free of the past? The commission is vague. It is obviously more concerned with the final report and two vaults of amnesty applications.

Why do people hang in there? Has the Truth and Reconciliation Commission (TRC) become the last empire of naive righteousness and impossible dreams?

But those in and around the commission have been singed into their own versions of Vlakplaas units. We from the press can only talk to each

through. We and the guards are on first-name terms. We all want to resign. We all yearn for another beat.

At Tzaneen, a young Tswana interpreter is interviewed. The man holds on to the table-top, his other hand moves restlessly in his lap. "It is difficult to interpret victim hearings," he says, "because you use the first person all the time. I sit in front of the mortuary on a low wall. I have to identify my child. While I want to identify my child, slowly coming from under the door down to a drain at the corner of the building. I see it is red. I see it is also green. I just walk. I think they didn't find me for a long time. I have no distance when I say 'I run through me with I'. After the first three months of hearings, my wife and our baby left me because of my violent outbursts. The truth commission provided counselling and I was advised to stop. But I don't want to. This is my history, and I want to be part of it — until the end."

Why do people hang in there? Has the truth commission become the last empire of naive righteousness and impossible dreams?

The end. We all wait for the end. And we assume the truth commission will provide this end.

"That is a disastrous attitude," says Valkenberg, psychiatrist. Dr Sean Kaliski. "People thought that the truth commission would be this quick fix, this rugby World Cup scenario and that we would go through the process and fling our arms around each other, and we'll be blood brothers for ever more. And that is absolute nonsense."

"The TRC is where the reality of this country is hitting home and hitting home very hard. And that is good. But there will be no grand release — every individual will have to devise his or her own personal method of coming to terms with what has happened."

A column-writer in the Free State writes: "Reject the truth commission with the disgust it deserves — on untested evidence it tries to portray the Afrikaner as the icon of all evil. Untested evidence has become the truth of the 'boerehaters'."

Kaliski says it is a positive development if people feel compelled to deny these things. It is the first step in a process akin to the stages terminally ill patients experience: denial, rage, bargaining, depression — out of which acceptance will eventually surface.

"I think people are too impatient," says Kaliski. "I personally would be very concerned if whites could overnight integrate information that overturns their whole world view. It will take decades, generations, and people will assimilate the truths of this country piece by piece."

Kaliski says that white Afrikaners in particular are feeling terribly exposed. "If you personalise it a very proud person who is publicly exposed for being a scoundrel will almost never respond with humility and contrition, they will almost always respond with anger and outrage. The community feels exposed because they have been caught out, shown up as evil, and this is very hard to deal with."

The vocabulary around the truth commission changes from phase to phase, but the word that pitched most constantly was *underestimate*. Everything of, in and around the dynamics of the truth commission has been underestimated.

The only nightmare is the possibility that the commission missteps so wrongly that it wipes out all its successes. Of late, *overestimate* has become a much-used word. And this shortly before the commission has to pass its last two milestones. Two impossible ones.

rather, this was my thinking. De Klerk was nothing more or less than a politician looking for a forum to sort out tensions in his own ranks. "Don't worry," says someone, "the commission has enough evidence on De Klerk. He will eat his words."

And if he eats them, and has his nose rubbed in it, what will happen then? I wonder. Will he then be forgiven? Will people assist with reparation because they feel deeply humiliated? Will white and black in small rural towns now work jointly for the benefit of those who suffered the most?

I ask a Jewish colleague. "What kind of reparation was made by the Germans?" He spells out an impressive scenario, ranging from free transport and pensions, to leaders kneeling at Jewish memorials. And money — money from the Federal Republic of Germany was the largest contributing factor to the full industrialisation of Israel.

I think about the unimaginative reparation document workshoped some months ago. I also know better than to ask him whether anyone was forgiven on the basis of reparation. Is contrition in the form of reparation then just as futile as denial?

And suddenly it is as if an undertow is taking me out and out and out. And behind me sinks the country of my skull like a sheet in the dark — and I hear a thin song, hoofs, hedges of venom, fever and destruction fermenting and hissing underwater. I shrink and prickle.

Against. Against my blood and the heritage thereof. Will I forever be them — recognising them as I do daily in my nostrils? Yes. And what we have done will never be undone. It doesn't matter what we do. What De Klerk does. Unto the third and the fourth generation.

Famished. Parched, one waits on

knows it not to be. While Viljoen talks about how the British have taken away the land of the Boers, an English journalist mutters "Ah shame!" Before I realise, I spit like a flame. "Shut up, you — Viljoen is at least trying."

Viljoen was the only political leader who requested that a special reconciliation commission be set up next year. "The hardening of attitudes I experience daily."

After the first political submissions last year I interviewed Tutu. "Weren't you irritated that you had to listen to four versions of South Africa's past?" He spreads his four skinny fingers under my nose. "Four versions, four exist of the life of Christ. Which one would you have liked to chuck out?"

I try another question. "Why did the last part of the ANC submission sound so paranoid? As if the whole world is in a conspiracy against Thabo Mbeki." Tutu replies that many people are the second or third generation to be persecuted. "And if you don't know the past, you will never understand today's politics."

A friend who has emigrated is writing me in the office. She answers a call. "It's your child. He says he's writing a song on Joe Mamasela and he needs a buzzword to rhyme with Vlakplaas." She lowers the phone. "Who is Joe Mamasela?"

A massive sigh breaks through my chest. For the first time in months — I breathe.

The absolute one has given up on, the hope for a catharsis, the ideal of reconciliation, the dream of a powerful reparation policy. Maybe this is all that is important — that I and my child know Vlakplaas and Mamasela. That we know what happened there. When the truth commission process started last year, one instinctively realised if you cut yourself off from the process, you will wake up in a foreign country — a country that you don't know and that you will never understand.

one waits on

THE TRUTH COMMISSION: A COLUMN-WRITER IN THE FREE STATE WRITES: "REJECT THE TRUTH COMMISSION WITH THE DISGUST IT DESERVES — ON UNTESTED EVIDENCE IT TRIES TO PORTRAY THE AFRIKANER AS THE ICON OF ALL EVIL. UNTESTED EVIDENCE HAS BECOME THE TRUTH OF THE 'BOEREHATERS'."

Role of medical community to be dissected at TRC hearings

STAFF REPORTER AND SAIPA

The medical community will tomorrow make submissions on the role played by doctors during the apartheid era, at a hearing of the Truth and Reconciliation Commission.

Amnesty International, the British Medical Association, Physicians for Human Rights and the World Mental Health Federation will be among those attending the TRC's two-day hearings in Cape Town.

Among the submissions scheduled for the first day are those of a military medic who served on the "border" for 13 months, case studies on detainees by the Health and Human-Rights Project, and evidence by forensic scientist Dr David Klatzow on the manipulation of forensic evidence.

Professor Peter Folb, head of the pharmacology department at the University of Cape Town and also head of the Medicines Control Council, is to make a submission on the death of Steve Biko.

Also to be heard are submissions on the experience of black students at academic institutions; a submission by Dr Leslie London of UCT's department of community health on systemic abuse in institutions; and a submission by Dr Janet Giddy of McCord Hospital in KwaZulu Natal on abuse in rural private practices.

Later, health organisations such as the Interim National Medical and Dental Council, the Medical Association of South Africa and the South African Medical Service will be presenting their submissions.

On the second day, submissions will be heard from various medical schools, the American Association for the Advancement of Science, the Democratic Nursing Organisation of South Africa and two organisations active at the time - the National Medical and Dental Association, and the Organisation for Appropriate Social Services in South Africa.

These are some of the more than 40 submissions from individuals, institutions and organisations which flooded the TRC offices, according to commissioner Dr Wendy Orr.

Orr, who is facilitating the hearings for the TRC, said all submissions would be used to enrich and inform the TRC's final report, even if they were not heard in public.

The hearings are the first in a series on the role of various professions during the apartheid years. Similar hearings on the media, judiciary and prisons are also scheduled.

The aim is to compile as complete a picture as possible of past abuses, and to make recommendations on how they can be avoided in future.

Star 16/6/97

(262)

TRC to (272)
CT 16/6/97
focus on
professions,
institutions

ROGER FRIEDMAN

WHAT started out in a river of tears at the East London City Hall 14 months ago is virtually over. The torrent of ghastliness recounted to the Truth and Reconciliation Commission (TRC) by apartheid-conflict victims abates from this week to allow the commission to begin a series of profession and institution-related inquiries.

Beginning with a hearing in Cape Town tomorrow and on Wednesday into what the health sector did and neglected to do to alleviate the suffering of victims during the conflict, the TRC will over the next few months scrutinise the actions of the judiciary, the media, the military, military conscripts, the State Security Council — and cardiologist Dr Wouter Basson of Chemical and Biological Warfare Programme fame.

Also, the activities of the Amnesty Committee will be stepped up in order to conclude hopefully by December. Next week, in Benoni, the committee will hear the applications of Janus Walusz and Clive Derby-Lewis in the matter of Mr Chris Hanu's murder.

The head of the commission's investigative unit, Mr Dumisa Ntsebeza, said yesterday the TRC had not yet determined the dates for the institution-related hearings, and researchers and investigators were collecting information.

TRC spokesman Mr John Allen said the media hearing was provisionally scheduled for August.

While the focus on the judiciary introduces the intriguing possibility of seemingly-infallible High Court judges being subpoenaed to give evidence — not to mention which former cabinet ministers might be subpoenaed to appear at the State Security Council session — the issue of how to handle government spies in the media could prove perplexing to the TRC.

Ntsebeza said the commission asked media organisations to make submissions, from which two major areas of interest had emerged. The role of the SABC as a government tool, and government spies. While a special hearing on the SABC could result from the first area of interest, "the big thing they are asking is who were the spies".

Submissions received on the media included those from the South African Union of Journalists, the Freedom of Expression Institute, the Forum of Black Journalists, Times Media Limited and Independent Newspapers. The SABC has pledged to co-operate with a commission probe.

Regarding the judicial inquiry, Ntsebeza said he believed the focus would extend beyond the role of judges and include magistrates, attorneys-general and prosecutors.

PLAYBOY UTILISED IN AVERSION THERAPY

Army used electrical shocks to 'torture' gay conscripts

CT 17/6/97

A PSYCHIATRIST has been warned he is to be named today as the chief perpetrator of the painful abuse of some young men forced to serve in the SADF.

THE former SA Defence Force tried to "reprogramme" gay recruits through the use of electric shock treatment and Playboy centrefolds, according to a submission due to be presented at the Truth and Reconciliation Commission's health hearing today.

The submission, by the Health and Human Rights Project (HHRP), claims military psychiatrist Dr Aubrey Levine was a key figure in the torture of gays in the military.

Levine is believed to be one of 24 doctors warned by the Truth Commission that they may be named as perpetrators of human rights abuses at this week's hear-

ing. The submission by the HHRP, a joint initiative of the department of community health at the University of Cape Town and Cape Town's trauma centre for victims of violence and torture, relies on anecdotal reports for its information.

The HHRP said Levine was first named in a December 1986/January 1987 edition of the War Resister, a publication of the Committee of SA War Resisters.

According to the publication, Levine was chief psychiatrist at the military hospital at Voortrekkerhoogte near Pretoria in the 1970s,

when he practiced aversion therapy with gay conscripts who were admitted to the psychiatric ward.

Electrodes were strapped to the arms of the subject and wires leading from these were in turn connected to a machine. The subject was then shown a picture of a naked man and encouraged to fantasise freely.

While he was doing this, he would be subjected to electric shocks.

"The increase in the current would cause the muscles of the forearm to contract — an extremely painful sensation," according to the article.

When the subject was screaming with pain, the current would be switched off and a colour Playboy centrefold substituted for the previous pictures.

(252)
"The psychiatrist (in most cases Levine) would then verbally describe the woman portrayed in glowing and positive terms. Sessions were held twice daily for three to four days."

The HHRP said although the subjects had to give their consent, most were between the age of 18 and 24 and were still coming to terms with their sexuality.

It said the practice of aversion therapy appeared to have stopped when Levine left the hospital.

The HHRP submission did not say whether Levine had borrowed his ideas from satirist Tom Sharpe, who wrote a book in the 1970s about white policemen in the fictional SA town of Piemburg being subjected to shock therapy while looking at pictures of naked black women. — Sapa

24 doctors warned of exposure

CT 17/6/97

(252)

At least 24 doctors have been warned by the Truth and Reconciliation Commission that they may be implicated in gross human rights abuses, at its two-day hearing this week on the medical profession's role during apartheid years.

Some of the doctors are named in a 200-page submission by the Health and Human Rights Project (HHRP) a joint initiative of the department of community health at the University of Cape Town and Cape Town's trauma centre for victims of violence and torture.

The submission, one of 20 to be presented by various health organisations at the hearing, is a damning indictment of the medical profession's failure to protest against apartheid policies and to provide adequate treatment and protection to patients under their care.

It contradicts the notion that doctors who colluded with security forces in human rights abuses were just "a few bad apples".

"To date the TRC has heard only 28 cases of alleged complicity of medical doctors with the security forces in human rights violations," Dr Leshe London of UCT medical school, and a member of HHRP, told a media briefing yesterday.

"We believe that this is only the tip of the iceberg, and that there are many hundreds of cases of violations that need to be investigated."

"We want to make very clear our position that these abuses were not isolated events involving a few 'bad apples'. Rather, these abuses

arose in a context in which the entire fabric of the health sector was permeated by apartheid."

Health professionals had covered up the torture of detainees by security forces, placed security interests above those of patients, issued false medical certificates, failed to record evidence of torture and provided inadequate medical treatment to detainees.

"In almost all the cases, it appears that perpetrators have not been held accountable, and some are still enjoying the benefits of state service," London said.

The HHRP submission also looks at the role of military health personnel in the torture of prisoners, the development of a biological warfare programme and in practices such as aversion therapy for gay soldiers.

It also recommends a focus on district surgeons.

London also called on the Truth Commission to investigate Dr Lothar Neethling, former chief state forensic scientist in Pretoria, and in particular any evidence linking him to the poisoning of political activists.

London singled out the Medical Association of SA (Masa) and the SA Medical and Dental Council (SAMDC) for particular criticism — Masa for its "anti-human rights culture" and the SAMDC for failure to act on human rights abuses in which medical professionals were involved.

The health hearing gets under way in Cape Town today — Sapa



Handwritten mark or signature.

SA army psychiatrist 'shocked, tortured gay men'

Linda Ensor

CAPE TOWN — A military psychiatrist whose task was to "reprogramme" gay men in the army was one of 35 medical doctors who would be identified during truth commission hearings today and tomorrow on the role of health professionals in human rights violations.

A commission spokesman confirmed that 35 medical doctors had been given advance notice they would be named by Dr Aubrey Levine and possibly others "were involved in what can only in reality be called the torture of gay men in the military," said a 200-page submission by the Health and Human Rights Project released to the media. The submission contained countless examples of the participation of

district surgeons and doctors in the torture of detainees. It said that in the 1970s homosexuals in the army would be given shock treatment while being shown pictures of naked men. When the pain became unbearable and the treatment stopped, they would be shown pictures of naked women whom Dr Levine would describe in "glowing and positive terms". "This process would be repeated three times in a single session. Sessions were held twice a day for three to four days. The practice of aversion therapy among gay conscripts appeared to stop when Levine left the hospital."

Levine was accused also of devising brutal methods for the treatment of drug users. The project stressed, however, that he and other doctors could not be dismissed simply as a few "bad apples" in an otherwise reputable system. Rather, they were part of an entire health system which devalued human rights.

By limiting itself to examining gross human rights violations, and excluding the context within which they occurred, the commission neglected the countless serious injustices which the system made possible under scientific medical discourse.

Scientific medical discourse under apartheid justified the use of racist terminology, while professional organisations failed to distance themselves from the system. "These organisations covered up abuses, acted as apologists for government policies and actively vilified colleagues who were prepared to stand up for justice and human rights," said the submission.

"We have little doubt that if the organisation now, professional organisations and individual health workers were suffering from a "selective amnesia" about past human rights abuses. Many of the abusers still held health sector senior positions.

The project, sponsored jointly by the Trauma Centre for Victims of Violence and Torture and the University of Cape Town Medical School's department of community health, called on the commission to hold an independent investigation into the complexity of health professionals in human rights violations.

Investigations should be conducted into the role of district surgeons in facilitating and covering up the torture of detainees, the role of forensic pathologists in covering up deaths in police custody as a result of police action, and the role of military doctors in treating civilians and captured guerrillas during the Namibian and Angolan wars. The submission quoted the example of Amos Dyanh, a Worcester civil leader tortured by the security police in 1985. Dyanh accused a local doctor of advising police to smear his nose with porridge so that if he died during interrogation, they could say his death was caused by the aspiration of food during an epileptic seizure.

The project recommended that a legally binding code of conduct for health professionals should be adopted which prohibited participation in human rights violations.

BD 17/6/97

(252)

Top medic apologises to Biko's widow

JOHN YELD
ON THE TRUTH COMMISSION

Black Consciousness leader Steve Biko's widow was today promised that the ethical and human rights issues neglected during her husband's detention and death would be addressed so that similar incidents could never happen again.

The promise was made by Peter Folb, head of the department of pharmacology at the University of Cape Town's Medical School, during a Truth Commission hearing into the role of the professional health sector in human rights abuses between March 1960 and May 1994.

The two-day hearing is the first in a series of professional or institutional hear-

ings by the commission that will include the media and possibly the judiciary and the business sector.

Ntsiki Biko and Biko's brother Khaya were in the audience of more than 100, who included several distinguished overseas visitors, at today's hearing at the commission's Adderley Street offices. Turning to the Bikos, Professor Folb said he wanted to apologise for the death of Biko "on behalf of every doctor who feels this way".

"This is an auspicious opportunity to do so and I want to give an undertaking that the ethical and human issues that were neglected in Biko's case will continue to be addressed and corrected to the best of our ability."

Professor Folb said there had to be a "thorough-going correction" of all those

AR 17/16/197 (262)

elements in the professional health sector that might allow such an incident to happen again. Truth commissioner Denzil Potgieter asked whether the professional associations had been involved in a "cover-up" of Mr Biko's death.

Professor Folb said four members of the medical association, including the then president (now dead) had told the executive committee of UCT's medical faculty that the association had been threatened by the Department of Health "should it in any way cast doubt publicly on the competence of the district surgeons or the department".

Mr Potgieter. "So undue influence played a part?" Professor Folb. "My colleagues and I found that extraordinary, as did the Supreme Court later."

Health sector's role under apartheid to be examined

Star 17/6/97 (252)

Call for independent probe, as submissions to TRC seen as tip of iceberg

**OWN CORRESPONDENT
AND SAPA**
Cape Town

At least 35 doctors and other professional health workers have been officially notified that they will be implicated in, or mentioned in connection with, alleged gross human-rights abuses during testimony to the Truth and Reconciliation Commission.

This figure replaced the earlier figure of 24, commission spokesman Christelle Terblanche said yesterday.

The commission is holding a two-day hearing at its head office in Adderley Street today and tomorrow into the role of the health sector from March 1960 to May 1994, and will hear from at least 20 individuals and professional organisations.

Among those who will be named are Lothar Neethling, the former head of the police forensic labo-



Sued ... Max du Preez.

ratory in Pretoria, who was accused by former Vlakplaas commander and convicted murderer Dirk Coetzee of having supplied him with poison.

Neethling sued the newspaper Vrye Weekblad, edited by Max du Preez, for damages when it reported Coetzee's allegations. The Supreme Court ruled in favour of the newspaper, but Neethling won when he took the case to the Appeal Court.

Another doctor who will

be named is Aubrey Levine, a military psychiatrist who is alleged to have used aversion therapy and other techniques described as "torture" in trying to "re-programme" gay conscripts.

Both Neethling and Levine are named in a submission by the Health and Human Rights Project.

Spokesman Leslie London of the University of Cape Town's medical school said the role of medical doctors and other health professionals in human-rights abuses during the apartheid era should be the subject of an independent investigation.

"To date, the Truth Commission has heard only about 40 cases of alleged complicity of medical doctors with the security forces in human-rights violations. We believe this is only the tip of the iceberg."

The project believed that abuses were not committed by only a handful of "bad



Accuser... Dirk Coetzee.

apples", Dr London said.

The project is calling on the Truth Commission to re-open investigations into among, other issues:

- The role of district surgeons in facilitating the torture of detainees and refusing adequate health care to political prisoners.

- The role of forensic pathologists in covering up deaths in custody.

- The role of military doctors in treating civilians and captured guerrillas during the bush wars.

M E W

AKU 18/6/97 (1502)

Masa says it 'stands disgraced' for allowing discriminatory treatment

The Medical Association of South Africa (Masa) has admitted at the Truth Commission health sector hearing that it allowed black and white people to be treated differently and that it stands disgraced for this "human rights violation".

It also acknowledged that its previous leadership probably had close links with the Government and the security police through the Broederbond, although it did not have proof of this

In its 100-page submission today, described as "forthright, frank and open", Masa said it had not escaped deeply ingrained dis-

criminatory attitudes that had permeated South African society and that it had caused harm, "albeit unintentionally"

"Masa was so wrapped up in its white male, elitist, educated, professional world, as individuals and as a collective organisation, and as part of a broader society from which doctors were drawn, that it failed to see the need to treat all people as equal human beings"

Masa is a voluntary association of about 14 000 doctors. Its submission was presented by Bernard Mandell, chairman of Masa's federal council, and council member Edoo Barker

Masa was strongly criticised in the 1980s for supporting the initial decision of the statutory South African Medical and Dental Council not to discipline doctors involved in treating Black Consciousness leader Steve Biko, who died in detention in 1977

Dr Barker said about two-thirds of Masa members had not even qualified at the time of Mr Biko's death, but the association had now taken responsibility for exploring its "darker history"

"The present membership recognises that the history which it has inherited requires full exploration and disclosure," he told the commission

Nurses told to say nothing as patients 'tortured' by police

University neurologist 'shamed' into testifying

YMD



ON THE TRUTH COMMISSION

Hospital authorities ordered nursing staff at Livingstone Hospital in Port Elizabeth not to obstruct the security branch and police and not to talk, even if they saw patients being tortured, nurse Betty Neanywa has told the Truth Commission's health sector hearing.

Testifying on the first day of the two-day hearing at the commission's Adderley Street offices yesterday, Ms Neanywa said some injured patients had been arrested by police and taken from the casualty section before being treated.

Wiping tears from her eyes, she said her own brother had been brought in with a bullet wound. She had seen some of the doctors who worked at the hospital with guns sitting in police Casspurs.

"One arrived in his boots at work, and he was so rude to the patients, I confronted him, saying 'Was it you I saw in the Casspir?', but he didn't answer me," she said.

Retired University of Cape Town neurologist Frances Ames, one of six



LEON MULLER

Painful past: Ntsiki Biko listens to testimony at the TRC's health sector hearings yesterday

doctors who obtained a Supreme Court order forcing the former South African Medical and Dental Council to take disciplinary action against the doctors called to examine Black Consciousness leader Steve Biko in police custody before his death, said she had been "pushed and shamed into this action" by her students.

She had been surprised by the attitude of some of her senior colleagues, who had argued that it was unethical to "crucify our colleagues".

She believed Mr Biko's death had damaged the South African medical profession "profoundly", and added, "My main memory was of the extent of submissiveness to the authorities."

A black woman detainee who was severely mentally stressed after being kept for many months in solitary confinement in the mid 1980s was diagnosed by a senior district surgeon as suffering from "Bantu hysteria", Truth Commissioner Wendy Orr said.

And general practitioner Dr Ahmed Moosa said at yesterday's hearing that "non-white" doctors at the University of Cape Town's medical school in the late 1960s and early 1960s were not allowed to work in white maternity wards during obstetrics training, and could do post mortems only on black bodies.

He also said that if there were any interesting pathologies in white bod-

ies that the medical students needed to be shown, these corpses were first viscerated (cut up) by morgue staff and only the affected organs shown the students, so that they did not view the entire corpses.

The death of Steve Biko in 1977 was used by police as a form of mental torture, consultant psychiatrist Solly Ratemane said. Like Mr Biko, he had been a medical student at Natal University, then the only black medical faculty in South Africa.

Also like Mr Biko, he had been arrested and held in solitary confinement.

"A colonel came into my very small cell and said 'Do you know your leader is dead? We killed him'. His death was used to torture us in detention," Dr Ratemane said.

"Some will find it difficult to forgive the University of Natal for its complicity in driving away Africans," he added.

State pathologists repeatedly did not give impartial and honest forensic evidence under oath - in the "Guguletu Seven", the Ashley Kriel and other inquests, expert forensic scientist David Klatzow told the hearing.

"They may have acted stupidly, ignorantly or dishonestly, but underlying all these failings there is a dark, evil and malignant thread that runs through all the evidence.

"The state line was always favoured to the exclusion of all other evidence," said Dr Klatzow.

Reconsider TRC's role, says Buthelezi

(252)
CAPE TOWN — Parliament should reconsider the role of the Truth and Reconciliation Commission as the body had become a "receptacle of prejudice and lies" and no longer served the purpose of national reconciliation, Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi said yesterday. **BD 18/6/97**

The unity of all South Africans could not be based on the "type of distortion of our past" which was now emerging from the commission, Buthelezi said in an address to the parliamentary Press Gallery Association. Reconciliation and peace also required that justice be done and that "we, as a country, must finally find the courage to face up to the need of investigating the systematic assassination, for instance, of over 400 IFP leaders and office-bearers killed in their homes, workplaces and taxi ranks".

□ The Swedish government had donated R4,5m to the commission to speed up the handling of amnesty applications, the commission said yesterday. This would pay for additional members of the amnesty committee, extended employment for 12 investigators and other employment costs. — Sapa

Asbestos mining companies suppressed findings — claim

(252) (217) (218) DO 18/6/97
CAPE TOWN — Asbestos mining companies suppressed the findings of scientific research in the 1960s which documented the health risks of exposure to asbestos, the Truth and Reconciliation Commission was told in Cape Town yesterday.

This claim was made in a submission by the health and human rights project, a joint initiative by the department of community health at the University of Cape Town and Cape Town's trauma centre for victims of violence and torture.

The project said the role of the private sector in health-related human rights abuses had not been properly probed

"Two industries which stand out in terms of complicity with repression, either overtly or covertly, are the pharmaceutical industry and the mining industry," it said

According to the submission, asbestos has been extensively mined in the Northern Cape, particularly near the towns of Prieska, Kuruman, Penge and Koegas.

From the 1960s the pneumoconiosis research unit of the

Council for Scientific and Industrial Research began investigating the relationship between asbestos and cancer.

The findings by Prof Ian Webster, published in a confidential report on April 30 1962, showed that the risk of contracting asbestosis in the asbestos mining areas was extremely high.

Webster said he had found "an alarmingly high" number of cases of mesothelioma of the pleura among people who lived or had lived in the northwestern Cape area. There was evidence, he said, that this condition was associated with exposure to asbestos dust.

Webster recommended that the industry, together with the mining department, immediately take steps to assess existing dust control measures and disposal methods.

According to the project, the mining companies refused to sanction the publication of Webster's finding unless the cancer hazard was "passed off" as tuberculosis.

"The report was therefore not published or made avail-

able outside the unit, except to the groups that had been directly involved in the survey."

This was not the first or last time that scientific findings unfavourable to asbestos companies were suppressed.

In the 1970s the national research institute for occupational diseases of the Medical Research Council of SA carried out research on the risks of asbestos-related diseases in workers in asbestos mines.

The findings showed that the risk of death through asbestosis or cancer of the lungs and stomach was increased in blue asbestos mining areas.

The findings were due to have been presented at a conference of the New York Academy of Sciences in June 1978.

However, the two researchers were instructed to withdraw their paper.

"There is evidence that this instruction . . . was issued at the request of the asbestos mining companies in the Northern Cape who wanted to prevent evidence being disclosed."

The study was reworked and released in 1986. — Sapa.

Medical body admits 'apathy' over Biko

Dianna Games

CAPE TOWN — The SA Medical and Dental Council, which came under fire for its passive role in the death of activist Steve Biko in detention in 1977, admitted yesterday it could have done more in treating detainees.

In its submission to the truth commission's special hearings into the medical profession, former president Dr Len Becker said the council had set up an ad hoc committee only in 1985 to investigate legislation relating to the medical treatment of detainees.

Explaining the council's "apathy" at the time of the Biko case, when it decided not to act against doctors implicated in the activist's death, he said

BD 18/6/97
there had been no state involvement. The situation could probably be attributed to the "milieu in which it (the council) functioned"

A proper council inquiry instituted after a court action brought by six doctors to force the council's hand took place in 1985. At this Dr Ivor Lang was found guilty of improper conduct and Dr Benjamin Tucker guilty of disgraceful conduct. Asked how such contrary findings were possible by the same body, Becker said the second finding was made by a new council, as members served only five-year terms and new evidence had been presented.

Becker said an application for amnesty by a doctor accused of violating human rights would serve only as a

(252)
mitigating factor in the event of a disciplinary inquiry by the council.

Earlier, Frances Ames, one of the doctors who brought the Biko court application, said that before the Biko case she had abdicated responsibility for ethics to the council. However, the council had done nothing to correct the impression that district surgeons felt their main responsibility was not to their patients but to the security police. She felt action had to be taken to correct the ambiguity of their role.

Bringing the court action also showed her that it seemed more important for the medical profession to close ranks than to protect patients.

See Page 4

Health department 'cowed doctors'

BD 18/6/97

(252)

Dianna Games

CAPE TOWN — Members of the Medical Association of SA (Masa) had privately conceded that threats by the national health department influenced their decision not to investigate doctors implicated in the death in detention of activist Steven Biko, Prof Peter Folb, of Cape Town University's pharmacology department, said yesterday.

Folb was giving evidence at the truth commission hearings into the health sector. He said he had heard from several Masa members that they were told not to cast doubt publicly on the competence of district surgeons and the health service.

The hearing into Biko's death was delayed briefly yesterday to allow for the arrival of his brother Khaya and wife Ntsiki. They were warmly greeted by commission chairman Desmond Tutu and commissioner Wendy Orr.

Folb apologised to the Biko family for the behaviour of his colleagues and gave an undertaking that the ethical and human issues the case had raised would be addressed and corrected.

He said the incident had provided a unique insight into what happened to people in detention during the apartheid era. "The story was repeated many times," he said.

His submission chronicled the events surrounding Biko's death in a Pretoria prison cell in September 1977, six hours after he had been driven more than 1 000km from prison in Port Elizabeth handcuffed and naked in the back of a truck. He had suffered brain damage and head trauma, among other things.

Folb said that before his transfer to Pretoria, Biko had been examined repeatedly by district surgeons while he lay on a mat manacled to a metal grill. He said the medical certificate written at the request of the security police and the medical record had been falsified.

Biko had undergone tests at a hospital which found evidence of severe brain injury, but the doctors approved Biko's return to his police cell, where he stayed until his collapse on September 11.

The doctors accepted also the police's refusal to transfer him to hospital

and the decision to transfer him to Pretoria, Folb said.

An inquest magistrate found there was a prima facie case of professional misconduct and/or negligence against Ivor Lang and Benjamin Tucker, the district surgeons who examined Biko. The finding was referred to the SA Medical and Dental Council, which took more than two years to respond.

A preliminary probe found the doctors had no case to answer, a decision ratified by the full council. Masa endorsed the council decision and said those who rejected the findings were politically motivated, Folb said.

Finally, in 1985, after a group of doctors had brought a court action, the council launched a proper inquiry into the Biko death. The doctors were found guilty of disgraceful conduct. Tucker was suspended for three months, which was then suspended for two years. Lang was cautioned and reprimanded.

Folb said that at the time, the medical profession had been hostile to attempts to expose discrimination, and had accepted government and police

interference.

He asked if the Biko case was an "aberration in an otherwise proud if not excellent profession — or was it inevitable? The truth was that it was the latter."

Sapa reports that community doctor Mark Bletcher described to the commission how health workers at some Cape Town hospitals colluded with police at the height of apartheid.

Bletcher, who worked at the community clinic in Crossroads at the height of state repression in the mid-1980s, described how victims of police shootings often refused to be referred to state hospitals for fear of being arrested. In one hospital, which he did not name, health workers allowed an entire ward of patients to be placed under police guard.

At another unnamed hospital, names of patients referred for treatment for gunshot wounds were underlined in red in the hospital admissions book. Staff at the hospital had said this was to inform police, Bletcher said. In another hospital, he was aware of two patients who were arrested by police.

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Swedish govt donates R4,5m to help TRC

(252)

THE Swedish government has donated R4,5 million to the Truth and Reconciliation Commission to speed up the handling of amnesty applications, the commission said yesterday.

This would enable the commission to pay for additional members of the Amnesty Committee and for extended employment for 12 investigators, it said.

It would also cover employment costs for staff to co-ordinate the provision of support for victims and their families.

In addition, the donation would cover the costs of exhumations and the use of expert consultants.

The agreement between the commission and the Swedish International Development Co-operation Agency was due to be signed late yesterday.

Sapa

ACT 18/6/97

NEWS

Health risks 'suppressed' by mining firms

CT 18/6/97

(211) (252)

ASBESTOS mining companies suppressed the findings of scientific research in the 1960s on the health risks of exposure to asbestos, the Truth and Reconciliation Commission was told yesterday.

This claim was made in a submission by the Health and Human Rights Project, a joint initiative by the department of community health, UCT and Cape Town's trauma centre for victims of violence and torture.

The submission said that in a confidential report in 1962 Professor Ian Webster of the Council for Scientific

and Industrial Research said he had found "an alarmingly high" number of cases of mesothelioma of the pleura among people who lived or had lived in the north-western Cape area where asbestos was extensively mined. There was evidence that this condition was associated with exposure to asbestos dust, he said.

He recommended that steps be taken to assess existing dust control measures and disposal methods.

According to the HHRP, the mining companies refused to sanction the publication of Webster's findings

unless the cancer hazard was "passed off" as tuberculosis.

"The report was therefore not made available outside the unit."

The HHRP said that in the 1970s research by the Medical Research Council of South Africa showed that the risk of death through asbestosis or cancer of the lungs and stomach was increased in blue asbestos mining areas. The findings were to have been presented in a paper to a scientific conference in New York, but the two researchers were instructed to withdraw their paper. — Sapa

'Diabetic refused treatment, left to die in detention'

(292) (83)

MS ELDA BANI, a 58-year-old diabetic from the Eastern Cape, was refused medical treatment while in detention and left unconscious until her death in 1987, the Truth and Reconciliation Commission heard yesterday.

The Health and Human Rights Project (HHRP) told the commission of 100 cases of detainees ill-treated by doctors, nurses and psychologists while detained in terms of apartheid security legislation.

Two of Bani's cellmates, Eastern Cape MPL Ms Ivy Gcina and housewife Mrs Sheila Lizani, described how they tried in vain to get medical treatment and a special diabetic diet for Bani.

They spoke of Bani's humiliation as she failed to control her bowel movements and how on one occasion she returned to their cell with a bloodied prison gown and bruised back.

Prison officials said she had been taken to hospital, but Gcina said she believed Bani was taken to a single cell and beaten by police instead. When Bani went into a coma she was removed by prison officials. Her cellmates were later informed of her death, Gcina said.

HHRP submission co-ordinator Ms Nomfunda Walaza said the case was remarkable "because of the absolute intransigence of the authorities to provide adequate medical care for Elda Bani and because her death was probably preventable"

The HHRP suggested that the TRC propose that statutory councils adopt new, enforceable codes of conduct for health professionals working in prisons and police stations "so that we can ensure that Elda Bani's death in detention was not in vain". — Sapa

CT 18/6/97

Senior doctor apologises to Biko's family

Star 18/6/97 (252)

TRC told that two major organisations
ignored professional and medical ethics

By JANINE SIMON
Cape Town

A leading doctor has apologised before the Truth and Reconciliation Commission to the Biko family on behalf of all doctors for the role of the medical profession during apartheid.

Professor Peter Folb, head of the University of Cape Town's department of pharmacology, told Steve Biko's widow Ntsiki and brother Khaya that he apologised "on behalf of myself and all doctors who would associate with my apology".

Speaking on the first day of the TRC's health-sector hearings, Folb said the record was clear that the doctors responsible for Biko's medical care, and the subsequent response of the South African Medical and Dental Council (SAMDC) and the Medical Association of South Africa (Masa), held scant regard for doctors' clinical independence and fundamental role in alleviating distress.

Biko was detained on August 19 1977 and died on September 12, lying on a mat on a stone floor in Pretoria Central prison after been driven naked in the back of a Land Rover from Port Elizabeth.

Folb said Masa had disregarded prima facie evidence of falsification of a medical certificate and callous medical treatment, and attributed public opposition to its decision

as politically motivated

Doctors were summoned nine times in three days to examine Biko. On one occasion, Dr Ivor Lang examined Biko while he was lying on a mat and manacled to a metal grille in a security police office.

He found evidence of lacerations on the upper lip, bruises, swollen feet and hands, and slurred speech. Yet when asked for a medical certificate, Lang wrote: "I have found no evidence of any abnormality or pathology on the patient."

Folb said the SAMDC twice refused to consider issues pertaining to the medical treatment, and reversed its position only on instruction of the Supreme Court in 1985.

In its submission yesterday the SAMDC said "honest processes" and not undue pressures were behind its contradictory actions.

As the statutory body charged with controlling standards and promoting the health of the population, it first took no action at all against the doctors implicated in Biko's death, and then after the 1985 hearing handed down the most severe sentence possible.

Former SAMDC president Dr Len Bekker said its inability to respond to complaints of deaths of detainees since Biko's death was a "weakness". It had concentrated on training and registration, but should have been more aware, he said.

FIGURES MISLEADING — OMAR

Rate of conviction 1 in 20 — study

A SAIRR study has revealed shocking figures which suggest that crime does pay, but the Justice Ministry does not agree, reports DAN SIMON.

CRIMINALS have a one in 20 chance of being convicted, a study by the SA Institute of Race Relations (SAIRR) has found.

According to Mr Martin Schönteich, a parliamentary analyst for the SAIRR, the criminal conviction rate fell from 1 611 per 100 000 of the population in 1972 to 1 145 in 1992 — a drop of 29% in 20 years.

Crime over the same period increased substantially from 1 46 reported for every 100 000 in 1975 to 5 747 in 1993 — an increase of 35%.

Any unscrupulous person who made a simple cost benefit analysis would conclude that crime pays because the odds of a perpetrator being convicted were one to 20,

Schönteich said. The number of convictions

has decreased also in absolute terms, from 393 390 in 1984/85 to below 319 000 in 1993/94. The fact that statistics have not been kept since, leads one to fear that things have got even worse, he said. Careful analysis of the criminal justice system revealed that the reasons for the shocking crime figures were "quite banal".

Said Schönteich "They have to do with lack of resources, manpower and training for the two core elements of the criminal justice system, the police and prosecution services."

Primarily because of pay, poor working conditions and morale, 520 prosecutors resigned between January 1994 and December 1996, out of a total staff complement of 1 620 prosecutors nation-

wide."

Schönteich said that as vacancies had to be filled by graduates without any prosecuting experience, the average experience level of prosecutors was extremely low.

"In 1966, for the area falling under the attorney-general of the Transvaal, the average experience of district court prosecutors was 1,6 years and of regional prosecutors 2,2 years."

"Prosecutors generally do not have access to the most basic information technology. There are many prosecutors' offices without faxes or computers. There is no electronic database for fingerprints of convicted criminals."

Minister of Justice Mr Dulah Omar's spokesman Mr Paul Setsetse said Schönteich's figures were both misleading and incorrect.

Omar had asked the director-general to investigate before the department commented, Setsetse said.

25 19/6/97

(252)



PICTURE: BENNY GOOL

TRANSFORMATION: Cape attorney-general Frank Kahn surrounded by new recruits in his department who have been selected to represent the future.

Trainee prosecutors on the fast track

ROGER FRIEDMAN

WHEREAS the world "prosecutor" used to conjure up images of conservative white males, a breath of fresh air blew through the corridors of Cape Attorney-General Frank Kahn's office last night, which he referred to as "the future".

"I have never felt better about the future of the Department of Justice than during the week in which we were interviewing you," Kahn told 20 candidate prosecutors — gathered for a cocktail party in his boardroom — who have been selected for the country's first prosecutor fast-track programme.

Ten of the 20 will be taken under the wing of the senior prosecutor for Wynberg, with the other half being deployed in Cape Town.

East London, Port Elizabeth, Durban, Pietermaritzburg, Johannesburg, Pretoria, Bloemfontein and Klerksdorp have also been bolstered by 10 candidates each.

It is estimated the candidates will be ready to assume the mantle of permanent prosecutors within a year, instead of the three to four years of experience usually required for selection to such posts. They joined the department earlier this month.

With transformation the name of the department's game, Kahn explained to the gathering that the fast-track programme "invested in the future, (it is) a programme trying to create experience and ability in a hurry".

But this was no window-dressing exercise, tokenism or an affirmative action programme for the sake of political correctness. Kahn has recognised that, in

order to turn around the culture of violence, the community needs to trust the system of justice, a trust that was betrayed by the previous, racist government.

"Our whole justice system can only be effective if we mirror the community we serve... (this office) cannot be effective without it," he said. Instead of hero-worshipping the neighbourhood gangsters, children should aspire to emulate the prosecutors in their midst.

The 20 Western Cape candidates were chosen from 100 applicants. Kahn said he sat through their interviews enthralled and impressed. Most of the applicants had helped to put themselves through university, with professions as diverse as an opera singer, kick-boxer and dressmaker in their ranks.

Fourteen of the 20 are black women.

CT 19/6/97

(#) (252)

'MEDICAL BODY 'CLOSED RANKS'

State health policy 'devastating'

THE MEDICAL Association of South Africa yesterday admitted complicity in opposing apartheid, and closing ranks to protect doctors implicated in human rights abuses.

THE Department of Health yesterday admitted to the Truth and Reconciliation Commission that its policies under apartheid had devastating effects on millions of South Africans, causing ill-health and unnecessary deaths.

Presenting the department's submission to the TRC in Cape Town, deputy director-general Dr Harm Pretorius acknowledged it had put political considerations above health care.

"This had devastating effects on the health of millions of South Africans. The department acted as part of the apartheid apparatus, leading to much ill-health and unnecessary deaths," he said.

"In terms of human suffering this department has much to answer for, and much to apologise for."

The admission followed two days of testimony from health organisations on the role of medical professionals during the apartheid years.

In its submission, the Medical Association of South Africa (Masa) yesterday admitted complacency in opposing apartheid, and closing ranks to protect doctors implicated in human rights abuses.

Masa conceded it had practised racial discrimination by allowing black and white patients to be treated differently — a human rights violation for which it stood disgraced.

Presenting Masa's submission to the TRC's health hearings in Cape Town, Dr Edoo Barker said Masa members had been perpetrators and victims of human rights abuses.

"Masa was always part of the white establishment and it shared the political beliefs of that establishment," Barker, a federal council member, said.

"It also shared in the misdeeds and the sins for which the white establishment was responsible. Masa was quite comfortable with the status quo. It reacted to any criticism as the work of enemies of the

state."

According to Masa's written submission, the association only took a policy decision on the desegregation of doctors' waiting rooms in 1994 — five years after the government scrapped the Separate Amenities Act.

Masa said segregated waiting rooms existed before apartheid became institutionalised.

"They were not forced upon the medical profession by the imposition of legislation, but racial discrimination was always inherent within society and within the medical profession."

The submission said the association chose professional self-interest over and above support for human rights development.

"In trying to remain 'neutral' we recognise that Masa actually served to maintain the status quo. Masa did not adequately pursue human rights violations within the medico-political context."

Masa also closed ranks to protect doctors accused of human rights violations. After the death of black consciousness leader Steve Biko in detention in 1977, Masa refused to investigate the two doctors implicated in his death.

In its submission, the Department of Health said its allocation of resources was skewed, with four times more spent on

health care for whites (R451 per person) than for blacks (R115 per person).

"The allocation of inequitable resources is probably the single most important factor for which the department can be held responsible for past illness and death."

However, the department also failed to launch its own investigation into the health care of detainees in spite of numerous reports of torture in the media and in court cases.

Its failure to provide proper protection to patients at state hospitals was also highlighted. It said people wounded in clashes with the police were often arrested when they went to state hospitals for treatment.

"As a result of this many people refused to go to the health services for treatment. It is highly likely that a number of people may well have died, rather than risking going to hospitals and possible detention."

By not acting against such practices, the department had effectively collaborated with the police services, thereby allowing political objectives to override medical ethics.

It also admitted manipulating data on health care for propaganda reasons and to promote SA's standing in the world. — Sapa



Doctors accused of 'silent complicity' in torture

Blind eye turned to detainees' problems

Medical negligence by district surgeons was an important contributing factor in some of the 70-plus deaths of political detainees from 1960 to 1990, the American Association for the Advancement of Science told the Truth Commission.

The association, the world's largest federation of medical, scientific and engineering organisations, with 143 000 members, did two studies on South African health and human rights issues in 1987 and 1989.

It said yesterday that although district surgeons had not generally actively taken part in torture, they had rarely spoken out against inhumane practices.

"The district surgeons' silent complicity worsened the problems toward which they turned blind eyes. By overlooking the medical evidence of torture, district surgeons contributed to the myth that the government cared for those in prison," the association said.

"Fundamentally, district surgeons failed to honour the responsibilities that they had to their detainee patients under international and South African law.

"Despite the fact that these physicians were in a unique position to help their patients, they failed to do so."

■ The Truth Commission should ask the Department of Justice for records of amounts paid to psychiatrists who bragged to their colleagues how much they had earned while testifying for the State in trials against political detainees.

This was a suggestion by Michael Simpson, a psychiatry professor and human rights specialist, during the commission's health sector hearings yesterday.

Professor Simpson said the amounts these psychiatrists had boasted about were



ON THE TRUTH COMMISSION



What cost a doctor's soul? Michael Simpson

"astonishing" "Like Faust, I would like to know what the cost of a doctor's soul is," he said.

He also told the hearing that he had

been the medical director at a nonracial Durban hospice when a senior government health official had phoned and accused him of allowing blacks to live in a whites-only area.

"This will have to stop," the official had told him. Professor Simpson said he had choked back his anger and asked, because it was a hospice, what law specified where black people were forbidden to die.

"There was a long silence and a rustling of papers and he eventually grumpily admitted he couldn't think of any."

■ Nurses in rural KwaZulu Natal complained that general practitioners in the area re-used hypodermic needles "until they were blunt", Dr Janet Giddy told the hearing.

Dr Giddy, who worked with her husband at the 250-bed Bethesda hospital in Maputaland, northern KwaZulu Natal, said she had personally not confirmed this allegation.

She said their hospital had been "on the receiving end of a tragic procession of sick people" who returned from the cities, especially TB (tuberculosis) sufferers laid off from the mines because of their illness.

"They were paid out a lump sum and 'discarded' by the employment agency TEBA because they were unfit to work and ended up in our TB wards at Bethesda with their lives barely intact.

"We were aware that the official policy of the mine medical system was changed in order to allow workers with TB to get treatment and continue working on the mines.

"But our experience was that this practice still continued into the 1990s, especially with those who were severely affected by the disease, and has worsened with the increase of the HIV epidemic."

TRC calls for urgent talks with Nats over De Klerk row

STAFF REPORTER

The Truth and Reconciliation Commission today called for an urgent meeting with the National Party to resolve the difficulties between them after the appearance of party leader F W de Klerk

The meeting was proposed in a letter from the commission to the NP today after a full meeting of the TRC in Cape Town.

The NP has said it will ask the Supreme Court to enforce TRC impartiality.

The NP has demanded that chairman Desmond Tutu apologise unconditionally

for his comments after Mr De Klerk's appearance at a TRC hearing and that deputy chairman Alex Boraine resign.

"The view of the full commission is that the demands cannot be acceded to, and the NP's lawyers were informed of this in this morning's letter," Archbishop Tutu said.

We know hunter cop, says TRC

JOHN YELD
ON THE TRUTH COMMISSION

Truth Commission investigators have identified one of three policemen photographed posing "hunter-style" with a black man's body, and believe they also know the name of a second.

The photograph, which shows one of the men standing with his foot on the victim's body, was published in the Cape Argus last week and was described by commission chairman Desmond Tutu as "appalling".

The man identified was also linked by investigators to the killing of the Guguletu Seven.

But the commission may not call the policemen involved to account for their action, partly because of time constraints on its investigators, most of whose contracts expire next month.

Opening the commission's health sector hearing this week, Archbishop Tutu likened the photograph to those he had seen at the Holocaust memorial museum

(252)

ARG 19/6/97



Flashback: last week's pictures in the Cape Argus in the Dachau extermination camp, depicting handcuffed Jewish victims hanging from trees

A spokeswoman for the investigators said the policeman positively identified had also been involved in the deaths of the so-called Guguletu Seven, who were shot dead by police in 1986, although he was not

TRC identifies 'hunter' cop

From page 1

one of those subpoenaed to testify at the commission's "special event" hearing. She was not sure whether he was still a serving member of the police.

Investigators had also been told the name of a second policeman in the photograph, she said.

If correctly identified, this second man is a former member of the police's notorious counter-insurgency unit Koevoet, which served in Namibia.

He publicly acknowledged killing at least 28 people during service in South Africa as a policeman.

"We don't have a fixed position on this particular photograph yet, and it will still be discussed," the spokeswoman for the investigators said.

The photograph is believed to have been taken by one of the policemen's colleagues at the time of the destruction of the KTC shack settlement in 1986.

To page 3

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Blind eye turned to detainees' problems

APR 19/6/97 (252) (17)

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ON THE TRUTH COMMISSION



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"But our experience was that this practice still continued into the 1990s, especially with those who were severely affected by the disease, and has worsened with the increase of the HIV epidemic."

TRC calls for urgent talks with Nats over De Klerk row

STAFF REPORTER

The Truth and Reconciliation Commission today called for an urgent meeting with the National Party to resolve the difficulties between them after the appearance of party leader F W de Klerk.

The meeting was proposed in a letter from the commission to the NP today after a full meeting of the TRC in Cape Town

The NP has said it will ask the Supreme Court to enforce TRC impartiality.

The NP has demanded that chairman Desmond Tutu apologise unconditionally

for his comments after Mr De Klerk's appearance at a TRC hearing and that deputy chairman Alex Boraine reign.

"The view of the full commission is that the demands cannot be acceded to, and the NP's lawyers were informed of this in this morning's letter," Archbishop Tutu said.

Health department apologises for complicity with security apparatus

Dianna Games

CAPE TOWN — The department of health yesterday delivered a damning submission to the truth commission in which it admitted serious ethical and professional violations and complicity with the security apparatus of the past government.

The submission, delivered by deputy director-general Dr Harm Pretorius, who also served under the old dispensation, was read to the special truth commission sitting on the health sector.

"In terms of human suffering, this department has much to answer for and much to apologise for. Rather than allowing health to be the driving force of its policies, it concentrated most of its efforts and resources on only part of the population in line with the political objectives of the apartheid state.

- It apologised
- To those discriminated against by the lack of health services which resulted from inequitable, racist allocations of resources,
- To detainees and their families who received inadequate health care or who were abused by department officials,
- To activists who were not protected by the department and who might have died or been permanently injured as a result,
- To patients "violated" in psychiatric institutions, who suffered as a result of emergency services operated on racial lines,
- To practitioners who were discriminated against in terms of training, salaries, facilities and for acting against apartheid, and
- For not supporting those who objected to torture and other abuses of medical ethics, and for not taking actions to ensure such abuses did not occur.

It said as the employer of district surgeons, the department had to bear some responsibility for the fact that many of them became accomplices to actions leading to unnecessary illness and even death.

While it had no evidence that doctors were actively involved in torture, they did not expose torture when it was clear it had occurred. The department had also not ensured that detainees' health was protected.

In some cases, the health department, by not acting, had collaborated with police against the interests of patients and had allowed the professional integrity of its employees to be violated.

It also admitted to using its "so called family planning services" to control the size of the black population and to manipulating information to give distorted or inaccurate perceptions of health care in SA.

SA (Masa) said its complicity during the apartheid era had allowed blacks and whites to be treated differently, a form of human rights violation for which it stood disgraced.

In its submission to the truth commission, hearing Masa said it had also tended to close ranks to protect other doctors, choosing professional self-interest over support for human rights development.

"In trying to remain neutral we recognise that Masa actually served to maintain the status quo," it said.

While we have not yet heard of doctors who actually committed acts of killing, torture or abduction, we have long heard of doctors who helped the perpetrators get away with it by remaining silent or even assisting them," it said.

The organisation printed an unconditional apology for its past wrongs in the SA

Medical Journal in 1995.

However, commissioner Dr Wendy Orr said it was too easy to issue a general apology. "Masa should make individual and personal apologies to those who it vilified and failed to support during those years," she said.

Masa federal council member Dr Edoo Barker told the commission "Masa was always without doubt a part of the white establishment in SA, and for the most part shared with world view and political beliefs of that establishment. Inescapably it also shared the misdeeds and sins for which the white establishment was responsible."

Barker said Steve Biko's death and the circumstances surrounding it, "in which members of the medical profession were so clearly and shockingly involved" rocked its complacency about human rights and forced it to begin examining the ethics and

morality of its actions.

Masa had supported the initial findings of the SA Medical and Dental Council that no action be taken against the doctors implicated in Biko's death, mounting a nationwide propaganda campaign to ensure the membership followed its lead in the matter.

Masa had also failed to take a stand against segregated medical facilities, its submission said, and it only ruled in 1994 that it was unethical to segregate waiting rooms on a racial basis. Says reports that this was five years after the Separate Amenities Act was scrapped.

Meanwhile, the now defunct SA Nursing Council — the regulatory body for the nursing profession under apartheid — apologised unreservedly for undermining human rights. "From time to time," saying it had been influenced by the then government's apartheid policies.

CAPE TOWN — Potchefstroom University students recently reported a psychology lecturer to university authorities for teaching that whites and blacks were intellectually equal, the truth commission was told yesterday.

The lecturer, who has since left the university, was told by his superiors "to take it easy", the University of the Western Cape's Prof Lionel Nicholas told the commission's health hearings in Cape Town. He did not elaborate.

Nicholas was reaching to messages of support from several universities, including Potchefstroom

Lecturer reported for race equality lesson

and the Free State, for the truth commission's sectoral hearings. He said he wished universities would put "their money where their mouths are".

Earlier he referred to discredited studies by psychologists and psychiatrists which claimed blacks were intellectually inferior to whites.

The commission was also told that mainstream psychologists did little to advance a human rights culture in SA and at one stage actively

BD 19/6/99

on behalf of the Psychological Society of SA.

The three academics attempted to persuade Verwoerd to extend the powers of the Group Areas Act to ban meetings where blacks and whites would confer together.

When Pasa admitted its first black member in 1962, Verwoerd, who had been its "main honorary" member, resigned.

A new psychology association, the Psychological Institute of the

Republic of SA, was then established with La Grange as its first president.

In 1983 the two associations merged and in 1994 became the Psychological Society of SA, which represented SA psychologists.

Nicholas said so-called progressive psychologists did, as much as their right-wing colleagues to exclude blacks. Those psychologists who tried to advance human rights were always a minority and were subject to censure. Many psychologists, such as ML Fick and JA van Rensburg, propagated ideas of black intellectual inferiority. — Sapa

Abuses, atrocities widespread

Human rights watchdog report details incidents in 151 countries

Star 19/6/97 (252)

STAFF REPORTER

Amnesty International has vowed to continue to put pressure on governments worldwide to end human rights abuses with the release today of its annual report detailing gross abuses in 151 countries last year

Amnesty's South African chairman Noel van Breda said: "The new 'World Order' has brought about human rights abuses on a massive scale and governments are becoming increasingly reluctant to deal with these abuses"

The report points out atrocities committed by governments and armed opposition groups - including unlawful killings, torture, disappearances and the jailing of prisoners of conscience

During 1996, Amnesty International documented thousands of extrajudicial executions or possible executions in at least 69 countries

and thousands of judicial executions in at least 41 countries

Several thousand prisoners of conscience or possible prisoners of conscience were in detention in at least 94 countries

The organisation recorded cases of torture or ill treatment in 124 countries and disappearances in at least 39 countries, although the group believes the true figures are much higher

Referring to South Africa, Amnesty said at least 500 people were killed as a result of political violence in KwaZulu Natal.

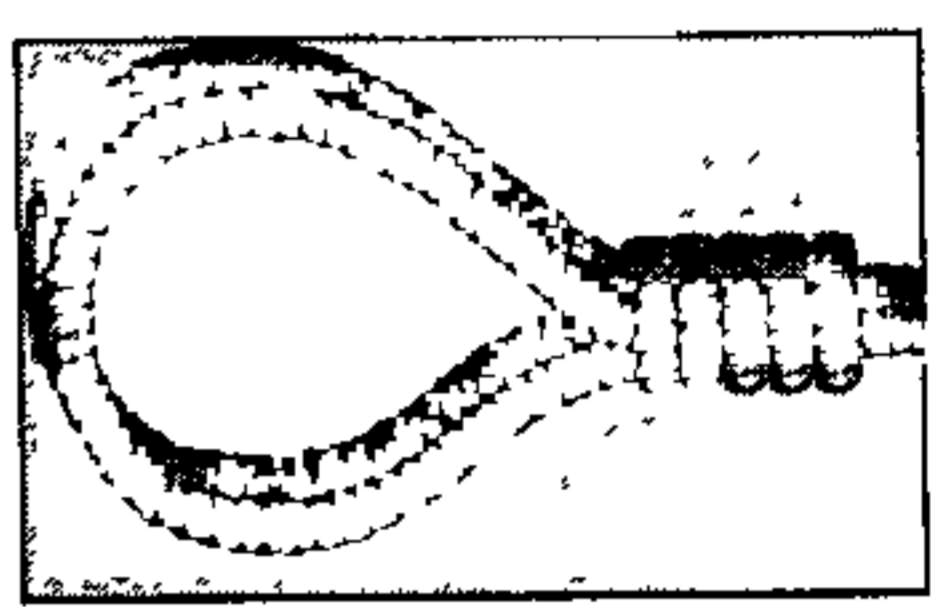
The report further indicates that during 1996 the refugees and internally displaced persons crisis worsened in Africa, particularly in the Great Lakes region. Mass killings, torture, political unrest and violent conflicts forced hundreds of thousands of people to leave their homes in search of safety.

Amnesty believes it was not just

the governments responsible for violations in their own countries that caused the massive refugee flow in 1996. Other governments directly or indirectly fuelled the conflicts in places such as Central Africa, Afghanistan and Colombia, which caused human rights abuses and then failed to take responsibility for the tragic situation

Examples in the report include China which continues to silence those who challenge its repressive laws; President Suharto of Indonesia introducing the most severe crackdown on pro-democracy activists for 20 years; German police continuing to ill-treat foreigners, and the United States executing 45 people and placing more than 3 150 under death sentence.

Van Breda said, in the light of the findings, the SA chapter would continue to pressure governments to act in accordance with recognised human rights standards



With rare exceptions, countries are reinstating the ultimate penalty, writes Mercedes Sayagues

Africa clamours for the noose

The death penalty is in operation in 31 African countries. Death can be by hanging, firing squad, beheading, or stoning followed by public crucifixion.

According to a recent report by the human rights group Amnesty International (AI), capital punishment has been abolished by eight countries in Africa: Angola, Cape Verde, Guinea Bissau, Mauritius, Mozambique, Namibia, Sao Tomé and Principe and South Africa. Gambia and Comoros are reported to have reinstated the death penalty recently, while Rwanda and Guinea are considering resuming it.

AI says that Zambia secretly executed eight prisoners in February this year, the first executions since 1989. In Botswana, an attempt to declare capital punishment unconstitutional was launched in 1995, but failed. The same year, Botswana carried out its first execution in eight years. In South Africa, the rising crime rate

has fuelled public calls to reinstate the death penalty. However, President Nelson Mandela has spoken firmly against reversing the 1995 decision.

In Mozambique last month there were also calls to reinstate the death penalty. One senior official from the ruling Frelimo party, along with a number of journalists and newspaper columnists, have been clamouring for executions as a crime deterrent. Capital punishment was abolished in Mozambique in 1990.

In Malawi, in 1994, the newly elected government of Bakili Muluzi commuted all death sentences into life imprisonment and no executions have been reported since. Last week, cabinet approved holding a national referendum on the matter.

Tanzania's courts are showing a distaste for the death penalty. A High Court ruled in 1991 that hanging as a punishment was degrading—although later the Tanzanian Court of Appeal agreed that

while hanging was cruel and degrading, it was not unconstitutional.

No one was executed in Zimbabwe between 1987 and 1992. The government reduced the scope of the death penalty to murder, treason and certain military crimes in 1992 and subsequently advertised for a hangman internationally.

Unexpectedly, one Friday evening in 1993, national TV announced four hangings scheduled for the following Tuesday. The Catholic Commission for Peace and Justice (CCPJ) managed to stop the hangings by a court order arguing that the length of time spent on death row by the prisoners constituted inhumane treatment which is unconstitutional.

This landmark case was quoted in courts as far afield as Jamaica. But the following year the Zimbabwean government amended the constitution to say that the death penalty does not violate human rights. At the time there were 114 prisoners on death row. About 60 have since had their death sentences commuted. Executions resumed in November 1995 after seven years. About a dozen

criminals have been executed since, the latest being three convicted murderers hanged last week.

Director of the CCPJ, Mike Auret, says that in private many top party officials speak against the death penalty. "But our government does not like to be advised or challenged by civil society so capital punishment remains."

A former death row inmate amnestied in Zimbabwe says: "Warders often told us detailed and lurid stories about the hanging; they continuously taunt and torment you about it. If a mentally disturbed prisoner soiled his cell, the warders refused for days to have it cleaned up."

Auret describes death row prisoners. They are manacled at night and naked from 3pm until the next morning to prevent them from committing suicide with their clothes. They are allowed one hour of exercise a day and read only tattered Bibles. The cell light is on continuously. "The entire thing is totally inhu-

mane," he says. "The same amnestied prisoners described frequent beatings with batons. But worse was the mental anguish caused by warders who rattled the cell doors at 4 am, usually the time set for the removal of prisoners for hangings. "We would hear the wailing and screams of those about to be hanged and the sound of the gallows themselves," he recalled.

Many prisoners live on death row for years, leading to severe psychiatric problems. As a condemned Tanzanian man said: "I am tired of a slow death."

"Right from the moment he enters the condemned cell, the prisoner is enmeshed in a dehumanising environment of near hopelessness. The condemned prisoner is the living dead," said the Zimbabwean Supreme Court in 1993. Auret favours life imprisonment with community service and work. The murderer's property and profit generated by work in prison should go to compensate survivors of the murdered person—Star Foreign Service/Africa Information Afrique.

AWA 19/6/97 (252) ~~252~~

Health Dept accepts blame for deaths

Cape Town – The Department of Health admitted to the Truth and Reconciliation Commission yesterday that its policies under apartheid had had devastating effects on millions of South Africans, causing ill health and many unnecessary deaths.

Presenting the department's submission to the TRC in Cape Town, deputy director-general Dr Harm Pretorius acknowledged it had put political considerations above health care.

"This had devastating effects on the health of millions ... the department acted as part of the apartheid apparatus, leading to much ill health and unnecessary deaths," he said.

"In terms of human suffering this department has much to answer for and much to apologise for."

The department's admission followed two days of testimony from health organisations on the role of medical professionals during the apartheid years.

The TRC heard that doctors accepted interference in their professional duties by the state and turned a blind eye to the torture and ill treatment

of political detainees.

In its submission, the Medical Association of South Africa admitted complacency in opposing apartheid, and closing ranks to protect doctors implicated in human-rights abuses.

After the death of Black Consciousness leader Steve Biko in detention in 1977, Masa refused to investigate the two doctors implicated in his death.

Presenting Masa's submission, Dr Edoo Barker described the Biko case as a sad and disgraceful episode in Masa's history.

He said, the Masa federal council at the time believed that if the Biko doctors were found guilty it would create a furore for the government and the security police. As a result it had to be damped down as effectively as possible.

Masa acknowledged it had practised racial discrimination by allowing black and white patients to be treated differently, a human rights violation for which it stood disgraced.

In its submission, the Department of Health said its allocation of resources was

skewed, with four times more spent on health care for whites (R451 per person) than on blacks (R115 per person).

"The allocation of inequitable resources is probably the single most important factor for which the department can be held responsible for past illness and death."

The department said people wounded in clashes with the police were often arrested when they went to state hospitals for treatment.

"As a result of this many people refused to go to the health services for treatment ... it is highly likely that a number of people may well have died, rather than risking going to hospitals and possible detention."

By not acting against such practices, the department had effectively collaborated with the police, thereby allowing political objectives to override medical ethics.

The department also admitted manipulating data on health care for propaganda reasons and to promote South Africa's standing in the world.

– Sapa.

Star 19/6/97

(252)

Cry Freedom 'propaganda' targeted

(252)

CT 20/6/97

THE internationally feted Richard Attenborough film about the life of slain black consciousness leader Steve Biko, *Cry Freedom*, is described as "ANC propaganda" in the amnesty application of former Minister of Law and Order Mr Adriaan Vlok.

Vlok admits playing a role in the delivery of bomb threats to cinemas planning to show the film; and placing "small explosive devices" outside the Metro II cinema in West Street, Durban, and the Highbate shopping centre in Roodepoort.

He names former police commissioner General Johan Van der Merwe as his co-conspirator, and says he agrees with Van der Merwe's statement on the incident in 1988, when the film was ready for release in South Africa, the country was in a state of serious unrest.

"We judged that screening a movie such as *Cry Freedom*, with its very clear message of racial hatred, could have sparked further unrest, unhappiness and loss of life," he says.

Vlok says he agrees with Van Der Merwe's statement on the Cosatu House bombing of May 7, 1987.

"The context for the bombing was a major strike in the transport industry, which, according to Vlok, was conducted with a hidden agenda to paralyse the economy."

In addition, both men were apparently convinced that Cosatu House was used as a base by terrorists.

"We did everything we could to act against the people concerned without success."

"Unknown people continued with the planning of their devil's work in the safety of Cosatu House."

It was eventually decided to bomb the place and deny revolutionary forces the use of it.

Vlok and Van der Merwe both felt strongly that lives should not be taken in the process, and Vlok says he is pleased that that was the final result.

We only wanted to prevent crime, save lives — Vlok

CT 20/6/97

□ Turn from Page 1

"When I think of the thousands of innocent citizens of our country who during my term of office as responsible minister were injured and murdered in the most gruesome and brutal manner possible (terrorist bombs and necklaces), then I get the overwhelming feeling that I let them down.

"That I fell short in my attempts to protect them, that I did not do enough.

"I feel very bad about this, and to all the people who suffered in this way I want to express my sincere regrets.

"Which brings me to the perpetrators of all these thousands of atrocities against innocent people. Most of them have now disappeared — they are faceless — while many of them today occupy important positions.

"My view was that no political violence against innocent people in South Africa was necessary or justifiable. My pleading mostly fell on deaf ears and too often I had to stand, powerless, and watch the lives of innocent people — like pawns, like the proverbial cannon-fodder — being destroyed brutally to satisfy the interests of power-hungry politicians and quasi-politicians.

"I must now forgive these people for their actions — I don't find it easy.

"What makes it harder is the fact that today it is me and a few thousand police officials, who tried to save the lives of thousands of innocent people under the most difficult circumstances, who are being labelled scoundrels.

"We only wanted to perform our primary task, preventing crime. We did not put burning tyres around peoples necks — we had no choice but to fight it.

"Although it is not easy for me — and for some time I have wrestled with and prayed over the matter — I am prepared to hereby extend an unqualified hand of forgiveness and reconciliation to all fellow-South Africans who over the years prevented me from successfully carrying out my duty to the people of our country.

"As far as I am concerned I would now like to conclude that chapter — finally close that book."

Health department 'told lies for apartheid'

JOHN YELD
ON THE TRUTH COMMISSION

The apartheid government's department of health often deliberately gave distorted or inaccurate descriptions of health and health care in South Africa for propaganda purposes.

This was one of the points in a remarkably frank submission by the department to the Truth Commission's health sector hearing. Such propaganda was done to promote South Africa's standing in the world, it said.

The submission, read by deputy director-general Harm Pretorius, also stated that the American Psychiatric Association (APA) had visited South Africa in 1978 to investigate alleged human rights violations in mental institutions.

The association had reported finding an unduly high death rate, sub-standard care, some abusive practices, grossly inadequate professional staff, possible exploitation of patient labour, and that the policy of apartheid had "destructive implications for the mental health of black South Africans".

It also found treatment for black

psychiatric patients substantially worse than for whites.

At the time, the department responded that the APA report was "completely unacceptable, prejudiced, biased and a masterpiece of malicious misrepresentation of facts".

But its TRC submission said the American association had, "in all likelihood", been correct "The APA deserves an apology from the department for, in essence, calling them liars".

The department also admitted it had taken insufficient action to ensure the health of political detainees

While it had no evidence that district surgeons - its employees - had actively taken part in torture, these doctors had not exposed torture by police.

"The fact that so few district surgeons failed to act decisively and report on physical and psychological abuse and torture is an indictment of those district surgeons who, given current knowledge of the extent of torture, must have seen victims of such torture."

But the department added it was also to blame, as it should have conducted its own investigations into the many complaints about the health care of detainees.

detainees (2/12)

The department acknowledged condoning abuses in hospitals, such as patients - including those sent for psychiatric care - being handcuffed to their beds.

"The now premier of the North West, Popo Molefe, is reported to have been kept in leg-irons while being treated for a lung infection.

"Though such practices were prejudicial to the recovery of the patient, the department .. in effect condoned this behaviour."

The department said that, in terms of human suffering, it had "much to answer for and much to apologise for".

KwaZulu violence puts SA high on Amnesty guilt list

ASHLEY SMITH
STAFF REPORTER

Africa's shocking human rights record for 1996, highlighted in Amnesty International's global report on human rights abuses, sees South Africa, Burundi, Rwanda and the former Zaire all featuring high on the list of "guilty countries".

The report, released earlier this week, shows an inextricable link between the refugee crisis facing Africa and the mounting phenomena of human rights violations on the continent.

It examines human rights abuses in 151 countries and territories through-

out the world, detailing atrocities committed by governments and armed opposition groups, including unlawful killings, torture, "disappearances" and jailing of political prisoners

In Africa, the refugee crisis facing the continent became more acute last year with millions fleeing gross human rights violations in their own countries, only to be caught up in spiralling conflicts elsewhere

South Africa, in spite of its relative political stability, featured among the African countries guilty of human rights abuses last year. At least 500 people were killed in political violence in KwaZulu Natal, soon before the Truth Commission began its hearings into past human rights abuses

ARL 20/6/97

(252)

Agreement over special amnesty process for KwaZulu-Natal still eludes

Farouk Chothia

JULIENDE — The African National Congress (ANC) and Inkatha Freedom Party (IFP) failed to reach agreement on a special amnesty process for KwaZulu-Natal at a six-hour meeting yesterday, but progress seemed to have been made in elevating IFP leader Mangosuthu Buthelezi to the position of second deputy president.

IFP national chairman Ben Ngubane said at a news briefing that the thorniest issue under discussion was finding "an ef-

fective vehicle" to achieve reconciliation in KwaZulu-Natal. One vehicle was the truth commission, but "it has not worked properly in the province", Ngubane said.

The ANC had proposed that a special board made up of people mutually acceptable to the two parties dealt with amnesty applications at closed hearings, but stressed that the board should fall under the truth commission.

Sources close to the talks said the IFP had cited this as "a big problem". It had said it did not want to be drawn into the truth

commission by the back door.

One source said a subcommittee was to be formed to break the deadlock, while another said Deputy President Thabo Mbeki and Buthelezi would be asked to find a solution. It was understood that the impasse would be discussed at an IFP national council meeting starting tomorrow.

The parties said in a joint statement that ANC national chairman Jacob Zuma and IFP national council member Celani Mletwa would hold talks with Mbeki and Buthelezi next Thursday to discuss issues that

could be dealt with only at national level.

Ngubane said that among the issues which would "certainly be on the agenda" was the role of Buthelezi in stabilising SA's democracy and the holding of joint peace rallies. The IFP wanted to find "common purpose and joint action" with the ANC without the identity of either party being diminished, he said.

"It's going to be a long road to real peace and brotherhood, but we are confident we will walk the road and find the real miracle," Ngubane said.

The parties also agreed to revive a subcommittee given the task last year of drafting a code of conduct to set the rules for free political activity in the province.

Ngubane seemingly downplayed differences on provincial powers, saying the issue had not been discussed. There were provisions for the constitution to be reviewed annually, amendments could be made then.

Buthelezi said earlier this week that the IFP wanted to table amendments to the constitution granting the provinces greater powers over policing and the public service.

IFP, ANC

(252) BD 20/6/97

Agreement over special amnesty process for KwaZulu-Natal still eludes IFP, ANC

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(262) 80 20/6/97

KZN deal gets warlords off free

Ann Eveleth

A PROPOSAL that political killers in KwaZulu-Natal receive special amnesty could be unconstitutional, say legal experts. This is a blow for the peace package currently being negotiated for the province.

The provincial amnesty deal would give warlords and foot soldiers from KwaZulu-Natal special opportunities to be indemnified against political crimes. It is the most controversial element of the peace plan.

Human Rights Commission (HRC) member Karthy Govender this week said the two parties would have to "provide sufficient justification if they want to move away from the principles of an open and democratic society underpinning the constitution".

He was referring to provisions in a peace plan tabled by the African National Congress that suggest a national deadline of May 1994, beyond which acts of political violence may not be pardoned by the Truth and Reconciliation Commission, be extended in KwaZulu Natal. The proposal also suggests that

amnesty hearings for those who have fought in the province's ongoing civil conflict can be heard behind closed doors, contrary to current truth commission regulations.

Govender warned that the selective application of a special amnesty to KwaZulu-Natal could open the door to constitutional challenges from "people who are serving sentences for crimes committed during the extension period in other provinces or from people who have not benefited from *in camera* hearings".

He said the plan had "serious" implications for the rule of law: "If you keep drawing a line in the sand and then extending it, you are sending the message that it will continue to be extended and this aggravates problems we are already experiencing in terms of lawlessness. The parties would have to demonstrate exactly why the criminal justice system cannot bring the killers to book and that the truth commission is not working".

The HRC could also decide to challenge the final provisions if it felt they were unconstitutional, added Govender.

MTG 20-28

16/97

(252)

Members of the truth commission also claim the proposals threaten to undermine the organisation's efforts. Although, the ANC's proposal suggests a role for the commission in nominating members to a special provincial amnesty board, commission representative John Allen said he could not comment as it had not yet been approached.

Other commission members, however, have privately expressed frustration with the proposal, and insist they will have nothing to do with it. One member argued the commission would, in fact, no longer exist by the time legislation to create a special amnesty process for the province was passed by Parliament.

The truth commission is expected to table its final report later this year and close its doors by March 1998.

There are also signs the proposal — mooted as the first step toward a potential Zanu-Zapu-style relationship between the ANC and IFP — could achieve this unity at the cost of weakening the ANC's tripartite alliance in the province.

While leaders of the South African Communist Party (SACP) and Congress of South African Trade Unions

(Cosatu) were this week measured in their criticism of the plan, both admitted the proposals had sown confusion among grassroots supporters.

Cosatu's provincial chair, John Zikhali, said the union federation hoped to complete consultations on the issue by the end of the month: "In principle we support peace, but as for the cost we are willing to pay for it, we are still grappling with that," he said.

The SACP's Jeremy Cronin said his party was "a little bit concerned" about the amnesty proposal as well as a plan to offer IFP leader Mangosuthu Buthelezi a "very senior" national government post, but KwaZulu-Natal SACP member Nkosinathi Gumede was more forthright. "We cannot have these packages at the expense of the people who have been killed. The ANC has criticised us for going public with our criticism, but we say the ANC tabled their package in public without consulting us," he said.

"The alliance is under stress. The ANC is just seeing the alliance as their sub-structure," added Gumede. ANC and IFP provincial leaders



Jacob's ladder: Zuma plans peace

met this week to continue fleshing out the plan — the brain-child of ANC national and provincial chair Jacob Zuma — which aims to end the province's years of bloody political violence.

Zuma and IFP KwaZulu-Natal Premier Ben Ngunane led this week's talks, but the process has the backing of both parties' national leaders. President Nelson Mandela and Deputy President Thabo Mbeki gave their nod to the plan at a meeting at Mandela's Qunu home late last year.

Horrors of mental camps before truth body

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Gustav Thiel M+G 20-26/6/97

AN international human rights commission has accused the Truth and Reconciliation Commission of ignoring the role played by psychiatrists and psychologists in abusing human rights under the apartheid regime

The Citizens Commission on Human Rights said it had uncovered a "determined effort by the apartheid regime to use the field of mental health to further its aims"

The truth commission was unable to hear the group's evidence, blaming time constraints. It did, however, hear the Psychological Society of South Africa, which admitted its profession had done little to fight for human rights, and in some cases had fought against blacks joining its ranks

The Citizens Commission on Human Rights was established in 1969 as an independent reform body to investigate and expose psychiatric violence of human rights

In 1970, it discovered disused mining camps which had been turned into psychiatric facilities, where up to 10 000 blacks were incarcerated, the majority involuntarily. They were used for unpaid labour

A four-year investigation culminated in a report entitled "Let the whistle blow — an exposé of concealed camps for mental patients in South Africa", which chronicled the appalling conditions to which black mental patients were subjected

In 1991, *The Weekly Mail*, defying the Mental Health Amendment Act, ran an exposé on conditions at two of these facilities, Millsite and Randfontein. They were owned by a firm of accountants known as Smith Mitchell & Company

Connie Mulder, minister of information in the PW Botha government, was a director of several of the mental institutions

Among the key abuses uncovered at the facilities were the excessive drugging of patients, and patients being admitted for not carrying pass books, arguing in public or not being able to speak the local language

Discharge from the facilities was complex, according to the citizens commission, because it required authorisation from a state psychiatrist. As Smith Mitchell was guaranteed a 90% occupancy rate by the government, this required a steady flow of patients. The company was paid on a per capita basis, but the psychiatrists who treated the patients were provided by the Department of Health

The citizens commission alleges electroshock treatment — firing up to 460V of electricity through the brain — was administered to patients without anaesthetic

Doctor Shocke: 'I only gave them drugs'

Gustav Thiel speaks to the psychiatrist accused of electrocuting gay soldiers

THE psychiatrist accused this week of using electric shocks to reprogramme gay soldiers has bitten back, claiming he only used drugs and a "battery-operated device" on his patients.

Speaking from Canada, Dr Aubrey Levine said he flashed pornographic pictures in front of the soldiers as part of the treatment, but his five-year efforts were not restricted to "treating the military's homosexuals."

Levine, who left South Africa six years ago to escape the growing crime wave, said the treatment — reciprocal inhibition aversion therapy — was "widely accepted at the time. It was always done with the full permission of the patients, even if they were under severe stress."

He said he has no regrets because he did nothing wrong, and the allegations against him were "preposterous".

Levine (57) was fingered earlier this week ahead of the Truth and Reconciliation Commission hearings into abuses by the medical profession. According to the Health and Human Rights Project, he electrocuted gay soldiers when he was chief psychiatrist at the Voortrekkerhoogte military hospital near Pretoria during the 1970s.

The project, a joint effort of the department of community health at the University of Cape Town and Cape Town's trauma centre for victims of violence and torture, claimed Levine would then show the patients *Playboy* centrefolds and "verbally describe the women portrayed in glowing and positive terms."

Such treatment has previously been more closely associated with Tom Sharpe's book *Indecent Exposure*, a parody on old South Africa in which police were given electric shock therapy to deter them from sexual relations with black women.

In the book, the patients emerged from the shock treatment as homosexuals, Levine said he had never met

Sharpe; the author was unavailable for comment.

Levine worked at the hospital from 1969 to 1974, and held the rank of colonel. He said the therapy he used was given across the board to about 450 patients, only nine of them gay. The patients were given adoniphine, a pain-reducing substance, with the help of a "battery-operated device" widely used by physiotherapists.

'We had slides of both naked men and women which were shown to patients under treatment'

"We never used electrical shocks, although the therapy could have led to anxiety attacks and nausea," he said.

Patients were shown pictures of naked men and women and encouraged to fantasize about them, but Levine denied *Playboy* centrefolds were involved. The normal fare came from *Scope* magazine, he said.

MTG 20-26/6/97 (252)

"We had a collection of slides of both naked men and women which were shown to patients under treatment, but they received therapy at the time, not electrical shocks. It was one of the few behavioral treatments available, and although it isn't used anymore, it was certainly widely accepted at the time."

Levine said the Health and Human Rights Project's submission was "based on distortions of the facts, and raises doubts about not only my credibility but also about several other doctors who worked with me."

The project — which based its submission on an article in the December 1986 issue of the *War Register*, a publication of the Committee of South African War Registers — also accused Levine of devising brutal methods to treat military drug users.

Levine spent some time at Mapungubwe on the South African border between Zimbabwe and Botswana, at a special infantry unit established in 1971 to treat drug abusers. Levine said although it was known

that more than a third of recruits used drugs, he never devised any method for them, "except for accepted methods of therapy. When I left the camp in 1974, the situation there deteriorated and drug abuse in the camp became rife."

"At my time the camp had a very sound reputation, but unfortunately this was not true after I left and there certainly were soldiers who were abused after I left."

Though the accusations were released on Monday, Levine was not actually named in the formal truth commission hearings because he only received a letter about the accusations against him last week.

"I think the work of the commission is very important because the truth must somehow come out," he said. "I would also like to face the person who gave out the information about what allegedly happened at the hospital."

"The Health and Human Rights Project calls me a bad apple, but it does not name any other people specifically. In addition, I have already, it seems, been tried and convicted by the media."

(252)
FM 20/6/97
**Omar's court
clamps unveiled**

Strict new bail and sentencing plans would bypass constitutional pitfalls

Justice Minister Dullah Omar has reached consensus with all political parties on tough new bail proposals which they believe will not contravene the Constitution

But he has abandoned the idea of amending the Constitution to allow for a blanket prohibition on bail, and has shrunk from making minimum sentences mandatory for serious crimes

MPs say the draft Bill could prohibit the granting of bail in cases of premeditated murder, aggravated robbery and sexual assault and crimes involving firearms, unless the accused can show that exceptional circumstances justify their release

FINANCIAL MAIL JUNE 20 1997

38 **CURRENT AFFAIRS**

The same will apply to a broader group of serious crimes for repeat offenders

A new factor could ensure courts give greater consideration to public safety when deciding on bail and make it impossible to get bail at night or on weekends

Since bail laws were tightened in 1995 the number of awaiting trial prisoners has increased by over 50% from 23 750 to 36 386, but it is still far easier to get bail in SA than in many other democracies

ANC MP Willie Hofmeyr cites the case of serial rapist Grant Chapman, who absconded while on bail after his appeal against a 14-year sentence failed

Under the bail proposals, a first offender convicted of murder with a dangerous weapon, aggravated robbery and rape, car hijacking, serious drug offences and the smuggling of firearms or explosives may not receive less than 15 years' imprisonment, a second offender not less than 20 years and a third or subsequent offender not less than 25 years

Courts retain discretion to impose lighter than minimum sentences provided the reasons are entered in court records. The law will lapse after two years unless extended by the President after parliamentary review

Both Bills are intended to send a strong anticrime message, but include flexibility

clauses to avoid contravening the constitutional protection of an accused (who is innocent until proven guilty) or to unduly fetter judicial discretion

The NP and DP say these flexibility clauses will make it easier for them to support the legislation

The DP's Douglas Gibson wants even tougher minimum sentences - 20-year minimum jail terms for armed car hijackers and automatic life sentences for repeat offenders of serious crimes, including murder and rape. He insists life sentences should carry no option of early release

Transvaal Law Society president Piet Langenhoven warns that minimum sentencing proposals could swamp the criminal justice system. Legal aid demand could double, increasing pressure on the courts as trials become more protracted and com-



Dullah Omar won opposition accord on new bail conditions

plicated, he says

The Legal Aid Board has asked for a R250m increase next year on its R150m budget. But most political parties want to limit increases in legal aid, because they say more is spent on defending accused than victims of crime

SA Institute of Race Relations spokesman Martin Schonteich argues against tightening bail laws. "The real loophole is that the courts are often unaware of previous convictions or charges against the accused"

It takes more than a month to check an accused's previous record

and fingerprints because of the lack of computerisation and co-ordination within the criminal justice departments. Though R200m has been set aside for a computer-based fingerprinting system, it will not be fully operational before the end of the century

Claire Bisseker

Vlok admits to being 'Minister of Bombing' in amnesty application. ⁽²⁵²⁾

By ROGER FRIEDMAN
AND BENNY GOOL

Cape Town - There was no such portfolio, but according to the amnesty application of former Law and Order Minister Adriaan Vlok, he doubled, on occasion, as then-State President PW Botha's unofficial "Minister of Bombing Affairs"

Vlok's amnesty application - in respect of the Khotso House (1983) and Cosatu House (1987) bombings, defaming ANC supporter Shirley Gunn by implicating her in the Khotso House bombing, and a range of things, including bombings to dissuade South Africans from viewing the movie, *Cry Freedom* - has yet to be heard by the Truth and Reconciliation Commission. But *The Star* has obtained a copy of the application.

In it Vlok submits that all such actions were undertaken with a political objective and never aimed to kill. He says that Botha ordered the destruction of Khotso House, while he and national police commissioner General Johan van der Merwe jointly planned the Cosatu House and *Cry Freedom* projects.

He accepts full responsibility for the "incorrectly worded" press statement he issued in

January 1989 alleging Gunn was a suspected Khotso House bomber.

Noting that "legal advice available to me suggests that I have already been granted indemnity" for the Khotso House and Cosatu House bombings, Vlok says he is making renewed application in order to "clear up any misunderstandings and to achieve certainty"

"It is noteworthy that, it is expected of apartheid's supporters - no, demanded - that they ask for forgiveness, while this was not expected at all from the supporters of Marxism/communism apartheid did result in pain and suffering - I don't deny it - but Marxism/communism's record was more terrible," he says in the foreword to his explanation for the Khotso House bombing.

Botha, personally, and the government, generally, made various attempts to dissuade the South African Council of Churches from actively supporting the ANC/SACP alliance, to no avail. During a discussion on the subject with Botha in June 1988, "Mr Botha remarked that Khotso House was no longer 'a house of peace, but had become a house of evil'.

"At the end of our discussion Mr Botha's order was that

we could no longer tolerate the present state of affairs. It was totally unacceptable that the ANC used Khotso House as a safe house where terrorists could hide unhindered, receive explosives, hand-grenades, limpet mines, weapons, money and information to be used against innocent people, without something being done.

"In this respect his order to me and the SAP was clear. 'I have done everything possible to persuade them to come to their senses - but nothing helps. We cannot act against the people. You must render that building of theirs unusable - deprive them of the further use thereof. Whatever you do, you must make very sure that nobody is killed'.

"Because I was convinced of the fact that Khotso House was indeed used by terrorists as a safe base inside South Africa, I agreed with his orders. I conveyed the decision to General van der Merwe.

"After the building was so seriously damaged in an explosion on August 31 1988, to the extent that it was indeed rendered unusable without anyone being killed or even seriously injured, Mr Botha congratulated me and the SAP on the success of the operation," says Vlok.

Star 20/6/97

TRC breaks the silence of the doctors' club

Alan 20/6/97

(252)

The failure of many district surgeons to give adequate treatment to prisoners in their care was frequently raised at the hearings for the medical profession this week



By JAMIE SIMON
Medical Correspondent

The taboos about the medical fraternity in South Africa - that closed club of doctors who stand up for each other rather than their patients - were at the heart of the Truth and Reconciliation Commission hearings in Cape Town this week.

The need to break the silence and mystique around a revered profession was clear from the 50 or more submissions for the special health sector hearings. Commissioner Wendy Orr said at the start:

The agenda was packed and ambitious in its efforts to give voice to those who had suffered or witnessed the complexity of health professionals and institutions in human rights abuses to the regulatory bodies that failed to stop the abuses and to the activists who had fought against them.

Steve Bilko's death in detention as chairman Archbishop Desmond Tutu pointed out was an example of collaboration between the healers and the security forces. The death of the Black Consciousness leader was a focus of the hearings. Professor Peter Folds head of the Medicines Control Council offered a formal apology to Bilko's widow Ntsiki and brother Khava. The Medical Association of South Africa admitted it had closed

ranks around colleagues. It said it had been part of the white establishment, driven by a "total onslaught" mentality and was led by members of the South African Medical and Dental Council (SAMDC) and the Health Department, suspected to be, and, in some cases, known to be Broederbond members. The SAMDC admitted it had been too mired in registration and training to act, and waited for a formal complaint to be laid before tackling ethical questions.

The council had functioned in a society in which virtually every member of the politically-dominant group was steeped in doctrine and propaganda, its submission said. Nombunda Wabaza of the Trauma Centre for Victims of Violence and Torture said although Bilko's death was a critical moment in South Africa's history it failed to prevent further deaths in detention or torture for the next 20 years.

The Health and Human Rights Project had recorded 100 cases of people being ill treated by doctors, nurses and psychologists while they were detained under security legislation.

The role of district surgeons and intrusions by security police in hospitals - where they seized records, arrested people injured in security force action on the presumption that they were guilty, shackled detainees to beds and interfered with clinical care - were repeatedly brought up, by the American Association for the Advancement of Science, the Health and Human Rights Project, the National Medical and Dental Association



JASON ASKEN

at Livingstone Hospital in the Eastern Cape, testified that at early morning meetings hospital management instructed nurses not to obstruct security police.

But complicity was not uniform. In the Eastern Cape, where diabetic Elda Bani (58) died a year after being detained because of lack of medical care, abuses were plentiful. In Natal, the Chief District Surgeon of Durban submitted that staff need feel no guilt about their behaviour.

Submissions described a health care system so corrupted by ideology that the human rights of South Africans were devalued and often seriously violated. The Department of Health accepted liability and apologised.

The racist distribution of health resources and the indignity of racially based services were the most important factors in past illness and death for which the department could be held responsible, it said in its submission.

The SA Medical Services drew sharp criticism for not tackling its role in regional conflict, with the TRC saying details in writing were needed on its involvement in psychological operations, the treatment of prisoners of war, its intelligence wing and the use of shock treatment on patients.

The hearings ended with a closed plenary session for delegates to consider how to avoid a repetition and uphold the World Medical Association's demand that the primary obligation of a doctor is his or her professional duty, and conscience the supreme guide.

tion, the Independent Medical Legal Unit at the University of Natal, to name a few.

The failure of many district surgeons, the only legal health care givers to detainees, to give adequate medical treatment to prisoners in their care was repeatedly raised. Doctors may not have taken part in abuses but they failed to record and investigate apparent signs of abuse, insist on appropriate treat-

ment, or respect doctor patient confidentiality. More than 70 political detainees died in detention between 1980 and 1990 and, in some cases medical negligence was an important contributing factor, the AAAS

said. As the employer of district surgeons the Department of Health apologised for failing to intervene. Some health administrators also chose to play a role supporting security forces. Betty Ncanywa, a nurse

Wits faculty 'took risks, but too few'

(252) (475)

Nov 20/6/97

The University of Witwatersrand's faculty of medicine provided room for individuals to challenge the system, but did little to put itself at risk and seriously oppose segregated health care during apartheid, the Truth and Reconciliation Commission was told in Cape Town this week.

The university had been criticised, for example, for taking a soft line on discrimination against staff and enthusiastically embracing the Johannesburg Hospital instead of protesting that the money should have been spent on improving facilities at Baragwanath or Coronation Hospitals. Professor Max Price, dean of Wits's faculty of health sciences, told the TRC's special health sector hearings.

Yet the faculty was not monolithic, Price said. It condemned the South African Medical and Dental Council for not investigating the Biko doctors. The group of doctors

who went to the Supreme Court to force the SAMDC to open the hearing was drawn largely from the faculty.

The university protested against police attempts to seize medical records from Alexandra Clinic, and turned a blind eye to activities that might have angered the health authorities, such as allowing facilities to be used to train community activists in first aid.

It also drew attention to the 800 detainees who began a hunger strike early in 1989 to protest against indefinite detention, and its faculty members made important contributions to discussions of care of detainees at the time.

Professor W J Kalk and Professor Y Veriava published an account of treating these patients. The doctors' refusal to allow patients to leave hospital to return to prison, in the belief that indefinite remand in custody without trial was torture, became

known as "Kalk's refusal".

But the faculty had limited control over the appointment and promotion of staff as nearly all doctors received their full salaries from the provincial health department, Price said.

Examples of interference by the health department included Baragwanath doctors, who protested at conditions, being forced to apologise in writing or lose their jobs, and a provincial representative vetoing the appointment of a man of colour as professor and head of department.

There was still an enormous amount of anger and bitterness on the part of staff and students who were victims of discrimination in the faculty and health services, Price said.

This needed to be addressed by an internal "mini truth commission" that acknowledged the hurt to black health professionals, he said.

Horrific tales of medical neglect emerge

Star 20/6/97

(252)

Vivid examples of the health sector's collusion and complicity with security police, and the neglect or violation of patients' rights were laid before the health sector hearings this week.

■ Military medic Sean Callaghan served with Koewert - "the guys who grew their hair and didn't strap in to Casspirs" - in Angola for seven months. He told the commission how an injured Swapo political commissar was shot in the head while he was treating him.

The commissar had hidden in a hut to escape a pursuing Casspir. But the hut was cleared of people, demolished by the Casspir, and the ruins fired at by Koewert members. "He'd been shot in the arms and legs, and run over by a Casspir. I was trying to put up a drip and apply it when an interrogator shot him through the head," said Callaghan. ■ Jacob Nel told how police wearing

Putting you in the picture

Every Friday, the Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds.

balaclavas entered his home in 1986 and beat him. He said one of the balaclavas slipped and he recognised a doctor who practised in the area. However, he could not say if the doctor had taken part in the beatings. ■ "Elda would wet herself and I would wash her," testified housewife Sheila Lizani, a cellmate of diabetic Elda Bani (58), who died a year after being detained in August 1986.

Lizani and fellow cellmate Ivy Gcina, now an Eastern Cape MPL, tried repeatedly to get medical treatment and a special diabetic diet for Bani. Bani had been admitted with insulin supplies, but was later given only aspirin. Gcina said she believed Bani was beaten by prison officials. When Bani slipped into a coma she was removed from the cell. Her cellmates were later told: "We tried everything we could but she has passed away."

Health and Human Rights Project submission co-ordinator Nomsfundu Walaza said the case was remarkable because Bani's death was probably preventable. ■ Forensic pathologist Dr David Klatzow said in the shooting of the Guguletu seven, police in a second inquest into one of the deaths used an expert witness to prove that the bullet wound was not caused by a shotgun at close range, but by an R1 rifle. "This was an instance of state experts attempting to bail out police when they were in trouble." ■ Dr Janet Giddy, who did locums for private practitioners near McCord hospital in KwaZulu Natal, described the widespread practice of giving black patients an intramuscular injection, called the *jobu*, for an all-inclusive fee. When she asked one practitioner what to give a baby with diarrhoea she was told: "Oh, just give them anything - penicillin, streptomycin, gentamycin, sterile water, vitamin B, anything you like. But they must get the *jobu*."

Mats run to the law

Over Tutu and Boraine

Resignation call: truth chief takes challenge

AND 21/6/97

(252)

The National Party has made good its threat to take court action against the Truth and Reconciliation Commission.

The party filed papers with the Cape Town High Court yesterday asking the court to order Archbishop Desmond Tutu, among others, to refrain from making public statements that "compromise the credibility and impartiality of the commission".

The application will be heard on August 26. It lists Archbishop Tutu, his deputy Alex Boraine, President Nelson Mandela and Justice Minister Dullah Omar as the respondents.

The application asks the High Court to declare that Archbishop Tutu has conducted himself in a manner "unbecoming of his office as chairman of the TRC" at a press conference held in Cape Town on May 15.

At that conference an emotional Archbishop Tutu described Mr De Klerk's testimony the previous day as "very deeply distressing" and "devastating".

The NP also wants the court to dismiss Dr Boraine as a commissioner on the grounds that he has breached key provisions of the TRC's founding legislation, the Promotion of National Unity and Reconciliation Act. The court should direct the TRC to conduct research, inquiries and deliberation independently, objectively and without fear or favour.

The serving of the papers comes after threats by the NP to take the commission to court to force it to act impartially.

Archbishop Tutu said last night "This is not the way we would have chosen to deal with our difficulties. But when people

throw down gauntlets, we pick them up."

It was NP leader FW de Klerk's appearance before the TRC that triggered the breakdown in relations and saw the NP demand an unconditional apology from Archbishop Tutu and Dr Boraine's resignation after sharp criticism of Mr De Klerk's submission. They had said it was difficult to accept that he had not known of apartheid-era atrocities as he claimed.

The NP immediately accused the TRC of finding Mr De Klerk guilty of human-rights abuses before it published its final report.

At a meeting on Thursday the commission refused to accede to the NP's demands, calling for urgent talks party so that differences could be resolved. The NP, however, saw no gain from the talks, saying it would proceed with legal action.

In a founding affidavit attached to the application, MP Jacko Maree said Archbishop Tutu and Dr Boraine held media briefings where they expressed opinions on evidence heard by the TRC's committees.

"It is respectfully submitted that such behaviour by (Archbishop Tutu) and (Dr Boraine) was (and is) irreconcilable with the requirements set by the Act for the functioning of the commission."

He singled out Dr Boraine, saying he was abusing his position to continue "old political battles" against the NP. "(He) finds it impossible to be objective as far as the applicant was concerned."

Dr Boraine, a former Progressive Federal Party MP, was not fit to serve as a commissioner, Mr Maree said. Sapa

SATURDAY JUNE 21/22 1997

TRC hunts mole who leaked Vlok's amnesty application

(252)

ARG 21/6/97

The Truth and Reconciliation Commission has launched a hunt for the person who leaked former law and order minister Adriaan Vlok's amnesty application to a newspaper.

TRC deputy chairman Alex Boraine telephoned Mr Vlok yesterday to tell him the commission had not authorised the disclosure of any information and that it was investigating the source of the leak.

"The TRC's investigation is not aimed primarily at the newspaper or its right to publish, but at establishing whether someone in the TRC's employ is responsible for leaking information," commission chief executive officer Biki Minyuku said.

"If this were to be the case, the commission would initiate a prosecution," Dr Minyuku said.

Mr Vlok said he was upset by the publication of his 84-page application, but had accepted the commission's apology.

"I did not leak it and my attorney did not leak it. I spoke to him this morning," Mr Vlok said yesterday.

Dr Minyuku said the commission's founding legislation, the Promotion of National Unity and Reconciliation Act, provided for amnesty applications to remain confidential until the commission made them public.

In this case, Mr Vlok's application had neither been set down for a hearing, nor

had the commission decided to release the information.

There was no evidence as to where the information published in yesterday's Cape Times came from.

"However, should it be found that the information emanated from within the commission, the person responsible would have committed an offence in terms of Section 39 of the Act and would be liable, upon conviction, to a fine or to imprisonment of up to two years, or both."

Mr Vlok's amnesty application alleged that, in June 1988, former state president PW Botha ordered the destruction of Khotso House, then the headquarters of the SA Council of Churches, because it had become "a house of evil" and was being used to store weapons.

"In this respect, his order to me and the SAP was clear: 'I have done everything possible to persuade them (the SACC) to come to their senses, but nothing helps. We cannot act against the people. You must render that building of theirs unusable. Whatever you do, you must make very sure that nobody is killed.'"

He said he believed all operations against the "enemy" were bona fide, justifiable and authorised. He accepted that apartheid had resulted in pain and suffering, "but marxism/communism's record was more terrible" - Sapa

While South African laws aim to steer young criminals away from a life of murder and theft, lenient treatment can have the opposite effect, writes Simon Farrell. The case of a young rapist who scoffed at his light punishment illustrates the problem

When kids do crime, they don't do time

AAO 21/6/97

(282) # (2152)

Shahbeed was 13 when he raped a 16-year-old schoolgirl near his home in Athlone on the Cape Flats. His punishment? On January 27, 1993, the sneering youngster was sentenced to five strokes. Shahbeed is not his real name, as by law, a criminal who is convicted as a minor cannot be identified.

Within weeks he struck again, stabbing to death a witness in a friend's murder trial. Convicted of culpable homicide, he was sentenced to five years at Porter School in Tokai, one of nine reform schools in South Africa. Taking advantage of almost non-existent security, he escaped to rape and assault another young woman and mug a man.

On December 8, 1994, Shahbeed was sentenced to six and a half years in prison for this crime spree, but the law protecting juveniles dictated that the sentence be suspended for five years. Back he went to Porter School. He stayed long enough for Christmas and New Year as a guest of the state, then walked out again.

Now 15, he resumed his violent rampage with a vengeance, first raping an 18-year-old woman, then trying to sodomize a terrified man he had robbed at gunpoint at an ATM. As the community braced itself for his next strike, his distraught mother knocked on the door of Detective-Sergeant Gerhardt Koeneze's office at the Athlone police station. Known for his no-nonsense approach to law and order, the 28-year-old policeman from Belhar listened in amazement as she tearfully begged him to cage her son. "Please, lock him up for everyone's sake," she cried. "We've had enough!"

The statistics are frightening: a quarter of all crimes in South Africa are committed by criminals under the age of 21, costing taxpayers over R15 000 million a year. Most of the 100 000 or so youngsters are petty offenders who never strike again. But an estimated 5 percent of them become habitual violent criminals, and the justice system is unable to cope. "We call them 'the untouchables,'" says Director Raymond Dowd, Cape Town Police Commissioner. "We try to put them behind bars, but the justice system allows them to slip through the net."

Twenty years ago South Africa's justice system, which traditionally emphasised punishment and retribution, showed little mercy to young violent offenders. As crime rates worsened, however, the system failed to adapt. While staffing and funding remained static, courts became overburdened and prisons overcrowded. Battling to process the growing numbers of adult offenders, courts increasingly released children unconditionally or sentenced them to corporal punishment.

The statistics clearly show the breakdown: while juvenile criminality has soared and the population has rapidly increased, the number of convictions has plummeted from 60 000 in 1977 to around 40 000 in 1994, the most recent year for which statistics are available. Indeed, our criminal justice system has become like a sieve through which brutal young criminals run. Knowing they won't be punished, they are becoming more daring, their crimes more



frequent and violent. Consider these cases:

■ In Durban in October 1995, two 15-year-old boys were arrested for house-breaking at the city's Congella Hotel. A young female social worker was given custody of them, but they escaped. Days later, Durban police warned the public that the boys were suspected of murdering a 93-year-old widow. Fortunately, they were arrested before they could do more harm.

■ In Mapetla, Soweto, an 11-year-old boy and his nine-year-old friend brutally raped a five-year-old neighbour in May 1995. The two pleaded guilty and could have been given community service sent to a

Hospital compared with 1995. Frightened nurses and doctors often come face to face with armed adult gang leaders intent on reclaiming injured young members. "We regularly treat eight- to 12-year-old drug couriers and pumps," says Dr David Bass, head of the hospital's trauma unit. "They show no fear of guns and knives - or authority."

For three months Detective-Sergeant Koeneze stalked Shahbeed, sometimes missing him by seconds. Tip-offs led him to shebeens and homes, but often on a wild-goose chase. On one occasion, Koeneze had him in the sights of his gun. He fired several shots but the boy fled smirking over his shoulder.

to such supposed "secure accommodation." Dozens of youngsters absconded within hours. Of 250 freed from four Gauteng prisons, almost three quarters ran away within a month.

Reacting to public outrage, the ANC's Carl Niehaus, at the time chairman of the Portfolio Committee on Correctional Services, swiftly tabled a Private Member's Bill. Citing an almost total lack of security in the places of safety, his amendment to section 29, which came into effect for a year on May 10, 1996, once again allowed 14- to 18-year-olds accused of serious crimes to be held in prison. It has now been extended for another year.

dooms any efforts to transform juvenile offenders into law-abiding adults. Public safety also is seriously jeopardised if violent criminals are given a clean slate.

Even child-rights campaigners fear that this would be too soft an approach. Juvenile Justice for South Africa, a document released in 1994 by Nicro, Lawyers for Human Rights and the Cape Town branch of Child Welfare, outlines far-reaching policy and legislative changes giving children more legal rights. However, it suggests that the records of murderers, rapists, and armed robbers be preserved.

The intention of the authorities is good: to rehabilitate rather than to punish. Few would disagree that our prisons are universities of crime, allowing jailed youngsters, far from being reformed, to walk out more accomplished crooks. "Often they are forcibly tattooed and brutally sodomized by adults on their first night in prison," says Julia Sloth-Nielsen, senior researcher at the Community Law Centre of the University of the Western Cape. "Any hope of rehabilitation is killed. They become gang members and thus criminals for life."

Reform and industrial schools and places of safety certainly appear to be a better option. But IMC visits to 53 of South Africa's 60 institutions in April 1996 resulted in a damning report entitled *In Whose Best Interest?* They found that the ratio of inmates to staff sometimes reached 63 to 1. Staff had little interest in helping or restraining children and, in many cases, children held as suspects for minor offences shared dormitories with convicted murderers and rapists. Worse, there were practically no rehabilitation or training programmes.

We clearly have a justice system that neither punishes effectively nor does much to stop rebellious youngsters from becoming lifetime criminals. The situation is seriously undermining democracy and public safety, and justice and correctional services authorities must stop dragging their heels. As a start, there are four steps they can take.

1. Put violent repeat offenders safely behind bars, no matter how young they are. The government is moving in this direction, but far too slowly. It is planning a national network of "secure-care facilities" for convicted and awaiting-trial youngsters between 14 and 18, but only one, in Soweto, has been built so far. Even when the network is completed, however, under-14s charged with violent crimes, including murder and rape, will remain in existing low-security places of safety. We must tell our correctional authorities that this is unacceptable.

2. Properly train a core of people to staff new and existing institutions. IMC investigators were shocked to learn that only between 11 and 30 percent of staff in places of safety, schools of industry and reform schools had even a basic qualification. Free State had no qualified workers at all to care for dozens of children. "The new high-security institutions should be staffed only by hand-picked experts used to dealing with dangerous youngsters," says Alan Jackson, director of the Child Welfare Society. 3. Resist pressures to destroy "in er 1997

...even, a... on August... they were unconditionally freed, told to live at home for three years, and then to return for sentencing.

On December 4, 1995, 19-year-old Douglas Comrie of Pietermaritzburg was delivering a pizza in his mother's car. Gangsters demanded a lift. After they got in, Comrie was attacked with a knife and later died of his wounds. Three youths were arrested and charged with murder. At a bail hearing, the judge told them to go home until the case was heard. Within days, one of them, aged 16, had allegedly attacked four more people with a knife.

There are several reasons for the ease with which violent juvenile criminals get off. Not only do laws and social workers protect them, but magistrates or judges fail to impose suitably heavy sentences and detention centres lack adequate security. Police often feel caught up in a cheerless merry-go-round arresting young offenders, watching them get bail, then rearresting them for further offences.

Criminologists have found that violent youngsters usually come from large, poor families where there is frequently a history of alcohol, drug or violent abuse and where there is no father figure. Seeking role models, they're easy bait for gangsters, who welcome them into their midst - not only because the children are more agile, but also because there is little likelihood that they will be charged or detained if they are caught.

Last year, gangsters under the age of 13 were blamed for the increase of 400 percent in gun-shot and stabbing victims at Cape Town's Red Cross Children's

We try to put them behind bars, but... (they) slip through the net

Despite desperate pleas from Shaheed's mother, the police and Porter School itself, he was returned to the reformatory.

The law allows for convicted children as young as seven to be jailed. Because kids of this age are increasingly becoming involved in crime, there are four times more seven- to 14-year-olds in jail today than a year ago.

But many more walk free, thanks to lenient laws such as the Correctional Supervision Act. This promotes the release of juvenile criminals into the custody of their parents or a guardian so that they won't have to be incarcerated. Unfortunately, it ensures that even murderers, arsonists and rapists go home, often with little more than a telephone-monitored curfew.

Even when it has been decided that a violent juvenile criminal must be isolated from society, he is usually sent to a low-security reform school, place of safety or school of industry. There are over 6 000 youngsters at these institutions, 15 percent of them awaiting trial. President Mandela's decree in May 1995 that put Shaheed back in reform school meant the transfer of over a thousand awaiting-trial youths - many charged with murder, rape, aggravated robbery, arson and assault - from jails and police cells

hours poring over statements from dozens of witnesses and victims. He learnt that the tattooed and scarred 15-year-old had become so ruthless and uncontrollable that even gangsters avoided him.

At last, in late April 1995, Koenze arrested the boy. He was relieved when a magistrate decreed that he be locked up in Pollsmoor Prison. But then the unthinkable happened. On May 8, all youths under 18 awaiting trial prisons, police cells and lock-ups were transferred to "places of safety" after promulgation of section 29 of the Correctional Services Act, which put into effect the president's pre-election pledge to free children from jails.

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He would feel once Shaheed was on the loose again. He was now more than ever determined to put him securely behind bars. "The boy will be back," he warned his men.

Sure enough, within days he had walked out of the reform school and returned to the scene of his first rape. Armed with a hunting knife, he attacked a schoolgirl as she was taking a short cut in the early morning darkness. The 17-year-old virgin begged for mercy. "Do as I say or you die," he whispered calmly, holding a knife to her throat. Then he raped her as she cried.

Koenze and his squad of hardened officers were sickened. His weary men argued, "Why bother if nobody locks him up?" Koenze managed to spur them on, and in June 1995 they finally rearrested Shaheed after a midnight car chase.

The need to clamp down on the 5 percent of child criminals who have become habitually violent has never been greater. Yet the government is making it ever easier for small but deadly thugs to roam our streets with impunity.

The Inter-Ministerial Committee (IMC), set up by the government in June 1995 to transform the child- and youth-care system, wants the lower age limit for criminal capacity increased from seven to 14, putting all under-14s beyond the reach of the law. That would protect a 12-year-old Durban boy, believed to be the youngest South African to be charged with murder. On Christmas Eve 1995 in the suburb of Kloof, the boy and his 15-year-old accomplice were approached by security guard Gordon Cunningham, 22, who was responding to an emergency call. The youths blasted him with a shotgun, killing him instantly.

The IMC also recommends an end to the present system of preserving the fingerprints and records of convicted juvenile criminals when they turn 18. Criminologists maintain that destroying records

We regularly treat eight- to 12-year-old drug couriers and pimps'

Our pampered violent juvenile criminals, however, would become adult innocents overnight, without even having to ask for special treatment.

4 Focus on rehabilitation. Democratic Party law-and-order spokesman Douglas Gibson calls for the option of shock treatment for appropriate first-time offenders in the form of US-style six-month sentences to high-security military bases.

Immates would do harsh, basic army training with tough physical and mental challenges, and community service. "A short, sharp lesson is long overdue," says Gibson. "Why should decent, law-abiding, democratic citizens live under this constant threat to life and property?"

In June 1995, Shaheed, now a scruffy 16-year-old who looked 21, appeared in the Wynberg Regional Court chained and handcuffed to two burly guards. Koenze was worried. He believed that if the youth was charged at that point with the crimes he had committed while on the run, he would be sent to Porter School to await trial and simply escape again. Hitting on a change of tactics, Koenze brought escape charges instead.

The plan worked. Koenze was ecstatic when the boy was convicted of three escape counts and sent to jail for three years. He followed up with the other charges while Shaheed sat in prison. On May 7, 1996, magistrates found the arrogant teenager guilty of rape, robbery and attempted sodomy. Koenze held his breath and closed his eyes as the youngster was sentenced to 30 years in jail. He had won his battle for justice at last, but he knows the war is far from over. This is an edited excerpt of an article appearing in July's Reader's Digest.

Legal reform in sight for women victims of violence

AR 21/6/94

252

GLIVE SAWYER
POLITICAL CORRESPONDENT

Treatment of women by the justice system will come into sharper focus in the coming weeks with the launch of the Justice Department's discussion paper on gender policy.

Laws on rape, domestic violence, maintenance and inheritance have for years been a source of frustration to women and non-government organisations providing services.

"The reality is that women have largely been rendered invisible in the legal system," says the discussion paper, unveiled yesterday by deputy Justice Minister Manto Tshabalala-Msimang.

The reforms proposed include rewriting laws, changing the way courts operate and the attitudes of personnel. Among the laws targeted for rewriting is that on rape, with a proposal that its definition be broadened from the narrow one based on forced heterosexual sexual intercourse, to include forced oral sex and penetration with objects or parts of the body

other than the penis

Justice Minister Dullah Omar said many practical steps were already being taken which did not require fresh legislation, including training and revamped court facilities for women and children.

The Law Commission was examining several issues and NGOs had been asked to submit proposals to the commission. This made it difficult to estimate when the reforms being considered would be put to Parliament as legislation.

A key proposal in the gender policy is the establishment of a National Women's Justice Programme within the Justice Department's gender directorate. This will operate as a central focus for advancing women's access to justice and ensuring the legal system responds to women in an appropriate and affordable way.

Proposed Justice Department reforms include:

- Increasing representation of disadvantaged groups in management, with a target of 30% women by 1999
- Childcare facilities for staff

- Eradication of sexual harassment
- Integration of the concerns of women into mainstream policy and planning

Strategies to achieve these goals include ensuring posts are advertised in media used by disadvantaged groups, and appointing selection panels of at least 40 percent women.

In its section on access to justice the gender policy document proposes goals including enhancing access to legal information and advice, and use of accessible language. In its section on crime, safety and security, proposals include:

- Co-operation between the Justice Department and National Network on Violence Against Women
- Possible "safety audits" in communities, identifying places of potential danger like streets with poor lighting

- Bail laws and policies should reflect the danger to women victims when the accused is known to them or lives in the same home or community

Responses to the Department of Justice on the proposed gender policy should be made by July 25.

NP goes ahead with TRC court action

Star 21/6/97

(252)

Cape Town - The National Party has made good its threat to take court action against the Truth and Reconciliation Commission, serving papers on the TRC yesterday which give notice of a High Court application to be heard on August 26.

The application lists TRC chairman Archbishop Desmond Tutu, his deputy Dr Alex Boraine, President Nelson Mandela and Justice Minister Dullah Omar as the respondents.

The NP is asking the High Court to order Tutu to refrain from making any further public statements which "compro-

mise the credibility and impartiality of the commission".

It also wants the court to dismiss Boraine as a commissioner on the grounds that he has breached key provisions of the TRC's founding legislation, the Promotion of National Unity and Reconciliation Act.

The court should also direct the TRC to conduct its research, inquiries and deliberation independently, objectively, and without fear or favour.

The serving of the papers on the TRC followed earlier threats by the NP to take the commission to court to force it to act impartially.

Responding to the latest development last night, Tutu said "This is not the way we would have chosen to deal with our difficulties".

"But when people throw down gauntlets we pick them up."

It was NP leader F W de Klerk's recent appearance before the TRC, which triggered the breakdown in relations and saw the NP demand an unconditional apology from Tutu and Boraine's resignation.

Both Tutu and Boraine were sharply critical of the party's submission, delivered

by De Klerk, saying they found it difficult to accept that he had not known of apartheid-era atrocities, as he claimed.

The NP immediately accused the TRC of finding De Klerk guilty of human-rights abuses before it had published its final report.

A full meeting of the commission on Thursday refused to accede to the NP's demands and called instead for urgent talks with the party so that the differences could be resolved.

The NP, however, saw nothing to be gained from the talks and said it was proceeding with legal action.

In a founding affidavit attached to the application, NP MP Jacko Maree singled out Boraine for particular criticism, saying he was abusing his position within the commission to carry on "old political battles" against the NP.

"(He) finds it impossible to be objective as far as the applicant was concerned."

Boraine, a former Progressive Party MP, was not a fit and proper person to serve as a commissioner and should never have been appointed to this position, Maree said. Sapa

Biko doctor still working in PE

(252) (P)

Star 21/6/97

By ADELE BALETA

District surgeon Ivor Lang, who gained notoriety for his involvement in the death of Black Consciousness leader Steve Biko in 1977, is still working for the Eastern Cape Health Department and in 1994 published a medical paper on necklace murders

Lang currently assesses township patients for disability grants and conducts post-mortems for the health department

His continued employment has caused an outcry among health workers countrywide and the Port Elizabeth community

In addition, the Truth and Reconciliation Commission, during this week's health sector hearings, hauled the national Health Department over the coals for re-employing Lang

After his reprimand by the SA Medical and Dental Council in the 1980s, Lang was later promoted to chief district surgeon in Port Elizabeth, and when he retired in 1994 he was rehired to work on a part-time basis in the district surgeon's office

Rehabilitation

Commissioner Mapule Ramashala lambasted the Health Department's submission to the commission and demanded to know why Lang "has been returned to work by the department"

"Dr Lang should not be allowed to continue to practise, unless he has gone through a rehabilitation process," she said.

The issue of health professionals, guilty of past human-rights abuses either by omission or active participation, continuing to hold privileged and high-ranking positions was raised during the two-day hearings

Eastern Cape regional health director Dr T M Sibeko confirmed that Lang was working on a part-time basis (25 hours a week) and was in that position when he (Sibeko) took up his post. He said Lang did not deal with patients but instead conducted postmortems

Eastern Cape health services were under pressure and had no one else to perform the job Lang was doing, he said. But Dr Mangaliso Maqina, chairman of the ANC health desk in Port Elizabeth, said it was "disgusting" that Lang was still part of the health system

"It's nonsense. The Health Department must advertise the post. They could easily fill it. There are Nigerians or Kenyans who could do the job."



REHIRED: Dr Ivor Lang (left)

There is currently an SA Medical and Dental Council moratorium on the employment of foreign doctors from these and other African countries

Maqina said "I saw him (Lang) last week in the Dorangiza Hospital in Zwijde township where he was assessing patients for disability grants. His name is on the door. It's well known that he is doing this. It's shocking. I thought I was seeing a ghost."

He explained that people who applied for grants from the Health Department first had to be seen by a doctor. "People here (Port Elizabeth) are upset that he is still working because he was found guilty of improper conduct."

Lang's paper, published in the medical journal *Medicine and Law* in 1994 and entitled "Necklace Murders: A Review of a Series of Cases Examined in a Port Elizabeth Mortuary", has also come under fire. The article reviews a series of 135 necklace murders from January 1 1985 to December 31 1987.

Disgruntled health professionals have raised questions as to why Lang chose to review black-on-black violence while at the same time showing a lack of interest in documenting cases of torture at the hands of security police and deaths in detention. They have accused him of masquerading as an expert.

Commissioner Wendy Orr, who co-ordinated the health sector hearings and who worked under Lang as a district surgeon in 1985, said she "would welcome further articles from Dr Lang with his vast experience as a district surgeon, particularly around the issue of torture and maltreatment of detainees"

In September 1985 Orr obtained a Supreme Court interdict preventing further torture of detainees by security police in Port Elizabeth.

Maqina said Lang was "no authority on the socio-political and historical factors behind

necklacing. He is perpetuating the myth that black people are brutal."

He met Lang when Lang was promoted to chief district surgeon in Port Elizabeth. He was in charge of postmortems at New Brighton's police mortuary. "A colleague of mine was murdered during the state of emergency in Motherwell and Lang showed me the body. I was deeply angry."

Lang's superior (the chief district surgeon) at the time of Biko's death, Dr Benjamin Tucker, was found guilty of disgraceful conduct by the SAMDC. For his implication in Biko's death, Tucker was suspended from the medical register for three months, but the sentence was suspended for two years. He was struck off the roll and has not been allowed to practise as a doctor since 1985.

In his submission to the commission, Dr Peter Folb, head of the University of Cape Town's pharmacology department, said the "Biko doctors" (Lang and Tucker) and the subsequent response of the SAMDC and the Medical Association of SA held scant regard for doctors' clinical independence and fundamental role in alleviating distress.

Lacerations

Biko was detained in August 1977 and moved from Port Elizabeth's Walmer police station to security headquarters on September 6. Six days later he died unattended on a stone floor in Pretoria Central prison.

Folb said doctors were summoned nine times in three days to examine him. On one occasion, at 9.30am on September 7, Lang (his first visit) examined Biko while he was lying on a mat and manacled to a metal grille in a security police headquarters office. He found evidence of lacerations on the upper lip, bruises, swollen feet and hands, and slurred speech. Yet, when asked for a medical certificate by security police, Lang wrote: "I have found no evidence of any abnormality or pathology on the patient."

An inquest magistrate later concluded that the fatal injury to Biko was probably inflicted on him shortly before Lang's first visit. Hospital tests had found Biko had severe brain injury - yet doctors had approved his return to his police cell where he stayed until his collapse early on September 11.

Biko was "hyperventilating, and frothing at the mouth"

Biko died on September 12 - six hours after his arrival in Pretoria.

ST 22/6/97

Truth body probes Vlok leak

MARLENE BURGER

(252)

LAWYERS acting for former law and order minister Adriaan Vlok have lodged a strong letter of protest with the Truth and Reconciliation Commission after his amnesty application was leaked to the media this week.

The lawyers said that security surrounding documentation should be beefed up.

Vlok, the only cabinet minister involved with the security forces during the apartheid era to seek amnesty, has admitted ordering the 1988 bombing of Khotso House, where the SA Council of Churches had its headquarters, and the 1987 Co-atu House bomb attack.

He has also admitted being involved in a campaign to bomb cinemas which screened Richard Attenborough's film *Cry Freedom*, about Steve Biko.

Vlok says former state president P.W. Botha approved the Khotso House bombing. He says Botha ordered the building destroyed because it had become "a house of evil", used to store hand grenades, limpet mines and other weapons.

Vlok claims he was told by Botha "I have done everything possible to persuade the SACC to come to their senses, but nothing helps. We cannot act against the people. You must render that building of theirs unusable

"Whatever you do, you must make very sure that nobody is killed."

Vlok says he relayed Botha's instructions to the then police commissioner, General Johan van der Merwe.

Vlok's lawyer, Jan Wagener, said on Friday he was "extremely disappointed" the application had been made public.

However, the commission has distanced itself from the leak and promised to investigate.

The deputy chairman of the commission, Dr Alex Boraine, telephoned Vlok to tell him the commission had not authorised the release of the document and to apologise for the leak.

Although "upset", Vlok said he did not believe the premature publication of his application would prejudice it.

Troopie tells of gay torture horror

ST 22/6/97

(252)

KEN VERNON



DOCTOR SHOCK: Aubrey Levine, the former defence force psychiatrist who tried to shock homosexuals into changing their sexual preference

A FORMER army conscript has told of his terror at being kept drugged and subjected to excruciating electric shocks as defence force psychiatrist Colonel Aubrey Levine tried to change his "sexual orientation"

Michael Smith, 43, now a Johannesburg marketing manager, was just one of an unknown number of young men who suffered during Dr Levine's 15-year reign of terror at One Military Hospital, Voortrekkerhoogte, as the defence force sought to weed out "deviant" elements, the Truth and Reconciliation Commission heard this week

Smith told the Sunday Times of his ordeal at the hands of the smiling doctor

"First I was forced to admit I was gay in front of my parents," he said "It was the first time they realised I was homosexual and they were horrified. Dr Levine told them he had a therapy that would 're-orientate' me, so I agreed to the treatment

"He would strap electrodes onto my arms with wet cloths, show me erotic gay pictures and encourage me to tell him my fantasies. As I was aroused he would wind up the current from what

looked like a souped up massage machine and my arms would involuntarily twist back over my head — I would scream for him to stop. It was incredibly painful."

After the electricity was turned off he was shown pictures of naked women — so that he would associate the lack of pain with the "normal" images and be "cured".

"Almost immediately I knew it was not going to work, but I was just a troopie, a product of the Christian Nationalist school system, there was no way I could protest — I just endured," said Smith

In its submission to the truth commission, the Health and Human Rights Project named Levine as one of 24 doctors who had possibly perpetrated human rights abuses

For almost 15 years, beginning in the early 70s, Levine allegedly used discredited "aversion therapy" techniques in a futile attempt to force servicemen to change their sexual preferences.

Levine, who went on to become a professor at Rhodes University and clinical head of the psychiatric ward of Fort England Hospital in Grahamstown before emigrating to Canada, has defended his use of aversion therapy by saying it was widely accepted at the time

But Rhodes psychology professor Chris Stone said the therapy had already been discredited by the 70s.

Another national serviceman who served as a medical orderly for Levine and has since become a doctor, said that while conscripts or their parents had to consent to the treatment, in reality it had been impossible for them to refuse the powerful colonel

"No one was overtly forced to undergo treatment and many actually wanted to change because they had been raised to believe their behaviour was deviant

and could not understand their feelings". The doctor said he had once submitted himself to the treatment, but had to cry out for it to stop after a few seconds. Smith said another reason conscripts agreed to the treatment was that the alternative was being sent to a dreaded punishment camp on the northern Transvaal border.

Smith said suspected homosexuals were not the only soldiers who ended up in ward 22. "There were drug users, alcoholics — anyone not coping with army life could end up in ward 22 and we were all lumped in together and got the same treatment — Valium and electric shocks".

The medical services arm of the defence force refused to say, until a "full investigation" had been conducted, whether Levine had acted under orders.

Levine could not be contacted at the time of going to press but has been reported as saying he has no regrets and regards the allegations as "preposterous".

He reportedly told the truth commission he would be willing to return to South Africa to defend himself, but only if the commission paid his expenses

TRC has to tread warily with Hani case

CT 23/6/99

(252)

THE FACTS before the TRC about the murder of Chris Hani appear straightforward. But deciding whether to grant amnesty to Chris Hani's killers faces the TRC with a dilemma, argues **ANTHONY HOLIDAY**.

IF THERE remains a single issue on which the Truth and Reconciliation Commission's credibility depends, it is whether or not it grants amnesty to the two men who murdered Chris Hani.

Excepting speculation that the killing of the South African Communist Party's general secretary may have been part of a wider conspiracy, the facts before the TRC are remarkably clear-cut. On Easter Saturday morning in 1993, Janusz Walus, a Polish immigrant, used a 9mm Z88 pistol to gun down Hani in the driveway of the latter's East Rand home while the communist militant's daughter watched. The weapon Walus used had been given him for the purpose by Clive Derby-Lewis, a Conservative Party MP, notorious for his racist mouthings both inside and outside of Parliament. The pair were duly arrested, tried and convicted of murder. They were sentenced to death, but this was later commuted to life imprisonment.

The criteria the TRC must employ in deciding whether to extend amnesty to Derby-Lewis and Walus are equally unambiguous. It must decide whether the evidence they bring before it amounts to a full and frank disclosure, whether their action in murdering Hani was politically motivated and whether the crime they committed was propor-

tioned to the political goals they sought to achieve.

The commissioners need not — indeed, on my reading of the legislation which brought the TRC into being, they may not — concern themselves with whether these murderers are contrite or whether, if given the chance, they might not commit a similar crime again.

But the uncomplicated aspects of the situation the commission faces end there. For the commission is not, as the court which convicted Hani's assassins was, an institution which stands above political processes. On the contrary, it was born out of those processes and its mandate is to assist the transition from the politics of apartheid to the politics of non-racial, democratic normality.

For this reason it is headed not by people schooled in the kind of forensic objectivity one expects of a judge or an advocate but by two political priests, Desmond Tutu and Alex Boraine, who have made such reputations as they enjoy by pinning the cloth of their Christian convictions to the flags of political causes.

It is, therefore, improbable, to say the least, that the TRC will not take likely political consequences into account in reaching a decision in this case. And when these are surveyed, it becomes apparent that the commission is in what the upwardly mobile young these days

like to call "a no-win situation."

A moment's sober recollection of the wave of national outrage which followed Hani's death makes the option of freeing those who caused it look like a non-starter.

The murder unleashed an outpouring of rage which threatened the negotiations process as not even the Boipatong and Bisho massacres had done. Only the energies of ANC leaders like Sexwale, Carolus and Mandela kept the nation from descending into a vortex of violence, from which it might never have recovered.

When the political consequences of reaching a decision in the Hani case are surveyed, it becomes apparent that the commission is in what is called a no-win situation.

Powerful elements within the ANC and SACP have made their implacable opposition to an amnesty in this instance abundantly clear. A TRC ruling, taken in defiance of this opposition, would almost certainly engender a cycle of protest which would take the country back to the uncertainties of the early years of this remarkable decade and unravel the tapestry of political trust we have managed to spin since Hani met his untimely end.

Yet, if Derby-Lewis and Walus are not given amnesty, it is hard to see how the TRC could justify the use of its powers of clemency conferred in other instances. What about the reprieve granted to Brian Mitchell in the face of his role in the Trust Feeds massacre? If Eugene de

Kock makes a full disclosure of all the political murders he has committed, should he be denied amnesty just because he killed many people and Derby-Lewis and Walus killed only one? Were the murderers of the American student, Amy Biehl, and the St James Church gunmen, however misguided, less sincere in their pursuit of political ends which seemed right to them than this duo, who hated the man they did to death because he was black and a communist?

These issues are of cardinal importance, because if the TRC wants the veracity of the report it eventually produces to be credited by reasonable people, it must show some consistency in the way it

DILEMMA: The wave of national outrage which followed the death of Chris Hani complicates the TRC's task of considering the amnesty applications of his killers.



dispenses amnesties. Further, if it wants its procedures to enhance the prospect of national reconciliation, it must not be seen to use its powers in ways which offend the moral sensibilities not just of lawyers, intellectuals and professional politicians but of ordinary decent people, who have no control over the way it conducts its affairs.

All of which comes down to saying that, in the case under discussion, Tutu and his lieutenants had better get things right this time.

□ *Dr Anthony Holiday teaches philosophy in the University of the Western Cape's School of Government.*

Tight security as Hani killers go before TRC

Star 23/6/97

(252)

Rival supporters gather for the amnesty applications of Clive Derby-Lewis and Janusz Walus

By **ROBERT BRAND**
AND **CECILIA RUSSELL**

Supporters of Chris Hani's killers came face to face with toy-toying SACP members demanding "no amnesty without full disclosure" before the start of the killers' amnesty application at the Benoni City Hall today

Crowds had gathered early amid tight police security measures ahead of the amnesty application by Janusz Walus and Clive Derby-Lewis

Conservative Party leader Ferdi Hartzenberg and Karen Strydom, wife of "Witwolf" Barend Strydom, were among those on hand.

A group of about 50 ANC supporters were demonstrating outside the City Hall this morning carrying banners which said: "No amnesty without full disclosure."

A group of friends of Derby-Lewis declined to identify themselves, but said they had come to see if there was justice in South Africa "for a change"

The amnesty hearing takes place amid the most stringent security measures yet seen at a Truth and Reconciliation Commission hearing.

Cosatu and the SA Communist Party have planned demonstrations outside the city hall, and right-wing organisations have urged their followers to attend the hearing en masse

But proceedings were due to start with a matter unrelated to the Hani murder

General Johan Viktor, named by former security policemen last year as the man whose "give them their own medicine" order had started an "all-out war" between the police and liberation movements, will take the stand first

Viktor has been subpoenaed to give evidence relating to the amnesty applications of former Northern Transvaal security police chief Jack Cronjé and four of his colleagues, who have confessed to more than 50 murders between them.

They said Viktor, then a divisional chief in the security police, had ordered them to step

up counter-insurgency operations in 1985 and take the gloves off in their dealings with suspected insurgents and activists
Viktor's testimony is expected to take up the whole morning session.

The amnesty hearing for Derby-Lewis and Walus, who are serving life sentences for the Hani murder, will start after that, TRC spokesman Sello Rabothata said.

He said the police would be prepared for any eventuality
"Security will be the uppermost consideration."

Die Patriot, mouthpiece of the Conservative Party, last week urged "all conservatives" to "give visible support" at the hearing. Derby-Lewis was a CP President's Councillor.

Cosatu and the SACP have also called on their members to attend the hearing and demonstrate outside the venue

An ANC delegation, led by acting secretary-general Cheryl Carolus and legal department head Mathews Phosa, will attend the hearing in support of the Hani family.

The faces of Hani's



CLIVE DERBY-LEWIS: "I'm here for the purposes of the truth and have nothing further to say," he told the media yesterday. JANUSZ WALUS: "I agree with Mr Derby-Lewis."

Bizos now wants the real truth exposed

T^{(252) CT 24/6/97}HE legal representative of the Hani family, Mr George Bizos, QC, has outlined the grounds on which the amnesty applications of Chris Hani's killers, Clive Derby-Lewis and Janusz Walus, are to be opposed

It includes an attempt to prove that Mrs Gaye Derby-Lewis, wife of Clive Derby-Lewis, allegedly gave "false" evidence at their Supreme Court trial

Mrs Derby-Lewis was initially charged with her husband and Walus for the April 1993 assassination of Hani, then SA Communist Party secretary-general, but charges against her were withdrawn

The two men were condemned to

BENONI: The two killers of ANC and SACP leader Chris Hani are to be opposed in their amnesty bid on four grounds, including that the wife of one committed perjury, report Special Investigations team **ROGER FRIEDMAN AND BENNY GOOL**

death, but their sentences were commuted to life imprisonment after the abolition of the death penalty Neither gave evidence

Bizos said he intended to argue that the amnesty applicants had not made the full disclosures in their applications required in terms of the Promotion of National Unity and Reconciliation Act to qualify for amnesty This particularly applied to the "role played by others more particularly Mrs Derby-Lewis"

Bizos said "We will show that her evidence at the trial was false."

The second main ground for opposing the application was the claim in Derby-Lewis' and Walus' application that they had killed Hani on behalf of the Conservative Party, for whom Derby-Lewis had been a member of the President's Council

Bizos said his legal team aimed to prove this had not been the case, because at the time the CP's leadership had distanced the

party from the assassination

The Act requires that perpetrators be granted amnesty only when they act on behalf of, or on the orders of, a political organisation

The third ground for opposing amnesty bid, Bizos said, was the applicant's stated reason for committing the crime which amounted to a desire to cause the death of a national leader, a former liberation army commander who was actively involved in the country's reconciliation process, was "completely disproportionate" to the objective they sought to achieve, he said The Act contains a proportionality clause.

Turn to Page 4

es of Hani's killers



nothing further to say," he told the media yesterday. **JANUSZ WALUS:** "I agree with Mr Derby-Lewis," was his only comment.

PICTURES: BENNY GOOL

s the real truth exposed

MORE REPORTS — PAGE 4

of ANC and SACP leader Chris Hani are to be
 ty bid on four grounds, including that the wife of
 y, report Special Investigations team **ROGER**
Y GOOL.

were commuted
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Bizos said: "We will show that her evi-
 dence at the trial was false."

The second main ground for opposing
 the application was the claim in Derby-
 Lewis' and Walus' application that they
 had killed Hani on behalf of the Conserva-
 tive Party, for whom Derby-Lewis had been
 a member of the President's Council

Bizos said his legal team aimed to prove
 this had not been the case, because at the
 time the CP's leadership had distanced the

party from the assassination

The Act requires that perpetrators be
 granted amnesty only when they acted on
 behalf of, or on the orders of, a political
 organisation

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 amnesty bid, Bizos said, was the applicants'
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□ Turn to Page 4

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P. T. O .

Hani's family to oppose amnesty on four grounds

(252)
□ From Page 1

CT 24/6/97

The final ground listed by Bizos was the claim in their applications by Derby Lewis and Walus that Hani was a military target. This was false, he said. The assassination had taken place after the suspension of the armed struggle, and while Hani was campaigning for peace and reconciliation.

"The reason why he was murdered was to prevent him helping to bring about democracy in South Africa. That is the reason why he was killed, the correct reason," said Bizos.

Turning to the application for a postponement, Bizos argued that Hani's widow, Mrs Limpho Hani, was leaving the country last night for the United States, a journey she could not abort for personal reasons. It was in her and her family's interests that she was present at the hearing.

Opposing the application, Mr Jan Lubbe, for Walus, responded that the family and lawyers agreed three months ago that the application would get under way yesterday.

He also said that "someone of Bizos' stature" would easily have been able to extract whether full disclosure had been made during cross-examination.

Bizos said his team required extra time to prepare their case because he only received a "substantial portion" of the documentation two weeks ago, including the allegedly new claim that Hani was a political target.

He suggested that the reason this new claim may have been introduced could be that it had been regularly argued in amnesty applications in recent months.

Lubbe responded that the additional documents did not require much time to read, and he disagreed that they amounted to a substantial portion.

At this point the proceedings fell into disarray, when it emerged that the amnesty committee members, counsel for the committee, Lubbe and Bizos all seemed to have differently paginated bundles of documents.

"It's impossible to argue this application if the papers are in such a mess," said Judge David Wilson.

Comparing his bundle with Lubbe's moments later, the judge was overheard exclaiming "But it's completely different."

Thereafter argument was swiftly concluded.

And after a break, committee chairperson Judge Hassen Mall said the postponement would be granted.

AMNESTY COMMITTEE MEMBER SEEKS RECUSAL

TRC hearing reflects tale of two countries

(252) CT 24/6/97

PROTEST: The Hani hearing got a colourful start, with toyi-toyi and knitting all part of the happenings. Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report.

It was like a tale of two countries in the city hall audience here: a small crowd of Mr Clive Derby-Lewis and Mr Janusz Walus fans cheering their heroes a short standing ovation, but otherwise hopelessly outclassed by a red swathe of vociferous Mr Chris Hani supporters. The right-wingers — several of whom brought their knitting and picnic baskets along — formed a barrier in the first six or seven rows of seats in the middle of the hall, led by CP leader Dr Ferdie Hartzberg and other party big-shots. Their ranks included the wife and mother-in-law of so-called Witwatersrand multiple killer, Mr Barend van der Merwe, Mrs Gaye Derby-Lewis

and Dominee Daan van der Merwe of the CP executive committee.

When they arrived, senior ANC, SACP and Cosatu officials and Hani family members encroached slightly on the laager, but otherwise the apartheid-like status quo was maintained throughout the day.

The tripartite alliance/family delegation included widow Mrs Dimpho Hani, daughter Ms Nomakwezi Hani, Mrs Winnie Madikizela-Mandela, Mpumalanga premier Mr Mathews Phosa, Eastern Cape premier Rev Arnold Stofile, SACP secretary-general Mr Charles Nqakula, Cosatu secretary-general Mr Sam Shilowa, and Presi-

dent Nelson Mandela's granddaughter Ms Rochelle Mtrara.

In warm sunshine, the day got off to a rollicking start with a pre-hearing toyi-toyi outside the venue by about 200 union members, many of them council workers sporting the twin colours of the SACP and the Benoni municipality, red and orange. "The white men killed Chris Hani," they chanted.

"Let the murderers stay in jail for ever and ever," a speaker said from the steps of city hall to rousing applause.

The right-wing supporters, meanwhile, filed quietly inside and took up their positions.

Inside the hall the toyi-toying continued sporadically, as the audience waited for proceedings to get underway. They danced around the fringes of the laager,

thrusting posters which said "No amnesty without full disclosure" under the noses of the right-wingers.

"You are going back to jail," they chanted. Some of the laager women knitted continuously, except for during the lunch-break.

The crowd were anticipating the arrival in their midst of Derby-Lewis and Walus, but had to endure the cross-examination of a former policeman, General JJ Viktor, on an unrelated matter throughout the morning session.

After the conclusion of the Viktor matter, the amnesty committee announced a five-minute adjournment before proceeding with the Derby-Lewis/Walus applications.

The hall erupted into a sea of waving red banners, while Mrs Hani, dressed in a shocking pink suit, joined Phosa, Shilowa *et al* in a

final toyi-toyi. Madikizela-Mandela did not toyi-toyi, like the mother of the nation of old. She spent her time comforting the visibly distressed Nomakwezi Hani.

When Derby-Lewis and Walus finally made their appearance, they were greeted by a muted standing ovation from their supporters and cat-calls from the others.

The younger Hani burst into tears and made a dash for the exit, pursued by Madikizela-Mandela. "What you have done is wrong," chanted the crowd at the convicted

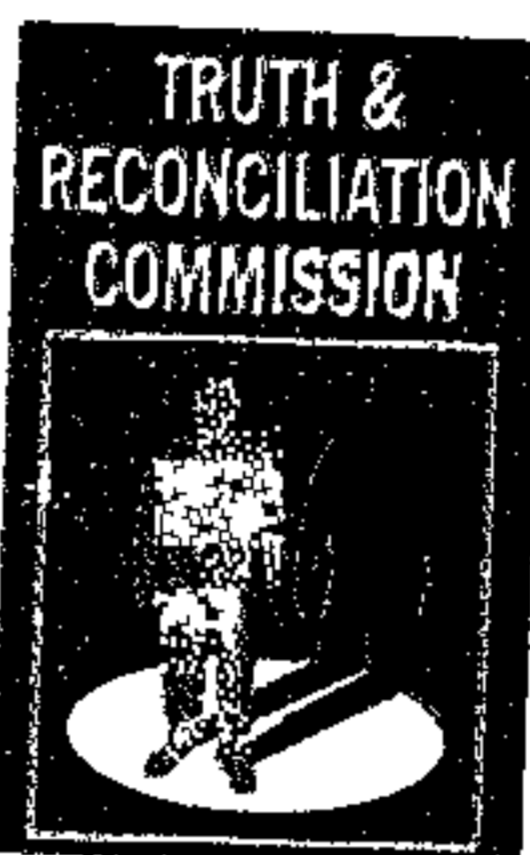
killers, pointing aggressively.

After a few moments of emotion-letting, Hani returned to her seat and proceedings got underway. A ring of police guarded the applicants on the stage.

Derby-Lewis cut a dapper figure in his well-cut dark suit and neatly-trimmed moustache. Walus appeared altogether more uncomfortable. Not as well-dressed, he sat erect, staring into nowhere.

In a final dash of drama, one of the amnesty committee's five members, Mr Chris de Jager, announced that he wished to recuse himself from the hearing because in 1990 he asked the police to investigate remarks made by Hani, and he did not wish the commission to be perceived to be anything but impartial.

De Jager is a former member of the AWB and the Freedom Front.



THE BIG QUESTION. A demonstrator confronts leading lights of the Conservative Party who attended the start of the Hani amnesty hearing, among them (from left) former MP Daan van der Merwe, deputy leader Willie Snyman and leader Ferdie Hartzberg.

PICTURE: BENNY GOOL

282

CT 24/6/97



WAITING: Gaye Deby-Lewis, wife of assassin Clive Derby-Lewis, sits inside the Benoni City Hall yesterday before the hearing **PICTURE: AP**

PW says he will 'never, ever, seek amnesty'

(252) Star 26/6/97

Former state president P W Botha said yesterday he would never, ever, seek amnesty from the Truth and Reconciliation Commission.

"I will not ask for amnesty, not now, not tomorrow, not the day after tomorrow I will not ask for forgiveness for being an Afrikaner Boer," Botha said in a televised interview.

"What I did, I did because I believed it was the best for South Africa under the circumstances."

Denying that he had ever ordered the security forces to commit murder or operate out-

side the law, he added. "I have never said so-and-so should be killed. Give me one example."

Botha's political career ended in 1989 after he suffered a stroke.

His resignation cleared the way for accelerated reform and an end to apartheid under FW de Klerk.

Discussing his departure from politics, Botha remarked "I am not a bootlicker, and I am not a fool."

He recounted a meeting with German Chancellor Helmut Kohl during the 1980s.

Botha said he had offered to

free Mandela should Kohl persuade Europe to lift economic sanctions against South Africa.

"He (Kohl) said 'I will write you a letter' I have not yet received that letter."

"I don't say it to disparage him. It's the truth," Botha said.

Qualifying his willingness to release Mandela, Botha added that this would have depended on the ANC leader's renouncing violence.

The Truth and Reconciliation Commission on apartheid-era crimes was set up by President Mandela in 1995. - Reuters.

Justice dept resignation flow continues

Stephané Bothma

RESIGNATIONS in the justice department have continued unabated while only 29 of 187 vacancies for prosecutors, state advocates and state attorneys have been filled this year.

Since January seven senior advocates, seven junior advocates and 10 assistant state attorneys left the department, spokesman Pieter du Randt confirmed yesterday.

Filling 23 positions of senior assistant state attorney was being delayed by pending court action following a decision by Justice Minister Dullah Omar to challenge a Pretoria High Court ruling declaring the depart-

ment's policy of not considering white males for promotion unlawful. An appointment policy for senior assistant state attorneys was also being negotiated, Du Randt said.

The department said there were 21 vacancies for senior prosecutors, 81 for prosecutors, 19 for senior state advocates, 10 for state advocates and four for assistant state attorneys.

Society of State Advocates of SA chairman Rheta Meintjes, who this week threatened industrial action by prosecutors and advocates should employment conditions not be improved, said society members were without hope. "The department's bungling in negotiating an action plan for the fill-

ing of vacant posts serves as yet another incentive for experienced professionals to leave the department.

Omar said this week the justice department had approved 407 additional prosecutor posts in an effort to improve prosecution and conviction rates. Funds still had to be found and approved by the cabinet.

The shortage of prosecutors was one factor that made the odds against a criminal being jailed about 20 to one. Sapa reports Omar yesterday met department representatives and said afterwards he supported demands for better pay. A working committee to explore ways of seeking better salaries and conditions of service was set up.

Key Market Movements — 24/6 to 25/6

Gold		Currencies		Europe		3 month BA		Stock Markets					
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1997, 1991 and Deen Invested abroad by

I'm no angel, says Groot Krokodi

But finger-wagging PW denies he ordered killings

Mr 26/6/94

(252)

CLIVE SAWYER
POLITICAL CORRESPONDENT

It was a cry from the wilderness, but not one which bore much news. Former president P W Botha appeared in his first formal television interview since leaving office, to promote his book and to tell the world he had not ordered any murders.

But nor was he an angel, he said, in an unintended ironic counterpoint to his characterisation of all of human history as a contest between God and the devil. At first appearance, Mr Botha seemed little more than a faded old man, clad semi-casually in jacket, jersey and open-neck check shirt, a figure made more tragic by

the recent death of his wife

But responding to the gentle goading of the interviewer, there came to life the wily smile of the crocodile, an older crocodile with a bellyful of cynicism about the new South Africa

"Communism will lay waste this country," said Mr Botha. The finger he wielded so defiantly against the outside world reappeared as he emphasised, "I never said so-and-so must be murdered."

He also rejected a newspaper report labelling Adrian Vlok, once Mr Botha's minister of law and order, as "minister of bombs". Mr Vlok had not commented, and the story had appeared in only one newspaper, said Mr Botha, apparently believing this settled the issue.

The former president clearly retained his views regarding the outside world and its place in the scheme of things

Mr Botha, said the interviewer, had dis-closed off-camera that he had said to German Chancellor Helmut Kohl that he would consider releasing Nelson Mandela if Europe lifted sanctions

Mr Botha quickly clarified this to repeat what he had told Parliament at the time: that Mr Mandela would go free only if he renounced violence.

Communism had brought poverty to Mozambique, reduced Angola to a blood-bath, and would lay waste to this country. Did he have regrets? Again that crocodile smile. Did we not all have regrets? After all, said Mr Botha, he was not an angel.



Why crocodile? former president PW Botha

Health Department 'can't fire Biko doctor' *'Other bodies can act on TRC call'*

(252) ARG 26/6/97

East London - The Eastern Cape Health Department did not have the right to act on the Truth and Reconciliation Commission's recommendation to fire Port Elizabeth district surgeon Ivor Lang, who was found guilty of improper treatment of Steve Biko, department spokesman Khululekile Bata said here.

Dr Lang, with Benjamin Tucker, was found guilty by the South African Medical and Dental Council of improper conduct in the treatment of black consciousness activist Biko, who died in security police custody in 1977.

Dr Lang was cautioned by the council and allowed to continue practising medicine. His continued employment was attacked at last week's TRC hearing in Cape Town.

Commissioner Mapule Rama-

shala said Dr Lang should not be allowed to continue practising "unless he's gone through a rehabilitation process".

But Mr Bata said that although the department could not fire Dr Lang, other statutory bodies had the mandate to do so. Should they decide to act against Dr Lang, "the department will definitely heed the mandate and findings of those bodies".

The department had inherited the "structures and resources, both human and material, of the apartheid health department".

"The Department of Health has no right to dismiss Dr Lang because there were processes followed in this case in the past.

"Therefore, organisations and people who feel that further action should be taken against him have various options to take, for example, to approach the

courts of law, which could charge him and, if found guilty, approach the Interim Medical and Dental Council to review the case of his licence to practice. These statutory bodies have the mandate to act," he said.

The TRC had every right to order an inquiry into the continued employment of Dr Lang and the failure of the Medical and Dental Council to revoke his licence.

"The decision for him to practise or not to practise does not lie with the department, but with the statutory bodies which have a proper mandate. However, I would like to assure all our people that we will not hesitate as a department to act should there be any reports of continued abuse of human rights by Dr Lang, or any other doctor, during his present period of employment" - Sapa

Mobutu rises... Off...

Religious leaders united in opposing euthanasia

CAROL CAMPBELL

RELIGIOUS leaders canvassed by the Cape Times unanimously opposed euthanasia.

Mr Sydney Duval, spokesman for the Catholic Archdiocese of Cape Town, said his church believed direct euthanasia was "morally unacceptable".

But to stop medical treatment which was "over zealous" could be legitimate.

"In this case one does not want to cause death — one's inability to impede it is merely accepted," he said, quoting from the New Catechism, a handbook for Catholics.

Sheik Achmat Sedick, secretary-general of the Muslim Judicial

Council, said Islam prohibited euthanasia.

"We feel a person must die naturally. A human being cannot choose to take a life, whether it is his own or that of another person," he said.

Rabbi Ron Hendler, spokesman for the office of the Chief Rabbi, said Judaism did not condone

euthanasia and every reasonable effort should be made to protect, prolong and enhance life, which was sacred.

"We don't see that the relief of suffering is enough justification to end a life," he said.

The Rev André Strydom, director of information for the NG Kerk, said the church did not agree with

euthanasia

"We accept that all life must come to an end eventually and that in some cases one should not interfere with the natural dying process. However, the decision about when to withhold medication or treatment has to be made under the supervision of the medical profession."

CT 27/6/97

(252)

Landmark ruling on assisted deaths

WASHINGTON • State governments have the right to outlaw doctor-assisted suicides, a unanimous US Supreme Court said yesterday in a landmark ruling in the right-to-die controversy.

The nation's highest court refused to create a new constitutional right for mentally competent and dying patients to get medical help to commit suicide.

The two decisions marked the first time the judges have ruled on the existing bans on doctor-assisted suicide, an issue that has sparked a divisive national debate rivaling abortion and capital punishment in emotional intensity.

In one of the most important rulings of its 1996-97 term, the high court upheld laws from New York and Washington states barring doctor-assisted suicide, a decision with far-reaching impact as

most states have made the practice a crime.

Chief Justice William Rehnquist said in two opinions for the court "There is no dispute that dying patients in Washington and New York can obtain palliative care, even when doing so would hasten their deaths."

He added "The difficulty in defining terminal illness and the risk that a dying patient's request for assistance in ending his or her life might not be truly voluntary justifies the prohibitions on assisted suicide we uphold here."

The Supreme Court justices overturned two precedent-setting rulings by US appeals courts in California and New York that struck down as unconstitutional the state laws that make it a crime for physicians to assist in a suicide. — Reuter

Legal suicide 'short lived'

LISA TEMPLETON

ON July 1, 1996, Australia's Northern Territory legalised euthanasia and became the focus of a raging controversy.

Four people killed themselves under the Rights of the Terminally Ill Act, before the Australian parliament struck down the law which allowed doctor-assisted suicide for the terminally ill in March this year.

Instead they voted to improve pain-management for the dying.

The euthanasia legislation had allowed the terminally ill to get medical assistance for their suicide if they had clearance from two doc-

tors and a psychiatrist.

The first person to die under the act, Mr Bob Dent, 66, who was terminally ill with cancer, reportedly said "If I were to keep a pet animal in the same condition I am in, I would be prosecuted. If you disagree with voluntary euthanasia then don't use it, but don't deny me the right to use it."

He was assisted by Dr Philip Nitschke, who had designed a computer programme to deliver sequential lethal injections.

Most Australian states allow patients the right to refuse treatment and some allow life support to be switched off, but doctors cannot actively help patients die.

Dutch doctors can assist

STAFF WRITER

IN the Netherlands, terminally ill patients are permitted by law to request doctors to help terminate their lives — but it must be done under set conditions.

The patients have to be suffering from terminal illnesses which cause unbearable pain.

Also, their desire to end their lives have to be conveyed not only to their own doctors, but they

require a second opinion.

Each case of euthanasia has to be reported to the office of the district attorney.

After reviewing the conditions of each case on its own merits, the office decides whether or not to prosecute the doctors involved.

Should a doctor neglect to report a case, or fail to meet the conditions, he or she could be charged with manslaughter or even murder.

LEGAL CLARITY ON EUTHANASIA NEEDED

SA to get 'right-to-die'

(252)

ET 27/6/97

law

THE LEGAL position on euthanasia in South Africa is still a "grey area", but the Law Commission aims to clarify the legal issues for doctors. Health Writer **CAROL CAMPBELL** reports.

THE South African Law Commission is compiling a report for a new law to allow euthanasia, and if its proposals are passed by Parliament, South Africa will join the Netherlands in having the most liberal euthanasia law in the world.

The deadline for public submissions on the proposed legislation is Monday, but commission researcher Ms Amanda Louw said this was a topic that would be thoroughly debated before it was put to Parliament.

"We are looking at everything from doctor-assisted suicide to the cessation of treatment, but what is eventually included in the final bill will be up to the public," she said.

Mr Braam Volschenk, director of medical ethics and legal affairs for the Medical Association of South Africa, said the legal position on euthanasia in South Africa was still "confused".

"There is no law that makes it clear to doctors what they must do when faced with a situation of whether to continue treatment or let the patient die naturally," he said.

Once the Euthanasia Act was passed by Parliament, doctors would "at last" have legal clarity on issues such as

- Whether or not to keep a "brain dead" person alive

- When it is right to keep a patient alive artificially on life support machines.

- When a doctor can give a terminally ill patient pain killers that ease suffering but could lead to death — a big dose of morphine for instance (palliative care)

- What to do when terminally ill patients want to end their lives earlier

- What to do if healthy people have made an "advanced directive" (living will) that, in the case of an accident or their being unable to speak for themselves, they should be allowed to die

In a Medical Association opinion poll of its members last year, 12% of the doctors who responded had already helped terminally ill or suffering patients to die

Volschenk said he did not want to express an

opinion on doctor-assisted suicide because it would be dealt with in the association's submission to the Law Commission

The University of Cape Town's Professor of Medicine Dr Solly Benatar said euthanasia was now being debated because existing laws did not permit the removal of life sustaining treatment from even a terminally ill patient

"Withdrawing treatment is a necessary part of modern medical practice and the law will need to be changed to make it possible under carefully defined circumstances

"The draft bill has been published to give the public the opportunity to comment on each of these proposals and to advise the Law Commission on where to draw the line," he said

● See Page 3

Dulcie September murder: TRC man probes in Europe

ET 27/6/97

(252)

OWN CORRESPONDENT

JOHANNESBURG. The head of the Truth and Reconciliation Commission's investigative unit, Mr Dumisa Ntsebeza, is leaving next week for Europe, where he will follow up new leads in the investigation of the 1988 assassination of Ms Dulcie September.

Ntsebeza said he might also interview Mr Katiza Cebekhulu, Ms Winnie Madikizela-Mandela's co-accused in the Stompie Sepele kidnapping trial, who disappeared during the trial and is alleged to have new information about the Sepele murder.

Ntsebeza said he was going to Sweden to address an international conference on reconciliation and justice, but would stop over in London to question Mr Rich Verster, a former military intelligence (MI)

member who claims to have information on the September murder.

He said he would see Cebekhulu "if the opportunity arises".

The Cape Times revealed on yesterday that the TRC had located the whereabouts of Cebekhulu, who spent years in a Zambian jail and is now believed to be in London.

Cebekhulu claims two ANC members smuggled him out of South Africa during the Stompie trial to prevent him from making damaging allegations about Madikizela-Mandela's role in the affair.

British MP Ms Emma Nicholson, who has been in close contact with Cebekhulu since 1993, has offered to put the commission in touch with him.

Madikizela-Mandela was convicted of kidnapping Stompie and given a two-year suspended sen-

tence and a R15 000 fine. The coach of her notorious Mandela United Football Club, Jerry Richardson, was convicted of murdering the teenage activist.

Verster has been charged in the UK together with Port Elizabeth millionaire Mr Michau Huisamen with drug smuggling. They are appearing in court in Bournemouth today.

During Huisamen's bail application, information was presented in court linking Verster with MI drugs-for-weapons deals and other activities in Europe during the 1980s.

September, the ANC's chief representative in France, was assassinated in Paris in 1988. Although South Africa denied involvement in the murder, the country's security forces were widely accused of complicity.

TRC hunt for vital witnesses goes to Europe

Star 27/6/97

(252)

New leads in Dulcie September and Stompie Seipei cases sought.

By ROBERT BRAND

The head of the Truth and Reconciliation Commission's investigative unit, Dumisa Ntsebeza, is leaving for Europe next week, where he will follow up new leads in the investigation of the 1988 assassination of Dulcie September. Ntsebeza said he might also interview Katiza Cebekhulu, Winnie Madikizela-Mandela's

Quest for info on Paris killing

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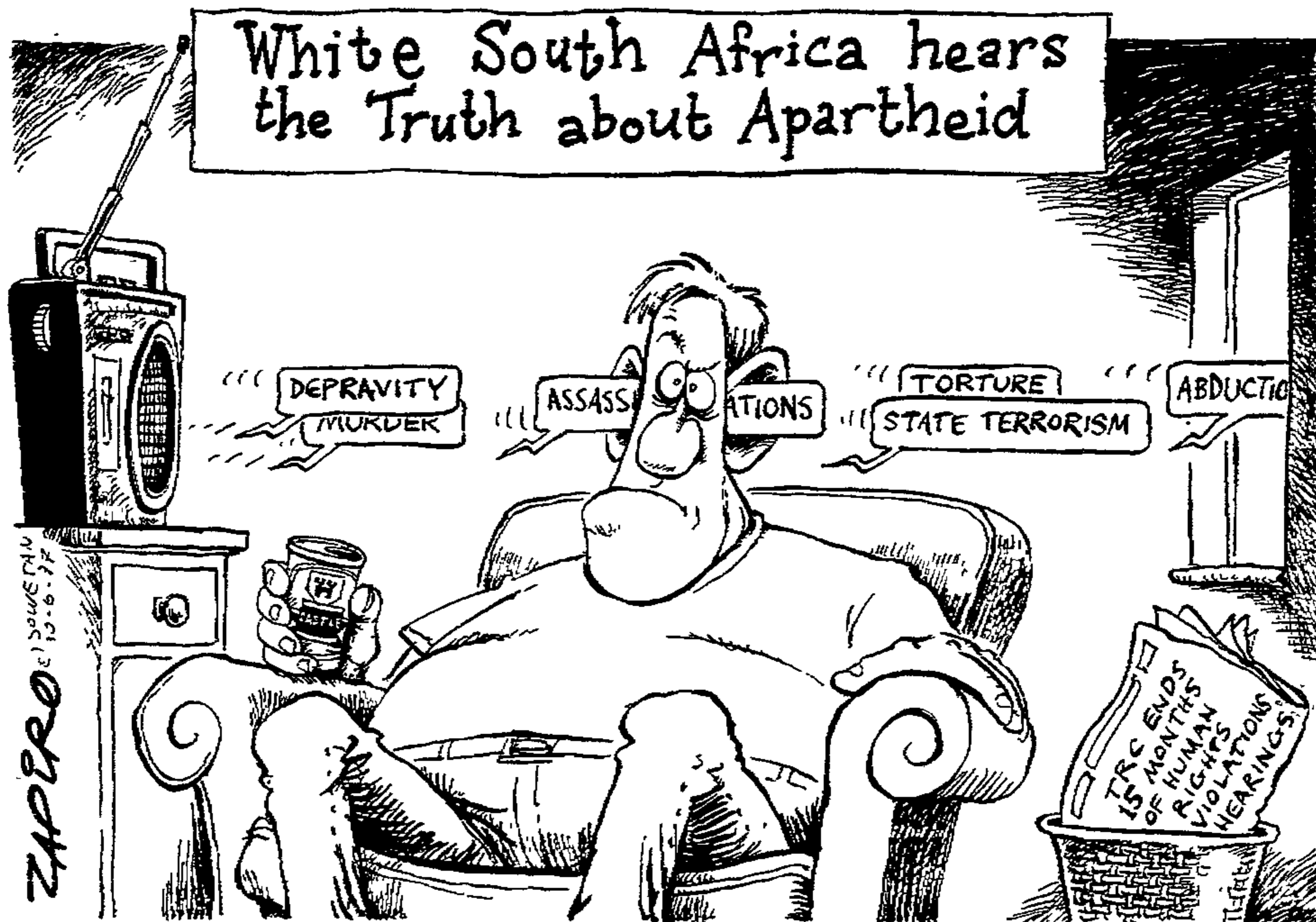
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In pursuit of justice

Sowetan 30/6/97 (252)

THE study and practise of law had appealed to my idealism because the justification for law was its pursuit of justice and its capacity to resist injustice

But it was through the instrumentality of the law itself and the institutions of justice that manifest injustice was inflicted on me and other persons of colour. But this paradox was not without compensation.

It enabled me to focus more intensely and consciously on what the philosophical and ethically legitimate ends of justice were, the degree to which they were manifestly inconsistent with the laws that regulated life in the land of my birth, the reason why they should be reversed and never, never be repeated.

What (South Africa's) experience confirms with a compelling relevance is the peremptory need for lawyers to insist, at all times, that the attainment of justice is the ultimate rationale for all law, that law cannot be distanced from justice and morality without losing its claim to legitimacy, that the ethical objectives of the law contain the lifeblood of a nation, that justice must not only be procedurally fair but substantially fair in its execution, that it must be seen to be fair and to impact on the life of the humblest citizen in search of protection against injustice, that it is accessible, intelligible, visible and affordable, and that any retreat from those truths imperils the very quality of and status of an enduring civilisation.

These truths may not be new, but their capacity to resonate in a potentially renaissance South Africa is. The new Constitution articulates its foundations, it protects the values on which they are premised, it gives to the creativity of lawyers a demonstrable leverage in attacking laws inconsistent with its ethos, it accords to lawyers an expanded field for real fulfilment in areas previously excluded by the sterility of the doctrine of parliamentary sovereignty, and it equips them and the courts with teeth which are sharp and biting enough to snarl at or chew on visible manifestations of injustice - whether it emanates from within or outside the agencies of the State, whether such injustice is sought to be protected by a statute or regulations inconsistent with the Constitution, or whether it is protected by some perceived rule of the common law which rests on an articulated or assumed premise which is constitutionally illegitimate.

There is a freshness, a potency and an opportunity in this challenge, which is very different from that which confronted my generation at the Bar. To sustain a human rights culture, it is no longer necessary to collide with the law. It is necessary only to harness, creatively, that remarkable humanitarian ethos of

The Bar needs more blacks and women to strengthen the effectiveness of the country's justice system, explains Chief Justice **Ismail Mahomed** ...



Chief Justice Ismail Mahomed ... the attainment of justice is the ultimate rationale for law. PIC ANTONIO MUCHAVE

Africa, expressed through ubuntu, is no longer a remote sociological construct, it is a constitutionally identifiable objective.

But the successful pursuit of this potential romance has its own structural challenges. First it needs the support of a widely disseminated culture of constitutionalism and human rights, protected and asserted by organs of civil society outside the Bar and the courts.

This is a culture which needs systematically to be entrenched within the psyche of the nation. It is sometimes very fragile, notwithstanding the example set by a President who has through his suffering and dignity come to symbolise for so many some of our sweetest dreams of nobility in this century, and a Minister of Justice who has through his commitment to justice and his accessibility given a new and powerful voice to justice.

The second and related problem is even more complex. It arises from the awesome legacy of real poverty, despairing unemployment, disempowering illiteracy, debilitating malnutrition and the consequences of pervasive discrimination on grounds of gender and race, which we have inherited from our past.

It might often be very difficult to persuade its victims that a culture of constitutionalism is a priority or even a relevant aspiration for their needs. Their priorities might understandably be very different.

The third difficulty arises from the structure

of the Bar and the Bench. It is overwhelmingly white and male. This compromises the effectiveness of these institutions.

It is imperative to correct the balance and to identify and harness the potential of those blacks and women unfairly prejudiced in the recruitment of legal talent to the Bar and the Bench.

The conquest of all these difficulties is a journey, not a destiny. It is a journey which must be undertaken with a faith that is optimistic. That condition generates its own formidable momentum.

But the reverse is also true. Pessimism has its own awesome power to generate its own malignant growth. There are few institutions better equipped than the Bar by their training and their traditions to give form and content to, and to accelerate that journey.

Its members have the capacity to do this both by their service to the community and by their inputs into the Bench. The Bar remains potentially one of the great institutions of this complex land, of intoxicating beauty and potentially exciting promise.

The Johannesburg Bar has honoured me tonight. It is a great privilege to be regarded as a close friend of the Bar and to enjoy its esteem.

That privilege requires the discharge of two duties. The first is the duty to be frank. I have tried to do that. The second is to articulate a vision for the Bar and its dream for the country.

I will discharge that duty by reliving with Rabindranath Tagore that noble dream which captures so much of the visionary in the lawyer when he says:

"Where the mind is without fear and the head is held high,
Where knowledge is free,
Where the world has not been broken up into fragments by narrow domestic walls,
Where words come out from the depth of truth,

Where tireless striving stretches its arms towards perfection,
Where the clear stream of reason has not lost its way into the dreary desert sand of dead habit,
Where the mind is led forward by thee into that heaven of freedom, my Father, let my country awake."

(This is an edited extract from an address by Chief Justice Ismail Mahomed at a dinner of the Johannesburg Bar to celebrate his appointment) ...

Death penalty project starts

Bonile Ngqiyaza

(202)

DD 30/6/97

CALLS for a referendum on the death penalty gained momentum last week with the launch of an anticrime campaign which hopes to get 30% of SA motorists to place a sticker in the form of a cross on the rear windows of their cars.

A spokesman said a clear message needed to be sent to the state that nothing less than a referendum on the death penalty would be acceptable and that 90% of SA citizens supported its reintroduction.

The spokesman said a union, the Decent Public Union, which would negotiate strategies and represent the public's views to government, would be formed after 30% of drivers had a referendum cross on the rear window of their vehicles.

Campaign co-ordinator Visser du Plessis said he hoped to distribute two million stickers stating, "Death penalty — Doodstraf", which would constitute the 30% support his campaign wanted.

TML submission says papers acquitted themselves honourably

Stephen Laufer

(252)



NEWSPAPERS belonging to Times Media Ltd (TML) and its predecessor, SA Associated Newspapers (Saan), acquitted themselves honourably in the battle for freedom, justice and truth in SA, the publisher has told the truth commission in a submission by former Rand Daily Mail and Sunday Express editor Rex Gibson.

The positive contribution far outweighed any errors, the submission contends. Individual publications which belonged to the group at one time or another — including the Sunday Times, Business Day, the Financial Mail, Sunday Express, Rand Daily Mail, Natal Mercury, Daily Dispatch, and Eastern Province Herald — had served SA well, if fallibly.

Ken Owen, the retired editor of the group's biggest newspaper, the Sunday Times, had disassociated himself from the submission, TML chairman Cyril Ramaphosa told the commission in an accompanying letter.

Most directors had been appointed since TML control changed last year, and had been unable to provide information for the submission. The same applied to many editors, but former journalists and managers had been asked to contribute what they knew.

While admitting that Saan/TML had fired more editors than any other group in the country, the submission contends they were always replaced by journalists who shared the same liberal, anti-apartheid views. This disputed the view that dismissals of editors like Raymond Louw and Tony Heard had been politically motivated.

BD 30/6/97

The submission admits it is not possible to reconcile the conflicting versions of the firms. The fact that editors had staked their careers on their right to make professional decisions had generated vitality and attracted good journalists.

Journalists had sometimes faltered and sometimes been let down by their editors, the submission admits. Editors under pressure became too cautious. Reporters, emotionally involved in their stories, sought to substitute propaganda for fact and had stories spiked as a result.

Efforts had been made to push the rigid apartheid press laws to their limits. The draconian censorship laws of the 1980s had been broken as they were largely unenforceable. The 1980s had also been a period ruled by emotion and fear, and the se-

curocrats' lies had been seductive. From time to time, the submission admits, newspapers fell into the traps of emotion and disinformation, lapses which were not easy to defend.

TML strongly denied that newspapers may have contributed to a climate in which gross human rights violations were possible. Instead, the group's newspapers had put a brake on power, revealing to the country and the world what was really happening on a number of fronts.

Editors had reluctantly participated in government liaison committees and accepted defence ministry invitations to visit war zones in an attempt to keep channels of information open and to tackle misunderstandings. Internally, the newspapers had been bound by the laws of the country requiring separate amenities for

black and white staff, and had not regarded it as useful to litigate against windmills. Editors had sometimes been insensitive to their black staff.

Salaries had not been "as equal as management liked to believe". Despite efforts, the company had not done enough to redress imbalances.

Many of the group's proprietors through the apartheid years — such as Syfrets on behalf of the Bailey Trust, and Anglo American — had been reluctant newspaper owners, keeping coyly in the background. This invited the conclusion that they would have preferred not to be the custodians of a newspaper empire whose parts had the capacity to be fractious, politically provocative and stubbornly individual.

Spiralling demand plunges Legal Aid Board into staff crisis

Star 30/6/97 (252)

Justice minister has approved 40 more posts, but even when they are eventually filled this will not be enough to cope with the workload

By ROBERT BRAND

The Legal Aid Board, which provides state-funded legal representation for people who can't afford it, has been plunged into a staffing crisis by the huge demand for legal services brought about by the new constitution.

In its annual report to Parliament, the board said 22 employees – almost a fifth of the board's total staff complement of 116 – had resigned in 1995/1996 because they could not cope with the rapidly increasing workload.

During this time, the board provided legal representation for more than

100 000 people and the workload had increased considerably since then, director Dr Nic Pretorius told *The Star*.

The board, an independent statutory body, was established in 1969 to administer a legal-aid scheme for indigent defendants.

It receives public money to pay private attorneys and advocates to represent people who earn less than a specified amount, and also employs legal professionals in the public defender's office.

In the past, recipients of legal aid had to pass a strict means test: aid was given only to people with a calculated monthly income of less than R1 000 a month. The

constitution, however, requires that the state provide legal assistance to any accused if a substantial injustice would otherwise result.

The board now also exercises the state's constitutional duty to provide legal assistance, which has more than doubled its workload.

"The demand for legal assistance is increasing by the day. We are trying our best to keep up with it," Pretorius said.

Although Justice Minister Dullah Omar had approved 40 new posts to deal with the workload, these had not yet been filled and they would not be enough anyway, Pretorius said.

The fact that the board does not receive a budget from the state to pay for assistance it gives under the constitution – it has to claim money from the Justice Department for every case it handles – adds to the problem.

"It causes a whole lot of additional red tape and work," Pretorius said.

The staff shortage has led to problems with financial administration and the payment of attorneys instructed to do work on behalf of the board.

"That is a big problem for us, although we are in the process of setting it right," Pretorius said.

Policeman got R2 000 after ambush, TRC told

By ROBERT BRAND

Pietersburg - A black police sergeant asked for a promotion, but received a R2 000 reward instead, for his role in an ambush in which six ANC members were killed, the Truth and Reconciliation Commission heard yesterday

Mathews Sehlwana, who is no longer in the police force, is applying for amnesty for the 1986 incident, along with 13 former colleagues - among them the present chief of the serious violent crimes unit in Northern Province, Senior Superintendent Andre Erwee.

All 14 applicants have admitted that six ANC members were shot dead in the combined police, military and air force operation near Alldays

At issue is whether the intention was to kill the six, or whether it was an attempted arrest gone wrong.

Sehlwana claims he helped lure the cadres into an ambush from which they could not escape alive, and one who had survived the initial firefight was murdered afterwards

The other 13 applicants, all white and still active policemen, say the intention was to arrest the six, but they were killed when they opened fire on the police

Sehlwana said he had received information from an informant that six Umkhonto weSizwe cadres wanted to infiltrate South Africa from Botswana. Through the informant, he established contact with an ANC member named

Tebogo Boikanyo and offered to transport the cadres from the Botswana border to Pietersburg

He was given a police minibus, and an elaborate ambush was set up, involving several security policemen, soldiers from the former SA Defence Force's Northern Transvaal Command, an air force spotter plane and helicopter

Two of the cadres were planning to bomb a shopping centre in Pietersburg, while the others were on their way to Phalaborwa and Johannesburg, Sehlwana said. All were armed with AK-47 rifles and handgrenades

Following orders, Sehlwana stopped the minibus on a low-water bridge, jumped out and ran away. A Casspir

police vehicle blocked the road ahead, a teargas grenade was flung into the minibus, and shots were fired

Sehlwana said that when the teargas had cleared, five of the cadres were dead and the sixth was barely alive. After being questioned briefly by policemen, he was shot dead by Captain Tokkie Fuchs

After the operation, the security policemen held a braai at a farm near Alldays. While drinking with his colleagues, he asked Fuchs for a promotion, Sehlwana said

"He said 'You are not going to get a promotion' and he poured some beer over me," Sehlwana said. Two days later, however, he was given R2 000.

Erwee is expected to testify today

Star 1/7/97 (202)

'Just-in-case' amnesty application under fire

By ROBERT BRAND

Pietersburg - An argument by 13 former security policemen that they did nothing wrong or illegal, but wanted amnesty for killing six ANC members just in case, was "absurd", a judge on the Truth and Reconciliation Commission's amnesty committee said yesterday.

The 13 men have admitted involvement in the killing of six Umkhonto weSizwe cadres in 1986, but say the cadres were killed after they fired at police and soldiers who wanted to arrest them. Their lawyer, Louis Visser SC, said they did not admit to any wrongdoing but had decided to apply for amnesty to forestall possible

prosecution. He said the attorney-general of the Transvaal had instigated a criminal investigation into the incident.

But Mr Justice Bernard Ngoepe, who chaired the panel hearing the application, said amnesty could not be granted unless an offence had been committed. "I don't think amnesty is meant to be an insurance against the possibility that your defence might not stand up. If a person comes and says 'I did not commit an offence', we cannot give him amnesty. That would be absurd."

On Monday, former policeman Mathews Sehlwana testified that a combined police and military ambush had been set up for the six cadres with the

intention of killing them.

Acting undercover, he had offered to transport the six from the Botswana border to Pietersburg, Sehlwana said. Instead he had driven them into the carefully laid ambush and jumped out of the vehicle before the shooting started.

But yesterday, retired Colonel Willem van der Merwe, commander of the Far North security branch at the time of the shooting, denied Sehlwana's version of events. Van der Merwe said the operation had been mounted with the intention of arresting the six cadres.

A large combined force of policemen and Reconnaissance Commando soldiers, assisted by an air force spotter plane

and a helicopter, were necessary as "a show of force" to compel the cadres to surrender.

When one of the cadres started shooting, the policemen and soldiers had shot back, killing five outright and seriously wounding another, who died shortly afterwards.

"I honestly feel that we acted legally in this instance, but I became worried when I heard it was being investigated by the attorney-general," Van der Merwe said.

"I heard from all sides, among others from (TRC chairman Archbishop Desmond) Tutu, that people who were not sure of their legal position should apply for amnesty."

The hearing continues today

(292) Star 2/7/97

Details of security system made known

BD 2/7/97

(252)

PIETERSBURG — The truth commission's amnesty hearing in Pietersburg yesterday heard about an elaborate security system run by police and the defence force along SA's northern border at the height of the anti-apartheid liberation struggle in the 80s.

Former Northern Transvaal security police chief Col Willem van der Merwe described the importance of intelligence-gathering in efforts to combat the infiltration of "trained terrorists". He said some regions were proclaimed operational or affected areas because of the high incidence of landmine explosions and other security risks.

Van der Merwe said he was involved in a plan to provide police transport for a group of Umkhonto we Sizwe insurgents who wanted to enter the country from Botswana on July 10 1986.

In this particular case the plan had been to halt the vehicle carrying the insurgents at a roadblock. Several police units and members of Five Reconnaissance Battalion based at Phalaborwa were involved.

The plan was to lob a teargas grenade into the vehicle to force the insurgents to surrender. "We believed that, with a show of force, we would be able to arrest them," Van der Merwe said.

He said he was informed on the day of the operation that the plan had gone awry. The armed insurgents had opened fire and all six had then been shot dead.

He said he was shocked when the news was conveyed to him. The findings of an inquest, ordered at the time, did not reflect what really happened at the scene of the shooting, he contended.

Van der Merwe said in applying for amnesty in respect of this incident, he believed he and the other security policemen had acted lawfully, in terms of existing legislation. "Our task was to prevent the violent overthrow of the government" — Sapa.

Church calls on Anglicans to appear at the truth commission

(252)

BD 3/7/97

CAPE TOWN — The Anglican Church yesterday called on its members who were involved in the perpetuation of apartheid to appear before the truth commission and give evidence.

The call was made in a statement from the office of the Rev Njongonkulu Ndungane, the Anglican Archbishop of Cape Town, on the Church of the Province of Southern Africa's submission to the truth commission's human rights violations committee

"The church has a wide membership, among whom would have been those involved in the perpetuation of the heresy of apartheid and of the violation of human rights

"We call on them to appear before the truth commission," said Ndungane

The church also acknowledged that it had "disobeyed God" by sometimes complying with apartheid laws "There were occasions when, through the silence of its leadership or its parishes, or their actions in acquiescing to apartheid laws where they believed it to be in the interests of the church, deep wrong was done to those who bore the brunt of the onslaught of apartheid," said Ndungane

At a corporate level, the church was at times guilty of making statements without concomitant action which might have resulted in the alleviation of the invasion of human rights

"The church thus wishes to

place on record that, as a body corporate, it repents sincerely and absolutely for any possible violation that occurred by omission or commission"

The church made its submission after a call by the commission for churches to testify on human rights violations during the apartheid years

The Anglican Church would act as a reconciling agent for those seeking honest redress for the wrongs they committed, and to be available to those in need of healing from the hurt caused by the violations of their human rights

Suffered

Ndungane said that the church had also suffered during the apartheid era.

Its leaders and other members were spied on and detained without trial

Members were banned for their Christian witness among communities which had their human rights violated.

They suffered physical, mental and spiritual injury These members included Ndungane

"As a church, we honour those who were prepared to take the risk of the wrath of the state, whether they were Anglicans or not, and seek their forgiveness where we failed to provide the ministry to, and support of them, which we know Christ would have done," said Ndungane

The church also suffered damage to its infrastructure

Many of its institutions, like schools and theological colleges, were attacked by the apartheid state Land was arbitrarily expropriated, said Ndungane.

"In this way, it found itself able to identify with those in society who were treated in an even more shameful way"

The church recommitted itself to achieve moral reconstruction and healing, and the revitalisation of individuals within society

"Recognising that much of the poverty evident in SA is a result of the inhumane system of apartheid, it commits itself, as part of its ministry to redress the wrongs of the past, to a programme of action to eradicate poverty in all its forms," said Ndungane — Sapa

Sugar giant explains its death farm

(252)

M+G 4-10/7/97

Tongaat-Hulett is the first company to make submissions to the truth commission, writes **Enoch Mthembu**

TONGAAT-HULETT, the KwaZulu-Natal sugar giant, has become the first company called to account to the Truth and Reconciliation Commission, after the discovery of an activist's corpse on its property

The company has handed written submissions to the commission explaining the circumstances surrounding the leasing of three farmhouses to the security police

This follows the exhumation of the corpse of African National Congress activist Phumezo Ngxwem on the company's land earlier this year on a farm called Waterloo, near Verulam

Tongaat-Hulett insists this property and two others were leased "at arm's length" between 1985 and 1995, and that it knew nothing of any "dirty tricks" activities

A Tongaat-Hulett director, Johannes Magwaza, said this week "The farmhouses were let out to the police because thugs were vandalising the farm. It was normal business practice"

But the truth body has mooted the

possibility that the leasing was done by Andy Taylor, the former head of the notorious Durban security branch who was recently acquitted in the Durban High Court of the murder of human rights lawyer Griffiths Mxenge

Tongaat-Hulett officials say the policeman they dealt with called himself Andy Sullivan. A truth commission representative, Mdu Lembede, said this week: "We assume it

was Andy Taylor who rented the house because he was mentioned by other amnesty applicants in his own unit as the one who disposed Ngxwem's body"

He said the commission had "no reason to doubt" the submissions and would not be taking the matter any further — unless more evidence emerged during amnesty hearings

The *Mail & Guardian* is in possession of the report drafted by an internal team of Tongaat-Hulett company

investigators. The report says there is no evidence any company staff knew of or participated in "dirty tricks"

But it says the company's then agricultural manager, a Mr de Jongh, who let the houses, "knew or became aware the occupants were police. He was relieved to have a police presence on the land due to the high crime levels"

The findings continue "Senior management did not know the security branch was in occupation of company houses. Operational management and staff only began to suspect the occupants were plainclothes policemen as time went on"

In his statement, De Jongh says "During the mid-1980s, I was approached by a person who gave his name as Andy Sullivan. [He] inquired if there was any vacant company houses on the estates which he could rent. I offered a house to Mr Sullivan, who impressed me as a suitable tenant. Over the next two years he leased two other houses to "Sullivan"

Kevin Mee, of Tongaat-Hulett's Verulam Blackburn Estates, where

property was rented, says there were "long periods when there was no activity at the house. I was told it was rented by SAP people"

He describes how he recognised the police from his days of playing "force rugby. I knew one by the name of Cassie and the other, a fairly big middle-aged man, as a regular rugby spectator. I do not know what their ranks were

because of the absence of uniform and the unmarked cars they drove. I suspect they were either detectives or members of the security branch"

Tongaat-Hulett's group MD, Cedric Savage, says in a letter to the commission that the company was concerned about the "negative publicity which appeared after the exhumation of the remains of Ngxwem. We therefore believe it is important to explain the



Magwaza: 'It was normal business practice'

Call big business to account

(252) m+g 4-10/7/97

Comment: Ronald Suresh Roberts

THE apartheid state killed 68 political prisoners in police detention, while apartheid's mines killed 69 000 people this century. Yet the Truth and Reconciliation Commission is largely ignoring apartheid business.

By law, the commission must investigate "gross violations of human rights", including "severe ill-treatment" that was "part of a systematic pattern of abuse".

So why is mining, which treated human beings like profit-fodder and entrenched the migrant-labour system, being ignored? If apartheid's lawyers, doctors and media must face a reckoning, why not business? We are told business did nothing "unlawful". But did the media, lawyers, doctors?

In fitfully limiting its focus to activities unlawful under apartheid's own laws, the commission ignores parts of its statutory mandate: the systematic severe ill-treatment, often "lawful" and committed by private parties, that was apartheid's bedrock.

Upon his appointment as the commission's vice-chair, Alex Boraine, formerly an Anglo American-funded liberal in the apartheid Parliament, said a major goal of the truth body was to "restore" the rule of law.

He apparently envisages a return to a Smutsian golden era, when the rule of law supposedly prevailed. Such liberal assumptions hang like a blight over the commission's work

What gave apartheid its particular face in the rogues' gallery of 20th-century inhumanity was precisely its

legalised infliction of severe ill-treatment on blacks. By emphasising activities that were previously unlawful, the commission is ironically erasing apartheid's distinctive horror: the legalised and systematic infliction on blacks of severe ill-treatment by a state and its (un)civil society

In this familiar liberal bias, no horror is a real horror unless a legal system, however atrocious, says it is. Even where that legal system itself comprises a crime against humanity, the liberal response is that two wrongs don't make a right: one must resist by only those "lawful" methods that the criminals against humanity themselves condescend to allow



These liberal assumptions hang like a blight over the commission's work

Conversely, if a crime against humanity is implemented by "lawful" means, by methodical parliamentary criminals, it disappears from the radar screen of gross human rights abuse, however real the human suffering may have been

This liberal line of reasoning is explicit in Jill Wentzl's *The Liberal Slideaway*, published by the Institute of Race Relations in 1995. Wentzl argues that apartheid's "structural violence at least had the quality of being structural, with its own bureau-

cracy, rules, reports, files, trials and inquests".

Instead of realising she is describing the same camouflage of orderliness that historians of the Nazi regime call "desk murder", Wentzl thinks her argument mitigates apartheid's evil, compared to less orderly violence.

Within the truth body, such bias has undermined the plain language of the commission's statute, which requires that all severe ill-treatment, whether legal or illegal under illegitimate apartheid "laws", be investigated

Many apartheid desk murderers were in the private sector. Former prime minister PW Botha sought to "unite business leaders behind the South African Defence Force" and, by the end of the 1970s, approximately 5 600 private businesses were linked to his murderous defence establishment. Meanwhile, military spending boosted "non-military" sectors like textiles, electronics and construction.

Yet when, rarely, the commission notices corporate complicity, it is of a non-systematic kind. As in the Tongaat-Hulett case now in the news, the commission apparently believes a company must find the bodies of security force victims on its property before the commission need take note

Systematic ill-treatment of blacks — apartheid's monument of public-private co-operation — has disappeared in a fog of liberal bias.

Ronald Suresh Roberts is co-author of *Reconciliation Through Truth: A Reckoning of Apartheid's Criminal Governance*

1A
the show -

Cape Town faces up to forgiveness

Amnesty drama

(252) ARC 4/7/97

Deep differences of opinion about amnesty, forgiveness and reconciliation will mark the Truth Commission's amnesty hearings next week, when Capetonians relive some of the most shameful memories of the apartheid era.

Incidents which will be in the spotlight include

- The killing of American exchange student Amy Biehl, stoned to death in Guguletu in August 1993
- The massacre in St James Church, Kenilworth, in July 1993, in which 11 people died and more than 50 were injured by Pan Africanist Congress attackers
- The killing by police of the "Guguletu Seven" African National Congress guerrillas in March 1986 in highly controversial circumstances

Amnesty applications, also by PAC-linked cadres, for the horrific attack on the Heidelberg Tavern in Observatory on December 30, 1993, were to have been heard but have been postponed because Parlia-



ON THE TRUTH COMMISSION

ment has not yet approved a change in the Truth Commission's amnesty cut-off date, from December 5, 1993, to May 10, 1994

Several of the victims of these attacks and their families, who hold sharply divergent views on amnesty and reconciliation, will attend the hearings at the Truth Commission's Adderley Street offices.

They include Peter and Linda Biehl of California, the parents of Miss Biehl, who at the weekend visited Evelyn Mangina,

To page 3

Can city forgive

From page 1

(252)

mother of one of their daughter's four convicted killers

Mrs Biehl told a nervous Mrs Mangina that they had been looking forward to the meeting for reconciliation, that Amy would have wanted them to continue her work, and that they would not oppose the amnesty applications by the four men

"This is what it is all about," Mrs Biehl was quoted as saying "This is why Amy was over here, why we keep coming back, because of the heart and soul of the African people. And we just want the races to reconcile, for people on a one-on-one relationship to make differences."

But not everyone shares their views. The family of one victim of the Heidelberg Tavern shootings lashed out angrily at the Truth Commission when asked whether they would attend next week's hearings, but declined to go on record with their comments

Another person who will attend the hearings is Dawn Harker of Lansdowne, who lost two of her sons, 13-year-old Wesley and Gerrard, 21, in the St James Church shootings

She described the Truth Commission as "a very good thing", but said she did not think her sons' killers should be freed

"I've forgiven these people because nothing I can say or do will bring my sons back. That's in the hands of the Lord," she said yesterday

"I just feel they (the killers) shouldn't be out (of jail). If you break the law of the land you have to be punished. They went into the church specifically to kill. The law must be carried out to the full extent and they must pay for their crimes."

One of the victims of the church shootings, teacher Paul Williams, who was left with a paralysed left foot and other serious injuries, told a Truth Commission human rights violations hearing that he had forgiven his attackers

"What they did was totally unnecessary. But there's no bitterness in my heart."

Prisoners refusing to stand trial

(252)

ARU 5/7/97

JULIAN JACOBS
STAFF REPORTER

In a bizarre development putting fresh strain on a creaking justice system, awaiting-trial prisoners have been refusing to appear in court to be charged.

A senior official in the justice system has bluntly admitted that "there is nothing much we can do about this".

Some suspects, who have been refused bail and are kept in prison until their date of appearance in court, simply refuse to come forward to be taken to court.

"No one is prepared to drag these people to court. Everyone is afraid of being accused of human rights violations. So when these people refuse to come forward willingly, there is not much that can be done," said the disgruntled official.

Suspects who refuse to be taken to court on the required date would "technically" be cited as being in contempt of court, said one official.

The prisoners' motivation was apparently to use a "delaying tactic" in the hope of eventually having their cases thrown out of court. Some observers fear that cases could get "lost" amid the increasing burden on the system.

This development is adding to the anger of victims over the "lenient and pathetic sentences" handed down to criminals.

This week a young rape victim, whose alleged rapist has only appeared in court once since he was arrested in July last year and has since refused to appear, spoke of the horrific crime.

"I opened the door because I knew him. I trusted him. He (the rapist) tied my hands behind my back and raped me," said the 14-year-old victim.

The alleged rapist is in his fifties and has only appeared in court once, in February. The rape took place in July last year.

Last month the alleged rapist refused to appear in court and the case was postponed, leaving the family angry and traumatised. "What right does he have as a

criminal. We are the victims. We are angry that he refused to appear," said the victim's uncle, who may not be identified.

Jan Swart of the Child Protection Unit said prisoners' names were filled out on requisite forms two days before they were supposed to appear in court.

On the day of their court appearance their names were called out, but with prisons being overcrowded, prisoners sometimes did not respond to calls. Superintendent Swart said those who did not come forward on the date would be "technically" cited as being in contempt of court.

He said that awaiting-trial prisoners would do anything they could to have their cases thrown out.

Another senior justice official said the new Constitution was weighted towards the accused. He said police and justice officials

urgently needed to get to "grips" with the new Constitution and find out how to protect the rights of the victims of abuse.

"Our sentencing of criminals is way below par. Crimes like violence, sexual abuse, drug peddling and arms dealing deserve heavier sentences," he said.

Safelme social worker Lindie Wadhams said social workers faced growing frustration with the justice system, which was "fraught with inadequacies". She had worked on cases where the court postponed proceedings up to four times, while the alleged perpetrator was out on bail, living next door or near the victim.

Ironically, if victims and their families are late for a hearing, they are fined for being in contempt of court. "Where is the justice in all this?" asked Ms Wadhams.

■ An extra court is set to open at the Wynberg Magistrate's Court on August 1 to address the 300-case backlog in the sexual offences court.

A senior justice department official said the many sexual offence cases pending could not be finalised in one court. The new court will help ease the burden on G Court, in which sexual offences cases are being heard.

'No one is prepared to drag these people to court. Everyone is afraid ...'

Parliament Keeps Key amnesty

Bill on hold ⁽²⁵²⁾

And it is dragging its heels on other vital legislation

CARMEL RICKARD

ST 6/7/94

PARLIAMENT has been caught napping again it has not yet changed the law so that the Truth and Reconciliation Commission's amnesty committee can consider granting amnesty for criminal acts committed between December 6, 1993 and May 10 1994.

This is despite President Nelson Mandela's announcement in December last year that the cut-off date would be moved to May 10 1994, the day of his inauguration. As a result of the hitch, the committee cannot consider amnesty applications from the three perpetrators of the Heidelberg Tavern massacre: Brian Madasi, Zola Mabalala and Luyunda Gqumisa. All three men were convicted on eight charges, including four counts of murder, for their attack on the Heidelberg Tavern pub in Observatory, Cape Town, on December 30 1993. They were sentenced to jail terms ranging from 24 to 27 years for the incident, in which they had used hand grenades and automatic weapons. Mr Justice Hassan Mall, who

chaurs the amnesty committee, said the Heidelberg Tavern case had been due to be heard this week, along with amnesty applications from the killers of Amy Biehl and the perpetrators of the St James Church massacre.

However, now that it had been discovered that the legislation was still not in place, the committee had had to postpone the hearings indefinitely.

Judge Mall said that a constitutional amendment was needed to change the cut-off date before which crimes had to have been committed in order for the perpetrators to be considered for amnesty. This was because the original cut-off date of December 6 1993 was part of the Constitution. After discussions with officials earlier this week, he said the amendment was unlikely to be passed until next month at the earliest.

Just last month, a Constitutional Court deadline to Parliament to change another law expired without the required alterations having been made. The court had given the Department of Justice 18 months to fix the law on prisoners' rights to appeal and to bring the legislation in line with the Constitution.



OVERRULED: Justice Minister Dullah Omar, who has failed to meet the deadline for changes to the law on prisoners' rights of appeal

When Parliament failed to do so, the Constitutional Court ruled that the existing legislation lapse immediately as it was unconstitutional, even though no new legislation had been passed to put in its place.

Two other cases have also come to light in which Parliament has not passed legislation which it is required to do by the Constitution.

Under the Constitution, the High Courts are given certain powers to decide whether legislation is unconstitutional.

But a High Court decision declaring legislation unconstitutional

does not come into effect until the Constitutional Court has approved the High Court's ruling.

According to the Constitution, Parliament must pass legislation providing for the High Courts to refer such rulings to the Constitutional Court.

But Parliament has not done this yet.

Now the Johannesburg High Court has handed down a decision that a section of the Companies Act is unconstitutional, and it is unclear how the ruling should be handled in the absence of the legisla-

tion required by the Constitution. Similarly, Parliament is supposed to have passed legislation which would permit the various courts to make their own rules, but it has not yet done so.

A case was recently launched in the Constitutional Court in which the applicants want to appeal against a decision of the Appeal Court. But there is apparently no legislation allowing for the procedure to permit such an appeal.

Officials at the Constitutional Court confirmed that there were no laws to cover these two cases. How-

ever, the court will be hearing argument in August on whether to allow the appeal from the Appeal Court.

This could resolve the question of whether legislation was needed, or whether the Constitutional Court could decide such questions on its own.

When the judges meet at the beginning of August, they will also consider how, in the absence of legislation, they should deal with the Johannesburg High Court decision which found a section of the Companies Act unconstitutional.

BIEHL KILLING HEADS AMNESTY HEARINGS

Cape Town relives its pain

CT 7/7/97

(252)

JOHANNESBURG: Amnesty hearings this week focus on some of Cape Town's darkest hours — the Amy Biehl, St James Church, Guguletu Seven and Ashley Kriel murders.

THE killing of US student Miss Amy Biehl and other murders that reverberated around the world are to be the focus of amnesty hearings beginning in Cape Town today.

Others are the St James Church massacre in 1993, the killing of ANC guerrilla Mr Ashley Kriel on the Cape Flats in 1986 and the deaths of the Guguletu Seven in the same year.

First on the agenda is the continuation of the hearing of the application by Philemon Maxam, Grösbj Ndimisa and Madoda Tswana for the April 1986 deaths of

Ms Rholian-Anne Foster and Mr John Geysler in Paarl.

The trio, convicted in 1990, have claimed they were members of youth and community groups affiliated to the United Democratic Front.

Tomorrow, the Amnesty Committee is to hear applications by four people convicted for the death of Biehl, the Fulbright exchange student stoned to death in Guguletu on August 25, 1993.

Each of the four — Mzikhona Nofemela, Ntobeko Peni, Vusumzi Ntamo and Mongezi Manguna — was sentenced to 18 years' impris-

onment. They say they were members of the Pan-Africanist Congress (PAC) military and student wings, Apla and Paso.

Biehl's parents, Mr Peter Biehl and his wife, Linda, have travelled from California to attend the hearing. Mrs Biehl met the mother of one of her daughter's killers last week and said she would not oppose the amnesty application.

On Wednesday and Thursday, the applications of three people claiming responsibility for the St James Church massacre are to be heard. At least 11 people died and more than 20 were injured severely when a group of men burst into the church with automatic weapons and fired indiscriminately at people attending the Sunday night service.

Gcinikhaya Makomah, Bassie

Mkhumbuzi and Letlapa Mphahlele are serving sentences. They have claimed they were members of the PAC and Apla.

Retired security policeman Mr Wilhelm Riaan Bellingam and Sergeant Thapelo Johannes Mbelo, of the SA Police Service, have applied for amnesty in connection with the deaths in Guguletu on March 3, 1986 of seven young activists. Their applications are to be heard on Friday.

Next week, the application by Police Inspector Jeffrey Benzen for Kriel's death is to be heard. Benzen was a member of the Bishop Lavie Murder and Robbery Unit when Kriel was shot dead by police in a gun battle at a house in Athlone.

Benzen has also applied for other "possible" human rights violations — Owen Correspondent



St James: the agony goes on

Survivors tell of suffering as amnesty bid looms

ASHLEY SMITH
STAFF REPORTER

On the eve of amnesty applications in connection with the St James Church attack, some survivors of the massacre bitterly oppose amnesty and tell of their continuing anguish.

But others are prepared to forgive if the attackers show remorse for the July 1993 attack in which 11 people died and more than 50 were injured.

On Wednesday and Thursday the Truth Commission will hear applications by the three men who say they were members of the Azanian People's Liberation Army (Apla), the armed wing of the Pan Africanist Congress.

The commission will also hear applications by the killers of American Fulbright student Amy Biehl, two policemen involved in the ambush of the Guguletu Seven African National Congress activists and the policemen who shot dead ANC guerrilla Ashley Kriel.

A Cape Argus news team revisited St James Church in Kenilworth last night to gauge the feelings of survivors on the amnesty bid by Gcinikhaya Makoma, who was jailed for 23 years, Basie Mkhumuzi, who is on bail but has not yet pleaded to charges, and Lelapa Mpalalele, who allegedly helped plan the attack but has not been charged.

Gunmen burst into the church during the Sunday evening service on July 25, 1993, opened fire with automatic weapons and threw grenades at the congregation. Dawie Ackerman, whose wife, 45-year-old Marita, died in the attack, vowed to oppose their bid for amnesty.

Mr Ackerman has been forced into premature retirement at the age of 51 because he still cannot cope with her death.

At the Truth Commission he will, for the first time, come face to face with his wife's killers, something he admits he could not have handled in the past.



ANDREW INGRAM

Facing the past: the congregation at St James yesterday. They face tough memories as those responsible for the 1993 attack on the church seek amnesty only for himself, he did not agree that the three attackers should get amnesty.

"I am a diagnosed manic-depressive on medication and undergoing psychotherapy. This is the first time I'm coming clean about my condition, as my employers did not even know why I was forced to retire. I have lost the ability to do my work. My wife's death shattered my life."

could not be justified as it was well-known that St James had always been a place of worship for Christians of all races.

Lorenzo Smith, whose wife Myrtle also died in the attack, said it would take a lifetime to get over losing her.

"Although I have remarried, I still find it odd sometimes and I don't know how to deal with certain problems."



SURVIVOR: Paul Williams at the service last night

IN MEMORY OF

Martha Ackerman
Denise Gordon
Guy Javens
Gerhard Hanke
Wesley Harber
Oleg Karamzin
Andrey Kaye
Richard O'Kull
V Powa
Myrtle Smith
Valentin Viazovsa

ALG 7/13/97 (252)

Mob killings, kangaroo courts on rise

As communities lose faith in the criminal justice system,
people are meting out retribution

BY TEFU MOTHIBELI
AND MIKE MASIPA

“People’s justice” in the form of “people’s courts” and mob killings of suspects is taking hold in Gauteng as crime-scarred communities reject disintegrating policing and justice systems.

Police say they welcome community involvement in the fight against crime but have again warned residents not to take the law into their own hands. However, with criminal prosecutions at record lows – regional courts on the Witwatersrand secured 18 197 convictions last year as opposed to 29 375 in 1993 – communities are sweeping police pleas aside.

In the latest incident of vigilante retribution, enraged residents of Ivory Park near Tembisa on the East Rand, beat three men to death after accusing them of assaulting a local shebeen owner at the weekend. The men died later at Rabie Ridge police station. The assailants later told station com-

missioner Superintendent Nick Pretorius that suspects released on bail could not be assured of their safety.

Pretorius said police in the area were seriously understaffed and were helpless in the face of lawlessness from both criminals and vigilantes.

The Star yesterday visited a “people’s court” at Boipatong Stadium in the Vaal Triangle where about 100 community elders sit in judgment on suspects five afternoons a week.

Yesterday, they heard cases involving murder, rape and a dishonoured credit agreement. When cases are completed, the guilty can expect up to six sjambok lashes.

The “imbizo” or “traditional gathering” metes out justice with widespread community approval. Vaal police spokesman Superintendent Piet van Deventer said they welcomed community involvement in combating crime.

“However, no one has a right to take the law into his own hands and we invite everybody who has been assaulted by the

imbizo to come forward and open a case,” he said. Police were investigating three cases of assault against the court.

In other instances, the court is run by the local community policing forum and works hand-in-hand with the police, handing over perpetrators in serious offences.

Even though there were mixed feelings about the court it became clear that because many people have lost faith in the criminal justice system, the “people’s courts” have become a popular choice for those seeking to see “justice done”.

“Those old men are doing a fantastic job. Since this imbizo was formed in 1994, life has been worth living for some of us,” one resident said.

A spokesman for the imbizo, Duma Motlounq, said: “The amount of cases we handle goes to show how much confidence the residents have in this structure. It is they who formed it and, as the committee, we merely execute their mandate to bring justice, peace and stability to the area.”

(252) Star 8/7/97

ANC seeks amnesty for convicted murderer

(252) CT 8/9/97

THE African National Congress is seeking the release from prison of a leading Western Cape anti-apartheid activist who shot dead a domestic worker and a gardener during a bungled burglary on a Paarl farm in 1986.

The party submitted a petition containing the names of 680 members to the Truth and Reconciliation Commission in support of Philmon Maxam's amnesty application yesterday.

Maxam, a former leading member of the United Democratic Front-affiliated Paarl Youth Congress, originally received two death sentences for what the court described as the "cold-blooded execution" of two innocents.

The Appellate Division later commuted his sentence to 25

years' imprisonment.

Yesterday Maxam and two co-accused in his trial, Madoda Tisana and Crosby Ndimisa, appeared before the Truth Commission's Amnesty Committee and argued the murders were unplanned and the burglary politically motivated.

Maxam admitted to killing housekeeper Ms Rholian-Anne Foster and gardener Mr John Geysler on April 15, 1986. They were employed on the Paarl farm Vlakkeland.

He testified that at the time of the killings UDF activists in Paarl's neighbouring township of Mbekweni were involved in a bloody conflict with members of the Azanian People's Organisation which was allegedly supported by police.

He described how on April 15 he led a group of about seven

youths to Vlakkeland to search for arms.

"I had seen police Casspirs around the farm. It was important to get weapons to fight the enemy," he said.

Maxam said he persuaded Foster to give him a glass of water through the farmhouse's kitchen window. However, when he asked her to unlock the kitchen door she refused.

"I said to her that we were armed, but even though we were armed we had not come to shoot anybody."

When Foster began screaming after Tisana grabbed her through the window, Maxam said he did

not hesitate to shoot her.

Geysler, who was standing nearby, began pleading for his life, Ndimisa testified.

"I said to Maxam that no one must shoot this man. I tied his legs with wire. We then went to the house and searched."

Although Maxam claimed they searched only for weapons, amnesty committee member Judge Andrew Wilson pointed out that a large quantity of clothes and jewellery,

and R2 000 in cash were stolen.

Under cross-examination, Maxam denied knowledge of the thefts, saying he made off only with a box of bullets.



Before leaving the house he fired a second shot at Foster, who was still lying on the kitchen floor.

"I did not want her to be able to identify us in case the police investigated," he said.

Geysler was also a witness to the crime who could not be allowed to live, he said. "As I was running, I turned and shot at the gardener. Apparently the bullet got him."

Ndimisa said "Although the gardener pleaded for his life and I argued against shooting the gardener, Mr Maxam did so anyway."

Maxam said the deaths of Geysler and Foster caused him personal pain. "These were the people whose liberation we were working for. It was not part of our plan to shoot anybody unless somebody would fight us." — Sapa

Onus on Biehl's killers to prove political motive

THE killers of American exchange student Ms Amy Biehl will have to demonstrate to the Truth and Reconciliation Commission's Amnesty Committee that the murder was politically motivated.

During their amnesty hearing today, Mzikhona Nofemela, Ntobeko Peni, Vusumzi Ntamo and Mongezi Manqina will have to prove that it was carried out on behalf or in support of a publicly known political organisation.

In their amnesty applications, the four claim they were members of the Pan-Africanist Congress' military wing, the Azanian People's Liberation Army, and student wing, the Pan-Africanist Students' Organisation (Paso).

Peni, a former chairman of Paso's Guguletu branch, has said the killing was carried out with the approval of Paso's regional executive.

Explaining the political motivation for the murder, Peni said "I rose against the government and in the process a white woman was killed."

All four were given 18-year prison sentences for their part in



DOING A FAVOUR: Amy Biehl

the mob attack in which Biehl was beaten and stabbed to death after driving friends home to Guguletu.

A stone-throwing mob shouting "one settler, one bullet" pulled Biehl from her car, beat her with bricks and stabbed her.

Biehl, 26, a Fulbright exchange student, had been researching women's rights in South Africa. She had also been conducting classes to help people prepare for

the first non-racial elections.

Her killers' amnesty applications were to have been heard in May, but the hearing was postponed to allow her parents, who live in the United States, to attend.

The Biehls are not expected to oppose the applications.

Three Apla members have applied for amnesty in connection with the St James Church massacre on July 25, 1993.

Eleven people were killed and 56 wounded when gunmen burst into the church during the Sunday evening service, lobbed grenades and raked the congregation with rifle fire.

The applications by Letlapa Mphahlele, Gcinikhaya Makona and Bassie Mkhumbuzi are to be heard tomorrow and on Thursday.

Mphahlele, Apla's former operations director, has been named in several amnesty applications as the man who ordered the St James and King William's Town Golf Club attacks.

In his application, Makona said he had been ordered to "take the war to the white areas so whites can also bury their dead." — Sapa

Key Stompie witness has vanished again

OWN CORRESPONDENT

JOHANNESBURG: Mr Katiza Cebekhulu, Ms Winnie Madikizela-Mandela's co-accused in the Stompie Sepele trial, has disappeared again.

The Truth and Reconciliation Commission said last month it had located Cebekhulu and wished to question him about the activities of Madikizela-Mandela's bodyguards, known as the Mandela United Football Club, during the 1980s.

However, head of TRC investigations Mr Dumisa Ntsebeza returned from London at the weekend without news.

"I never got to see Cebekhulu," he said.

"It's a lost cause trying to find him."

Cebekhulu disappeared in 1993 while standing trial with Madikizela-Mandela and others for kidnapping and assaulting Sepele.

In a tape recording later, Cebekhulu claimed he had been smuggled out of the country by ANC members.

Ntsebeza contacted former British MP Ms Emma Nicholson, who had been in close touch with

Cebekhulu since he surfaced in a Zambian jail.

Nicholson had been unable to help him trace Cebekhulu, Ntsebeza said.

While in London, Ntsebeza met former Military Intelligence agent Mr Rich Verster, said to have information about MI activities in Europe during the 1980s, including the murder in 1988 of the ANC's chief representative in Paris, Ms Dulcie September.

Ntsebeza said his discussion with Verster had been "fruitful". He had questioned him on a range of human rights violations, but would not disclose details.

"I cannot comment on the content as investigations are still in progress."

Verster is being tried in Britain on charges of drug smuggling. He is being held in custody.

It has been reported that Mr Anton Ackerman, SC, deputy attorney-general of Transvaal, has also interviewed Verster in jail in the UK.

Ackerman is investigating the Force activities by the military in the murders of Swapo activist Mr Anton Lubowski and Johannesburg academic Dr David Webster.

Truth Commission probe of propaganda millions

(2/22)

Former top officials may face grilling

ALY8/9/97

Top officials of the former government may be subpoenaed to testify before the Truth Commission about huge amounts of taxpayers' money spent on discrediting political opponents.

They include former South African Defence Force chief Constand Viljoen, now Freedom Front leader, Niel Barnard, former National Intelligence Service chief and now Western Cape government director-general, Hans van Dalsen of the Department of Foreign Affairs, and former police commissioner Johann Coetzee.

The commission is investigating a top-secret report in which the Treasury confirmed making more than R50-million available to the State Security Council in 1984 to fund its first five-year plan for covert operations against opponents of the government.

The secret draft report, compiled by a study group consisting of representatives

TOP



ON THE TRUTH COMMISSION

of the security council secretariat, top SADF and police generals, the head of National Intelligence and Foreign Affairs officials, contains a list of the covert operations, according to recent reports.

These included discrediting well-known anti-apartheid opponents (including Truth Commission chairman Desmond Tutu), infiltrating church organisations, targeting foreign opinion makers

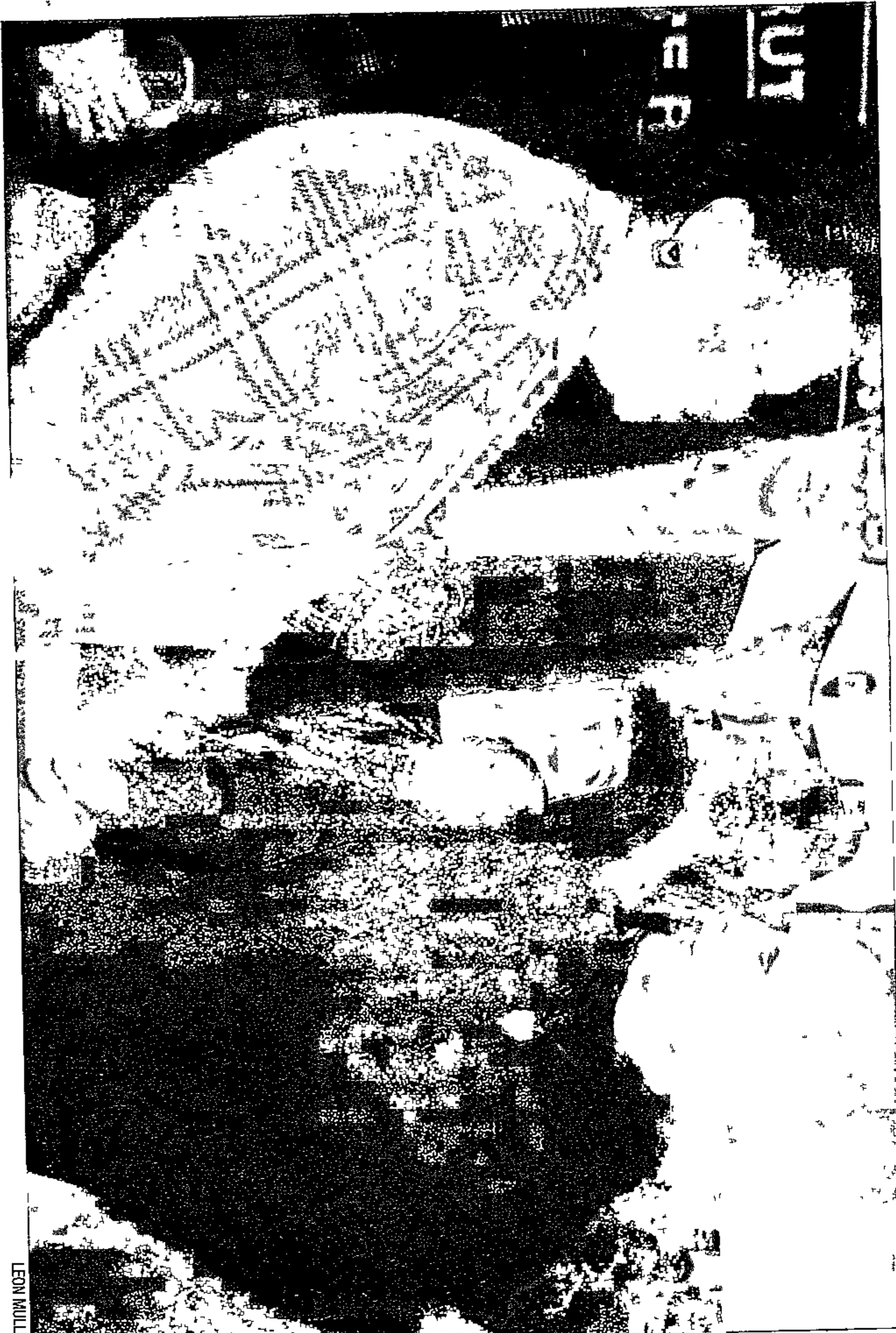
and supplying the SABC with propaganda material.

According to the report, taxpayers' money was also spent on projects to infiltrate overseas public relations firms and to sponsor conferences and seminars.

The group recommended the fund be code-named "Comfort" and that it be handled by the SADF's secret funds account. Financing in the short term was budgeted at R54-million over five years.

According to the report, the Treasury had made R50-million available of which the SADF had already supplied about R10-million.

Confirming that the Truth Commission had a copy of the document, deputy chairman Alex Boraine said it was well known that the government had mounted covert operations against its opponents. New information in the report related to names and amounts.



Mothers meet: Evelyn Mangina, mother of killer Mongezi Mangina, meets Linda Biehl, mother of slain Fulbright Scholar Amy Biehl

LEON MULLER

KHIAN "that colour" pick and threatened of uqjelluon to sunauvus

People's courts and lynchings take hold in Gauteng

ARGUS CORRESPONDENT

People's courts and lynchings are taking firm hold in Gauteng's townships as crime-scarred communities turn their backs on policing and justice systems they say are disintegrating

Police say they welcome community involvement in the fight against crime, but have again warned people not to take the law into their own hands. But with criminal prosecutions down

to record lows - regional courts on the Witwatersrand secured 18 197 convictions last year, compared with 29 375 in 1993 - people are ignoring police pleas

In the latest incident of vigilante retribution, enraged residents of Ivory Park, near Tembisa on the East Rand, beat three men to death after accusing them of assaulting a shebeen owner

The men died at Rabie Ridge police station, where their assailants later told the station commissioner. Superintendent Nick Pretorius, that suspects

released on bail could not be assured of their safety

"Some threatened me, saying that if police cannot deal effectively with crime, bringing in more policemen, they would administer their own justice," he said.

Superintendent Pretorius said police in the area were seriously understaffed and were helpless in the face of lawlessness from criminals and vigilantes

In other areas, a more structured community approach is being followed. Journalists yesterday visited a func-

tioning "people's court" at Botpatong Stadium in the Vaal Triangle, where about 100 community elders sit in judgment of suspects.

Yesterday they heard cases involving murder, rape and a dishonoured credit agreement. Those found guilty can expect up to six spank lashes

The "imbizo" or "traditional gathering" meets out justice with widespread community approval.

But Vaal police spokesman Superintendent Piet van Deventer said "Nobody

has a right to take law into their own hands and we invite everybody who has been assaulted by the group to come forward and open a case."

Police were investigating three cases of assault against the court, he said.

In other instances, the court is run by the local community policing forum and works with the police, handing over suspects in serious offences

There are mixed feelings about the courts, but people say they want to see "justice done"

...Mafroeman MARTHA KOEN SAU... THE WITWATERSRAND LOCAL... COURT... OF BUSINESS

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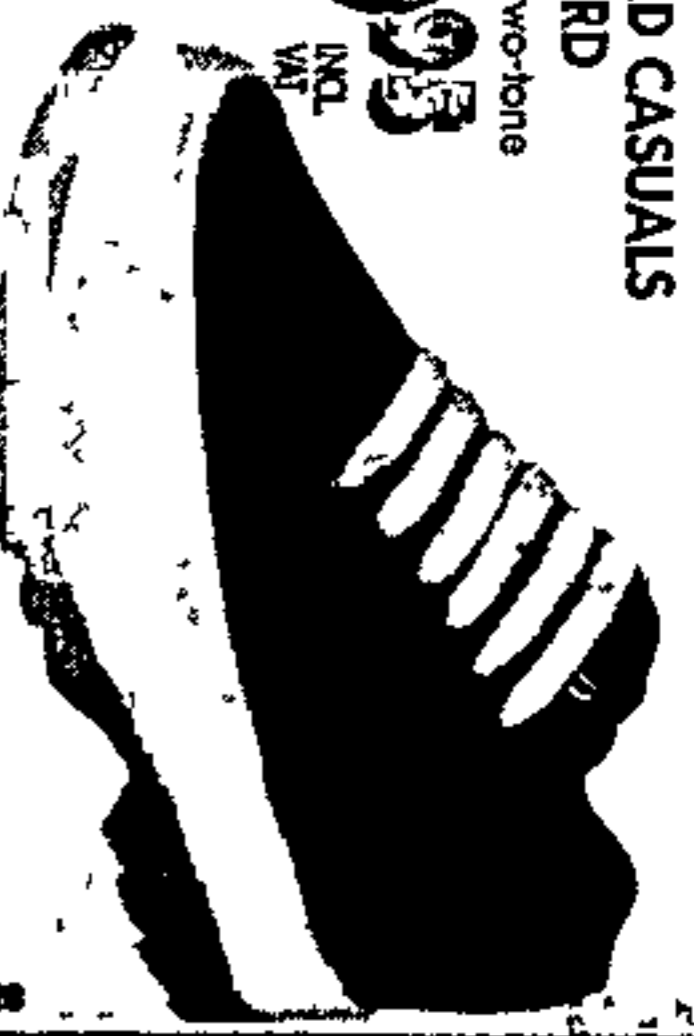
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Biehl murdered because of PAC slogan, killers tell truth commission

Linda Ensor

CAPE TOWN — American student Amy Biehl was killed because she was white, in fulfilment of the Pan Africanist Congress (PAC) slogan of "one settler, one bullet", four men convicted of her murder told the truth commission's amnesty committee yesterday.

They said they understood "settler" to mean all white people who should be hurt, injured or killed.

Their case presents a conundrum in terms of amnesty legislation which

specifically excludes killings for purely racist motives, though it incorporates human rights violations committed to achieve a political objective.

The amnesty applications were brought by Easy Mzikhona Nofemela, 26, Nobeko Peni, 21, Mongezi Mangqina, 24, and Yasunzi Ntamo, 25, all members of the PAC or its student wing, the Pan Africanist Students' Organisation (Paso). Sentenced to 18 years in prison for Biehl's murder in Gugulethu on August 25 1993, the four men said they regretted their actions

and asked for the forgiveness of Biehl's parents, family and friends.

Biehl was stoned and stabbed while giving three friends a lift in the township outside Cape Town.

Mangqina, who with the others pleaded not guilty at his trial, admitted that he had dealt Biehl the fatal stab wound. He said so while Biehl's parents sat amid the packed audience.

"I stabbed Amy Biehl because I saw her as a target, a settler. I have always been inspired by the slogan 'one

settler, one bullet'."

"When Paso executive members ordered us to go out and prepare the groundwork for Apla (the Azanian People's Liberation Army) and to make the township ungovernable, I regarded this as an instruction to harm, injure and kill white people," Mangqina said in his affidavit.

He recounted how their emotions had been whipped up by militant political speeches at a student rally on the afternoon of the murder. Paso members were ordered to make the

townships ungovernable by attacking government and company vehicles.

Afterwards large groups of students toy-toyed through the townships throwing stones and chanting, and were shot at by police.

Mangqina claimed specific instructions to kill white people in the township had been given at the rally. "When I saw that the driver of the vehicle which we had stoned and which had come to a standstill, was a white per-

Continued on Page 2

Biehl

BD 9/7/97

Continued from Page 1

son, I asked one of the comrades in the crowd for a knife. For me this was an opportunity to put into practice the slogan of 'one settler, one bullet'.

"Amy Biehl stumbled out and started running towards the Caltex petrol station. We chased after her and I tripped her and she fell down.

"I sat in front of her... I only stabbed her once in front on her left-hand side. Seven or eight others armed with knives also stabbed her."

Mangqina said he lied during the criminal trial in order to get off, maintaining his innocence.

Peni said he understood the slogan to mean an injunction to kill any white person but denied that the killing of Biehl was a "mindless savage attack on

an innocent woman" which had nothing to do with politics. White people had to be killed so blacks could get their land back.

"We believe we were fulfilling the expectations of our leaders in killing Miss Biehl," Nofemela said.

Neither Peni nor Nofemela thought they would have acted differently if they had known that Biehl was a sympathiser of the struggle because they were angry and excited that day.

After the hearings, which proceed today, PAC secretary-general Michiel Mwendane admitted that "mistakes" such as Biehl's murder, had been made in the struggle. Local commanders had had to determine their own targets. Unfortunately some of these targets were inappropriate.

The Biehls, who have said they will not oppose the amnesty applications, said they would not comment ahead of a formal statement today.

MINISTER LIKELY TO RESPOND TODAY

Omar in hot water with law groups over criticism

REMARKS ON affirmative action and white magistrates by Justice Minister Dullah Omar have caused much unhappiness among state advocates and magistrates. Political Writer **KARIN SCHIMKE** reports.

STATEMENTS by Justice Minister Mr Dullah Omar in a weekend interview have landed him in hot water with groups in the legal profession, indicating that the Justice Department is unable to rid itself of internal wranglings over affirmative action

So drawn out was the dilly-dallying on affirmative action, Society of State Advocates chairman Mrs Retha Meintjes said yesterday, that the entire justice system was being held up because appointments were not being made

In March, after a year-long court battle, the Justice Department was ruled to have unfairly discriminated against white male lawyers through its affirmative action policy. This weekend Omar was quoted as saying a departmental committee which had to decide on policy and procedures to fill posts was struggling to reach consensus

"As soon as that happens, posts can be filled," he said

Last month, the department advertised 23 posts for senior state attorneys and four for deputy attorneys-general, despite there not being — according to Omar — consensus, said Meintjes.

"We were informed that an action plan would have to be negotiated by the department and all other parties. A technical committee was formed to do this," she said

At a meeting in April, the Society for

State Advocates presented its plans on policy and procedures for affirmative action.

"Urgent negotiations would have followed. However, apart from the department having cancelled the meeting scheduled for May 7, with an undertaking that another (would) be scheduled before the end of May, we have not heard anything from the department," she said

Meintjes said her organisation had no idea what Omar and his department's reactions were to its plans, adding that the society strongly objected to allegations Omar made in the interview

"Minister Omar can only blame his department for this unreasonable delay"

Sapa reports that the Judicial Officers' Association of SA — said to represent more than 800 of the country's 1 200 magistrates — has remarked that Omar's "racially divisive" remarks in the interview undermined the independence of magistrates.

Omar said in the interview that white males from the apartheid system were to blame for court rulings on bail and sentences and not the "new black appointments"

He said "The new black prosecutors are doing good work. The work of many whites who have been in the system a long time is bad. It's not a question of black or white or affirmative action, it's about the quality of work"

CT 9/7/97 (252) (116)
The association said Omar's statements had created a perception which undermined the efforts of magistrates to play a significant role in strategies to fight crime

"Neither is this perception likely to foster confidence in the legal process, particularly in those communities plagued by lawlessness," the association said. It was committed to the principle of affirmative action in appointments in the judiciary and its criticism of Omar did not mean magistrates should not be held accountable

Their status, competence, independence and commitment to judicial norms should, however, "not be undermined by generalisations of a racially divisive nature, which at best only apply to certain exceptions"

Mr Paul Setsetse, speaking on behalf of Omar, said yesterday the minister did not want to respond until he had studied the statements by the two organisations. His response would most likely be ready today.

AMY'S PARENTS LISTEN TO KILLERS' CONFESSIONS

Slogans spurred u



WHEN THEY ATTACKED Amy Biehl, her killers say, they were in "high spirits" inspired by political speeches, LISA TEMPLETON reports.

MR PETER BIEHL sat quietly, only an agitated stroking of his cheek betraying his emotions, while his daughter's killers described how they stoned and stabbed Amy to death on a dusty Guguletu street.

"She was running across the street, blood streaming from her face," Mzikhona Easy Nofemela, 26, told the Truth and Reconciliation Commission's amnesty Committee yesterday. "Stones were thrown and then Manqina tripped her. I had a knife and with seven or eight others we stabbed at Amy."

In their criminal trial, Nofemela, Ntobeko Peni, 21, Mongezi Manqina, 25, and Vusumzi Ntamo, 25, pleaded not guilty. Each is serving an 18-year sentence.



TRIED TO ESCAPE: Amy Biehl

The atmosphere was tense as the men explained their applications for amnesty in a room packed with relatives, Pan-Africanist Congress (PAC) supporters, American citizens and journalists.

Biehl and his wife Linda shook hands with Mrs Evelyn Manqina, mother of Manqina, and smiled at friends before sitting down to listen to the details of their daughter's death and the political atmosphere that fuelled it. Other than Biehl's stroking his cheek, the couple did not betray their emotions.

Amy, 26, a Fulbright scholar who was researching women's rights, had been giving friends a lift home to Guguletu when she was attacked in August 1993.

Yesterday her killers were stony-faced and stared ahead or at the interpreters as they were cross-examined.

"For me this was an opportunity to put into practice the slogan 'one settler, one bullet'," Manqina said, echoing Nofemela and Peni.

"At the time I was aspiring to become an Apla (Azanian People's Liberation Army) operator. When Paso (Pan-Africanist Student Organisation) executive members ordered us to make the township ungovernable, I took this as an instruction also to harm, injure and kill white people."



AMNESTY HEARING: The Truth and Reconciliation Commission offices in Adderley Street were packed with members convicted of murdering American Amy Biehl. Ntobeko Peni, 21 (left), and Mzikhona Nofemela,

Manqina said Paso's executive had also ordered its members to assist Apla, the PAC's armed wing, in winning the land back for the African people.

"Nofemela and I had been receiving training from Apla operators in the township. This involved physical training, attending political classes and instructions (in) arms."

At the time Biehl was murdered, South Africa was preparing for the April 1994 elections. The PAC won less than 2% of the vote.

On the afternoon of the attack, the men said, they were in "high spirits" after attending a meeting to launch Paso. They were inspired by the militant speeches they had heard. Before the attack on Biehl, they had stoned police vehicles and had been shot at by police.

Manqina said that later he and about 50 to 60 other youths walked along NY110 towards NY1, looking for government and company vehicles to stone.

"At this point we were singing and chanting political slogans. I saw that a truck was being stoned by the rest of the group. A beige Mazda 323 was also being stoned."

"The car stopped and the driver (Biehl) stumbled out and started running towards the Caltex petrol station. We chased her and I tripped her and she fell. I sat in front of her. I stabbed her once (in) her left side. Seven or eight others, armed with knives, also stabbed her."

In his testimony, Peni said that as he understood it, the slogan "one settler, one bullet" applied to every white who came into the line of fire during any operation by Apla.

PAC leaders 'in

THE parents of slain American Biehl understood the context of the struggle better than most South Africans. They learned from their example, Pan-Africanist Congress (PAC) secretary-general Mr Ngila Mucidan said. Speaking after the PAC leadership meeting with Mr Peter Biehl and his wife at the Truth and Reconciliation Commission offices in Cape Town, Mucidan said: "We were inspired by their attitude."

We are proud to have...


Mr Robin Brink, leading evidence for the Commission, asked: "How would killing Amy Biehl help you in the process of returning land to the African people?"

Peni: "We believed that the white people would realise we wanted our land back."

Brink: "By murdering Amy Biehl in the manner the African people would get their land back?"

Peni: "Yes, that is my evidence. We had no mercy for a white oppressor. We had no mercy for a white oppressor."

Asked if he would have acted differently if he knew that Amy opposed apartheid, he said: "I don't know."




fotokino

119/121 LONG STREET.
CAPE TOWN

**Every
Photographer's
Dream**

THE NIKON F5



urred us to kill

CT 9/7/97

(252)



Reconciliation Commission offices in Adderley Street were packed yesterday for the hearing of applications by four Pan-Africanist Congress American Amy Biehl. Ntobeko Peni, 21 (left), and Mzikhona Nofemela, 26, remained story as they gave evidence. PICTURE: THEMINKOSI DWAYISA

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PAC leaders 'humbled' by parents' attitude

THE parents of slain American exchange student Amy Biehl understood the context of the South African struggle better than most South Africans, who could learn from their example, Pan-Africanist Congress secretary-general Mr Ngila Muendane said yesterday.

Speaking after the PAC leadership held a private meeting with Mr Peter Biehl and his wife Linda at the Truth and Reconciliation Commission's head office in Cape Town, Muendane said: "We were really humbled by their attitude.

We are proud to have people like this. People who

Mr Robin Brink, leading evidence for the TRC, asked: "How would killing Amy Biehl help you achieve your aim of returning land to the African people?"

Peni: "We believed that the white minority would realise we wanted our land back."

Brink: "By murdering Amy Biehl in the most brutal fashion the African people would get their land back?"

Peni: "Yes, that is my evidence. Whites were our oppressors. We had no mercy for a white person."

Asked if he would have acted differently had he known that Amy opposed apartheid, he said: "I don't think so. At

are of good heart, people who have reached out and ... "Look we understand how she died, people with- out bitterness, without even thinking that Amy died because she was white."

"I am sure South Africans will learn from the atti- tude that the Biehl family has taken."

Muendane, PAC national executive member Mr Johnson Mlambo and Pan-Africanist Students' Organi- ation president Mr Ignatius Molapo hugged Biehl's parents in a gesture of reconciliation at the meeting, said an aide who was present. Sapa

that time we were in very high spirits. I feel sorry and downhearted, especially today, realising the contribution Amy Biehl played in the struggle. I realise it was bad. I took part in a killing of someone we could have used to achieve our aims. Amy was one of the people who, in an interna- tional sense, could have worked for the country."

Brink asked Nofemela if the murder had been no more than "wanton brutality, carried out like a pack of sharks smelling blood." "She came to Guguletu at the wrong moment," Nofemela said. "The students really wanted the land to be returned to Africans."

Violations against human rights

CT 9/17/97 (252)

IN THE FIRST of a two-part series on the Truth and Reconciliation Commission, **STEVEN ROBINS** argues that while fear may be at the root of violence this does not justify gross human rights violations.

IN 1986 the German historians' debate or Historiker Streit began with revisionist historians such as Ernst Nolte, Michael Sturmer and Andreas Hillgruber arguing for an empathetic understanding of the anxieties and fears of the Russians that purportedly led Hitler to the barbaric final solution.

According to Nolte, given the historical reality of the Gulags, Hitler had reason to fear that the Bolsheviks would subject the Germans to terrible torture if they succeeded in expanding westward.

Saul Friedlander writes that from Nolte's perspective, the Bolshevik was the original perpetrator of global annihilations in modern history, while the Nazi exterminations were acted out of anguish at the idea of being themselves potential victims of the Red terror. Since for Hitler "Bolshevism equalled Jew", it was a short step from this primal fear of Red terror to the trains destined for Auschwitz.

Critics of this revisionist historiography argued that resorting to Hitler's fear of the Russians allowed for a displacement of Nazi responsibility for genocide and contributed towards the blurring of the boundaries between victim and perpetrator.

Nolte and his fellow revisionists took the argument one step further by comparing the Nazi genocide with other modern examples

of mass murder, including the Turkish mass killing of Armenians and Pol Pot's decimation of two million Cambodians.

Nolte did not hesitate to draw on another well-rehearsed analogy of the comparison between Auschwitz and the Allied bombing of civilian populations. This example seemed to suggest that the entire historians' debate was in many ways a continuation of controversies surrounding Ronald Reagan's visit to the cemetery at Bitburg, where Reagan made his notoriously insensitive claim that all Germans were victims of Nazi tyranny.

German historians of the new Right such as Nolte call for revisionist accounts of the Holocaust from a German national perspective, which they claim is necessary to counter the biased interpretations that have been written by the victors.

Ex-minister Adrian Vlok's recent testimony to the TRC sounded remarkably similar to Nolte's contributions to the Historiker Streit. Could it be that Vlok's testimony marks the beginning of South Africa's own historians' debate?

In an attempt to counter the official account of the national liberation struggle that is emerging from the TRC hearings, Vlok sought to "contextualise" human rights violations perpetrated by the apartheid state by attributing these actions to anxieties and fears of "communist terrorists" and totalitarian tendencies within the ANC and SACP alliance.

In a preface to his 84-page application to the TRC, Vlok portrays himself as a committed Christian who devoted his political career to countering the perceived communist onslaught. While Vlok acknowledges that "apartheid did result in pain and suffer-

ing" he ends up concluding that "Marxism/communism's record was more terrible" (Cape Times, June 20).

Like the German revisionists, Vlok has sought to deny responsibility for state violence by referring to fear of "the Red peril". While fear and hostility to communism may have been a factor motivating state terror, surely this is not a morally acceptable justification for systematic racial discrimination and brutality against the civilian population.

While it seems fear may be at the root of violence, surely this does not mean that individuals, groups or states have justification for gross human rights violations against civilians. Fear and anxiety cannot rob individuals of individual agency and responsibility for their actions. Neither should it be used as a justification for the systematic human rights violations perpetrated by the apartheid state and its accomplices.

The recent KTC session brought this lesson home in the most graphic manner. Three days of TRC hearings at Guguletu's St Gabriel's Roman Catholic Church brought vivid memories of driving through KTC on the morning of June 9, 1986, and seeing through thick smoke the charred remains of thousands of shack and corpses.

I recalled walking with a group of four nationalists and comrades to photograph the smoking remains of a necklace victim. I looked through my viewfinder but could not take the photograph, something inside me prevented me pressing the shutter. My body froze with shock and disbelief at this horrific sight. This gruesome encounter put paid to any of my aspirations to be a photographer. In three days of intra-community violence

between conservative elders or "Witdoeke" and UDF-aligned "comrades" (amaqabane) 57 KTC and Old Crossroads residents were killed and thousands left homeless.

The TV journalists I accompanied were determined to get vital video footage of police complicity in the KTC violence. Their visual evidence was shown overseas and later included as evidence in a court case that ran for three years and in 1989 culminated in the state being ordered to pay compensation to victims of the violence.

Like the court case, the KTC hearings earlier this month confirmed what anti-apartheid activists had concluded in the 1980s, namely that the Witdoeke and the South African Police and SADF were responsible for initiating and orchestrating the violence. The hearings confirmed that the Security Forces were directly implicated in fuelling the flames of violence in KTC in 1986.

In 1986 I wrote a paper in which I attempted to unravel the reasons for the conflict. I concluded that it was the result of a complex set of factors and that the state had deliberately exacerbated tensions within Crossroads.

These tensions were the outcome of struggles over access to maternal resources (housing) and conflicts over political leadership and ideology, as well as gender, generational and cultural struggles. The state had directly intervened in Crossroads by arming and assisting the "conservative" and traditionalist "fathers". The state offered the Witdoeke housing development if they "cleaned up" the area of troublesome ANC-aligned youth. As I listened to former Witdoeke leader

Sam Ndima speak about his shock in discovering in 1985 that "comrades" could dance around the burning bodies of alleged informers, I began to question some of my assumptions. Ndima, an elderly "traditionalist", claimed he was appalled by this "barbarism" and told the TRC he had demanded to know from the police why they were not preventing necklacing.

Shortly after that the Witdoeke, under the leadership of John Ngxobongwana and Ndima, were drawn into state security strategies aimed at ridding Crossroads and its satellite camps of the militant UDF activists. A powerful convergence of interests had emerged between the Witdoeke and the state and, as a result of this, dozens of people were killed and thousands of homes destroyed in the worst outbreak of political violence Cape Town has ever witnessed.

Ndima's evidence about his shock at the necklacing raised troubling questions. Were the Witdoeke not also victims of violence prior to the attack on the comrades on June 9, 1986, and did their fear of necklacing produce their violent reaction against the comrades? A week later I read about Vlok's testimony in which he attempted to attribute state violence to fears of a "communist onslaught".

Could it be that, like Vlok, Ndima resorted to an account of Witdoeke fears of necklacing to avoid taking responsibility for the hacking to death of numerous "comrades" and the torching of hundreds of shacks?

□ Dr Steven Robins teaches at the Department of Anthropology and Sociology at the University of the Western Cape

Amy Biehl's murderers beg for amnesty

MIKE HUTCHINGS / REUTERS

Young men tell how they stoned then stabbed American peace worker to death, claiming they were all inspired by the PAC slogan: 'One settler: one bullet'

By DAVID JONES
Cape Town

A middle-aged American couple spent five hours yesterday watching from metres away as three of the men who stoned and stabbed their daughter to death described the attack and their political motivations.

All three of the men, who are hoping to be granted amnesty for killing Fulbright scholar Amy Biehl (20), told the Truth and Reconciliation Commission they had been inspired by the Pan Africanist Congress slogan. "One settler: one bullet".

Mongezi Manguna (25) said he stabbed Biehl because, the way he saw it then, "she was white. She was an oppressor". He said the political motiva-

tion for killing Biehl was that "that would make us proud, and the government would respond to the demands of black people".

Amy's parents Linda and Peter Biehl listened closely as they heard for the first time what happened about 4.40pm on August 25 1983 in Gugulethu, Cape Town. Their daughter had been dropping off friends in the township when she was attacked.

Manguna described how he spotted Biehl with blood on her face being pursued by a mob. He got a knife from his friend, tripped Biehl, and (when she was facing him in a seated position) plunged his 15cm blade into the left side of her chest.

Manguna and his three co-applicants were among a crowd

of hundreds of youths who attended the rehearsal of Langga High School's unit of the Pan Africanist Student Organisation (Paso) that afternoon.

Paso leaders at the meeting called for active participation in the PAC's "Operation Great Storm", designed to make the townships ungovernable.

They said the goal of militant political action should be to reclaim the land for the African people, and they closed the meeting by leading a chant of "One Settler: one Bulter".

In an affidavit to the commission, Manguna said: "I stabbed Amy Biehl because I saw her as a 'target', a 'settler'. I was highly politically motivated by the events of the day and by the climate prevailing in the township."

Star 9/7/97

(252)

scribed the attack on Biehl as an act of savagery.

When the men stoned Biehl's car, forced her to a stop and then chased her with knives and stones they were "like a pack of sharks smelling blood", he said.

Brink barked at Manguna: "You joined the pack, you joined a pack of murderers, is what you're saying."

Manguna replied in the affirmative. He said he would have continued to attack whites for political ends had the political system not changed.

"Now we are liberated we will not kill white people again."

Manguna, Ntobeko Peni, Makhona Nofemela and Yusuuzi Ntamo are serving 18-year terms for Biehl's death. Peni, elected chairman of Paso in Langga at the meeting before the attack, apologised to Amy's loved ones for killing her.

"I feel sorry and very down-hearted, especially today realising the contribution Amy Biehl made in the struggle," Peni said.

He said instead of killing Amy the PAC could have used her to propagate the objectives of Africans "in an international sense".

PAC secretary-general Ngila Mundenane told Biehl's parents Mundenane that the context of the struggle.

Speaking after the PAC leadership held a private meeting with the Biehls, Mundenane said: "We were really humbled by their attitude."



A mother's tears . Linda and Peter Biehl listen to the application for amnesty for the murderer of their daughter, Amy

Cartoon glitch hits CBC interview

Foreign media working in South Africa have expressed "dissatisfaction" with the SABC's handling of their international satellite links.

The Canadian Broadcasting Corporation (CBC) was conducting an interview on Monday with the parents of Amy Biehl which was being viewed live on the New York morning news.

In the middle of the interview, which was being chartered by the SABC, images from an Afrikaans cartoon programme appeared on the screen for 15 seconds before the interview was picked up again.

Sky News noticed the incident and ran it as a news item. CBC may refuse to pay the SABC the thousands of rands the satellite link cost. SABC spokesman Mary Murray said the mistake was caused by a "technical fault".

"One of our other channels was broadcast, but staff noticed it after five seconds and it takes 10 seconds to rectify," Murray said. The SABC and CBC were negotiating to settle the issue of payment.

This is only the latest incident, according to foreign journalists. A journalist who worked for the British Broadcasting Corporation said he had to replay a 15.4 piece at huge cost recently because the satellite operator in Johannesburg was not in the room at the scheduled link-up time.



ANNA ZIEMINSKI APF

Seeking forgiveness .. (from left) Yusuuzi Ntamo, Makhona Nofemela, Mongezi Manguna, and Ntobeko Peni at the hearings of the Truth and Reconciliation Commission yesterday

PAC slogan 'drove us to kill'

Sowetan 9/7/97

(252)

By Sharon Chetty

FOUR youths convicted of killing American Fulbright exchange student Amy Biehl yesterday accepted responsibility for her death, apologised to her parents and asked for forgiveness

One of them, Mongezi Manqina, also acknowledged for the first time that he had dealt the stab wounds that may have led to her death

Manqina (24) together with Vusumuzi Mthamo (25) Mzikhoma Nofomela (26) and Ntobeko Peni (21) are serving 18-year prison terms for Biehl's murder on August 25 1993

They were also convicted on public violence charges. The four, who are members of the Pan Africanist Congress and its student wing, the Pan Africanist Students Organisation (Paso), said stoning and stabbing Biehl had had a political motive

The killing grabbed the world's attention and had been widely condemned as senseless mob violence

Biehl's parents, Linda and Peter Biehl, are in Cape Town for the hearing. They have said they would not oppose the amnesty application

Ungovernable

The youths said they had been "instructed" by their leadership to make the townships ungovernable

On the afternoon of August 15 1993, after the relaunch of Paso at Langa High School, they had gone in search of targets such as government and company (commercial) vehicles to stone and burn

Militant speeches by regional Paso leaders Simphiwe Mfengu and Wanda Madubula had urged them "to actively assist the PAC armed wing Apla (Azanian People's Liberation Army), by making the country ungovernable"



Above: Amnesty applicants from left - Ntobeko Peni (21), Mzikhoma Nofomela (26), Mongezi Manqina (25) and Vusumuzi Mthamo at the TRC hearing yesterday.

PIC REUTERS

Left: Evelyn Manqina, mother of killer Mongezi Manqina, meets and shakes hands with Linda Biehl, mother of slain American Fulbright exchange student Amy Biehl, at the TRC hearing in Cape Town yesterday.

PIC LEON MULLER

That afternoon they toyi-toyed through the township, stoned a truck and tried to burn it and hijacked another. They were shot at by police

The slogan, One Settler, One Bullet, applied to every white person who came into the line of fire during an Apla operation and it inspired them to hurt, injure and kill white people, the youths said. Therefore Biehl had been a target

They had been trained by Apla and were part of Operation Great Storm -

a campaign to "to get back the land for the African people" By killing a white person "we could get our land back for Africans", said Nofomela

In chilling detail, Manqina recounted how he stabbed the American student

Asked for knife

When confronted by the mob, Biehl left her car and ran towards a petrol station. "We chased after her and I tripped her and she fell down next to a

box. I asked one of the people in the crowd for a knife"

Biehl was sitting and facing him. "I took the knife and stabbed her once on her left side. I only stabbed her once. Seven or eight other people armed with knives also stabbed at her. I stabbed Amy Biehl because I saw her as a target, a settler"

During cross-examination by the amnesty committee of the TRC - Judges Hassan Mall, Bernard Ngoepe, Andrew Wilson and Advocates Sisi

Khampepe and Chris de Jager - much was made of whether or not Biehl had been killed because she was white

Her black friends in the car had tried to explain to the crowd that Biehl was not a "settler" but a "comrade". But, said Peni, they were in "high spirits" and it did not matter, implying they were caught up in a frenzy

When asked if a specific instruction had been given to kill white people, Manqina said "Yes"

● See page 2

'We burst in and threw grenades'

JOHN YELD ARG 10/7/97
ON THE TRUTH COMMISSION

An Azanian People's Liberation Army (Apla) soldier has told the Truth Commission in graphic detail how he bombed and shot congregants at a service at St James Church in 1993.

Gcinikhaya Makoma, who previously denied involvement in the attack, told the commission's amnesty committee today he was one of two Apla members who had burst into St James Church in Kenilworth on Sunday, July 25 1993, and fired R4 rifles and thrown handgrenades at the congregation. Eleven churchgoers died and more than 50 were injured and maimed

Makoma, 21, who is serving 23 years in jail for his part in the attack, is one of four Apla members applying for amnesty for

ST JAMES REPORTS PAGE 3

the incident. He said his orders were "to take war to the white areas so that whites can also bury their dead".

Makoma, who pleaded not guilty in his 1995 Supreme Court trial and claimed to have been visiting his girlfriend at the time of the attack, told the amnesty committee today he had lied to the court.

Makoma, who was 17 in 1993, said he had been told by his commander, Sichumiso Nonxuba, that he was to accompany him on an attack but not what the target was. It was only when they arrived at St James that he realised it was a church.

"We got out of the car. I had no disguise and only put a cap on my head."

Nonxuba, who died last year in a car

(252)
crash, led the way "As we entered we were in a passage that led to the main doors." Makoma said

"Nonxuba said we would enter through the main doors. Nonxuba then told me to throw the handgrenade and to shoot to kill.

"Nonxuba led the way and we then burst through the doors of the church. Nonxuba first threw his handgrenade and then I threw mine

"As the grenades exploded, we took cover behind the doors, re-entered and while the people inside were screaming, we started to shoot

"We shot indiscriminately and I finished my full R4 magazine, some 31 rounds of ammunition"

They had gone back into the passage to

To page 3

'We burst into church and threw grenades'

From page 1

(252)
ARG 10/7/97
reload "for our later protection".

"Inside the church one of the churchgoers had also fired at us. As we left Nonxuba was in front and I turned back to shoot at the person who shot at us

"We got into the car and sped away"

He then realised he had been shot. "I had suffered a cut on a left-hand finger"

Makoma said that, as Apla members, they had operated under the slogan. "One settler, one bullet"

"This, to us, meant that any white person in South Africa was regarded as a settler and if we came across any settlers in our operations, they had to be killed or injured" Makoma said he now deeply

regretted the loss of life and injury

"All I can ask is that the family, relatives and friends of the deceased and the other victims forgive me"

The other applicants for amnesty are Bassie Mkhumbuzi and Thobela Mlam-bisa, who have not yet pleaded to the charges and are on bail, and Letlapa Mphahlele, then Apla's director of operations, who has not been charged

Mr Mphahlele failed to appear for the second day. Robin Brink, leading evidence for the commission, referred to a press report today quoting the Pan Africanist Congress's Transkei branch as saying Mr Mphahlele was "a guest of the PAC" and could not be released to attend the hearing in protest against the TRC's alleged bias

still be faced with the problem of transporting PEANUTS

Biehl murder a senseless act, committee argues

Linda Ensor

CAPE TOWN — There was an apparent lack of proportionality between the murder of American student, Amy Biehl, and the political objective it was meant to achieve, legal counsel for the four men convicted of killing her conceded before the truth commission's amnesty committee yesterday.

However, while admitting this "unpalatable truth", Norman Arendse emphasised, on behalf of Mongezi Manguna, Essy Nofemela, Ntobeko Peni and Vusumuzi Ntamo, that Biehl's murder in Gugulethu on August 25, 1993 could not be seen in isolation. "Clearly the murder of Amy Biehl would not bring about immediate change in this country, but this was part of a process. Manquna made it clear if the government did not respond to the killing of Amy Biehl, then more whites would have been killed."

But Robin Brink, who cross-examined on behalf of the amnesty committee, argued that the applicants failed the proportional-ity test laid down by the amnesty legisla-tion as Biehl's murder was a senseless, rather than political, act.

Arendse admitted that Biehl was mur-dered because she was white. Any white, regardless of their political views, he said, would have been killed that day because they were perceived as oppressors who had stolen the land from Africans. But while the men's actions were race-based, they were politically motivated.

"It is not for this committee to condemn the applicants because of what appears to have been a racial killing. That would be ignoring the realities of our past and what actually happened that day. There was a huge anti-white feeling prevailing in the township at the time," Arendse said.

Committee member Chris de Jager also believed that the committee would have to face the fact that political rights were based on race and that SA had been on the verge of a black/white war.

Arendse noted that the Pan African Congress (PAC) to which the applicants be-longed, had criticised the killing as a "mis-take" and the applicants, who had been sen-tenced to 18 years imprisonment for the murder, also admitted that it was wrong to kill her.

But he argued that however misguided their actions and however much they had misunderstood the policy of the PAC and the Azanian Peoples' Liberation Army, they had acted in support of these organisations' political objectives.

In pursuance of these objectives they had set out to make the country ungovern-able which they understood to also mean killing, injuring and maiming white people.

In a rare display of emotion, Manguna wiped tears from his eyes and put his head on the table when Biehl's father, Peter, and mother, Linda, related their daughter's commitment to human and women's rights, and her academic achievements.

Peter Biehl said he believed his daughter would have supported the country's recon-ciliation process. In a letter to the Cape Times two months before her death, she wrote "Racism in SA has been a painful ex-perience for blacks and whites and recon-ciliation may be equally painful. However, the most important vehicle towards recon-ciliation is open and honest dialogue."

After the hearing, the Biehls shook hands with the four prisoners.

The couple said it was not for them to say if the four should be given amnesty, but said they were considering launching projects in SA to honour their daughter's memory.

DD 10/7/97 (252)



Victim Paul Williams
PIC OBED ZILWA

Flashback ... The scene inside St James Church in Cape Town after the massacre in which 11 people died on July 25 1993.

PIC CAPE NEWSPAPERS



Amnesty applicants Gicinkhaya Makoma (left) and Mzukisi Mkhumbuzi (below).

PICS OBED ZILWA



Massacre Relived

Man who gave order for St James bombing fails to appear

Sowetan 10/7/97

(252)

By Sharon Chetty

THE man who gave the order for the attack on the St James Church in Cape Town on July 25 1993 failed to appear before the Truth and Reconciliation Commission Amnesty Committee yesterday

Former Azanian People's Liberation Army operations director Letlapa Mphahlele applied for amnesty relating to the massacre, which resulted in 11 people being killed and several injured, but he neither arrived for the public hearing nor instructed his lawyers about his movements

Three other cadres, Mzukisi Mkhumbuzi, Gicinkhaya Makoma

and Thobela Mhlambiso, have also applied for amnesty for the attack

Makoma (21) is serving a 23-year sentence on 11 counts of murder, attempted murder and the unlawful possession of arms and ammunition relating to the attack

Mkhumbuzi and Mhlambiso are facing similar charges and are at present out on bail

Yesterday Mkhumbuzi (21), a father of three and a member of the African Gospel Church, said he did not know on the day he went on the mission that he would target a church

He and the others were members of Apla. They say the attack on the churchgoers was politically motivated because whites had used churches to oppress blacks

They said they carried out the orders of their commanders, in particular that of a commander named Sichimumiso Nonxupa. Nonxupa died in a car accident in November last year. He was accused number one in another trial relating to the attack and was out on bail

On the day of the attack Mkhumbuzi was on security duty and stayed outside in the car. Nonxupa had with him a bag of ammunition that Mkhumbuzi had brought back from Transkei the previous week. He and Makoma, armed with rifles and grenades, went into the church and Mkhumbuzi said he heard the sounds of grenades and gunfire

When a car tried to block the path of their car, he got out and threw a

petrol bomb at it. Mhlambiso also got out and fired at the car. The other two came out of the church and they fled

"I did not do what I was supposed to do. That is throw petrol bombs inside the church."

But, he said, although he did not know what happened inside the church, he was fully aware that with the arms carried by Makoma and Nonxupa people would be killed or injured

When told that the church was not only for white people, he apologised to the "non-whites" who were in the church at the time of the attack

"You have to understand how quickly things happen. We could not differentiate between whites and coloureds"

He said he sympathised with the people who died in the church and would like to ask forgiveness

"But we could not stop what was happening at the time. Now there is peace at the time we were fighting for our country and for democracy"

When asked what had been achieved by the attack he said something had, "because today we are living together. We are at this Truth and Reconciliation Commission to explain what we have done before"

When asked why Apla and the PAC initially denied responsibility for the attack, he said he did not know

The purpose of Apla at the time was to fight until the land was given back to its rightful African owners.

St James attackers 'did not know that target was a church'

Linda Ensor

CAPE TOWN — Three of the attackers involved in the St James massacre, in which 11 people were killed and more than 50 were injured, had no idea of the nature of their mission until they arrived at the Kenilworth church, they said yesterday

Some of their victims — many of whom were left disabled — were at the amnesty hearing of Bassie Mkhumbuzi, Thobela Mlambisa and Gemkhaya Makoma

Their applications were opposed by two men who were in the church on the evening of July 25 1993, when the killers struck Dawie Ackerman and Lorenzo Smith, whose wives were killed, said they believed justice should take its course in the courts

Dimitri Makogon, a Russian who lost both legs and his right arm in the attack, strongly urged the truth commission's amnesty committee in a letter not to grant amnesty to the applicants, as they killed "defenceless" people in a church

Mkhumbuzi and Mlambisa stressed that they merely obeyed orders of the Azanian Peoples' Liberation Army's (Apla's) high command when undertaking the mission. They had been trained not to ask questions

The two are out on bail awaiting trial for the crimes, for which Makoma was sentenced to 23 years' imprisonment. Makoma claimed in his affidavit that only the operation's commander, Sichumiso Nonxuba, who was killed in a car accident in November last year while on bail, had known about the target

Makoma and Nonxuba had entered the church firing automatic rifles and throwing nail-spiked hand grenades while the other two remained as security and driver in a stolen car outside

"Nonxuba led the way and we then burst through the doors of the church. Nonxuba first threw his hand grenade and then I threw mine. As the grenades exploded, we took cover behind the doors, re-entered and while the people inside were screaming, we started to shoot," Makoma said

"As a member of Apla we operated under the slogan 'one settler, one bullet', and this to us meant that any white person in SA was regarded as a settler, and if we came across any settlers during our operations, they had to be killed or injured."

The application of Letlapa Mphahlele had to stand down because of his unexplained absence from the hearing despite his briefing counsel to appear for him

'HOW I KILLED THEM'

Apla cadre describes horrific attack on St James Church

By Sharon Chetty

A ZANU People's Liberation Army (Apla) cadre Gumbhaya Makoma yesterday described how he shot and killed people in the horrific St James Church massacre in 1993.

Led by his commander Sichumiso Nonxuba, Makoma said he only realised that a church would be a target when they arrived at the St James church in Kenilworth, Cape Town. Eleven people died and 58 were injured in the attack which lasted less than one and a half minutes.

Nonxuba first threw his hand-grenade and then I threw mine. As the hand-grenades exploded, we took cover behind the doors, re-entered and while the people inside were screaming, we started to shoot.

"We shot indiscriminately and I finished my full R4 magazine - some 31 rounds."

"We also heard a shot outside and a car screeching. We went back into the passage to reload for our later protection. Inside the church, one of the churchgoers also fired at us."

"As we left, Nonxuba was in front and I turned back to shoot at the person who shot at us," Makoma said. Makoma, together with Bassie Mkhumbuzi and Thobela Mlamhisa, all aged 21, has applied for amnesty for the attack. He is serving 23 years for 11 counts of murder, attempted murder and possession of arms.

Nonxuba, who chose St James as the target, died last year in a car accident. All three amnesty applicants

maintain that they took no part in choosing and planning the attack. Yesterday Makoma spoke in support of the attack and asked for forgiveness from the survivors and relatives of the dead.

At the time he was 17 years old and a Standard 6 (Grade 10) pupil. He said that as an Apla soldier who was fighting in the armed struggle, he was following orders. They (Apla) had wanted the land to be returned to the African people and were opposed to the white minority government.

"I do regret and please forgive me because it was the situation in SA at that time," he said. Under cross-examination, he admitted he would have attacked the target even if he had been told it was a church as "an order was an order".

Such an attack happened "so that people in government could hear the cries of the children of Azania. Apla decided to take guns to open the ears of the people".

When questioned about the condemnation of the attack by the Pan Africanist Congress and the organisation's denial of its involvement, Makoma said "As the military wing of the PAC we never had instructions not to use arms. That is why soldiers were still fighting and shooting."

Apla had been given the powers to go on with the armed struggle by the regional congress of the PAC. An emotional survivor described how the experience devastated him. Mr David Ackerman said he was suffering from anxiety depression after he lost his wife in the attack.

Weeping bitterly, he turned to face Makoma and asked if he remembered killing his wife. Makoma replied that he had just fired.

Ackerman said he had no grudges against the killers as he had experienced reconciliation with God. He said he had never cried over the death of his wife and admitted that at times he had felt suicidal.

Another survivor, Mr Lorenzo Smith, whose wife Renata died in the attack, said although he had no animosity towards the killers, he had mixed feelings about whether or not they should get amnesty. "If they tell the truth, yes, if not, justice must take its course."

His children were still traumatised, and his 23-year-old son had difficulty speaking about his mother's death.

2002 Source: 11/7/97

Face me, weeping man

Star 11/7/97

(202)

Apla soldier in church terror attack asked by grieving survivor: 'Can you remember if you shot my wife?'

By Daisy Jones
Cape Town

Dawie Ackermann, his eyes red-rimmed, his eyelashes wet with tears and his voice shaky with emotion, asked the three men who this week admitted to having been part of the gang that killed his wife, to turn around in their seats and face him.

It was an unprecedented request by a witness at an amnesty hearing of the Truth and Reconciliation Commission.

"This is the first opportunity we have had to look each other in the eye," an emotional Ackermann told the three young men, Geinikhaya Makoma, Bassie Mkhumbuzi and Thobela Mlambisa.

The three men are applying for amnesty for the July 25 1993, St James Church massacre. Earlier yesterday, Makoma admitted to being one of the two men who entered the church.

Ackermann's wife Marita was among the 11 people who were killed by submachinegun fire and grenade shrapnel.

"I want to ask Mr Makoma, who actually entered the church .. we were ... my wife was sitting right at the door where you came in. She was wearing a long, blue coat. Can you remember if you shot her?"

Makoma replied that he did not remember who he had shot.

"I don't know why it is so important for me to know," Ackermann choked, "it just is."

In staggered phrases, Makoma told Ackermann: "We are

sorry for what we have done. It was the situation in South Africa. We didn't do it out of our own will.

"We are asking from you, please forgive us. All that we did .. we can see all the effects of what we did."

Mlambisa, the driver of the getaway car, was next to speak. He apologised to Ackermann and repeated his earlier explanation that he had been acting under orders from his commander in Apla, the military wing of the PAC. All three applicants were Apla soldiers at

“
**We're sorry,
we ask you
to forgive us**
”

the time of the massacre

Mkhumbuzi, who waited with Mlambisa in the car, asked for forgiveness and offered to revisit the congregation of the St James Church in Kenilworth "to show that we have reconciliation."

"I want you to know that I forgive you unconditionally," Ackermann told the applicants.

"I do that because I am a Christian and I can forgive you the hurt you have caused me."

"But I cannot forgive you for the sin you have committed. Only God can do that."

Ackermann said that after

the massacre some worshippers couldn't return to the church; others couldn't stay away.

"I couldn't stay away. It released me to go there, and be where she had been killed."

He appealed to "the agents of the government to come forward and identify what they have done, to at least give them (the bereaved) also an opportunity to grieve."

Ackermann said the TRC had given him the opportunity to engage with the "testimony of fellow black South Africans and the suffering they have been subjected to".

Earlier in the day, Makoma gave a detailed account of the attack. He also told the commission he had tried to kill himself while in police custody. He said the police had beaten him; he had stopped eating and sleeping, and "when I took the gun from the police, it was to kill myself".

The tears spilt over for the first time yesterday when Ackermann said: "While Mr Makoma was testifying about his torture and he was talking about being suicidal ... I could relate to that."

Two other members of the St James Church - Lorenzo Smith and Dmitry Makoganan - opposing the amnesty bid.

Smith told the TRC yesterday he had lain on top of his wife, Renata, in a bid to protect her. She was killed by a piece of shrapnel which went through her chest.

► More reports

tells wife's killers

Imbizo: traditional justice?

People's courts are taking root in Gauteng's townships once again. With crime getting out of hand, African communities are resorting to a system they know and trust

BY TFO MOTHIBELI

Concerned community elders from Boipatong in the Vaal Triangle are out to rewrite the history of the notorious "people's courts".

They run their own brand of a court called imbizo - which roughly translated means traditional hearing - at the local stadium and preside over conflicts among residents.

In this court, they say, people are not necklaced, made to drink petrol or eat soap powder after being denied a chance to tell their side of the story, as was the case in the past under the guidance of the "young lions".

Rape, murder, hijackings, assaults, robbery and family squabbles, are some of the issues tackled by these elders

The imbizo, launched four years ago, operates from Monday to Friday from 4pm to 6pm, but on Tuesdays and Thursdays, it deals only with complaints made by women

Court chairman Ramaele Motaung says the imbizo operates similar to the way "we used to live in traditional African communities"

"Members of the community formed this structure after they realised that their children were being raped, cars hijacked, shops robbed and all manner of abhorrent acts were getting out of hand. When we turned to the police, there was nothing effective they could do about our plight," he says

According to Motaung, the advent of the "court" has contributed towards maintaining law and order in the area

"After hearing the complaint,

we call the accused to respond to the allegations. If he does not plead guilty, a process of investigation begins. At the end, if the allegations are corroborated, both parties are called in to determine the nature of the punishment," he says.

Motaung says it is the complainant who has the final word on whether to hand over the guilty person to the police or to lash him

"Imbizo is made up of about 100 elders. If the guilty party has

66 Culprits will be lashed for hijacking and theft

to be lashed, each member of the court is entitled to a maximum of six sjambok strokes," Motaung says.

Because most people are impatient with the slowly grinding wheels of justice, he says, lashing is often the choice.

Motaung said murder and rape cases were normally referred to the police. However, in cases such as hijacking, theft and assault, the culprits were lashed

In matters like child abuse and wife-bashing, the culprits were warned, and thrashed if the offence was repeated

"Those old men are doing a fantastic job. They are ridding this township of criminal elements. Since this imbizo was

formed, life has been worth living for some of us," said a resident

However, there are some residents who are not happy with the severe lashings

Academics and researchers who have been studying violence in South Africa believe people's courts have resurfaced because of desperation among the communities.

Criminal Justice Policing Unit of the Centre for the Study of Violence and Reconciliation researcher Kindiza Ngubeni says the recent upsurge in vigilante actions in Gauteng townships is a result of the helplessness in which communities find themselves in the face of crime.

"The police and the criminal justice system are failing the communities. A criminal is in jail today and out tomorrow because of lack of co-ordination between the justice system and the police," says Ngubeni.

Ngubeni believes that lack of co-operation between the police and justice system has led to the collapse of community policing forums around the country because their voices do not carry weight in the courts.

He says the only downside of people's courts is that they lack co-ordination, transparency, accountability and uniformity in sentencing

"I think structures like the imbizo can be good if they can be well co-ordinated and linked to the criminal justice system and they are not laws unto themselves," he says

But Gauteng police have condemned the actions, saying there were avenues through which the community could deal with crime rather than instant justice

8/11/97



Law of the street prosecutors march to Parliament in an appeal for help to dispense justice

HANNES THART

W Cape courts face collapse

Prosecutors in protest march on Parliament

ANDREA BOTHA
STAFF REPORTER

Western Cape magistrate's courts could collapse unless they get urgently needed resources and facilities and staff are paid better salaries.

This was the message from prosecutors at a protest march to Parliament

Nearly 130 prosecutors from Cape Town, Goodwood, Wynberg, Knuls River, Mitchell's Plain, Parow, Bellville, Atlantis, Worcester and Paarl magisterial districts marched to Parliament in their gowns during lunch hour yesterday to make an urgent appeal to the Government to help them dispense justice

A representative handed a memorandum to Esser Allers, director of parliament

(252) AKR 11/7/97

tary services, to be passed on to Justice Minister Dullah Omar, who is in Pretoria

"Courts are understaffed, under-resourced and ill-equipped to fulfill their role as key players in the fight against crime," said Falek Davids, senior prosecutor in Wynberg and spokesman for the group

"It's an argument of salaries, resources and accommodation," he added

He said working conditions at some courts were shockingly inadequate. Some courts did not even have fax machines, copiers or computers

At Goodwood, proper security measures had not been installed in spite of a shooting incident in the court building

"Experienced people are leaving, the work load is getting heavier. How long

before it all collapses?" asked senior prosecutor Andre Bouwer

Prosecutors were also frustrated because of a disparity in salaries between them and magistrates. Last year magistrates became independent from the public service and got pay increases. Similar promises were made to prosecutors, but nothing had been done in more than a year

Mr Davids said the Department of Justice should be credited with attempting to make changes, but because of a lack of money and resources this had proved insufficient

"The message is this if the Government is serious about combating crime, it must invest in the justice system

"Then we will guarantee to make a difference," he said

Kahn defends Omar over row

DENNIS CAVERNELLS
STAFF REPORTER

Western Cape Attorney-General Frank Kahn says Justice Minister Dullah Omar is "probably justifiably aggrieved" by the attitudes of some elements in the Department of Justice.

Mr Kahn was commenting on controversial statements by Mr Omar about affirmative action in the department

He said Mr Omar's comment that he gave "too much protection" to whites in the department had been angrily received by

some lawyers' organisations but welcomed by others

Mr Kahn added that Mr Omar "feels aggrieved, and probably justifiably so, by the attitudes of some elements in his department, but he is entitled to receive support from his department"

"It is important that the row be seen in its proper context," he said, adding that "the minister has vastly improved the salaries of magistrates and is in the process of doing the same for prosecutors"

Mr Omar said in the controversial interview that he stood by his plan to make the department more representative. He had

acted slowly in implementing affirmative action and had been wrong to "protect white officials but I have good people working for me, both white and black"

Mr Kahn said the Justice Ministry had inherited a department "which was understaffed, underpaid and under-represented, at a time of burgeoning crime coupled with the introduction of a new constitutional order"

The Government had provided Mr Omar with insufficient resources for the "unenviable task of retaining and expanding skill and simultaneously introducing representivity"

Guguletu 7: Forgive us, say St James killers

TRC gets

new details

A Truth Commission amnesty hearing involving Vlakplaas policemen and the deaths of the Guguletu Seven has been postponed and now promises to be a major event when it takes place.

The hearing, in which former Vlakplaas security policemen Wilhelm Riaan Bellngan and Thalepo Mbelo are applying for amnesty for their role in the killing of seven activists by police in Guguletu on March 3 1986, was to have been heard today.

But Mokotedi Mpshe, an advocate who leads evidence for the commission, told the amnesty committee late yesterday that the legal representatives of both the victims' families and of Mr Bellngan, a retired sergeant, had asked that it be postponed.

Also, Truth Commission investigators had recently acquired new information which implicated certain people. In terms of a recent Appellate Division ruling, such people had to be given adequate notice - interpreted as 21 days - that they were implicated.

Mr Bellngan and Sergeant Mbelo, who is still a serving policeman, were subpoenaed to answer questions about the incident behind closed doors by the commission's investigators recently.

At a "special event" hearing earlier this year, several of the Western Cape's top serving and retired policemen were subpoenaed to testify in public about the incident.

It was at this hearing that the involvement of the Vlakplaas policemen in the killing of the seven was made public.

Today's hearing was to have been a one-day event, but it has now been set down for four days, from October 13 to 16, suggesting that the Truth Commission is planning for a major hearing with significantly more information than originally expected.

St James Church massacre victim Lorenzo Smith, whose wife Myrtle was killed by grenade shrapnel which penetrated her heart, appeared to have a change of heart about amnesty at the Truth Commission

He initially opposed amnesty for the three young Azanian People's Liberation Army (APLA) soldiers who are applying, but later told the amnesty committee he had "mixed feelings" and would support

Victim has 'mixed feelings' on amnesty



Brief applicants Bessie Mkhumbuzi, Thobela Mlammbisa and Gcinikhaya Makoma talk to their counsel



LEON MULLER

Reliving the horror: members of the St James Church congregation at the amnesty committee hearing

their applications "if they're telling the truth".

Mr Smith, whose father reclassified himself from "white" to "coloured", told the committee he grew up in District Six and his family had later been forced to leave under the Group Areas Act. This experience allowed him to sympathise with the struggle of black South Africans and relate to their feelings.

The attack on his church, which was

"about 90 percent" non-racial, had been deliberately planned, he said.

"I have no animosity but I disagree that a person can go out and kill someone in that manner. We believe we have been set free by prayer in this country, not violence. I feel the target they chose was not the right target. If amnesty is granted, it must be on a truthful basis and that's it. Well, what I've heard, I've got mixed feelings," Mr Smith said.

Apla men respond to plea

Three self-confessed killers in the St James Church massacre looked one of their victims in the face and asked solemnly for forgiveness and understanding.

In one of the most emotionally charged moments in the Truth Commission's 18-month existence, the three former Azanian People's Liberation Army (APLA) soldiers were responding to a request from a tearful victim, Dawie Ackermann, during yesterday's sitting of the amnesty committee.

Mr Ackermann's wife, Marita, was one of the 11 who died in the attack on Sunday, July 25, 1986, that shocked South Africa and the world.

Another 88 churchgoers were injured and named in the incident. Mrs Ackermann was sitting in a pew close to the door through which the two gunmen burst during the evening service, and fired at the congregation with R4 rifles and threw M26 handgrenades to which nails had been glued.

Mr Ackermann was one of three members of the congregation to oppose formally the amnesty applications by Gcinikhaya Makoma, Bessie Mkhumbuzi and Thobela Mlammbisa heard by the Truth Commission's amnesty committee this week.

Makoma, who is serving 23 years for his part in the attack, testified that he and senior Apla leader Sichumiso Nonguba, who died last year, were the gunmen who entered the church and fired shots and threw grenades. He was 17 at the time Mkhumbuzi, who was also 17, said he had waited outside in the getaway car, of which Mlammbisa was the driver. Mr Ackermann took the witness stand, just behind the table at which the three applicants were sitting, and explained that he opposed amnesty, not because he harboured a grudge, but because he wanted the full truth to be told.

He realised that the apartheid government had been evil, and that opposition to it had been legitimate in some ways. "But when I think of the gravity of the attack on a defenceless church, I cannot in any circumstances condone it in terms of an armed struggle."

Turning to Makoma, he asked him whether he remembered shooting his wife, who was wearing a long blue coat and sitting next to the door. Makoma replied that he remembered aiming his rifle at people, but could not remember individuals. Mr Ackermann asked the three men to turn around and face him and apologise.

"I would like to hear from each of you as



ON THE TRUTH COMMISSION



Memories: St James Church Bishop Frank Releif

you look me in the face that you are sorry and that you regret it (the attack), and that you want to be reconciled."

Makoma was the first to respond, saying: "We are sorry for what we have done. It was the situation in South Africa. Although people died during that struggle, we didn't do that (kill them) out of our own free will. We are asking from you, please forgive us."

Mr Mlammbisa then also apologised. "We were under orders. As the Truth Commission is alive today, we hope this will come to an end. I hope you forgive me as I ask for forgiveness," he said.

Mr Mkhumbuzi apologised and said he hoped the proposed service of reconciliation at St James Church would take place. "I also say please forgive me. To every body, white and black, in this new South Africa."

Mr Ackermann told the three he was a Christian and forgave them "unconditionally" for the hurt they had caused.

'FORGIVE THE ATTACKERS UNCONDITIONALLY'

'Look me in the eye and say sorry'

CF 11/7/97

(292)

A MAN who lost his wife in the St James Church massacre said he and his family "would abide" by any decision to grant amnesty to the killers. **DAN SIMON** reports.

"I WANT to look you in the face and hear you say you are sorry for what you've done."

These words were uttered yesterday by Mr Dawie Ackermann, who lost his wife, Maria, in the St James Church massacre carried out by members of the Pan-Africanist Congress' Azanian People's Liberation Army (APLA) in July 1993.

An emotional Ackermann, who sat about two metres behind Mr Bhasi Mkhumbuzi, Mr Thobela Mlambsisa and Genikhaya Christopher Makoma, who are applying for amnesty before the Truth and Reconciliation Commission, broke down several times while testifying how the massacre had devastated his life and his family's.

Ackermann astounded the commissioners and the audience when he asked the three attackers to turn and look him in the eye and say they were sorry.

During this unusual break in proceedings, a hush fell over the audience as each attacker complied with Ackermann's request and took it in turns to express their regrets for what they had done.

A tense Makoma, who was the first to apologise, is serving a 23-year sentence for 11 counts of murder, charges of attempted murder and unlawful possession of arms and ammunition.

Mkhumbuzi and Mlambsisa, now members of the South African National Defence Force, are out on bail in connection with the charges relating to the attack, which shocked the world.

"I've never cried about the death of my wife except for silent cries," said Ackermann.

"While Makoma was testifying and talked of his tortures and that he was suicidal, I could identify with that. I went on record that I hold no personal grudge and I stand by that. I also hold out reconciliation with them



APOLOGETIC: St James Church amnesty applicants Bhasi Mkhumbuzi, Thobela Mlambsisa and Genikhaya Christopher Makoma who apologised in public for the human suffering they caused

PICTURES: THEMINKOSI DWAVISA

"The apartheid government was an evil government and opposition to it was legitimate. But in my own personal opinion, the gravity of the attack on a defenceless church. I can't condone that in terms of an armed struggle."

It was then that a tearful Ackermann asked the three men to face him.

"This is the first opportunity we've had to look each other in the eye. I want to ask Mr Makoma and had cost him his job. A former secretary for the Industrial Council, he said that his emotions had been "stunted".

important to me. If you don't remember I'll accept that."

Makoma said he remembered firing shots, but did not know who he had shot. "I don't remember who I shot. I just pointed my gun at the people."

He also said the situation at the time in South Africa had forced them to take arms and carry out the attack.

"We ask you to forgive us. We can see the results (of the attack) today."

Earlier Ackermann recounted how the massacre had affected him emotionally and had cost him his job. A former secretary for the Industrial Council, he said that his emotions had been "stunted".

"I find it impossible to be angry with them (the attackers). I should be angry but I am not. Instead I am angry with my own family members. I fight more with my children now than ever before and all about stupid things."

Ackermann said he forgave the attackers "unconditionally".

"I do that because I am Christian. I forgive you for the hurt you caused me but I can't forgive you for the sin you've done. Only God can," he said.

He added that he and his family "would abide" by any decision the commission came to about the men's amnesty applications.



SAY YOU'RE SORRY: Dawie Ackermann yesterday stunned the audience by asking the amnesty applicants to "look him in the eye" and say they were sorry.

Hearing of Vlakplaas pair postponed

THE Truth and Reconciliation Commission's amnesty committee postponed the amnesty hearing of two former Vlakplaas security police base operatives to October 13.

Sergeants Wilhelm Bellingan and Thapelo Mbello are seeking amnesty for the police shooting of seven Guguletu men, who later became known as the Guguletu Seven, in 1986.

Their amnesty hearing was due to have taken place in Cape Town on Friday.

However, amnesty committee lawyer Mr Mokoreti Mpshe said lawyers for Bellingan and relatives of the Guguletu Seven had asked for a postponement.

A postponement was also necessary as the Truth Commission's investigative unit had recently uncovered further information implicating certain individuals in the shooting — Sapa.

Courts set to crumble under huge case backlog

Attorneys concerned over lack of proper facilities

JULIAN JACOBS

A huge backlog of cases at the Cape Town Magistrates' courts, a lack of consulting facilities for lawyers and overfull courtrooms and corridors are threatening to bring the justice system in the city to a halt.

Sue de Villiers, a member of the planning committee for the Justice for All Institute has expressed concern at the deteriorating situation at Cape Town's courts.

She said the lack of proper facilities was only part of the problem. In many instances victims and accused faced each other across cramped corridors. She said the institute aimed to make the courts more "user friendly" and to educate the public about the workings of the justice system.

She envisages information booths in all courts where maps would be available and staff would be able to direct people to the various courts. At present, many people were unable to find the courtrooms where they were supposed to appear.

She would like to see other people on hand to help people with information on the workings of the justice system and court procedures.

At present, there are no labels or signs and no one giving advice to the public, she said.

City attorney William Booth said lawyers, attorneys and their clients were concerned about the lack of consultation facilities in the courts and also at prisons.

"I am forced to speak to my clients in the court corridors where everyone else can hear

and see us. It is impossible to have consultations in private. The situation is unacceptable. The absence of proper facilities evoke a lack of confidence among awaiting-trial prisoners in their legal representatives," he said.

"Prisoners feel they will lose their cases or be unfairly judged because their attorneys have not had adequate time to prepare their cases. All prisoners are entitled to a speedy trial, but in most cases it never happens as the courts have to deal with the backlog cases first," he said.

But Cape Town's Acting Chief Magistrate Blackie Swart said consultation rooms had been allocated to attorneys and still they tended to do their consulting in and outside the courtrooms.

"We have quarterly meetings with all legal people and not once has this issue come

up for discussion," he said.

He said a lack of money was the main reason for not doing any extensions to present facilities.

The Wynberg Magistrate's Court has attempted to alleviate the frustrations of clients and attorneys by providing proper consultation facilities for them.

However, according to a senior justice official: "Even though a few magistrate's courts have provided consultation facilities the situation in the corridors remains bleak".

Ms De Villiers said not only did many people not understand court procedures, they also didn't understand legal jargon.

"People need to be given more information about what's going on and procedures must be explained to witnesses and the accused," she said.

(252) RRT 12/17/97

Ashley Kriel's family to oppose amnesty

KEN VERNON

(2/72)
ST (CM) 13/7/97
THE family of slain Bonteheuvel activist and MK cadre Ashley Kriel will this week oppose a TRC amnesty application by a policeman involved in his shooting

The family's lawyer, Essa Moosa, confirmed they would fight the application by Inspector Jeffrey Benzien, a former member of the Bishop Lavis Murder and Robbery Squad, who has applied for amnesty to the TRC in Cape Town

The death of Kriel — a teenage activist and founder of the Bonteheuvel Inter-schools Congress — has long been a source of bitterness

The TRC will also hear the related case of another ex-policeman, Senior Superintendent William Liebenberg, who

applied for amnesty for not disclosing a case of torture by other police

Kriel was shot when police tracked him to a house in Athlone in 1986 after he had been in hiding for almost two years. Benzien and another policeman, Sergeant A Abels, claimed the youth died when his own gun went off in a scuffle

But family and neighbours say Kriel was tortured before being shot in cold blood. They hoped the hearings would finally reveal who pulled the trigger

Kriel's mother, Ivy, died tormented by the idea that she never knew the truth.

A domestic worker told a TRC hearing last year that she had heard screams coming from the house for a long time after the police arrived. She also saw a youth — possibly Kriel — on his knees before them

Truth inquiry revisits the terror of the faithful

Gunmen face a congregation struggling to hold back their tears

ST 13/17/97

KEN VERNON

A LIST of carefully prepared questions and answers drowned in a sea of anguish when Dawie Ackermann this week confronted the man who killed his wife four years ago.

Tears came to his eyes after hours of listening to the youthful gunman evade questions at a Truth and Reconciliation Commission hearing in Cape Town.

Then, Ackermann lost control, and demanded that his wife's killer look him in the eye and apologise.

He could have been speaking for all the victims who have testified before the commission when he held the gaze of Gcinhaya Makoma and said "I want to know from you, as you look me in the face, that you are sorry and want to be reconciled."

The confrontation was the culmination of a continuing nightmare for the survivors of the July 25 1993 St James Church massacre — once again in the media spotlight after two days of commission hearings.

Eleven people died and more than 50 were seriously injured in the horror grenade and sub-machinegun attack on the packed congregation of 1 200 Sunday worshippers.

Those who survived the hail of bullets and shrapnel have since lived through the hell of trying to come to terms with

the massacre, and this week Ackermann stepped forward on behalf of them to oppose amnesty applications by Makoma, Bassee Mkhumbuzi and Thobela Mhambisa.

The three, who are serving 18-year jail sentences for the killings, claim they were acting on behalf of the PAC when they carried out the attack.

"I never planned to confront them," said the softly spoken man who saw his wife, Marita, shot dead in front of him.

"I had always wanted to face them, but had never had the chance. When the trial was on I didn't have the emotional strength to attend."

"But when the time came everything I had discussed with my lawyer flew out of my head."

When Makoma spoke of his own torture and told how he had contemplated suicide, it was a turning point.

"Everything he had gone through, I had gone through, and I just had to reach out somehow," said Ackermann.

Dramatically pointing to the three men sitting in front of him and sobbing uncontrollably, he said "I want them to hear this I should have anger towards them, but instead I get angry at my family I fight with my children all the time — over stupid things."

"What are we doing here — looking for the truth, yes, but how on earth are we ever going to be reconciled?"

He then challenged the three killers to "look me in the eye." His words shocked the

youths out of their seeming complacency, and they turned slowly around to look at the man whose wife they had killed, and whose life they had ruined.

Speaking to Makoma, Ackermann asked "Can you remember if you shot my wife? She was right at the front wearing a blue coat."

When Makoma answered that he could not remember whom he had shot, Ackermann continued "I don't know why it's important, it just is."

His voice trailed off, his head sank into his hands and he was unable to continue.

After two days of emotionally charged testimony lawyers representing Ackermann and a second survivor, Lorenzo Smith, said they would be opposing the three men's amnesty applications before the amnesty committee next week.

"We will submit there is no reasonable link between the slaughter of a racially mixed congregation and any defined political goal," said Sean O'Dowd, Ackermann's legal representative.

Survivors attending the hearing criticised the proceedings, saying that commissioners seemed to be answering questions on behalf of the applicants.

"We protested and it seemed to slow down, but those three did not fully disclose everything," said one victim.

Despite the opposition to amnesty being granted, St



ANGUISHED PLEA: Dawie Ackermann challenges the perpetrators of the church attack at a truth commission hearing in Cape Town this week. Survivors of the attack are opposing their amnesty applications. Picture: RICHARD SHOREY

James Church leader Bishop Frank Retief this week extended the hand of forgiveness to the killers and invited them to visit the church that was the scene of the massacre "If they truly repent".

PAC leader Stanley Magoba said he would accept the invitation to visit the church if the three were given amnesty.

Retief said he now looks back at the attack on the church he founded almost 30 years ago as a "reaffirmation of faith at a time of horror".

"The church still provides counselling for many members of that congregation who

suffer from bouts of depression or fear stemming from the attack. Others have illnesses that have either been exacerbated or have sprung up because of the stress of that day."

"But it was not only the congregation that suffered. The whole neighbourhood was fearful for a long time of another attack. Some of our congregation left because they could not bear to be near the church."

"My daughter, Debbie-Anne, was too scared to go to church for a long time afterwards. I had to take her by the hand and lead her. She suffered

nightmares for a long time." The fear of being a victim stayed with Marietje Bowers long after she was shot in the shoulder and neck during the attack.

She said this week that long after the shooting she shunned public places. Lulu Ndodana, who escaped unscathed from the car of the attack had worn off she became ill and could not sleep at night "because I could hear the shots going off again and again in my head."

Another survivor, Bernie Laufs, said that after being hit by shrapnel he felt apprehensive when approached by black men.

"I was a member of the outreach group that visited Russian ships and invited crew members back to the church, and my biggest problem was revisiting the ships — I couldn't get over the feelings that I had somehow been an agent of the deaths of the seamen who died that day."

Ackermann is one of those who suffered the most from the attack, but ironically he has also found happiness, remarking to a woman who

church that night and whom he met through church counselling.

He told the commission that since seeing his wife gunned down he had been diagnosed as suffering from depression anxiety, had lost his job and had become so "dysfunctional" he could not work.

At a private meeting after the hearings the survivors had their first chance to speak to the killers.

"What hit me was how young they still are," said Laufs, "then came the feeling that after years of riding an emotional roller coaster, I can finally say that this is at an end."

was a woman who

was a woman who

TRC to probe apartheid's judiciary

ST 13/7/97
CARMEL RICKARD

(252)

THE Truth and Reconciliation Commission is to examine the role of judges and other lawyers under apartheid — but there are strong indications many will refuse to participate in the planned hearings.

Yasmin Sooka, who convenes the commission's legal working group, said donors had given the commission the go-ahead to employ a lawyer to prepare for the hearings.

Consultations and workshops have been planned for August, when the commission will outline what it has in mind for the hearings. Written submissions should be in by the end of September and the hearings are scheduled for October.

Sooka said the commission wanted to investigate the imposition of the death penalty, an issue which had repeatedly emerged in earlier truth commission hearings.

A number of judges can expect to be "named" in the hearings into the judiciary, including Mr Justice David Curlewis, who gained a reputation for making politically conservative decisions and often passed the death penalty. Another would be Mr Justice Rae Leon, now retired from the Natal bench, who sentenced Amanzimtoti bomber Andrew Zondo to hang Leon, however, has

a strong reputation for a number of courageous human rights decisions handed down during the emergency years.

Others likely to be named are Mr Justice Louis Harms, whose commission of inquiry in the early 90s found no evidence of the existence of police hit squads, and former Chief Justice Pierre Rabie, architect of security legislation, who is believed to have specially selected judges to hear security cases.

Among the magistrates, prosecutors and attorneys general who can expect to be named is Natal Attorney General Tim McNally, who has already requested an opportunity to testify to the TRC to clear his name after allegations were made against him in earlier hearings.

The National Association of Democratic Lawyers has already begun preparing submissions and is collecting data from legal practitioners about their experiences in the courts under apartheid.

But a number of judges as well as the General Council of the Bar, which represents the advocates profession, have indicated that they are adopting a far more cautious approach.

The Bar says it cannot commit itself to participation until certain key questions, which it asked the TRC in a letter at the beginning of the year, have been answered.

I was ordered to lie in court over torture, Benzien tells TRC

ARC 14/7/97 (252)

JOHN YELD
ON THE TRUTH COMMISSION

Former security policeman Jeff Benzien today told the Truth Commission he had lied in the Supreme Court when he denied assaulting and torturing captured Umkhonto weSizwe (MK) guerrillas.

He also alleged that top Western Cape MK officers, including Tony Yengeni and Ashley Forbes, had cracked under torture and had informed on their colleagues and about weapons caches.

But Mr Yengeni, a former MK commander and now an African National Congress MP, denied in a Sapa interview that he had broken down.

Captain Benzien, who is applying for amnesty for assaults and torture during the late 1980s and for killing MK member Ashley Kriel in Hazendal, Athlone, on July 9 1987, said he had been ordered by the security branch to lie in court.

In his testimony to the amnesty committee, Captain Benzien - now in the SA Police Services' air wing - admitted using torture and assault while interrogating Peter Jacobs, Mr Forbes, Anwar Dramat, Mr Yengeni, Gary Kruser, Niclo Pedro and Alan Mamba.

Mr Kruser heads the police VIP protection unit and Mr Dramat, Mr Jacobs and Mr Mamba work for the police.

Several of them attended today's hearing. Before the start, Captain Benzien approached some of them, including Mr Forbes and Mr Yengeni, and shook hands. This angered some people in the audience who shouted "Wash your hands... scrub your hands, Ashley (Forbes)" and "Don't shake hands, Tony (Yengeni). There's no reconciliation, he didn't care."

Mr Yengeni told journalists Mr Benzien had said to him: "It's time for reconciliation." He had replied that it depended what happened during his amnesty application.

"It all depends on whether they (Captain Benzien and his superior officer, William Liebenberg) are prepared to speak the truth," Mr Yengeni said. The hearing was the first time he had seen Captain Ben-



'I lied': ex-security policeman Jeff Benzien

zien since his interrogation and torture.

At the start of the hearing, Captain Benzien read a short statement in which he asked for forgiveness from the family of Mr Kriel and for anyone he had assaulted and tortured. "Although I deny killing him (Mr Kriel) unlawfully, he was still killed as a result of my action. A life is precious, and his death was unnecessary."

Captain Benzien said he had been ordered by Mr Liebenberg, then a lieutenant, to use "unconventional" interrogation methods that included the so-called "wet-bag" method. This involved placing a wet bag over a suspect's head to disorientate him and to give him the impression that he was being suffocated.

In court, suspects said they had been assaulted and/or tortured. "I denied this under oath. I was telling lies, only in regard to the assaults and torture, under orders from the security branch."

Omar, Asmal question special amnesty

Farouk Chothia
and Stephen Laufer

THE African National Congress's (ANC) national executive committee had endorsed the peace talks with the Inkatha Freedom Party (IFP), but reservations were expressed about a special amnesty for KwaZulu-Natal, ANC sources said yesterday.

A source who attended the meeting said Justice Minister Dullah Omar and Water Affairs Minister Kader Asmal "raised questions about the amnesty within the context of efforts for peace in the province." Another executive member had been more outspoken on the perceived dangers of a special amnesty for the province.

Another participant said the committee endorsed a continuation of the peace process in the province. The national working committee had been tasked with continuing interaction

with the IFP at national level regarding a senior government role for Home Affairs Minister Mangosuthu Buthelezi and the amnesty. No time had been set. The ANC in KwaZulu-Natal had been instructed to continue grassroots peace efforts.

Another source said Omar argued that the amnesty proposal—mooted by national chairman Jacob Zuma and supported by President Nelson Mandela and his deputy Thabo Mbeki—clashed with the equality clause in the constitution's bill of rights. The proposal would result in KwaZulu-Natal residents being treated differently from those in other provinces.

Asmal, Omar and others emphasised the need to relate proposals for KwaZulu-Natal to the general political function of amnesty in SA as a whole.

Zuma suggested amnesty hearings in the province be heard behind closed doors by a special board, rather than

the truth commission's amnesty committee at open hearings. The amnesty cut-off date should also be extended.

The source said Omar voiced concern that there were no legislative provisions to give effect to the proposals.

But another ANC source said the executive committee had "fully endorsed" negotiations for a special amnesty, and to offer Buthelezi a position "befitting his stature." The source declined to say what position, but said the ANC in KwaZulu-Natal had never officially said it would be the second deputy presidency.

A source said the executive committee's decision to endorse the province's proposals was a "major advance" for the peace process in KwaZulu-Natal. Some ANC members were initially "a bit startled" by the proposals, but they understood why they had been made.

Mbeki would lead the ANC's negotiating team.

BD 14/7/97

(262)

Omar's work to improve dept misrepresented

THE editorial titled Omar's Generals (Business Day, June 27) would have been a useful contribution to the debate on the transformation of the justice department had it not been riddled with inaccuracies.

The article misrepresents Justice Minister Dullah Omar's plans for transforming the administration in order to make it efficient, effective and representative of the whole population.

The minister's plans are outlined in his budget speeches and press briefings, as well as a document called 1 000 Days which was issued to publicise his achievements.

Vision 2000, which reflects the ministry's overall transformation plan, was finalised recently. Its compilation took place within a transparent process and it was workshopped extensively with all role players.

The parliamentary justice committees hope to hold public hearings on Vision 2000 shortly and it is hoped that it will form the basis for a white paper on the transformation of the justice administration. Business Day obviously failed to consider these documents before compiling the editorial.

The management of the justice department has been changed in accordance with recommendations of a rationalisation committee appointed in 1994.

The justice functions are also to be decentralised and regional offices established. This will ensure that the administration is streamlined and no longer centrally controlled from Pretoria.

Five new deputy directors-general and 17 chief directors have been appointed. The appointments are broadly representative

The justice minister's special adviser Enver Daniels responds to a Business Day editorial and outlines the justice department's transformation process

tative of the population as a whole. Regional offices are in the process of being established and the department's head office in Pretoria is being restructured. Minister Omar is confident that these changes will improve the department's efficiency.

Under apartheid, preference was given to white males when making appointments. Prior to the elections of 1994, plans were passed to ensure that the justice infrastructure in so-called white areas was improved substantially. This and the apartheid government's job-reservation policies make it very difficult to remove some of the existing infrastructural inequalities.

The first matter to receive Omar's attention was the amalgamation of 11 departments of justice. The second was the rationalisation of approximately 800 laws to ensure that SA laws and those of the homelands were streamlined and applied uniformly throughout the country.

Both objectives have been met, although the amalgamation of the 11 departments and the rationalisation of the laws were problematic.

These steps were the first in a complex and difficult process of transformation which is being undertaken.

Apartheid laws ensured that persons accused of having committed crimes could be convicted on the basis of flimsy evidence, which was often obtained by illegal means.

The result is that employees within the justice system need to be trained to perform their functions in a way which is consistent with the democratic values of our constitution. The issue of so-called affirmative action did not enjoy priority.

The justice minister has arranged a series of legal forums at which transformation was discussed with all the relevant role players.

The first was held in November 1994. There, the principles around which transformation should take place were identified. Other issues discussed at various times included crime, legal education and the access to justice.

An administration of justice project was established to enable the minister to devise a coherent plan for transformation. A project team consulted widely, analysed the reports of the various legal forums, discussed specific matters with different role players within and without the justice department and produced Vision 2000.

The very whites whose cause your editorial aims to champion were fully involved in the discussions and continue to be consulted regularly. Those consultations have taken place, not because of the court action, which you referred to, but despite it.

Magistrates, prosecutors and attorneys-general are regularly consulted on many issues. The prosecution authority is, in terms of the constitution, to be restructured. The

attorneys-general are co-operating with the minister and have commented fully on the draft Bill which will introduce the constitutional changes to be made.

The pace of transformation has been frustrating. Historically marginalised people feel that not enough opportunities have been created for them. Others feel that the justice system does not deter or combat crime.

The minister has nevertheless considered it desirable to move cautiously and has consulted widely to ensure that the envisaged changes enjoy the confidence of all.

The court action referred to is presumably the action instituted by state attorneys in respect of which the High Court has given the minister leave to appeal.

The issue of affirmative action has been distorted in the editorial.

Omar has repeatedly assured those within the justice department that their futures are secure. But the constitution stipulates that the public service has to be representative of the population as a whole. The skewed racial patterns of employment — inherited from apartheid — still exist and have, of necessity, to be redressed.

In excess of 90% of state attorneys were white in 1995. The state attorneys asked the minister to fill a number of vacancies, but when this was done with people of colour, they instituted legal proceedings.

The minister has been forced to take steps

to ensure that the aspirations of all are met. The paper's statement that minister Omar had failed to attract good black candidates is also untrue.

At present there is a waiting list of some 1 600 people who want work as prosecutors. Progressive legal organisations have indicated that their members will apply for key posts and many black professional people wish to work in positions which the apartheid government tended to reserve mainly for white males.

Intensive training programmes are needed to ensure that new appointees and existing personnel are properly equipped to attend to their functions.

A training programme designed to complement the training offered by Justice College has been established with this in mind.

The transformation process has been steady. The ability of the courts to combat crime has been enhanced by the many initiatives undertaken by the ministry.

More improvements can be expected because a plan of action exists and the new management consists of people who have the interest of our country at heart.

Changes being considered to the court system take the national crime-prevention strategy into account and are not being undertaken in isolation of the improvements being considered with regard to the entire criminal justice system.

Hopefully all of this debunks the statement that Omar has not developed a coherent strategy for orderly and methodical change and that his department has a crude approach to affirmative action.

BD 14/7/97

(252)

3 = Someone else and him/herself

(Go to 3.10)

3

3

Continue on next page.

OMAR

Business Day

Omar's Generals

Justice Minister Dullah Omar would presumably consider himself fortunate if his problems with generals — attorneys-general and their dwindling staffs — were to receive the same attention. President Nelson Mandela gave to senior staff in the defence department thus weak.

He took a trip to headquarters to them to serve their sentences.

SAs prosecutors have, in reality, become part of SAs crime problem. The real threat to the nation's security lies in the chaotic conditions at the heart of the criminal justice system.

Flying it is a challenge at least as crucial to the wellbeing of the new SA as keeping the uniformed generals on side. It is a challenge for Omar. Public Service Minister Zola Shirenya and Mandela, who — at the right moment —

Blanket amnesty unlikely - Boraine

By STAFF REPORTER

A demand for blanket amnesty by a group of political prisoners who have applied for amnesty at the Truth and Reconciliation Commission, but whose applications have not yet been heard, is unlikely to be granted, the TRC deputy chairman Dr Alex Boraine said today.

Newspaper reports claimed that an organisation calling itself the Political Prisoners' Forum (PPF) sent a letter to Boraine on July 12 from Pretoria Maximum Prison, in which the inter-political organisational group called for an urgent meeting of all political groups and the TRC to discuss a blanket amnesty for political prisoners.

The letter is reported to have claimed that political prisoners of the ANC, the Afrikaner Weerstandsbeweging,

the Conservative Party, Frelimo of Mozambique, the Inkatha Freedom Party, the Nationale Sosialiste Partisane, the Pan Africanist Congress and the South African security forces were all in favour of a general amnesty.

It claimed that it had received favourable responses from all the political parties concerned, except for the ANC, but that the ANC political prisoners "personally support such an amnesty".

Boraine said that the TRC had "thus far been strongly against any form of blanket amnesty".

"Blanket amnesty could lead to a situation where there is no accountability whatsoever.

"If we are to deal seriously with the past we cannot just turn the page, we need to read the page," Boraine said.

"General amnesty tends to

encourage impunity and that is why the TRC decided to have amnesty applications and not a blanket amnesty," Boraine added.

The PPF said the TRC had not given priority to hearings of political prisoners, as was demanded by the National Unity and Reconciliation Act, and demanded that political prisoners receive the same treatment as political prisoners from KwaZulu Natal where discussions about a general amnesty were under way.

Boraine said the TRC had given priority to political prisoners but had to deal with a large number of applications which had nothing to do with political criteria as laid down by the act.

The KwaZulu Natal peace plan had suggested general amnesty in the province but this was not part of the TRC's sphere of influence.

Star 14/7/97 (252)

Top cop breaks down as he grills his torturer

JOHN YELD
ON THE TRUTH COMMISSION

The head of the police's VIP protection unit, Gary Kruser, broke down several times today as he questioned his former torturer, ex-security policeman Jeffrey Benzien

Captain Benzien is applying to the Truth Commission in Cape Town for amnesty

Director Kruser, one of several former Umkhonto weSizwe (MK) soldiers whom Captain Benzien has admitted assaulting and torturing during the second half of the 1980s, asked Captain Benzien whether he remembered hanging him by his handcuffed wrists from a security screen on the window at Culemborg security police



To page 3 Close encounter. ex-security policeman Jeff Benzien talks to torture victim Gary Kruser

REUTERS



Tearful: Jeff Benzien during his testimony

Drama as cop faces his torturer

From page 1

headquarters and then hitting him in the stomach

He asked whether Captain Benzien remembered taking him with hands handcuffed behind his back and pushing him into the toilet bowl when he asked to relieve himself during interrogation

Captain Benzien, who now serves in the police air wing at Ysterplaat, conceded that he could have done this, but claimed not to be able to remember the incident. He told the amnesty committee he remembered using the "wet-bag" method of torture on Mr Kruser

He said he had learnt this method of torture while serving in the air force before joining the police, as part of training to resist torture if captured in the bush war

Captain Benzien is applying for amnesty for assaults and torture of MK members and for killing MK soldier Ashley Kriel in Athlone on July 9 1987

He told the amnesty committee yesterday that he admitted pulling the trigger of the weapon which had been used to shoot Mr Kriel in the back, but that this shooting had been an accident.

Captain Benzien was closely questioned by Mr Kruser and the amnesty committee members on his selective memory and why he could not remember events which would have been significant to him at the time - such as the capture of leading MK members, including Mr Kruser

Captain Benzien said he had committed so many "heinous deeds" on detainees that he could not remember them all. He had been to a psychiatrist twice for treatment

Asked by amnesty committee member Chris de Jager whether the psychiatrist had found anything wrong with his memory, Captain Benzien replied "Not as far as I can remember, no I was under stress"

Gustav Cook, Captain Benzien's counsel, said he would submit the psychiatrist's report to the committee tomorrow. The gist of this report would be that Captain Benzien's memory loss was stress-related.

Before the start of today's hearing, the chairman of the amnesty committee, Judge Hassen Mall, said an "unfortunate incident" after the close of yesterday's proceedings had been brought to their attention. This had involved the "humiliating treatment" of Captain Benzien and his counsel, Mr Cook, by audience members

"One can understand the anger and annoyance caused by the distressing evidence," Judge Mall said, but added that all amnesty applicants were entitled to a fair hearing and that their legal representatives had to be accorded "due respect"

"Please try to observe a measure of decorum," he said. Mr Kruser told him the group of former activists questioning Captain Benzien apologised for the behaviour of their supporters and would speak to them about this today

Police torturer shows how it's done



KICKED WET BAG Jeff Benzien prided himself on his ability to extract vital information within 30 minutes from captured freedom fighters by using a wet bag to torture them. He demonstrated the technique on volunteer Mroebisi Sikhwatsha during the Truth and Reconciliation Commission's hearing (his application for amnesty yesterday)

HE WILLINGLY DID the security police's dirty work, Captain Jeff Benzien says, but he often wondered what kind of man he had become **ROGER FRIEDMAN** reports

THE mind of a torturer was pruned open for the world to see yesterday. It was sad and horrible. Perhaps it bears remembering that the point of the exercise was the promotion of national unity and reconciliation and preventing a recurrence of the

evil of apartheid. Police Captain Jeff Benzien was applying to the Truth and Reconciliation Commission for amnesty for the allegedly accidental killing of UMKhonto weSizwe (AMK) operative Mr Ashley Kriel, the torture of MK soldiers and commanders and com-

mitting perjury by denying in court his role in the torture. Benzien is notorious in the Western Cape for his use of a wet bag to torture subjects. He said yesterday the security force had used him to do its dirty work, which he was willing at the time to do, irrespective of the consequences. The consequences emerged only later. Asked to describe the man behind the wet bag, Benzien said it was a question he had often asked himself. When he had begun thinking he was losing his mind, he asked a psychiatrist for help. He was still having treatment.

"Yes, I did terrible things to members of the ANC, but as God is my witness, believe me, I have also suffered. I may not call myself a victim of apartheid but I have also suffered," he said. Earlier, TRC lawyer Ms Lulama Mhanga asked Benzien about the defaced picture of Kriel that he had on his office wall. "I had a reputation to live up to when interrogating terrorists. I admit it was in bad taste to have it up there, but in a certain sense it also helped to instill fear in the persons I interrogated."

TORTURER REDUCED TO TEARS
—PAGE TWO

(252)

CT 15/7/97

PICTURES: BENNY GOOL

TAKE THE BLUE ROUTE TO "SAFE" DRIVING THIS WINTER
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HEALTHY
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NEWS

In conflict with tight state spending

Human rights in economic fight

CT(BR) 15/7/97

(272)

NCABA HLOPHE

Johannesburg — The Human Rights Commission (HRC)'s drive to enforce socioeconomic rights could be on a collision course with the government's commitment to fiscal discipline in its growth, employment and redistribution (Gear) strategy, the South African Institute of Race Relations said in its latest newsletter.

Terence Corrigan, a researcher at the institute, said the commission would have to walk a tightrope and balance its fight for socioeconomic rights with economic realities in the country.

Socioeconomic rights, as spelled out in the constitution, would include access to housing, education, healthcare, food, water and social security.

"It is not clear to what extent these rights will be enforceable," Corrigan said, adding that the HRC was considering fighting and declaring the new child maintenance system unconstitutional.

"No decision had yet been taken, but if the HRC were to challenge Welfare Minister Geraldine Fraser-Moleketi's plans, this

would put it in direct opposition to Gear. If such a challenge were to succeed, it could unravel progress made by Trevor Manuel, the finance minister, in reducing the budget deficit and imposing fiscal discipline," said Corrigan.

Barney Pitso, the chairman of the HRC, said socioeconomic rights were "justiciable" and the commission was lobbying the government to ratify the UN Covenant on Economic, Social and Cultural Rights.

These rights would require the government to undertake measures with budgetary and economic implications such as minimum wage legislation and the implementation of free tertiary education.

At a recent conference on the bill of rights, participants recommended that the HRC challenge the government's economic and social policies and proposed the appointment of an ombudsman to enforce socioeconomic rights.

"But there was little evidence that the commission had either the resources or the expertise to produce workable alternatives to current policy," Corrigan said.

ANC MP gets security policeman to demonstrate his torture method

Linda Ensor

CAPE TOWN — A police torturer feared by Western Cape activists re-enacted his methods before the truth commission yesterday.

At a dramatic hearing of the commission's amnesty committee, ANC MP Tony Yengem demanded that former Western Cape security policeman Capt Jeffrey Benzien demonstrate the "wet bag" torture. Yengem, one of Benzien's torture victims, described the torture as "like dying slowly".

Benzien sat on the back of a prone "victim", ANC member Mncebisi Sikhatsiwa, hooked his legs around his "handcuffed" arms and showed how he would tighten the bag, suffocating the victim while asking whether he was prepared to answer questions. He knew to release the bag when the body went slack.

"The intention was never to asphyxiate someone but the real possibility was always there," Benzien explained. Benzien was questioned by Yengem and two other victims, former ANC ac-

tivists Ashley Forbes and Gary Kroeser. While they were initially willing to shake his hand in a spirit of reconciliation, by the end of the day they said they were disappointed by Benzien's failure to "spill the beans" about other security branch members.

They insisted at a news briefing at the adjournment of the hearing that the true measure of Benzien's remorse was his willingness to speak out, something he had not done.

The family of Ashley Kriel, shot dead by Benzien in 1989 in controversy, opposed his amnesty application on the grounds of nondisclosure and the lack of a political motive. They said he had not been truthful about the circumstances of the killing when he said Kriel had been shot during a scuffle.

Benzien admitted he had had a poster above his desk of Kriel with the slogan "One down, to go".

"I had a reputation to live up to when I was interrogating terrorists. I admit it was in very bad taste to have it there, but it helped me in interrogation

Torture (252)

Continued from Page 4-7
BID 15/7/97

go the extra mile irrespective of the consequences for my beliefs, the heads of the security branch latched onto this and allowed me to do this without bloodying their hands."

However dirty, mean or horrible it was, he did it alone so that he could deny torture at the trial.

Yengem said later he believed Benzien had been chosen because he had lost all humanity and was numb to his victims' moans and cries.

Benzien said he understood his use of torture was common knowledge in

the anti-terrorist unit and was "sure" that his superior, Lt William Liebenberg, was aware of it.

Former MK guerrilla Ashley Forbes disclosed how he had attempted suicide in detention under Benzien. Benzien said he and Forbes had built up a good "rapport" and he had supplied him with cigarettes, Western novels and fresh fruit, and had taken him on trips to see the snow and have braais. Forbes said the trips usually followed repeated assault and were meant to give his wounds time to heal before he was taken to a district surgeon.

Benzien apologised to the people he had tortured and to the family of Kriel for his death, although he denied shooting him unlawfully.

to instil fear in persons being interrogated, I tried to portray myself as a hard, callous person."

Benzien admitted he had been used by the security branch to extract information from Umkhonto we Sizwe (MK) guerrillas, and had won recognition for his services. "When it came to getting the job done, I was the person to do it. Maybe I was too patriotic, too naive."

"Whether it was under a false sense of bravado, or whether I was willing to

Continued on Page 2

method

Former apartheid 'moles' now in top jobs

Spymaster Barnard withholds names to avert witchhunt

AA6 15/4/97

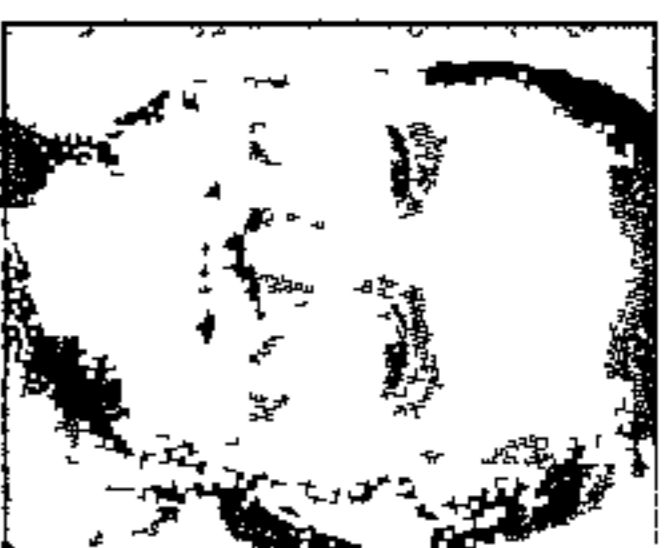
(252)

Former National Intelligence Service (NIS) head Niel Barnard has told the Truth Commission that people in prominent government positions today supplied information to the service during the apartheid years.

He said others who supplied information included people now serving in prominent political positions, in the media and "in numerous other places."

Dr Barnard also told the commission that many South Africans who today occupied "responsible positions" supplied information to foreign intelligence services, consciously and unconsciously,

TOP



ON THE TRUTH COMMISSION

either for reward, or because of extortion — "sometimes subtle extortion."

But the former chief spy declined to give

any names, saying that in his view this would be "an absolute tragedy." It would not lead to reconciliation, but would, on the contrary, lead to a "witchhunt" that could have "devastating consequences" for these individuals, their families and friends, and for the reconciliation transition process in South Africa.

Dr Barnard, who was director-general of the NIS from June 1980 to January 1992, was testifying yesterday at an "in-camera" Section 29 inquiry by the Truth Commission's investigators in Durban.

The hearing was confidential but Dr Barnard later released the 27-page affidavit

Tears from the man who couldn't hear his victims' cries of anguish

AA6 15/4/97

(252)

Jeffrey Theodore Benzien was once the much-feared kingpin in the Western Cape security police's "anti-terrorist" machinery.

He was, by his own admission, their most successful torturer, a man who, according to his victims, was totally oblivious to their cries and screams, moans and groans.

But at yesterday's hearing in Cape Town of the Truth Commission's amnesty committee, he cut a lonely and pathetic figure, sitting on his own at the table reserved for perpetrators of gross human rights abuses applying for amnesty.

His face glistened with sweat and there were black rings under his eyes.

At one point in the proceedings, he was reduced to tears when relating how his one-time prisoner Yasmina Pandy had greeted him in a friendly way at the start of the day's proceedings.

He also told the amnesty committee "I'll surely not be the most popular person in the police force after this."

Captain Benzien, now serving in the police's air wing, described and demonstrated to the amnesty committee how he half-suffocated his helpless prisoners with a wet bag.

Gary Kruser, an MK comrade of Tony Yengeni and now head of the police's VIP Protection Unit, who had also been tortured by Captain Benzien, told journalists later "The black bag you will never be able to explain to anyone. You have to experience it."

Captain Benzien described this method of torture as "unconventional" interrogation and told the amnesty committee he had done this on instructions from his immediate superior, security police lieut-

enant that he submitted. Truth commissioner Richard Lyster, who headed the inquiry, said the main thrust of the questions had been about Operation Maroon — the state-sponsored initiative to provide a military capacity for the Kwazulu government of Mangosuthu Buthelezi.

Operation Maroon was linked to the Kwamakutha massacre and the subsequent trial last year in which former Defence Minister Magnus Malan and former generals were acquitted.

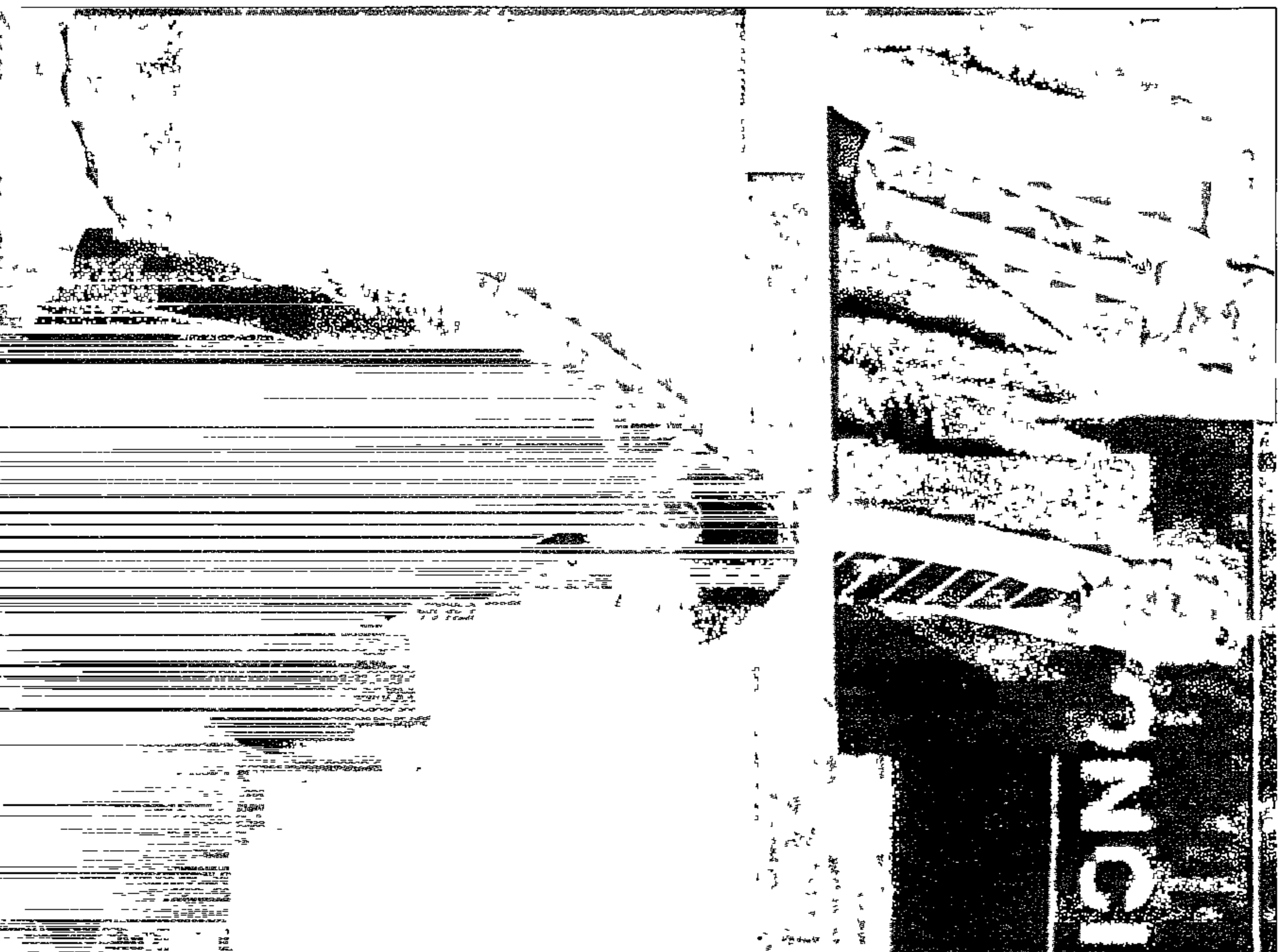
The proposal to establish Operation Maroon had been raised at two meetings of the State Security Council, of which Dr

Barnard had been a member at the time, in December 1985 and January 1986.

Dr Barnard testified to the Truth Commission that he had been strongly opposed to this proposal, which the SSC had later referred to the Cabinet for a decision.

"He said he wouldn't go along with it (Operation Maroon) unless it was approved at the highest level," Mr Lyster said.

Mr Lyster said Dr Barnard had been wholly opposed to disclosing names of NIS spies and a decision on whether to take this issue further would have to be made by the full Truth Commission. "It's definitely not our decision here at Durban," he said.



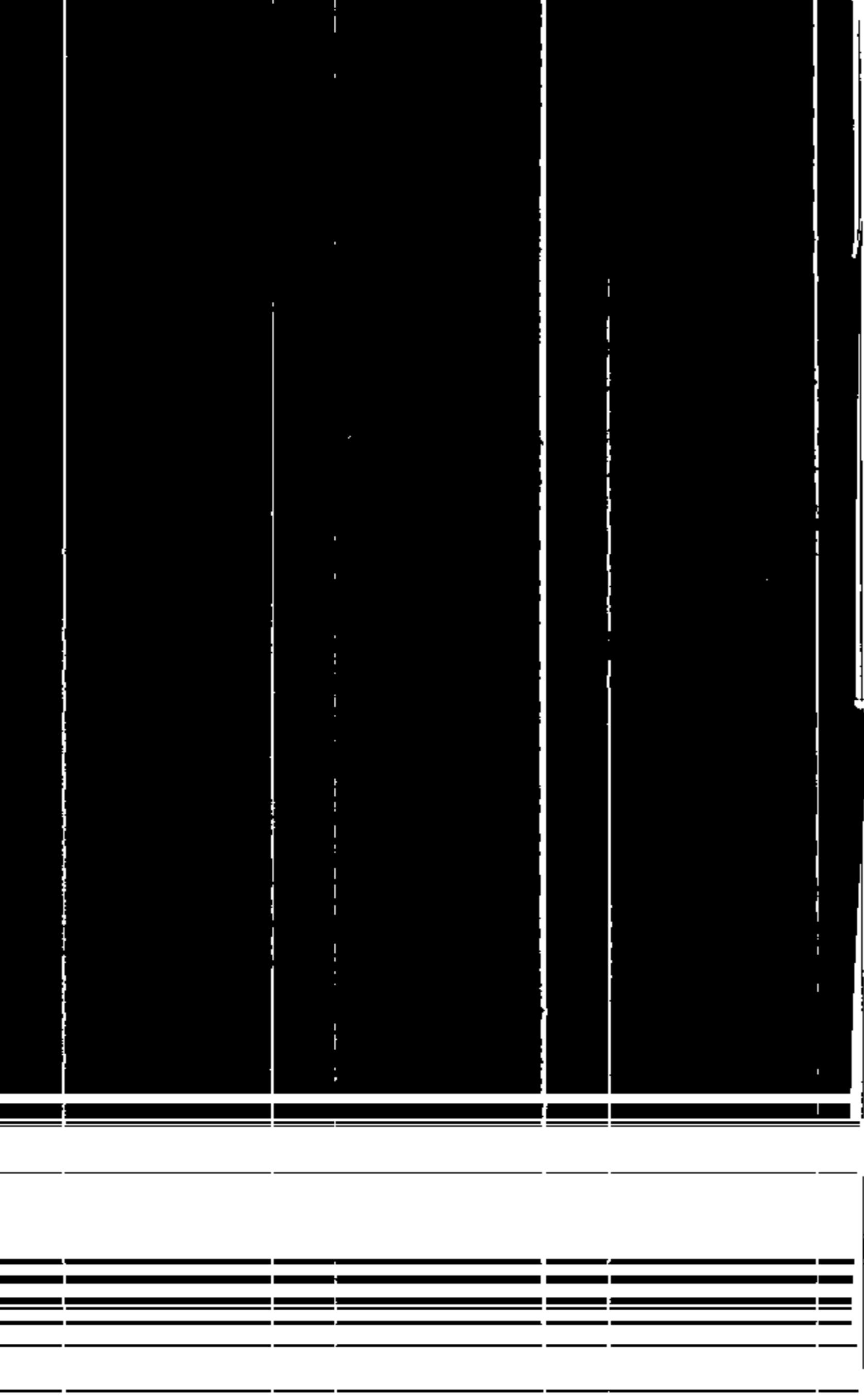
Grieving sisters: Michel Assure, left, and Melanie Adams, sisters of Ashley Kriel, at the amnesty hearing

LEON VOLLMER

Demonstration: Jeff Benzien shows the Amnesty Committee the wet-bag torture method



Weeping: Colleen Kruser, sister of torture victim Gary Kruser, being comforted by Wilhelmina Williams



He had never been officially trained in using this method. "I had heard about it". He testified he had preferred to work alone while torturing his captives with this "abhorrible method".

Captain Benzien was closely questioned by African National Congress MP Tony Yengeni, one-time regional MK commander who had been captured and tortured by him.

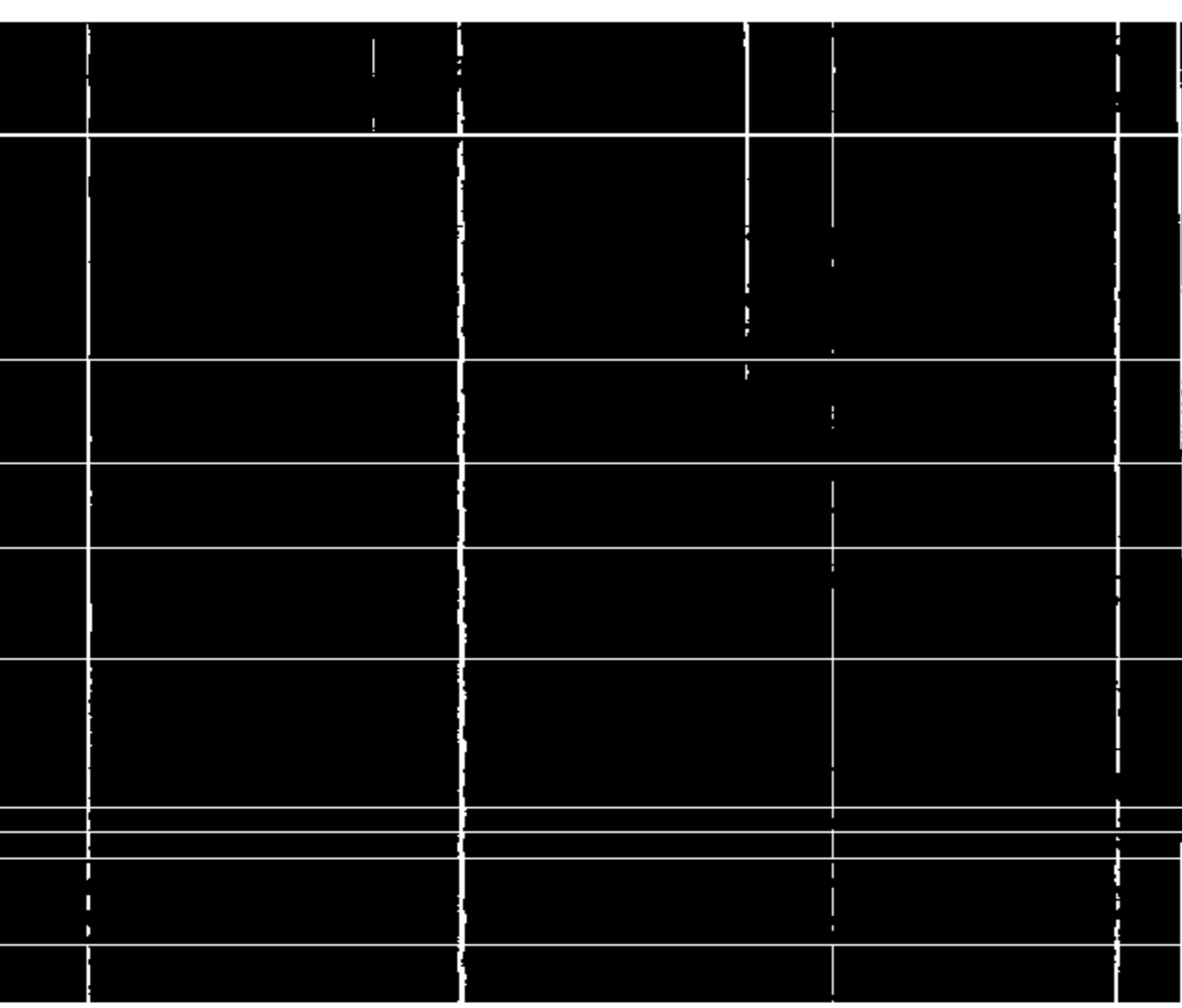
At a media conference after the hearing, Mr Yengeni said "Benzien has the dubious honour of being the security policeman who made me talk and say things."

During the amnesty hearing, Mr Yengeni said he wanted to understand what had happened and how Captain Benzien could have inflicted torture on him and his MK comrades.

"I'm talking about the man behind the wet bag. What happens to you as a human being, what happens in your mind?"

Captain Benzien replied "Not only you have asked that question I, Jeffrey Benzien, have asked myself that question. I have approached a psychiatrist to have myself evaluated. There was a stage when I thought I was losing my mind."

Captain Benzien, who was decorated in 1989 for "preventing and combating terror-



ism", said the security police had used him to do their dirty work.

But he agreed he had been a willing participant because he had been convinced he was doing the right thing.

He had acquired a reputation for torture and for being tough among his colleagues, he testified.

"I was willing to go the extra mile, irrespective of the consequences."

"This was latched on to by the security branch, who by so doing never dirtied or bloodied their own hands."

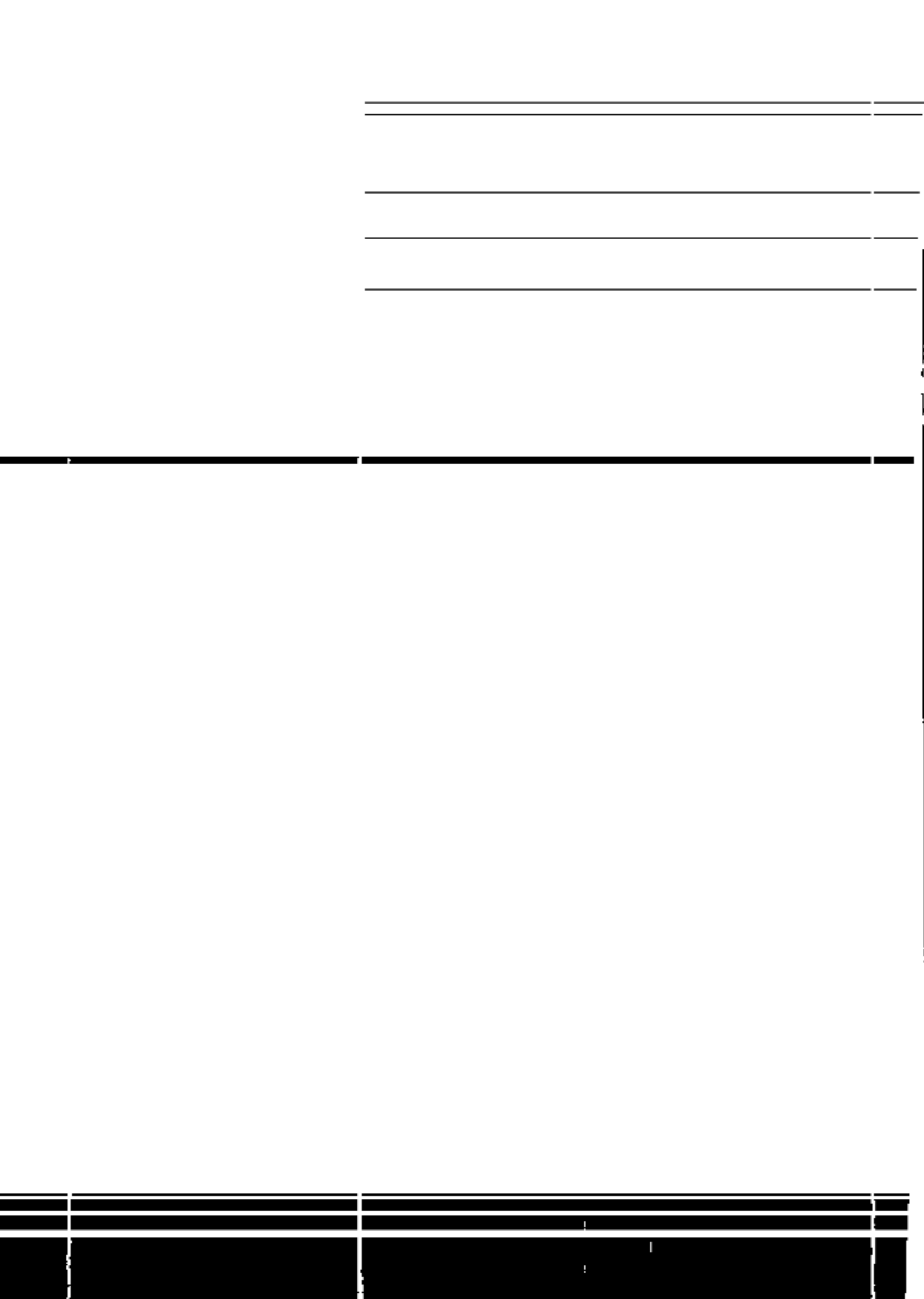
Torture had never been officially sanctioned as police policy, but he would "be surprised" if senior officers had not known that it was practised, Captain Benzien said.

Asked whether torture had been sanctioned by the National Party government and its State Security Council, he said this would be "speculation".

"The footsoldiers did the work, the hierarchy kept their hands clean at all times."

He told Mr Yengeni that his own family had suffered because of his reputation and threats.

"Yes, I did terrible things, but as God is my witness, I also suffered. I may not be a victim of apartheid, but I am also a victim. His cross-examination continues today.



Remembering: torture victim Ashley Forbes

Fierce competition for casino licences

BY HELEN GRANGE

The Southern Sun hotel group has emerged as the most powerful bidder in the casino licence race, proposing enormous American-style casino entertainment complexes in Benoni, Fourways and Pretoria at an overall cost of R2,8-billion

Details of the 23 applications for the six casino licences in Gauteng were made public yesterday, attracting a steady stream of potential objectors to the Gauteng Gambling and Betting Board's Pretoria offices to scrutinise the voluminous files of documentation

The Southern Sun consortium has proposed a R1-billion lakefront development called "Dixieland" for Benoni; a R1-billion leisure resort called "Montecasino" for Fourways, and a R780-million leisure resort and theme park called "Movieland" for Pretoria

All three feature a casino and four-star hotel as well as indoor and outdoor entertainment areas

In its Fourways bid, it has also proposed a R357-million "world-class" convention centre in Sandton City

Some of the bigger proposals include

■ Mo Afrika Casino Holdings Ltd and Ladbroke Casino Holdings want a R2-billion hotel-casino entertainment complex

810V AAG 15/7/97 (202)
with a wildlife park, horse-racing track, golf course and water park in Midrand near the Ultra City

■ Global Resorts Pty Ltd (East Rand), in partnership with Caesar's World Inc, wants a R442-million casino-hotel entertainment complex along with retail outlets, theatres, health clubs and arcades located near the World Trade Centre in Kemp-ton Park

■ Johnnie Casino Holdings Ltd and Conrad International Hotels SA (of Hilton Hotels Corp) want a five-star hotel-casino entertainment complex named Bally's Hotel and Casino at Gal-lagher Estate in Midrand

■ Afrisun Gauteng Ltd, Sun International's consortium, wants an R870-million casino-hotel entertainment complex, called "Carnival City", located in the 44 hectare space currently occupied by the Brakpan drive-in.

■ Letsha La Pula Ltd, the Stocks group consortium, wants a hotel-casino entertainment complex -- along with a mall, nightclubs, boat marina and a Health and Racquet Club on the Germiston lake southern waterfront

■ Carlton Centre Ltd and Carlton Legend Pty Ltd, want a R595-million casino complex and a state-of-the-art conference centre and banquet hall, with extended seating for indoor sports events, located in

the downtown Carlton Parkade
■ City Urban Renewal Enterprises, a consortium of black empowerment groups and cash investors, wants a casino-hotels entertainment complex with museums and shops on the land bounded by the Queen Elizabeth Bridge, Bree Street, Carr Street and the M1 highway (west).

■ Crestalia Gaming Ltd and Ladbroke Casino Holdings, which has substantial Malaysian funding, want a R350 million high-class casino lounge as part of the five-star Hilton Sandton development

■ Green Oaks Trading Ltd, a large and diverse consortium, wants part of the existing Huddle Park golf course turned into a casino-entertainment complex along with an amphitheatre and land for residential purposes

■ Karos Hospitality Ltd wants the Indaba Hotel in Midrand upgraded with a casino and convention centre, and envisages another two hotels adjacent

■ Akan Egoli, a consortium of black empowerment groupings, wants an R842-million casino-entertainment centre based at Gold Reef City

Most of the bids make provision for temporary casinos parallel with the permanent complexes to accelerate the generation of revenues for the province

Omar also rejects call for blanket amnesty

STAN/AM 15/7/97 (252)

'Political prisoners' claim Truth Commission has failed to consider applications of those serving sentences first

By ROBERT BRAND

Justice Minister Dullah Omar has firmly rejected a demand for blanket amnesty by a group of self-styled "political prisoners" who have applied to the Truth and Reconciliation Commission for amnesty, but whose applications have not yet been heard.

Omar's spokesman Paul Setsetse said yesterday it was legally impossible to grant amnesty unless the TRC had considered an application and decided whether the crime qualified as a politically-motivated act.

"There is no way we can apply blanket amnesty at this stage. It is totally out," Setsetse said.

The group, which calls itself the Political Prisoners' Forum, called, in a letter to TRC deputy chairman Dr Alex Boraine, for

a meeting of all political groups to discuss the possibility of blanket amnesty.

The group reportedly includes "political prisoners" of the ANC, the AWB, the Conservative Party, the PAC, the IFP

“
**We can't just
turn the
page, we
must read it**
”

and the previous government's security forces.

They claimed the TRC has reneged on its statutory duty to give priority to applications from applicants serving prison sentences, and demanded amnesty

without public hearings.

The amnesty legislation sets criteria to judge whether a crime was committed with a political objective, Setsetse said. Only the TRC could decide whether a prisoner could be classified as a "political prisoner", thus eligible for amnesty.

Boraine also poured cold water on the idea. He told The Star yesterday the TRC was strongly opposed to any form of amnesty without full disclosure, as this could lead to a situation where there is no accountability for political crimes committed during the apartheid struggle.

"If we are to deal seriously with the past we cannot just turn the page, we need to read the page," Boraine said.

He said the TRC had given priority to amnesty applications from prisoners, but many contained no *prima facie* evidence of a political objective.

'Wet-bag' torturer

Shows how he did it

Star 15/7/97 (252)

OWN CORRESPONDENT
Cape Town

Jeffrey Theodore Benzien was once the much-feared kingpin in the Western Cape security police force

He was, by his own admission, the unit's most successful torturer - a man who, according to his victims, was totally oblivious to screams of agony

But at yesterday's hearing in Cape Town of the truth commission's amnesty committee, he cut a lonely and pathetic figure, sitting on his own at the table reserved for perpetrators of gross human rights abuses

He was reduced to tears when relating how his one-time prisoner, Yasmina Pandey, greeted him in a friendly way at the start of the day's proceedings. He also said "I'll surely not be the most popular person in the police force after this"

Captain Benzien, currently serving in the police's airwing, described and demonstrated to the amnesty committee how he half-suffocated his helpless prisoners with a wet bag.

Gary Kruser, an MK commander of ANC MP Tony Yengeni during the struggle and now head of the police's VIP protection unit, had also been tortured by Benzien. He said later "The wet bag you will never be able to explain to anyone You have to experience it."

Benzien said he had tortured people on instructions from his immediate superior,



Recalling past ... Benzien demonstrates the method.

security policeman Lieutenant William Liebenberg

Benzien was closely questioned by Yengeni, one-time regional MK commander who had been captured and tortured by him. At a media conference after the hearing, Yengeni said, "Benzien has the dubious honour of being the security policeman who made me talk and say things"

Referring to using the wet bag torture, Yengeni asked Benzien: "What happens to you as a human being, what happens in your mind?"

Benzien replied, "Not only you have asked that question, I, Jeffrey Benzien, have asked myself that question."

His cross-examination continues today

Blanket amnesty out



In the open ... Captain Jeffrey Benzien, who is applying for amnesty for gross abuse of human rights during the apartheid era.

Blanket amnesty rejected

JOHANNESBURG: Justice Minister Mr Dullah Omar has firmly rejected a demand for blanket amnesty by a group of self-styled "political prisoners" who have applied to the Truth and Reconciliation Commission for amnesty, but whose applications have not yet been heard.

Omar's spokesman Mr Paul Setsetse said yesterday it was legally impossible to grant amnesty unless the TRC had considered an application and decided whether the act was politically-motivated or not.

The group, which calls itself the Political Prisoners' Forum, called in a letter to TRC deputy chairman Dr Alex Boraine for a meeting of all political groups to discuss the possibility of blanket amnesty.

The forum reportedly includes "political prisoners" of the ANC, the AWB, the Conservative Party, the PAC, the IFP and the previous government's security forces. They claimed the TRC had reneged on its statutory duty to give priority to applications from applicants serving prison sentences, and demanded amnesty without public hearings.

The amnesty legislation sets criteria to judge whether a crime was committed with a political objective, Setsetse said. Only the TRC could decide whether a prisoner could be classified as a "political prisoner", thus eligible for amnesty.

Boraine said yesterday the TRC was opposed to any amnesty without full disclosure, as this could lead to a situation of no accountability for political crimes committed during the apartheid era. — Own Correspondent

(252) ET 15/7/97

Yengeni reduces his old police torturer to tears

ET 15/7/97

(252)

JEFF BENZIEN prided himself on being able to break most MK captives in his custody within 30 minutes. Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report.

WHEN the tortured turned inquisitors at amnesty proceedings of the Truth and Reconciliation Commission in the city, the solitary torturer was left with nowhere to hide

A few years ago the mere mention of the name "Jeff Benzien" sent shivers up the spines of battle-hardened freedom-fighters. Yesterday his chickens came home to roost.

Former security policeman Captain Jeff Benzien of the legendary cold heart — the master of "wet-bag torture" and scourge of captured uMkhonto weSizwe guerrillas in the Western Cape — was reduced to tears under persistent cross-examination by one of his most high-profile erstwhile victims, MP Mr Tony Yengeni.

He appeared close to cracking again when Mr Ashley Forbes (now of the Robben Island Museum) took over the questioning, and the day ended with Director Gary Kruser (now head of the national VIP Protection Service) at the microphone in the role of interrogator. Kruser will resume his cross-examination today.

It was a departure from the usual amnesty hearing script, which until last week's application by the St James Church killers did not provide for victims to cross-examine the perpetrators. It was a day of intense drama, one of the most chilling since the commission began its process last April.

In a report in yesterday's Cape Times, Yengeni, Kruser, Forbes and other Benzien victims said that although they hoped to be able to reconcile with their former tormentor — given that reconciliation was in the national interest — they would only be able to consider doing so if he made a full disclosure.

At the close of yesterday's hearing they said they were disappointed that Benzien had fallen short of making a full disclosure, which was the reason they had asked to question him after a rather brief morning session. In particular, they wanted him to reveal the command structures and systems which seemingly allowed him a free reign of terror.

Benzien cut a lonely and pathetic figure.

A hostile audience sniggered and chirped as he set out to try to convince the amnesty committee that his original claim of having shot MK soldier Mr Ashley Kriel in the back in 1987 by mistake, was the true version of events.

The audience clearly found it hard to believe that the hefty Benzien and a colleague from the security police's terrorist tracking unit had been able to disarm Kriel of his alleged-



ly cocked firearm, but had then been unable to restrain him without shooting — in spite of hitting him on the head first.

"I would like to say to the family of Mr Kriel, now that I am older and perhaps know a bit more about the politics of those years, I believe Mr Kriel acted very courageously. My purpose was to arrest him, not to kill him. His death was a tragedy for the family. I am very sorry he had to die," said Benzien.

The Kriel family is opposing the amnesty application, and the audience seemed unimpressed by this submission.

For Benzien, however, the Kriel matter was relatively smooth-sailing compared with the face-off with his former captives which was to follow.

A persistent Yengeni engaged him on a variety of issues, including a request that he explain what kind of man he was to have been able to inflict such terrible pain — seemingly unflinchingly. Benzien responded that he had asked himself the same question, and was now receiving psychiatric treatment.

"How did we react physically to your torture, to being suffocated with the wet bag?" Yengeni asked.

"There would be movement, distress — all the time there would be questions being asked. Do you want to speak? As soon as an indication was given that the person wanted to speak the air would be allowed back," Benzien said.

He prided himself on being able to break any MK captive in his custody within 30 minutes, with one or two exceptions. By so doing he had been able to find arms caches and save innocent lives. He usually did his torturing alone, so that if allegations of torture were ever made in court he could lie and it would be his word against the so-called terrorist's.

The exceptions to the 30-minute rule included Forbes — whose cross-examination of Benzien was even more chilling than Yengeni's — in spite of Yengeni's having insisted that Benzien demonstrate his

use of the wet bag.

Forbes: "When I was arrested, do you remember saying to me that you were able to treat me like an animal or a human being?"

Benzien: "I concede I may have said it."

Forbes: "Do you remember when you used the wet bag, I was undressed and my pants were pulled to my ankles, and there after the wet bag was put over my head?"

Benzien: "I cannot remember that specifically, but I can concede, yes."

Forbes: "Do you remember that while I was lying on the ground someone inserted a metal rod into my anus and shocked me?"

Benzien: "No sir, as heinous as it may sound I used an electric generator on only one person — on Peter Jacobs."

Forbes: "On the second occasion I was tortured, do you remember I was wrapped in a carpet?"

Benzien: "On the Monday, that was."

Forbes: "Do you remember putting me on a chair and telling me you were going to burst my eardrum?"

Benzien: "No sir, I remember hitting you, but only after a few days."

Forbes: "Do you remember saying you would give me a blue eye, and then hitting me in the eye?"

Benzien: "No sir."

Forbes: "Do you remember saying you were going to break my nose, and then putting your thumbs in my nostrils and pushing up until my nose started to bleed?"

Benzien: "No sir."

Forbes: "After I tried to commit suicide, I went to hospital. Do you remember trying to use the wet-bag method again while I was in hospital?"

Benzien: "Your honour, it shocks me and causes me to be sad that I had presumed that this meeting was about truth and reconciliation, and that Mr Forbes now puts it to this forum that I tried to put a bag over his head in Groote Schuur Hospital. I don't know what to think. I am exceptionally disappointed."



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CJ. 15/7/97 (252)



ROLE REVERSAL: (above) Tony Yengen MP in discussion yesterday with his former torturer, Jeff Benzien "I wanted him to understand that we are not here in a court of law to judge him. The intention of our questions is for him to tell us exactly what happened," said Yengen. **FAR RIGHT:** Apartheid-era torture expert Benzien broke down under cross-examination by Yengen, after explaining his emotions at meeting his former victims earlier yesterday. "It was almost as if there was a spark inside me again," he said Benzien appeared close to cracking again when another of his victims, Ashley Forbes (now of the Robben Island Museum) took over the questioning

all matters with which Madikizela-Mandela's name was associated, save and except the murder of Stompie Seipei (a 14-year-old boy who was kidnapped from the Methodist Manse), which had become an issue of such notoriety that the State was forced to act"

TRC investigation head Dumisa Ntsebeza has declined to comment on the subpoena of Madikizela-Mandela, except to say that she will appear before an in camera TRC sitting within a month and that the inquiry will go "far beyond" what is publicly known about the Mandela football club

Developments certain to have a bearing on the inquiry are the reported amnesty applications and statements to the TRC by



Madikizela-Mandela haunted by the past

three people Jerry Richardson, coach of the football team, who was convicted of the murder of Seipei and who referred to Madikizela-Mandela as "mummy" during the trial, Xoliswa Falati, who was convicted with Madikizela-Mandela of kidnapping, and Mandela United member Zwane

Falati — who, unlike Madikizela-Mandela, served a prison sentence for her role in the kidnapping from the Methodist Manse — now insists that she lied during the 1991 trial to protect Madikizela-Mandela She has reportedly provided the TRC with a map showing disused mine shafts which were allegedly used to dispose of the bodies of football club victims

There is also the question of the disappearance in late 1988 of Lolo Sono, whose father Nico Sono says was last seen in the company of Madikizela-Mandela

The TRC hearing will be of critical importance to Madikizela-Mandela, as it will provide her with an opportunity to reply to several damaging accusations and innuendos The in camera hearing, however, means the public will not be able to assess the quality of her replies or the pertinence of the questions

TRC spokesman John Allen denies that the in camera hearing singles out Madikizela-Mandela for favourable treatment There have been "a couple of dozen" similar closed investigative hearings, the vast majority of which involved former policemen, he says

Patrick Laurence

KWAZULU-NATAL PEACE INITIATIVE

War goes on as leaders talk

Violence monitors say peace talks sail over grass-roots strife

As ANC and Inkatha leaders talk about peace, political strife simmers on in Kwa-Zulu-Natal (see graph) Violence monitors worry that the party chiefs' peace deal behind closed doors will mean little to warmongers in the countryside

Political killings still average 20 a month in the province (compared with 338 deaths in April 1994), leaving peace monitors sceptical that the ANC-Inkatha indabas are paving the way to peace

Security analysts say concentrations of security forces at potential flashpoints have helped reduce fatalities But these temporary deployments are meant only to contain violence while the politicians search for a lasting solution

The SA National Defence Force has deployed an extra 1 400 troops specifically to contain violence That is fewer than two years ago — but only because tensions have eased and the military budget has shrunk Military spokesmen have not noticed a significant drop in tensions since the present talks began

Peace monitors and researchers are concerned that violence will escalate if the troops are withdrawn or when the 1999 election campaign begins

Deputy President Thabo Mbeki's symbolic pilgrimage to the Inkatha stronghold of Ulundi and talks in Durban with an "optimistic" Inkatha leader Mangosuthu Buthelezi last month prompted cynics to remark that the leaders were merely sorting out amnesty deals, parlaying government posts for themselves and parcelling up the

province politically

Natal University Social & Development Studies researcher Antoinette Louw says the negotiations are aimed mainly at achieving a top-level political agreement with ancillary security and governance deals, instead of the basic causes of the conflicts

"The people on the ground don't know what the peace plan is all about or what is being discussed or traded off," says Human Rights Committee researcher Jessica McKay

Fundamental problems remain, contributing to tension and strife, she says Though there has been a marked decline in political violence since the local government elections a year ago, events of the past two months suggest it could flare up again

"The violence is turning ominously to include more direct ANC-Inkatha clashes and councillor-on-councillor attacks," she says "This shows just how low political tolerance levels really are"

Allegations of Third Force activities persist Claims that policemen frequently instigate trouble are vehemently denied by police management

The Helen Suzman Foundation's Nicholas Claude says the strife is not necessarily ideological Violence, he says, often flows from disputes among chiefs, competition for resources and development programmes, and struggles for control of businesses such as marijuana trade or taxis

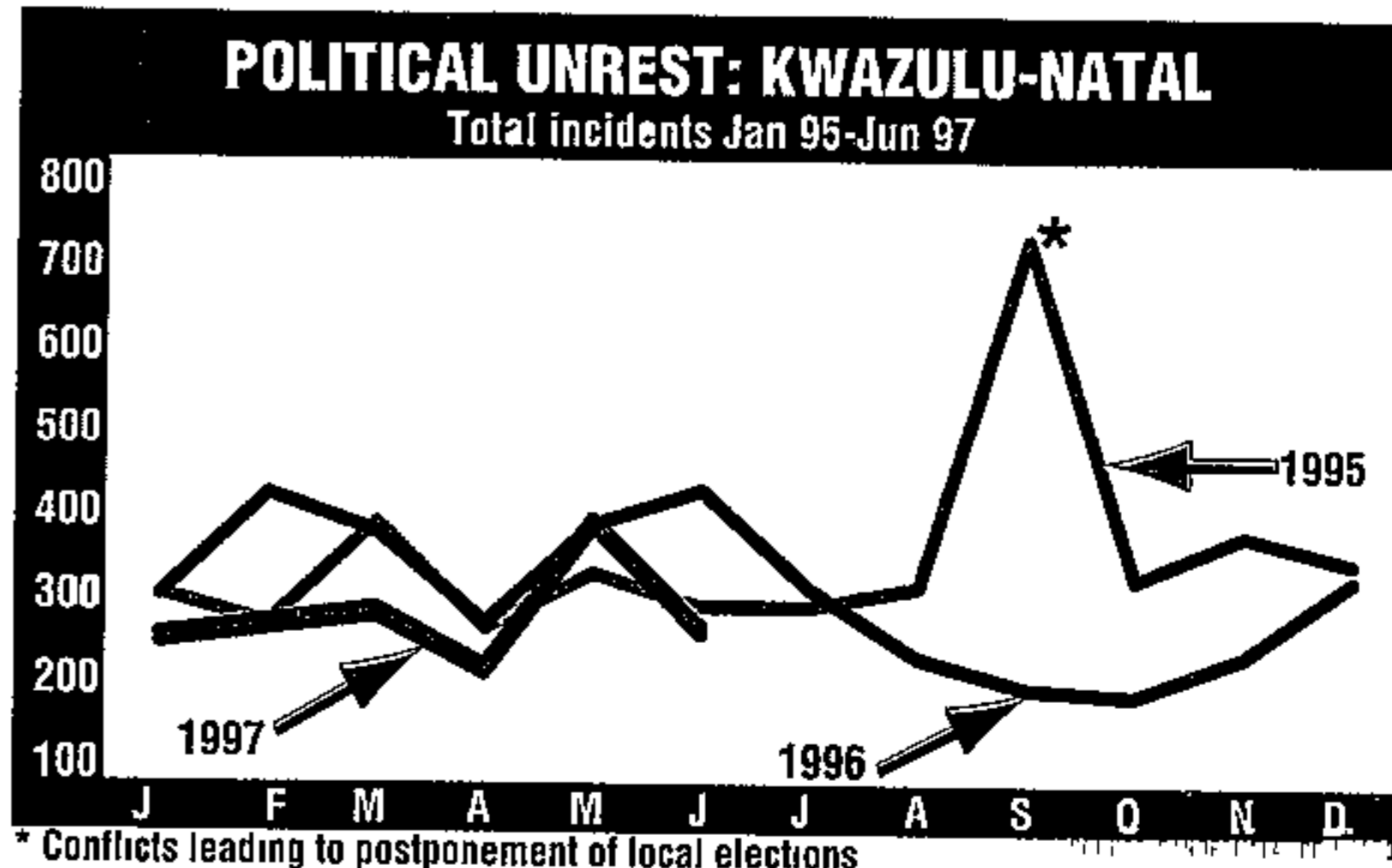
McKay and Louw expect a backlash when people confront crucial issues at local level This would include the unresolved problem of an estimated 500 000 people displaced by the strife of the Eighties and Nineties

This does not appear to have been addressed in the peace talks What happens, for example, when the refugees return to live under indemnified chiefs with whom they have been in conflict? What happens in cases where homes have been appropriated in fighting?

The Human Sciences Research Council's Jabu Sindane, however, says that a settlement at leadership level might just reduce the tension

But that window of opportunity, he says, must be quickly followed by vigorous voter and democracy education programmes and development initiatives

Herb Payne



Prominent leaders spied for NIS, Barnard tells body

CAPE TOWN — Several people who today occupied prominent positions in SA had supplied security information to the erstwhile National Intelligence Service (NIS) between 1980 and 1990, the service's former head, Niel Barnard, told the truth commission yesterday.

These people, who could be found in politics, administrative positions, public life, the business and media sectors and various other spheres, had supplied the information knowingly and sometimes unknowingly, he said in a sworn affidavit submitted to the commission's investigative unit behind closed doors in Durban on Monday.

The submission was made available to the media afterwards.

Barnard, who is now director-general of the Western Cape government's administration, was subpoenaed by the truth commission to answer questions to help it in its investigation into especially the KwaZulu-Natal conflict.

He said in his affidavit, accompanied by a number of supporting documents, that in the "extremely delicate" political, administrative and socioeconomic social transformation phase in which SA found itself at present it would, in his "considered judgment", be an "absolute tragedy" if such individuals were identified at this stage.

"It will least of all lead to reconciliation and will, on the contrary, cause a witch-hunt which could have devastating consequences for the individuals, their families and friends, and SA's reconciliatory transformation process."

There was also probably no code as important in the intelligence profession as safeguarding the identity of members, sources and/or co-workers.

He would therefore "politely" have to refuse a request that he make known the names of NIS functionaries in charge of the development of intelligence capacities.

He gave an overview of the way in which the PW Botha government had handled SA's security through especially the state security council and the security management system.

He reiterated his view that the council had played a "conclusive role" to "stabilise and secure" the state and its people to make the necessary platform for a political and constitutional solution possible.

ED 16/7/97

(262)

He also reiterated that he had been throughout opposed to the creation of any paramilitary unit in KwaZulu-Natal in the mid-1980s. At that stage confidential, secret planning was already under way to start talks with the ANC leadership, internally and externally, to solve the country's conflict peacefully.

If had been his view that a paramilitary unit in KwaZulu-Natal would have led to an escalation in military conflict in the province, that more human lives would consequently have been lost and that it would have caused further delays in the quest for a peaceful constitutional solution.

He said he had also held the belief that a self-governing territory like KwaZulu-Natal, which had not yet received full autonomy, should rather not have an independent military capacity.

He believed the SA Defence Force should preferably have accepted full responsibility for the province's military security needs.

Barnard is one of a number of prominent figures in the apartheid era security establishment who have been subpoenaed by the truth commission to answer questions about 200 Inkatha supporters sent for military training in the Ciskei Strip in the late 1980s — Sapa

Govt laxity allows for late amnesties

(252) 80 16/7/97

CAPE TOWN—A bureaucratic bungle by government departments and Parliament had unwittingly left the door open for late amnesty applications, acting truth commission chairman Alex Boraine said.

The commission was seeking a new deadline for late applications because government and Parliament had failed to push through a key constitutional amendment, he said.

The commission will ask President Nelson Mandela to issue a proclamation enabling perpetrators of apartheid-era human rights abuses who have not yet applied for amnesty to submit applications.

Boraine slated the justice and constitutional affairs departments and Parliament for their laxity in processing the constitutional amendment — a bill providing for the extension of the amnesty cut-off date for offences from December 6 1993 to May 10 1994.

The extension of the amnesty cut-off date has yet to be ratified by Parliament, although the amnesty application deadline of May 10 has passed. The new date must be approved by Parliament as it entails a change to the Constitution.

Boraine said Parliament's failure to approve the cut-off date had created a dilemma.

"What we have to allow for is the possibility that some applicants held back their applications pending the passing of

that amendment . . . (because they) did not want them to be seen unless they were going to have a chance for amnesty.

"Probably in the amendment we may add a phrase saying '... and late applications up to and including one month of the passing of this amendment will be condoned'," Boraine said.

He said the extension would apply to two categories of applicants: those who had declined to submit their applications until Parliament officially extended the cut-off date, and "those who can show that they did not know that the (deadline for amnesty applications) was extended by regulation from December 1996 to May 10 1997".

Justice Minister Dullah Omar confirmed last week that the amendment was tabled in Parliament only on June 18 and would be considered when Parliament reopened in August.

Omar also said the National Unity and Reconciliation Act did not make provision for a blanket amnesty for political prisoners. His spokesman Paul Setsetse said it was up to the truth commission to decide if a crime was politically motivated.

The commission reportedly said it would consider a request for general amnesty by political prisoners whose applications had not yet been heard.

Political prisoners across the spectrum requested general amnesty in a July 12 letter to Boraine. — Sapa.

Truth body told that police torturer could not recall 'all details'

(252)
Linda Ensor

BD 16/7/97

CAPE TOWN — Victims of former Western Cape security policeman Jeffrey Benzien yesterday accused him of a wide range of tortures — including electrocution and withholding of medical treatment — during cross-examination at a session of the truth commission yesterday.

Benzien, a former member of the Western Cape anti-terrorism unit who has applied for amnesty, pleaded he could not remember details of the particular assaults.

The former victims who questioned him, Gary Kruser, Bongani Jonas and Peter Jacobs, said it was Benzien's reluctance to tell the full truth which would compel them to oppose his amnesty application. Legislation governing the commission makes full disclosure a condition for amnesty.

The victims referred to the use of electric shocks; the hanging of detainees by handcuffs from iron window grilles, sleep deprivation, physical assaults and the failure to timely arrange medical treatment for a wounded detainee.

He was also accused of forcing a detainee to defecate on a piece of paper while squatting in front of him, so he could search for the remains of a swallowed message.

When pressed, Benzien conceded that he had perpetrated such tortures. "I have done so many heinous deeds in the name of interrogation that I can't remember all the details," he said.

Kruser, presently head of the police national protection services, complained that Benzien was able to remember the flimsiest details of events but could not recall details of his tortures. "The truth you are telling is very selective," he said.

Benzien rejected the suggestion that his reluctance to name the names of his co-torturers and the superiors who condoned his activities was because he had agreed to be the "fall guy" to protect them.

Pushed by Kruser, Benzien finally said he would be prepared to testify against his superiors at a criminal trial.

Benzien's advocate, Gustav Cook, notified the amnesty committee that Benzien's psychiatrist would submit a report today testifying he had developed memory blocks to suppress his traumatic experiences.

WINNIE MADIKIZELA-MANDELA

Truth probe in fallow fields (252)

AM 11/7/97
New allegations as investigators pick at old bones in darkened closets

Having risen again from the political dead, Winnie Madikizela-Mandela faces another potentially crippling crisis

After brushing off the adverse publicity of her divorce from President Nelson Mandela and having crushed her rivals in the ANC Women's League, Madikizela-Mandela has been served with a subpoena to appear before the investigative unit of the Truth & Reconciliation Commission

The inquiry focuses on the Mandela United Football Club, whose members served as her bodyguards in the late Eighties and who were accused by the pro-ANC Mass Democratic Movement of conducting a reign of terror in Soweto. As de facto patron of the club, Madikizela-Mandela is tainted by its activities

This is borne out by her trial and conviction for kidnapping in 1991, when the judge found that the Mandela club members who kidnapped four youths from the Methodist Manse in Soweto in December 1989 and took them to Madikizela-Mandela's Soweto home did so at her behest

At the trial of one of its members, Charles Zwane — who was convicted of committing nine murders — a defence witness testified that Madikizela-Mandela held the power of "life and death" over its members and that they would kill for her if asked to do so

The trial of another young Soweto man, Sibusiso Chili, is relevant. Though convicted of murder for his role in the killing of a member of the Mandela United Football Club, Chili was sentenced to only one year in prison. The reason for the lenient sentence is startling: an admission by the prosecution that the victim had been part of a hit team sent by Madikizela-Mandela to kill Chili and another young man who had fallen foul of the Mandela United club

The same trial record contains another sensational piece of evidence: the police's discovery of a "hit list" at Madikizela-Mandela's house which included the names of Chili and others apparently in contention with the football club

Democratic Party leader Tony Leon, commenting in parliament on these and related events, said they suggested "a deliberate underprosecution or laconic police work in

Trail of blood a mystery - Benzien

Big Apple 'thoroughly spoils' Tutu

ARGUS CORRESPONDENT

Johannesburg - Truth and Reconciliation Commission chairman Desmond Tutu says he is being "thoroughly spoilt" in New York, where he is entering his second week of treatment for prostate cancer.

In an e-mail response to questions sent to him by The Star, sister newspaper of the Cape Argus, Archbishop Tutu said yesterday that he was taking in the sights and shows, catching up with family and following developments in South Africa by reading reports on the Internet.

Archbishop Tutu left South Africa at the end of last month to receive radio-graphic treatment for his prostate cancer. He visits the hospital for 10 minutes each morning.

"The Arch" - as he signed his e-mail message - said "The treatment is going quite well. I'm being wonderfully well looked after at the Sloan Kettering Cancer Centre.

"I have a nice secretary in a lovely office in our Consulate. Everybody has been so caring and concerned; all the staff and our new Consul-General, Sheila Sissulu."

He said he reads reports about the TRC on the Internet edition of The Star daily.

"I was deeply moved by the Bahl and the St James Church hearings," Archbishop Tutu said.

"People are quite amazing. You are really humbled by the magnanimity they express."

Acting TRC chairman Alex Boraine said Archbishop Tutu was not yet experiencing any side-effects as a result of the treatment.

Dr Boraine said he and Archbishop Tutu spoke once a week by telephone, and commission staff sent newspaper clippings about TRC proceedings to him every day via e-mail.

Police general (252) to testify

APR 16/1999

An unexplained trail of blood between the kitchen and bathroom in the house in which Umkhonto weSizwe (MK) guerrilla Ashley Kriel was shot dead in controversial circumstances came under the spotlight at today's amnesty hearing of the Truth Commission.

Former security policeman Jeffrey Benzien is applying in Cape Town for amnesty for the torture and assault of several former MK members and for shooting dead Mr Kriel on July 9 1987.

Captain Benzien admits pulling the trigger of the weapon which killed Mr Kriel but says the shooting was accidental. This was also the finding of the official inquest into Mr Kriel's death.

In his amnesty application, Captain Benzien said he had been instructed to reconnoitre the Hazendal, Athlone house in which Mr Kriel was believed to have been staying and had attempted to arrest Mr Kriel when he opened the door.

There had been a struggle during which he accidentally shot Mr Kriel from behind in the right shoulder. Mr Kriel had then slumped to the ground at the door.

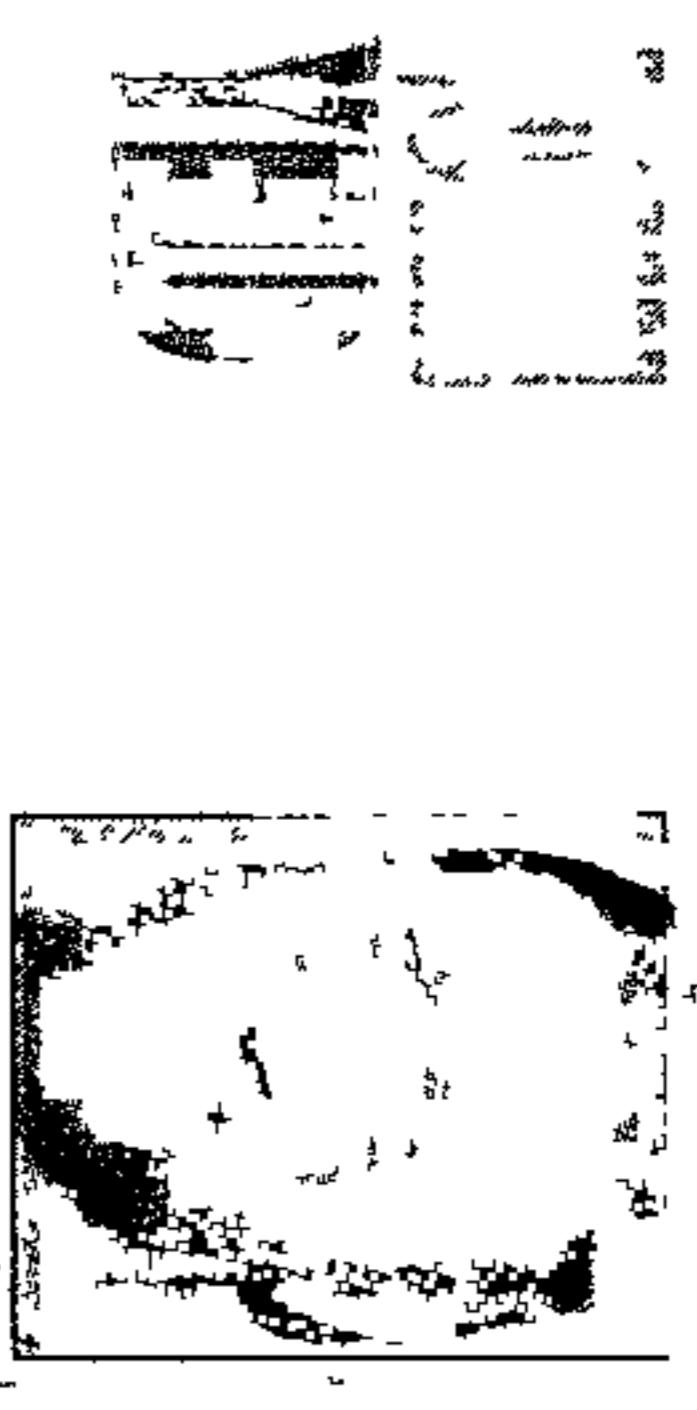
Captain Benzien said Mr Kriel had not gone into the house at any stage. Taswell Papier, lawyer for the Kriel family, asked Captain Benzien whether there had been any assault or torture of Mr Kriel that could have caused blood in the kitchen and a blood trail down passage to the bathroom where bloodstained clothes were found.

Captain Benzien replied "Not at all."

Mr Kriel's sister, Michel Assure, then testified that she had visited the house the day after the shooting and noticed the blood.

"In the middle of the kitchen was thick blood, and a thinner trail led me to the bathroom. It was like a trail, like something that had been dragged to the bathroom. When I got to the bathroom I found some bloodstained clothing in a laundry basket."

Ms Assure said she had recognised the bloodstained shirt as her brother's, Gustav Cook, for Captain Benzien, noted that a statement of Ms Assure's handed in at the inquest had not contained any reference to



ON THE TRUTH COMMISSION

the blood. The hearing was postponed to October 20.

A police general is to testify before the Truth Commission's amnesty committee about the chain of command in the former security branch and about the way in which "unconventional" interrogation methods - torture - were sanctioned.

The as-yet-unnamed general will be appearing when the amnesty application of Captain Benzien resumes in Cape Town.

Applying for a postponement today, Captain Benzien's legal representative, Gustav Cook, told the amnesty committee that the general was prepared to "admit" there had been a chain of command "and that unconventional methods could be used and were in fact authorised."

"At this stage he (Captain Benzien) has been left out on a limb and it's only fair that senior officers now realise the consequences of their actions and come forward and admit it," Mr Cook said.

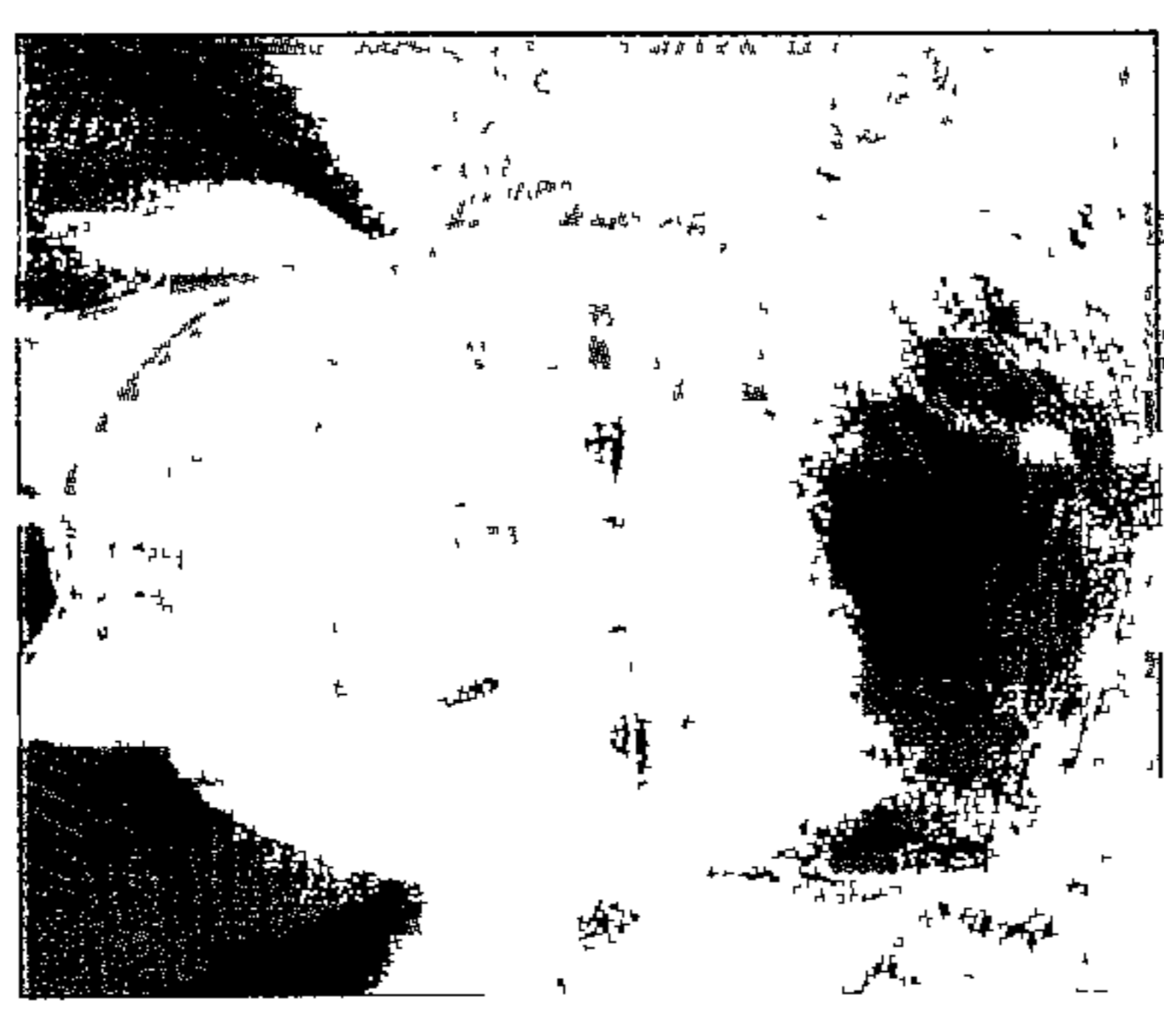
Further evidence of appalling torture of captured MK members at the hands of the apartheid-era security police at their Culemborg offices in Cape Town emerged yesterday at Captain Benzien's amnesty hearing.

Captain Benzien conceded to one of his victims, Peter Jacobs, that he had used the "wet-bag" method of suffocation on him, and that when this had not proved effective, had also subjected him to electric shocks from a portable generator.

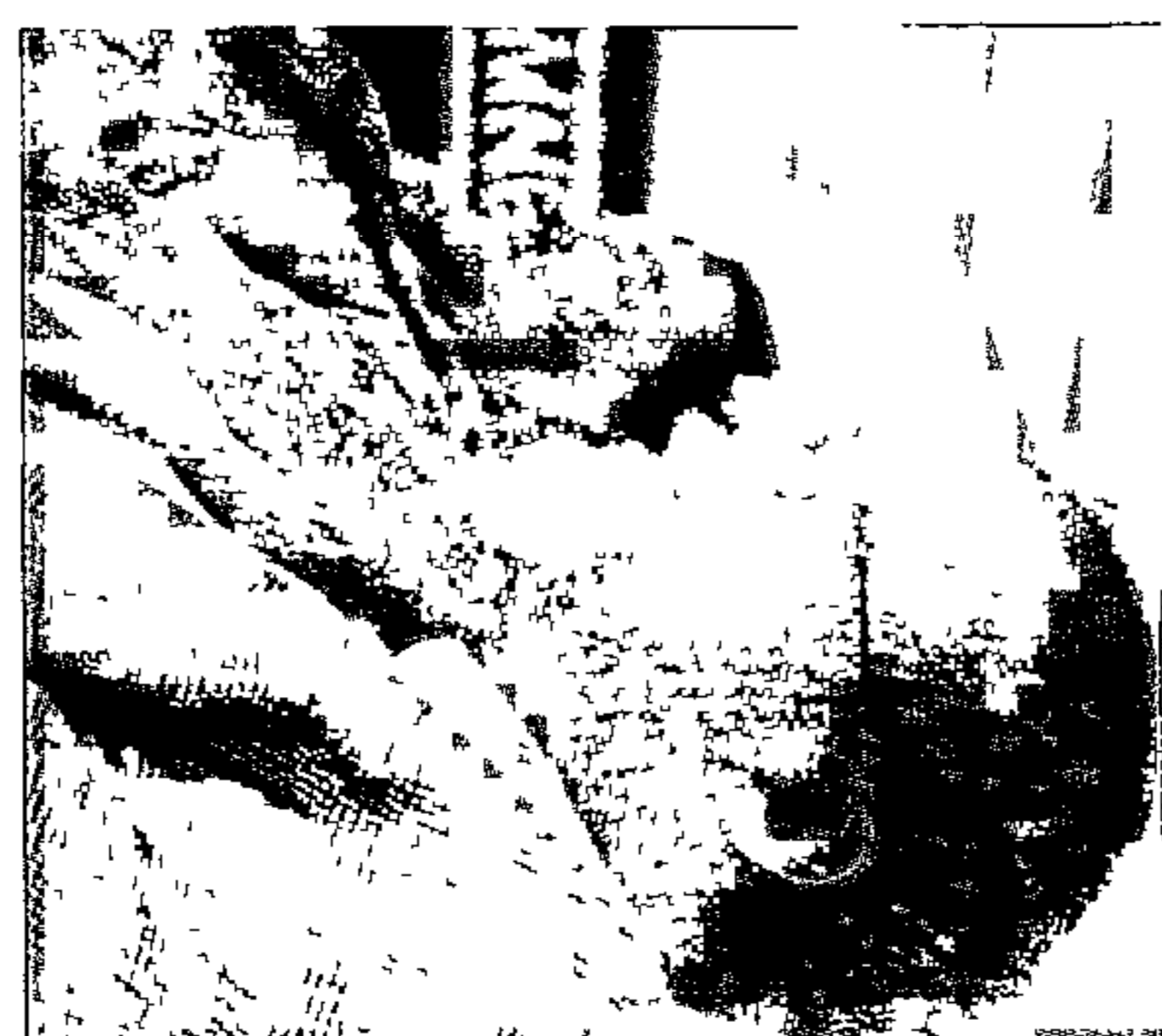
Superintendent Jacobs was the first of a group of MK soldiers from Bontelouwel to be captured by Captain Benzien's unit in 1987 and is now a member of the SA Police Service.



MAKING A POINT: Torture victims Gary Kruser, left, and Peter Jacobs with advocate Gustav Cook yesterday



Hot seat: former security policeman Jeff Benzien



Attentive: Bongani Jonas and Michael Doreen

Captain Benzien denied an allegation by Bongani Jonas, an MK leader who was shot in the upper thigh during his capture and later confirmed as having a double fracture of the femur, that he had deliberately jumped on Mr Jonas' seriously

wounded leg at Culemborg. Captain Benzien also denied an allegation by captured MK member Nickio Pedro, put by his legal representative Michael Doreen, that he (Benzien) had inserted a stick up Mr Pedro's anus.

TRC forced to accept late amnesty bids

(252)

ARGUS CORRESPONDENT

APR 16/1999

The Truth and Reconciliation Commission will be forced to accept late amnesty applications because the Government has not yet passed an amendment to change the amnesty cut-off date, TRC deputy chairman Dr Alex Boraine confirmed today.

The change in the cut-off date for offences which qualify for amnesty - from December 6, 1993 to May 10, 1994 - has not yet been approved by Parliament.

As the law stands, acts committed between March 4, 1960 and December 6, 1993 qualify for amnesty, and applications had to be in before May 10 this year. When the amendment is passed, acts committed between December 6, 1993 and May 10, 1994 will also qualify - but applications cannot be accepted as the deadline for handing in applications has already expired.

The commission will ask the Government to issue a proclamation allowing a further month in which to submit amnesty applications as soon as the May 10, 1994 cut-off date comes into effect.

Truth Commission summons CCB trio

(252)

JOHN YELD
ON THE TRUTH COMMISSION

ARG 16/7/97

The Truth Commission's investigative unit has subpoenaed three members of the clandestine apartheid-era unit the Civil Co-operation Bureau (CCB) to answer questions next month at an in-camera hearing about several unresolved matters.

The defunct CCB was a branch of Military Intelligence of the then SA Defence Force, and was responsible for various covert operations. It has been linked to the murders of Witwatersrand University

To page 2

CCB men called

From page 1

(252)

ARG 16/7/97

academic David Webster and Namibian human rights advocate Anton Lubowski.

The subpoenas, the first for any CCB members, were served last night on the former managing director, Joe Verster, and two members of the CCB's region six: Abram "Slang" van Zyl and treasurer Wouter Jacobus Basson.

This is not the Wouter Basson of the SADF Seventh Medical Battalion, who is on trial for dealing in drugs and who is also being investigated by the TRC over his role in the chemical warfare programme.

Among incidents the three men will be questioned about are the bombing of the Early Learning Centre in Athlone in August 1989, the death of gangster Edward "Peaches" Gordon, and the parcel bomb which maimed Father Michael Lapsley.

Captain 'could have' hung man from bars

TORTURER Captain Jeff Benzien has owned up to the extensive use of the wet-bag (suffocation) technique, to assaulting prisoners and to applying shocks to Superintendent Peter Jacobs' genitals, nose and anus.

He claims to have forgotten, but concedes that he "could have" suspended Director Gary Kruser from burglar bars during an interrogation and punched him in the stomach, and dunked Kruser's head in a toilet bowl when his handcuffed captive asked to relieve himself.

But he has emphatically denied digging around in Forbes trialist Mr Nicolo Pedro's bowel with a wooden stick in an attempt to recover a note Pedro apparently swallowed to avoid information leaking to the police.

He said he clearly remembered taking Pedro to a toilet and instructing him to defecate on a piece of paper.

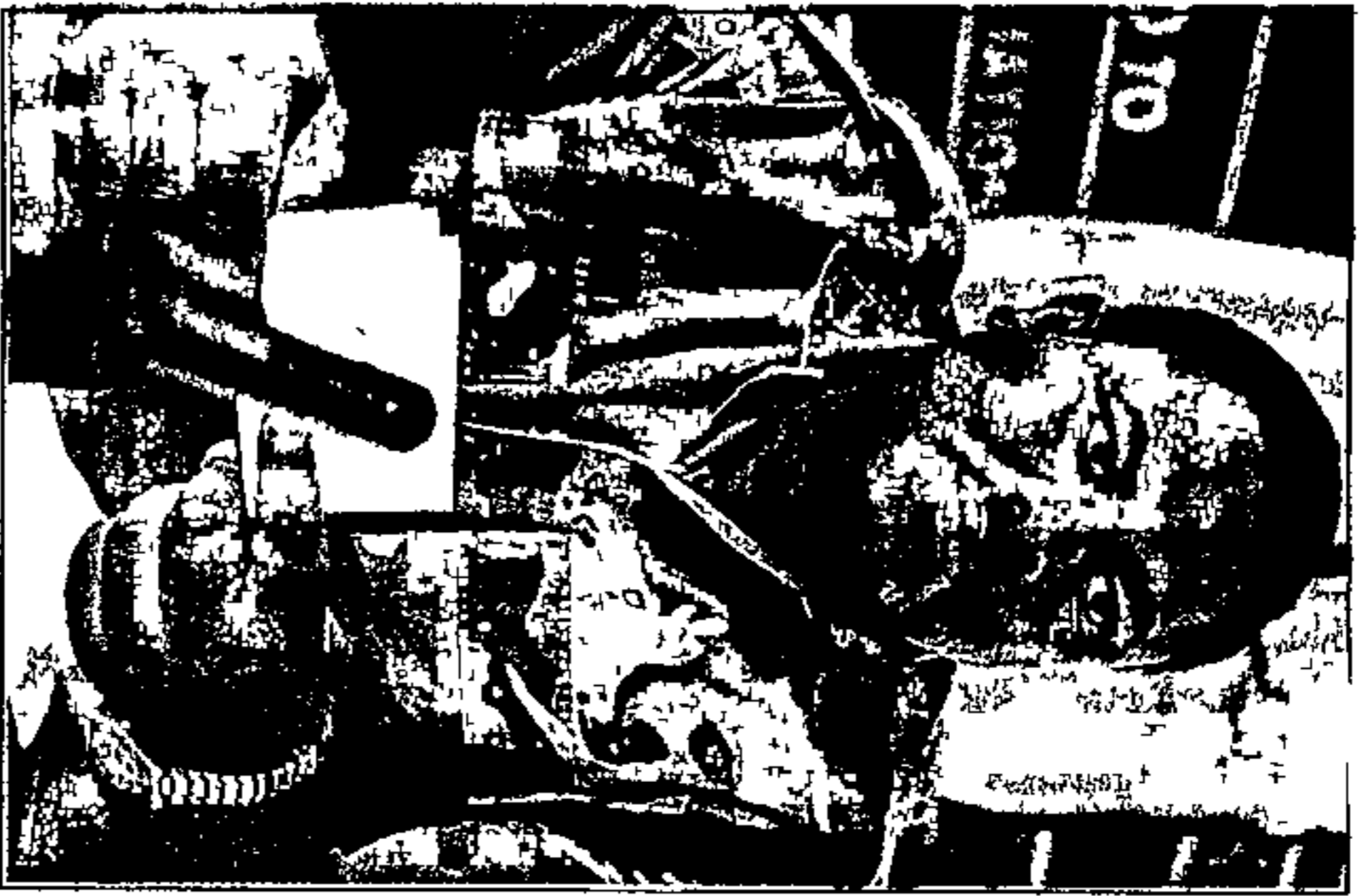
Counsel for the absent Pedro, Mr Michael Doren, asked Benzien whether he had in any way "assisted" his client to pass a stool. Benzien said he did not believe that was possible.

After Pedro had done his business on the paper, Benzien said he examined the results in his presence.

"I don't think we got the note," he said, lapsing into the uncertain manner of speech which has characterised his evidence.

"Either it was dissolved in the body or (pause) I don't think it was found in the end."

—Staff Writer



TORTURED Colonel Bongani Jonas, now of the SANDF

BENZHEN 'TAKING BLAME FOR BOSSES'

Victims say torturer is covering up

FORMER SECURITY POLICE TORTURER Jeff Benzien has been told by his victims that they will not support his amnesty application without full disclosure ROGER FRIEDMAN reports

SURVIVORS of the barbaric tortures that Western Cape freedom-fighters were subjected to by then-security police Warrant Officer Jeff Benzien in the late-1980s believe he is suffering from selective amnesia to avoid implicating policemen who are still involved in anti-democracy activities.

For the past two days Captain Benzien has remembered some aspects of his past vividly — particularly how many of his victims cracked under pressure and then helped the police — but has apparently forgotten the names of most of his colleagues.

Benzién has been appearing before the Truth and Reconciliation Commission's amnesty committee in connection with the allegedly accidental killing of guer-

rilla Ashley Kriel, the torture of other former UMKhonto weSizwe soldiers, and perjuring himself by denying in court that he tortured people.

Several high-profile survivors — Mr Ashley Forbes of the Robben Island Museum, Mr Tony Yengeni MP, Colonel Bongani Jonas of the SA National Defence Force, and policeman Director Gary Kruser and Superintendent Peter Jacobs — have taken the opportunity to question him.

They say they will support his amnesty application if he makes a full disclosure.

Most of them have put it to him that he was covering up for former colleagues by trying to take the blame alone.

Replying to Jacobs yesterday,

(252)

07/16/97

Benzién said, "I hope to God I am not a fall guy. I applied for amnesty to this committee because I felt it was fair and right. It would not be in my favour to try to cover up for other people."

Jacobs said, "It appears the structure might still be in place, which implies serious problems for the state. Or they have something more on you that you have to cover up for. But it is apparent to me you are covering for other people."

Benzién had started the day by telling Kruser "I approached this commission because I wanted to sort things out for myself. What I find hurtful is that, in the absence of more people from the security branch who could also have helped this commission, I have been left on a limb."

Asked whether he would be willing to testify in court against "senior officers" if torture charges were brought against them, Benzien said he would, if he could

remember the details.

He submitted on Monday that he usually tortured his victims alone, so that it would be his word against a "terrorist" if allegations of torture emerged in court.

Yesterday, Benzien conceded "it could be possible" that then-Lieutenant William Liebenberg, his boss and commander of the terrorist tracking unit, had been present during Kruser's torture.

After initially forgetting that a Constable Goosen — described by Kruser as "the most brutal person apart from you" — formed part of his team, Benzien later remembered that Goosen occasionally helped him to subdue intended victims of wet-bag (suffocation) torture.

But he could not remember whether then-Major Willem Smit — now assistant-commissioner in the Western Cape — was present when Jacobs was tortured.

Apart from naming Liebenberg,

Sergeant J P van Zyl, Sergeant Johan Kotze and a Warrant-Officer Nel (members of the terrorist tracking unit), he could remember the names of hardly anyone else.

Kruser "I get the impression you are deliberately not remembering the names of your seniors."

Benzién, "I could gain nothing by protecting anybody."

At the conclusion of yesterday's proceedings, several Benzien survivors told the Cape Times they believed he was covering up for his former bosses, some of whom remained in the "formal system" (government structures), and others who now commanded "parallel structures", including private security companies and/or the so-called Boere Maba.

Superintendent Liebenberg has applied for amnesty for a "crime of omission" knowing that prisoners in his care were being tortured and doing nothing to stop it. He will probably appear next week.

Death row convicts must go back to court

OWN CORRESPONDENT

PRETORIA About 70 former death row prisoners at the Pretoria Maximum Prison might have to face again the judges who sent them to the gallows

The convicts were told this by Minister of Justice Mr Dullah Omar, who met them yesterday to discuss their future

The prisoners have been awaiting news of their resentencing since the death penalty was abolished in 1996

They asked to meet Omar after a senior Department of Justice official discussed their resentencing with them earlier this year

If possible, the prisoners would have to face the judges who sentenced them to death and appear in the same courts in which they were sentenced

"I explained that their cases had to be taken back to court individually," Omar said. Legal representation would be provided, if they chose. Each court would decide on an appropriate sentence to replace the death sentence"

Omar described his discussion with the convicts as calm and constructive

He had been asked a number of questions, most of which dealt with the ques-

tion of a life sentence

"I explained that their crimes were serious and that they should have no illusion about that. They also wanted to know whether the court would take into account the current crime situation

"I told them that the court would take into account all the relevant factors about their cases"

Omar did not know how much it would cost to take the prisoners back to court, but said it was hoped the expense could be kept to a minimum

His spokesman, Mr Paul Setsetse, said the prisoners had been assured they would get legal assistance and a fair hearing

All available evidence would be put before the court again

The convicts would be sentenced as individuals

They need not feel they would be sentenced as a group who had deserved the death penalty, Setsetse said

Since the abolition of the death penalty, a number of prisoners have asked to be transferred to other maximum security prisons across the country

Of the country's 340 former death row prisoners, about 80 are in the Pretoria Maximum Prison

ET 16/7/97 (252)

Former torturer suffers 'psychological block'

(252) Star 16/7/97

SAPA
Cape Town

Notorious security police torturer Captain Jeff Benzien had been so traumatised by the abuse he inflicted on his victims that he was unable to recall the details of many of his actions, the Truth and Reconciliation Commission was told yesterday.

Benzien's legal counsel Gustav Cook told the TRC's amnesty committee his client had experienced a "psychological block" and a psychiatrist would provide a written report about his condition today.

Cook phoned the psychiatrist after Benzien, for a second day in a row, claimed he was unable to remember abuses which his victims confronted him about.

Former Umkhonto we Sizwe soldier Gary Kruser - now head of the police VIP protection services

unit - broke down while cross-examining his erstwhile inquisitor. Benzien said he could not remember whether he had assaulted Kruser, other than on one occasion he had used his "wet bag" method of torture.

"I do not remember that, but if that is what you say happened, I concede that," he replied when Kruser described how Benzien had suspended him by handcuffing him to the burglar bars of a window until his hands bled.

This became Benzien's stock response throughout much of Kruser's questioning.

Another victim, former MK soldier Peter Jacobs, reiterated earlier accusations by Kruser and ANC MP Tony Yengem that Benzien's "amnesia" and apparent difficulty in providing the names of other policemen was proof that he was "the fall guy" for his

former colleagues in the Western Cape security establishment.

In a bizarre revelation, prompted by questioning from the legal counsel of another victim, Niclo Pedro, Benzien described how he accompanied Pedro to a toilet and made him squat over a newspaper to produce a stool.

This was after he received information from Pedro's arresting officers that the MK cadre had swallowed a note in the process of his arrest. Benzien said he regarded the note as an "important piece of intelligence" and hoped to retrieve it. He denied he had stuck a wooden stick up Pedro's anus to assist in the process.

Benzien has applied for amnesty for the death of activist Ashley Kriel and the torture of ANC activists in the 1980s while a member of the security police's terrorist tracking unit.

Telkom scraps controversial tender

Lesley Stones

TELKOM has scrapped the controversial R100m tender for the creation of a national value-added network which caused a furore in the information technology industry last month when it was claimed it was written to favour a specific vendor.

Several major companies refused to bid because they felt only the "favoured" one could win the deal.

Although Telkom vigorously denied the allegations, the Competition Board investigated the alleged bias in favour of Newbridge Networks. But board chairman Pierre Brooks said little progress could be made as no vendors would risk publicly criticising Telkom, a major buyer of technology.

Telkom halted the Enterprise Net-

work Service tender in June, which proposed heavy capital expenditure on a network to supply advanced communications services to business customers and to improve basic service delivery. It said its equity partners, SBC and Telekom Malaysia, were reassessing the project.

Now the tender had been dropped completely. Telkom's executive for market strategy and business development, Blackie Lahoud, confirmed this yesterday. "The reason is, our partners are going to redesign the whole network," he said.

When the tender was halted in June, Lahoud said Telkom realised no single company could meet all its demands. Parts of the tender were likely to be issued separately, he said. But yesterday he said the tender had been

scrapped entirely, and no sections would be hived off.

Initially Telkom said its equity partners had co-operated fully in the tender. That was seemingly contradicted later by confirmation that the partners were taking a closer look.

Lahoud said development of the Enterprise Network Service network was unlikely for some time as the equity partners reassessed the network and related investments.

Letters announcing that the contract had been dropped had been sent to the short-listed companies.

Three consortiums were short-listed. Newbridge Networks bided in partnership with Siemens and Q Data, black empowerment organisation Cem bided with Cisco Systems, and Alcatel led a consortium as the third bidder.

'Adopt a court' plan to aid anticrime bid

Pearl Sebolao

BUSINESS Against Crime has launched a campaign to get businesses to "adopt" and sponsor law courts and the attorney-general's office, and has pledged money and resources to help upgrade courts to bolster the fight against crime.

Business Against Crime director David Gordon said after meeting Justice Minister Dullah Omar yesterday the initiative would include revamping the courts to make them more user-friendly. His organisation would provide assistance in the form of computers and training, security for staff and visitors, and making extra space available for prosecutors to use for interview purposes.

"We will assist in any way we can,"

Gordon said.

A task team, consisting of Business Against Crime representatives, the justice department and the attorney-general's office had been appointed to conduct a needs assessment in order to match available resources and requirements, he said.

"The aim is to get business organisations to adopt and sponsor the courts and the attorney-general's offices, and we hope that in due course we will find sponsors for each and every one of them," Gordon said.

Several sponsors, including Rotary clubs and the SA Chamber of Business, had shown an interest, he said.

Business Against Crime legal adviser Lorinda Nel said the Johannesburg and Pretoria magistrate's offices and attorney-general's offices had been

chosen to pilot the project before implementing it countrywide. A sponsor for the Johannesburg magistrate's offices had been identified, but the deal still had to be confirmed.

The task team would meet on Thursday next week to look at the adoption of the Johannesburg magistrate's court, and the kind of help that would be provided.

Business Against Crime was also working on a computer system which would incorporate all four pillars of the criminal justice system — the police, justice departments, correctional services and the welfare services.

This would enable the justice department to access dockets on the computer, and to trace the records of suspects from the time of arrest until parole, she said.

Red tape allows more time to seek amnesty

Third chance for the guilty to apply

Bureaucratic inertia by the Government is allowing perpetrators of gross human rights abuses a third chance to apply for amnesty from the Truth Commission.

The loophole will probably enable former Military Intelligence agent Rich Verster to submit an amnesty application. Now in jail in Britain, he may have information about the assassination of African National Congress representative Dulcie September in Paris on March 29, 1988.

✓ In terms of South Africa's interim constitution and the Truth Commission's founding act, the original cut-off date for acts for which perpetrators could seek amnesty was December 6, 1993

↳ They had to have submitted their amnesty applications by December 15 last year

⇒ But because of political pressure and a formal request from the Truth Commission itself, President Mandela agreed to change the cut-off date to May 10, 1994 – the day of his inauguration

↑ This allowed additional amnesty applications, including that of Freedom Front leader Constand Viljoen, who has admitted being involved in illegal acts leading up to the April 1994 general election, and Pan

VERSTER



ON THE TRUTH COMMISSION

Africanist Congress supporters involved in violent incidents such as the Heidelberg Tavern attack on December 30, 1993.

At the same time, the cut-off date for sending in amnesty applications was extended to May 10, 1997

But legislation for the new cut-off date for offences – the extension from December 6, 1993, to May 10, 1994 – requires a constitutional amendment and this is where the delay occurred

Amending legislation, being handled by Constitutional Development Minister Valli Moosa, was tabled in Parliament only on June 18 and the mandatory 30-day waiting period is still being observed

The legislation must still be considered by the National Council of Provinces when

Parliament reopens on July 28, and, if passed, will be referred to the National Assembly for consideration.

It is therefore unlikely to be signed into law by Mr Mandela before the end of August.

At least two amnesty hearings – one of them the Heidelberg Tavern attack – have had to be postponed because of the delay.

Legal opinion is that potential amnesty applicants who wanted to take advantage of the new cut-off date for sending in their applications would have been entitled to wait until the constitutional amendment had also been officially gazetted.

This means that they still have a chance to apply for amnesty.

This has been confirmed by Truth Commission deputy chairman Alex Boraine, who admitted the amnesty committee was "under enormous pressure".

But he said the commission did not expect a new flood of amnesty applications

The head of the Truth Commission's investigative unit, Dumisa Ntsebeza, recently visited Mr Verster in prison in Britain, where he is awaiting trial on drug-smuggling charges.

Mr Ntsebeza said he had advised Mr Verster to submit an amnesty application

(252)

ARG 17/7/97

Use of torture, was authorised at high level,

BD 17/7/97

(252)

Linda Ensor

CAPE TOWN — The use of unorthodox methods in the interrogation of political detainees was authorised at a high level and a police general had indicated his willingness to testify to this effect, the truth commission was told yesterday.

The unidentified general was also prepared to tell the amnesty committee that these unconventional methods were in fact used, and to give details of the chain of command in the security police which ordered them. The general's testimony would support the amnesty application of former security policeman Capt Jeffrey Benzen.

To win amnesty for his tortures, which included the admitted use of the notorious "wet bag" electrocution and the withholding of medical treatment, Benzen has to prove that they were

carried out in pursuit of a political objective and were not just the excesses of a lone-ranger officer.

Benzen's legal counsel Gustav Cook informed the committee about the general's existence, noting that his client had been left out on a limb by his superiors.

Benzen's victims, former Umkhonto we Sizwe guerrillas, have questioned him this week to flush out not only details of their tortures, but also the nature of police operations and the identities of those who ordered, and perpetrated, the assaults.

One of Benzen's superiors, Lt Willem Liebenberg, has been cited as being involved in torture. Yet Liebenberg has applied for amnesty only for failure to stop Benzen from torturing.

Cook requested a postponement so the general's evidence could be presented. The hearing of Benzen's and Liebenberg's applications was postponed to October 20.

Cross-examined over the death of Ashley Kriel, 20, on July 9, 1987 Benzen denied knowledge of blood spattered in the house where Kriel was shot by Benzen, who has claimed it was an accident.

Three former members of the Civil Co-operation Bureau (CCB) had been served with subpoenas to testify before the commission, the head of the commission's investigative unit, Dumisa Ntsebeza, said yesterday.

CCB MD Joe Verster, treasurer Wouter Basson and operative "Slang" van Zyl would be questioned in camera by the commission in Cape Town on August 18-20 about the bombing of the Early Learning Centre in Athlone in August 1989, the death of Edward "Peaches" Gordon, and the parcel bomb that maimed anti-apartheid cleric Father Michael Lapsley in Harare in 1990.

Nehawu protests hamper smooth running of hospitals, magistrates courts

By GABRIEL ABARDER

Several Gauteng hospitals are being hampered by labour action as the National Education Health and Allied Workers Union steps up its campaign to pressure the Government into increasing wages.

Protests at various hospitals, magistrates' courts and home affairs offices started from July 1 in the form of sit-ins, go-slows and demonstrations.

Court workers at the Johannesburg Magistrates' Court building yesterday toy-toyed

through the complex in protest against the Government's 7,5% wage offer.

The actions have left health officials in the province concerned for the safety of patients. Spokesman for the Gauteng Ministry of Health, Popo Maja, said: "We appeal to everyone involved to take care that their actions do not inconvenience patients and the provision of health care."

Nehawu action, which is being supported by similar action from the South African Democratic Teachers Union and the Police and Prisons Civil Rights

Union in an attempt to disrupt the public service, stems from a dispute over wages.

Their demands for a 9% increase, bringing the minimum wage for public service workers to R1 750, have been met by the government's offer of a 7,5% increase. The action will culminate in a national march on July 25. "The unions have warned that if the Government does not respond to their demands, national strike action will be considered that could cause the "total collapse" of the public service. In response to the wage dis-

pute, Maja said. "Nehawu was part of the bargaining chamber for wages. Wages were fixed across the board so Nehawu should have protested there. If there's a dispute, they should take it up with the members who attended this chamber."

The national spokesman of Nehawu, Joe Lekola, said that Nehawu had, in fact, made it clear at the bargaining chamber that they were dissatisfied with the agreement.

At one of the affected sites this week, Nehawu's shop steward at the TPA Medical Supplies Store, Motlatsi Lecheko,

said workers had protested since that morning and would embark on a go-slow after tea. The danger at this particular institution, according to Lecheko, involved working with poisonous medicines containing alcohol.

A Nehawu representative at the South Rand Hospital in Rosettenville, said groups of protesters were trying to put pressure on management. Their main grievance, he said, was the lack of armed security because at weekends anyone could enter the casualty section.

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17/7/97

Sister disputes Benzien's version of Kriel's death

CT 17/19/97

(252)

THE DEATH of ANC cadre Ashley Kriel dominated proceedings yesterday at the amnesty application by former security police interrogator Jeff Benzien. **ROGER FRIEDMAN** reports.

SURVIVORS of apartheid-era police torturer Captain Jeff Benzien yesterday welcomed the news that an unnamed police general is to be called to testify at his amnesty application on the then-security branch's chain of command, saying it appeared "Benzien seems to be moving in the right direction."

A spokesman for the group, Director Gary Kruser, head of the national police VIP protection service, said after the adjournment of the hearing yesterday that they were looking forward to its resumption in October as they "would dearly like to support Benzien's application."

Earlier, a sister of the slain freedom-fighter Ashley Kriel — whom Benzien has admitted shooting in the back "by mistake" — told the Truth and Reconciliation Commission's amnesty committee she felt "bitterly disappointed" because we came here with the hope that we were going to hear the truth. The family is opposing Benzien's application.

And in another twist, Senior Superintendent Jeremy Vearey of the Western Cape's Criminal Intelligence Service, addressed the committee to rebut Benzien's claim on Monday that Vearey had offered him a job.

The former uMkhonto weSizwe cadre, who noted that Benzien was part of the police team that arrested and interrogated him in 1987, denied making any such offer to Benzien, and added that he viewed the claim as "an attack on my integrity as a person and as a police officer."

Benzien is applying for amnesty

of torture — including those he has forgotten — and for lying to the courts by denying allegations that he was a torturer.

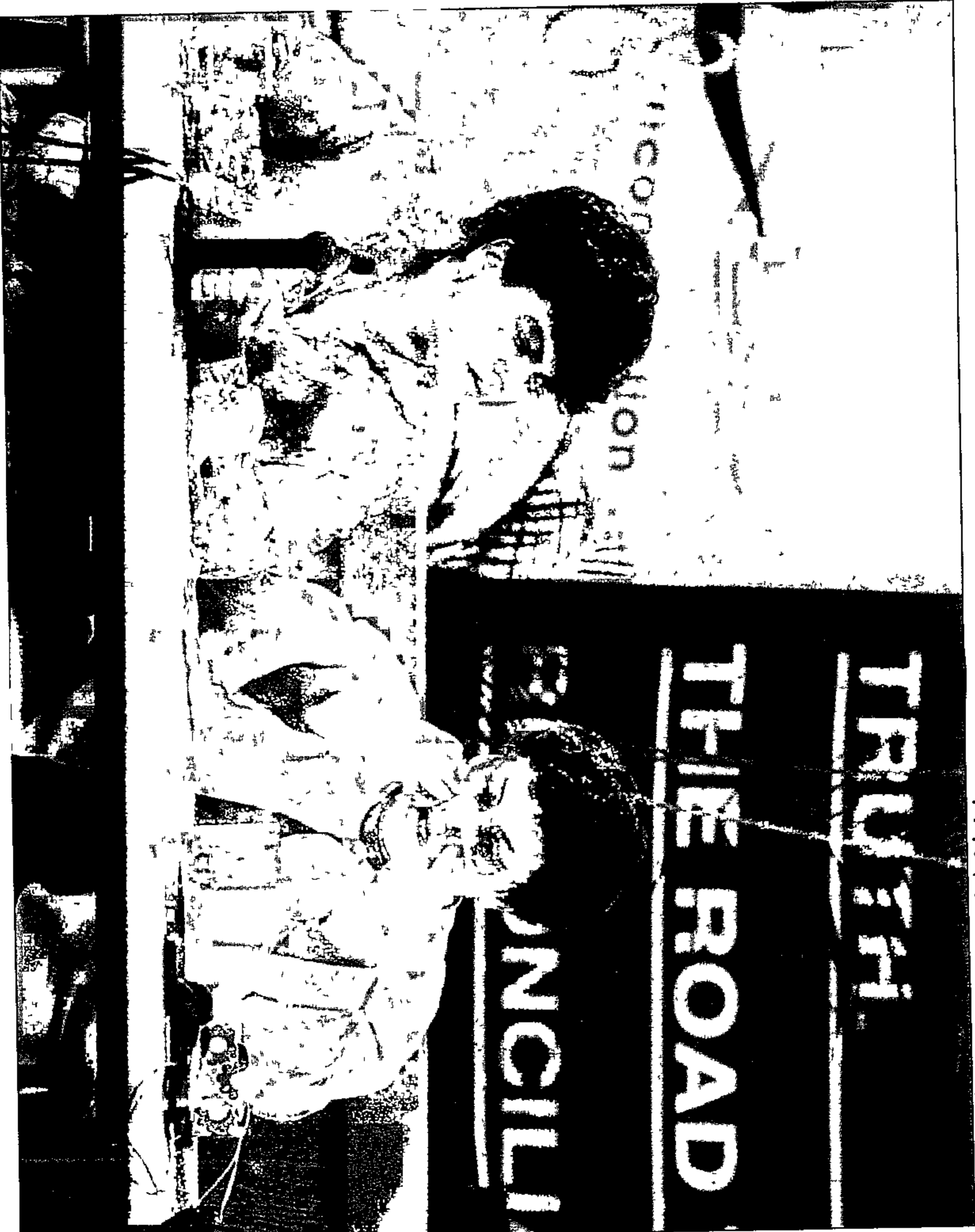
The hearing, which started on Monday, has been excruciating throughout. It has included intense cross-examination of Benzien by a number of his erstwhile victims, a public demonstration by Benzien of the wet-bag (suffocation) method of torture, and visible signs of distress from the Kriel family.

Benzien, the Kriel sisters, Kruser and various members of the audience shed tears at various stages of the proceedings.

Kriel's death dominated proceedings yesterday. Benzien stuck to his guns that he had disarmed himself as a municipal sewerage inspector in July 1987 to reconnoitre the wanted Kriel's whereabouts when he was confronted by Kriel, whom he disarmed and shot by mistake in a scuffle. This took place in Hazendal.

Kriel's sister, Mrs Michelle Assure, yesterday disputed Benzien's version that the entire incident took place on the threshold of the kitchen door, telling of an unexplained trail of blood from the kitchen to the bathroom.

Police photographs handed in at the inquest — which delivered a verdict of accidental death — showed Kriel's body lying on the stoep outside the back-door. Benzien admitted on Monday that he had tampered with the body after Kriel's death by removing the handcuff from one of his wrists. He said he had cuffed Kriel's wrists behind his back after shooting him, but released one wrist when



TRAUMA: Ashley Kriel's sisters, Michelle Assure and Melanie Adams, at the Truth and Reconciliation Commission yesterday, when Assure gave evidence opposing Jeff Benzien's amnesty application.

Assure said "It wasn't drops of blood, it was like something that had been dragged to the bathroom. When I got to the bathroom I found some blood-stained clothing

in a laundry basket, which consisted of a shirt, a pair of trousers and a towel."

Later, she said "I feel bitterly disappointed because from what I saw on those premises, in that house on that day, I have reason to believe that some information is still being withheld from the family. We came here with the hope

that we were going to hear the truth, but we are still left in the dark. My mother died without knowing the truth."

Benzien's legal representative, Mr Gustav Cook, suggested that it was odd that this evidence had not been presented at the inquest.

After a tea-adjournment, followed by Vearey's input, Cook announced that on the previous night he had spoken to a police general who was prepared to speak about the security police's chain of command, and authorisation for the use of "unconventional methods." He asked for a postponement.

From the outset of the hearing, Benzien's victims have insisted he make a full disclosure if he does not want them to oppose his application, particularly about structures and the command chain. It was put to Benzien several times on Tuesday that he appeared to be suffering from selective amnesia to protect his peers and superiors.

Cook said Benzien appeared to have been left out on a limb and it was "only fair that senior officers now realise the consequences of their actions and come forward and admit it."

After the hearing had been adjourned to October 20 — when the remainder of the application will be heard together with that of Benzien's boss at the terrorist-tracking unit, Superintendent William Liebenberg — Kruser said Cook's bringing in the general pointed to Benzien's "moving in the right direction."

Kruser said the group would have preferred justice to take its course rather than the amnesty process.

"But because we are people who want to forgive, we are willing to settle for truth and reconciliation. But only on condition that the whole truth is revealed. Anything short of the truth will necessitate justice taking its course."

A full disclosure is required from amnesty applicants under the Promotion of National Unity and Reconciliation Act.

PICTURE: BENNY GOOL

Forgiveness is a package — Lapsley

WILLEM STEENKAMP

FORGIVENESS requires not only that perpetrators of gross violations of human rights ask for it, but that they also demonstrate their support for restitution and reparation.

So says Father Michael Lapsley, an Anglican priest who was robbed of his hands and an eye by a Civil Co-operation Bureau (CCB) letter bomb in Harare in April 1990 — the same time as the National Party government and the just-unnamed ANC were initiating exploratory peace talks.

Now he may at last find out who was behind the attack. It emerged yesterday that three CCB members, Mr Joe Verster, Mr Wouter Basson and Mr Abraham "Slang" van Zyl, have been subpoenaed to appear

before an in-camera Truth and Reconciliation Commission (TRC) hearing to testify, among other things, about the attack.

Although he has made a new life as the chaplain of the Trauma Centre for Victims of Violence and Torture, Lapsley will always need someone to assist him — and his health is still suffering.

On a recent trip abroad Lapsley spent two weeks in a Canadian hospital with bacterial meningitis, which has been directly linked to bomb damage to the outer wall of his brain. He will have to undergo "major" brain surgery in Australia. He said last night that he was "relieved" to hear that the three CCB members had been subpoenaed — even though he will not be allowed to ask them any questions

but it was also "sad because of what we do to each other".

He repeated an earlier statement: "Are their families only finding out now that their loved ones were perpetrators of evil and death?"

It was time also, Lapsley said, that former president F W de Klerk and ex-NP government ministers, acknowledged their responsibility.

Even if apartheid leaders had not known about atrocities, they had created the society in which human rights abuses flourished. The NP had "created the climate for the Benziens to prosper", Lapsley said, referring to police torturer Captain Jeff Benzien, who is currently applying for amnesty.

"Forgiveness for their deeds — includes restitution and reparation", he said. Responsibility to the

survivors of human rights violations "doesn't end with the TRC", but required a long-term commitment from all South Africans — especially the perpetrators.

They were, the ones who had received promotions for their deeds, were given golden handshakes and — if they asked for it — "possibly even amnesty".

But where amnesty was a legal process, forgiveness was a spiritual one — and "extremely personal". "Forgiveness is a package — it's not glib, it's not cheap, it's not easy. There is a lot of pain."

Perpetrators should show their willingness to put right the wrongs they committed. If those who had hurt him were prepared to do this, "I would love to offer my forgiveness".

'Adopt a court' plan to aid anticrime bid

Pearl Sebolao

BUSINESS Against Crime has launched a campaign to get businesses to "adopt" and sponsor law courts and the attorney-general's office, and has pledged money and resources to help upgrade courts to bolster the fight against crime

Business Against Crime director David Gordon said after meeting Justice Minister Dullah Omar yesterday the initiative would include revamping the courts to make them more user-friendly. His organisation would provide assistance in the form of computers and training, security for staff and visitors, and making extra space available for prosecutors to use for interview purposes.

"We will assist in any way we can,"

Gordon said

A task team, consisting of Business Against Crime representatives, the justice department and the attorney-general's office had been appointed to conduct a needs assessment in order to match available resources and requirements, he said

"The aim is to get business organisations to adopt and sponsor the courts and the attorney-general's offices, and we hope that in due course we will find sponsors for each and every one of them," Gordon said

Several sponsors, including Rotary clubs and the SA Chamber of Business, had shown an interest, he said

Business Against Crime legal adviser Lorinda Nel said the Johannesburg and Pretoria magistrate's offices and attorney-general's offices had been

(252) ~~34~~
chosen to pilot the project before implementing it countrywide. A sponsor for the Johannesburg magistrate's offices had been identified, but the deal still had to be confirmed

The task team would meet on Thursday next week to look at the adoption of the Johannesburg magistrate's court, and the kind of help that would be provided.

Business Against Crime was also working on a computer system which would incorporate all four pillars of the criminal justice system — the police, justice departments, correctional services and the welfare services

This would enable the justice department to access dockets on the computer, and to trace the records of suspects from the time of arrest until parole, she said.

ST JAMES VICTIMS MEET ATTACKER

'He's not sorry that he attacked a church'

CT 18/7/97 (252)

'I'M A SOLDIER and I obey orders,' replied one of the St James Church attackers, when asked if he now thought that what he had done was wrong **MELANIE GOSLING reports**

LAUGHTER filtered through the closed door of a room in Pollsmoor Prison. Inside, three young South Africans — two of the St James Church massacre victims and one of their attackers — faced each other for the first time in an extraordinary meeting.

It was difficult to imagine what the group could find amusing.

Ms Gillian Schermbrucker, who had the flesh torn from her legs, shrapnel in her heart and a nail in her lung from an exploding grenade, has been through over 50 hours of surgery since that night of the attack in July 1993.

Ms Liezi Ackerman's mother was killed in the attack.

And Gcinikhaya Makoma, one of the St James Church attackers, was convicted of murder and still faces the bulk of his 23 year prison sentence.

What was the cause of the laughter?

Said Ackerman: "After we had been talking to him for a while I said to him, 'if there are any questions you want to ask — shoot'."

"There was a moment's silence after I said that, and then suddenly we realised what I'd said and we all burst out laughing."

But it wasn't all lighthearted. Sitting close together in armchairs in the prison's recreation room, the two young women asked Makoma the question they had been longing to ask for years.

"Do you now think that what you did, to attack a church, was wrong?"

Said Schermbrucker: "His answer was, 'I'm a soldier and I obey orders'."

"While I understand that, at the same time when he attacked the church the election date had already been set and negotiations were well under way.

"Surely he could have thought for himself before taking that action?"

"What he did was very wrong and I told him that."

"He told me he was tortured after he was arrested and I asked him if he would be able to forgive those people."

"He said he would only if they came to him and said what they had done was wrong."

"It was strange meeting him, in a way he was a nice guy, and I imagine he would be a good citizen from now on, not a murderer."

"I don't feel anger or revenge."

"At the same time, I don't know what forgiveness is really — I definitely want to see him again."

After the television camera filming the interview had been switched off and the studio lights were gone, the three began to talk more freely.

Makoma turned to Ackerman and said "I'm sorry about your mom, your father was very angry with me and I understand that."

Afterwards, Ackerman said "I wanted to hear him say that, I think he is sorry about the deaths, but still he's not sorry that he attacked a church."

"I told him I did not think what he did was right."

"He said he believed he did the right thing and that it helped the struggle, but I say there's no justification for that, not a church."

"I would like to get angry with him, but I want to do that without television cameras on us."

Ackerman told Makoma she wanted him to meet the Russian sailor Mr Dmitri Makagon, who lost both legs and an arm in the attack.

"He said he would like to, I think when he sees Dmitri, perhaps he will think the attack should never have happened."

● The alleged leader of the St James attack, Sichumiso Noxuba, died in a car accident last year. The rest of the group — Tobela Mlambsa, Bassie Mkhumbuze, Letlapa Mphahlele and Makoma — have all applied for amnesty before the Truth and Reconciliation Commission.



FACE TO FACE: Two of the St James Church massacre victims met one of the attackers at Schermbrucker, whose mother was killed in the attack, spoke about it to Gcinikhaya Makoma.

'I wanted you to witness'

ST JAMES CHURCH massacre victim Gillian Schermbrucker, who survived shrapnel in her heart and a nail in her lung after one of the grenades exploded next to her, has written an open letter to her assailants.

ately trying to express something urgent, but unable to communicate his need. Everyone was rushing around trying to alleviate his pain, to discover its source, but he continued to call out in increasing desperation. He saw me and started crying my name, as though I would be able to understand and help him.

With a knot that strangled deep inside, I wished that you were right there. That he was calling out to you for help and that you would know the crushing sense of uselessness in the face of such indescribable, inexpressible and cruel agony.

What were you thinking as you taped those long nails onto the small, mean, grey handgrenade, making it even more destructive before throwing it into a faceless congregation and disappearing into the night?

In spite of the trauma, scarring and not easily forgotten pain of the St James massacre (I must be careful not to trivialise such a hurtful tragedy) the outcome for me has been more encouraging than destroying. I have become convinced of the unchanging, sustaining goodness of God, which was so often expressed in the kindness and concern of those around me.

As happens so often when individuals face suffering and trials, many lessons are learnt, one of which I want to share with as many South Africans as possible.

For each of the five men who burst into the church intent on destroying, killing and maiming, there have been several hundred, of all colours and backgrounds, who

TO the men who attacked us on that Sunday night four years ago, I remember only once feeling angry at you personally. At that moment more than anything, I wanted you physically there, to see what you had done. To witness the permanent consequences of your few seconds of violent political expression, and to see if you still deemed it necessary.

At that moment, I felt sick that you would never know what you had done. I had just succeeded in transferring from bed to a wheelchair, and asked to be taken to visit Dmitri, the Russian sailor whose story most are aware of.

I had spent a week in the ICU with him, and watched him fight what most deemed a vain battle for life. I had never before imagined, and will probably never again witness, a man in such excruciating agony.

Three limbs amputated, almost every organ in his body somehow affected, far from home and anyone comfortingly familiar, and only able to communicate in Russian.

He was crying when I arrived, desper-

Flashback



DEVASTATION: A file picture of the scene at the St James Church after gunmen threw handgrenades and then fired on the congregation using automatic rifles. Seven people were killed and 48 were injured in the attack. **PICTURE: AP**

Have your say!

Public Hearing

Convicted murderer gets amnesty

BD 18/7/97

(272)

CAPE TOWN — An African National Congress (ANC) supporter who shot dead a prominent Inkatha Freedom Party (IFP) member blamed for murdering two of his brothers has been freed from prison by the truth commission's amnesty committee

Celnhanhla Mzimela, 31, was sentenced to 15 years' imprisonment for the murder of Mkhloolodaka Gumede at Makholokholo Reserve near Mtunzini in Kwazulu-Natal in February 1992

In granting the amnesty, the committee ruled that the murder was politically motivated

At his amnesty hearing in February, Mzimela told how the unbanning of the ANC in 1990 sparked a family feud. While Mzimela's father remained a staunch IFP supporter, he and some of his brothers joined the ANC. Gumede was a chief counsellor to his father and an IFP supporter.

The IFP members, including some of Mzimela's other brothers, viewed

their ANC membership as the ultimate act of betrayal. This resulted in the clan being divided and an acceleration of violence in the area

Among those killed immediately after 1990 was Mzimela's brother, Bonginkosi, and Bonginkosi's wife and child. Bonginkosi was next in line to succeed the chief, who became very ill during 1990 and was thought to be dying. The amnesty committee was told Bonginkosi was killed to prevent the chieftainship from falling into the hands of the ANC. Gumede was implicated in Bonginkosi's death, the committee was told

On February 22 1992, Mzimela's brother Gerald, also an ANC member, was allegedly killed by a group of IFP supporters

On February 29 1992, Mzimela and two of his brothers — who have also since died in politically related incidents — went to town in preparation for Gerald's funeral. En route they saw Gumede in his house. Mz-

imela said he went into the house and shot Gumede dead

"Mzimela contended that the political objective which he sought to achieve by killing the deceased was to bring an end to the litany of killings which had been committed against the ANC members by the IFP," the committee said

While Gumede was implicated in the killings of ANC members in the area, police had failed to act, it said.

Meanwhile, Kevin O'Grady reports that ANC acting secretary-general Cheryl Carolus said yesterday that the party was talking to both the commission and ANC Women's League leader Winnie Madikizela-Mandela about their recent dispute

Lawyers acting for Madikizela-Mandela this week accused the commission of victimising her in its investigation into the death of teenage activist Stompie Seipei and the disappearance of other teenage activists — Sapa

Hearings to be held on role of the private sector

(252)

ET 18/7/97

STAFF WRITER

THE Truth and Reconciliation Commission (TRC) has decided to hold hearings on the role of the private sector in apartheid South Africa

Acting TRC chairman Dr Alex Boraine said yesterday that a hearing into big business had been mooted a number of times in the media, and that a TRC meeting yesterday had concluded that "there ought to be such a hearing"

Many of the TRC commissioners had expressed the opinion that "exploitation (by the private sector) and connivance with the government of the past" could not be ignored, he said

Boraine said a public hearing would "almost certainly" be held, but that this would depend on the private sector's reaction to a TRC invitation for submissions.

He warned, however, that accommodating such a hearing would be problematic due to the volume of hearings scheduled.

Also, other sectors such as sport and academia could not be covered because of time constraints, but submissions from the private sector could be included in the TRC's final report on "what still needs to be done" to achieve national unity

Boraine said "We're not trying to beat anyone with a big stick. We're trying to complete the big picture"

Torture was 'not a very nice habit' (252)

M/G 18-24/7/97

JEFF BENZIEN's torture of former Umkhonto weSizwe guerrilla Peter Jacobs was, he said, "robust and very long".

"The normal interview with you carried on for quite a while. It was obvious you were playing for time. It was then that I resorted to using the wet bag on you," Benzien told his amnesty hearing.

"We were not getting the desired results, time was passing and I think I applied electric shocks to you using a hand generator."

Jacobs "In what parts of my body?"

Benzien "I'm not exactly clear."

Jacobs (to the committee) "It's only when one provides him with information that he says yes, I concede."

Judge Bernard Ngoepe "You're able to remember he said he'd slept under a bush, but when it comes to where on his body you applied electric shocks you don't remember?"

Benzien "Sir, if I say to Mr Jacobs I put the electrodes on his nose, I may be wrong. If I say I attached them to his genitals, I may be wrong. If I say I put a probe in his rectum, I may be wrong. I could have

used any one of those methods."

Judge Ngoepe "Did you use these methods?"

Benzien "On Mr Jacobs, yes." He had used the wet-bag treatment on Jacobs, whom he claimed was the first person he'd ever tortured, more

than on anyone else. Benzien said Jacobs was also the only detainee to whom he gave electric shocks.

Judge Andrew Wilson "And you have difficulty remembering where?"

Jacobs "You'd undress me, tie my blue belt around my feet, put on handcuffs with cloth over my arms to prevent marks. You did it [the electric shocks] quite a few times. When I thought I was dying you said, 'Peter, I can take you to the verge of death many times, but you will talk.'"

Benzien "I concede that might be so."

Jacobs "Why is all this not mentioned in your application? We want full disclosure [of] everything that in court you denied and the judge dismissed."

Benzien "You were being tried for terrorism. I could not admit to that. And now in this commission — using electric shocks, I could not bring myself to put it on paper."

Jacobs "I was the first survivor of this torture method of yours [the wet bag]. When [Benzien demonstrated the technique before the committee earlier] you appeared very effective, yet you had no experience — how come?"

Benzien "I can't answer that, how effectively I did it."

Jacobs "Are you a natural talent?"

Benzien "I wouldn't know. It's not a very nice habit to have."



Peter Jacobs: Torture was 'robust and very long'

The policeman who terrorised Western Cape activists appears to suffer from selective amnesia, writes **Gaye Davis**

Gaping holes in tormentor's testimony

MHC 18-24/7/97

(2/2)

MERE mention of Jeffrey Benzien's name struck fear into the hearts of otherwise hardened Western Cape activists during the dark and dangerous days of the mid-1980s. This was the man whose name regularly came up in political trials, where just as frequently defendants' claims that he had tortured them were dismissed for lack of evidence.

This week those defendants were vindicated as Benzien, now serving in the police air wing, confessed before his amnesty hearing in Cape Town to assaulting, tormenting and abusing his victims — detainees held without access to family or lawyers — as well as repeatedly per-juring himself in court.

Though the tables were turned and it was the interrogator who was now answering questions, Benzien, like a cornered rat, could still wound.

Although he sprinkled his testimony with "sincere apologies" and at one point wept, he could still psychologically assault his former victims, by revealing information he'd forced out of them which led to the arrest and torture of comrades, by implying they had broken quickly — or simply by failing to remember what he had done to them.

Ashley Forbes — who took longer to be persuaded to co-operate than

the standard 30 minutes Benzien claimed was all he needed — was jogging the policeman's memory about the torment that led him to attempt suicide after three months in Benzien's hands. Benzien referred to the "very good rapport" they'd had. "I concede that on the Saturday I assaulted you and on the Monday, and then we went for a steak."

Did Forbes remember the trips they had taken together? "Can you remember when you saw snow for the first time?" Forbes remembered the trips were to allow his injuries to heal and prevent him being seen by a doctor.

Benzien denied this, just as he denied ramming a metal rod up Forbes's anus and shocking him with the electric generator he had got off a telephone technician and kept in his office, but "only ever" used once — on Forbes's comrade, Peter Jacobs. For Forbes, who still bears the scars, Benzien's denial was unbearable.

As his former victims confronted him — and faced up to their own pain and humiliation at his hands — Benzien displayed the selective amnesia that was a hallmark of his performances in court. Certain details recalled with astonishing precision, others blanked out by forgetfulness.

If the Umkhonto we Sizwe guerrillas he had tortured had not been there to question him, his evidence that he was a dedicated policeman who used "unconventional methods", condoned by his superiors, to extract from trained terrorists information that would save innocent lives and prevent the overthrow of the state might have remained largely intact.

But as one after the other of his former victims took the seat opposite him and led him through their experiences at his hands, the



wet bag he admitted using over a detainee's head "to disorientate" them was revealed as a means of also causing near-suffocation and unconsciousness. While it was his favourite, it emerged it was only one of a range of bizarre and brutal methods in his repertoire.

African National Congress MP Tony Yen-

geni asked him "What kind of man uses a wet bag repeatedly and listens to those cries and moans and takes each of those people close to their deaths — what kind of human being is that?"

"I have asked myself that question," Benzien said. "I have voluntarily approached psychiatrists to have myself evaluated." Later, it emerged he had had only two consultations.

He worked alone so that when a case came to trial it would be his word against the defendant's. He later conceded he had had help, although he could not remember exactly from whom among his colleagues in the tight-knit anti-terrorist tracking unit.

Questions aimed at uncovering the chain of command which gave him licence to break the rules and saw him promoted and commended for his services ran into the cul-de-sac of his poor memory, suggesting to his examiners that he was covering up to protect still active networks.

When the hearing resumes on October 20, an as yet unidentified police general will explain the chain of command.

Forbes and his comrades will listen with interest. Believing Benzien to have been less than truthful, they do not support his application for amnesty.

PHOTOGRAPHS RODGER BOSCH

Hanging judges to face truth commission

M+G 18-24/7/97 (252)

The truth commission will examine whether judges 'dished out death sentences' to shore up apartheid, writes Swapna Prabhakaran

SOME of South Africa's judges, including one working for the Truth and Reconciliation Commission, will be called before the commission to defend apartheid-era decisions to send hundreds of people to the gallows

The issue of the death sentence is likely to be among the thorniest and most emotive when the truth commission holds hearings in October into gross human rights violations by the judiciary

The commission will also be faced with the task of examining claims that some judges routinely dished out the death sentence to shore up the apartheid structure — particularly in its dying days

Legal observers argue, however, that the judges' hands were tied once they decided to participate in the legal system. The law at the time stipulated a mandatory death penalty for murder if no "extenuating circumstances" could be found

The death penalty was suspended in 1990, as talks between the then National Party government and the African National Congress gathered pace. It was formally scrapped in 1994

Judge Andrew Wilson, one of three judges now working for the truth commission in assessing amnesty applicants, said this week he could not remember how many death sentences he had imposed on the bench

"I think every judge in that time passed the death sentence. One had no choice then. I doubt I would have done it if I had the choice"

Wilson recently granted amnesty to Brian Mitchell — the man he had

sentenced to death for his involvement in the Trust Feeds massacre. Mitchell's death sentence was commuted to a long prison term

Hanf Valli, the truth commission's legal adviser, says the hearings will not be a witch-hunt. "They won't be bringing down individual judges. It is rather to get the role of the judiciary in that era"

Among the submissions the truth commission is expecting is one from human rights activist Paula McBride, who refused to disclose the details of her submission ahead of the truth commission receiving the document

However, the *Mail & Guardian* has obtained the draft document from other sources. It shows that the judges who passed death sentences were all white, and 95% of those they sentenced to hang were black. In the ten years before 1985, more than 1 000 people were hanged, only 22 of them were white

The document draws a close link between the death sentence and the apartheid environment in which judges took their decisions

Her report names a string of judges who became renowned for handing out the death sentence

They include Judge Deon van Zyl, now at the high court in Cape Town, who sentenced a man to death after a one-day case in 1988

Judge van Zyl sentenced Michael Biri Matli to death after he was convicted in one day in the Lichtenburg Circuit Court for stabbing a woman to death. Matli refused a state defence, did not give evidence in his defence and called no witnesses. "In the absence of any other evidence, the court finds there was direct intent to commit murder," Judge van Zyl ruled

He said this week "It was the most upsetting thing, it was most traumatic. I accepted that I had no choice but to pass the sentence. I had taken an oath

"If there were no extenuating cir-



End of the rope: The gallows at Pretoria Central is disused, but not forgotten

PHOTOGRAPH HENNER FRANKENFELD

'I hang him and that's the end of it'

Swapna Prabhakaran

THE man who pulled the lever on about 1 500 people did so with a clean conscience, because he knew those he hanged had been sent to him by a judge.

Chris Barnard, now dead, told British television in the 1980s that: "It didn't bother me because the person was sentenced to death ... and it's proved beyond reasonable doubt and there's no extenuating circumstances then he deserves to hang ... I hang him and that is the end of it"

Barnard, who plied his trade for years at Pretoria Central Prison, described in lurid detail his charges' final seconds "I stand right at the back when they come in there,

warders lead them, and they walk on to the platform. Under every rope there are two black spoors, and they stand on these spoors.

"They have a white cap on with a flap. The moment you put the rope around his neck they put the strap over his face. He can still see until you put the flap down. Then you pull the lever and they drop."

After "13, 14, 15 minutes" the hanged were stripped and examined by a doctor. "If he's satisfied of death, then the warder puts a rope around the body with a pulley and they pull him right up to the top and I take the rope off and lower him down into a stretcher into a coffin. I secure the lid with a hammer and nails and they are taken to a graveyard.

"I stand by the door and 'the minute before they go I pray to God to have mercy on earth and to every one of them. That is the least I could do to a person who has to meet his maker."

The Pretoria funeral company Saffas took most of the bodies to graveyards around the capital. The company's director, Kai Von Garnier, said this week that Saffas was unmoved about its involvement. "We did do it, yes, but it was just a business contract," he said.

"The government would tender and everyone could apply for the contract. We got the contract because we were cheaper. The cheapest priced company always got the tender and we had the cheapest prices."

stances, I had to apply the law. To me it was the most difficult thing in the world. Acting like God. But on the other hand, if you decide you can't do that, then don't become a judge"

He said that, of the nine people he had sentenced to death, only two actually went to the gallows

Judge Raymond Leon, now retired, sentenced Andrew Zondo to death in 1986 — and two years later, became a supporter of the Society for the Abolition of the Death Penalty

The report recounts how Leon sen-

tenced 19-year-old Zondo to death five times for his involvement in the Amanzimtoti Impet-mine attack, but let his accomplice — who rattled in return for anonymity — go free

Leon was unavailable for comment this week. Summing up at the end of the trial, however, he said "We have not the smallest hesitation in accepting the evidence of the accomplice as true and that of the accused as false beyond all reasonable doubt. Extenuating circumstances are not present in this case"

Judges JMC Smit and David Curlewis, who each condemned over a dozen people to death, still sit on the bench

Legal observers pointed out this week that a prisoner given the death penalty could apply for the right to appeal to the then Appellate Division in Bloemfontein. Also, a judge could petition the state president for clemency

Some judges, however, were more inclined to pass the death sentence than attempt to find extenuating circumstances which could save the prisoner's life

To compound matters, the state-provided defence was often a junior or inexperienced lawyer, who made little or no effort to find out the defendant's circumstances and history, to fill in the blanks behind motive, and support extenuation. Much of the evidence for the defence could also be lost in interpretation

Civil rights lawyer Brian Curran, the former national director of Lawyers for Human Rights, said this week that the whole judicial system had been flawed. "Some judges went out of their way sometimes dishonestly, to find extenuating circumstances," he said. "Those who were pro the death penalty would not spend as much effort."

The National Association of Democratic Lawyers is also preparing submission to the commission on the judiciary's role, focusing on lawyers' experiences at the hands of the courts under the previous government

"The legal system was used to legitimise apartheid," said association representative Vincent Saldhana. "They could arrest people, torture them, make statements, and then convict them on the basis of those statements. The judiciary did not question it."



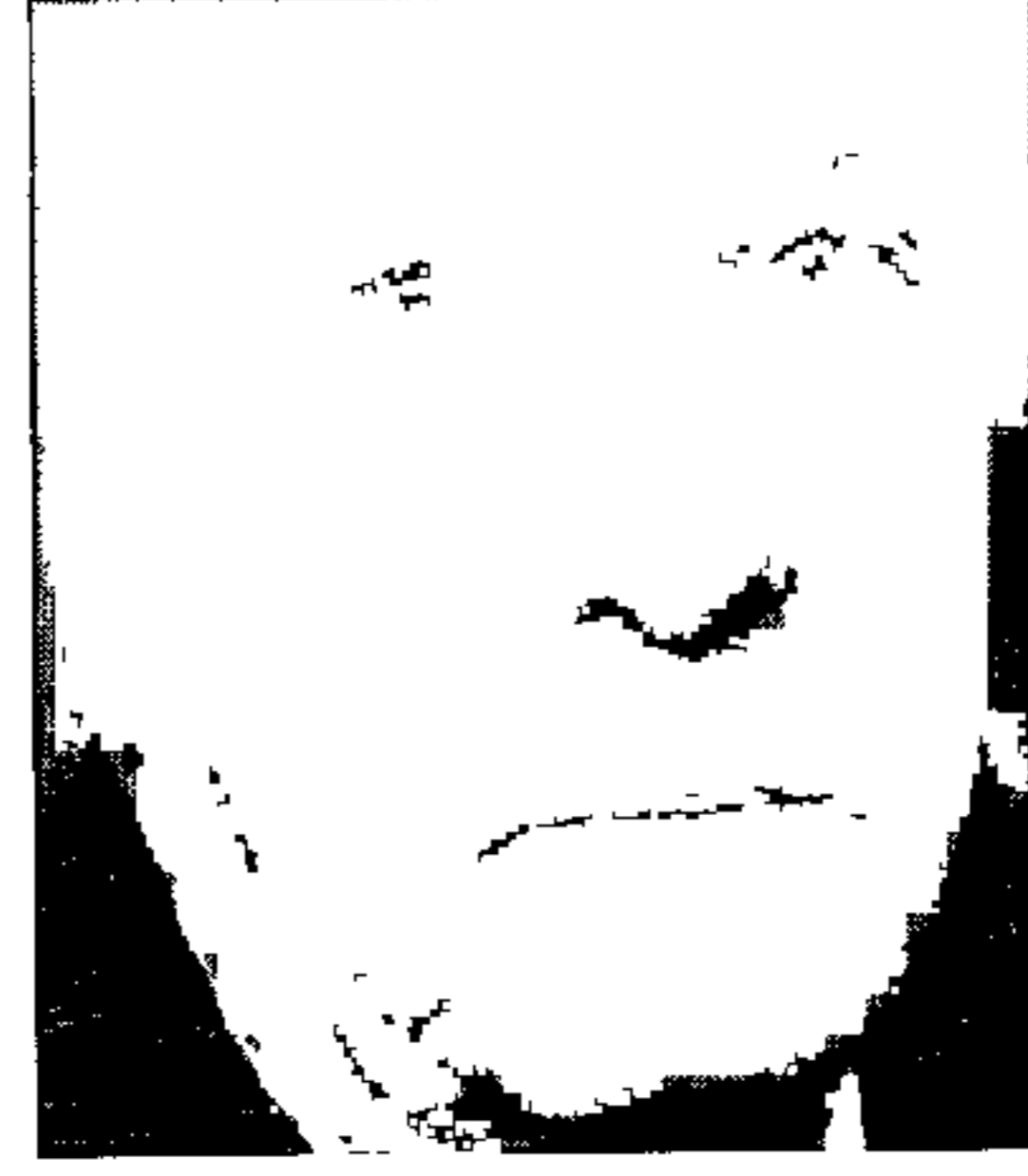
Judge JMC Smit: Sentenced 17 people to death in three years



Judge L le Grange: 16 death sentences in three years



Judge David Curlewis: 14 death sentences in three years



Judge Irving Steyn: 13 death sentences in three years

Top scorers of the death-sentence years

ON any scorecard of the death sentence, the late Judge B O'Donovan handed down more death sentences than any of his colleagues. In a three-year period he sent 25 prisoners to be hanged, and in his career he handed down 39 death sentences

On the other hand, one judge, NM McArthur, never sent a single convict to the gallows even though in

three cases, the death sentence had been expected.

The *South African Journal on Human Rights* concluded in 1991 that the fairest way of looking at how individual judges applied the death penalty was to compare sentencing (as a percentage) against the number of cases heard, the numbers of accused and the number of charges carrying the death penalty.

They applied this system to the Transvaal Division judges, looking at the period before the death penalty was suspended and found Judge MC de Klerk was a top scorer, having handed down the death sentence in more than 35% of cases he heard. Others were:

- Judge WJ Human: 33,3%
- Judge LTC Harms: 32%
- Judge MJ Strydom: 31,8%

- Judge L le Grange: 31,3%
- Judge Irving Steyn: 30,3%
- Judge B O'Donovan: 29,1%
- Judge TT Spoelstra: 27,3%

High percentages did not necessarily translate to big numbers of people sentenced, however, and vice versa.

For example, Judge DJ Curlewis sent 14 people to the gallows in a three-year period. But this was only about 9% of the death-penalty cases he heard.

Amnesty row over Mandela Football Club

M+G 18-24/7/97 (252)

Wally Mbhele

A FORMER commander of Umkhonto weSizwe (MK) recently granted amnesty by the Truth and Reconciliation Commission allegedly tried to derail the amnesty applications of Jerry Richardson and other jailed members of the Mandela United Football Club.

Yet Richardson, who is seeking amnesty for the murder of teenage activist "Stompie" Seipei and three other youths, has successfully submitted his application.

The MK special operations commander, Wilson Sebiloane, was responsible for setting up self-defence units in Soweto after receiving extensive military training abroad. He also allegedly provided military training to members of the Mandela United Football Club, shortly before he was arrested in 1991 and charged with attempted murder and possession of an unlicensed firearm.

Sebiloane was appointed by Leeuwkop Prison's political prisoners to coordinate their amnesty applications. He was granted amnesty on June 12 after the truth commission's amnesty committee found his crimes had been politically motivated.

However, it has emerged that although Sebiloane filed amnesty application forms for himself and several other prisoners, he failed to deliver application forms for Richardson and an unknown number of others.

One of them is said to have engaged in a protest hunger strike at the prison when he did not receive a response from the truth commission. The commission only learnt about Richardson's desire to apply for amnesty when it later went to interview him in prison.

The *Mail & Guardian* was unable to contact Sebiloane for comment.

The revelations about Richardson surfaced this week against a backdrop of an increasingly vociferous public exchange between Winnie Madikizela-Mandela's lawyers and the truth commission. The lawyers

claim the commission is victimising their client. Madikizela-Mandela is expected to be subpoenaed to give evidence at a closed hearing next month. She will be questioned about Seipei's death and the disappearance of four other youths.

Her lawyers complained to the commission that "snippets of false and untested information can only cause immense assault on the integrity and political profile of our client".

The commission had not yet formally told Madikizela-Mandela what it wanted to talk to her about and it was therefore "alarming and sensational" to be saying it contemplates subpoenaing her, said the lawyers, Senti, Mavundla and Partners.

The truth commission's investigation head, Dumisa Ntsebeza, hit back, saying the lawyers' "misinformed" criticisms were based on "a misreading of newspaper reports".

Ntsebeza said Madikizela-Mandela has been named in connection with Seipei's death and the youths' disappearance. "It is in her interests to clear her name and to refute allegations against her," he added.

● A former British Liberal Democrat MP, Emma Nicholson, said this week in London that she had offered an interview to the truth commission last month in connection with another witness the commission is keen to interview, Katiza Cebekhulu.

Cebekhulu, also a member of the Mandela United Football Club, was smuggled out of South Africa after he, Madikizela-Mandela and Xoliswa Falati were charged with Seipei's kidnapping and murder.

Ntsebeza, who recently failed to find Cebekhulu in London, said that, without his testimony, the commission may lack conclusive evidence about the fate of the youths.

Nicholson, who holds Cebekhulu's power of attorney, told the *M&G* she planned to visit South Africa in September, "during which time I'll have time to speak [to the commission] on behalf of Cebekhulu".

Media bosses who played

MTG 18-24/7/97

(252)



In investigating the press, the truth commission must discover who collaborated with the Nationalist government — and who did not, argues **Ken Owen**

A GOOD place for the Truth and Reconciliation Commission to begin its quest for the truth about the media under apartheid, if I may venture a suggestion is a small matter concerning the prisons that was brought before Judge Oscar Galgut, the formidable chairman of the Press Council, in 1983

I select this case both because I know the facts and because it captures with singular precision the moral ambiguities and the Kafkaesque atmosphere of the time. It also suggests some useful lines of inquiry.

The Press Council for the benefit of those whose memories do not stretch to the bizarre details of apartheid's structures, was a quasi-court established by the publishers of the major newspapers in an attempt to avert legislation to control the press.

Ostensibly, it was intended to ensure that the press adhered to proper standards laid down in a code of conduct, in fact it was a control mechanism. Judge Galgut took his work seriously.

The prisons case arose because the *Sunday Express*, of which I was then the editor, had published criticisms of the prisons department made by Mana Slabbert, who was both the wife of the leader of the opposition and, as a sociologist of some standing, an authority on the prisons in her own right.

The prisons department complained to the Press Council that its officials had not been given a chance to comment on Slabbert's views before publication. I took the view that Slabbert was entitled to say what she pleased without the interference of a lot of ill-educated and self-interested bureaucrats. I rejected their demand out of hand.

Judge Galgut found for the prisons department, thus establishing a pernicious precedent which lingers in our society to this day. The notion that important people, like civil servants and rich businessmen, have a right to examine material prepared for publication and, if they please, to suppress or distort it, has now been incorporated in our law by the notorious Sage Group case.

(In that case it may be recalled, the Sage Group was given an opportunity to comment

before publication but raced to the courts and obtained from the chief justice a censorship order which, to this day suppresses information of great public interest. The chief justice observed at the time that editors unlike judges were incapable of distinguishing the public interest from their own interest, but as I am no longer an editor, I can say such things.)

I was not surprised by the verdict handed down by Judge Galgut. I never won a case before him and I did not expect to. So I adopted a policy, as I put it at the time of forcing him to hang me and hang me and hang me again until the hangings illuminated the shabby nature of his office. He obliged in the obdurate and unimaginative fashion of those who lack self-doubt.

That we should clash was surely inevitable. I had not long been a newspaper editor, but I had already come to the conclusion that there

was no legal path through the net of legislation and regulation which had been spun around the newspapers by the Nationalist government, and that any loophole which might be found would quickly be plugged. So I had fallen back on the best weapon I had which was the English language.

There was no way I thought that the language, with its rich resources of history and law and struggle for freedom in countries around the globe, could be chained by mere laws, if one were clever enough. I worked hard enough and called in the help of Sir Thomas More, Thomas Jefferson and Mahatma Gandhi. The language offered the means to say, by innuendo, irony, hyperbole or analogy whatever one wanted to say.

I wrote or tried to write between the lines. Judge Galgut held an opposite view. "It is the duty of the press," he wrote pompously, "to ensure, when presenting facts and comment to avoid biased, tendentious or snide reporting to avoid juggling with words so as to convey shades of meaning which convey unwarranted suspicions."

Now, that was exactly what I was trying to do. I juggle words, and Judge Galgut saw through me. He meant to have the truth, a literal-minded lawyer's truth, and he thought

such truth was to be found in official comment. It was a subject on which, it seemed to me, he was growing increasingly emotional, even irrational.

In his determination to pin down newspapers to publishing his version of the truth, he began to expand, in the most unjudicial fashion, the meaning of the Press Code of Conduct which he was meant to enforce.

The code he wrote in one annual report required that "a rectification should be published as prominently as the challenged article."

In fact, the code did no such thing. It required rectification to be published "with a degree of prominence which is adequate and fair." I suppose that to an authoritarian mind such distinctions were irrelevant. *verboden* was *verboden* (forbidden).

He reprimanded me for publishing a correction (of the number of motorcycle accidents) without an apology and brushed aside my defence that the code required no apology.

In the end, Joel Mervis, the greatest South African editor of my time, published an article pointing out the dangers and absurdities of the chairman's interpretation of the code, but even that did not deter the judge.

So the noose tightened around my neck, time and again I was reprimanded which he seemed to think should reduce any reasonable editor to jelly. I was ordered to correct reports, and my corrections were found wanting, and I was ordered to publish his findings verbatim which I did complete with whereas, whereas and the usual judicial illiteracies. It was a war I could win only by losing every battle.

At the same time however I pleaded with my management, then represented by Clive Kinsley, to unseat Judge Galgut.

In a letter to Kinsley dated January 7 1983, I wrote "It is impossible to maintain confidence in a chairman who has failed to absorb the plain meaning of the code, or who has read it so long ago that he has forgotten what it actually says perhaps you could pursue in the NPU the question of the chairman's fitness for his position?"

The role of the NPU — the Newspaper Press Union — in these matters deserves scrutiny. The union represented the cartel of publishing companies that produced the major newspapers.

Set up by editors in the last century, the union was later taken over by newspaper managers and became an all-powerful instrument to control the industry. It rigged the markets, crushed new competitors, fixed prices, suppressed salaries and whenever necessary

struck deals with the apartheid government. It was regarded by most journalists with fear and loathing, and not even the editors dared to risk open defiance of its power.

It was the union that established the network of councils and liaison agreements by which the government sought to control the press. The editors, collectively represented by a weak organisation called the Conference of Editors were drawn into those agreements by a process of "consultation" that provided protective camouflage for the newspaper managers and the union.

These consultations were conducted, not surprisingly, with the most malleable of the editors — it reminded me of the government's technique of extracting concessions from weak tribal leaders when stronger leaders resisted mass relocation. But, once signed, those agreements became part of the environment of control in which all newspapers and all editors had to operate.

I was initially surprised when I attended my first "liaison meeting" with the military brass, to find that officers and newspaper managers tended to close ranks against the editors, but I soon came to understand that it could not be otherwise. Both were conservative institutions. Anyway the managers were flattered to be offered military "briefings" which they could peddle on the cocktail circuit.

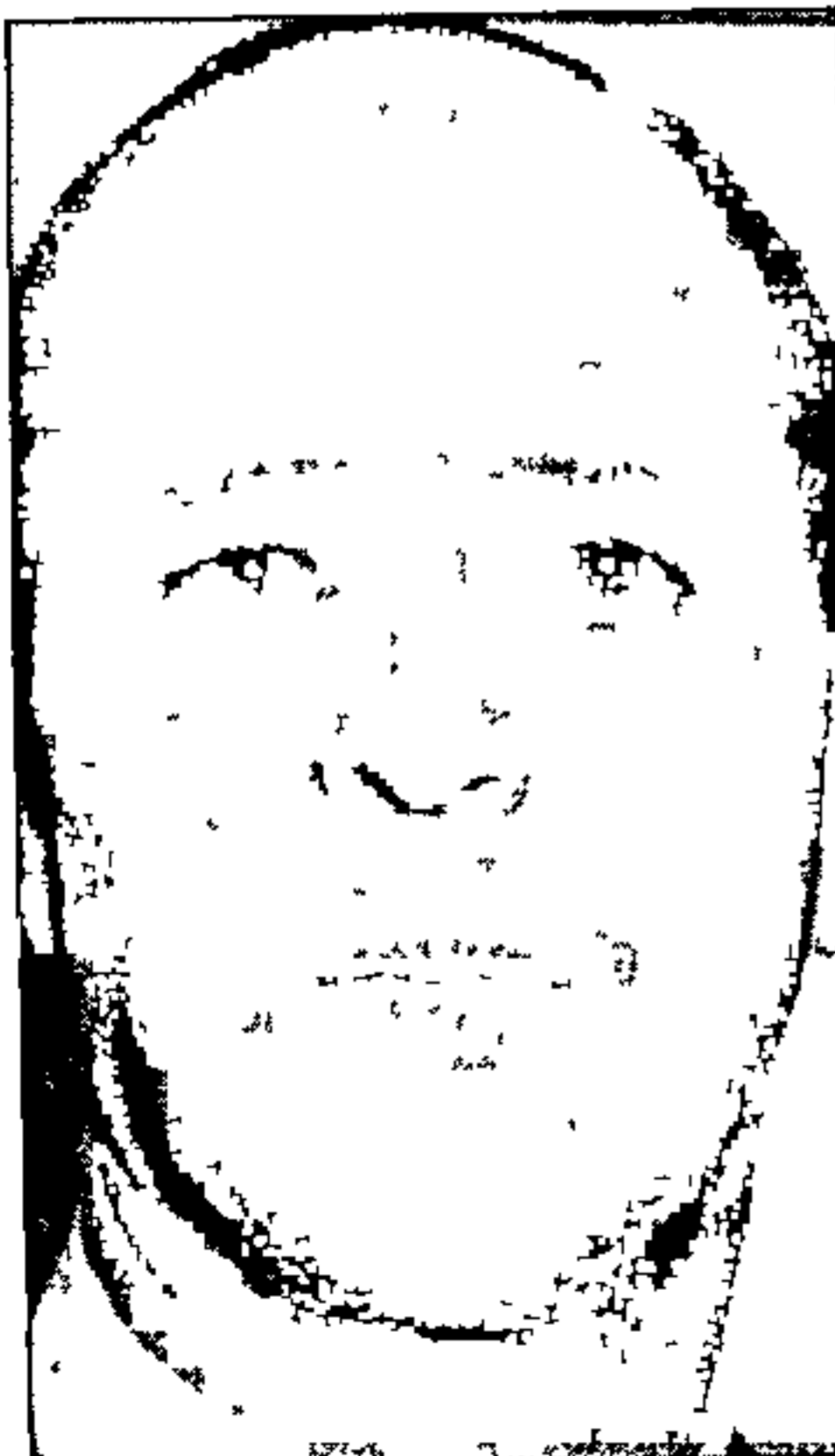
So, of course, my appeal to Kinsley was vain, and I fell back on my own resources to deal with the pestilential judge. I managed to juxtapose some of his comments on the press with quotations from Britain and the Soviet Union to show in the most insulting and provocative way, that Judge Galgut's views were identical to the Soviet view of the press and directly opposed to the British.

The one view was totalitarian, the other democratic and the good judge was on the wrong side.

Whether Judge Galgut ever read the piece I cannot say. I had flung down a gauntlet and he did not pick it up. But, whether by coincidence or not I suddenly found myself free of his torment. Every subsequent complaint against the *Sunday Express* was dismissed on technical-legal grounds. I never again had to appear before the Press Council.

That victory, of course, did not end the wider struggle, but it demonstrates quite amusingly how the battle had to be fought.

By the time I became an editor in 1982, the major newspapers were already hopelessly compromised and entangled in agreements with the government such as the Defence



'I set about circumventing, undermining and evading the system by methods which offended Judge Oscar Galgut'



'I pleaded with my management, then represented by Clive Kinsley, to unseat the judge'



'When I complained of the police agreement I received from Jolyon Nuttal a blistering letter on behalf of the National Press Union'



'I am appalled that journalists who opposed apartheid have been so feebly defended by Rex Gibson'

1997

In the apartheid game

Sunday Express

JOHANNESBURG SEPTEMBER 11 1983

50c Including Sales Tax Prices elsewhere on Back Page

Last moments near midnight

'IRONMAN' VORSTER IS DEAD

OBITUARY — PAGE 4



holders of the union and the press and media councils

I point to the existence of this evidence because what is happening now is a travesty of truth and justice. The generalised and unsubstantiated accusations of collaboration which have been brought against so-called "liberal" journalists (hardly any of whom, we may recall, called themselves liberals at the time) are simply defamatory.

They are defamatory of, among others, early opponents of apartheid like Tony Dells, Stan Uys and Molly Reinhardt; investigators of the Broederbond like Charlie Bloomberg (who eked out his paranoid life in terror of the security police) and Henrie Serfontein, and later Hans Strydom and Ivor Wilkens. Benjamin Pogrand who pioneered the mainstream coverage of politics in black communities, Steven Friedman and Riaan de Villiers who pioneered the reporting of labour politics, Martin Welz, Mervyn Rees and Kitt Katzin who took on, and brought low, a succession of the most powerful men of the times, and many others who wrote the first draft of the history of apartheid.

The list could go on, and on, and on. I did not agree with all of them, and was sharply critical of some, but they do not

Press problems By the time Ken Owen became the editor of Sunday Express in 1982, 'the major newspapers were already hopelessly compromised'

Agreement of September 1980 in which the NPU had agreed to be dishonest. (Clause 7.1.3 forbade them to say that the minister of defence had declined to comment even when he declined to comment.)

The system of control and manipulation had grown over a long period, but the rot had begun, in my view, in the early Sixties when the best "alternative" newspapers of my time — *Contact* (liberal) and *New Age* (communist) — were driven out of existence.

The union devoted its efforts not to the defence of the principles of a free press, but to the defence of its cartel, negotiating with John Vorster's government to exclude their newspapers from government restrictions in return for good behaviour. The result was the first Press Code of Conduct.

The climate of those times is difficult to recapture, but we should try. Laurence Gandar, legendary editor of the *Rand Daily Mail*, was pilloried (and finally dismissed) for progressive policies that included using the term "African" instead of "native".

His newspaper openly supported the Progressive Party, but I have a memorandum in which he argued that it was simply not feasible to support the "radical" proposal of the Liberal Party for a universal franchise. The *Rand Daily Mail* was not a radical publication. "Public opinion", meaning white opinion, would not stand for that.

When Brian Bunting, the communist editor of *New Age*, was banned from his work, the late Miles Brokensha and I (both of us then officials of the Cape Town branch of the South African Society of Journalists) tried in vain to garner support for him. We ended up sending a protest telegram to Vorster in our own names, a futile gesture. The press owners, publishers, managers, journalists looked the other way. Public opinion, you understand was a reality.

Compromise, and compromising behaviour, became the price of survival. Years later I heard a Hungarian say that in the West to throw a stone was a political act. Behind the Iron Curtain, it was a lamentable breakdown

of self-discipline. I thought I understood what he meant. Those were the years when even the communist leaders fled in droves.

For many years after the closure of *Contact* and *New Age*, no alternative newspaper — not even *The World* — could survive, and it fell to the mainstream newspapers to manoeuvre and negotiate and strike deals, until at last sufficient political space had been opened for a new crop of alternative papers to emerge. It was in the dark years, say from the closure of *New Age* to the launching of *The Weekly Mail*, that the deadliest compromises were forged.

By the time I became an editor in 1982, the network of controls was more or less in place, though I had to decide at my first meeting of the Conference of Editors (which represented the editors, as distinct from publishers, owners and managers) whether to try to veto an extension of the system.

Technically, I had the power to do so (since a single vote in the conference killed any proposal) but that would have collapsed the conference and negated the many years of negotiation that had preceded the meeting. It was not a realistic prospect.

I voiced my doubts, but allowed myself to be guided by the senior editors: liberal and conservative, English and Afrikaans, white and (in the rotund shape of Percy Qoboza) black. I did not vote one way or the other. That was my contribution to the establishment of the system.

Soon afterwards however I was to conclude that the NPU agreements were a major obstacle to a free press, not least because they served to conceal the nature of the regime, and I set about circumventing, undermining and evading the system by methods which offended Judge Galgut.

Other editors did the same, though some did not (and that distinction should be clarified) but the union was no help at all. My protests against the system were brushed aside by my own management and by the union.

On one occasion when I complained of the police agreement, I received from Jolyon Nuttall, brother of the famous anti-apartheid cleric, a blistering letter on behalf of the union

pointing out that I was myself an alternate on one of the committees of the Conference of Editors which had acquiesced in the deal. I was hoist on my own moral ambivalence, and my managers, at critical points, could abandon me with impunity. They did.

The battles that were fought behind the scenes were bureaucratic, pettifogging, tedious and usually vain. They demanded a kind of dogged courage until after 1990, it suddenly proved possible to demolish the control structures entirely. For that demolition I can, I think, claim some credit. But I do not know the full history: my records are not complete.

The answers lie, if they have not been shredded, in the documents and files of the union and the head offices of Argus-Independent and the South African Association of Newspapers-Times Media Limited.

Those archives may tell us something as to why editors like Gandar, Raymond Louw, Allister Sparks and Tony Heard were fired. Unlike most of my colleagues I do not believe they were fired for their politics, but because their politics (and sometimes their management of their departments) came to be seen as a threat to profitability. The distinction is important.

The owners and managers of the industry did not care about what was indisputably one of the great moral conflicts of the century, they did not, in the main, even understand why it was a moral issue. They cared about profit.

That, in my view, is why they set up and maintained the cartel, that is why (until Stephen Mulholland took over) they paid their journalists so atrociously and trained them so poorly that is why the newspapers were perpetually understaffed and subject to destructive levels of staff turnover. That is why editors were fired irrespective of their value as anti-apartheid fighters. That is why the union made its compromising deals with the devil.

The proof, one way or the other, lies in the records which so far, the truth commission has not bothered to seize or examine. Proof lies also in the recollections of judges like Galgut and Marius Diermont, managers like Nuttall and Roy Paulson, long-serving directors like Chari Cilliers, the various officials and office

holders of the union and the press and media councils. They have been so feebly defended by the corporate managers and by Rex Gibson, the last editor of the *Rand Daily Mail*, who should know better.

The statements so far offered to the truth commission are filled with platitudes and pious protestation but they conceal more than they tell. They try to stretch a blanket of journalistic respectability to cover the owners and managers, and the blanket is torn. Generalised accusation, generalised defence — the result is not the truth.

Collaboration with apartheid did occur; that is a matter of record. The point is to discover who did, and who did not, collaborate, and how and why. To say, without ado, that the "liberal media" collaborated is to lie.

A proper inquiry will find the press to have been a house divided and that among the many obstacles in the path of the journalists, some of the greatest were placed by the owners and managers of the newspapers.

The full truth may be unattainable. Evidence is not. The question is whether the truth commission will make the huge effort, intellectual and organisational, that will be required to get that evidence. The question is whether the truth commission will examine the documents, question the witnesses, understand the struggle.

If not, we must abandon the pretence of searching for the truth. Pretence of truth, doubly deceptive, is worse than untruth.

I was among those who supported the establishment of the truth commission, but as I watch the process that has ensued I regret that I did not insist instead on a Nuremberg process.

At Nuremberg, at least individual people had to answer for individual crimes and they were tried by a process tested over many centuries that is designed to find the truth. The charges at Nuremberg were specific, the evidence rigorous, the search for truth disciplined by examination, cross examination and re-examination.

Nuremberg whatever else one may say about it, was neither a lynching nor a forum for smears, half-truth and petty vengefulness. Even Judge Galgut would, I think, understand the distinction.

Truth body to probe role of business

CAPE TOWN — The Truth and Reconciliation Commission would hold a public hearing into the role of the business sector under apartheid, commissioners decided yesterday.

It also indicated that an extension of the life span of its amnesty committee seemed inevitable.

Acting commission chairman Alex Boraine said commissioners had said the exploitation of workers and the private sector's frequent collusion with the former government and its policies could not be ignored.

The commission would invite submissions from interested parties. The date for the hearing had not been set.

He acknowledged the difficulties posed by launching a probe into the activities of the private sector so late into the commission's life span. However, some commissioners argued that business's role during the apartheid years could not be ignored if the commission

was to provide as complete a picture as possible of past abuses.

The commission would also probe the role and consequences of military conscription at a one-day hearing in Cape Town on Wednesday.

Pumla Gobodo-Madikizela, who is co-ordinating the hearing, said the hearing would not lead to the awarding of victim status to conscripts for the purposes of reparations. It would also not attempt to find perpetrators.

Boraine said the commission already planned special hearings on the media, judiciary, prisons and now-defunct State Security Council.

While there was no time to hold hearings into academic and sports institutions, questions would be sent to these bodies.

He said that while the commission had begun looking at ways of streamlining the work of its amnesty committee, "the commission accepts that there

is no way (it) will complete its work by December 14 (when the commission's mandate expires)".

He said the commission had received a gloomy report from amnesty committee officials on the processing of applications. In response, the commission decided to set up a committee to look at revamping procedures and streamlining operations.

"The committee will look at every possible way to meet the deadline. But the fact that we have appointed such a committee suggests that the likelihood of that is remote."

Boraine also announced the appointment of two additional members to the five-member amnesty committee. They are truth commissioner Denzil Potgieter and human rights violations committee member Ntsiki Sandi. Both are lawyers. — Sapa

(252)

See Page 2

Beef up for the amnesty group

CT 19/7/97

WILLEM STEENKAMP

THE Truth and Reconciliation Commission's (TRC) amnesty committee is to be increased by two members to seven to help it cope with its workload.

The amnesty committee has until December 14 to complete the processing of thousands of applications — but acting TRC chairman Dr Alex Boraine said yesterday the chances of meeting the deadline were "remote".

Two TRC commissioners, Mr Denzil Potgieter and Eastern Cape advocate Mr Mtsiki Sandi, have been appointed to the amnesty committee and Boraine said the TRC was "pushing" for three more members.

The committee needs a quorum of three to hold hearings. Ten members would allow for three simultaneous hearings with a member in reserve.

Boraine said "There is no way the amnesty committee will complete its work by December 14".

A committee had been established to consider ways to meet the deadline, including increasing the amnesty committee and streamlining staff to meet requirements.

But acting TRC deputy chairman Mr Dumisa Ntsebeza pointed out that there were complications.

Because amnesty applications had to be investigated thoroughly, he said, the work of the amnesty committee was "inextricably" connected with the effectiveness of the TRC's investigation unit.

Also, the need to hear fairly

each amnesty application meant the hearing process could take longer than expected.

Also, said Boraine, some prospective amnesty applicants may have held back in expectation of a constitutional amendment — which has not yet been made — to extend the amnesty cut-off date from December 1993 to May 1994.

The TRC will ask President Nelson Mandela to issue a proclamation to allow for the extension, with a one-month deadline to apply for amnesty.

● No subpoena has been served on Ms Winnie Madikizela-Mandela yet to appear before the commission in connection with alleged human rights abuses, Ntsebeza said.

He said the TRC's human rights violations committee had been asked to probe the death of activist Stompie Seipei and the disappearance of seven Gauteng youths, but that no details would be made public until Madikizela-Mandela had either been invited or subpoenaed to appear before the TRC.

● The NP was "going ahead" with its lawsuit against the TRC over statements TRC chairman Archbishop Desmond Tutu made after the NP's second submission to the TRC, Boraine said.

He said the TRC "cannot accede" to the NP's demand for an unreserved apology from Tutu and his (Boraine's) resignation, and would oppose the lawsuit, which would be heard in the Cape High Court on September 5.



Court heroes at breaking point in frontline of the crime war

ANDREA BOTHA

Every day rapists, murderers, thieves and gangsters are sent to jail by a special breed of men and women who defy harrowing working conditions, low pay and a tremendous workload to serve the community.

Piet Burger is one of these state prosecutors who are fighting a desperate battle against crime. He is brutally honest when he says "I don't think the public has the faintest idea of what goes on in court."

But when all of the prosecutors in the Western Cape marched to Parliament last week, to protest against dire working conditions, the public started to get an idea.

In a memorandum, the prosecutors pointed to heavy caseloads, long hours, a lack of computers, fax machines and photocopiers, insufficient security, dilapidated buildings, and a lack of recognition for their work.

"The prosecutor is the guy who represents the community and the victim in court. The prosecutor is the person who sees that the

bad guy is sent to jail," said Mr Burger, a prosecutor at Cape Town Regional Court.

"We are doing our best, but we are being inhibited in our fight against crime. I think we do make a big impact, but we could be making a greater impact. We need more magistrates, more prosecutors and more motivated policemen."

Mr Burger said matters had gone beyond crisis point in the lower courts, where one prosecutor may have as many as 30 cases on his court roll on a given day. "Something drastic needs to be done. About 90 percent of the men and women walk out of the office at the end of the day, get a stiff drink, work some more overtime and go to bed. There is very little time for a personal life."

It makes you wonder why one would want to become a prosecutor to begin with. But Mr Burger, like many prosecutors, chose this career option above the greener grass of private practice because of his enthusiasm for the law and an idealistic wish to make the world a better place.

"When you see the face of a raped woman

after the man who brutally attacked and raped her is sent to jail, then you know you've changed her life. Then it all becomes worthwhile.

"Everyone who ends up here is sick somehow. But it's not only about punishing the guilty, it's also about helping those that can be helped. Criminals are after all, also products of society."

But he also feels the courts cannot be solely responsible for handling the crime wave.

"The community should start fighting crime at grassroots level. They should start forming groups and help control the different elements within their community. If you stop petty crime, you'll stop big crime."

Mr Burger has been at the Regional Court for four years, and has worked extensively in the special Court 32 for sexual offences.

This court was installed especially for children so they can testify in a separate room and not have to face their rapist or molester.

But exposure to these cases takes its toll. "Sometimes you see how a magistrate just

bows his head under his table and that even the lawyer cannot take it. We are confronted by human tragedy on a daily basis."

The special children's court was the initiative of Attorney-General Frank Kahn. Mr Burger said similar courts should be initiated for rape and other victims of crime. This would go a long way towards preventing the so-called "second" rape of women - in courts.

But much is needed to transform the courts at the moment. For example, there are no computers at the Regional Court and Mr Burger has resorted to typing his legal documents on the computer of a Department of Welfare employee who has an office in the court building.

Yet he refers to the protest march last week as "the most embarrassing moment of my life."

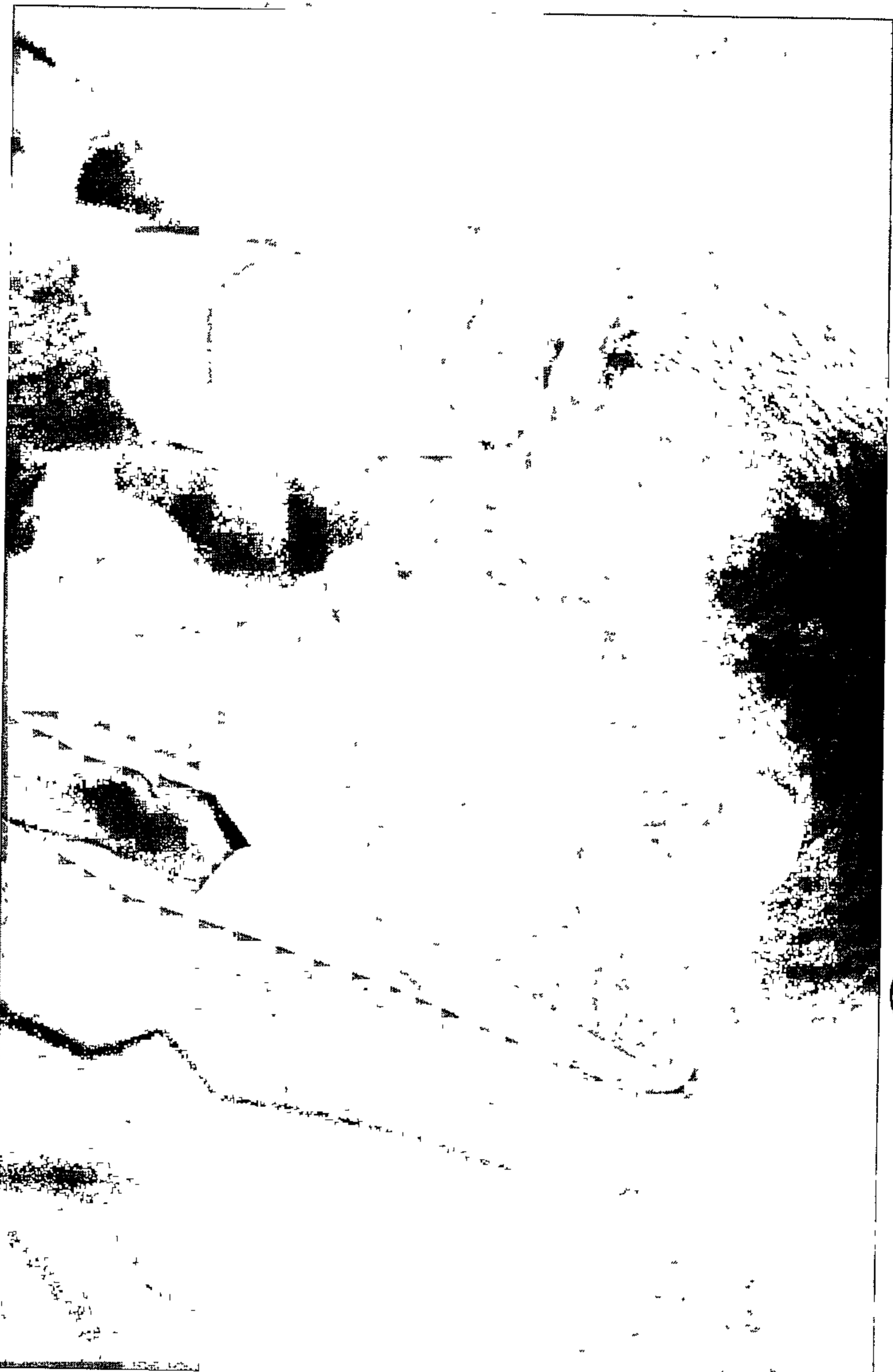
"As a professional person, to have to take to the streets to address problems that should never even have existed," he says, shaking his head. "We are highly trained, professional people among the best in the world, but we are paid less than a packer at Woolworths."

(252) AKG 19/7/99

Aug. 19/2/97

252

I beseech anybody or everybody I have done an injustice to, let's go forward and let history determine whether I've been truthful or not'



Amnesty applicant: Jeffrey Benzien told the TRC he had not flinched from committing torture 'irrespective of how dirty, how mean and horrible'

LEON MILLER

Former security policeman **was** proud of 'hard man' reputation

White cops tortured us, say racist rightwing killers

Johannesburg - Four rightwing inmates from Pretoria Central Prison, who killed three black men and an 11-year-old boy in 1994, have written to the Truth and Reconciliation Commission, alleging they were tortured by police officers.

Phil Kloppers, Deon Martin and Frederick Badenhorst were part of a group of eight men sentenced to death by the Rand Supreme Court in 1994 for the racially motivated murders of Simon Nkompone, Teboho Makhuzza, Theo More and Patrick Gasemane, 11

The fourth rightwinger, Gert Diederichs, was sentenced to 10 years' for his part in the crimes, which gained notoriety because the attackers cut off their victims' ears.

Mr Nkompone, Mr Makhuzza, Mr More and Gasemane were stopped at a roadblock set up by the rightwingers on the Krugersdorp/Ventersdorp road, assaulted and shot dead. Three other black men were seriously injured in the incident.

In a letter faxed yesterday to the TRC, the Political Rights Organisation (PRO) asked the commission to take action against policemen who allegedly tortured the rightwingers. The organisation is acting on behalf of the rightwingers.

PRO secretary Salome Oosthuizen said the organisation wanted the commission to subpoena the policemen "to show that they torture their own people, too".

The rightwingers alleged several white police officers, including a colonel, used the notorious "wet bag" method in their torture

The PRO also asked for reparation for the rightwingers' families.

The policemen allegedly tortured the four in a veld early on the morning of their arrest on January 6 1994.

A report sent with the letter named the policemen, all apparently linked to a murder and robbery unit. It sometimes mentioned only surnames and omitted the rank of some of the alleged torturers. Ms Oosthuizen said the PRO had not laid complaints with the police and would not do so "because it will be useless, they will just ignore it". The PRO also believed the TRC's amnesty committee was a better forum for "this kind of thing".

The "wet bag" torture method was this week described and demonstrated by former Western Cape security policeman Jeff Benzien at his amnesty hearing in Cape Town.

Captain Benzien showed how police sometimes forced prisoners to lie prone, pulled a wet cloth or piece of rubber over their faces and partially suffocated them.

An affidavit signed by Ms Badenhorst and a report on all four rightwingers' experiences were included in the fax sent to TRC deputy chairman Alex Boraine via the commission's Johannesburg office.

The TRC's Johannesburg secretary, Lynn Desai, said yesterday morning said she had not seen the PRO's fax. Letters for Dr Boraine should be faxed or sent to the commission's Cape Town office, she said.

Odile Pearce of the commission's Cape Town office said the TRC had not been able to ascertain if the letter had been received. —Sapa

'He was oblivious to the screams of his victims'

ARL 19/17/97

(252)

JOHN YELD
ON THE TRUTH COMMISSION

Former security policeman Jeffrey Benzien's appearance before the Truth and Reconciliation Commission's amnesty committee was an event his one-time torture victims could never have dreamed of as they lay in police cells in those dark days in the late 1980s.

The self-confessed master torturer had a reputation as the hard man of the six-member "terrorist tracking unit" of the security branch's Western Cape region. And, from his evidence at the amnesty hearing this week, it became clear it was a reputation of which he was proud.

As Tony Yengeni - African National Congress MP and former Umkhonto we Sizwe (MK) leader - put to him during the hearing, that he, Captain Benzien, had been oblivious to the "groans, moans, cries and screams" of his victims. The former security policeman, now with the police's air-wing, was also not shy to boast of having done what he described as "terrible things", saying he had not flinched from committing torture "irrespective of how dirty, how mean and horrible".

When he was asked by another survivor, Gary Kruser, whether he had been aware of a so-called "A-team" of Askaris (ANC guerrillas who had been "turned" and worked for the security police) being sent to Cape Town to help track down MK members here, Captain Benzien replied "I was under the impression they referred to the anti-terrorist unit in the Western Cape as the 'A-team'".

But while he was a committed team member, Captain Benzien told the amnesty committee he had preferred to inflict his notorious "wet bag" torture method on his own.

"This abhorrent method I used, as far as I can remember, I would do alone with my victim in a room."

It was a claim repeatedly challenged by Mr Yengeni and others in the group of MK

members who questioned Captain Benzien, either personally or through their lawyers, at the amnesty hearing.

One of the conditions for granting amnesty is full disclosure, and there was scepticism at some of the security policeman's evidence and at his apparent lack of memory - particularly when it came to the finer details of torture and of who had assisted him and/or given him orders.

Some of his recall of events was amazingly good. He remembered arresting Mr Yengeni one evening in a telephone booth near the Western Province Tennis Club courts in Rondebosch.

He remembered teaching Ashley Forbes to smoke and of a family taking pictures of Mr Forbes in the snow while he was being taken by police to the Western Transvaal and of Mr Forbes allegedly saying during that trip it was the most fried chicken he had ever eaten.

In response to a question by Bongani Jonas, Captain Benzien recalled his combat name - Thabi.

But his answers to questions about assaults on prisoners and details of their torture were vague. "I may have done it, I cannot specifically remember" and "I don't remember, but if you say so, I concede".

Director Kruser, now head of the SA Police Services' VIP protection unit, said to him at one point "You have a very selective memory".

Amnesty committee member Judge Bernard Ngoepe also questioned Captain



Face to face: Jeffrey Benzien and Tony Yengeni

Benzien about his memory lapses, saying some of them were "quite puzzling to me".

When Captain Benzien said he had consulted a psychiatrist twice, amnesty committee member Chris de Jager asked him bluntly. "Did they find anything wrong with your memory?"

To which he replied "Not as far as I can remember, no. I was under stress".

He acknowledged that his immediate superior at the time, while he was a warrant officer, had been William Liebenberg, who is applying to the TRC

for amnesty for the offence of not preventing or stopping the torture of detainees by members of his unit.

Asked whether Lieutenant Liebenberg had been aware that he was using the "wet bag" on detainees, Captain Benzien responded. "I'm sure he was".

Then there was Piet Goosen, also in his unit, and who was also considered "brutal", Johan Kotze ("I hope I'm not giving the wrong name") and one Nortjé who had helped him torture Peter Jacobs.

Under close questioning and prompting, he produced other names, including

- Those of Sergeant Bellingan from Vlakplaas, who was in charge of the Askaris and who has also applied for amnesty;
- A Warrant Officer Nel;
- A Major Smit, in charge of the terrorism unit and who was later promoted to Lieutenant-Colonel, and;
- A Colonel Viljoen. The commander of the security branch at that stage had been a Brigadier Strydom.

Asked whether these officers would have known of the torture, Captain Benzien replied "I would be surprised if they did not know". He eventually - and seemingly reluctantly - confirmed he would be prepared to testify against his former security branch colleagues in criminal trials.

Superintendent Jacobs, now also an officer in the Saps, asked Captain Benzien whether he was the "fall guy" in an organised attempt by the former security branch to avoid being held accountable for their illegal activities.

He responded "I hope to God I'm not the fall guy, sir - I've made an amnesty application because I think it is right and just".

Mr Forbes, who was detained in solitary confinement for six months and subjected to torture by Captain Benzien, said he and other survivors were prepared to support their former captor's bid for amnesty, but only on condition of full disclosure.

Mr Yengeni said to Captain Benzien "If you've done all these things, how are we sure we should trust you? How can we believe what you're saying now?"

To which he replied "I realise the predicament. Without trust, it's going to be difficult for reconciliation to take place".

"I beseech anybody or everybody I have done an injustice to, let's go forward and let history determine whether I've been truthful or not".

The chain of command responsible for Captain Benzien's unit is to be explained by a police general at the amnesty hearing.

Captain Benzien's lawyer, Gustav Cook, told the amnesty committee the - as yet unnamed - general would also testify about the way in which "unconventional" interrogation methods had been sanctioned by the security police. "At this stage he (Captain Benzien) has been left out on a limb, and it's only fair that senior officers now realise the consequences of their actions and come forward and admit it," Mr Cook said.

Dig up true tale of mines and farms!

CP 20/7/97

(252)

THIS week's belated decision by the Truth and Reconciliation Commission to probe the role of the business sector under apartheid could expose the full extent of the atrocities and inhuman working conditions of the workers in two sectors – the mines and farm labourers.

There has always been disquiet – but never strongly expressed – that it was unfair to single out media publishing houses, the medical profession and, recently, some members of the judiciary to appear before the TRC and explain their role during the apartheid era

A number of former senior executives at some of the publishing barons argued that the TRC would be employing selective morality if they excluded certain business sectors, especially the mining houses and those who employed farmworkers

Organised labour was even more emphatic and said that it would be a miscarriage of justice if mine bosses and farm employees did not account for the treatment of their workers

They argued that mineworkers and farm labourers worked under some of the most brutal conditions

Farmworkers are among the most exploited in the country

Apart from working long hours for poor pay, most of them do not enjoy employment benefits which are taken for granted by unionised workers

Child labour is still common on a number of farms, and one of the focuses of the Basic Conditions of Employment Bill which was recently tabled in Parliament, is to address the plight of the farmworkers

The discovery of bodies of political activists in some farms in the Free State and the sugar canefields of Kwa-Zulu/Natal has put more pressure on the TRC to investigate the activities of the farming industry, both private and state owned

There are also claims – so far unsubstantiated – that security forces threw bodies of killed activists down disused mineshafts in Gauteng

While it will be difficult for the TRC to probe the role of the private sector during the apartheid era, orga-

THE role of the business sector during the apartheid era is now to be investigated by the TRC. Deputy Editor **SEKOLA SELLO** stresses that the plight of mineworkers and farmworkers should be included in the investigations.

nised labour has, over the years, compiled strong evidence about human rights abuses committed by mining houses, chemical industries and on farms

The National Union of Mineworkers has been engaged in a several fights with mining houses about poor safety standards in the mines and have accused mine bosses of putting profits before the wellbeing of the workers

Fatalities occur daily in South African gold and coal mines and most of these pass largely unnoticed by the general public

Only the accidents which kill large numbers of people draw public attention

A classic example is the death of 57 people in 1992 at the Western Deep Level mines on the West Rand 57, when their cablecar fell down a shaft

This accident triggered, correctly, a nationwide public outcry and the mining houses were accused of neglecting the safety of the workers

A year later, according to figures compiled by the South African Institute of Race Relations, 623 perished in the South gold and coal mines and the public was largely unaware of this

A group of workers at Thor Chemicals in KwaZulu/Natal recently won an important victory when a British court ruled that they should be compensated substantially after suffering

serious illnesses while working on the plant

The workers had had to take their case to the parent company in the United Kingdom – which shows how difficult it was for them to get justice through South African courts or local companies

The TRC probably had the outcome of this case in mind when they decided to extend their probe to the business sector

Since it started its work two years ago – and deputy chairman Alex Boraine hopes its lifespan will extend – the TRC has been criticised from many quarters

The Azanian People's Organisation has vilified it as ineffectual, the National Party and the Inkatha Freedom Party have accused it of political bias while the Freedom Front and other rightwing formations have claimed it is anti-white Afrikaner

Whatever the criticism may be levelled against it, in recent months the TRC has been quietly beaver away to expose the excesses of the security forces

Few could not have been moved when former MK cadre Peter Jacobs choked with emotion, and tears ran down the face of big burly Gary Kruser when they questioned ex-torturer Jeffrey Benzien

If big business in the form of mining houses were to be excluded from those who aided and abetted apartheid, the full story of those who were disabled, went to early graves, were subjected to some of the most dehumanising ordeals in single sex hostels, the true horror of the private sector's collusion will never come to light

Many children were orphaned at an early age when their fathers died in the bowels of the earth

They need to know if their fathers' deaths could have been avoided

Many of them were not adequately compensated

Miriam Makeba and Hugh Masekela have written some haunting songs about the plight of the mineworkers

Makeba's lament about the Coalbrook tragedy, when more than 300 workers died, remains a monument of shame against the mining bosses

Travesty of

(252)

20/7/97



PHIL MASINGA

□ Last week's mystery face was Bafana Bafana's leading goal scorer Phil Masinga (above). Congratulations to last week's lucky winner!

Win free tickets to the big game!

HERE'S a fun competition that will test your knowledge of South African soccer – and bring you TWO free tickets to watch the great World Cup qualifying match between Bafana Bafana and Congo in Johannesburg on August 16

City Press will be giving away 10 tickets every week to the big game at Soccer City – and you could be there to see Bafana take their revenge on the Congo and march through to the World Cup in France next year

All you have to do is this: the following

- 1) In today's City Press – and for the following four Sundays as well – you will find small pieces of a photograph published in various parts of the paper
- 2) Find these pieces, cut them out, put them together – and then use your soccer knowledge to identify which South African soccer player is featured in the photograph
- 3) If you know who it is, call your special claim lines on Monday ONLY between 09h00 and 12h00 to stake your claim to the two free tickets
- 4) The claim line number is (011) 402 6504
Use this number only as calls through other lines will not be accepted
- 5) The names of all those who supplied the correct answer will be put into a box from which the draw will be made by telephone on Monday afternoon.
- 6) Callers must supply their full names, phone numbers and an address where the tickets can be sent to
- 7) The tickets will be sent to the winners by courier – but unfortunately out-of-town winners will have to pay their own transport and accommodation costs to come to Johannesburg for the big game
- 8) Winners living in the Gauteng

Soccer City inferno destroys 10



GOING UP IN SMOKE . . . Fans look on as fire guts 10 vehicles at Soccer City during yesterday's Iwisa Cl = Orlando Pirates and Moroka Swallows and (inset) police and security personnel lead away a suspect ■ Pic =

By VICTOR TSUAI and SIFELANI MLAMBO

PANDEMONIUM broke out among 80 000 fans watching the Orlando Pirates vs Moroka Swallows Spectacular at the FNB Stadium yesterday when they heard an inferno was raging in the parking lot outside

Five minibuses and five cars went up in smoke – perhaps because some-

body had dropped a lit cigarette stump, police said

And as panicking fans streamed out to see if their cars were still safe, many cars which had survived the blaze were looted

At least four people were arrested for trying to steal car radios and other items

It took the fire brigade an hour to put down the fire

A teenage boy was rescued by po-

lice after he was set upon by an mob who suspected him of starting the fire

He was whisked away in a van

Taxi owner Skosana Buthelezinted when he saw his taxi in flames. He was taken to hospital after receiving treatment from medics

□ Meanwhile, penalty kicks sudden death kicks were the

of justice

stroys 10 cars



during yesterday's Iwisa Charity Spectacular soccer match between Pirates and Chiefs. ■ Pics: SIWE RADEBE and TLADI KHUELE

After he was set upon by an angry man who suspected him of having started the fire. He was whisked away in a police van.

Taxi owner Skosana Buthelezi faint when he saw his taxi engulfed in flames. He was taken to hospital receiving treatment from paramedics.

Meanwhile, penalty kicks and free-kick death kicks were the order of

the day as Pirates edged out an unlucky Chiefs 10-9 to win the 12th Iwisa Soccer Spectacular.

Earlier in the day, Mamelodi Sundowns were banished to the spectator stands when they fell foul to the penalty system in the opening game.

Incidentally, Pirates booked their berth in the final with another sudden death victory over a luckless Swallows.

□ See match report on Page 9.

Mother spends nearly five years in jail awaiting trial

CP 20/7/97

By SIFELANI MLAMBO and CHARLES MOGALE

SIX PEOPLE – among them a mother of three – have been languishing in jail for four years and two months in what could be South Africa's record wait for a criminal case to be heard and concluded.

The long wait in jail for the six – who are part of an alleged crime syndicate of 11 members – has led to serious allegations of incompetence in the Department of Justice and of corruption in the police service.

□ They were arrested on May 14, 1993 and originally charged with 101 counts, including dealing in drugs, car theft, hijacking and fraud.

Two of the 11 have escaped, and three are out on bail.

More than 20 of the charges have been withdrawn.

□ Sources close to the accused this week claimed the police were dragging their feet to avoid implicating their colleagues who had allegedly benefited from heinous crimes allegedly committed by the accused, before turning against them.

□ The 40-year-old mother, Julia Mashele, told City Press from prison this week she had made frequent and costly bail applications.

Mashele claimed the police had advanced weak reasons for blocking her bail applications, such as the fear that she would interfere with witnesses.

"Some of my fellow accused are out on bail, but witnesses are not being interfered with," she said. "It is obvious the police are trying to break my spirit."

"I am a mother. Just last week my foster daughter died and I could not bury her. My children's lives have been torn asunder. They missed out on school for one whole year."

"If I was in here serving a sentence – although I maintain my innocence – it would be much better than wasting away here while being denied justice."

□ In a shock development this week, an alleged criminal on the run and a co-accused of the alleged syndicate made startling claims to City Press.

Calling from his hide-out, Johannes Makhaya alleged three white policemen had helped him escape because he was going to incriminate one of them in serious crimes.

Makhaya escaped on May 3 last

(262) year after spending three years awaiting trial at the Pretoria Central prison.

He said each time he and his co-accused had been taken to the Pretoria magistrate's court to apply for bail or for a postponement of the case, his legs were manacled. But on the day of his escape this was not done.

The allegation was corroborated by Mashele.

Makhaya said "At the court buildings I was called away from the other accused by three white policemen. They told me to go away and never set foot in Pretoria again, or they would kill me. I walked out and vanished."

He reiterated his earlier press assertions that a policeman close to the case had committed serious crimes himself before turning against him.

"Around September 1992, he shot dead a man during a robbery in Hammanskraal. I was with him. Why is he keeping quiet about that one?"

"He should also be charging me with the theft of a Nissan 1400 bakkie which we stole and which he gave to his brother. Why is that not mentioned among the charges? If I am charged, the policeman must also be charged."

□ The investigating officer, Sergeant Ludwig Erwee, said the case was taking "too long" because of the many counts faced by the accused and their seriousness. The crimes involved about R6 million, and there were fears Mashele, the alleged leader of the syndicate, would interfere with witnesses.

She was due in court in September, he said.

□ Erwee confirmed serious allegations were being investigated against a policeman who was a crucial witness.

□ The long wait has amazed even the Justice Department. Minister Dullah Omar's spokesman Paul Tsetsetse said though he did not have details of the case, four years was "too long."

He said it was the ministry's policy to dispose of cases as soon as possible. He promised to investigate as soon as more details were available.

□ Mashele's lawyer Johan Schaefer said baseless arguments had been advanced against his client, and these had been endorsed by the court.

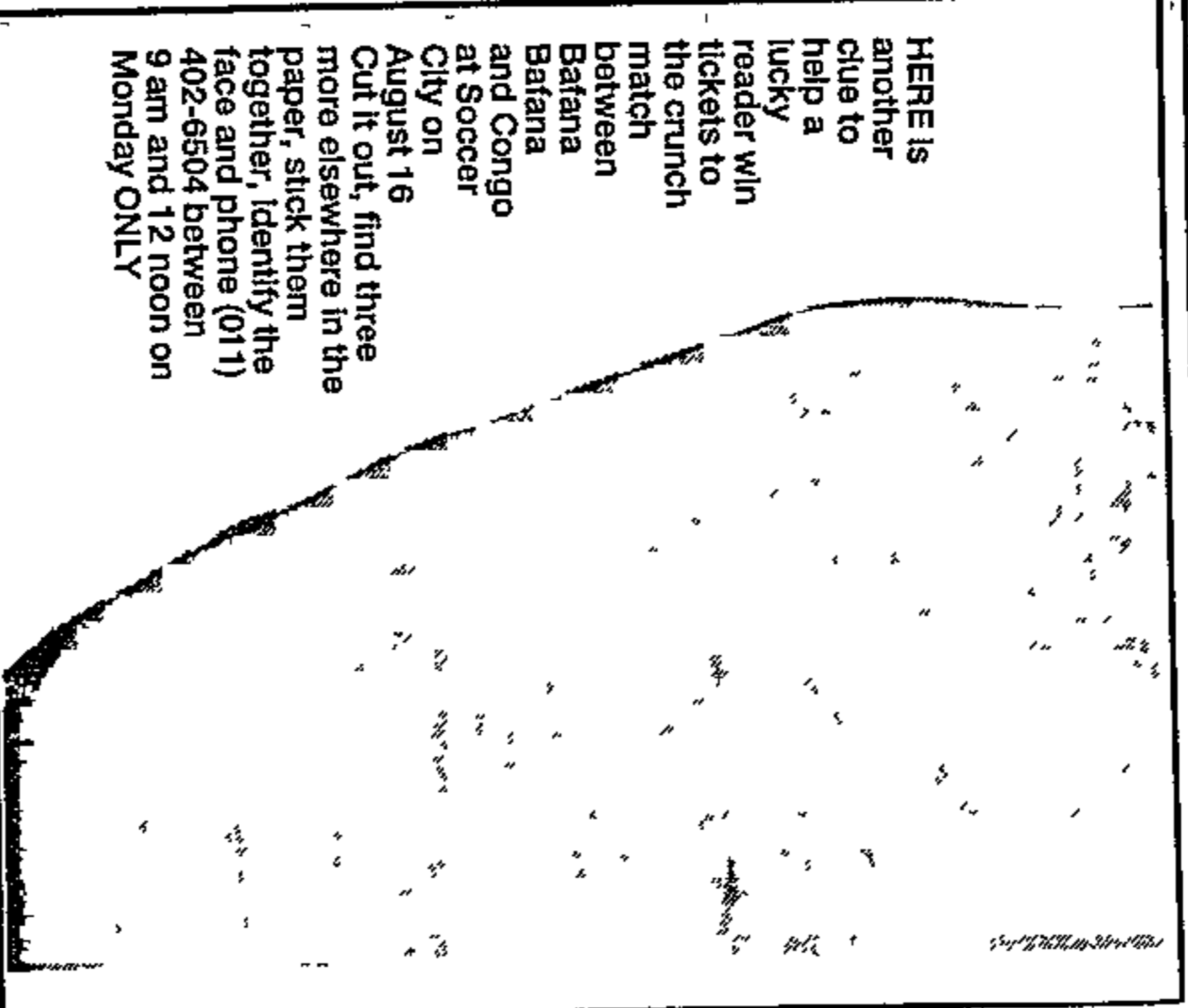
"One just hopes that if she is convicted at the end of all this, her abnormally long wait for trial will be taken into consideration."

□ But the prosecutor in the case, Paul Heygens, blamed Mashele's lawyers for the delay. He said there was video evidence against her and other accused – and it was because of this that she had been denied bail.

And one grappling with realities

SP 20/7/97

THE FALL of Pepsi surprised everyone. **ALL MPHAKI** met with Kehla Mthembu to find out what went wrong.



HERE is another clue to help a lucky reader win tickets to the crunch match between Batana Batana and Congo at Soccer City on August 16. Cut it out, find three more elsewhere in the paper, stick them together, identify the face and phone (011) 402-6504 between 9 am and 12 noon on Monday ONLY.

TALKING TO Kehla Mthembu about the demise of Pepsi Cola in South Africa is like opening a raw wound. "This is a highly emotional issue for me. Jobs were lost. Opportunities were lost — and the black community's investment lost," he says in a shaking voice.

Since New Age Beverages, the local bottlers of Pepsi, announced its voluntary liquidation on May 23 this year, the issue of what went wrong has dominated conversations in shebeens and other meeting places.

Understandably, Mthembu is reluctant to speak about it. It is hard having to talk about a company that became the biggest ever post-1994 ideal vehicle for black economic empowerment, but somehow crashed.

Mthembu even made mention of this reluctance at the *Enterprise* magazine forum where he was guest speaker this week.

He begins by first painting a pre-1994 scenario. "There was one beverage company with over 80 percent of the market. This company had a monopoly on manufacturers, bottlers, cans, sugar and so on. We had to buy bottles from Kenya and Argentina because manufacturers were reluctant to do business with us." Also significant, Mthembu adds, is for people to know how New Age Beverages was formed.

"We started this company with R100 million — R20 million of which came from offshore advancements. There was still the financial rand then and we were able to increase what we had to tackle this grant (Coke) in Gauteng."

Apart from no one giving them a chance — as was borne out by the reluctance of South Africa's financial institutions to grant them loans — raising money was no easy feat. Mthembu, with the erudite Monwabisi Fandeso, lobbied various players, including trade unions, entrepreneurs and financial agencies, but could not raise the required cash.

"It was individuals like Kaizer Motang, the Kuyasa group, the women's investment group Wiphold, who supported us. But that money was not enough."

"We then drew up a list of anybody we knew had been against apartheid and went to speak to them in the US, as South African corporates were scared to do business with us — especially those connected to the SAB, which owns ABI, one of the local bottlers of Coca-Cola in South Africa."

"This resulted in New Age Beverages obtaining the Pepsi franchise in South Africa."

The New Age Beverages corporate structure was comprised of PepsiCo, holding 25 percent of the shares in NAB, local black business, including the Mineworkers Investment Company, and the South African Textile Workers Union, who obtained eight percent. Other shares went to African-American investors like Whitney Houston, Danny Glover and O J Simpson's lawyer, Johnnie Cochrane.

□ New Age Beverages' strategy was to first target Gauteng and then slowly spread to other provinces. After launching in Gauteng towards the end of 1994, the company stretched its limited resources to open up a new plant in Durban in 1995.

"Mind you, we had to start from scratch. What worsened our woes was that Coke was so entrenched. Each and every sports stadium, and programmes on radio, were signed up by them before we came in."

"When we bought one of our investors, Whitney Houston, to perform at Ellis Park, she was the only person allowed to drink Pepsi on that day. We were entering a totally Coke-dominated market."

□ But through innovative market strategies Pepsi was well received by the Gauteng market in 1995, and suddenly it had Coke reeling. Mthembu attributes 1995's impressive run to what he terms "guerrilla tactics" — which he says are always necessary when fighting a

monopoly

"We knew where they were weak. And all ways went where we thought they were weak, to nibble some of the market. They never visited spaza shops or aunties in the townships. We understood the market."

But the question of what went wrong persists.

Two reasons come up: the effects of globalisation and the lack of a principal runner to go the whole hog with NAB.

Mthembu says PepsiCo was also beginning to lose market share everywhere in the world.

"For instance, Coke bought a Pepsi guy in Venezuela overnight for R500 million. In Russia Pepsi built 21 plants in two years — but only two could be accounted for, because of the corruption of some government officials."

"When the new Pepsi chief Roger Enrico took over, he came with new strategies which in effect meant getting out of markets where Pepsi was not going to make money within the first year of operation."

Mthembu says he and Fandeso then flew to PepsiCo headquarters in New York, only to be told that when Enrico's announcement was made, Africa was forgotten.

□ Any lesson learnt by Mthembu from the Pepsi experience?

"I have learnt that one needs to first verify how far a partner is really prepared to go. Partnership is like a marriage."

"The world has become a global village and we can no longer escape the globalisation effect."

"Start-up businesses are different. The people we employed could not fit in because this was a start-up. Coupled with that, in a monopoly situation the only experienced people in our market had to come from them (Coke) or their cousins," says Mthembu.

And an issue faced by government, he says, is how they should reward people, like Pepsis, who disinvested during apartheid.

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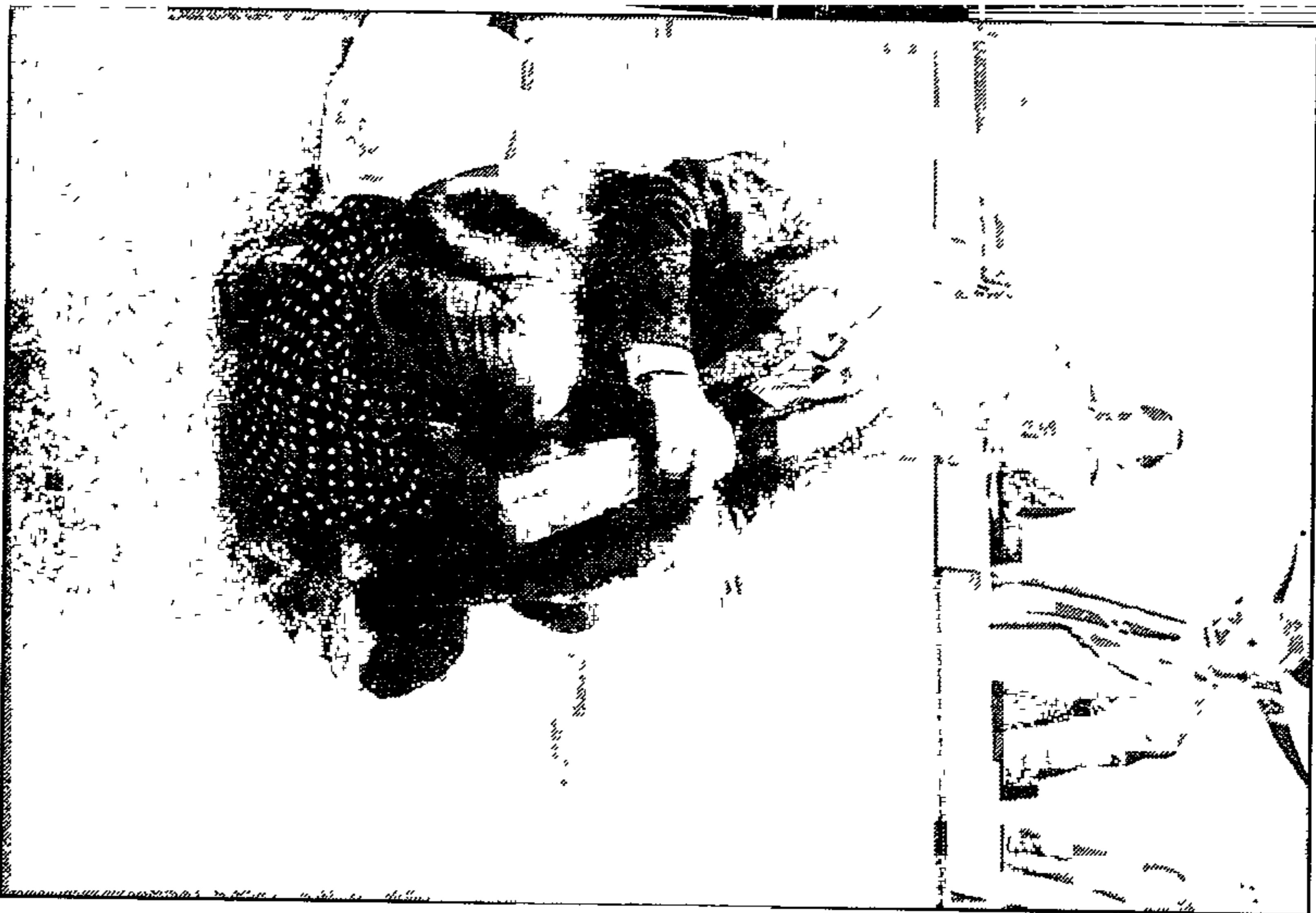
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MARIE STOPS CLINICS

Two men at the crossroads



'MAYBE I WAS TOO PATRIOTIC, TOO NAIVE. BUT I DID THE JOB.' . . . Captain Jeff Benzien shows how he used to try to force the 'truth' out of political activists. Many suffered, to the point of suffocation, inside his 'wet black bag'

JD 20 17 197

One man grappling with his murky past . . .

CP 2519 1997 252

HE IS the top detective who cracked the well-known Cape Town "crossbow murder" case. But there was always a dark shadow following him.

Allegations have been made — in many court cases — of torture, often with a suffocating wet bag.

This past week Captain Jeff Benzien, now a member of the police's air wing, admitted at his amnesty hearing that he was the expert interrogator in the security police's campaign during the 1980s to crack apart MK.

"Terrorists" who would not talk were brought to him immediately after their arrest, he said. And they would not hold out longer than 30 minutes — with one or two exceptions.

The "terrorists" he tortured were at his amnesty hearing this week: Tony Yengen, ANC MP, Lieut-Colonel Bongani Jonas, an army officer, Gary Crusser, now head of the ministerial protection unit in Pretoria, and Ashley Forbes, now employed at the Robben Island Museum.

Some of the "terrorists" are now security branch members themselves. Superintendent Peter Jacobs, commander of a unit in Cape Town, and Anwar Dramat Niclo Pedro was not there. Neither was Alan Mamba, now also in the police force. They greeted Benzien cordially before the hearing. In his amnesty application, Benzien admitted they were the men he had

A POLICEMAN employed by the former security police this week told how he tortured MK guerrillas.

CHRISTO VAN STADEN, senior reporter of Die Burger, reports.

employed by the former security police this week told how he tortured MK guerrillas.

He also asked for amnesty for the cases he "may have forgotten about".

And as the trial proceeded, it seemed more and more that Benzien had forgotten quite a lot.

Especially when his victims jumped in, firing one question after another at him.

They confronted him with the ways in which they said he had tortured them — which he often said he could not remember at all. They charged he was not making the full disclosure the hearing required.

However, he conceded that he might have done the things they said — with a few exceptions.

Culemborg. Their feet barely touched the ground, they said.

Benzien countered by saying he would never have used methods that would have left marks on his victims.

After many examples of Benzien allegedly not remembering details involving torture sessions, Chris de Jaager, member of the amnesty committee, asked Benzien if the psychologist he visited had mentioned anything about amnesia. "Not as far as I can remember," he answered.

The MK members he had tortured then challenged his "selective amnesia". They accused him of playing "the bad guy" to protect his colleagues as well as the "chain of command" through which his orders came.

Benzien denied this. He stated how disappointed he was that nobody else, apart from his direct superior, Lieutenant Lieb Liebenberg, was asking for amnesty. He said he had been left alone, out on a limb.

Yengen asked him to demonstrate the "black bag" method.

A volunteer, a leader in the ANC Youth League, was asked by Benzien to lie down on the floor, face to the ground and hands held as if cuffed at the back.

Benzien positioned himself on the floor, behind his victim. He wrapped a cloth over the volunteer's face, demonstrating how he had twisted it around the victim's neck to cut off the air supply.

"On occasions people would lose their consciousness or go slack. I would then release the bag," Benzien said.

He went on to describe the reactions of his tortured victims. They would howl, groan and cry, he said. All the times questions were barked at them, he said.

"Do you want to speak? What do you have to say?"

If they responded, air would be allowed into the bag, he said.

"Why did the security branch select you, specifically, to do this to MK guerrillas?" Yengen asked.

"Today, in the new South Africa, I can sit here and tell you in all honesty: I was used by the security branch members of my unit, the terrorist tracking unit, and they received recognition for the services they rendered. Maybe I was too patriotic, too naive. But I did the job.

"Even you and the people next to you will admit I was the person, rightly or wrongly, who would take explosives from out the community on the grounds of info I would glean from you. Explosives that could be used against the community at large."

By removing weaponry from them, he had prevented Yengen and his colleagues from being branded murderers nowadays, Benzien said.

He asked them "in the spirit of reconciliation" to bear in mind that this was now a different era. "I did not flee

South Africa. I'm still in the police force and want to serve the community. That is why I have applied for amnesty."

"I know you have had hardships. I did terrible things to members of the ANC. I may not call myself a victim of apartheid. But I have also suffered."

Benzien told how, because of his job, his son (6) and daughter (12) could not play with other children for weeks on end. "They had to be escorted to school."

At break they were guarded in the principal's office.

His house windows had to be barricaded at night, he said.

"What kind of a human being can do what you did with that terrible method?" Yengen asked. "I've asked myself that question, to the extent that I've approached a psychologist to have myself evaluated, to find out what type of person I am. I'm still under treatment. At one stage I thought I had lost my mind."

Benzien described how he had grown up with all the privileges of the average white South African at that time.

"Through my own stupidity, I could not bear the thought of that being taken away from me.

"If you had a bad foot that needed to be cut off, I would be the person to do it. Irrespective of how hard it was, I would do it."

After being tortured, Benzien said, Yengen had taken the police to the house of Jennifer Schreiner, where large quantities of limpet mines and firearms were found.

Yengen did not deny that, and later acknowledged at a news conference that "Benzien was the security policeman who made me talk."

Benzien later told how Yengen had also pointed out Jonas in a car on a highway, and caused his arrest.

□ The hearing has been postponed to October 20 to allow time for a psychologist to testify whether Benzien indeed has a selective memory — caused by trauma.

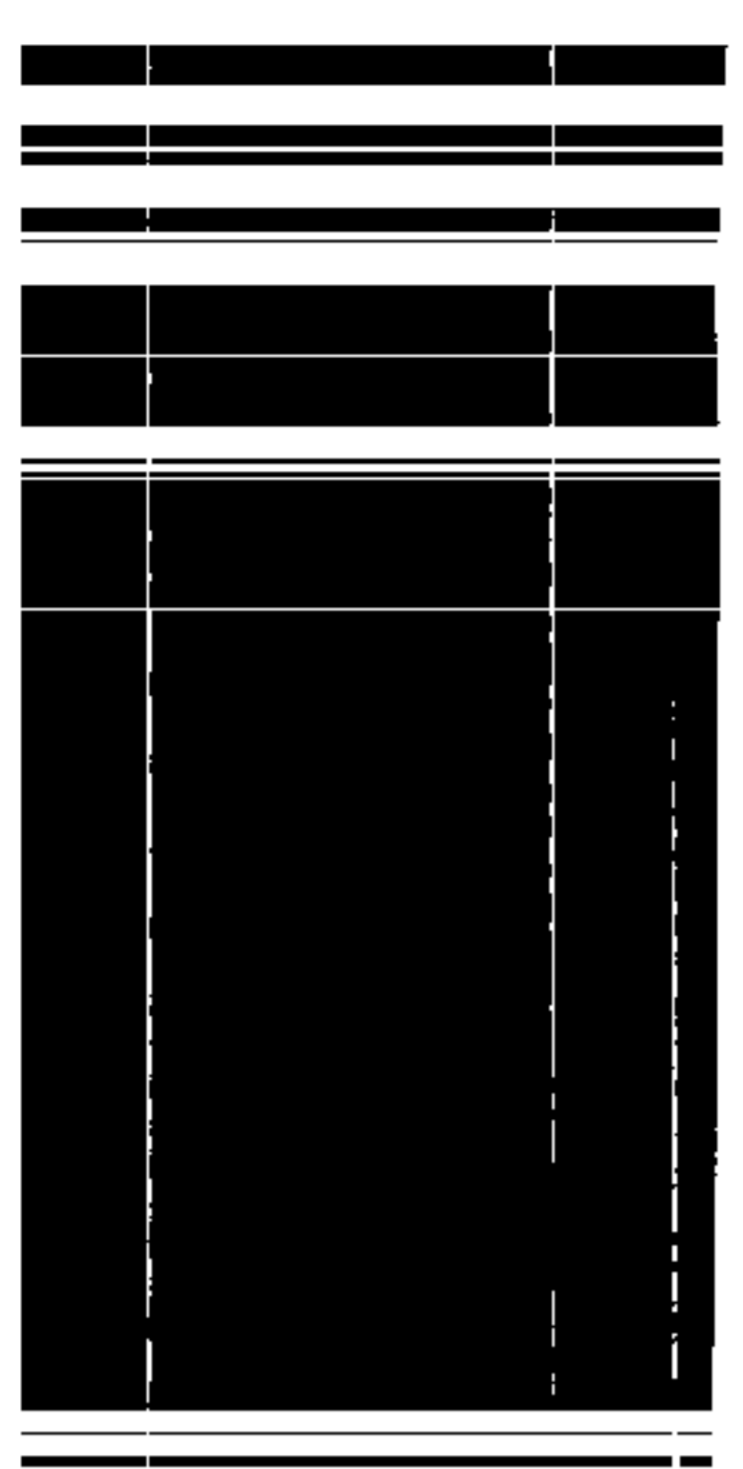
And for a security police general to acknowledge that Benzien acted on orders, and that his unconventional methods were indeed authorised from higher up.

His victims say they can't be reconciled with him unless he tells the whole story.

For the amnesty committee the willingness of victims to reconcile with perpetrators does not play a role.

If Benzien can prove that he does have a selective memory and has indeed forgotten what he claims to have forgotten, nothing appears to stand in the way of this notorious torturer being granted amnesty.

□ Benzien is also requesting amnesty for the death of activist Ashley Kriel. In July 1987 at a house in Athlone, he says, he and Kriel were involved in a scuffle. Kriel died after a shot went off from Kriel's pistol while the pistol was in Benzien's hand, he claims.



CAPTAIN Jeff Benzien was a detainee's worst nightmare. And he relished his reputation. Breaking people was his business.

If torture was about getting detainees to spill the beans, Benzien was the tin-opener of last resort. A true technician who seldom, if ever, failed to prise open even the most stubborn lid.

When all else failed to beat and threaten and grind a detainee into submission, Benzien would be hauled in for the kill.

His tools: a cloth sack and some water.

The manacled detainee would be forced to the floor, face down. Benzien would seat himself on his victim's back. He would then pull the damp sack over his victim's head, twisting it tightly around his neck.

Questions would be fired at the detainee, who would be fighting the clinging, suffocating cloth for air.

Using this method, Benzien could extract information in 30 minutes, sometimes less.

The wet bag was his refinement. But the police torturers' bag of tricks was much wider. Truth and Reconciliation Commission hearings and indemnity applications have exposed the full horror and litany of torture and human rights violations that took place in the name of apartheid.

These included:

- Electric shocks to the genitals;
- Assault,
- Sleep deprivation,
- Pouring water into a plastic bag over a suspect's head, and
- "The statue" — keeping victims awake and standing for days on end.

Some police interrogators liked the coast. They would take their charges blindfolded to the sea, where they would threaten to drown them.

Alternatively, there were outings to a forest where the uncooperative detainee was told talk or be shot.

Then there was the favourite trick of special branch detectives at Johannesburg's John Vorster Square in the 60s: hanging detainees out of upper-storey windows by their feet.

In the National Party's submission to the truth commission, FW de Klerk denied participating in or knowing about any decisions to commit serious violations of human rights. Even though his party took overall responsibility for what security forces had done, he has steadfastly maintained that these atrocities were committed by overzealous "mavericks" who acted outside official NP policy.

Forced to sing like birds, now they're suffering in silence

All pretence that torture was not sanctioned by the National Party government fell away when one of apartheid's nastiest inquisitors went before the Truth and Reconciliation Commission this week. CHARL DE VILLIERS reports

(252) ST 20/7/97



FINAL SOLUTION: Captain Jeff Benzien

from breaking down long enough to allow one's comrades to get away, but not to hold out so long that it led to a personal breakdown," she explained.

Mostly this did not work.

Benzien was a case in point of a master inquisitor whose reputation was allowed to precede him to cower captives into submission. "He was often the last interrogator in the police team. He was reputedly particularly violent and aggressive."

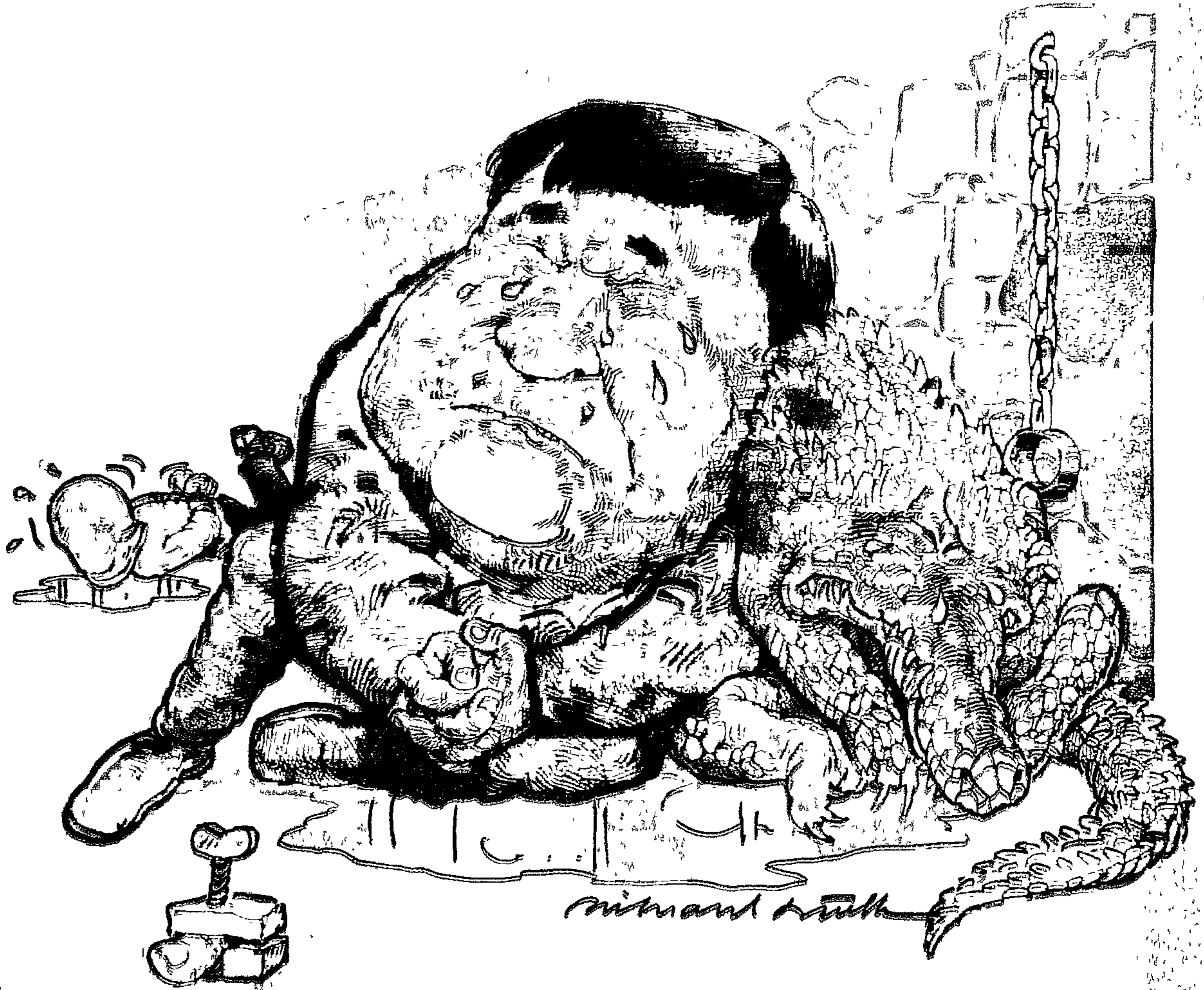
Benzien accepts this opinion of himself.

He has admitted having a poster of Ashley Kriel, an ANC operative he allegedly shot in cold blood, in his office.

The poster was defaced and inscribed with the words "One down to go."

Quizzed about this by commission lawyer Lulama Mtanga,

the worst possible hell? Were



be friendly. He would even bring me things like fried chicken. Things would deteriorate when I refused to co-operate. He would get angry. This was when the assaults and torture happened.

"At times we would spend 15 to 24 hours together. He'd take me on trips out of town and we'd sleep in police barracks, with Benzien sleeping in the same room as me.

"I don't know if he was ever drunk, but sometimes his eyes were red and he smelt of alcohol. The impression was that he

"Some victims can develop irrational fears of objects or odours relating to their experience under police torture." An example could be extreme anxiety when faced with tea — because it had been drunk by a torturer during interrogations.

Forbes said he had never been formally counselled about his experiences of torture 11 years ago, or even spoken about it to his wife.

"Going before the TRC on

Tuesday was traumatic. It was a public event, and the worst part of it was that I'd never even been in the situation where I could have spoken to a counsellor or my wife.

"Other guys who were tortured are only starting to deal with it now. The TRC was a healing experience and I would encourage people to go before it for this reason," he said.

"I've come to realise after the TRC that Benzien probably had

a bigger part in my life than I thought, and that my experiences of him might have affected my opportunities in life."

As for Benzien, this week the monster with his tearful, blood-shot eyes faced his victims.

No longer with a wet sack in his hands. This time he came to plead for his dignity.

But if there were hopes for a cathartic reconciliation, these were premature.

It could be a start, however.

And if the question is being asked about the value of raking up and exposing horrendous memories that perhaps would rather be left forgotten, Cape Town's Father Michael Lapsley may well be heeded.

With both hands amputated in a bomb set by apartheid agents, Lapsley says he would love to offer forgiveness.

"But forgiveness is not glib, it's not cheap, it's not easy. There is a lot of pain."

2532

87 20/7/97.

If that is indeed so — and many people continue to doubt it — then what did drive security force members and policemen to commit such heinous crimes?

If not in the name of apartheid, what possessed a group of security policemen to surround activist Kate Serokolo as she gave birth and to laugh as she screamed in pain?

Why was Western Cape activist Robert Nana Maltl beat-en so severely by Benzien and three other security policemen in 1988 that he suffered brain damage and is now partially paralysed?

Was it because they were doing their jobs? Was it because they got a perverse pleasure out of subjecting their victims to

they driven by the NP-inspired *swart gevaar*, *rooi gevaar* psychosis? Or were they simply driven by an overwhelming sense of hatred for people they believed were the enemy?

"Torture is not just used to extract information. It is also used to destroy personalities," Donald Skinner, researcher for the Cape Town-based Trauma Centre for Victims of Violence and Torture said this week.

"Torture is used to make people less effective afterwards, and their trauma is used to intimidate other people."

Trauma centre psychologist Trudy de Ridder said she had not encountered a single torture victim who had not confessed.

"The idea was to keep oneself

Benzien said "I had a reputation to live up to. I admit it was in bad taste to have it up there, but in a certain sense it also helped to instil fear into the persons I interrogated."

Ashley Forbes was 21 and a senior Umkhonto we Sizwe operator in the Western Cape when arrested by Benzien and his team 11 years ago. The captain was his so-called handler for six months while Forbes was held in solitary confinement.

"Initially he would torture me a lot to get information in the quickest possible time," Forbes said this week. "Then it seemed to settle down to a series of phases, when he would only torture me after a certain period of time."

"Benzien would sometimes

was coming to kill you " Torture leaves lasting wounds

For many it is depression, withdrawing into self-imposed isolation, never again able to start or sustain a relationship with loved ones.

The most common response is the silence of self-denial.

"This could be because former combatants considered torture to be just another aspect of a war which was no longer being fought," Skinner said.

"Silence is also used as a device to suppress being reminded of painful experiences. Victims could also be silent simply because they saw themselves as soldiers who did not talk about their suffering

Scrap the TRC now, demands IFP

Star 21/7/97 (252)

By JOVIAL RANTAO
AND RAMOTENA MABOTE

Ulundi - The Inkatha Freedom Party has called on the Government to scrap the Truth and Reconciliation Commission because the party said it had failed in its purpose to foster reconciliation.

Delegates to the IFP's 22nd national conference upheld the stand taken by the party's national council, the highest decision-making body in between conferences, to withhold further participation in any of the proceedings of the TRC.

Earlier during the conference, IFP leader Chief Mangosuthu Buthelezi expressed regret at the statement made by IFP MP Albert Mcwango who described TRC chairman Archbishop Tutu as a "weeping clown craving the cen-

tral stage of spotlight"

Buthelezi said although he understood Mcwango's anger, he would not have used the same language.

"Both as an Anglican and as a leader, I regretted the young man's words," he said.

Mcwango's utterances led to his ejection from the National Assembly in Cape Town when he refused to withdraw his words that the TRC was "a sensational circus of horrors".

Buthelezi said the work of the TRC had lost credibility in the eyes of the public and said its report was bound to create more conflict and tension.

"It's obvious that the commission has failed in its primary objective to bring about national reconciliation and should be scrapped before the damages in-

flicted on South Africa become irreparable."

He challenged the ANC to reveal the contents of its national chairman Jacob Zuma's application for amnesty. "We cannot justify the fact that the ANC has to promote an internal investigation to expose those within its ranks who participated in the carnage."

"We can't accept that Zuma, after having reportedly applied for amnesty to the TRC for having committed grave human rights violations, does not disclose to the people of this country what crimes he has committed."

"The IFP will not become an accomplice to these cover-ups and will not rest until the truth about the conflicts of the past is revealed, so as to form the basis for genuine reconciliation," the IFP leader added.

Justice system 'plagued with corruption'

B021/7/97

(252)

Vuyo Mvoko

GAUTENG had at least 108 organised crime syndicates and serious corruption existed within its criminal justice system, provincial police management and the safety and security department told Deputy President Thabo Mbeki at the weekend.

Provincial police commissioner Sharma Maharaj presented the "threat analysis" report as part of an SA Police Service (SAPS) briefing on the state of policing in Gauteng during Mbeki's visit to the province.

Compiled by the provincial organised crime unit between January and April, the audited report shows 48 syn-

dicates were involved in crimes relating to drugs, 26 to vehicles, 10 to gold and diamonds, and nine to credit cards.

It says that of the 306 syndicate members arrested during that period, 102 were syndicate leaders. About 202 of those accused were convicted and a further 79 were awaiting trial. The average fine was R8 000 and the average sentence two years suspended for three years. The average imprisonment was one year with the choice of a fine.

Property valued at more than R236m was confiscated during the period, including 216 stolen vehicles, 23,330kg of cocaine, 1 431 diamonds and 158,157kg of raw gold.

The SAPS's anticorruption unit, af-

ter investigating 327 dockets, arrested 73 government officials, 67 of whom were police officers.

A total of 6 132 cases involving police officials were being adjudicated. With 432 of the cases finalised, only 53 members of the police were convicted of offences and 456 members were found not guilty or were not prosecuted.

More than 400 other police officials were suspended during the period that the report was compiled.

The report also shows that with the employment of civilians for certain SAPS jobs now permissible, 2 421 trained policemen would be released from administrative work to concentrate on crime.

Ethics crisis 'the greatest threat to legal profession'

BD 21/7 1997 (252)

Stephané Bothma

PRETORIA — The ethical crisis in the legal profession was of such alarming proportions that it posed the single greatest threat to the profession, a national conference on ethics was told on Friday

It was imperative that the legal profession got its act together, failing which it might find itself wanting in the eyes of one of its most important clients, the business community, practising attorney Gustav Radloff told the conference, presented by Pretoria University's centre for occupational ethics, the Association of Law Societies, the Black Lawyers' Association and the National Association of Democratic Lawyers.

Radloff said ethical rules needed to be re-examined and a culture of compliance with and respect for the rules re-established

"Those who fail to heed the rules must be reported to the law societies. Many of us appear hesitant to report misdemeanours on the part of our colleagues," he said. Radloff said those who reported unethical conduct should not be stigmatised. "If we remain limp-wristed, regard for our profession will suffer," he said.

Conference delegates heard that one troubling aspect of the profession's crisis was the "undeniable fact" that practising lawyers and colleagues no longer trusted each other.

"Are we not afraid to uphold ethical values and norms because deep down we believe that our colleagues may abuse the situation?" Radloff asked.

He said too many lawyers were no longer interested in fair and honest competition and seemed to have abandoned the principles

that should govern professional competition — quality of service, integrity, knowledge and sheer professionalism.

"By resorting to excessive entertaining, kickbacks and pay-offs, conduct which borders on bribery and corruption, we are all now caught up in a vortex of self-destruction," he said.

Addressing the possible reasons for the decline in ethics, Radloff said it appeared universities could not effectively place a limit on the number of students enrolling at law schools.

"My view is that we are faced with an oversupply of legal graduates which cannot be properly accommodated in our sluggish economic environment. Many are forced to squat at too early a stage. They have not had the benefit of working under experienced practitioners for a sufficient time."

Amnesty refused to jailed killer of two on Paarl farm

JOHN YELD
ON THE TRUTH COMMISSION

The Truth Commission's amnesty committee has rejected an amnesty bid by a former leading Paarl activist for the murder of two farm employees during a weapons raid in 1986.

But applications by two of his colleagues were successful.

Phimon Maxam, a leading member of the United Democratic Front-affiliated Paarl Youth Congress (Payco), was sentenced to death twice for what the court described as the "cold-blooded execution" of two innocent

victims, domestic worker Rholian-Anne Foster and gardener John Geysler, who were employed on the Paarl farm Vlakkeland.

They were shot dead by Maxam on April 15, 1986, during an abortive raid on the farm in search of weapons. The weapons were to have been used by Payco members to defend themselves against murderous attacks by Azanian People's Organisation members, who were being assisted by police, Maxam testified.

The raid was carried out in terms of the "Tambo Text", in which then African National Congress president Oliver Tambo told supporters to steal weapons from whites to

defend themselves against state violence. Maxam's death sentences were commuted on appeal to 25 years in jail.

Two weeks ago Maxam and co-accused Madoda Tisana and Crosby Ndumisa, who are serving 23-year sentences for murder and housebreaking, appeared before the committee and argued that the murders and housebreaking were politically motivated.

The committee said it accepted that the three went to the farm to steal weapons in line with what they regarded as "legitimate political objectives", but it did not accept there had been a need or a political instruction to kill the two victims.

ARG 21/7/97 (252)

"Although there was, on his (Maxam's) own evidence, no prior agreement to shoot or kill anybody, he himself decided to do so on the spur of the moment.

"This, however, was not an end to the matter, he again shot the maid as she was lying on the floor and the gardener who was lying on the lawn."

Maxam had justified the murders on the grounds that he did not want the victims to identify him, but this did not qualify him for amnesty in terms of the Truth Commission's founding act, the amnesty committee found.

Also, the killings were not proportional to Maxam's political objective.

Hard labour of state's lawyers

CT 21/7/97
LINDIZ VAN ZILLA

(262)

MR PEDRO VAN WYK, 32, prosecutes juvenile offenders in the cramped and airless Number 19 courtroom at the Cape Town Magistrate's Juvenile Court. He is burdened with "anything up to 40 juvenile cases a day".

His colleague, public prosecutor Mr Martin van Wyk, normally faces between 20 and 30 robbery, theft, assault and housebreaking cases at the Magistrate's Court daily, with an extra 10 cases getting added on as the day progresses.

The accused's dock in the Juvenile Court is made to hold, at most, four people. But sometimes six or seven juvenile offenders appear in this dock in the same case.

The narrow passageway outside the court has been the scene of several fights between rival gangs. The single police officer in Court 19 is powerless to stop gang fights.

After an 8 1/2-hour working day, Pedro van Wyk puts in two or three hours of work each night to prepare for the next day's cases. In addition, this final year LL B student attends evening classes at the University of the Western Cape. He goes to bed after midnight every night.

Martin van Wyk, a 23-year-old with 18 months of prosecuting experience, works in the Magistrate's Court from 7.45am to 4.15pm, but at home he is faced with a further two to three hours of preparation.

He has to draw up charge sheets and organise to get dockets from police, as well as previewing cases to see what paperwork still needs to be done.

Then, if he has time, Van Wyk studies for the final year of his LL B degree through Unisa.

He admits it's tough.

Especially if "sometimes you see your friends who did the same courses as you, but are now driving better cars and live in far better places".

Prosecutors in court crisis

ET 21/7/97

(252)

DESPITE logging hours of overtime, state prosecutors are swamped by a backlog of cases. And a senior prosecutor has warned that the Cape cannot hope to fight crime effectively if the situation continues. **LINDIZ VAN ZILLA** reports.

funding has hampered the Justice Department's efforts to employ more prosecutors

The case Bower is currently prosecuting has been running in court for almost two years, during which time the 32-year old public prosecutor has already racked up more than 300 hours' overtime and shifted through tens of thousands of pages of intricate accountancy and bookkeeping documents.

THE prosecution of commercial criminals is in crisis, with the most senior commercial crimes prosecutor in the Cape Town Regional Court claiming that he and his colleagues cannot cope in a justice system gone wrong.

have limited experience and are not trained in accountancy methods and auditing. On the other hand the advocates are advised by trained accountants"

Warning against the enormous number of cases and huge workload of prosecutors, Wakefield said

Commercial crimes are often the most difficult to prosecute

Mr André Bower — who has only one year's experience in this field — works between 50 and 60 hours of overtime every month just to cope with his workload, and is carrying 27 commercial crime cases on his diary



because of the intricate and specialised nature of the transgressions, and Bower has to face top accountants, academics and highly paid lawyers who defend white-collar criminals

In his latest case it has taken him five days and 62 hours of overtime to complete argument — and he has another 14 arguments waiting to be formulated.

Bower is a public prosecutor (the same legal qualifications as an advocate) with more than five years of prosecuting experience, but with only one year's experience of prosecuting commercial crimes

The prosecutors have held protest marches against poor working conditions and work overloads which they say are preventing the effective dispensation of justice

OVERWHELMED: Prosecutor André Bower

The commercial crime office was particularly hard-hit earlier this year when three of the most senior prosecutors left to join the far more lucrative private sector, and the office had to be supplemented with inexperienced junior prosecutors

that "if it continues like this I don't ever see us effectively fighting crime in the Western Cape"

Prosecutors at Cape Town's magistrates' and regional courts, as well as in Wynberg, Mitchells Plain, Bellville and Goodwood, said they were being swamped under workloads.

Still, he is the most experienced prosecutor in the commercial crimes office at Cape Town's Regional Court, whose four public prosecutors are faced with 112 commercial crime cases, with a total value of R115-million

Working on the latest case, Bower said: "I would work for three hours, then sleep for an hour, then work for another three hours"

"You can't go on this way. You're going to break down sometime"

Senior prosecutor Mr Mark Wakefield said "Our prosecutors

And although there is a national waiting list of 1 760 aspirant prosecutors, lack of government

Turn to Page 3

Prosecutors can't cope

From Page 1

(252)

ET 21/7/97

Regional Court Control Prosecutor Mr Mike Greenwood said most public prosecutors worked 50 hours overtime a month, but were "still not coping"

Bower, for whom a big case might involve drawing up "hundreds of documents and sometimes over 1 000 charges", says it is a crisis all the time "I work on a crisis system"

The plight of overworked prosecutors was recently highlighted by a protest march by about 80 city prosecutors to the offices of Justice Minister Dullah Omar

Poor pay has led to an exodus of experienced prosecutors into the private sector — some prosecutors claimed they are paid less than court orderlies who escort prisoners

The average age of the 30 prosecutors employed at Cape Town's magistrate's and regional courts is 27. This works out to about a year or two's actual courtroom experience after six years of law school

Greenwood said that very often young law graduates viewed public prosecuting only as a stepping stone to pick up valuable experience, before venturing into the private sector "It is essential that we keep our experienced people"

Western Cape attorney-general Mr Frank Kahn said that under the Constitution more money was being spent on the accused than on the prosecution and victims. He cautioned that the system would become "totally loaded towards the accused unless the system was properly resourced".

See Page 8

War of words erupts in KZN by-election

RICHMOND, KwaZulu-Natal. As the by-election in Richmond in the KwaZulu-Natal Midlands picked up momentum yesterday, a war of words erupted between the ANC and the National Consultative Forum (NCF).

Local NCF leader Mr Sifiso Nkabinde said the ANC was applying undemocratic tactics to scare off NCF members from voting. "Last night (Saturday) they burnt down the house of one of our members. Is this democratic?" he asked.

Nkabinde was expelled from the ANC on charges of spying for the apartheid government. He has denied the charge.

NCF candidate Mr Nicholas Dlamini said he had not been sleeping at his house because of intimidation.

The ANC dismissed the claims as unfounded and placed the blame on Mr Bantu Holomisa's movement.

ANC international affairs head Dr Blade Nzimande said at the Magoda polling station that the NCF was engaged in a "provocative disinformation campaign" especially around Simozomeni and Indalemi.

He accused the NCF of killing ANC member Mr Mgqwai Sindane on Thursday, and added that the NCF immediately claimed that Sindane was one of their supporters.

Moving in the by-election for five seats left vacant after the resignation of ANC members in support of Nkabinde was taking place amid tight security — Sapa

IFP spurns 'biased' TRC

ULUNDI. The IFP has resolved to withhold further participation in the Truth Commission, whose work it described as biased, superficial and irresponsible.

The endorsement of the IFP national council's decision to reject the TRC was among the resolutions tabled at the IFP's annual conference which ended in Ulundi yesterday.

The conference saw the election of a new general secretary and an admission from IFP leader Chief Mangosuthu Buthelezi that the party had financial problems.

The party's national council on Friday unanimously elected Mr Zakhela Khumalo as general secretary to replace Dr Ziba Jiyane, who resigned earlier.

On Saturday, Buthelezi admitted his party was facing financial problems in the run-up to the 1999 election.

Asked if the party's finances were a cause for concern, Buthelezi said "Of course, yes, we don't have money."

He said the closure of IFP offices in other provinces had dealt a

psychological blow to the party's election efforts.

Deputy Safety and Security Minister and IFP national council member, Mr Joe Matthews, said the IFP would need R100 million to fund its campaign.

The working conference focused on restructuring the party to face the challenge it received from Buthelezi to secure an electoral victory in 1999.

Among the resolutions was a call to South Africans to join the IFP in moving the political axis of the country towards the centre and away from the "disastrous influence of the communists and the trade union barons."

The IFP said South Africa needed a strong, principled and honest government which planned to move speedily towards prosperity. Only the IFP's contribution could provide this, it claimed.

The conference said the country had achieved political freedom but not true liberation and democracy, which would be achieved when the majority enjoyed a dignified life free from need and want.

"The ruling party is paralysed by indecision, ambivalence and lack of vision and is jeopardising the goals of the struggle," the IFP said.

"Only the IFP, with its political, economic and social vision of federalism, pluralism, market economy and family values, is destined to lead the struggle for economic prosperity and emancipation," the party claimed.

The conference resolved to support peace and reconciliation in KwaZulu-Natal, but added that peace efforts should not ignore the culpability of those responsible for thousands killed in civil war in the province.

Other issues which could not be ignored were the recognition of the Kingdom of KwaZulu-Natal and the delegation of powers to provinces.

The IFP said it could not be held back by internal conflicts, petty political quarrels and private agendas. Party discipline should be strengthened and firm action should be taken against members who created conflict — Sapa

Lawyers claim competition threatens ethics

Principles 'abandoned'

ARGUS CORRESPONDENT

Johannesburg - Fierce competition between law firms, the entry of banks and accountants into the field of law and the increasingly powerful influence of estate agents on conveyancing transactions are seriously undermining ethics in the legal profession, say top lawyers.

The problem, identified as urgent, was addressed last weekend during a two-day conference on legal ethics attended by about 220 attorneys, estate agents and bankers at Pretoria University.

In Friday's opening address, Mr Justice Roger Cleaver said the legal profession "may well have reached the stage where a great deal more is required in order to educate attorneys and aspirant attorneys about ethical material".

"I am also not unaware of the fact that no amount of education of your own members (of law organisations) will suffice if the other players, for example banks and estate agents, do not recognise the ethical

ARG 22/7/97 (252)
standards expected of attorneys," he said.

The conference arose after overwhelming reaction to results of a questionnaire by attorney Gustav Radloff, who found that the legal profession was rife with unethical practices.

In his address, Mr Radloff said the questionnaire had also highlighted the fact that some attorneys were not advertising within the ambit of the guidelines prepared by the Association of Law Societies.

"These members are touting. Too many of us are no longer interested in fair and honest competition.

"We seem to have abandoned the sound principles that should govern competition among professionals, quality of service, integrity, knowledge and sheer professionalism," he said.

Mr Radloff added: "By resorting to excessive entertaining, kick-backs and pay-offs, conduct that frankly borders on bribery and corruption, we are all now caught up in a vortex of self-destruction.

"Who will be the ultimate victims? The public whom we are supposed to serve."

Fischer 'was singled out for particularly severe treatment'

Star 22/7/97 (252)

Because of his deep Afrikaner roots, he was considered a pariah and traitor to the volk

By DAISY JONES

After advocate Bram Fischer was jailed in terms of the Sabotage Act, he was singled out by prison authorities for particularly severe treatment and humiliation because "he was the Afrikaner; the real pariah. He was a traitor to the volk," his daughter Ruth Rice told the Truth and Reconciliation Commission yesterday.

Fischer acted as defence counsel in the 1956 Treason Trial and the 1963 Rivonia Trial.

Ilse Wilson, Fischer's other daughter, told the TRC at a special hearing about prisons yesterday that her father had been "defending comrades, not just clients".

In 1966, Fischer, a member of an Afrikaner family with impeccable Boer credentials and a member of the banned Communist Party, was sentenced to life imprisonment in terms of the Sabotage Act.

Wilson told the TRC of the "pettiness and vindictiveness" of warders at Pretoria Local Prison, where Fischer was held until 1975.

One warder "cut off

all Bram's hair, gave him clothes that were far too big for him and made him spend many hours cleaning the toilets with a rag, on his knees."

Fischer was allowed one letter, of no more than 500 words, from one person every six months and one 30-minute visit from one visitor every six months.

When Fischer's brother, Gustav, visited him in January 1971 to tell the advocate his son Paul had died, the brothers were not allowed to touch each other, standing on either side of a partition. Fischer was refused permission to attend the funeral.

Rice's request for an extra visitor - a marriage officer - to allow her to marry in front of her father was refused.

In 1974, Fischer's health began to suffer. He had an operation for prostate cancer in July; in September he complained of an acute pain in the hip but was not sent for x-rays until October.

In November Fischer fell down while struggling with his crutches in the shower. On November 19, 13 days after the fall, he was finally

taken to hospital with a fractured femur.

"The lack of proper examination and treatment would appear to be a prima facie case of medical negligence," the sisters wrote in their statement to the commission, adding that the doctors who ignored and incorrectly diagnosed Fischer's condition should be subpoenaed by the TRC.

Four months later, when it was clear Fischer was going to die, the family persuaded the authorities to transfer their prisoner to his brother Paul's home in Bloemfontein.

The house was declared a prison.

Fischer died on May 8, 1975. Prison authorities arrived at the home within 30 minutes of being informed of his death. Their demands included that the funeral be held in Bloemfontein within the week, and Fischer's ashes be surrendered to the Department of Prisons.

Asked by the commission what form of remembrance the family wanted of Fischer, Wilson replied "I suppose we just never want it to happen again."

Prison authorities 'humiliated Fischer'

BD 22/7/97

(252)

Stephen Laufer

THE prison system had been mobilised in a "very determined effort to humiliate" former Rivonia trial defence lawyer and communist party leader Bram Fischer, his daughters Ruth Rice and Ilse Wilson told the truth commission yesterday.

Fischer, the son of a prominent Free State family, was sentenced to life imprisonment in May 1966. A former Rhodes scholar and Queens Council, Fischer had been kept alone for longer than any other convicted prisoner at the time, had his hair cut off by warders and was given clothing much too big for him. He had been forced to scrub toilets with a rag for months,

kneeling in front of the bowls

Rice, at a special commission hearing on prisons held at the Johannesburg Fort, said her father had been regarded as a traitor to the Afrikaner cause because of his militant opposition to apartheid. The authorities in Pretoria Local Prison had been determined to break him.

Their vindictiveness was highlighted when Fischer's son, Paul, died in January 1971. Fischer's brother Gustav, in breaking the news to him, had been denied a contact visit and kept on the other side of a barrier. Fischer had been returned to his cell immediately and kept alone for 14 hours. He was not allowed to attend the funeral.

Worse was to come when he had a

prostatectomy in July 1974, Wilson told the commission. Complaining of acute pain in the hip, he had been given analgesics and physiotherapy and denied X-rays despite a suggestion by the physiotherapist that they were necessary.

In November 1974 he fell in the shower, fracturing his femur. But he was treated only 13 days later, a smuggled account of the medical neglect presented to the commission says.

After his death and cremation in May 1975, Fischer's ashes were confiscated by the authorities. A question in Parliament 20 years later disclosed that they had been scattered secretly.

See Page 2

with 3 days. (during the period of... for a... because unable to... with... it was said. He...)

brought back, we... find him alone... in... dining room at 1pm... unable to speak...)

in a relatively... man - see 5 Nov... could (I should... have alerted SP... (band/Governor... specialists, radio...)

(b) It took 9 days... to diagnose... (c) It took 4 days... AT a bed... for... details, he fixed...)

no room for... brooding. We... SHALL be free!

I affirm that this is a true photocopy of the notes I made in person at the relevant times during 1974 and 1975, and the last paragraphs which were added before they were sent out of Pretoria prison during 1977. Nothing has been added or subtracted since then.

DENIS THEODORE GOLDBERG

D Goldberg
8/7/97



Bram Fischer led the defence in the Rivonia trial and was later sentenced to life imprisonment for anti-apartheid activities as a member of the SA Communist Party. The text details his deteriorating medical condition while in prison. It was kept by fellow detainee Denis Goldberg and smuggled out of Pretoria Central Prison in the spine of a book.

'Solitary confinement the worst torture'

Stephen Laufer

SOLITARY confinement was the worst form of torture practised in SA prisons and its effects went much deeper than any physical abuse, former political detainees told the truth commission yesterday

Witnesses at the special hearing into prisons in the Johannesburg Fort included Magoo's Bar bombing accomplice Zahrah Nakerdien, 1960s activist Jean Middleton, SA National Defence Force's communications chief and former Umkhonto weSizwe political commissar Andrew Masondo, and five members of the Naidoo family who experienced solitary confinement between the early 1960s and the mid-1980s

Nakerdien, known as Gretha Appelgren before changing her name when she converted to Islam, was held incommunicado for at least two stretches of several months each. She has applied for amnesty in the Magoo's case and is currently director of welfare in the Northern Cape.

She could not tell what she had to do to survive seven months as the sole prisoner in the basement of Klerksdorp prison, she told the commission before breaking down

in tears. She had been placed in solitary confinement after being blamed for a fight among prisoners because she was coloured, a charge believed by the prison commander because "I was a terrorist in their eyes"

Trapped in the basement, she had felt she was "going deeper and deeper into the ground. I became so psychologically damaged that I felt the empty cells around me were coffins filled with dead people". She would never have let the wardresses know the effect of the isolation, Nakerdien said, "because they would have destroyed me".

Then, breaking down again, she said "They did destroy me". She had pleaded to be allowed to attend church services, but to no avail.

This had been worse than the days of physical abuse by the security police at Durban's CR Swart Square. She had only cracked when they had threatened to abduct her four-year-old nephew Christopher and throw him out of the 13th floor window of the police headquarters

Intensifying the pain and humiliation of solitary confinement.

BD 22/7/97 (252)

were the circumstances which had led her there, Nakerdien said. Her African comrades in the prison had used the fact that she was coloured to blame her for the fight.

"It was the first time I paid the price for being a coloured, the first time I had to face belonging to a minority despite my upbringing to be proud of my Zulu ancestry. It hurt to be tortured by your own comrades, it was painful for them to deny me the right to be an African woman."

Middleton said she had been among the first political prisoners in Barberton women's jail. Detainees had been told not to speak to each other and as category D prisoners had only been allowed one 30-minute visit and one letter every six months.

Mxenge family seeks inquiry into amnesty

Stephané Bothma

THE family of slain activist Griffith Mxenge has demanded an "independent and transparent" investigation into the truth commission's handling of former Vlakplaas commander Dirk Coetzee's

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I quit, says 'unhappy' rights chief

ARG 23/7/97 (252)

Managers blamed

LINDSAY BARNES
STAFF REPORTER

In a shock move, Western Cape Human Rights Commissioner Rhoda Kadalie has resigned, citing frustrating work conditions and problems with the commission's management.

Ms Kadalie, whose job is to protect and promote human rights in the province, was appointed from among 83 nominees in 1995.

The provincial commissions are overseen by a management forum led by acting chief executive officer Nonhlanhla Nsele, and based at the Gauteng commission offices in Johannesburg.

Ms Kadalie said it was with "great regret" that she had handed in her resignation, effective from the end of the year. She said it had not been prompted by another work offer.

"I love this job and I didn't want to do it (resign) It's a very effective office with

very limited resources. I want this job but under better conditions. I'm not happy with the way the organisation is managed," she said.

The commission has long complained that the R6,4-million it receives from the Government is inadequate for the volume of work it tackles.

Earlier this year, commission chairman Barney Pitso Rabe sought a meeting with Deputy President Thabo Mbeki to ask for more money. The commission needed R32-million for the 1997/98 financial year, he said at the time.

The Western Cape office has been staffed by Ms Kadalie, two lawyers and a secretary.

Her letter of resignation to Parliament and Dr Pitso Rabe last week had as yet elicited no



Frustrated: Rhoda Kadalie

response, she said.

Dr Pitso Rabe and Ms Nsele were unavailable for comment.

In its two years of existence, the

To page 3

W Cape human
rights chief quits
(252) ARG 23/7/97
From page 1

Western Cape office has been unable to cope with the flood of calls for help in connection with human rights issues.

It has taken on investigations into nearly 120 of more than 400 complaints, giving priority to the worst cases of human rights violations and referring the rest to other relevant organisations.

One of the more prominent cases investigated recently was a complaint of racism against a Cape ambulance service telephone operator who allegedly called a patient's brother a "dom darkie".

The commission used its power to force ambulance chief Greg Pillay to disclose the identity of the operator, who was moved.

The commission has been in the headlines recently with investigations of allegations that small children at a Stellenbosch place of safety were neglected, and into the assault on Pollsmoor inmates by warders.



LEON MULLER

Academic view Jannie Gagiano, left, and Annette Seegers at the conscription hearing today

Conscripts 'not sorry for what they did in the army'

JOSEPH ARANES
ON THE TRUTH COMMISSION

(257) ARG 23/7/97

Most white military conscripts fully supported the former South African Defence Force, the police and security police, and never felt sorry for what they did in the army.

So said Stellenbosch University political science lecturer Jannie Gagiano at a special Truth Commission hearing on military conscription today

Basing his remarks on surveys and studies he conducted on the mindset of white students at all the country's historically white universities during the 1980s, Mr Gagiano said they believed the security establishment was doing a good job of protecting the country's borders and keeping volatile situations in the townships in check.

Mr Gagiano said that while it was generally accepted that students were often at the cutting edge of protests, the liberation movements in fact got very little support at these universities

The students were generally more "verlig" but their typical mindset was largely influenced by the views held by the broader white community

Also at the opening of the special hearing was University of Cape Town Professor Annette Seegers who said conscription never ended but became a life-long experience for the young soldiers with their being called up periodically for training camps after



Religious context: Rev Neels du Plooy made a submission to the conscription hearing

their initial training.

She said very few were left untouched by national service with between 20 000 and 40 000 young men called up each year.

Professor Seegers said the coups in the former Portuguese territories of Mozambique and Angola in 1974 caused a generational shift away from military conscription

"They began to accept that they could no longer defend apartheid and knew it was coming to an end.

"This generation threw up public figures like Leon Wessels and Roelf Meyer," Professor Seegers said.

Body could encourage hatred, says IFP (252)

Nomavenda Mathiane

Bd 23/7/1977

MECHANISMS used by the truth commission were not likely to find the truth and instead of bringing about reconciliation, the commission was likely to encourage hatred, Inkatha Freedom Party (IFP) justice spokesperson Madala Mzizi said yesterday.

Reacting to the latest announcement that the role of the business community during apartheid would be investigated, Mzizi said the IFP rejected the truth commission on the grounds that it was not dealing with South Africans even-handedly.

He said it was not clear why the commission wanted to probe the business sector while ignoring the role of trade unions. He also queried why teachers who taught "Eurocentric, biased history" during that period were not being investigated.

Arguing that the rule of law required that it not be applied in an "arbitrary and capricious manner", Mzizi claimed personal whims and political preferences of commissioners determined what was investigated.

Mzizi said the recent IFP annual general conference reiterated the call for the commission's disbandment because it seemed to investigate only non-African National Party Congress members and structures

Journalist recalls series of articles exposing harsh jail conditions (252)

Bd 23/7/1977

FORMER Rand Daily Mail deputy editor Benjamin Pogrund, during testimony before the truth commission's special hearings on prisons yesterday, recalled his series of articles in 1965 disclosing the conditions prisoners had to live under.

Pogrund interviewed Harold Strachan after Strachan's release from a three-year sentence on May 7 1962, for conspiring to cause explosions. (The Rand Daily Mail was closed by its owners in 1985) Pogrund examined the Prisons Act with the papers' legal adviser, Kelsey Stuart, and established that details of prisons could be published if he took precautions to ensure accuracy.

The articles, which ran over three days in June and July 1965, described Strachan's experiences in various prisons: Pretoria Central, Pretoria Local, Port Elizabeth and Maritzburg. Pogrund said the state persecuted himself and the Rand Daily Mail, as well as informants (warders from the Cinderella prison in Boksburg on the East Rand) and prosecuted all of them.

Pogrund was sentenced to six months in prison, but it was suspended. He was briefly jailed at the Johannesburg Fort, where the hearings were being held, for refusing to dis-

close the identity of an informant in another incident.

"I could blow the whistle on what happened in prisons. I knew how dangerous this could be if (we were) careless. We had to be careful," Strachan said. He went into hiding immediately after being interviewed so the government could not ban him and prevent publication of the articles.

Pogrund said the state conducted an attack on the paper, himself and Strachan.

Strachan was convicted of perjury on minor details — for example Strachan's reference to "constant beatings" which the government's lawyers interpreted as meaning for 24 hours, and therefore incorrect.

Another of these details, Pogrund related, was how one warder claimed to have checked 1 200 plates every day for 11 years, to refute Strachan's comments that plates were greasy, but found only two dirty plates in this time.

Ultimately, the state prosecuted Pogrund and all of his informants.

Pogrund said they were the victims of organised, mass perjury by government, and asked the commission to have the sentences expunged from the record — Sapa

Why crime thrives

Sowetan 23/7/97

IN ORDER to understand the nature of crime in South Africa, we need to look at how the law is mobilised and enforced. This article concerns the relationship between the law, the police and citizens of the state.

The law can be described as a reactive strategy when citizens report a complaint to the police. A proactive mobilisation process is set in motion when the state initiates a complaint against citizens.

In apartheid South Africa, many legal cases were the initiative of the state and the police rather than those of citizens. The police mobilised the law to fight what they perceived to be illegality. The primary target was political crime as defined by the apartheid state.

This had negative consequences for crime prevention because it deprived the police of the legal intelligence to comprehend and fight "ordinary" social deviance. In other words, the police were robbed of the knowledge to discover illegality.

Crimes such as income tax evasion, car hijacking, burglary, homicide and drug trafficking escaped police attention. And many of these crimes have to be fought through a reactive strategy because, in most cases, they occur in private or closed settings.

Strategy ineffective

During apartheid, this strategy was made doubly ineffective because the majority of the population were scared to call on the police to fight hardened criminals as they did not have much confidence in the justice system.

They were also deprived of the kind of legal training that is necessary to mobilise the law against crime.

Yet the reactive strategy assumes that citizens will pursue their own interests by reporting crime to the police. In the days of apartheid, this strategy did not work because of the reasons outlined above.

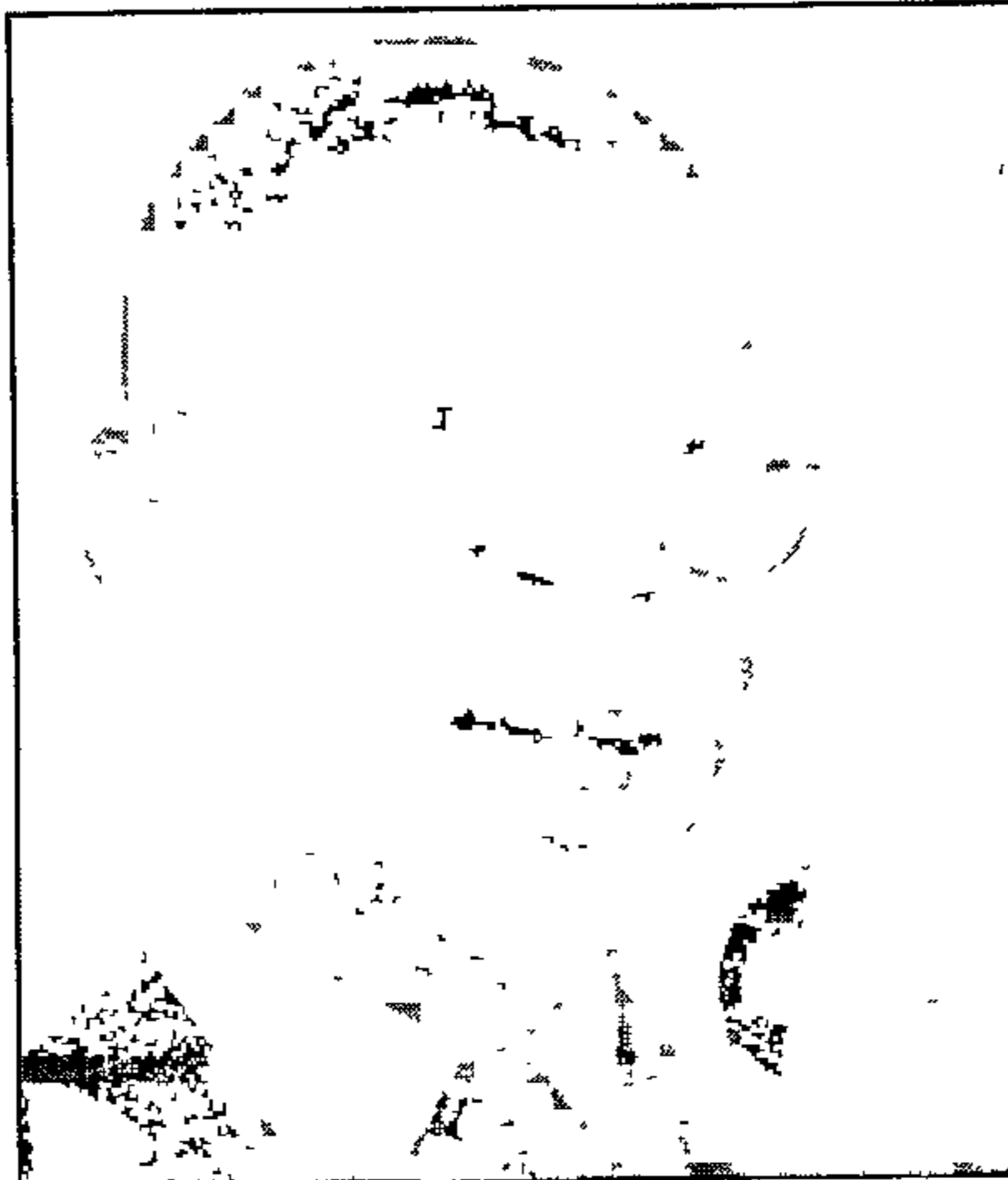
This meant that the state's proactive strategy became the only significant legal strategy. The state and the police determined access to the law and the majority of the population was left out of the process which determined or shaped legal policy.

Conflict between the socio-economic and political authority systems of the government and its citizens therefore brought about a proactive strategy. This made the police system a system of political control, managing the contradictions bequeathed by apartheid.

Because the law tended to be available to only a few, it perpetuated social differentiation and stratification. This form of law enforcement compromised the general principles of justice and encouraged the practice of special justice.

Thus crime in society is largely a conse-

The prosecution system needs the help of a South African-style FBI to enable the police to eradicate crime syndicates. **Lucky Mathebe** explains why ...



Safety and Security Minister Sydney Mufamadi ... leads the fight against crime in South Africa.

quence of the failure of both the reactive and the state's proactive mobilisation strategies.

The reactive strategy failed because citizens lacked the legal intelligence to mobilise the law against crime and their perception of injustice did not do much to restore their confidence in the general administration of justice.

And because a proactive strategy allowed the police to use their own discretionary powers to invoke the law, the noble ideal implied in the principle of "equality before the law" was defeated. The anger shown by a significant proportion of people against the law is therefore understandable.

Tension remains

The law is failing as an instrument of social control because there remains a tension between the apartheid-induced proactive strategy and the new system.

This new normative system respects (at least in theory) the supreme value of all human beings, irrespective of colour, creed or gender.

But, as things stand, criminals whom the public have every reason to believe are guilty continue to beat the system of justice by engag-

(252)
ing the services of very competent lawyers.

Because the apartheid proactive strategy deprived the authorities of the normative power or the legal intelligence to mobilise and enforce the law, criminals' individual freedom is protected through this competent representation.

This is compounded by the weak prosecutorial regime, which has the daunting challenge of outsmarting highly skilful lawyers representing the criminal side.

The general administration of justice must nevertheless be considered to be the bastion of individual freedom.

This will restore public confidence in the law and also entrench and protect the rights of all citizens, especially those who are innocent but legally vulnerable.

The prosecution system also needs to be strengthened. Perhaps an elite wing of the police system, along the lines of the Federal Bureau of Investigation (FBI) of

the United States, can be set up.

Because of its professional orientation and sophistication in crime-prevention strategies and crime-scene procedures, a South African-style FBI will prove to be effective in the fight against crime.

A proactive strategy directed by a South African-style FBI will be able to make a pattern-oriented analysis of the cases acquired by the legal system in order to search for similarities across cases.

This will enable the police to deal with the sources of crime rather than with the symptoms. And without a doubt, the source is crime syndicates. Other forms of social deviance are primarily a consequence of a crisis of consumption engendered by a lack of social service provision.

The point is that when the police are seen to be doing something, citizens will take it upon themselves to mobilise the law against all aspects of deviance.

A prerequisite for a strong preventive capacity is radical change at both the normative and structural level.

(The writer is a sociology lecturer at the University of South Africa, Pretoria.)

Draft dodgers were targets for dirty tricks

Cape Town - Conscientious objectors were humiliated, victimised and the target of dirty tricks when they refused to serve in the South African Defence Force during the apartheid years, the Truth and Reconciliation Commission heard yesterday.

Some former objectors battled to hold back tears as they recounted their experiences at a special hearing on conscription.

One of them, Dr Ivan Toms, who served nine months in Pollsmoor prison after rejecting a 1987 call-up, said a defence force "dirty-tricks brigade" based in Cape Town's Castle had put up mass-produced posters about him in city streets. Toms, who is gay, said one of them read: "Toms Aids test positive", which was not true, and another: "Ivan Toms dumped by lover Graham Perlman", which was true.

Pollsmoor authorities had refused to recognise him and other objectors as political prisoners, and had put him in with rapists and murderers.

One psychotic prisoner tried to rape him in a bathroom, Toms said.

Cape Town computer programmer Tim Ledgerwood told the hearing that he went AWOL after beginning his "traumatic" national service in 1980, and tried to cross the border to make contact with the ANC in Botswana.

He was arrested in South Africa and tortured by members of the Zeerust branch of the security police.

It was only now that he had begun addressing the emotional damage of that experience, he said.

Laurie Nathan, a former national organiser of the End Conscription Campaign, which

was banned in 1988, said it was important to acknowledge the bravery and suffering of objectors who went into exile or were imprisoned for their beliefs.

Earlier, former defence force chaplain, Dominee Neels du Plooy, said there had been an "unholy marriage" between the church and the military during the apartheid years.

Du Plooy, who spent 14 years in the SADF, said the Dutch Reformed Church owed it to itself to give an account of its unconditional acceptance of and identification with the war effort during the "total onslaught" era.

Former defence force chief General Constand Viljoen turned down an invitation to attend the hearing, saying his presence would give legitimacy to what was a one-sided programme. - Sapa.

(252)

SAW 24/7/97

Koevoet fighter tells of killing for kicks

Cape Town - A former Koevoet fighter told the Truth and Reconciliation Commission yesterday how he executed a badly wounded Swapo prisoner.

"We were basically automata," John Deegan told a special TRC hearing on conscription in Cape Town. "We would just kill. That's how we got our kicks."

Deegan, who says he suffers from post-traumatic stress disorder and has submitted a 50-page submission to the Truth Commission, said he joined the security police after leaving school and was assigned to Koevoet in 1982. It was the SA Police's counter-insurgency unit in then South West Africa.

He described how a unit under his command tracked a guerrilla, a Swapo political commissar known as Congo, to a kraal complex.

The residents of the kraal

had refused to reveal which hut he was hiding in, and Deegan ordered his drivers to flatten several huts with Casspar armoured vehicles.

He then ordered his men to pour maximum fire into a particular hut, where he suspected Congo was.

When they stopped firing and removed the roof of the structure, they found the man badly wounded. The unit's medic tried to save his life.

"That's when I lost it completely," Deegan said.

He remembered, as if he had been watching the scene from above, that he tried to interrogate the wounded man, who was slipping into unconsciousness, and that Congo lied, claiming he knew nothing.

"I took out my pistol in a rage and put a bullet between his eyes. I shot him. I executed him." - Reuters.

(252)

SAW 24/7/97

Make amends, whites urged

Ex-activist wants contrition for apartheid

JOSEPH ARANES
ON THE TRUTH COMMISSION

Former End Conscription Campaign activist Laurie Nathan told the Truth Commission's special hearing on military conscription that the white community should confront its racism

He said it was time whites acknowledged collective responsibility for their part in maintaining a system of discrimination, exclusion and repression

Dr Nathan, director of the University of Cape Town's Centre for Conflict Resolution, said "These acts of contrition could take many forms, like establishing or funding memorials, funding bursaries for black students and basic facilities for pupils, providing medical supplies, training in respect for human rights and multi-cultural diversity for teachers and pupils"

He said it was dishonest to claim today that whites were unaware of apartheid, deaths in detention, forced removals or the killing of children on the streets

Dr Nathan said white domination might have been eliminated in the political arena, but it still prevailed at an economic level and in such forums as universities and the media

"White racism is alive and kicking. It no longer takes the form of legislated supremacy, but it continues to manifest



Time to own up: Laurie Nathan

itself in crude and subtle ways. The most insidious is the assumption that white values are universal and by implication superior to those of other groups"

Also at the hearing, doctor and former prisoner Ivan Toms, who spent nine months in jail for refusing to serve in the army, said that after witnessing the cruelty of security personnel in Crossroads he had



Jailed for nine months: Ivan Toms

vowed never to wear an SA Defence Force uniform again

"After two years in the army I chose to be part of the solution and built a clinic in Old Crossroads"

Fellow conscientious objector Richard Steele told the hearing he was sentenced to solitary confinement and spent a year in detention barracks

Ex-commando 'involved in lie'

A former navy commando, who converted to Christianity, has told the special Truth Commission hearing on conscription of his role in destabilising neighbouring countries.

Craig Botha said he joined the navy in 1978 and served in the strike craft flotilla that was tasked with launching inflatable boats off various strategic points to ferry commandos ashore to blow up installations and cause havoc

He said several high ranking defence

force personnel wished them well and addressed them on the importance of their missions "I never spoke to anyone about these missions and felt I was serving the Defence Force," he said

"I was very naive politically and it was only later that I realised what a lie I was involved in"

Mr Botha said that since his conversion to Christianity he had repented for "furthering the aims of apartheid" and dealt with the issue of racism in his own heart.

'Politicians created the climate for abuses'

An ex-conscrip asked the TRC to probe the reasons for lower ranking officials in the service of the apartheid government being found guilty of human rights transgressions while generals and politicians went free. Ian Liebenberg, a former platoon commander who now works for the Human Sciences Research Council, said the generals and the politicians had created the climate in which human rights violations and atrocities had taken place

'Churches allies in state's border war'

Churches, especially the Dutch Reformed Church, so blindly believed the previous government's "total onslaught" strategy that they willingly became allies in the border and township war.

This is what former SA Defence Force chaplain Neels du Plooy told a Truth Commission hearing on conscription yesterday

He said the total onslaught concept assumed that only 20 percent of the war was purely military and the other 80 percent was directed at the economic and spiritual welfare of the people

"Therefore through the chaplaincy and by name, the church had to be involved in winning the hearts and minds of the people

"The church's main task was to strengthen the spiritual defensibility of its members and it was totally convinced of the fact that it was fighting a just war"

The few voices that did raise some doubts on the role of the church were seen as disloyal to church and country and playing into the hands of the enemy, Mr Du Plooy told the commission

(252)

ARG 24/7/97

LEON MULLER

ARG 24/7/97

(252)

TRC challenged on amnesty bid

ARGUS CORRESPONDENT

(252)

Durban - The families of men murdered by hit-squad boss Dirk Coetzee have challenged the Truth Commission to come clean on allegations that it has prejudged Mr Coetzee's amnesty applications

The families of slain Durban human rights

lawyer Griffiths Mxenge and Fort Hare university activist Goniwe Kondile have, through their lawyers, demanded an independent and transparent inquiry into the matter and have given the commission until tomorrow to respond

Mr Coetzee applied for amnesty for the murders last year

ARG 24/7/97

Conscripts 'were both victims and perpetrators'

Jacob Dlamini

CAPE TOWN — White South Africans should accept responsibility for their collaboration in the construction and maintenance of apartheid, University of Cape Town's Centre for Conflict Resolution director Laurie Nathan said yesterday.

Speaking at a truth commission hearing on military conscription, Nathan said whites needed to engage in meaningful acts of contrition such as funding memorials, sponsoring bursaries for black students and providing medical supplies to amputee hospitals in Mozambique and Angola.

Nathan said white conscripts who had served in the SA Defence Force were both victims and perpetrators of apartheid.

Many had served willingly and believed government propaganda about the "virtues of white Christian civilisation and the evils of

black communism and terrorism".

However, the conscripts had also become victims because of the physical brutality they were subjected to during their basic military training. This had resulted in suffering and afflictions such as post-traumatic stress disorder for those who had seen combat, Nathan said.

Conscripts had committed atrocities in defence of apartheid and during their maintenance of SA's illegal occupation of Namibia and southern Angola, he said.

Nathan rejected the "excuse" that many soldiers had simply followed orders, saying that under international humanitarian law they were personally liable for their actions.

He said while it was important to recognise the bravery and suffering of those who had gone into exile and the conscientious objectors who had been imprisoned for their beliefs, those who had resist-

ed conscription did not see themselves as heroes.

Ivan Toms, a doctor who spent nine months in Cape Town's Pollsmoor prison for rejecting his call-up, told the hearing he had been asked to spy on his patients while stationed in Ciskei. He refused.

Tim Ledgerwood, a former conscript who had gone absent without leave while stationed in Walvis Bay, said he had been tortured by the security police when they captured him while trying to cross into Botswana to join the African National Congress.

Former Koevoet member John Deegan said he had not applied for amnesty, choosing instead to let the law run its own course. He said he would be going to Namibia to see the victims of his actions and called on the commission to assist former soldiers who wanted to confront their past by providing them with counselling.

(252) BD 24/7/97

A meeting more painful than any beating

By Rocky Williams

scurried to my feet from the four filthy blankets on the floor of my cell. The key grated in the lock of my cell door as my mind and body prepared itself for the next round of interrogation that I expected was imminent.

Leg-irons were clasped to my legs, handcuffs were wrapped around my wrists and, nervous but defiant, I was shuffled from my cell towards the looming presence of John Vorster Square. But it was not an interrogation.

I was ushered into a room in which sat my father, uncharacteristically bowed and deflated, and my brother, a hard and rugged soldier, staring with worry and concern at both my father and me.

In a mere second, with the vision that heightened anxiety produces, without a word said, I realised that my mother had died. Here, with my jailers staring blankly at us three, I stood manacled, handcuffed, pale and drawn to hear, in 10 minutes, that she was dead.

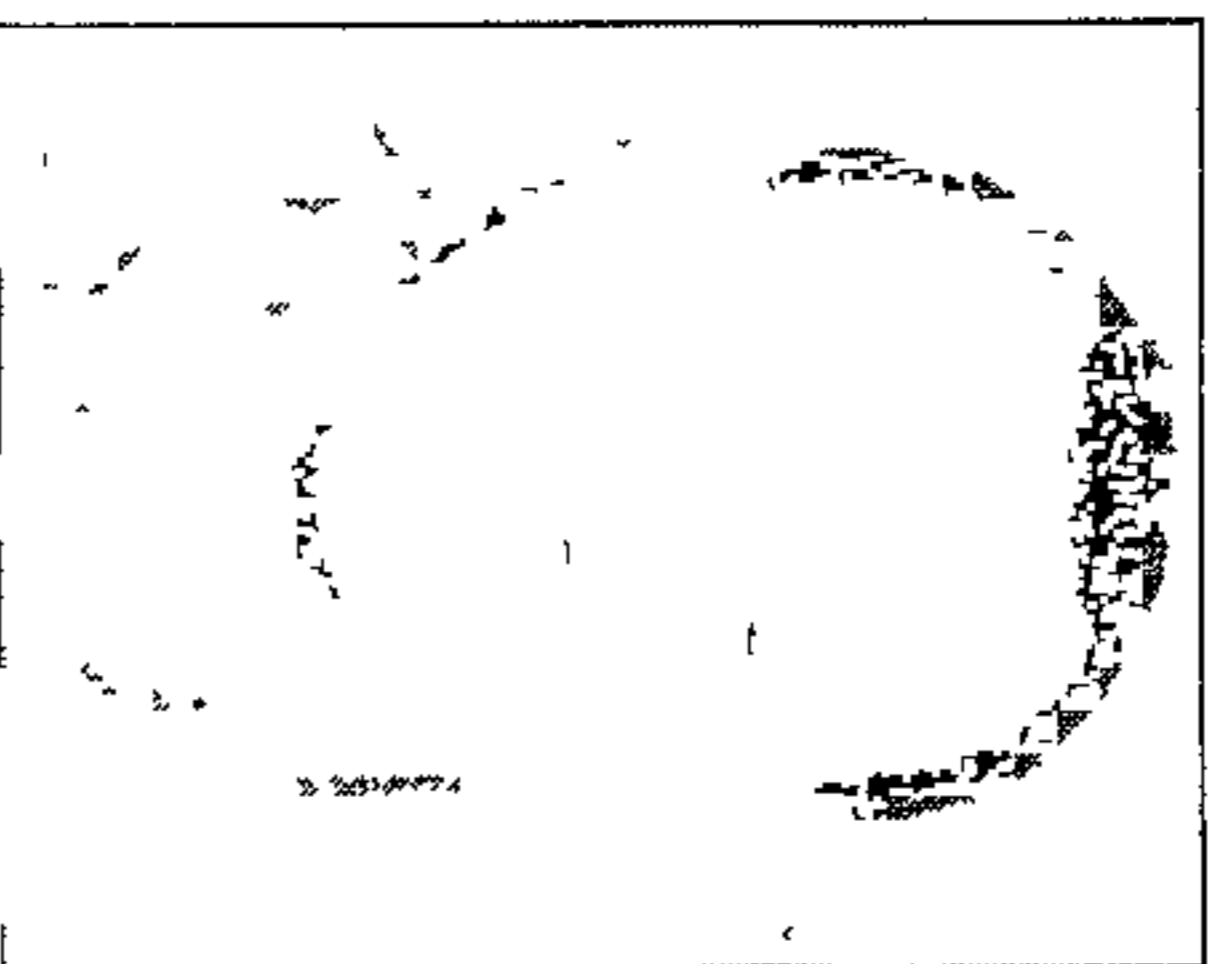
sarves for almost everything I endured. For the loss of my youth which I and thousands of others voluntarily sacrificed, for the beatings, even for the torture of solitary confinement, for my sentence and the years of hard exile.

But I find it very difficult, although not impossible, to forgive them for the callousness of leaving me to mourn my mother's death alone - alone in the cell, smashing the walls of the cell as the grief catapulted between the immensity of loss and the contempt of my jailers.

For it says something about them, something I find deeply disturbing, something that says the process of genuine, and not pragmatic, reconciliation will be a much longer and painful process than anticipated.

And because of that I always see a tiny drop of bitterness that hangs in front of me, reminding me of the pain we endured, acting as a reminder of what still has to be resolved, lodged in my heart as my conscience.

To forgive them for that one seemingly small incident I want them, beyond their protestations of "if only we



Rocky Williams ... finding it difficult to forgive.

knew" or "we were only obeying orders", beyond the urgent and vital imperatives of national reconciliation which we must bring to this country, to step inside my shoes and those of thousands of others and both understand and feel what really happened.

For my story is only a tiny fragment of light, a sliver of song on a vast dawn that is beginning to emerge. I'm humbled by the immensity of the

pain and suffering that millions of our people have suffered through the centuries, from the slaying of the Khoi-Khoi to the concentration camps, from the colonial wars of conquest to the dispossession of land.

If people are to contribute to national reconciliation they need to step out from beneath the sheltering shade of the "rainbow nation", move away from its comfortable sentimentality and sunset clauses, and confront the country's collective pain and sorrow by trying to feel it.

I work daily with the very people I used to fight against and it is a continual test of our commitment, as former members of the liberation movement and members of the Government. In my environment there are many officers of exceptional calibre, men and women who have genuinely experienced a "Road to Damascus" conversion and who through deeds and not glib utterances, have proved their commitment to reconciliation.

But a galloping historical amnesia, nurtured by the unanimity of the transition, has

led, among many, to the creation of an attitude of indifference and cynicism towards the principles and processes of national reconciliation. And this possesses the potential to swell that drop into a torrent.

But, in a sense, it is easier for me to forgive. As a soldier and a pragmatist, as a partial victor, as a person from the strong moral tradition of the liberation movement, as a humanist, as a person who was there and confronted the adversity, it is easier.

Yet the real victims to me are those who were not in the firefight but were, like civilians, caught in the crossfire.

Those who like my fiancée, my father, my late mother and my brother were caught on the periphery of the battle and who were profoundly and irredeemably affected by the battle. I can, and have, confronted my former interrogators and we are fortunate to have the advantage of the immunity and the knowledge of one another to be able to reconcile. Our loved ones do not have, and never had, that advantage.

and were thus doubly disadvantaged by lack of knowledge and distance - a distance that has reduced their ability to understand the immensity of what was happening. And this vulnerability was cynically exploited by the regime to the

Asaw 25/7/97 (2572)

TRCDIARY

In Johannesburg, the human rights violations committee will be hearing evidence on Monday and Tuesday about the treatment of women during the apartheid conflict. The hearing will be held in the Civic Centre

Next week

The amnesty applications of 10 people will be heard when the amnesty committee sits for five days at the City Hall in Pietermaritzburg on Monday, July 28. These cases concern prisoners convicted of a number of murders committed during fighting between IFP and ANC supporters in the province. Two of the applicants are IFP members convicted of killing 19 people, the other eight describe themselves as ANC members responsible for 11 killings. The hearings start at 10am every day.

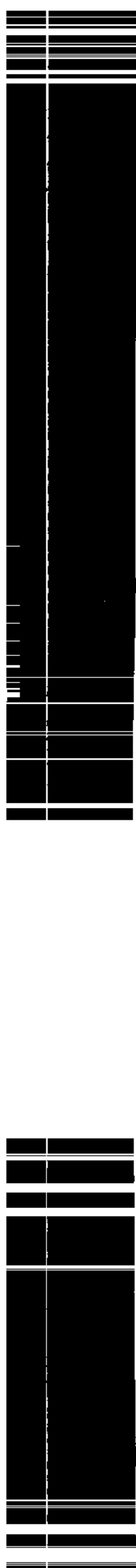
Coming up

Monday, August 4, sees the start of a special hearing on the training of IFP recruits in Capriw, the so-called Operation Manon. The Pietermaritzburg hearing is in Durban. The Pietermaritzburg amnesty hearing is also scheduled to continue this week.

On Monday, August 11, the amnesty applications by Clive Derby-Lewis and Janus Walsz start in the Benoni City Hall

extent that it leaves scars much deeper, I suspect, than we as soldiers carry. And it is also to this damage that those who seek reconciliation must speak. I see a drop, I see it quivering clear and stark on a young sapling. The sky seems to alternate between bursts of blue and dark, bruised sections of cloud. If the sky clears this drop could evaporate, but if it rains ...

Former MK member Dr Rocky Williams is the director of operations policy in the Defence Secretariat.



NEWS

Second official quits Cape HRC

*ARG 25/7/97
(252)*
Hamstrung, says lawman

LINDSAY BARNES
CRIME DESK

The Western Cape Human Rights Commission has been dealt another blow with the resignation of legal officer Ron Paschke.

This follows the resignation of commissioner Rhoda Kadalie.

Commission head Barney Pityana declined to comment today on mounting problems in the Western Cape office and said he would make a statement next week.

Mr Paschke said he had been frustrated in his work by problems with the structure of the commission and a lack of and poor allocation of funding.

"The commission has teeth but it is not being effective in the utilisation of its power. It is hamstrung by the lack of resources and is not using its

resources to maximum effect," he said.

The commission aims to protect and promote human rights and since its opening two years ago, the Western Cape office has been unable to cope with the volume of complaints.

The National Party has urged Dr Pityana to take serious note of Ms Kadalie's complaints.

It was particularly worrying when a person of Ms Kadalie's stature resigned and this was not the first sign that all was not well with the commission, said NP justice spokesman Sheila Camerer.

"The National Party is particularly sorry that the commission has lost Ms Kadalie because of her independence of mind and her refusal to be politically correct.

"She has shown tremendous moral courage," Ms Camerer said.

Truth body faces deadline fracas

Wyndham Hartley

CAPE TOWN — Government's failure to amend the constitution to legalise the new cutoff date for those political offences that qualify for amnesty will mean that the truth commission's amnesty committee will still be taking applications a scant two months before it is supposed to complete its work.

The problem has arisen from Constitutional Development Minister Vali Moosa taking about six months to table a constitutional amendment in Parliament to formally change the cutoff date for political offences.

President Nelson Mandela approved the date change on December 13, but a simple three-clause amend-

ment to the constitution was only tabled in the National Assembly in the middle of last month.

Truth commission spokesman John Allen said acting chairman Alex Boraine had indicated that once the new cutoff date for offences had been amended in the constitution, the commission would allow an additional month before closing applications.

Although Justice Minister Dullah Omar had gazetted the new date, many applicants would not want to criminalise themselves by applying for amnesty before the deadline was law.

Allen said the commission was not expecting a large number of late applications, but he expected it to allow the extra month envisioned.

BD 28/7/97

(252)

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Venda campus lacks funds

BD 28/7/97

Dustin Chick

A KEY challenge in transforming the University of Venda was the creation of funds to upgrade the facilities and infrastructure on campus, vice chancellor Gessler Nkondo said at the weekend.

He said tension between students and campus administration in the past few years stemmed from the lack of funds to buy what the university needed.

"Students blamed the university for not improving infrastructure."

He said that while students had been at the cutting edge of transformation both before and after the 1994 elections, they were now faced with the task of redefining their role "so they remain vigilant and serious agents of change".

However, in advancing the process of change some students had undermined the democracy they were trying to build. They fought only for students' interests, he said

Ex-editor slams probe on media

(252) ~~252~~
Sowetan 29/7/97

THE media was being charged by a lynch mob over its role in the apartheid years, former editor of the *Sunday Times* Mr Ken Owen said yesterday

Speaking at a panel discussion hosted by the Cape Town Press Club, he said that it was simply not true to say the media did nothing to challenge the system

"This is kangaroo court stuff. It's being pursued in a way that makes me want to vomit"

Finding out what journalists actually did during that period would require a great deal of work

and honest enquiry, which no one was willing to do. What was happening instead was a fundamentally dishonest process which did no service to democracy

One good measure of how the Press had performed was the annual survey of the Institute of Race Relations, probably the most objective, complete and fair-minded chronicle of apartheid in existence

Its references were for the most part newspapers which had produced a magnificent record of apartheid and would hopefully write the record of post-1994

South Africa

"If we can do as well as the liberal Press under apartheid we will have a magnificent Press and probably a working democracy," Owen said

Referring to a proposed Truth and Reconciliation Commission hearing on the media, he said he was outraged that journalists should be called to account before a body set up to investigate gross human rights abuses. The commission was turning into a lamentable farce

If the media had to answer to

these charges, ahead of them should be the judges who enforced repressive laws and punished journalists, and the people who ran the whole judicial system, including advocates and lawyers. "They kept the system going, and they got off scot free," he said

Earlier, Mr Thami Mazwai, chairman of the SA National Editors' Forum and managing director of Mafube Publishing, said the liberal Press had never made any genuine effort to challenge oppression as black people saw it - *Sapa*

'Mother abused me' Daughter tells TRC that Mothopeng beat her up

(252)

Sawuran 29/2/97

By Simon Zwane

THE daughter of former Pan Africanist Congress leader Mr Zeph Mothopeng yesterday broke her silence and spoke about domestic abuse and how she lost a child while in police detention.

Speaking at the Truth and Reconciliation Commission's hearing on women at the Johannesburg Civic Centre, Mrs Sheila Masote said she had had "a lot of unpleasantness" with her mother, Mrs Urbana Mothopeng, who sat next to her throughout the submission yesterday.

Masote spoke about her abuse at the hands of the security police. She was arrested in December 1977 while on a visit to Maritzburg Prison where

both her parents were being held.

She said she was kept in a filthy room full of lice and was kicked until she lost her unborn child. The police left her there and ignored her plea to see a doctor.

"When the doctor finally arrived, the door was opened and I went out to wash myself in a basin. There were men washing windows and they shouted abuse at me."

She said sketches of the family that she had drawn on the cell wall had kept her sane. "I would speak to them and I would play *dikeio*," she said.

Turning to her family, Masote said "When my mother wanted to



Mrs Sheila Masote (seated) and family.

bash somebody, it was me she went for. She was breaking the very family she was trying to keep together."

Her mother's frustration arose out of the PAC policy which dictated that women should stay at home and look after children. She said her father never even told her mother about his political activities.

Although she knew that her mother loved her, she said she was confused. "Outside home, she was warm and children would run to her. Sometimes she would take my best dress and give it to a needy child. I knew deep down that she loved me, but there was something I missed," she said.

Masote explained that she had extended the abusive behaviour to her

own family. She beat her own son.

She said she used to beat her child until neighbours intervened at times. She told the commission that she underwent psychotherapy and understood now that frustration and depression were the main factors behind her mother's behaviour.

Mrs Mothopeng said she did not know some of the things that her daughter had spoken about.

She said she had stayed alone at home while her husband was in jail, and her daughter would not allow one of her children to stay with her.

"It was then that I realised that I was a liability to my children. I was depressed, I acted alone.

"I had to make decisions, after all I was a mother, a father and every-thing."

Former MK member tells of rapes by ANC counterparts

OWN CORRESPONDENT

JOHANNESBURG Black women who refused to submit to interrogation by security police were subjected to worse torture than white or black men

At a women's hearing by the Truth and Reconciliation Commission (TRC) yesterday, Gender Commission chairperson Ms Thenjwe Mtintso said when men stood their ground during torture there was a sense of respect, a sense of 'Jy is a man' (You are a man)", but when a black woman — a "kafirmerd" — refused to surrender, she would be subjected to unusually cruel torture.

As a woman in the struggle, there was "always the real possibility of rape or sexual abuse — and in many cases this threat materialised", she said. Women were under constant threat from security forces, as well as their comrades in the liberation movement.

Physical abuse of women was not limited to the police cells, the commission heard. Ms Lita Maz-

ibuko told of abuse at the hands of ANC cadres who suspected her of being a police informer.

Mazibuko, a former MK member, said her task was to find safe routes for cadres crossing from Swaziland into South Africa. One such group of cadres was ambushed and captured by police in 1992. They were later killed.

Other cadres in Swaziland suspected her of having betrayed the group, Mazibuko said.

What followed was a horrific account of assault, torture and rape. She was raped nine times by a cadre known as Desmond who was "young enough to be my son".

Another cadre named Tebogo raped her and mutilated her genitals with a knife, Mazibuko said.

When she reported the rapes at Shell House in 1993, she was referred to one of the men who had previously assaulted her. He took her to a house in Boksburg and raped her again, Mazibuko said.

"I kept on praying to God to take my soul because I just wanted to die. But my wish was not granted," Mazibuko said. "I've never spoken about this. I've never even told my children."

Ms Sheila Masote, daughter of former PAC stalwart Mr Zeph Mathopeng, said her family had been deeply affected by her parents' imprisonment in 1976 and 1977, her own imprisonment, and her father's presidency of the PAC from 1986 to 1990.

Masote's mother, who could not be active in the struggle because of PAC policy and could not find work as a social worker because of her husband's affiliations, used to beat young Sheila out of frustration.

Masote admitted she had later used a sjambok on her own children.

Masote, who used to visit her parents in prison, was detained when she was pregnant with her fourth child.



ET 29/7/97

Tougher bail conditions on way — Omar

30/7/97

252

JOHN ROBINSON

Justice minister acting to 'prevent repeat tragedy' like the rape-murder of child

BY HELEN GRANGE

Draft legislation to put bail beyond the reach of suspects accused of serious crimes such as murder aggravated rape involving children and car hijacking will come before the Cabinet today, according to Justice Minister Dullah Omar.

He said yesterday the recent rape and murder of 7-year-old Mamokgethi Malebane of Kaituma on the East Rand had highlighted the need for him to intervene and tighten up bail conditions outlined in the Criminal Procedure Act.

Mamokgethi was kidnapped and murdered, allegedly by the man she accused of raping her, after he was released on bail of R2 000.

"The proposed changes are intended to prevent a repeat of the Mamokgethi tragedy," Omar said.

Although amendments made to bail laws in 1993 had worked well, "public unease has not diminished." The 1993 amendments said that in the case of serious crimes, the onus was on the accused to convince the court that detention was not necessary — making access to bail more difficult.

The new proposed amendments would compel the courts to order the detention of certain suspects pending the outcome of the trial.

"Unless the court is satisfied that exceptional circumstances justify the granting of bail, this principle will be applied to

murder with aggravating circumstances," Omar said.

The crimes included premeditated murder, the slaying of law enforcers, or cases where a victim died during a rape, robbery or kidnapping. The amendment also applied to "brutal rapes".

To promote transparency, such bail applications would be heard only by a regional or high court during court hours.

"This will mean that very experienced court officials will hear the applications for bail." The proposed changes would enable courts to cancel bail if it were discovered that the accused had been previously convicted of a serious offence.

Another amendment would give courts the right to refuse bail if it appeared that the release of a suspect would undermine public peace and security. A final amendment intended to limit suspected criminals' access to police dockets during bail applications.

Omar said the envisaged changes did not entail any constitutional amendments.

If approved by the Cabinet, the amendments would be tabled in Parliament as soon as possible. Omar said they had been discussed with opposition leader in Parliament, the chief justice, the president of the Constitutional Court, judges, president and attorney-general.

Meanwhile, some human rights organisations have voiced vehement opposition to limiting the courts' discretion around the issuing of bail.



Thuso, thuso... the plea for help that Mamokgethi Malebane made when she was raped was repeated by school mates who mourned her death yesterday.

Thousands at memorial for young victim

THEY WERE

Grief was written all over the faces of more than 2,000 people who attended Mamokgethi Malebane's memorial service yesterday.

"If there was no bail she would be here today. She now lies silent but her voice is louder," said one mourner.

Mamokgethi's body was found just west in a shallow grave after she disappeared four months earlier. She was kidnapped a day before she testified against her alleged rapist.

Speakers blamed the justice system for her death because Dan Malboe — the 28-year-old who confessed to killing Mamokgethi after raping and kidnapping her — had received bail.

Mamokgethi may have been only a child, but the horrible murder cases that led to her death moved the community.

Teachers, students and neighbours flocked to Kaituma Primary in Kaituma yesterday to pay tribute to Mamokgethi — the second girl being in her honour this week.

"She was special. A shy, defenceless child who did not deserve to die the way she did," said Elias Nkomo, her father.

Nyalele said, adding how her mother had been crying every morning.

Mamokgethi's funeral will be held at D H Williams Hall in Kaituma tomorrow and will leave for Germiston cemetery at 11am.

NIA man 'tortured'

Chief Seremane

(252)

M+G 25-31/7/97

Joe Seremane, whose brother was killed by the ANC in the infamous Quatro camp, is determined to discover the truth behind his murder
Peta Thornycroft reports

AN African National Congress leader accused of torturing the brother of chief land claims commissioner Joe Seremane in the infamous Quatro detention camp has been identified as Gabriel Mthunza Mthembu, a senior manager in the National Intelligence Agency (NIA)

Two statements in the *Mail & Guardian's* possession name Mthembu, alias Sizwe Mkhonto, as part of the team who tortured "Chief" Thimothy Seremane at the camp in Angola in 1984

Chief Seremane was later shot after a "kangaroo court" trial. The ANC labelled him as an apartheid spy in a previous submission to the Truth and Reconciliation Commission

In a passionate statement to a truth commission hearing into prisons at the Old Fort in Johannesburg this week, long-standing ANC member Joe Seremane asked investigators to help him find out about his brother's so-called trial and subsequent execution by an ANC firing squad

He asked the truth commission to find the originals of the affidavits signed by two of his brother's colleagues which he had sent to the ANC's "commission of inquiry" chaired by businessman Sam Motsuenyane in 1993

This commission considered evidence about gross human rights violations by ANC officials, but the Seremane case was never heard

intelligence unit Mbokodo and guards in several camps in Angola

The statements were made by William Mashotana (MK name Sizwe Ndela) and Gotsone Gordon Moshoeu (Godfrey Pule) who, like Chief Seremane, had volunteered for service with the ANC's military wing, Umkhonto weSizwe, after the Soweto uprising in 1976

When they returned to South Africa in 1993 they immediately went to see Joe Seremane and told him how his younger brother had first suffered and then been killed by the ANC in Angola. Pule says in his statement that in 1984, Chris Hanu, then the MK chief, came to Quatro and took him and 11 others away and placed them under house arrest in the town of Gubaxe

Hanu "told me about what he referred to as a tragedy. A tragedy of the execution of my brother and others. He among other people mentioned Chief Seremane as part of the tragedy."

Joe Seremane told the truth commission, as he had also done in a letter published in the *M&G* in 1993, that he wanted his brother's "bones" to be brought home. He told how he had approached President Nelson Mandela, but that the president's secretary, Mary Xadana, had told him that "many people had phoned to speak to the president about similar matters, and that I should go to the truth commission. So I did

"I still do not know why Hanu never said anything to me about Chief's death when I saw him two months before he was assassinated in 1993"

Seremane said that two weeks ago he had contacted one of the two young men who wrote the affidavits. "He is scared. He was shot at recently, and so he had a charge of attempted



In memoriam: Joe Seremane at a memorial service held for his brother early in 1993

these young men I wanted to speak to the president. Because of their sensitive positions"

Seremane, a doughty foe of the former government, who headed the South African Council of Churches justice department until 1993, said some ANC prisoners, like his brother, were "branded" like cattle. "MPLA soldiers were told they could shoot ANC people who were branded"

Affidavit of William Mashotana

WILLIAM MASHOTANA (MK name Sizwe Ndela), left South Africa on August 13 1976 for political reasons. I stayed a month in Botswana before I left for Tanzania. I arrived in Tanzania in September and that is where I met Timothy Seremane (MK name Kenneth Mahamba)

He was my deputy commander (commissar) in the same platoon ...

During my stay in Lusaka, dissatisfactions were raised by the membership in Zambia concerning the entire leadership of the organisation (ANC) including the entire struggle against apartheid.

Instead of addressing these problems, that leadership decided to react in a very horrible way. They embarked on an operation code-named "Blanket". Randomly, we were detained and bundled into different places of the security Apparatus (Mbokodo) for torture.

I was accused as having conspired with other comrades of plotting to assassinate the then military High Command in Zambia. We were transported in smaller groups to Angola for incarceration in the notorious concentration camp in the Northern Angola, in a town called Gubaxe (Kibashi) where there was this Quatro Prison.

Upon my arrival, torture started again in an attempt of forcing me to implicate myself for being an enemy agent (spy).

I arrived in Quatro on March 8 1981, and I was taken to Chief in April '81 of which at first I couldn't recognise him. I was supposed to say in front of him that yes I am an agent of which he was my boss

I was promised and threatened that I will look like him (he was badly disfigured) if I did not obey the orders. Instead I was taken for hard labour until 1983 where I appeared in kangaroo court ... When I was "sentenced" for a year.

I was released on the July 15 1984, then taken to Mwenya Transit Camp near Luanda. We

of the two documents — copies of which have now been handed to the M&G. It listed Chief Seremane as a spy. The commission said it believed Mthembu had tortured another prisoner during interrogation in Angola. The statements tell a shocking story of persistent cruelty by members of the ANC's feared

police, made sure a counter-charge of attempted murder was laid against him. So I understand if now he doesn't want to come forward.

"The other man is in the army. I have his phone number and hope he will come forward and either make another affidavit or sign the copy of the one he originally made. It was for

Durniso Ntsebeza, told the M&G. "I will be going to the ANC and I want answers. I undertake to find out the truth for Joe Seremane."

A National Intelligence Agency representative said "This should be directed to the political parties involved. It has nothing to do with Intelligence."

came from Mafikeng (myself and Gordon Moshoeu). The other five including Chief vanished into the air.

ANC called upon to tell the truth

M+G 25-31/7/97

(252)

Barbara Ludman

JOSEPH SEREMANE sat with the audience all day on Tuesday during truth commission hearings at the Old Fort, the former prison in Hillbrow.

The commission was running well behind schedule, but still Seremane, the chief land claims commissioner, sat hour after hour, a spare, dignified figure, his back barely touching the back of the plastic chair.

When it was finally his turn, he seated himself at the witness table with its white cloth, and in firm, angry tones demanded that the African National Congress — his party, his movement — tell him how his brother was killed in one of its camps in Angola, and why.

"I want to ask for the true records of the Quatro camp," he said. "I want someone to come and tell me why my brother was shot and put down like an animal, and so brutally disfigured so that his best friends could not recognise him."

"Why do you cheat me of my brother's bones? Why do you think my contribution is worth nothing? Why do you think we risked our lives calling for your safe return?"

"I've been on the [Robben] Island. I've been through hell. I've been tortured and nearly lost my life. But when I think of my younger brother, Chief Timothy and compare the way he died, my suffering means nothing."

He had found his brother missing when he was released from Robben Island, but his efforts to find out what had happened to him were unsuccessful. "Suddenly nobody had come across this youngster. Nobody had ever known him."

It was only a decade later, in 1994, that two men who had been with his brother told him he had been shot to death at Quatro.

Seremane said he had copies of affidavits in unsigned form from both men, one now in the police service and the other in the defence force. He had to go to Pretoria to see the

ensure their safety, but was denied access by the president's staff. Already an attempt had been made on the life of one of the men.

Now he was testifying before the truth commission, even though his family had warned him he would be endangering himself by challenging the government and the ANC.

"I had to make the same decision that I made when I faced the system [under a previous government]," he said. "If it is for the truth that I must die, so let it be. Questions have to be answered. Without this, the weaker ones are going to go back and do it again."

"Why did people like me have to risk my life for the ANC to be treated in terms of the Geneva Convention, but the ANC couldn't treat their own that way?"

There were records of his own that, but no documentation of his brother's. "Was he defended, was he not defended? Where was their accountability that they couldn't account to his people?"

He reminded the commission what it had been like in the 1980s. "People were being destroyed out of sheer suspicion, sheer rumour. You could be labelled anything and you died the next day."

He did not believe his brother had been guilty of any wrongdoing. "How can a young boy go from the schoolroom to an MK camp and for five years be such a clever spy that he eludes all their security?"

During the special two-day session the commission looked into conditions in prisons, in the country and outside. For a day and a half, commissioners listened to harrowing testimonies of abuses in prisons inside South Africa, on maltreatment and torture of political prisoners in Port Elizabeth, Pretoria, Johannesburg, on Robben Island.

On Tuesday afternoon, the commissioners' attention turned to Angola. Seremane's testimony followed that of Diliza Mthembu, an Umkhonto we Sizwe (MK) cadre who was imprisoned in Quatro.

"I will be going to the ANC and I want answers. I undertake to find out the truth for Joe Seremane."

A National Intelligence Agency representative said "This should be directed to the political parties involved. It has nothing to do with Intelligence."

Mthembu — now a staff sergeant in the defence force — described himself as "a victim of commissions." The truth commission was the fifth he had testified before, and still no action had been taken to name those responsible for his ordeal.

"I'm very much bitter. I have great hatred," he said, and as the audience murmured, shocked, he repeated it. "Hatred."

Recruited into MK by his father, founding member Abel Patrick Mthembu, he had gone into exile in 1976, straight to Angola. Two years later his father was accused of being a sellout, a colleague tried to recruit him to assassinate his father. "A week later I heard that my father had been killed." The ANC claimed responsibility.

He said his father's fall from grace was often used against him, but all the same he rose in the hierarchy. By 1982, he was an ANC chief of staff, ANC representative in Benguela province and commander of a training camp.

The camp's only transport was a bicycle and a wheelbarrow, he said. When the camp acquired two Land Cruisers he was ordered to take them to Luanda. He refused. "I tried to be disciplined," he said, "but I couldn't take it."

A few days later he was taken into custody, beginning a six-year nightmare in prisons all over Angola, from Luanda Central Prison to a set of windowless freight containers at a transit camp, to Quatro, where he spent four-and-a-half years.

At night, he said, prisoners were safe, but beatings began in the mornings. He was beaten, tortured with electrodes, continually humiliated. After the ANC conference in 1985, improvements were instituted. Windows were set into cell walls, food was improved. He was released in 1988 and returned to South Africa two years later — and began his search for justification.

"I don't have any problems with members of the ANC," he said. "I don't have any problem with my colleagues in the defence force."

"But I have a problem with the leadership. No one has come out and said 'I've done this'."

came from Mafikeng (myself and Gordon Moshoeu). The other five including Chief vanished into the air.

Affidavit of Goitseone Gordon Moshoeu

I, Goitseone Gordon Moshoeu, generally known in the African National Congress as Godfrey Pule and particularly known amongst members of the MK June 16 Detachment as Grenade, hereby wishes to give an account of the terrible plight that befell Timothy "Chief" Seremane, popularly known as Mahamba amongst both the ANC in general and specifically MK.

I first met Chief Seremane here at home in Mafikeng. He was a contemporary of my brother Gabriel Paki Moshoeu, later to be named Rodgers Mayalo in the same June 16 Detachment to which we all belonged, Chief Seremane included.

I fled into exile in 1976. By December 1976, I was together with Chief Seremane in Luanda, Angola, at a former Portuguese military camp known as Engineering.

On the January 13 1981, I was arbitrarily locked up in the notorious ANC Quatro death camp, where I spent four years.

While at Quatro, inmates were not allowed to even know other inmates, never mind seeing them. But I knew when Chief Seremane was also brought to Quatro in the middle of 1981.

Only then did I realise that this disfigured person was Chief Seremane.

In 1983, Andrew Mazonde, one-time ANC National Commissar in conjunction with Joe Modise under the instructions of Mzwai Piliso organised a kangaroo court.

I was fortunate to be sentenced to four years' imprisonment and hard labour by this court. In the court an inmate could not speak. We were called one after the other to simply come and receive sentences.

Some inmates received death sentences. Among those was Chief Timothy Seremane and my brother Gabriel Paki Moshoeu. All in all 13 inmates were sentenced to death during this time.

This group was all executed by firing squad in a valley that lies behind Quatro. It is in this valley where the bones of our sons and daughters of our Motherland are thrown.

...tion on capital punishment in November 1989, Johan Steinberg was one of the warders who regularly accompanied the "dead men walking"

Just 20-years-old at the time, Steinberg witnessed his first mass hanging only three days after setting foot in Pretoria Maximum Prison's infamous Death Row in 1987

This week, appearing before the Truth and Reconciliation Commission, he lifted the veil of secrecy on the arcane rituals surrounding the legal execution of 4 200 criminals from 1910 to 1989

Steinberg was approached by Paula McBride of Lawyers for Human Rights, who came to know him while her husband, Robert — the man behind the Magoo's Bar bomb in Durban — was a Death Row inmate from 1987 to 1990

Steinberg believed he would be part of a group of warders nominated by the Department of Correctional Services to elucidate a written submission. But on Monday night he learned that he alone would be called to account

His tale was poignant

no one enjoyed the work, but we treated the condemned prisoners with respect and dignity. When we put them in their coffins, we laid them down gently," he says

Described after the hearings by a former Death Row inmate as "one of the few white warders who cared", Steinberg was "extremely tense" about being called to talk about things he never discussed even with colleagues

He told his wife about his role only after the hangings were stopped, and it was some years before he told his father, whose initial reaction was "How could you?"

It has taken years for Steinberg to understand that he may be toting emotional baggage

After taking part in his first execution, he started smoking and avoiding potential conflict situations. As his aggression gradually heightened, his wife refused to watch him play rugby "because I spent more time in the cooler than on the field"

"That first time, I was so naive, I had no idea what to expect. It was only when we had to re-

wanted to be present at every execution"

That's when Steinberg arranged a transfer to the prison kitchen, where direct contact with the condemned was minimal

Bizarre though it may be, Steinberg remembers that some of the condemned, just five minutes before being hanged, would thank the warders for their time in prison. Others, he recalls, would say "God bless you"

About a year after that first grisly ritual, Steinberg was part of a squad involved in mass hangings five days in a row, executing a total of 35 people. By then he believed he had become inured to the process and, whereas initially he had difficulty sleeping at night after a hanging, by the age of 21 he was able to socialise with friends after spending the day disposing of the detritus of death

Only white warders were assigned to gallows duty. Their task was not only to accompany the condemned to their place of execution, but to clean and bury them afterwards. "More than once we had to lower the

coffins into the unmarked graves ourselves, and fill the holes," said Steinberg. No family or private ceremonies were allowed at the cemeteries. Hanged men were considered "state property"

The gallows have been dismantled since the abolition of the death penalty in 1994. Steinberg now manages the prison kitchen

One item no longer on his menu is the roast chicken that was standard fare for condemned men on the eve of execution. Many did not eat the meal, donating it instead to those who stayed behind, waiting their turn to climb the 52 steps to the gallows

In time, those who climb these stairs may forget where they once led, but the spectre of death will haunt the corridors for generations

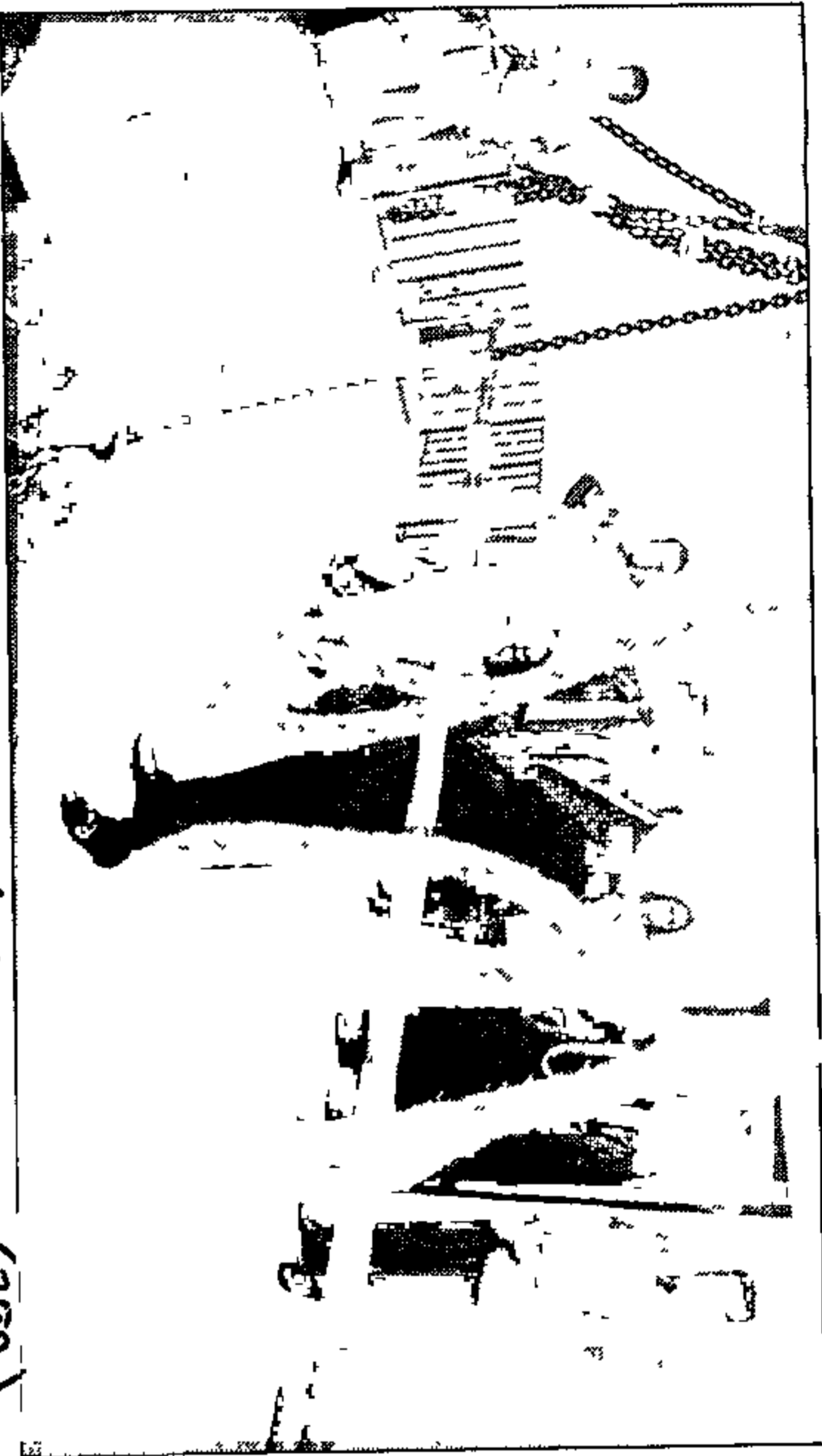
"That smell of death is all around you," says Menzi Thafeni, who spent 770 days on Death Row before his conviction for a necklace murder was overturned on appeal. "That smell I won't forget"

Neither will Johan Steinberg

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252

The man who led dead men walking

'It was an adrenaline rush. I wanted to be present at every execution'



MARLENE BURGER

TO REACH the furthest end of the solid wooden platform, a man would take no more than five paces. They would be his last

Hands shackled behind his back, a white hood partially covering his head, a condemned man would be led by a warder to one of seven sets of footprints imprinted on the massive trapdoors, where a noose would be placed around his neck. For 30 months prior to

ST 27/7/97

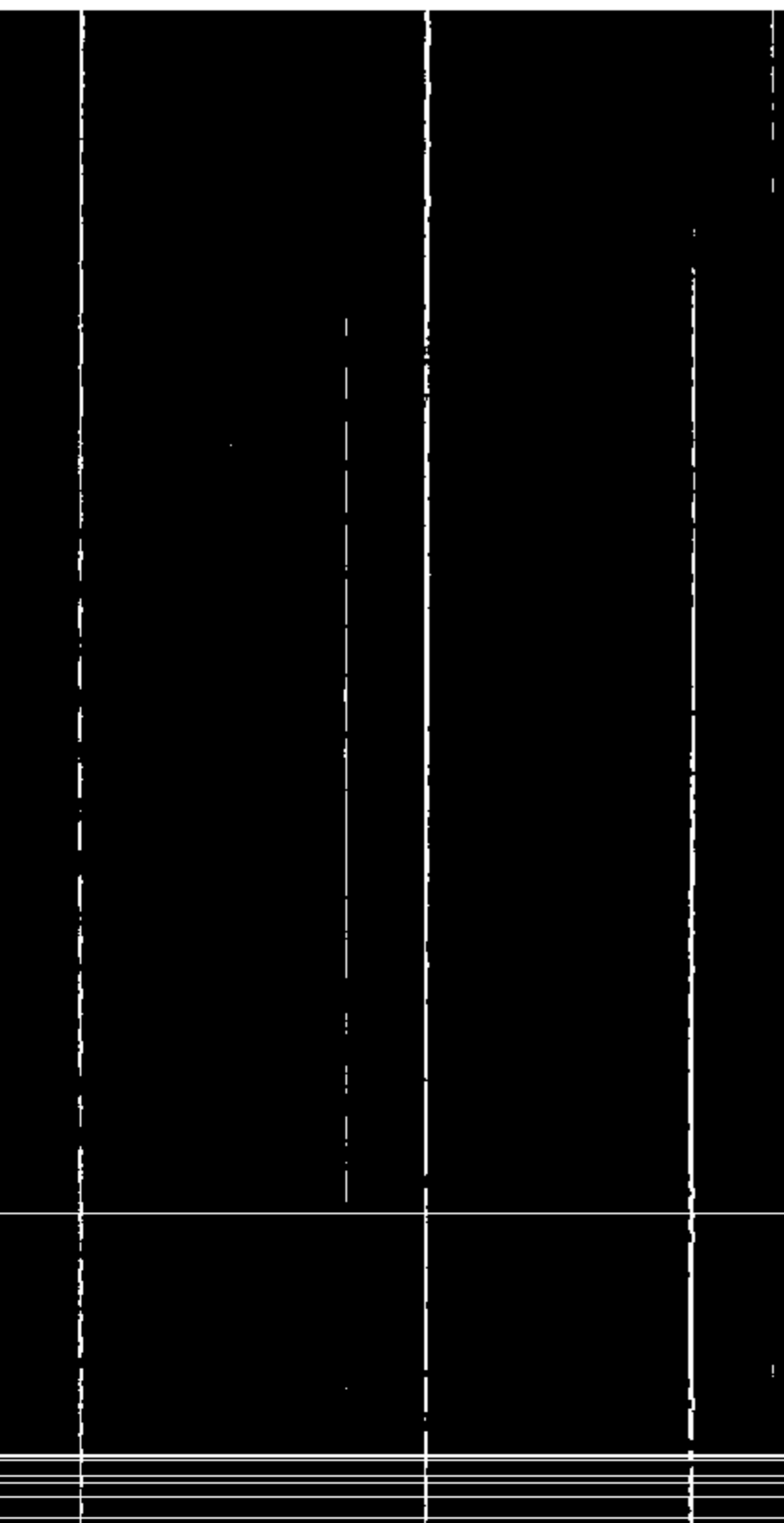
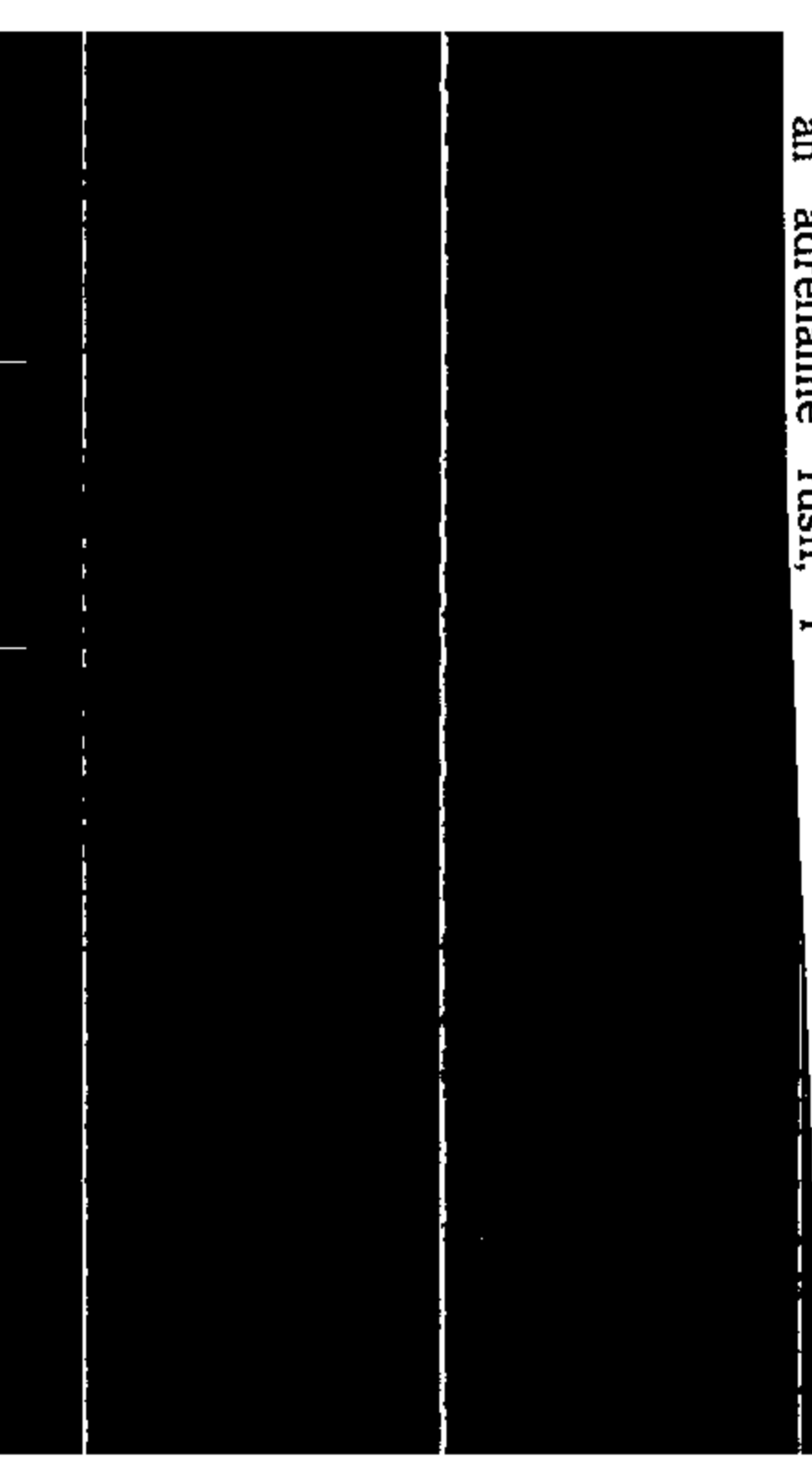
(202)

enough, but Steenberg was there neither to repent nor seek absolution. He remains convinced that capital punishment is the only effective deterrent to violent crime, and if ever again required to assist at an execution, he would

move the nooses from the necks of the seven men who had just been hanged and hose down their bodies before preparing them for burial, that it hit me. "After that, it became easier to deal with, and at some stage, I realised I'd almost become addicted to the process. It was an adrenaline rush. I

DEATH'S SPECTRE: Johan Steenberg, right, told the Truth and Reconciliation Commission how he walked the condemned to the gallows

Main picture: RAYMOND PRESTON



PAC man gives TRC ultimatum

Star 90/1/97 (252)

Cadre denies he was directly involved in Ekenhof killings, despite amnesty bid

By Robert Brand

The PAC member who reportedly claimed responsibility for the Ekenhof murders in an amnesty application now says he was not directly involved in the attack and would not co-operate with the Truth and Reconciliation Commission unless the commission met certain preconditions, including his immediate release.

The TRC immediately rejected the demands by Phila Dolo, who reportedly applied for amnesty for the killing of Zandra Mitcheney, her 14-year-old son Shaun and his friend Claire Silberbauer (13) at Ekenhof in 1993. Dolo is serving a jail sentence for an unrelated crime.

Siphwe Bholo, Sipho Gavin and Boy Ngweni - were jailed for the Ekenhof murders. Last week, the PAC said they were innocent because the killings had been committed by cadres of the PAC's armed wing Apla.

In a statement issued yesterday, Dolo claimed he had merely issued orders for attacks on "settler targets" and had applied for amnesty to "set the record clear".

Dolo said he would not co-operate with the TRC until his conditions were met. They are: ■ All cadres "wrongfully convicted" of offences should be released immediately and unconditionally. ■ An independent commission of inquiry should be established to investigate the judiciary because most judges were racially biased. This included white judges sitting on the TRC.

Women detainees lived in constant fear of rape, hearing told

By Elliott Sylvester

Dr Sheila Mearns told the Truth and Reconciliation Committee yesterday how rats were forced into women's vaginas and a woman's head was "pounded like a ball" on a police cell wall for hours.

Mearns, of the Centre for Applied Legal Studies, said women in detention lived with the constant threat of rape.

The degradation of women's sexuality to undermine their political loyalties was the underlying theme at the Braamfontein, Johannesburg, hearings yesterday.

Deborah Motshaba, first imprisoned in 1976, was forced to stand manacled to an iron ball for an entire night at Pietermaritzburg police station while security policeman Roy Otto and his friends enjoyed a braai.

Two days later, after refusing to divulge any information, she was "strangled with a towel and bashed into the walls".

After week-long beatings the asthmatic woman still refused to speak to her torturers and was severely ill.

The only medical assistance she received was from a young policeman, Talhard, who smuggled asthma medication to her. She still did not divulge information to the police.

It was this strength that Gauteng Premier Tokyo Sexwale praised when he recounted the torture of fellow detainee Paulina Mogale.

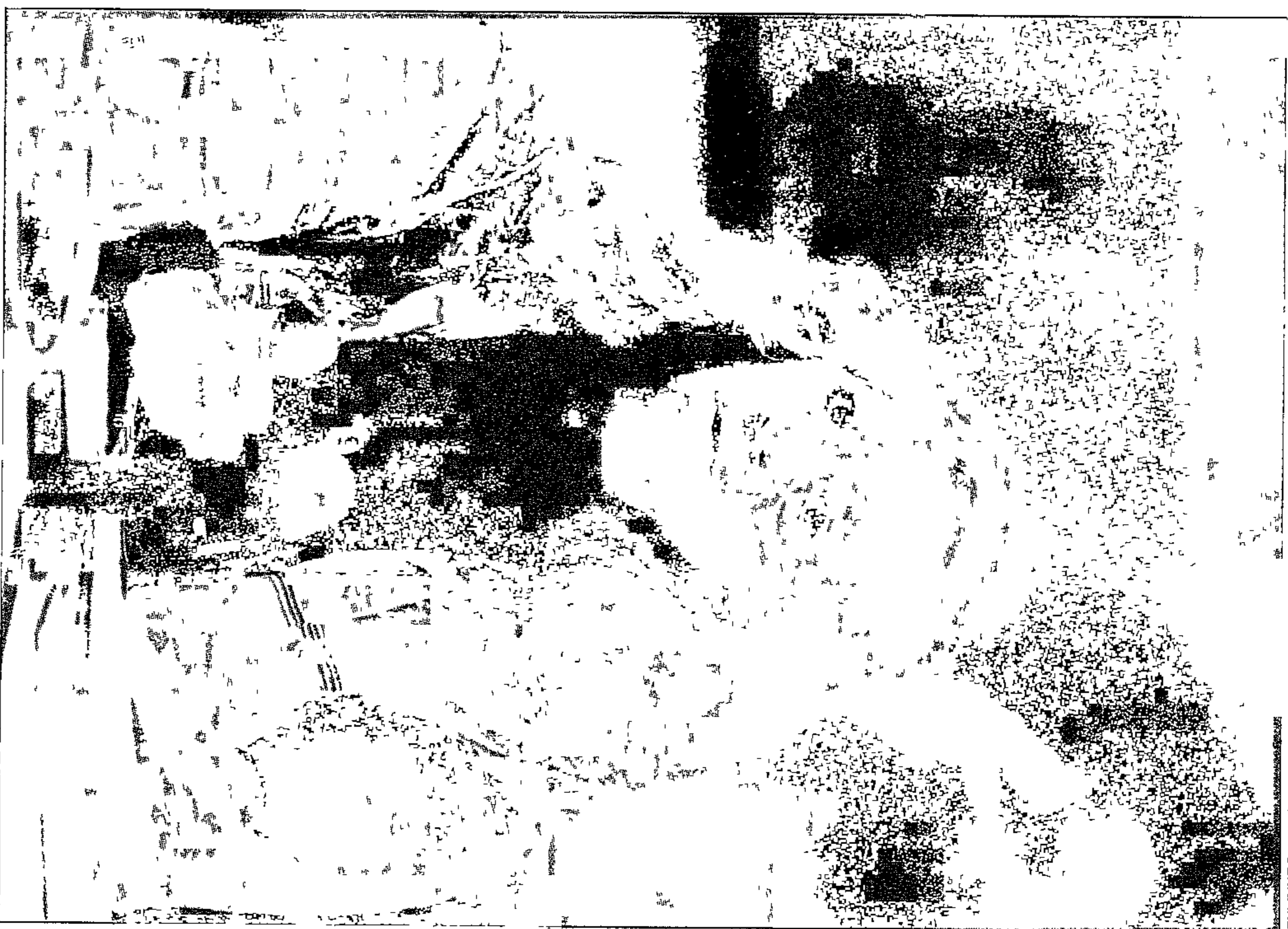
Sexwale referred to the 1977 "Pretoria 12" trial during which he and Mogale were humiliated, violated and tortured more severely than the 11 male detainees, but on the day of the trial "she stood tall".

Former Drum journalist Jubie Mayet, a Cape Malay woman who was widowed, was forced to reclassify herself as Indian in 1968 in order to live with her children in Lenasia.

A member of the then banned Union of Black Journalists, she was often harassed by security police.

Banning orders forced her out of the media and into underpaid jobs just managing to support her and her eight children.

Nomvula Mokonyane of the Federation of Transvaal Women told how 12 and 14-year-old girls were raped and impregnated by policemen and forced to stand naked in front of conservative white men and betray their comrades.



GARY BERNARD

Harassed... former journalist and mother of eight, Jubie Mayet, gave yesterday's TRC audience a description of how banning orders forced her out of the media and into underpaid jobs

Phosa takes legal steps to clear his name

Mpumalanga Premier Mathews Phosa yesterday instructed his attorneys to institute a defamation action against the woman who this week accused him of trying to prevent her from implicating senior ANC members in her rape.

Lita Mazibuko told the Truth and Reconciliation Commission on Monday that Phosa had warned her against speaking out in a telephone conversation two weeks ago.

"I don't know this woman I never spoke to her before." He had instructed his attorneys to proceed with litigation against her.

"I'm going to take her to the cleaners," Phosa said. Mazibuko's allegations were clearly a political ploy to use his name to harm the good name of the ANC.

In a statement, ANC spokesman Ronnie Mamoepa said that in the wake of recent false allegations levelled against the former ANC security department, it would not be preposterous to suggest there were elements who wanted to misuse the Truth Commission to cast aspersions on the integrity of ANC leaders.

"The ANC asserts that those making such allegations should bear the consequences of their utterances." The party gave its unwavering support to the measures Phosa intended taking to clear his name.

It was also convinced that Phosa, a member of the ANC's subcommittee on truth and reconciliation, would never attempt to undermine the TRC process, Mamoepa said. - Sapa

252) DO 30/7/97

Committee recommends amnesty for four

MARITZBURG — The truth commission's amnesty committee yesterday recommended the granting of amnesty to four men awaiting trial for the 1990 murder of an Inkatha Freedom Party (IFP) member in KwaZulu-Natal

Sipho Motaung, 33, Nhlanhla Sibisi, 30, Jo-

hannes Sithole, 45, and Philemon Dlamini, 45, applied for amnesty in respect of the murder of Arnold Lombo

They said that they had killed Lombo under orders during fighting between United Democratic Front/African National Congress groups and the followers of an

IFP warlord

The committee's presiding chairman, Judge Andrew Wilson, said the recommendation was done because the four had a clear political motive and followed clear political orders, and because the victim's family had not opposed their application — Sapa

Labour Court acts against Nehawu's strike

THE Labour Court yesterday granted a temporary interdict against the National Education, Health and Allied Workers' Union members and others, ordering them to cease encouraging, inciting or participating in strike action at courts in Johannesburg.

Since July 2, certain departmental employees at the Johannesburg Magistrate's Court, including interpreters and administrative officials, had been involved in unprotected industrial action, the Justice Department said yesterday.

It said the strikers had been refusing to do a full day's work and/or had been absent from work without leave.

"Following these employees' failure to comply with the provisions of the Labour Relations Act of 1965, the department and Minister of Justice have been left with no other alternative but to seek legal assistance at the Labour Court of South Africa. In terms of this interim order, all the respondents are ordered to cease encouraging, inciting or participating in any way in any unprotected strike action at the Johannesburg Magistrate's Court and its various branch courts."

The department again called on employees involved in the strike action to act in good faith and comply with their service contracts. — Sapa

Nasionale Pers rejects TRC call for role in media probe

JOHN YELD
ON THE TRUTH COMMISSION

Afrikaans publishing giant Nasionale Pers has told the Truth Commission it has nothing to apologise for, and that it will not make a submission at the commission's special media hearing next month.

This was conveyed to the head of the commission media and communications committee, Denzil Potgieter, by Nasionale's managing chairman Ton Vosloo.

Nasionale's decision follows an exchange of letters between the two men that began in April with an invitation from Mr Potgieter for Nasionale Pers to make a submission to the planned public hearing "to examine the role the media played during the period covered by our mandate (March 1960 to May 1994)".

In an earlier statement attached to the invitation by way of explanation, Mr Potgi-

eter said part of the commission's task was to establish the truth in relation to past events, and specifically those events involving gross human rights violations perpetrated within a political context.

"The commission has a dual responsibility here, which suggests two sorts of submissions from the media: to offer victims, particularly those journalists whose stories of abuse under apartheid have not been heard, the opportunity of telling their stories; and to provide as complete a picture as possible of the nature, causes and extent of such abuses."

Mr Vosloo replied in a three-page letter that his company wanted to contribute to the reconciliation process in South Africa, and was therefore willing to co-operate with the commission "in a positive spirit".

However, the impression had already been created that the media hearings would be a forum in which some sectors of the media would have to account for their

Chairman
31/7/97

culpability in human rights abuses.

This impression had been reinforced by the apparently high-profile involvement of Raymond Louw's Freedom of Expression Institute "which makes no bones about its own agenda".

"The FXI believes the press is guilty of all manner of abuses and that there must therefore be confession," Mr Vosloo said.

Also, it was problematic to make a company submission because its titles, which included Die Burger, Beeld, Die Volksblad and City Press, had enjoyed editorial independence.

Mr Potgieter replied in a three-page letter and told Mr Vosloo categorically it was not the commission's intention to put any party "in the dock" at the media hearing, and that it needed Nasionale's submission to help it get a balanced perspective.

The involvement of the FXI had been terminated because the commission was aware of the false impressions created.

PUBLIC SECTOR GOVT. - JUSTICE

1997

AUGUST.

Human rights commissioners quit in droves

Star 1/8/97

BY ROBERT BRAND

(252)

South African Human Rights Commission chairman Dr Barney Pityana has conceded that differences over management style have been partly responsible for a spate of resignations by commissioners.

But Pityana told a media conference in Johannesburg yesterday the differences were a natural part of the commission's growing process.

Four of the original 11 commissioners appointed two years ago have since resigned, and a fifth, Anne Routier, quit but subsequently withdrew her resignation after discussions about her frustrations.

Chris de Jager has joined the Truth and Reconciliation Commission, and Brigalia Bam has taken up appointment as deputy chairman of the Electoral Commission.

Veteran human-rights activist Max Coleman resigned in October last year, citing personal reasons, and Western Cape commissioner Rhoda Kadalie quit last week because of "frustration with the management of the commission and lack of resources".

Pityana did not elaborate on the reasons for Coleman's resignation, but said Kadalie had been frustrated with what she perceived to be a "lack of vision" in the commission.

"It is important to emphasise that as a commission we are still in the process of developing

"It is important for the growth of the commission that it should be open to vigorous debate among commissioners," Pityana said.

He was heartened by a recent survey which showed that more than half of all South Africans were aware of the SAHRC.

The commission hoped to increase the number of South Africans who make use of it to exercise their human rights.

Shocking loopholes in bail procedure exposed

(292) Star 1/8/97

By JOVIAL RANTAO
Political Correspondent

Cape Town - A police study has revealed shocking figures on how many bail applications were not opposed when they should have been, and has also shown that the State is often not adequately prepared to oppose bail.

The study was conducted on behalf of the National Crime Prevention Strategy.

NCPS co-ordinator Dr Bernie Fanaroff has warned that unless the problems identified in the study were urgently

addressed, changes to the legislation, as agreed between Justice Minister Dullah Omar and the cabinet committee on safety and security, would not be able to solve the problem.

He said that in order for the strict bail laws preventing violent-crime suspects from being released on easy bail to be successful, major changes were needed in the way police, prosecutors and magistrates applied the law.

The study found that existing bail laws were not being effectively applied in many cases.

According to Fanaroff, the

key problems identified by the study were

■ Inadequate training of police and prosecutors on bail issues and criminal procedure

■ The large number of inexperienced prosecutors and detectives who had not received training

■ The absence of an integrated national information system to allow access to criminal records, and records of previous bail applications and charges

In the time available before a bail application, it was very often not possible for police to identify a suspect properly, to

check on previous convictions or charges, or to check on the effect that the release of a suspect would have on a criminal investigation.

Police, prosecutors and courts often appeared to be uncertain about the implications of the constitution, and as a result were often reluctant to oppose or refuse bail in cases where that would in fact be justified.

Bail applications in cases of serious violent crimes or organised crime were not prioritised for handling by senior personnel.

Sex crimes court

Cape Town - Justice Minister Dullah Omar will officially launch South Africa's first sexual offences court in Wynberg, Cape Town, today, signalling the Government's intention to clamp down on sex crimes.

This type of court is expected to be set up across the country.

Political Correspondent

Nasionale Pers won't go to TRC 'as it has nothing to answer to'

OWN CORRESPONDENT
Cape Town

The Afrikaans publisher Nasionale Pers has told the Truth and Reconciliation Commission it has nothing to apologise for, and that it will not make a submission at the commission's special media hearing this month.

This was conveyed to the head of the commission's media and communications committee, Denzil Potgieter, by Nasionale's managing chairman Tom Vosloo.

Nasionale's decision follows an exchange of letters between the two men which started in April with an invitation from Potgieter to Nasionale to make a submission "to examine the role which the media played during the period covered by our mandate" (March 1960 to May 1994).

In an earlier statement attached to the invitation by way of explanation, Potgieter said part of the commission's task was to establish the truth in relation to past events, and specifically those events involving gross human-rights violations perpetrated within a political context.

Vosloo replied with a three-page letter, saying his company wanted to contribute to the reconciliation process and was therefore willing to co-operate with the commission "in a positive spirit".

Star 1/8/97 (262)
However, the impression had already been created that the media hearings would be a forum in which some sectors of the media would have to account for their culpability in human-rights abuses. This impression had been reinforced by the apparently high-profile involvement of Raymond Louw's Freedom of Expression Institute, "which makes no bones about its own agenda".

Also, it was problematic to make a company submission because its titles, which included *Die Burger*, *Beeld*, *Die Volksblad* and *City Press*, had enjoyed editorial independence.

Potgieter replied in a three-page letter that it was not the commission's intention to put any party "in the dock".

"There is no preconception that the media, and more particularly the Afrikaans press, committed gross human-rights abuses and is now being called to account."

But his reply did not convince Nasionale Pers to make a submission. Vosloo said the company had commissioned a book, *Oor Grense Heen* (Across Borders), which dealt comprehensively with its activities between 1948 and 1990, and had nothing more to add about this period.

Potgieter's responses and Nasionale's own attitude that it was not guilty of any human-rights or similar abuses "confirms our view that we do not have to confess or make an apology".

Amnesty for two BWB bombers

(292) Mar 1/8/97

Two members of the Boere Weerstandsbeweging who placed a bomb in a shopping complex in Bronkhorstspuit, which killed a policeman, had been granted amnesty, the Truth and Reconciliation Commission announced yesterday.

Leon Hendrick Froneman (23) and Pieter Johannes Harmse (45) were granted amnesty in respect of the crimes they committed on September 17 1993, when they attempted to bomb an Indian-owned shopping complex.

A policeman was killed and another injured in the blast.

In Harmse's case, amnesty was granted for the murder of Warrant Officer Abraham Labuschagne, the attempted murder of Constable Hendrik Johannes Maree, the unlawful possession of explosives and malicious damage to property.

Froneman was given amnesty for culpable homicide following Labuschagne's death, the unlawful possession of explosives and malicious damage to property.

Both were sentenced in 1994, Harmse to 18 years and Froneman to eight.

The committee, chaired by Judge Andrew Wilson, heard their applications on April 8 in Johannesburg.

In their judgment, the three committee members, Judge Wilson, Sisi Khampepe and advocate Chris de Jager, said it appeared both the trial judge and the regional magistrate who convicted the two regarded the bombing as political.

Froneman had said he had selected the target because he believed most Indians were Muslims and ANC supporters - Sapa.

Mixed views on law internship

mtg 1-7/8/97 (252)

Law students could soon be following in the footsteps of student doctors if a community-service proposal gets the go-ahead, reports **Marion Edmunds**

LAW graduates could be next in line for the government's drive to recruit students into community service. Ideas for practical training for lawyers have been under consideration for some time.

Earlier this year the president of the Constitutional Court, Arthur Chaskalson, raised the community-service proposal in a memorandum to the Minister of Justice, Dullah Omar.

The Ministry of Justice said this week it is considering the introduction of a one-year community service for law students in a bid to increase skills in the public service while also providing jobs for candidate attorneys.

This could replace the articles and pupillage which apply at present, but details still have to be developed.

Normally, would-be attorneys have to do two years' articles before being allowed to practise. In some cases, they are already able to shorten this to a year by doing community service and post-graduate study. Would-be advocates can do a pupillage and a Bar examination.

The proposals for community service will be discussed at Omar's next legal forum in November.

The community service would apply to graduates irrespective of their career paths — a notion that has provoked a mixed response within the profession.

The proposals follow similar plans by Minister of Health Nkosazana Zuma to draft student doctors into public service.

Omar's special adviser, Enver Daniels, said the Ministry of Justice would consult widely before taking a final decision.

"One of our aims is to make the judicial system accessible to all people," he said. "At present the majority of black graduates cannot find articles. We need intervention to make the profession representative and this sort of scheme would put everybody on the same level. Interns might work at the Master's office or



Arthur Chaskalson: Raised the community service proposal in a memorandum to Dullah Omar

PHOTOGRAPH ELLEN ELMENDORP

in legal aid clinics or as prosecutors. The idea does seem appealing."

The Society of University Teachers of the Law has proposed that community service be one of several options open to students for a single year's practical training before entering the profession.

The society would like graduates to be able to choose between practical training courses, articles with attorneys, pupillage at a Bar, or prosecuting or community service which is still to be defined by the government.

The society's vice-president, Cheryl Loots, an associate professor at the University of Witwatersrand law school, says she does not support a blanket internship as proposed by Chaskalson.

"When you absorb that number of people into the public service, you have to have a

structure and skilled people to supervise them and that is also expensive," she warned.

"I would prefer a range of options for graduates. We may reach a stage later when we can organise proper supervision, but I think that it is dangerous to create the situation before we are ready for it."

Emil Boshoff, chair of the Association of Law Societies' task team on legal education, also rejects blanket internship — and is cautious about reducing articles to a year, although his organisation has agreed to it in principle.

"The attorneys certainly are a bit concerned about a year being enough. They have in principle associated themselves with that so that a very good candidate can get through in a year," Boshoff said.

"But there is a very widespread feeling that we will have some fairly inexperienced attorneys in the profession in the process, but perhaps that is one of the prices that has to be paid for greater access to the profession."

The Association of Law Societies is looking at methods such as tax incentives to encourage law firms to mop up more candidate attorneys.

The Black Lawyers' Association is apprehensive. "Internship would be acceptable, but not as a replacement to articles," said Jimmy Yesiko, its Western Cape director.

"There would not be enough training or exposure of attorneys to legal practices. I concede that there is a problem of black graduates not getting articles but that could be sorted out by a change of attitude of law firms."

Meanwhile, most universities are to offer a new four-year LLB for 1998, to make it easier for students from previously disadvantaged backgrounds to graduate faster. Many universities will continue to offer the current five-year BA LLB, but the law will be changed to make four years the minimum requirement for graduates.

The proposal is yet to be canvassed among students. Heidi Lipshitz, the officer for articles and alternatives on the University of Witwatersrand Law Students' Council, tested the water mid-week.

"There was a very mixed response. Some students thought it was a good idea, others freaked, saying 'Not on your life'. This shows how necessary it is for the government to consult with us because there are a great many fears about this sort of compulsory training."

Goniwe's killer works for Denel

MHG 1-7/8/97 (292)

Peta Thomycroft

JOHAN "SAKKIE" VAN ZYL, a manager working for a subsidiary of the arms parastatal, Denel, has been named as the leader of the unit that killed Eastern Cape activist Matthew Goniwe

In his amnesty submission to the Truth and Reconciliation Commission, former hit-squad leader and convicted murderer Eugene de Kock, says Van Zyl discussed his role in Goniwe's assassination shortly after the activist was stabbed to death in 1985

Van Zyl, who has applied for amnesty and is on the truth commission's witness-protection programme, is due to go to Bosnia soon to lead a project to lift landmines. He is employed by Denel's Mechem subsidiary

Before he joined Mechem, he was a member of the secret South African Defence Force's Civilian Co-operation Bureau operating out of Lesotho, a security policeman in South Africa, and a member of Koevoet in Namibia

But it was while Van Zyl was a member of the security police in Port Elizabeth that Goniwe, a United Democratic Front activist, and three friends from Cradock in the Eastern Cape were murdered by members of the security forces

Van Zyl applied for amnesty last December for an undisclosed number of human rights violations. This week he denied the thrust of De Kock's claims. "It's wrong, I deny it," he said. "Why can't you wait until September, for the hearing?"

Goniwe, Fort Calata and Sicelo Mhlahi were stabbed to death and burnt. A fourth man, Sparrow Mkhonto, was shot and then set alight, his body was found some distance from the other three

De Kock said Van Zyl had contacted him at the Vlakplaas unit near Pre-

toria after the assassinations. He said he was looking for someone to change "the ballistic features" of a weapon used in the operation. "Van Zyl then informed me personally that he was in charge of the operation when Goniwe and others were hijacked," De Kock said in his submission.

"He informed me that he was personally involved in the operation with his people - they ambushed Goniwe and then took him away.

"Van Zyl informed me that he took Goniwe personally and put him in the vehicle. Apparently the vehicle belonged to the security police. He also told me about how surprised he was that Goniwe fought back and resisted their attempts. In the ensuing scuffle Goniwe nearly succeeded in taking Van Zyl's gun. In the scuffle a shot went off and went through the roof of the yellow police vehicle.

"A day or two after the incident Van Zyl went to the Mayotte Islands in the Comores to go diving." De Kock said he had advised Van Zyl to throw the weapon into the sea, "to which van Zyl replied that there were only about 120 of these weapons in the country, and that it belonged to a good friend of his."

Van Zyl's name was first connected to the assassinations earlier this year when details of amnesty applications by two other former security policemen, Gerhard Lotz and Eric Taylor, were leaked to the media. Colonel Harold Snyman is another former Eastern Cape policeman allegedly involved in the murders.

Van Zyl's appearance as a key employee at Mechem is in line with the company's chequered past. It was a vital part of the former government's armoury of dirty tricks. Mechem was an innovative armaments engineer and developer which, ironically, also designed landmines.

After hit squads were exposed in the South African police at the counter-



Slain activist Matthew Goniwe: Fought back at his killers

PHOTO: INTERNATIONAL DEFENCE AND AID FUND

insurgency unit at Vlakplaas, De Kock disposed of a huge cache of weapons he had been storing there by sending them to Mechem.

During his trial last year De Kock said he later "tricked" Mechem staff into believing that he was still in the police when he signed out the weapons and passed them on to Inkatha warlord Phillip Powell. De Kock told the court that Mechem had also been involved in making guns, ammunition, missiles, mortars and landmines for Inkatha.

Mechem had also developed sophisticated de-mining technology. The company's machines, men and technology have been deployed in both Mozambique and Angola to clear minefields on behalf of the United Nations and several non-governmental organisations. Mechem's managing director, Dr Vernon Joynt, said this week that the company is a subcontractor in a mine-lifting operation in Bosnia. Van Zyl has volunteered to manage it from Sarajevo. Denel declined to comment.

TRUTH COMMISSION

Spook in the spotlight

(252)
KM 1/8/97

Apartheid prison victim seeks justice from the ANC for his brother

Gabriel Mthembu, the high-ranking National Intelligence Agency official named as an "ANC torturer" in an affidavit submitted to the Truth & Reconciliation Commission, has previously confessed to advocating third degree methods in "extreme circumstances"

His admission is contained in the Motuenyane Commission's report of August 1993 Commissioned by President Nelson Mandela to investigate allegations of abuses against detainees in ANC camps in exile, the report identifies Mthembu as one of 11 men accused of torture While finding no substantive evidence against him in relation to accusations from two complainants, it records that Mthembu either ordered or permitted a third complainant "to be beaten during interrogation"

Mthembu, who served in the ANC's

armed wing under the alias Sizwe Mkhonto and who was the first commander of the notorious Quatro camp, is today a senior intelligence officer — in apparent contradiction to the recommendations of the earlier ANC-appointed commission under Louis Skweyiya The relevant recommendation of the Skweyiya Commission of August 1992 — which spoke of "a situation of extraordinary abuse of power" — reads "No person who is guilty of committing atrocities should ever again be allowed to assume a position of power"

Mthembu is labelled an "ANC torture officer" in an affidavit submitted to the TRC by Joe Seremane, Chief Land Claims Commissioner and a former director of justice and reconciliation in the SA Council of Churches The affidavit is written by Goitseone Moshoeu, a former ANC combatant, who — like Seremane's younger brother,



Joe Seremane pressing ahead with his quest for justice

Timothy "Chief" Seremane — fell foul of the ANC security department, Mbokodo

In his affidavit Moshoeu tells how he was woken up one night by "ANC torturers" and taken to see "a badly tortured and beaten person" whom he did not recognise at first as Timothy Seremane Recording that Seremane and his brother, Gabriel, were executed on allegations of spying for the police, Moshoeu says "Let all know that Chief Seremane and genuine patriots of our country have been maimed and killed"

In his statement to the TRC, Joe Seremane tells of how Timothy disappeared and how the family was kept ignorant of his fate until two friends told them of his death nearly a decade after he was executed

Pleading for a thorough investigation into his brother's death, Seremane says "All those 'justice-loving democrats' have de-



The perfect hosts.

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A heritage of quality

nied the Seremane family their right to information about Timothy and even the sacred right — according to African custom — to bury 'our own bones' "

Seremane has a long and varied political history a former member of the ANC Youth League, he later joined the Pan Africanist Congress and, after serving six years on Robben Island for furthering the aims of the outlawed organisation, was again detained for 28 months, from April 1976 to August 1978, by the apartheid government on suspicion of subversive activities

In an interview with the *FM* Seremane says "I nearly lost my life under torture" But he says he did not bother to tell the TRC of his suffering in an apartheid prison because "it is nothing" compared with his brother's fate in an ANC detention camp

The ANC, in response, is generally defensive of Mthembu "Comrade Mthembu was a member of Umkhonto we Sizwe, the armed wing of the ANC, assigned to security and intelligence duties the ANC wishes to place on record the outstanding work performed by its former security personnel in protecting the movement under very trying circumstances"

TRC commissioner Hugh Lewin, who presided over the hearing at which Seremane testified, says the case will be followed up TRC chief investigator Dumisa Ntsebeza has pledged to find "the truth"

Patrick Laurence

SPORTS INTEGRATION

Durban clubs in race row

Metro council threatens rent hikes to liberalise membership policies

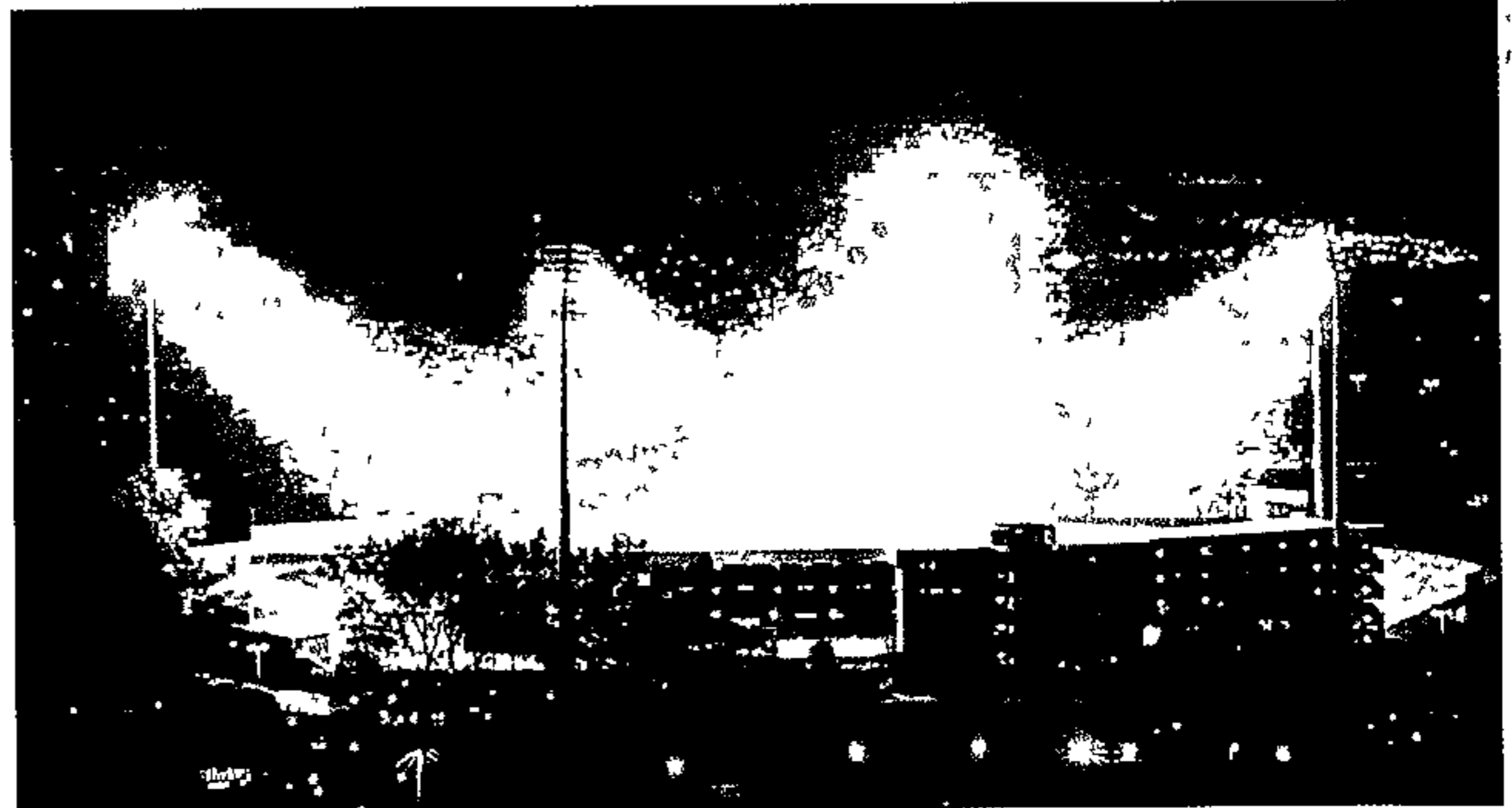
A race row is brewing over the admission policies of Durban's sports clubs

The city's metropolitan council is threatening to penalise private sports clubs amid allegations they are maintaining race barriers on admission and participation

The leverage to be used, if the metro goes ahead with the squeeze, will be the nominal rentals on land leased by the clubs

The land affairs committee has already decided not to renew any existing leases or sign new agreements pending a probe to ensure that clubs review their admissions policies

The probe was apparently triggered by recent incidents in which blacks were refused admission to facilities at a city golf



Spotlight on clubs Kings Park could also be affected by the probe

club and a yacht club, because they were not members It is not clear that race was the determinant, however, as most clubs generally do not admit nonmembers, whatever their colour Whatever the reason, it has given the council a pretext to scrutinise club admission policies

There are about 100 clubs throughout greater Durban — from large enterprises such as Kings Park Rugby Stadium, home to the Natal Rugby Football Union, and the exclusive Durban Country Club, to small suburban facilities — all of which pay the same nominal rent of R100 a year for the land on which their facilities are located

Prime land in Durban would rent for about R3 500/ha, says a city estate agent

Metro Land Affairs committee chairman Nhlanhla Buthelezi says the intention is not to conduct a witch-hunt "We do, however, have several concerns These include the issues of exclusion on racial grounds, which is against the law in terms of the new constitution, the inequitable distribution of clubs throughout the metro, and what measures the clubs are taking to promote the development of formerly disadvantaged people"

Buthelezi's committee held a workshop in June and will hold another on August 15 to set the investigation's parameters He says special care is being taken to ensure that other nonprofit institutions such as churches, which rent land on the same basis, will not be prejudiced by the probe

The investigation is likely to focus on club constitutions and examine what measures they are taking to foster black membership and sponsor promising young black sportsmen, who otherwise would not have the means to access the generally superior facilities offered in private clubs

But the metro will have to tread carefully,

sports clubs in Durban, as in other parts of SA, are finding it difficult to make ends meet If forced to pay substantially higher rentals, they would have to push up dues, which could cost them membership and jeopardise their existence

It must also be remembered that Durban's long standing policy of releasing land at "peppercorn" rentals was not entirely philanthropic

Acting city treasurer Mike Turrell explains that the city would be responsible for providing sport and leisure facilities where they are not catered for by private clubs "The decision was therefore taken many years ago to rent out land for these facilities The quid pro quo was that the clubs would be responsible for developing the playing fields and the clubhouses"

The local authority estimated years ago that the cost of maintaining a single cricket field for one season — without frills such as nets or sight screens — was about R60 000, so the clubs have been relieving the council of a major overhead

Durban's real estate department leasing manager Hugh Crichton, whose division administers the properties and leases for the metro, concedes that there is an imbalance of sporting facilities between formerly white and black areas But he believes this will be redressed if the communities push for facilities where they need them

Any club which is found to be resisting integration on grounds of colour, sex or religion will have to reform or lose its legal right to exist

A club purge will serve nobody's interests At the same time, however, sports bodies can only benefit if they actively encourage integration rather than simply pay lip service to it

Herb Payne

CT 1/8/97

De Klerk knew, says TRC

(252)

THE TRC SAYS IT HAS EVIDENCE that F W de Klerk's claims that he was ignorant of human rights abuses by the State are false. **ROGER FRIEDMAN** reports.

THE Truth and Reconciliation Commission has released new information suggesting that former state president Mr F W de Klerk must have had knowledge of human rights abuses

Deposing on behalf of the commission, deputy chairperson Dr Alex Boraine claimed, in papers filed yesterday in response to a National Party application to the High Court, that the NP had brought the application in bad faith.

He included in a bundle of documents a letter from former foreign affairs minister Mr Pik Botha to the commission — dated July 29 — stating that De Klerk should have accepted responsibility on behalf of his cabinet for human rights violations

But it is the detailed table

headed "Restoration of Law and Order" — attached to the minutes of a State Security Council meeting in April 1986 evidently attended by De Klerk — which could prove most disconcerting for the National Party and its last state president

The table lists various "goals", dealing with such matters as "neutralising/eliminating enemy leaders", "grab-operations", and "tracking and wiping out terrorists" in the Eastern Cape

De Klerk told the commission during his delivery of the NP's second submission in May that "the perpetration of human rights abuses was never discussed or approved at any meeting of the cabinet, or the State Security Council or any other government forum that I ever attended"

The NP application — calling inter alia for the dismissal of Boraine and for the commission to be ordered to act in compliance with its founding legislation — will be heard by a full bench of the Cape High Court on September 5

The application was launched after Boraine and chairperson Archbishop Desmond Tutu voiced concern about De Klerk's stated lack of knowledge of human rights abuses at a press-conference

In his responding deposition Boraine raises a number of questions relating to the "restoration of law and order" document. He suggests that the juxtaposition of the words "neutralise" and "eliminate" clearly spell "assassinate"

With regard to "wiping out terrorists" and "pre-emptive strikes", he concludes that both concepts suggest "murder and/or serious assault"

"The NP's second submission is characterised by passages focusing on Mr De Klerk's lack of personal

responsibility for and knowledge of human rights abuses prior to his becoming state president in 1989," states Boraine

"That, simply put, was self-evidently not the inquiry. Where Mr De Klerk may personally perhaps have lacked knowledge, it was prima facie open to the NP to deal squarely with the matters through erstwhile leading figures

"In any event, evidence received by the TRC, both before and after the hearing on 14 May 1997, raises questions about Mr De Klerk's professed lack of knowledge of any decisions by the National Security Management System giving rise to human rights abuses"

As for the NP's route of applying to the courts, Boraine argues that The Promotion of National Unity and Reconciliation Act allowed for only two remedies in the event of misconduct by a commissioner. Either the commissioner is removed by the President, or criminal charges have to be laid.

Now business faces hearing

The Truth Commission is planning a public hearing in November on the role of business and labour in political conflict and human rights violations between 1960 and 1994.

Thus was announced yesterday by acting chairman Alex Boraine, who said the commission would be approaching key figures for submissions.

His statement comes hard on the heels of sharp criticism of the Congress of SA Trade Unions (Cosatu) by Democratic Party leader Tony Leon over possible submissions to such a hearing. The trade union group recently called on big business to apply for amnesty.

But Mr Leon described the call as hypocritical, saying Cosatu had its own track record of "intimidation".

"What gestures has Cosatu made towards reconciliation? Is its present call not merely another attempt to blacken the name of business?" he asked.

Dr Boraine said "The commission believes that the planned hearing will contribute to a better understanding of the conflicts of the past, laying the foundations for a more just and equitable society, and helping us develop recommendations which we must make to the president on reparation and rehabilitation."

TRC and NP in showdown

'Views' of Tutu and Boraine attacked

(252)

ARL 1/8/97

Another chapter in the often controversial saga of the Truth Commission will be written on

September 5 when the National Party asks the Cape High Court for an order compelling the commission to act "objectively, fairly and impartially".

The action is the culmination of growing tension between the NP and the commission, apparent since at least the NP's first submission last year, which came to a head after its second round of testimony in May.

According to the NP's papers before the court, the commission is in breach of the rule of natural justice and the provisions of its founding act.

The NP wants the order to declare that the commission chairman, Archbishop Desmond Tutu, conducted himself "in a manner unbecoming his office" when commenting during a media conference on May 15 about NP leader F W de Klerk's earlier testimony to the commission. It wants the court to order him to refrain from doing anything to compromise his impartiality or the credibility of the commission.

The NP also seeks an order declaring commission vice-chairman Alex Boraine to be in

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ON THE TRUTH COMMISSION

breach of the act and for him to be disqualified as a truth commissioner.

A third aspect of the application is for the commission to be ordered to refrain from making any public statement that may give the impression that it has prejudged issues, or that it is not objective and impartial in its statutory task.

President Nelson Mandela and Justice Minister Dullah Omar have also been named as respondents.

The Truth Commission is defending the action.

Much of the NP's argument will be based on a 39-page founding affidavit by Johannes Maree, a NP member of the National Assem-

bly and a member of the assembly's justice portfolio committee.

In it, Mr Maree said the NP had agreed to present written submissions and replies to questions as well as oral testimony to the commission. This had been done on August 21 last year and May 14 with the oral evidence being presented by the party's leader and former state president, Mr De Klerk.

Mr Maree said Archbishop Tutu and Dr Boraine had given regular press conferences at which they had expressed their views on, and impressions of, evidence that had been heard by the commission's committees. These views were then widely reported in the media.

"It is respectfully submitted that such behaviour (by Archbishop Tutu and Dr Boraine) was, and is, irreconcilable with the requirements set by the act for the functioning of the commission."

"The act requires, in short, that the commission should gather and hear evidence, should at all times be, and appear to be, strictly impartial and should, after hearing and considering all the evidence, make up its mind with reference to all evidence and put its conclusions in a report to be submitted to the Fourth Respondent (President Mandela)."

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BWB bombers granted amnesty

(252)

Wyndham Hartley
BD 17/8/97

CAPE TOWN — Two right-wingers belonging to the Boere Weerstands Beweging (BWB) have been granted amnesty for the planting of a bomb in an Indian shopping centre in Bronkhorst-spruit, which exploded, killing a policeman in September 1993.

Pieter Johannes Harmse, 45, and Leo Hendrik Froneman, 23, were found guilty of murder and attempted murder and are serving prison sentences of 18 and eight years respectively. Their amnesties, announced yesterday by the truth commission, brings the total number granted by the amnesty committee for gross human rights violations to 32 with 23 refused.

Judge Andrew Wilson, Chris de Jager and Sisi Kampepe, sitting as the

amnesty committee, accepted from the evidence and information before the committee that the men believed that they were acting for the furtherance of a known political organisation. They accepted that it was an act which qualified as being associated with a political objective as defined by the law and further qualified for amnesty.

Harmse is granted amnesty for the murder of WO Abraham Labuschagne, the attempted murder of Const Hendrik Maree, the unlawful possession of explosives and malicious damage to property. Froneman was granted amnesty for culpable homicide, the unlawful possession of explosives and malicious damage to property.

Froneman explained that he selected the target because he believed most Indians were ANC supporters.

Persetel

dividends from associates helped profit before interest and tax more than double to R194m

EXPANSION OF MACHINED ZIMBABWE it will also provide a launch platform for the new range of...

Commission 'is sorting out its problems' (252)

Vuyo Mvoko BD 1/8/97

FINANCIAL and management problems facing the Human Rights Commission were being attended to, chairman Barney Pityana said yesterday.

Addressing a press conference with his commissioners, some of whom were "frustrated" and "extremely impatient", he said the most remarkable thing was that the commission had delivered and had an effect on society.

His concern was to improve it and move forward.

Something was definitely being done about the state of affairs affecting morale and the commission's capacity to deliver. A task team of two commissioners and two members of staff had been set up.

Commissioner Anne Routie alluded to some "structural problems" that were crippling the commission.

Last week commissioner Rhoda Kadalie announced her resignation with effect from December, citing problems with the commission's CEO, Louisa Zondo, as well as the lack of funding she said had hamstrung the organisation. Councillor Brigalia Bam was moving from the human rights body to the electoral commission.

Pityana said a programme was to be discussed and adopted for next year. It would include setting benchmarks and goals which could be monitored, and creating a framework for anti-discrimination legislation.

Other issues were immigration and socioeconomic rights, discrimination and violence against women and children, the slow pace of land reform, and environmental issues.

Post Office board looks at report on its future

Robyn Chalmers

A STRATEGIC report on the way forward for the ailing Post Office had been presented to the parastatal's board, Posts, Telecommunications and Broadcasting Minister Jay Naidoo said yesterday.

A due diligence exercise and review of the Post Office's operations had been conducted by consultants Price Waterhouse and Ebony Financial Services, leading to the launch of Operation FuturePost.

"Operation FuturePost is aimed at repositioning the postal service towards greater efficiency and reliable service that will turn the Post Office into a viable and sustainable business with little reliance on state subsidies to fund operating expenses," he said.

Naidoo said the report had established that there was a "compelling" case for fundamental change at the Post Office. The report had been referred to a ministry subcommittee which would report back soon.

The committee would make recommendations on the financial mandate of the Post Office to determine whether it would break even or make a

profit in three to five years, and review the operations of the business, products, services, organisational structure and service performance.

Critical recommendations for consideration the ministry and the Post Office board include "quick wins" which would improve the operational efficiency with little cost to the company.

Post Office chairman Donald Masson said "quick wins" included extending the range of products offered and decreasing the number of tasks that tellers had to perform. He said the Post Office was operating under several constraints including the universal service obligation, non-appliance of certain monopoly conditions and the required extension of the network and services.

Post Office MD Frank Touwen said he was confident the Post Office could be turned around within three to five years, and the organisation was already making solid gains.

"The service has improved, our financial position is significantly better and the business is looking increasingly healthy," he said.

Naidoo said that the restructuring of the Post Office was the second pillar of postal reform, following last week's launch of the postal policy green paper.

'Pik told FW to seek amnesty'

CAPE TOWN — National Party (NP) leader FW de Klerk was advised by Pik Botha to apply for amnesty on behalf of the whole of his former cabinet, acting chairman of the truth commission, Alex Boraine, said in court papers filed yesterday.

He said Botha, who served as foreign affairs minister under De Klerk and his predecessor, PW Botha, had disclosed this in a letter to Charles Villa-Vicencio, head of the commission's research department.

Boraine said the NP had failed to give a full account of its involvement in, or knowledge

of, torture and other gross human rights violations.

The papers were filed in response to an NP application for Boraine's dismissal and for a court order forcing the commission to comply with the Promotion of National Unity and Reconciliation Act.

The NP has also asked for interdicts prohibiting commission chairman Archbishop Desmond Tutu and the truth body from making public statements which endangered the body's impartiality. The NP asked the court to order Tutu to conduct himself "in a manner becoming

his office" after he expressed concern about De Klerk's claim that he was unable to answer certain questions about the apartheid era.

Boraine said the commission had come into conflict with each of the political parties. He reminded the court of the occasion when Tutu threatened to resign as chairman in response to the African National Congress's argument that some of its activities were connected with a "juwar". He said the commission could not preserve a "sanctified silence" as it was not a judicial body — Sapa

New court to speed up sexual offences trials

ADELE BALETA

Victims of sexual assault usually wait more than a year before their cases are heard. But a second sexual offences court in Wynberg should speed up the process and reduce the trauma.

Court F will begin sitting on Monday to help clear the staggering backlog of about 320 sexual offence cases on the roll of neighbouring Court G - the first special sexual offences court established in 1993.

But the opening of Court F has been greeted with caution by Rape Crisis and organisations concerned with child abuse. They say that the mere opening of a special court does not ensure that women and children will not be exposed to secondary victimisation by the justice system.

Speaking at the opening yesterday, Justice Minister Dullah Omar said that the special court would have to ensure a fair trial for the accused, while at the same time making sure that there is maximum compassion and justice for the victim.

Court G, which was established as a pilot project in 1993, had proved its worth. The average conviction rate in the sexual offences court since its inception was

74 percent, as opposed to an average conviction rate of 45 percent in other regional courts.

The conviction rate for cases where the victim was under 18 years of age was 66 percent for 1996. This was a "huge improvement" on the 22 percent conviction rate in Paarl Regional Court and 24 percent in Mitchell's Plain.

Mr Omar said the success of the court had been hampered by an increasingly heavy workload and a lack of specially trained prosecutors. He said that a training programme for staff from these courts had now been introduced.

Rape Crisis researcher Margot Lochrenberg said however that no in-depth research had been carried out on the success of Court G. There had been no information on what rape survivors had experienced at the court. "The conviction rate should not be the only test of the success of the court," she said.

Shocking allegations - including the undignified treatment of rape victims by court officials, police and district surgeons - form part of a document co-compiled by Rape Crisis to be handed to Deputy Justice Minister Manito Tshabalala-Msimang today

Debbie van Staden of the Western Cape Department of Social Services said that there needed to be an inter-departmental approach to the court.

"There has to be appropriate support from police services and from the health services, with more district surgeons becoming available to deal with rape cases," said Ms Van Staden.

Minister Omar said that in 1992 there was a justified and huge outcry from the public over the way in which two rape cases in Cape Town had been dealt with.

In the first case the rapist of an eight-year old girl was acquitted because the district surgeon had ignored subpoenas to give evidence in court.

In the second case the magistrate commented that it was unlikely that the complainant had suffered psychological damage since she had not been a virgin at the time of the rape.

The first sexual offences Court G began in 1993 with a court roll of about 82 cases awaiting trial.

The average number of outstanding cases on the roll for this court went up to 201 in 1994, 228 in 1995, 233 in 1996 and 320 in 1997.



Special court- Justice Minister Dullah Omar at the opening of the sexual offences court in Wynberg

LEON WULLER

Government pledges promotion of San culture, quest for land and basic human rights

PAIN OLIVER AND CHERYL UYS

ARC 2/8/97

(252)

The Government has come out in support of the Khoisan peoples of Southern Africa in their quest for land and basic human rights.

Addressing the United Nations Working Group on Indigenous Peoples for the first time, a representative of the South African mission in Geneva told delegates that South Africa had made significant progress in accommodating the aspirations of all South Africans, including the indigenous populations.

Leaders of the Khoisan communities of South Africa, Namibia and Botswana have flown to Geneva to petition the United Nations to intervene on their behalf in their quest for basic human rights.

The aim is to link with the Saami Laps of Sweden, Finland and Russia, the Aborigines of Australia and the Pygmy population of Central Africa to form a powerful lobby for basic human rights.

The UN was told that the South African Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities would promote the human rights of the Khoisan people, their culture and their quest for land.

The Language Board is to create conditions for the development and use of the Khoi, Nama and San languages, while the Bill of Rights describes rights for people belonging to cultural, religious and linguistic communities.

The San-people - they reject being called Bushmen - told the Working Group that they were deprived of their traditional land by the apartheid regime and that these rights had not been restored.

Omar's plan for massive boost to justice system

Cabinet will be urged to approve R300-million scheme

RAY HARTLEY Political Editor

ST 3/8/97

(252)

THE Minister of Justice, Dullah Omar, is to ask the cabinet to appoint a thousand new court officials, including hundreds of extra magistrates and prosecutors, to beef up the ailing justice system.

His statement came after a week of public outrage at the death of seven-year-old Mamokgethi Malebane, allegedly at the hands of a rapist who was granted bail.

Omar said this week that he had compiled a cabinet memorandum on a R300-million a year programme to boost the ailing court system with

- Between three and four hundred extra prosecutors,
- Between one and two hundred extra magistrates, and
- Seventy-two new regional courts

The remaining posts would include "administrative personnel" and interpreters to lighten the heavy workload of prosecutors, many of whom have to do their own administrative work.

"We've assessed the need throughout the country and I am able to motivate for every single post that we are asking for," Omar said.

He was also seeking to improve the pay package for prosecutors, who were leaving "because they are not treated as professionals".

"I have been receiving a good hearing (from the cabinet) and there is a general recognition that legal professionals should be looked at. I am very hopeful that we will be able to do much better this year than we did last year."

But Omar warned that the justice budget was competing with demands for more money to build hospitals and schools, and to improve teachers' salaries.

"I do understand that problem, though I think that the situation within the criminal justice system dictates that it should be given some degree of priority. My hope is that cabinet will in principle approve and we should work out a plan of implementation," he said.

Omar said South Africa's budget for its court system, at just one per cent of the total budget, was "prob-

ably the lowest in the world"

This was despite the fact that the Constitution had imposed a new workload on the justice system, such as the provision of court documentation to accused people.

He said that attorneys general throughout the country had found that less than half the dockets found their way to court. "This means that prosecutors are not able to proceed with cases. Very often people who commit serious crimes escape justice."

His department had held a meeting with the Police Commissioner, George Fivaz, on this matter.

Omar spoke out against the decision to grant Mamokgethi's alleged killer bail. "If you look at the case of this poor little girl, I cannot understand how the application for bail was not opposed. I cannot understand why the magistrate himself did not deem it necessary to investigate the matter further."

"The reason for my saying so is that our Constitution says that every person is entitled to be released on bail, but it goes on to say 'unless the interests of justice otherwise require'."

Opposition parties back Omar's plan

Warning from NP and DP

that results in the fight against

crime must be visible

Star 4/18/97

STAFF REPORTERS

Opposition parties are enthusiastic about Justice Minister Dullah Omar's plan to strengthen the justice system, but they warned that public sentiment could turn against him if concrete results were not forthcoming.

Omar's plan includes hiring 300 to 400 more prosecutors, 100 to 200 more magistrates, 400 to 500 administrative personnel, and building 72 extra regional courts.

He met with cabinet committees over the plan last week, where it was suggested that the new legislation be considered by the Cabinet.

Sheila Camerer, NP justice spokesman, said she was fully supportive of boosting Justice Department funds.

"I've said repeatedly that the National Party will support Minister Omar in any attempt to strengthen the justice system - he needs to create the extra posts and he needs to fill them."

Camerer said the justice system needed to be improved "now or never" and if it did not achieve its goals, the NP would not support the next budget.

Justice spokesman for the Democratic Party, Douglas Gibson, said the party had been at the forefront of calls for the removal of bottlenecks in the criminal justice system.

He said the party "wholeheartedly supported" Omar's move.

"I wish to warn him, however, that there have been so many plans, strategies, campaigns and initiatives that have come to nothing and the Democratic Party and the people of

South Africa will be disgusted if the improvement that he has promised does not materialise."

Omar's spokesman Paul Setsetse said the minister's new plan came in the wake of the community's "crying for tougher laws regarding bail for perpetrators of violent crimes".

He said the current system was "not working very well" because perpetrators of violent crimes were being released on bail.

The minister had met with members of opposition political parties and had received their overwhelming support, Setsetse said.

But a Johannesburg prosecutor, who asked not to be named, said although the minister's plan would help to an extent, it would not solve the major problems in the ailing judicial system.

"We need a system which pays experienced prosecutors professional salaries so that there is a future for them," he said.

Last year 75% of prosecutors in the Johannesburg Regional Court resigned and they were replaced by people with less than six months' experience, "and we are not going to win any cases like that", he said.

Other major problems in courts, which needed to be addressed, were police dockets that went missing and interpreters continually striking, he said.

Omar's proposed R300-million a year programme would look at trying to improve prosecutors' salaries, Setsetse said.

Bottlenecks in police, justice and prisons to be ironed out

New fingerprint system will cut identification down to hours instead of weeks

By DEREK RODNEY
Crime Reporter

The unwieldy criminal justice system is in dire need of an overhaul and the call has gone out to national and international consultants to come forward with a world-first model to breach existing bottlenecks in the cumbersome system.

National Crime Prevention Strategy (NCPS) co-ordinator Dr Bernie Faneroff said last week a tender had been issued for the creation of an integrated criminal justice information management system with the first phase earmarked for completion by March next year.

"The idea is not to reinvent the wheel; a number of departments including the police, justice and correctional services have extensively analysed the entire criminal justice process

within the framework of the NCPS and have identified a number of bottleneck areas which need urgent attention," Faneroff said.

Although the ideal of an integrated justice system will not be a reality for a few years,

Fast-track schemes will achieve short-term objectives

fast track schemes such as an improved court management system, which will include the computerisation of the offices of the attorneys-general and improved access to criminal records, have already been identified.

"The different departments

will continue to implement fast track programmes to achieve short-term goals but the NCPS tender is aimed at creating a framework inside which all these different departments and initiatives will strive towards the same goal," he said.

One priority, the automated fingerprint identification system, has already gone to tender and once completed will bring the time for fingerprint identification down to less than 48 hours, and not weeks as is currently the situation.

Improved communication and co-operation between prosecutors and police is also being prioritised with joint training courses already taking place.

The SAPS and the Department of Justice have taken steps to ensure that the existing control system for dockets is properly applied. Issues of discipline and of morale are being addressed in the NCPS

programme on corruption. Pilot programmes have been instituted in courts in Cape Town aimed at providing valuable lessons for the preparation of bail hearings

Other measures include improved administrative assistance to detectives and prosecutors, practical training for police and court officials focused on bail issues, training for court officials and police on the implications of the constitution, measures to divert those charged with minor crimes out of the courts by providing alternatives and the improvement of the state's ability to deal with bail hearings properly.

The NCPS initiatives are being facilitated by Business Against Crime which has donated a project office and skilled personnel to assist departments in streamlining their initiatives.

Row 4/8/97

(252)

Mxenges may fight in court if amnesty given

ET4/8/97

(252)

OWN CORRESPONDENT

DURBAN: Hit-squad boss Dirk Coetzee and two accomplices could hear today whether they have been granted amnesty for the murder of human rights lawyer Mr Griffiths Mxenge.

The Truth Commission's amnesty committee confirmed last week that it had met to consider the applications by Coetzee and Vlakplaas operatives David Tshikalange and Butana Nofomela.

Committee chairman Judge Hassan Mall would say only that the matter was being finalised. It is believed the committee wishes to deal with it before the three appear in the High Court here for sentencing on Friday.

Sentencing has already been postponed once at the request of the amnesty committee. Lawyers acting for Mxenge's family have written to KwaZulu-Natal attorney-general Mr Tim McNally urging him not to agree to another postponement.

The Mxenge family has also demanded that members of the amnesty committee recuse themselves from further dealings with the applications. It claims the issue has been "pre-judged" and a decision reached to grant amnesty without the family's objections being taken into account.

Its legal representative, Mr Imrann Moosa, said the committee had not

responded to this demand. "We will wait and see if amnesty is granted before deciding our next move".

The family may still take the matter to court.

It was given until July 27 officially to present its objections to the granting of amnesty, but declined to do so.

Mxenge's brother, Mr Fumbatha Mxenge, said an objection would be a waste of time.

"There is no point, they are biased against us," he said.

"The ball is now in their court. We are waiting for the committee to rule and will take the matter from there."

Mxenge said the family objected to amnesty's being granted because the crime was not politically motivated.

He said the brutality of the murder brought into question another requirement of the Promotion of Truth and Reconciliation Act, that the proportionality of the crime to the political objective be considered in granting amnesty. Nothing could justify the brutality of Mxenge's murder.

Mxenge was stabbed more than 40 times and his throat slit.

The killers had each been paid R1 000 as a reward after the killing, Mxenge said. This supported the family's belief that the murder was not politically motivated.

"That is out and out criminality and should be judged as such."

TRC job mentally, emotionally draining

(252)

ET 4/8/97

ELISSA GOOTMAN

AFTER 16 "stressful but rewarding" months, Mr. Calvin Oxche is sleeping late this morning.

As another stage of the Truth and Reconciliation Commission mandate has ended, many briefers, logistics officers, support staff and statement-takers — like Oxche — are officially unemployed as of today.

Though proud to be part of the TRC process, Oxche admits he is thankful to move on. "My job was a once-in-a-lifetime opportunity, and I always remained enthusiastic about it. But it was mentally and emotionally draining," said Oxche, who interviewed people for initial statements and promoted the TRC.

"I could never show emotion. You have to remain strong for the people who come forth, because they look to you for support

"After a while, you get used to hearing all these terrible things — you find a way of blocking it out. But you can't listen to stories like that all your life. It will take its toll on you — and it already has, to a certain extent. I need time to get my feelings together again."

As a breifer, Ms. Viola Lengner's duties were legion — including day-long workshops with witnesses, post-hearing debriefing sessions and liaising with local NGOs — but she sums them up with one metaphor.

"Basically, we briefers were the emotional sponges. We tried to contain the emotions before, during and after the hearings, and to be as supportive as possible so (witnesses) could get the most out of the hearings."

Lengner said it was difficult to "deal with that amount of pain."
"You go into the communities and you

can only do so much — then you have to move on." Sometimes, this was difficult — and the "emotional sponges" became emotionally drained.

"One witness who had a big impact on me was a man who died last year of cancer — we had a special hearing for him at the hospital. He was such a strong person — incredible, with so much dignity," Lengner remembers.

"He had a lot to tell, but he was weak and could not speak too much at once. So I would go back to the hospital again and again. Eventually, I wasn't seeing him in my capacity as a breifer anymore."

After nearly a year and a half on the job — which, she says, has given her "an incredible amount of experience" in clinical psychology, her chosen field — Lengner is ready to relax.

"You think, talk, eat and drink commission, all the time. One of the commis-

ees (who is staying on) stopped me in the hall and said, "You're lucky, Viola — you can get a life!"

"Initially, it was very difficult for me to accept that our job was through, because there is so much more work to be done. But I've realised it will be really good for my well-being."

Still, some of the workers feel they were given short shrift and should have received a month's salary after the retrenchment.

Ms. Elizabeth Cloete, a logistics officer, says she is distressed about her new unemployment, and the lack of severance pay.

Lengner said "We asked the commission for an extra month's salary so we could take a month off. I don't think anyone who has worked for the commission can go straight into another job. We worked overtime, we worked weekends, we stayed away from home for ages. On the other hand, the money's just not there."

Mxenge's son will contest TRC reprieve for Coetzee

Star 5/8/97
OWN CORRESPONDENT

Durban — The family of murdered Durban human rights lawyer Griffiths Mxenge will go to court "within weeks" in an attempt to overturn yesterday's Truth and Reconciliation Commission decision to give his killers amnesty.

It will be the first legal challenge to an amnesty decision. The amnesty committee announced yesterday that the applications of hit-squad boss Dirk Coetzee and Vlakplaas operatives David Tshikalanga and Butana Almond Nofemela in connection with the killing of Mxenge in Umlazi in November 1981, had succeeded.

In the Durban High Court earlier this year, the three were convicted of murder, and were due to appear again for mitigation and sentencing this Friday. Coetzee was reportedly "overjoyed" at the decision but the Mxenge family said they were extremely disappointed.

Mxenge's son Mbasa said, "While we had been expecting it, we are still angered and hurt. It may do a lot for national reconciliation, but it does nothing for me. I will never be reconciled with Dirk Coetzee. If they can give these people amnesty then they might as well give it to all."

Lawyers acting for the family, who have always opposed the amnesty applications, said they had been instructed to do everything possible to have the decision set aside.

Advocate Imran Moosa said that, under common law, an application could be made for a review of any legal decision.

"We will argue that the amnesty committee predetermined the matter, that it did not hear argument from the family, that it showed bias towards the applicants and treated the victims shabbily," he said.

But Coetzee's attorney, Julian Knight, said the decision was final and only he, representing the applicant, had the right to challenge the decision.

"I don't think they have a snowball's hope in hell unless they want to take the entire Truth Commission Act to the Constitutional Court and make allegations that it is not consistent with the Bill of Rights."

REGISTRATION FORM

The Research Journey, 8 – 10 September 1997

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Bailing out a failing system

Staw 5/8/97 (252)

The Minister of Justice, Dullah Omar, is shocked at the murder of 7-year-old Mamokgethi Malebane by her alleged rapist, while he was out on bail pending his rape trial.

Omar's shock is shared by all South Africans who are outraged by the high levels of violent crime in the country

Omar's solution is to tighten the bail law. But the real problem with bail is not the law but the fact that the criminal justice system as a whole is disintegrating due to a lack of resources, staffing and training.

As a result, the present bail law is not being applied properly.

The Malebane case is an example of this. In this case the accused had been charged with raping two other children in addition to Mamokgethi. This, the seriousness of the charges against him, and the fact that he was Mamokgethi's next-door neighbour, would have been more than sufficient grounds for a court to refuse bail.

Not surprisingly, on the initial two occasions when the accused applied for bail, his application was rejected by the court. Bail was finally granted not because of an ineffective bail law, but by a system which is incapable of applying the law properly.

The State did not oppose bail when it was finally granted in Mamokgethi's case. According to the prosecutor who handled the bail application, the docket containing details of the accused's three child-rape charges was not available to him on the day of the bail hearing, and he had a further 13 cases on his diary that day. The investigating officer in Mamokgethi's case was dealing with 40 other cases at the time.

The South African Institute of Race Relations and other groups have been arguing for a long time that there is no need for draconian bail legislation which would undermine the civil liberties of thousands of people.

Importantly, the present bill no longer provides for a blanket denial of bail for certain offences, something which would have required a constitutional amend-

Simply changing the law
will not solve problems,
says Martin Schönteich

ment. The bill also does away with previous proposals which sought to compel courts to refuse bail if the court was "convinced that a reasonable suspicion exists that the accused committed the offence".

Finally, previous proposals included the political offence of treason as a serious offence for which courts could only grant bail under exceptional circumstances, this has also been dropped from the bill.

A disconcerting aspect of the bill, however, is the provision that in their decision whether to grant bail, courts should take into account the "likelihood that the release of the accused will disturb the public order or undermine public peace or security".

This could result in courts granting or refusing bail not on the merits of the accused's case, but on the basis of mob rule. Thus, if Pagad, ANC or IFP supporters – or any group vocal and large enough to "disturb the public order" or "undermine public peace" – were to threaten mayhem and civil unrest should an accused not to their liking be released on bail, then a court would be required to refuse it.

The purpose of bail is to make sure that an accused person stands trial and does not interfere with the investigation of his case while out on bail.

Interestingly, it is conceded by Omar that the 1995 amendments to the bail law have been successful. The facts bear him out. Since then the number of awaiting trial prisoners has risen from 23 750 to over 37 000. Today almost one in three of all prisoners who occupy our prisons, which are filled to 150% of capacity, are awaiting trial.

This is, of course, of little solace to Mamokgethi Malebane's family. If we are,

serious about fighting crime, it is imperative that such cases of the justice system failing to apply the laws at its disposal do not occur.

But the solution does not lie with legislative quick-fix solutions which do not address the real problems.

Our criminal justice system is underfunded, understaffed and does not have the resources to deal with the crime situation effectively. For example:

- Most detectives have no specialised training, and only a quarter have been on a detectives course, while a mere 3% are fully trained. Some 25% of the police force's members are functionally illiterate, with 4 800 only having a Standard 6 qualification.

- The number of prosecutors falling under the jurisdiction of the attorney-general of the Witwatersrand Local Division, has increased from 289 in 1993, to 293 in 1996 – an increase of 1.4% over three years. No serious commentator would dispute that crime has risen by much more than that over the same time. Most prosecutors' offices do not have access to computers, some do not even have fax machines.

Omar has indicated that he has approved the creation of new prosecutors' posts, which is encouraging. It is important, however, that new prosecutors are paid decent salaries so that their skills are retained by the state. The new prosecutors will also require offices, telephones, fax machines and administrative support staff if they are to function optimally.

As long as the deficiencies in our criminal justice system are not addressed, tragedies like Mamokgethi's case are bound to happen. Changing the bail law does not address these deficiencies. What is required is a concerted commitment by Government to provide the criminal justice system with the resources and staff it needs to function effectively. This is not an easy task – not as easy as changing the bail law – but it is necessary if we are going to succeed in reducing crime.

■ *Martin Schönteich is parliamentary analyst for the South African Institute of Race Relations.*



PRISONER OF THE PAST: Mbasa Mxenge, whose parents were slain by state agents, says their murders remain incomprehensible. He has always believed the apartheid state could have used its security legislation to detain his human rights lawyer father, Griffiths Mxenge, for life

PICTURE BENNY GOOL

TRC rejects (252) attempt to oust Boraine

ET 5/8/97

DURBAN The Truth and Reconciliation Commission has rejected an application by General Kat Liebenberg's lawyers for deputy chairman Dr. Alex Boraine to recuse himself from hearings on the traunng of Inkatha Freedom Party members in the Caprivi Strip

Commissioner Mr Richard Lyster said the TRC did not believe Boraine's participation would prejudice Liebenberg

After each of the witnesses had given evidence, there would be an opportunity for objections to be lodged, Lyster said

Lawyers for Liebenberg asked for the hearings to be adjourned until this morning to allow them time to take instruction from Liebenberg. The request was refused

Mr Etienne Coetzee, one of the lawyers for Liebenberg, quoted several newspaper reports in which Boraine apparently commented on allegations that Liebenberg and other generals had been involved in illegal activities while serving in the former defence force

There was "a reasonable apprehension of bias" by Boraine and it would be in the interests of justice if he recused himself, Coetzee said

Lawyers for the National Party also lodged objections yesterday. In a letter to the State Attorney, they said the NP would consider Boraine's participation in the hearing inappropriate and objectionable

● Deficiencies had been discovered in the TRC's financial controls, the auditor-general said yesterday. However, he said positive steps were being taken to remedy these. Among the problems was that salaries and increases for commissioners had yet to be approved — Sapa

Father's murder was unnecessary — SON

(662)

CT 6/8/97

ROGER FRIEDMAN

WAS it necessary for Dirk Coetzee and his security police cohorts to kill Mr Griefs Mxenge?

This was the question posed by the assassinated Durban lawyer's son, Mr Mbasa Mxenge, yesterday, moments after learning that the Truth and Reconciliation Commission had granted amnesty to his father's convicted murderers, Coetzee, Mr David Tsinklangane and Mr Almond Nofemela.

Mxenge, 31, is private secretary to a deputy minister

"What it boils down to is that my father was a political figure. What we have always maintained is that the

apartheid state had sufficient Draconian security legislation they could have used to detain my father for life. The brutality of his murder was and is incomprehensible to us."

His family would investigate its legal options in appealing against the amnesty decision. This might entail asking the High Court to reopen the amnesty application process.

The three killers were convicted in the Durban High Court in May and were to have been sentenced on Friday.

"It has been a long and painful process and it's not finished yet," Mxenge said.

"It is not as if the decision comes as a shock to us. We have been saying for

some time that (the amnesty committee) had already taken a decision, but we were delaying announcing it. We believe we were not given sufficient opportunity to prepare our argument in opposition to the applications.

"Everyone in the family is hurt, obviously. Hurt, disappointed and angered. It may mean a lot to the nation in terms of national reconciliation, but it does not reconcile the perpetrators with the victims."

"And it is not only our family that is involved. How will the amnesty decision impact on the lives of other victims? I believe Coetzee and his lot were also involved in a number of other atrocities. What do those families think?"

Mxenge said although Coetzee and his accomplices had been granted amnesty, he did not believe they would be truly "free men" in South Africa.

"I don't think Dirk Coetzee is a free man. My understanding is that Coetzee belongs to a certain breed of killers. And I cannot imagine that breed being reconciled back into the new country."

If Coetzee could be granted amnesty, he could not imagine that any other applicant would be denied it, Mxenge said.

He was 15-years-old when his father was killed. Four years later his politically active mother, Mrs Victoria Mxenge, was also assassinated, "in front of my eyes". His mother's killers are still at large.

FAMILY TO CHALLENGE FINDING

Coetzee gets amnesty for Mxenge killing

JOHANNESBURG: The amnesty committee yesterday said it was satisfied that Dirk Coetzee and his partners had killed a Durban lawyer because they regarded it as their duty.

THE Truth and Reconciliation Commission yesterday granted amnesty to former police hit-squad commander Mr Dirk Coetzee and two other police operatives for the 1981 murder of human rights lawyer Griffiths Mxenge, but said it was still not clear who ordered the assassination.

Mxenge's family responded by saying they would challenge the commission's decision in the High Court.

Dr Fumbatha Mxenge, a Port Elizabeth dentist and brother of Griffiths, said the family was disappointed, but not surprised, by the decision to grant amnesty to Coetzee and Vlakplaas security police base operatives Mr David Tshikilange and Mr Almond Nofomela.

The three men were convicted in the Durban High Court on May 15 this year for Mxenge's murder.

"We will challenge this decision. We are going to take it on review. You have not heard the last of this," Mxenge said.

He said the committee had not given the family time to submit objections. "All along they have been pro-Coetzee."

Pan-Africanist Congress secretary-general Mr Mike Muendane said the PAC would throw its weight behind any action taken by the family.

"We are calling for a review of the case and for the whole amnesty committee to recuse itself from this matter."

Muendane said Coetzee and his co-applicants had failed to meet the requirements for amnesty.

"In terms of the TRC Act there must be a political motive. There was no political motive. (National Party leader Mr F W) de Klerk says the NP never ordered the murder of political opponents."

The ANC said that as a "pioneer" of the truth and reconciliation process, it would abide by the amnesty committee's decision.

"It is our belief that the Truth and Reconciliation Committee is equal to the task of taking independent decisions that are in the best interests of the country and in the context of promoting



FREE MAN: A file picture of Dirk Coetzee, who was granted amnesty yesterday for his part in the murder of Durban lawyer Griffiths Mxenge.

unity, reconciliation and peace among our people," ANC spokesperson Mr Ronnie Mamoepa said.

Coetzee, Tshikilange and Nofomela were to have been sentenced on Friday, but will not be sentenced now that they have been granted amnesty.

They were charged with former regional security chief Brigadier Johannes van der Hoven and Captain Andy Taylor, who were both found not guilty.

The amnesty committee said there was no direct evidence to confirm that Coetzee had acted on the orders of Van

der Hoven or Taylor, as he claimed.

"On the evidence before us we are satisfied that they (Coetzee, Nofomela and Tshikilange) did what they did because they regarded it as their duty as policemen who were engaged in the struggle against the ANC and other liberation movements," the committee said.

"It is, we think, clear that they relied on their superiors to have accurately and fairly considered the question as to whether the assassination was necessary or whether other steps could have been taken." — Sapa

'VICTORY FOR HUMAN RIGHTS'

Adult gay sex is not a crime, court rules ⁽²⁵²⁾

at 5/8/97

A CAPE HIGH COURT'S finding that consenting adult males have a constitutional right to sex in private is a gain for gays, but contrary to Roman Catholic tenets, **LISA TEMPLETON** reports.

SEX between consenting male adults is now legal in the Western Cape, after a landmark judgment in the Cape High Court.

The judgment has been hailed as a victory by the gay community, who say it is a tremendous weight off the minds of people whose sexuality has been condemned for centuries as a criminal offence.

Spokesmen hope the judgment will have a domino effect on other laws that discriminate against gays, such as child custody and adoption laws, and that it will set a precedent for other provinces.

Until 1993, about 400 people a year were convicted for sodomy. Most were people of colour.

Yesterday Mr Justice Ian Farlam, with Mr Justice SS Ngcobo, overturned Knysna prisoner Gordon Kampher's conviction and suspended sentence for having sex with another prisoner while awaiting trial in January.

In their judgment, the judges said the criminalisation of sodomy was contrary to the Constitution. The Constitution says no person shall be unfairly discriminated against on the grounds of race, gender, sex, ethnic or social origin, colour or sexual orientation. It also says each person has the right to privacy.

Section 9.3 of the Constitution says homosexual activity has the same constitutional status as heterosexual and that punishment for sodomy between consenting adults in private is unconstitutional.

Consensual sexual acts between

females did not constitute a crime and there had been no case in which a woman had been prosecuted for an act of this kind, Judge Farlam said.

Describing the judgment as a victory for the Constitution, Mr Kevan Botha, legal adviser to the National Coalition for Gay and Lesbian Equality said: "It is long overdue. We welcome the ruling and believe it will help to ensure that gay people are no longer regarded as unapprehended felons."

"This is a tremendous weight off people's minds. The very essence of how gay people have defined themselves sexually has been a criminal offence."

Of the country's prosecutions for sodomy, 65% had occurred in the Cape Peninsula, Botha said.

Ms Nicci Stein, head of the Triangle Project which offers counselling to gay people, said the possibility of being prosecuted or criminalised for being gay had had a huge impact on people's self-esteem. Many gay people had laboured with this while coming to terms with their sexuality.

Mr Zackie Achmat of the National Coalition hailed the ruling as a human rights victory. Decriminalising sodomy removed discrimination against gays, who were often tarred

with the same brush as rapists.

"Sodomy prosecutions combined gay people with rapists, especially in the Cape, where people like the Station Strangler could be charged with sodomy and two consenting adults with the same (offence)."

"These laws are outdated and combine non-consensual rape with consensual sex between adults."

Achmat hoped other laws that discriminated against gays would be lifted, such as the Sexual Offences Act which criminalised any act that might "stimulate sexual passion" between men, for example holding hands in public.

He called for rape laws to be amended to include violent sexual crimes against men.

Western Cape Human Rights Commissioner Ms Rhoda Kadalie said the ruling was a great victory for the gay liberation movement.

However, the ruling is in conflict with the teachings of the Roman Catholic Church.

"The Catholic Church holds that sex is something only between a man and woman who are married," said Monsignor Donald de Beer, vicar-general of the Roman Catholic Archdiocese in Cape Town.

"Sex is a sacred way in which people co-operate with God to further human life. It certainly should not be used for pleasure as between homosexual males, for instance."

'This is a tremendous weight off people's minds. The very essence of how gay people have defined themselves sexually has been a criminal offence'

TRC must look at 'ordinary' apartheid

25/5/8/97

(252)

IN THE FIRST of two articles on the Truth and Reconciliation Commission, **STEVEN ROBINS** argues that rather than focusing on the exceptional and "abnormal" actions of the apartheid state, the TRC should choose instead to concentrate on ordinary, bureaucratic aspects of apartheid,

IT HAS taken more than 50 years for corporate Germany to finally begin to reflect upon its role during Hitler's Third Reich. Car manufacturers such as Volkswagen and Daimler-Benz, along with numerous major German banks, are at last ready to make their archives available for public scrutiny (Cape Times, June 25th, 1997)

During a recent visit to the Holocaust Museum in Washington DC, I was struck by the ways in which German big business contributed towards scientific racism and the Nazi political and ideological project. The Holocaust exhibit showed how German-manufactured instruments were used to measure and classify Jews to develop Nazi racial theories of Aryan collective identity and supremacy. Hair and eye colour charts and nose measuring instruments, used to determine whether individuals were racially "Aryan" or "alien", were also on display.

I came across an IBM-manufactured "Hollerith Machine", a punch card census tabulator used by the Nazis to monitor large numbers of prisoners, enabled the SS to distinguish between "racial" categories: Jews and "Jewish mixed breeds", and "Aryans" and "aliens".

When the proposed TRC investigation into the role of business under apartheid begins, it will probably examine the socially devastating impact the mining industry and migrant labour have had in terms of tearing African families apart. It is likely to draw attention to the appalling living conditions in the single-sex hostels, as well as the hardships that black South Africans experienced as a result of influx control policies. The recent mining accidents and violent conflicts on the mines are tragic reminders of a legacy of harsh and dangerous underground and living conditions that have characterized the mining industry.

But the story does not end with the mining industry and big business. What about the role of the architects of forced removals and those responsible for the relocation of hundreds of thousands of Africans to



DEATH MARCH: Jews being marched to their deaths in Warsaw. Bauman's findings lead him to conclude that the Holocaust was a modern social engineering programme that was made possible through the actions of ordinary and "normal" civil servants using bureaucratic procedures

impoverished and overcrowded rural "homelands"? Although the TRC is not able to cover all the ground, a focus on urban and rural apartheid planning would draw public attention to the more mundane and the everyday experiences of millions of black South Africans who continue to live in poverty-stricken urban and rural ghettos. It is these everyday legacies of apartheid that seem so easily to slip out of sight in the new South Africa.

Apartheid has generally been represented as an exceptional example of racism and repression, a unique aberration in modern history, created and masterminded by irrational and racist Afrikaners. The Hollywood image of mean-looking Afrikaner security police continues to colour our understanding of this most inhuman system.

What is generally forgotten is that the seeds of apartheid began well before the National Party came to power. Segregationism was in fact part and parcel of British colonial rule throughout Africa. The segregated

city that we Capetonians have inherited was established well before the apartheid state swept into power in 1948. The apartheid bureaucracy merely intensified and elaborated on the segregationist legacy of the early decades of the century.

While many contemporary accounts of the origins of segregationism focus on apartheid and racist and irrational ideologies of Afrikaner nationalism, this process in fact began much earlier with the creation of a modern bureaucratic state under British colonial rule. Apartheid was the product of modern and calculated bureaucratic procedures and rules, it was certainly not the irrational and unpredictable outburst of a pre-modern and barbaric state.

It could be argued that the apartheid bureaucracy proceeded from where other European colonial administrations had left off. Professor Mahmood Mamdani has in fact argued that apartheid's ban-tan policies were not "exceptional" but rather an extension of colonial bureaucratic systems of indirect

rule. In other words, these policies were the product of modern bureaucratic culture. Writing about the Holocaust, sociologist Zygmunt Bauman has challenged the view that the Nazi terror was an aberration or detour from the path of modernity. He convincingly argues that the Holocaust was the outcome of modern, rational and bureaucratic culture rather than an irrational outburst of residual pre-modern barbarity. He also cites studies that show that by conventional clinical criteria no more than 10% of the SS could be considered "abnormal".

Bauman's findings lead him to conclude that the Holocaust was a social engineering programme that was made possible through the actions of ordinary and "normal" civil servants using bureaucratic procedures. It was a product of a modern bureaucratic culture and not an "irrational detour" from the progressive trajectory of modernity. Since mass murder on a gigantic scale was implemented using modern industrial machinery of death and bureaucratic rules and procedures, Bauman concludes that the most shattering lesson of Auschwitz is that the extermination of European Jewry was a product of routine bureaucratic procedures: means-ends calculus, budget balancing, universal rule application.

How does one view apartheid in the light of Bauman's profoundly disturbing observations?

Rather than focusing on ordinary, bureaucratic aspects of apartheid, the Truth Commission chose instead to concentrate on the exceptional and "abnormal" actions of the apartheid state. It has focused public attention on police torture and the barbaric state terror that took place at death farms such as Valkeplaas.

The TRC's terms of reference excluded the investigation of the actions of the ordinary bureaucrats who kept the cogs of the apartheid machinery running. Neither was it tasked with addressing the everyday experiences of millions of ordinary black South Africans who encountered this bureaucratic nightmare. By initially focusing almost exclusively on gross human rights violations such as murder, kidnapping, torture and detention, the TRC seemed to be unwittingly sidelining the everyday suffering of millions of ordinary black South Africans.

However, with the broadening of the scope of the TRC's initial brief, it may yet be able to address the more mundane, bureaucratic and structural nature of apartheid.

Dr Steven Robins lectures in the Department of Anthropology and Sociology at the University of the Western Cape

Mxenge family hit at amnesty

Coetzee hit team killed lawyer 'as their duty'

ANC and other liberation movements
relied on their superiors to have accurately and fairly considered the question as to whether the assassination was necessary or whether other steps could have been taken.
Fumbatha Mxenge, a Port Elizabeth dentist and brother of Griffiths, told Sapa the family was disappointed - but not surprised - by the decision.

Self-confessed police "hit squad" commander Dirk Coetzee and two accomplices have been granted amnesty for the 1981 murder of Durban human rights lawyer Griffiths Mxenge.

But Mr Mxenge's family say they will seek a judicial review of the decision.

Coetzee, David Tshikalange and Butana Almond Nofomela were convicted of the murder in the Durban High Court in May.

Sentencing had been postponed to this Friday at the request of the Truth Commission's amnesty committee. The committee heard the three amnesty applications last year, but its



YIELD

ON THE TRUTH COMMISSION

decision was announced only late yesterday. This means the trial court will no longer pass sentence on Friday.

During his amnesty application, Coetzee testified he had been told that security police had been unable to bring any charges against Mr Mxenge

and that he had accordingly become a thorn in their flesh by enabling people charged with political offences to obtain the protection of the courts.

He said the regional security police chief had told him that they should not shoot or abduct Mr Mxenge but should make it look like a robbery.

The amnesty committee said it was satisfied none of the three applicants had known Mr Mxenge beforehand, or had any reason to wish to bring about his death before they were ordered to do so.

"We are satisfied that they did what they did because they regarded it as their duty as policemen who were engaged in the struggle against the

ANC and other liberation movements. "It is, we think, clear that they relied on their superiors to have accurately and fairly considered the question as to whether the assassination was necessary or whether other steps could have been taken."

Fumbatha Mxenge, a Port Elizabeth dentist and brother of Griffiths, told Sapa the family was disappointed - but not surprised - by the decision.

"We will challenge this decision. We are going to take it on review. You have not heard the last of this," said a subdued Dr Mxenge.

The amnesty committee has not yet decided on the amnesty bid by Coetzee and his colleagues for other incidents

NEWS

Prisoner seeks amnesty for Webster killing

Man serving sentence in Pollsmoor tells how he shot Wits academic



Victim, David Webster, was murdered in 1989

A prisoner serving an eight-year jail sentence in Pollsmoor prison for car theft has applied to the Truth Commission for amnesty for the murder of Witwatersrand University academic David Webster in 1989.

Mark Nielsen, 31, who claims to have worked part-time for the notorious Civil Co-operation Bureau (CCB) and for Military Intelligence (MI), is also asking for amnesty for his role in the 1989 assassination of Swapo lawyer Anton Lubowski, although he says his role was only to supply the AK-47 rifle for that killing.

He is also applying for amnesty for supplying weapons to MI members between 1989 and 1994 at places that include East London, Port Elizabeth, Zwelithsha (Ciskei), Umtata, Queenstown, Johannesburg and Manzini in Swaziland.

After unsuccessfully attempting to sell his story to various publications recently, Nielsen supplied the Cape Argus with a copy of his amnesty application form and a lengthy, unsworn statement - which does not form part of his application - in which he describes how he shot Dr Webster.

JOHN YEID

ON THE TRUTH COMMISSION



He did not give the newspaper the annexures to his amnesty application, which are referred to as MI documents.

Dr Webster's partner at the time of his murder, Maggie Friedman, has been shown a copy of the statement.

She told the Cape Argus it appeared that Nielsen had known some of the CCB men she named at a Truth Commission hearing in May last year - including Ferdi Barnard - as among those responsible for Dr Webster's death.

Ferdi Barnard was also one of those named by an inquest judge as having been involved in Mr Lubowski's death.

Mrs Friedman, who testified about Dr Webster's death at a Truth Commission hearing in Johannesburg last year, commented "The overall picture (in Nielsen's statement) is pretty accurate, but quite a few of the little details lack credibility."

Nielsen said he was ready to testify to the Truth Commission because of promises he had made to Andre de Villiers, who was murdered in suspicious circumstances in the Eastern Cape.

He said De Villiers had been a SADF colleague of his with the rank of lieutenant, and had been killed because he had been threatening to expose numerous irregularities within MI, specifically within the Eastern Cape region.

Nielsen said De Villiers had entrusted him with documentation which included State Security Council papers bearing the signatures of prominent politicians and former SA Defence Force officers.

These papers, he claims, sanctioned the murder of Matthew Goniwe and his "Craddock Four" colleagues.

Cape and to the involvement of the then South African government in the abortive coup attempt in Transkei.

Nielsen said he feared for his life and wanted to be placed on the witness protection programme of Gauteng Attorney-General Jan D'Oliviera, who is investigating "hard force" activities.

But he said the Truth and Reconciliation Commission was not supporting him in his bid.

In his amnesty application form, which was signed at Zonderwater Prison on December 4 last year, Nielsen said he had acted on orders of Colonel Ted Brassel of Ciskei Military Intelligence, Ferdi Barnard of the CCB, and Prince Gohmgaga of "MI/Department of Covert Operations".

He states that he did two years' national service from 1984 to 1985, served in the auxiliary forces from 1986 to 1994, was active on a part-time basis with the CCB from 1989 to 1991, and active on a part-time basis with MI from 1986 to 1994.

Under the heading "state the political objective sought to be achieved", Nielsen says "To create upheaval among various African (non-white) political groups who were in opposition to the National Party regime. To structure black-on-black violence in the townships, thereby in support of state security measures, to obliterate the knowledge of white oppression."

Nielsen said he had received "various financial benefits, favours and excursions" for his activities, including payments ranging between R2 000 and R60 000, hotel accommodation, parties, escorts (prostitutes) and various gifts.

He was sentenced in the Johannesburg Regional Court on September 12, 1995, to eight years' imprisonment for car theft.

The Truth Commission has acknowledged receipt of his amnesty application and commission investigators are checking his claims.

This was confirmed last week by the national director of the commission's investigative unit, Glenn Goosen, who said the unit was treating Nielsen's claims seriously.

"We have been speaking to him, we have got some information from him and we are pursuing it," Mr Goosen said.

RAY 5/8/97

(252)

Coetzee wins amnesty for Mxenge killing

(252)
Wyndham Hartley

CAPE TOWN — Former Vlakplaas commander Dirk Coetzee and his two accomplices were granted amnesty by the truth commission yesterday for the murder of Durban lawyer Griffiths Mxenge, but the victim's family has indicated it might take legal action to reverse the decision.

Mxenge's son, Mbasa, said the family was reviewing its options, but in all probability would attempt to have the decision reversed through legal action.

The amnesty committee, chaired by Judge Hassen Mall, said yesterday that Coetzee, David Tshikalanga and Butana Almond Nofomela had been granted amnesty for killing Mxenge in November 1981. The three — found guilty of murder last month — stabbed Mxenge 45 times, disembowelled him, cut his throat and almost severed his ears in the attack they claimed was authorised by senior officers.

The committee said there was no doubt that Coetzee had acted on the advice or command of senior officers of the SA Police's security branch.

This was in spite of the fact that the two senior officers implicated by Coetzee in both his amnesty application and in evidence during the trial, Brig Johannes van der Hoven and Capt Andy Taylor, were found not guilty. Neither of them have applied for amnesty for the Mxenge murder.

Commenting, Mbasa Mxenge said "This decision may do a lot for the reconciliation of the country, but it does not do anything for me."

BD 6/19/97

Audit queries truth commission controls

(252) BD 5/8/97
CAPE TOWN — Several shortcomings had been discovered in the truth commission's financial controls, the auditor-general said yesterday, but he was positive steps were being taken to address the situation.

The audit of the commission from December 15 1995 to March 31 last year was discussed by Parliament's public accounts committee yesterday.

In general, commission CEO Biki

Minyuku's responses to audit queries had been positive and corrective action taken would be evaluated during the next audit, the auditor-general said.

Among problems identified was the fact that salaries for commissioners and donations amounting to nearly R2m from USAid and the Netherlands had yet to be approved. The commission had also failed to comply with several tender board regulations — Sapa.

Mixed feelings over paper

on SADC's restructuring

John Duda

THE recently released consultants' report recommending radical restructuring of the Southern African Development Community's (SADC's) institutions and operations has been received with mixed feelings by analysts and member states.

Some regional observers warned parts of the report, which has proposed the functions of the organisation's secretariat be streamlined and relations with donors be reviewed, will be met with opposition from members.

Rob Davies, who chairs SA's parliamentary trade and industry committee, yesterday endorsed some findings of the report, including the fact that the community's shift towards development integration had not been accompanied by necessary change.

However, Davies expressed reservations on the approach to strategic issues, saying project and sectoral co-operation went hand-in-hand with economic development integration.

Strong resistance was expected on the proposed institutional change and fund raising methods,

according to sources. The report, prepared by Imani Development and SAs Council for Scientific and Industrial Research, suggested the establishment of powerful co-ordination directorates and that the body's functional sectors be clustered into six groups.

One source said the proposal flew in the face of provisions contained in the communities' treaty and would effectively introduce centralisation, making it difficult for member nations to have the sense of ownership engendered by the current system.

The study, currently being discussed in Gaborone, Botswana, also suggested the community broaden its funding base to include business and international investors, and that more funds be raised internally.

However, fears were expressed that an alternative formula to the current system of equal contribution would create "senior partners" within the community.

Member states, who are meeting in Botswana this week, yesterday decided to have a closed session discussion, raising speculation that sparks were expected to fly at the workshop.

Car thief claims Webster killing

CAPE TOWN — A car thief serving eight years in Pollsmoor prison in Cape Town has applied for amnesty for the 1989 shotgun murder of academic and political activist Dr David Webster.

Mark Nielsen, 31, in his amnesty application, said he shot Webster in a drive-by shooting outside the academic's home in Johannesburg, the Cape Argus reported yesterday.

Nielsen claims to have worked part-time for the Civil Co-operation Bureau and Military Intelligence. He also claims he supplied the AK-47 rifle used to murder Swapo activist Anton Lubowski in Windhoek in 1989.

After unsuccessfully trying to sell his story, Nielsen provided a newspaper with a copy of his "amnesty" application and a lengthy statement in which he described shooting Webster.

Webster's partner at the time of his murder, Maggie Friedman, said Nielsen's statement was "pretty accurate" but some details lacked credibility.

It appeared he had known CCB agent Ferdi Barnard and other CCB agents, named by Friedman at a truth commission hearing as being responsible for Webster's killing. — Sapa.

Liebenberg fails to force Borraine out of hearing

Farouk Choithi

DURBAN — The truth commission yesterday turned down a request by former SA Defence Force (SADF) head Gen Kat Liebenberg and the National Party (NP) that deputy chairman Alex Borraine recuse himself from a hearing into the controversial training of Inkatha Freedom Party (IFP) members in the Caprivi in the 1980s.

Liebenberg's legal representative, Advocate Etienne Coetzee, said at the hearing in Durban that Borraine had publicly attributed the acquittal of Liebenberg and the other accused in the KwaMakhutha massacre trial to the "transitional phase of the justice system" and had "propagated alleged untested allegations" against the SADF. "This is not what one would expect from a commissioner who is unbiased and objective," Coetzee said.

Coetzee said it would be advisable for Borraine to recuse himself as the NP had brought court action to have him dismissed as deputy chairman. If the court ruled in the NP's favour, the hearing could be nullified because of Borraine's presence, he said.

The NP said in a letter to the commission that it found Borraine's participation in the human rights violation committee hearing "objectionable".

Truth commissioner Richard Lyster said Borraine's presence would not result in anyone being prejudiced. The commission would make a finding only after giving those to be implicated at the hearing an opportunity to respond.

The hearing was expected to look at evidence presented in the KwaMakhutha massacre trial on Operation Marion, which led to the Caprivi training, and in another trial which led to Caprivi-trained Romeo Mbarabo and Gina Mkhize being found guilty of operating a hit squad.

New evidence was to be also presented by Caprivi political commissar Daluxolo Luthuli, whom KwaZulu-Natal attorney-general Tim McNally refused to use as a witness in the trial, and Caprivi trainee Zwelli Dlamini.

Dlamini, Luthuli, Mbarabo and Mkhize were expected to testify that training had taken place in order to "kill people", a view different from the argument accepted by Jan Hugo in the KwaMakhutha trial.

Attorney Howard Varney, who was part of investigations leading to the KwaMakhutha trial, was to have made a verbal submission at the hearing yesterday. But legal representatives of the SADF generals objected, saying they had been given insufficient time to study his submission.

in particular the large number of executions in the apparent absence of respect for internationally recognized safeguards, cases of torture and cruel, inhuman or degrading treatment or punishment, including amputation and public executions, the failure to meet international standards in the administration of justice and the absence of due process of law,

(b) At the grave breaches of human rights of the Baha'is in the Islamic Republic of Iran and situations of discrimination against the members of this religious community, as well as at the discriminatory treatment of minorities by reason of their religious beliefs, including certain Christian minorities, some members of which have been the target of intimidation and assassination,

(c) At the lack of continuity in the co-operation of the Government with the mechanisms of the Commission on Human Rights,

(d) At the continuing threat to the life of Mr Salman Rushdie, as well as to individuals associated with his work, which appear to have the support of the Government of the Islamic Republic of Iran, and deeply regrets the increase announced in the bounty offered for the assassination of Mr Rushdie by the 15 Khoradad Foundation,

(e) At violations of the right of peaceful assembly and restrictions on the freedoms of expression, thought, opinion and the press, and the harassment and intimidation of writers and journalists seeking to exercise their freedom of expression, the arrest of the writer Mr Faraj Sarkuh being only the most recent example of such unacceptable practices,

(f) At the lack of full and equal enjoyment by women of human rights, while noting efforts to integrate women more fully into the political, economic and cultural life of the country,

3 Calls upon the Government of the Islamic Republic of Iran

(a) To resume its co-operation with the mechanisms of the Commission on Human Rights, in particular with the Special Representative in order to allow him to continue his inquiry firsthand and to continue his dialogue with the Government,

(b) To abide by its freely undertaken obligations under the International Covenants on Human Rights and under other international instruments on human rights, and to ensure that all individuals within its territory and subject to its jurisdiction, including members of religious groups and persons belonging to minorities, enjoy all the rights enshrined in those instruments,

(c) To implement fully the recommendations of the Special Representative and the relevant recommendations of the Special Rapporteurs on religious intolerance and on freedom of opinion and expression, in particular the recommendations relating to the Baha'is, Christians, Sunni and other minority religious groups,

(d) To take effective measures to eliminate all discrimination against women, in law and in practice,

(e) To refrain from violence against members of the Iranian opposition living abroad and to co-operate wholeheartedly with the authorities of other countries in investigating and prosecuting offences reported by them,

(f) To provide satisfactory written assurances that it does not support or incite threats to the life of Mr Rushdie,

(g) To ensure that capital punishment will not be imposed for apostasy or non-violent crimes, or in disregard of the provisions of the International Covenant on Civil and Political Rights and the United Nations safeguards,

Hansurd

(4) Decides

(a) To extend the mandate of the Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year, and requests the Special Representative to submit an interim report to the General Assembly at its fifty-second session and to report to the Commission at its fifty-fourth session and to keep a gender perspective in mind when seeking and analysing information,

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Representative to enable him to discharge his mandate fully,

(c) To continue the examination of the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is, at its fifty-fourth session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories"

Unquote

(b)(i) 26 votes in favour of the resolution

(ii) 7 votes against the resolution

(c) 19 abstentions

(d)(i) South Africa abstained

In his latest report (UN document No E/CN.4/1997/63 dated 11 February 1997), (document available on request), the Special Representative on the UN Commission on Human Rights has noted that Iran is a complex and dynamic society in which progress is being made in a number of sectors, including human rights

The South African Government nevertheless acknowledges that various human rights abuses need to be

addressed in Iranian society. However, the Government remains convinced that frank dialogue and, where necessary, expressions of disapproval are the best way of supporting the positive trends identified by the Special Representative, hence South Africa's decision to abstain from voting on the resolution on Iran. It is important to note the fact that 12 of the 15 African members on the Commission on Human Rights abstained from voting on this resolution

This use of critical dialogue also enables South Africa to influence positively other countries where there are violations of human rights

In addition, South Africa's position is vindicated by the overwhelming support which the Iranian people gave to Mr Khatami in the recent presidential election. During his election campaign, Mr Khatami indicated that religious and ethnic minorities should feel safe in Iran, and that he opposes the suppression of the press. There are also indications that the Khatami administration would favour a more accommodating approach towards women in Iranian society. The strong backing which Mr Khatami received from female voters during the election, bears testimony to this encouraging development

RDP: utilization of donation by American government

624 Mrs T J MALIAN asked the Minister of Justice †

(1)

Whether any portion of the amount of R18 million allocated to his Department from the R256.7 million donation by the American Government towards the Reconstruction and Development Programme is to be used "to transform the system for the administration of justice", if not, what is the position in this regard if so, (a) what portion and (b) how is this amount to be used,

†

Hansard

(2) whether he will make a statement on the matter? N1064E

THE MINISTER OF JUSTICE

(1) Yes

(a) 95% or R17,100 million will be utilized to transform the system of administration of Justice

(b) The amount will be used for several projects and initiatives with a view to the transformation of the administration of justice

(2) No

Staff members employed at universities

627 Mr M J ELLIS asked the Minister of Education

(a) How many (i) academic and (ii) non-academic staff members were employed at each university in the Republic on 1 January (i) 1994, (ii) 1995, (iii) 1996 and (iv) 1997, (b) how many (i) undergraduate and (ii) postgraduate courses were available at each university in each of those years and (c) what was the average cost of one year's study for (i) an undergraduate and (ii) a postgraduate (aa) science, (bb) arts and (cc) commerce degree at each university in each of those years? N1067E

THE MINISTER OF EDUCATION

According to information provided by the universities themselves, tables have been compiled. The absence of figures indicates that no reply was received from the university at the time of compiling this reply

(a) Academic / non-academic

University	1994	1995	1996	1997
<i>Cape Town</i> academic	833	842	788	786
<i>Cape Town</i> non-academic	2 155	2 075	2 034	2 018
<i>Durban-Westville</i> academic	500	512	562	not available
<i>Durban-Westville</i> non-academic	964	984	903	available
<i>Fort Hare</i> academic	223	287	295	283
<i>Fort Hare</i> non-academic	1 367	1 306	1 307	1 232
<i>Medunsa</i> academic	268	230	204	223
<i>Medunsa</i> non-academic	904	1 016	1 020	1 033

University	1994	1995	1996	1997
<i>Natal</i> academic	699	673	668	676
<i>Natal</i> non-academic	1 411	1 417	1 370	1 370
<i>The North</i> academic	432	477	538	571
<i>The North</i> non-academic	551	551	564	593
<i>Orange Free State</i> academic	836	771	726	726
<i>Orange Free State</i> non-academic	1 131	1 108	1 096	1 096
<i>Port Elizabeth</i> academic	243	240	241	251
<i>Port Elizabeth</i> non-academic	506	535	500	505
<i>Pretoria</i> academic	439	466	474	466
<i>Pretoria</i> non-academic	619	615	616	642
<i>Rand Afrikaans</i> academic	1 516	1 603	1 565	1 565
<i>Rand Afrikaans</i> non-academic	2 698	2 779	2 772	2 772
<i>Rhodes</i> academic	310	310	317	339
<i>Rhodes</i> non-academic	415	429	438	447
<i>Ulusa</i> academic	1 624	1 680	1 747	not available
<i>Ulusa</i> non-academic	1 256	1 492	1 281	available
<i>Stellenbosch</i> academic	847	835	803	700
<i>Stellenbosch</i> non-academic	2 061	1 717	1 800	1 228
<i>Western Cape</i> academic	465	493	586	596
<i>Western Cape</i> non-academic	1 100	1 160	1 210	1 272
<i>Witwatersrand</i> academic	1 510	1 510	1 503	1 492
<i>Witwatersrand</i> non-academic	2 951	2 978	2 938	2 885
<i>Zululand</i> academic	243	272	291	309
<i>Zululand</i> non-academic	755	840	896	932
<i>Venda</i> academic	528	596	604	625
<i>Venda</i> non-academic	632	776	780	756
<i>North West</i> academic	324	302	262	236
<i>North West</i> non-academic	899	873	794	756
<i>Venda</i> academic	not available	212	234	273
<i>Venda</i> non-academic	available	386	437	475
<i>Transkei</i> academic	not available	not available	245	not available
<i>Transkei</i> non-academic	available	available	831	available

(b)

University	1994	1995	1996	1997
<i>Cape Town</i> undergraduate	1 434	1 468	1 507	1 454
<i>Cape Town</i> postgraduate	712	740	760	709
<i>Durban Westville</i> undergraduate	732	745	643	870
<i>Durban Westville</i> postgraduate	450	472	495	530
<i>Medunsa</i> undergraduate	14	15	15	15
<i>Medunsa</i> postgraduate	9	5	9	9
<i>Natal</i> undergraduate	569	327	285	205
<i>Natal</i> postgraduate	526	532	549	495
<i>The North</i> undergraduate	110	110	110	110
<i>The North</i> postgraduate	75	75	75	75
<i>Orange Free State</i> undergraduate	402	417	435	435
<i>Orange Free State</i> postgraduate	170	214	212	212
<i>Port Elizabeth</i> undergraduate	38	38	42	47
<i>Port Elizabeth</i> postgraduate	37	37	42	42
<i>Pretoria</i> undergraduate	51	51	51	51
<i>Pretoria</i> postgraduate	91	91	91	91
<i>Rand Afrikaans</i> undergraduate	194	202	204	205
<i>Rand Afrikaans</i> postgraduate	529	541	541	598
<i>Rhodes</i> undergraduate	77	77	80	81
<i>Rhodes</i> postgraduate	92	93	92	92
<i>Stellenbosch</i> undergraduate	55	56	57	57
<i>Stellenbosch</i> postgraduate	114	117	120	126
<i>Western Cape</i> undergraduate	51	58	60	52
<i>Western Cape</i> postgraduate	68	64	67	65
<i>Zululand</i> undergraduate	225	225	225	225
<i>Zululand</i> postgraduate	225	225	225	225
<i>Venda</i> undergraduate	17	19	19	20
<i>Venda</i> postgraduate	13	13	14	14
<i>North West</i> undergraduate	17	17	17	17
<i>North West</i> postgraduate	26	26	26	26
<i>Venda</i> undergraduate	331	370	415	465
<i>Venda</i> postgraduate	247	265	280	299

(c)

University	1994	1995	1996	1997
<i>Cape Town</i> undergraduate science	7 650	8 250	8 930	9 675
<i>Cape Town</i> undergraduate arts	6 600	7 100	7 700	8 350
<i>Cape Town</i> undergraduate commerce	7 400	7 950	8 640	9 300
<i>Cape Town</i> postgraduate science	3 550	3 800	4 100	4 425
<i>Cape Town</i> postgraduate arts	3 550	3 800	4 100	4 425
<i>Cape Town</i> postgraduate commerce	3 550	3 800	4 100	4 425
<i>Durban Westville</i> undergraduate science	4 400	5 080	5 880	5 889
<i>Durban Westville</i> undergraduate arts	3 920	4 560	5 240	5 240
<i>Durban Westville</i> undergraduate commerce	5 500	6 350	7 350	7 350
<i>Durban Westville</i> postgraduate science	3 220	3 720	4 300	4 300
<i>Durban Westville</i> postgraduate arts	2 910	3 370	3 890	3 890
<i>Durban Westville</i> postgraduate commerce	3 460	4 000	4 620	4 620
<i>Medunsa</i> undergraduate science	5 180	5 930	6 830	7 670
<i>Medunsa</i> undergraduate arts	3 680	3 200	3 600	4 870
<i>Medunsa</i> undergraduate commerce	3 680	3 200	3 600	4 870
<i>Natal</i> undergraduate science	8 260	8 680	9 020	9 710
<i>Natal</i> undergraduate arts	6 990	7 340	7 660	8 240
<i>Natal</i> undergraduate commerce	7 580	7 960	8 280	8 900
<i>Natal</i> postgraduate science	6 060	6 370	6 630	7 130
<i>Natal</i> postgraduate arts	5 050	5 310	5 520	5 940
<i>Natal</i> postgraduate commerce	5 480	5 760	6 000	6 450
<i>The North</i> undergraduate science	not available	not available	not available	not available
<i>The North</i> undergraduate arts	available	available	available	available
<i>The North</i> undergraduate commerce	available	available	available	available
<i>The North</i> postgraduate science	available	available	available	available
<i>The North</i> postgraduate arts	available	available	available	available
<i>The North</i> postgraduate commerce	available	available	available	available



Fruits of their labour ... juvenile prisoners at Johannesburg prison's A section worked hard to transform the courtyard from a "muddy mess" to a recreational area. A ceremony to celebrate the completion of the work was held yesterday.

253
Warders 'have
vital role to play'

Department of Correctional Services personnel should "re-dedicate" themselves to rehabilitating convicted felons.

This was the view of Deputy Correctional Services Commissioner Timothy Khoza when he opened a renovated outdoor recreation area in Johannesburg prison's A section yesterday. *Staff* Khoza lashed out at those

personnel who, he said, were not doing their part in rehabilitating young offenders who could still make a positive contribution to society: "The community is looking to the department to rehabilitate these inmates, and every inmate who returns to prison after being released should be seen as a failure on our part."

Diepkloof prison now holds about 250 prisoners under the age of 21 in A section. The courtyard-upgrade project was initiated to improve recreational conditions.

Materials for the project were supplied by private companies but the labour to convert the existing section yard into a multipurpose sports and recreation area was supplied by juvenile inmates.

Prison area manager Smiley Tshwen said most of the juvenile prisoners could gain skills which could be utilised in society. — Staff Reporter

GOD'S WORD 'NOT ALWAYS HEARD CORRECTLY'

DRC admits support for racial legislation

CT 6/8/97

(262)

PRETORIA: The Dutch Reformed Church admitted yesterday that the act which prohibited mixed marriages had been instituted after persistent pressure from the church.

THE Dutch Reformed Church admitted yesterday it had urged the former National Party government to adopt racial legislation such as the Mixed Marriages Act.

In a new publication released here, it said the church, after 1948, had pressed the government to legislate apartheid.

"Act 55 of 1949, which prohibited mixed marriages between individuals of racial groups, had been instituted mainly as a result of persistent pressure (since 1915) by the Dutch Reformed Church," the publication said.

Author Dr Fritz Gaum said other apartheid legislation, such as the Group Areas Act and "Bantu Education", had been initiated by political leaders, but with the blessing of the church.

In the 82-page document, the church confessed to a series of mistakes in its support of apartheid until the late 1980s. It said it "has not always heard the word of God correctly" with regard to the former government's racial policies.

The document added "The church was concerned about Afrikaners' survival, and had not always shown the same regard for

the miserable daily existence of other people."

Earlier this year, the church reaffirmed it would not make a submission to the Truth and Reconciliation Commission about its role in the apartheid years. Instead, it assigned church secretary Gaum to write an overview on the subject.

The church said its earlier endorsement of apartheid on biblical grounds had been well-intentioned. The church's approach to the issue, however, had been too theoretical for many years.

"We too often said 'if the policy of separate development was carried out with compassion and justice, it could be justified in terms of the Bible', without ascertaining whether this was indeed happening."

The publication said the church had occasionally expressed reservations to members of the previous government about the application of measures such as the Group Areas and Immorality acts. It was reluctant, however, to call for their abolishment.

"The Dutch Reformed Church must acknowledge that it should have made its prophetic voice heard more distinctly. It is also true that

the church unfortunately allowed political leaders to keep it on a string at times," the document said.

"The church sometimes protested, but too often too mildly. We apologise for that."

Turning to the former government's resistance to the anti-apartheid struggle in the 1970s and 1980s, the church said it should have asked more persistent questions about the activities of the security forces.

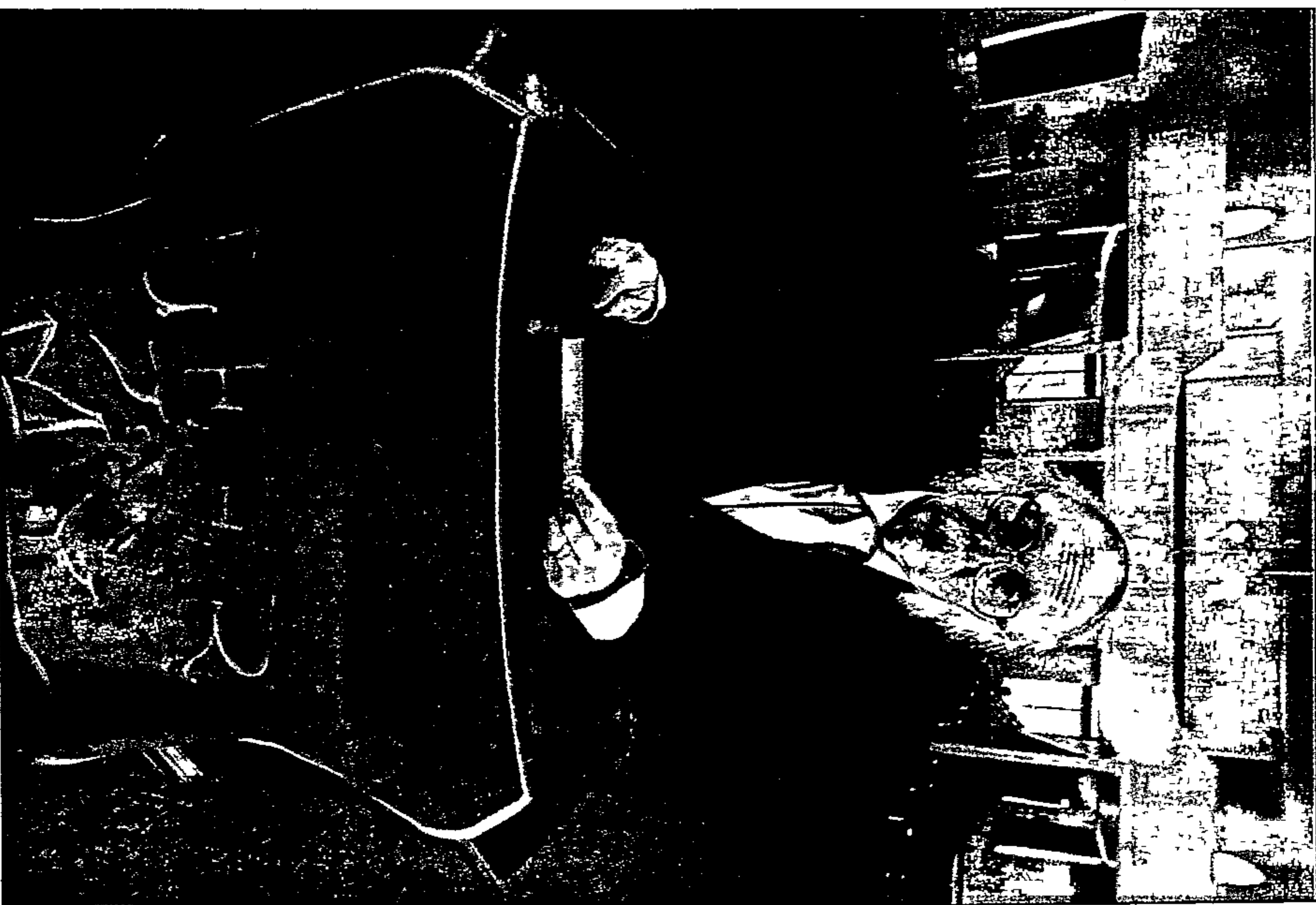
"In the same way, we should have inquired more seriously about what was happening and what was being allowed under the cover of the states of emergency in South Africa."

The church said it had been horrified by some of the alleged actions committed by security force members. There was no excuse for such conduct, even in the circumstances which prevailed at the time.

There was also no justification for similar actions by liberation fighters.

The Dutch Reformed Church, which finally condemned apartheid in 1990, said it had rid itself of this albatross and was now focusing on promoting reconciliation in South Africa.

The publication would not be distributed among congregations, but would be available in bookshops, Gaum said. — Sapa



UNIMPRESSED: Outspoken Cape Town dominee Herbert Brand is sceptical of the report containing "confessions" by the Dutch Reformed Church, and says it's time the church hierarchy stood up and said "Apartheid was a sin. Condoning it was heresy."

PICTURE: GARTH STEAD

I was trained as killer, says IFP man

ARGUS CORRESPONDENT

Durban - A member of the Inkatha Freedom Party has told a Truth Commission hearing how he was recruited into the police force and turned into a hit-squad killer.

Convicted murderer Brian Mkhize, 31, is one of hundreds of IFP recruits trained by security forces to form hit squads, which were deployed in KwaZulu Natal during the 1980s

But he got to tell only some of his story at the hearing in Durban yesterday, because legal wrangling between commissioners and about 20 lawyers representing former security force officers delayed proceedings for hours

The lawyers were representing dozens of generals, brigadiers, colonels, former state president PW Botha, former minister of law and order Adriaan Vlok and former minister of public works P T du Plessis. All had been told they could be "implicated" during the hearing

ARLT 6/18/97
The wrangling began over a planned submission by a Durban lawyer and former convenor of the Investigation Task Unit, Howard Varney

Lawyers representing Magnus Malan and others objected to Mr Varney "setting the stage" and said they had not had a chance to study his submission

It was finally agreed that he would make his submission today when he will argue that the IFP and security forces colluded to form an offensive capacity to act against the African National Congress in KwaZulu Natal

IFP recruits were trained in the Caprivi Strip and deployed as hit squads in KwaZulu Natal. Mr Varney contends that those who recruited the Caprivi trainees are ultimately accountable for their actions

Mr Mkhize, who was one of the trainees, told the commission how he was recruited by the IFP under the guise of becoming a KwaZulu policeman. He will continue evidence today

Face of justice transformed

Final wave of top appointments goes to Cabinet

CLIVE SAWYER
POLITICAL CORRESPONDENT

Justice Minister Dullah Omar was today to seek Cabinet approval for a final wave of appointments of top officials, part of a master plan to change the face of his department and to bring justice closer to the people.

Among the most significant appointments is Mr Omar's ministerial special adviser and fellow long-serving human rights lawyer, Elnver Daniels, as Chief State Law Adviser, the first black person to hold the post.

Mr Daniels's appointment has already been approved and he took office at the beginning of this month.

The job includes giving legal opinions on behalf of all central state departments, the president, cabinet ministers and statutory bodies.

Other duties of the office include drafting and editing legislation, revising legislation to guard against vagueness and exceeding of powers and scrutinising

extradition agreements and international agreements to ensure that they do not conflict with South African domestic law.

The appointment process of deputy directors-general and chief directors has also been completed, with today's item on the Cabinet agenda covering the appointment of directors.

Some of these posts are for new regional offices, in line with the decentralisation of the department, a shift away from the era of rule from Pretoria.

The process of transformation of the Department of Justice has been a complex one, with Mr Omar having inherited 11 departments from the former South Africa, homelands and self-governing territories in 1994. Some of these departments included incongruous functions like income tax collection.

Until a few months ago, top management of the department was still dominated by white men.

Now, of six deputy directors-general, three are African, one is Indian and another is a person of colour, according to statis-

tics supplied by the Department of Justice

Of head office posts, 47 percent are occupied by Africans, 29 percent by whites, 14 percent by coloured people and 8,9 percent by Indians. Of the 60 management-echelon posts, a gender breakdown shows 18,3 percent are filled by women.

In a recent submission to the Truth Commission, Justice Department Director-General Jasper Noeth described the transformation of the department as "an immense task that had to be carried out despite limited financial and human resources".

The decentralisation plan has involved establishing regional offices in Cape Town, Durban, Johannesburg, Bloemfontein, Kimberley, Nelspruit, Pietersburg, Mambatho and East London.

Human rights training has also been a vital part of the transformation process. "Millions of rands' worth of human rights books and documentation have been obtained and supplied to our departmental libraries countrywide," Mr Noeth said. The department was satisfied with its

representativity in terms of race at the

deputy director-general level, but gender representivity had not been fully achieved. The same was true at the level of deputy directors at head office, while the last phase gets under way today.

Progress had also been made in making the bench more representative of the community.

Of 1 387 magistrates, 413 were African men, 59 were African women, 669 were white men, 189 were white women, 25 were coloured men, five were coloured women, 15 were Indian men and 12 were Indian women.

Of 194 regional court magistrates, 17 were African men, 164 were white men, seven were white women, one was a coloured man, one was an Indian man and four were Indian women.

Among regional court magistrates, there are no African women and no coloured women.

Since April 1994, 22 judges who are not white have been appointed, including the Chief Justice, Mr Justice Ismail Mahomed

AR 65 b/8/94

(252)

Church 'frequently encouraged apartheid'

BO 6/8/97

(252)

Stephané Bothma

PRETORIA — The Dutch Reformed Church frequently urged the SA government to implement apartheid, which resulted in a host of laws being implemented or amended, the church confessed yesterday

Formulating a biblical basis for its views on race relations had become important to the church in the early 1940s, a document drafted by Dutch Reformed church synod member Fritz Gaum said

The church, which has refused to make submissions to the truth commission about its role in apartheid, released the document yesterday, stating it was available to all interested parties

"We did not always understand His word

correctly for the times in which we lived, and often we did not do what He asked of us," the document stated

The church also confessed it had "confidentially" accepted money in 1974 from the then information department which allowed it to publicise its views

The document said only a few people in the church knew about the secret government fund, which was "from the outset a source of concern and unease among them"

The church backed laws governing the prohibition of mixed marriages, the group areas act and a law which could prohibit "nonwhites" from attending church services in predominantly white areas

Although the church took the lead in establishing the apartheid concept, it was the

National Party which later adopted it as a political policy

It was on account of its profound and justifiable identification with the destiny of Afrikaners that the church often tended to favour the interests of its people. The church was concerned about the Afrikaners' survival and did not pay the same attention to the desperate circumstances endured by others in SA.

In the draft report, the church admitted it had allowed itself to be taken in tow by political leaders in its fold

"It is with shock and revulsion that we now take note of alleged un-Christian deeds committed by some members of the security forces. The church has completed its journey with apartheid"

Easy bail 'a thing of the past'

(252)
Sowetan
7/8/97

Omar says courts will now have to pay attention to the rights of communities

THE Cabinet yesterday approved hard-hitting draft legislation which will prevent hardened criminals from obtaining bail too easily.

Describing this as a very tough measure, Justice Minister Dullah Omar said in Pretoria "If properly applied, this Bill is going to make a dramatic impact on the hearing of bail applications" It would require courts to give more attention to the rights of communities

He said the Criminal Procedure Amendment Bill would receive priority, and could be passed by Parliament as soon as next month

It would compel courts to refuse bail for suspects previously convicted of a serious crime, except in unusual circumstances

"The court shall order that the accused be detained in custody until the case has been disposed of according to law, unless the accused satisfies the court that exceptional circumstances exist why he or she should be released," Omar said

The onus in this regard would be on the accused

Bail hearings outside normal court hours for individuals accused of serious

crimes would be banned

Such applications were not being properly handled as police were often not available, and courts had to be hastily convened

"The normal support systems do not exist in courts at night So justice is not done," he said

The Bill granted lower courts powers to postpone bail applications for up to seven days where they had, for example, insufficient information or evidence to reach a decision

Prosecutors would also be entitled to get confirmation from attorneys general that the crime concerned was a serious one before proceeding with the application

Should the offence be classified as serious, the bail application had to be referred to a regional or high court

The Bill introduced further grounds for refusal of bail if there was a likelihood that the release of the accused would disturb the public order, or undermine peace and security

This would apply, among other things, "where the nature of the crime and the circumstances induces a sense of shock and outrage in the community", Omar said - Sapa

'IFP SOUGHT OFFENSIVE CAPACITY'

Buthelezi 'must have known of hit-squads'

DURBAN: Witnesses at the TRC probe into hit-squad killings have said Inkatha leader Mangosuthu Buthelezi probably knew of activities of members trained by the SADF

INKATHA Freedom Party president Chief Mangosuthu Buthelezi and other high-profile political and former military leaders, have been challenged to come clean on what they knew about hit-squad activities in KwaZulu-Natal

Two witnesses at the Truth and Reconciliation Commission's probe into hit-squad killings in the province have said Buthelezi probably knew about the activities of the 200 Inkatha supporters who were trained by apartheid security forces at Caprivi and deployed as "hit men" in the province

Yesterday the convener of the former Investigation Task Unit, Mr Howard Varney, said the actions of these trainees were not "a series of unconnected private frolics" They had acted at the behest of "the most powerful individuals within the apartheid state and its surrogate homeland structures," he said

Citing evidence, including documentation from the former State Security Council, Varney said Buthelezi sought an offensive capacity for Inkatha and had held discussions around this with key soldiers.

"I am somewhat perplexed as to why these role-players continue with their charade. The deception presumably continues in an endeavour to preserve the image of key political leaders"

He said the conflict would never have reached the intensity it



CHALLENGED: IFP leader Mangosuthu Buthelezi

did without the direct involvement of leadership elements at the highest level, on all sides

"Sadly, we are still waiting for political leaders — on all sides of the political spectrum — to display statesmanship by revealing their roles in this war," said Varney

Another witness this week, the former political commissar of the IFP, Mr Daluxolo Luthuli, told the media after the hearing that Buthelezi "must have known" about hit-squad activities.

Luthuli had given evidence about his role and that of Mr M Z Khumalo, then personal assistant to Buthelezi, in training and deploying the men

At the start of yesterday's proceedings, Buthelezi's lawyer, Mr Patrick Falconer, said he believed that Luthuli's comments amount-

ed to a "gross irregularity" and his behaviour constituted a "criminal offence"

"My client wants to voice his objection and says he is astounded by the allegation and vehemently denies it"

Falconer asked that the commission issue a directive that "such conduct" would not be tolerated from witnesses or the media and he asked that Luthuli apologise

But commission spokesman Mr Richard Lyster said the issue was one of competing rights — those of Luthuli, the media and Buthelezi

"These rights are equal and this committee is committed to transparency. If there is a feeling that there has been a breach of a law, this should be taken up with the police," said Lyster

Luthuli's counsel, Mr Angus Stewart, said Luthuli would not apologise and stood by what he had said

Falconer said he would continue to take part in the hearing, but would take "further instructions regarding possible remedies"

A military strategist, Director of Defence Policy with the South African Ministry of Defence, Dr Rocklyn Williams, testified later that there was obviously a desire to keep the operations covert

He said it was "puzzling" that the recruits were trained in rocket-launchers and plastic explosives if they were only to be used for defensive, not offensive purposes

He also said it was "frightening" that people who had not been checked, either psychologically or physically, had been given access to these kinds of weapons — Own Correspondent

CT 7/8/97

(252)



SAVING FACE: Zweli Dlamini, with his legal counsel Angus Stewart, testifying before the Truth and Reconciliation Commission.

PICTURE: MERCURY

'My role was offensive — to kill anything that was there'

DURBAN. Wearing a green balaclava and dark glasses, a 29-year-old man told the Truth Commission yesterday how "on numerous occasions" he had killed for the IFP

One of 200 Inkatha supporters trained by apartheid-security forces to become members of hit-squads in townships around KwaZulu-Natal, Mr Zweli Dlamini hid his

face, explaining that he now had a new life, a new identity and was in a witness protection programme

The evidence he gave regarding his former life tallies with that of other witnesses who have already testified at the commission's probe into the Caprivi trainees

He said he was born in Ham-marsdale, joined the IFP Youth

League and was then recruited into the police

But instead of receiving police training he was flown to a "bushy area" where he underwent military training under the guidance of white instructors

He was chosen to join the "offensive group" where he learned to use AK-47s, G3s, Uzis,

rocket launchers, limpet mines and other explosives. He was also taught how to attack houses and "how to kill everyone inside"

On their return to South Africa, they were given a warm welcome by IFP leader Chief Mangosuthu Buthelezi and a cow was slaughtered in their honour

Later they were issued with

police appointment certificates and went on killing sprees, targeting UDF members.

He said he could not remember how many people he had killed or injured

"I can only say it was quite a number — my role was offensive to kill anything that was there"

— Own Correspondent

202
CT 7/8/97

Fixing legal system will bail out Omar

ARL 7/8/97

(252)

JUSTICE MINISTER DULLAH OMAR IS INTRODUCING LEGISLATION TO TIGHTEN UP SOUTH AFRICA'S BAIL LAWS AS PART OF THE GOVERNMENT'S ANTI-CRIME STRATEGY
MARTIN SCHONTEICH, THE PARLIAMENTARY ANALYST FOR THE SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, ARGUES THAT THIS WILL NOT SOLVE THE PROBLEM

The Minister of Justice's shock at the murder of seven-year-old Mamokgethi Malebane by her alleged rapist, while he was out on bail pending his rape trial, is shared by all South Africans who are outraged by the high levels of violent crime ravaging the country.

Mr Dullah Omar's solution is to tighten the bail law.

But the real problem with bail is not the law, but the fact that the criminal justice system as a whole is slowly disintegrating because of a lack of resources, staffing and training for the police and prosecution services.

As a result, the present bail law, while comprehensive and adequate, is not being applied properly.

The urgent steps which Mr Omar should take are to fix the system.

The Malebane case is a perfect example of this. In this case, the accused had been charged with raping two other children in addition to Mamokgethi.

This, the seriousness of the charges against him and the fact that he was Mamokgethi's next-door neighbour would have been more than sufficient grounds for a court to refuse bail in terms of the present bail law.

Not surprisingly, on the initial two occasions when the accused applied for bail, his application was rejected by the court.

Bail was finally granted not because of an ineffective bail law, but by a system which is increasingly incapable of applying the law properly.

The State did not oppose bail when it was finally granted in Mamokgethi's case.

According to the prosecutor who handled the application for bail, the docket containing details of the accused's three child-rape charges was not available to him on the day of the bail hearing and he

had a further 13 cases on his diary that day.

The investigating officer in Mamokgethi's case was dealing with 40 other cases at the time and had received little specialist training when he was transferred to the child protection unit.

The South African Institute of Race Relations and other concerned groups have been arguing for a long time that there is no need for draconian bail legislation which would undermine the civil liberties of thousands of people.

The problem lies with the application of the existing law not the law itself.

Mr Omar is to be congratulated for taking heed of such arguments and omitting some of the harsher provisions which he initially wanted to incorporate into the law.

Importantly, the present bill no longer provides for a blanket denial of bail for certain offences, something which would have required a constitutional amendment.

The bill also does away with previous proposals which sought to compel courts to refuse bail if the court was "convinced that a reasonable suspicion exists that the accused committed the offence".

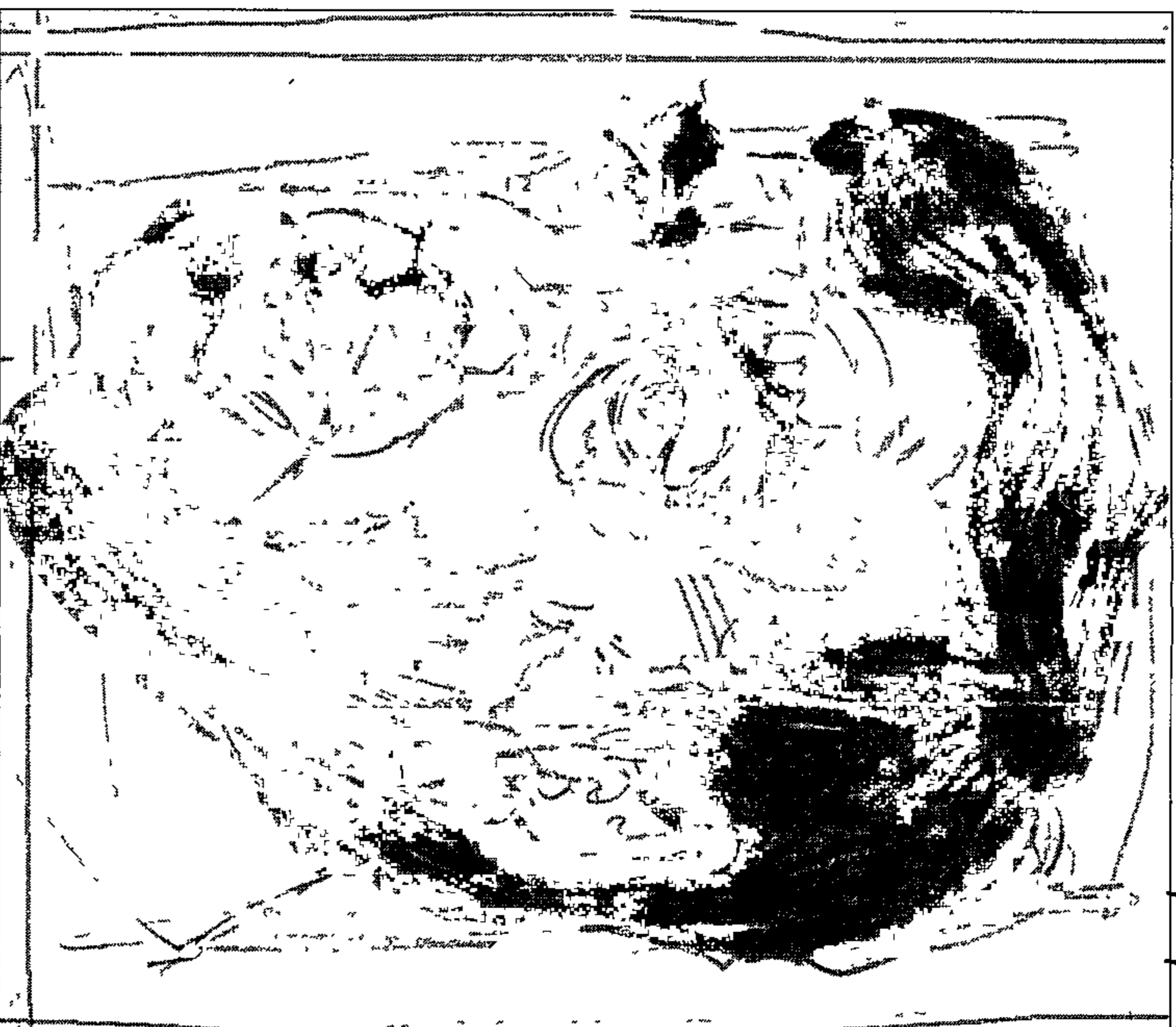
This would have been tantamount to a blanket refusal of bail as a person is generally charged on the basis of a "reasonable suspicion".

Finally, previous proposals included the political offence of treason as a serious offence for which courts could grant bail only under exceptional circumstances, this has also been dropped from the present bill.

A disconcerting aspect of the bill, however, is the provision that in their decision whether to grant bail, courts should take into account the "likelihood that the release of the accused will disturb the public order or undermine public peace or security".

This could result in courts granting or refusing bail not on the merits of the accused's case, but on the basis of mob rule.

Thus, if Pagan, the African National Congress or Inkatha Freedom Party supporters - or any group vocal and large enough to "disturb the public order" or "undermine public peace" - were to threaten mayhem and civil unrest should an accused not to their liking be released



COLIN DANIEL

Under pressure: Justice Minister Dullah Omar, who must make the legal system work properly

on bail, then a court would be required to refuse it. An accused's right to bail should not be judged on the basis of the potential emotional response of the public at large to the alleged crime in question.

In a country where political violence and vigilantism are widespread, such a provision is open to abuse.

The purpose of bail is to make sure that an accused person stands trial and does not interfere with the investigation of his case while out on bail.

It is not its purpose to take heed of the sensibilities of groups who are prepared to

"disturb the public order" to compel courts to keep accused persons in custody - people who have yet to be found guilty.

Interestingly, it is conceded by Mr Omar that the 1986 amendments to the bail law have been successful.

The facts bear him out. Since then, the number of awaiting-trial prisoners has risen from 23 750 to more than 37 000.

Today, almost one in three of all prisoners who occupy our prisons, which are filled at 150% of capacity, are awaiting trial.

This is, of course, of little solace to the

family of Mamokgethi Malebane. If we are serious about fighting crime, it is imperative that such cases of the justice system failing to apply the laws at its disposal do not occur.

The answer, however, does not lie with legislative quick-fix solutions which do not address the real problems besetting the system.

Our criminal justice system is underfunded, understaffed with skilled and experienced personnel and does not have the resources to deal with the crime situation effectively.

For example

- Most detectives have no specialised training, and only a quarter have been on a detectives' course, while a mere 3% are fully trained.

- About 25% of the police force's members are functionally illiterate, with 4 800 having only a Standard 6 qualification.
- The number of prosecutors falling under the jurisdiction of the attorney-general of the Witwatersrand Local Division has increased from 289 in 1993 to 293 in 1996 - an increase of 1,4% over three years.

No serious commentator would dispute that crime has risen by much more than that in the same time, and.

- Most prosecutors' offices do not have access to computers, while some do not even have fax machines.

Mr Omar has indicated that he has approved the creation of new prosecutors' posts, which is encouraging.

It is important, however, that new prosecutors are paid decent salaries so that their skills are retained by the State.

The new prosecutors will also need offices, telephones, fax machines and administrative support staff if they are to function optimally.

As long as the deficiencies in our criminal justice system are not tackled, tragedies like Mamokgethi's case are bound to happen.

Changing the bail law does not address these deficiencies.

What is required is a concerted commitment by the Government to provide the criminal justice system with the resources and staff it needs to function effectively.

This is not an easy task - not as easy as changing the bail law - but it is necessary if we are going to succeed in reducing crime.

New bill will severely limit granting of bail

JOHANNESBURG. Groundbreaking draft legislation, severely restricting access to bail by suspects accused of serious crimes such as murder, aggravated rape and car hijacking, was approved by the cabinet yesterday.

Justice Minister Mr Dullah Omar said the new bail code, contained in the Criminal Procedure Amendment Bill, would be given priority and would be submitted to Parliament as soon as possible.

The proposed legislation would compel the courts to order the detention of certain suspects pending the outcome of a trial. Unless the court was satisfied that exceptional circumstances justified the granting of bail, the principle would be applied to all murders with aggravating circumstances.

The bill would curtail the right to apply for bail after working hours; applications for bail in serious crimes such as murder, rape and robbery would be heard in Regional or High courts and lower courts would be granted wide powers to postpone bail applications.

Bail could also be refused if there was a likelihood that the release of the accused would disturb public order or undermine the peace or security. — Own Correspondent

Buthelezi was aware of hit squads, truth commission told

Jarouk Choithla

URBAN — Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi was accused at a truth commission hearing yesterday of being aware of hit-squad activities, while his right-hand man, Zakhela Khumalo, was accused of giving instructions to assassinate and supplying them with weapons.

Buthelezi's legal representative, Patrick Falconer, tried to persuade the commission to bar former IFP paramilitary fighter Daluxolo Luthuli from making claims against Buthelezi in media interviews. The commission hearings are focusing on the secret military training given to 200 IFP members by the SA Defence Force (SADF) in the Caprivi Strip in the mid-1980s.

Luthuli had earlier told journalists that he had no doubt that Buthelezi knew of killings carried out by the Caprivi trainees.

Falconer said Luthuli's media claims exceeded allegations in his testimony to the commission. Buthelezi was "astounded" by the allegations. He had committed a criminal offence and had caused Buthelezi irreparable damage, Falconer said.

Commissioner Richard Lyster said the commission would not muzzle Luthuli, and Falconer could challenge his claims during cross-examination. Luthuli's legal representative, Angus Stewart, intervened, saying his client wanted to reiterate that Buthelezi "must have known" about hit-squad activity.

He was supported by attorney Howard Varney, who charged that it was possible that Buthelezi knew about the activities of a hit squad in Esikhwini in northern KwaZulu-Natal, because IFP members were involved. They included KwaZulu-Natal welfare and pensions MEC Gideon Zulu, Varney said.

He said killings by SADF-trained IFP members were not "private frolics", but acts carried out "at the behest of powerful individuals within the apartheid state and its surrogate homeland structures".

Legal representatives for former army and police generals earlier tried unsuccessfully to prevent Varney, who oversaw investigations leading to the Kwa-Makhutha massacre trial, from making his submission verbally.

Bd 7/8/97

(252)

Varney said that Gen Roy Durring, while KwaZulu-Natal police commissioner between 1992 and 1994, had decided to transfer Brig Patrick Mzimela from Esikhwini in northern KwaZulu-Natal because of strong suspicions that he was involved in hit-squad activities. However, Buthelezi had intervened to urge Durring to reconsider his decision, Varney said.

Varney said Khumalo, who was appointed IFP general secretary for administration last month, had been a central figure in identifying people to be assassinated, in supplying weapons and in providing refuge to fugitives from justice.

Former IFP hit-squad member Zwell Dlamini gave testimony yesterday wearing a balaclava, saying he feared for his safety.

He said that he had taken part in more than 20 killings. Khumalo had once sprung him from a hospital where he was receiving treatment after a shootout with soldiers in the Mantsburg area, Dlamini claimed.

Varney said he disagreed with the High Court ruling in the KwaMakhutha trial. The commission would venture into the absurd if it gave an innocent interpretation to the term "offensive", used in official documents presented to the trial and the commission to describe the Caprivi training.

Judge Jan Hugo found that the term offensive had meant "protective", but it was clear that an offensive capacity had been built to carry out attacks against enemy agents, Varney said.

Hearings over bill to clarify status of death row inmates

Jacob Dlamini (25)

CAPE TOWN — The parliamentary justice committee is to hold hearings on Monday on the Criminal Law Amendment Bill, which contains provisions designed to clarify the position of prisoners on death row.

The bill is based on recommendations by previous chief justice Judge Michael Corbett, following the repeal of the death penalty by the Constitutional Court in June 1995.

Corbett recommended a number of options, including the establishment of special courts to resentence death row cases, the commutation of all death sentences to life imprisonment, and the introduction of compulsory minimum sentences for capital offences.

Justice department official Johan Labuschagne told the justice committee the bill was designed to create a mechanism for dealing with the 450 prisoners on death row. He said they remained convicts but were without sentences, as the Constitutional Court had declared their original sentences invalid and unconstitutional.

Labuschagne said the proposed bill would allow for new sentences to be imposed. He said the justice department had decided against the option of a

compulsory minimum sentence for death row prisoners, as there were different circumstances in each case which had to be considered separately before a new sentence was imposed.

Yesterday the committee also heard submissions on the Magistrates' Courts Amendment Bill and the Contingency Fees Bill. The former is intended to give courts power to enforce a notice against a debtor to appear in court for a financial inquiry and to compel people to respect summonses.

Pretoria Central sheriff Robbie Schilz expressed support for sections of the bill, saying it would put civil law in line with criminal law.

Schilz said the Constitutional Court's findings against imprisonment of small debtors had, though, created the perception courts would not act against those who failed to settle debts.

Human rights committee board chairman Jeremy Sarkin said the bill was progressive, as it sought to stop imprisonment of judgment debtors, most of whom were poor and illiterate.

Senior Counsel Derek Mitchell, representing the general bar council, said the committee supported the need to increase the accessibility of courts to all citizens, as proposed by the Contingency Fees Bill.

BD 7/18/97

Phosa accusation 'erroneous'

Bonile Ngqiyaza

A FORMER operative who told the truth commission last month that Mpumalanga premier Mathews Phosa had tried to intimidate her and others not to make submissions, has apologised "unequivocally" for making the "erroneous" statement.

In her testimony to the commission, former African National Congress (ANC) member Nombango Mazibuko said Phosa had called her two weeks before her appearance at the commis-

sion and told her he would "defend the comrades" against sexual abuse claims she might make.

Mazibuko claimed yesterday to have understood the person who called her had been Phosa, but accepted she had been called by someone else who wanted to undermine her ANC loyalty.

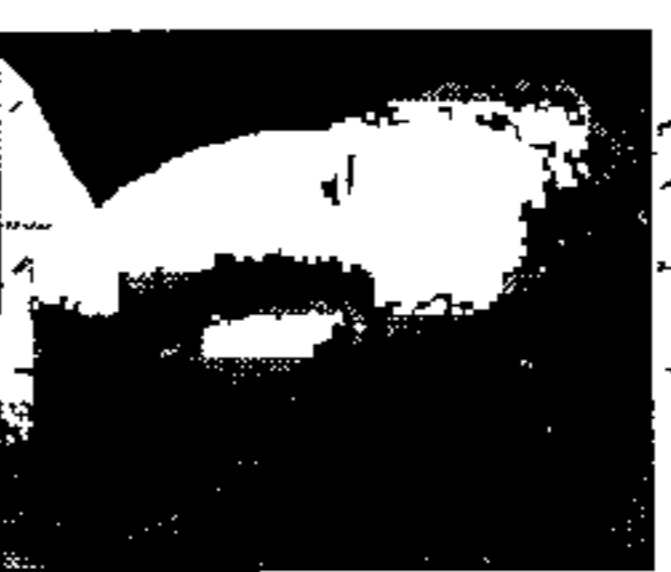
Phosa expressed regret that Mazibuko had been "pressurised" into uttering the statement and accepted the apology unconditionally. Sapa reports that Phosa had withdrawn his defamation action against the woman.

Left with more questions than answers

When Dirk Coetzee was granted amnesty, no light was shed on the murder of Durban attorney Griffiths Mxenge

Star 8/8/97

(252)



By Robert Brand

The granting of amnesty to Dirk Coetzee for the 1981 murder of Durban attorney Griffiths Mxenge provides more questions than answers. It has revealed nothing new, and it is still not clear who had ordered the murder or knew about it.

Coetzee claimed in his amnesty application that Brigadier Jan van der Hoven, head of the security police's Port Natal branch in 1981, had instructed him to kill Mxenge. He said he had received logistical support from Captain Andy Taylor, a security policeman under Van der Hoven's command.

Van der Hoven and Taylor have denied Coetzee's allegations, and both were earlier this year acquitted of complicity in the murder by the same Durban court which convicted Coetzee. Almond Nofemela and David Tshikalanga Coetzee's allegation is that Van der Hoven had asked him to "make a plan" with Mxenge, who had become "a thorn in the flesh" of the security police because of his defence of activists charged with political offences. Coetzee understood this as an order to kill, a view reinforced by Van der Hoven's advice that "it should be made to look like a robbery".

Coetzee then put together a hit squad consisting of Nofemela, Tshikalanga, Brian Ngqulunga and Joe Mamasela, all policemen working under his command at Vlakplaas, the security police's secret counter-insurgency unit. Those four committed the murder.

Nofemela and Tshikalanga applied for amnesty together with Coetzee. Ngqulunga is dead, murdered by Eugene de Kock and his security police cohorts, while Mamasela has chosen to turn State witness and expects indemnity from the prosecuting authorities, not the TRC.

In its ruling, the amnesty committee said it was clear Nofemela and Tshikalanga were following Coetzee's orders, therefore qualifying for amnesty.

In Coetzee's case, there was "no direct evidence to confirm that he acted on the orders of Van der Hoven or Taylor", the committee said.

However, although there was doubt about identities of those who gave the orders, it was clear that Coetzee was acting under orders: "The fact that he acted on the advice, command or order of one or more senior members of the security branch admits of no doubt".

It is unlikely the committee found, that Coetzee would have travelled from Pretoria to Durban to murder someone he knew nothing about unless he was acting out the wishes of his superiors. Also, the committee said, steps were taken to cover up the murder, giving credence to the allegation of security police involvement.

A fact which escaped the committee was that Brian Ngqulunga was murdered after giving evidence before the Harms Commission on, among other things, the Mxenge incident. He denied involvement, but appeared so shaky in the witness stand that his superiors feared he might spill the beans.

The ruling, together with the Durban court's conviction of Coetzee and the others, stands in stark contrast to

the findings of the Harms Commission charged with investigating the Mxenge murder and several other unsolved killings, Mr Justice Louis Harms described Coetzee as a lying and contradictory witness and rejected his

claims of a hit squad operating out of Vlakplaas.

In the Mxenge matter, Judge Harms accepted that Coetzee, Tshikalanga and Nofemela (not Mamasela and Ngqulunga) may have been involved, but he said there was no evidence of

police complicity in the murder.

The amnesty ruling not only indemnifies Coetzee, Tshikalanga and Nofemela from criminal liability for the murder, but it also safeguards them and the State from civil liability.

TRC DIARY



NEXT WEEK

Monday sees the start of the amnesty application by Clive Derby-Lewis and Janusz Walus for the murder of South African Communist Party leader Chris Hani in 1993. Derby-Lewis and Walus claim they murdered Hani on behalf of the Conservative Party to derail negotiations for a democratic transition.

COMING UP

A special hearing on the role of the media during apartheid starts in Johannesburg on August 25. In Durban, the special hearing on the training of Inkatha Freedom Party recruits by the South African Defence Force in Caprivi continues.

The hearing became bogged down in its first week by legal wrangling between the commission and representatives of various SADF officers and former government ministers accused of complicity in the operation.

The Mxenge family, which was in the process of a multimillion-rand civil claim against the State, will therefore not be able to pursue their claim.

The position of Mamasela, however, is uncertain. As a State witness in prosecution of Coetzee, Nofemela and Tshikalanga, Mamasela freely confessed to involvement in the Mxenge murder.

Although he received an undertaking from Kwazulu Natal Attorney-General Tim McNally that he would not be prosecuted for the murder, it will be up to trial judge Mr Justice Piet Combrinck to decide on the issue of indemnity.

According to Coetzee's attorney, Julian Knight, Combrinck's decision will be based on whether Mamasela had impressed him as an honest and truthful witness.

However, in convicting Coetzee and his two co-accused of Mxenge's murder in May, Combrinck described Mamasela as "thoroughly dishonest, untruthful and unworthy".

"It would be dangerous in the extreme to place any reliance on his testimony when considering the guilt of the accused," he said.

Deputy Kwazulu Natal Attorney-General Chris de Klerk told Sapa this week Combrinck was expected to decide on the question of indemnity today, when he disposes of the criminal proceedings against Coetzee, Tshikalanga and Nofemela.

De Klerk said McNally's offer to Mamasela of immunity from prosecution followed an earlier undertaking to the former policeman by Transvaal Attorney-General Dr Jan D'Oliviera.

D'Oliviera had told Mamasela he would not be prosecuted for certain apartheid-era crimes, in exchange for turning State witness.

"If he is not granted indemnity (by Combrinck) he still has the undertakings from two attorneys-general that he will not be prosecuted for these crimes," De Klerk said.

"However, this does not preclude the family from bringing a private prosecution."

Even if Mamasela is granted indemnity, he could still be sued for civil damages. This is unlikely, however, since the Mxenge family, in a public reconciliation earlier this year, declared that they have forgiven him.

Staff want to tell TRC about Beeld's apartheid-era activities

~~SP~~

(252)

Star 8/8/97

By **MATTHEW BURROUGHS**

A group of journalists at the Afrikaans daily Beeld say they want to make a submission to the Truth and Reconciliation Commission on their newspaper's activities during the apartheid years, despite the fact that Beeld and its parent company Nasionale Pers have refused to make submissions.

Later this month, the TRC is holding a hearing into the role

of the media during the apartheid years. Nasionale Pers chairman Ton Vosloo has said the group did not commit any human-rights violations and had nothing to confess.

A senior journalist at Beeld, who asked not to be named, said that during the apartheid era, the Afrikaans public had not been as well informed by their newspapers on the situation in SA as they should have been. "The Afrikaans newspapers

were closely aligned to the National Party, which paralysed their critical function.

"It's an important lesson that other newspapers find out how seductive it is to be closely aligned with the government of the day," he said. "We've been close to the beast - and we should tell them. (the TRC) what it was like.

The journalist said Naspers journalists had been subjected to "hidden censorship".

"If I stand by my principles, we should go to the TRC, but then I'll lose my job. Even if we don't make a submission, we should at least have another internal discussion with management."

Beeld editor Johan de Wet declined to comment, referring to the Star to an editorial of his in the newspaper this week.

In the column, De Wet said although Beeld was "very sorry" that it had made "errors

of judgment" and "possibly contributed to a climate in which human-rights violations could be committed", the newspaper had acted to the best of its ability within a system of media censorship.

He said neither he nor Vosloo could speak on behalf of all the newspapers in the group or former editors of the newspapers, and it would therefore be futile for one of them to make a submission to the TRC.

Reasons Why I had to leave

MfG 8-14/8/97

(252)

Gaye Davis spoke to Rhoda Kadalie about the frustrations which forced her to resign from the Human Rights Commission

Outgoing Human Rights Commission official Rhoda Kadalie this week lifted the lid on the seething tension within the commission which led to her resignation

In an exclusive interview with the *Mail & Guardian*, Kadalie, commissioner for the Western Cape, blamed her departure on incompetence among key commission officials, personality clashes and "enormous tensions" between commission staff and management

Kadalie wrote to President Nelson Mandela last week, detailing the Human Rights Commission's problems and imploring him to appoint a parliamentary committee to oversee it

She told the *M&G* the commission was "like a horse with two heads", each pulling in different directions "The staff feel we don't have a vision they can plug into, while from the commissioners' point of view, the staff are a law unto themselves and call the tune"

Personality clashes were "en-demic" and had led to the resignation of almost one-third of the commission's staff in the 18 months it has been operating
Too little had been done to keep

good staff, said Kadalie, while a "bad employment policy" had created "pockets of incompetence and mediocrity" in key positions

The commission, led by Barney Pitryana, has blamed much of its difficulties on its funding. Kadalie said the commission did need to have its budget increased, but said "more money will not address questions around management"

She said she had great respect for Pitryana's vision, but he needed a strong management team. A meeting in May to deal with a range of problems, including the exclusion of commissioners from decision-making, their relationship with CEO Louisa Zondo and perceptions that Zondo was being "protected" by Pitryana, had failed as far as she was concerned

A commission representative this week referred all inquiries to Pitryana, who was unavailable Zondo is overseas

In the letter to Mandela, Kadalie says she had made "several attempts to bring the problems of the commission to the attention of the deputy president and other key persons in government, to no avail" She lists the frustrations that forced her to resign a job that put her "at the cutting edge" of human rights work

● A fundamental difference of opinion over the focus of the commission

● Lack of good management and leadership

● Personality conflicts

● "Pockets of incompetence and mediocrity in key positions" owing to a "bad employment policy"

Western Cape Human Rights Commission legal officer Ron Paschke, who resigned soon after Kadalie, blamed "growing frustration and disillusionment" with the com-

mission in his letter of resignation. Paschke was not available for comment this week. But in his letter he added that his relationship with the commission's Johannesburg headquarters was "a source of constant frustration". Instead of support he had been subjected to "petty backbiting"

He said he was seen as "an adjunct" of the Johannesburg office, which was more concerned with him "being out

of control" than the quality of his work
The commission had not made enough resources available to enable him to function effectively
Another source of frustration was in the bureaucratic inefficiencies "too numerous to mention", including the unexpected delay in getting a complaints database when the commission had "been sitting for months with three quotes, all for less than R20 000", which meant no tendering was necessary
His suggestion that the commission refer some cases to other bodies better equipped to deal with them was "twisted" to imply the region was not accepting racism cases — a false allegation, he said
Tensions escalated after Johannesburg staff failed to make themselves available for a meeting to resolve issues
Kadalie said that the commission, instead of trying to be "all things to all people", should focus on three key areas: building up its legal department (a complaints registrar had yet to be appointed), socio-economic rights, and national projects concerning the rights of farmworkers, children at risk and the elderly
She had written a "constructive letter" to Pitryana, spelling out her proposals, but at a subsequent meeting with commissioners he said he disagreed with her "I was not satisfied with that response to my letter, and that's why I am definitely going to go," she said
Kadalie is serving her three-month notice period. Paschke is joining the Bureau of Justice, a joint project between the Ministry of Justice and the Vera Institute of New York

Rhoda Kadalie: The commission 'is like a horse with two heads'.
PHOTO: CAPE ARGUS/AFRIKA



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IFP KILLER REVEALS NAMES TO TRC

Prince, mayor linked to hit-squads

DURBAN: The TRC heard yesterday that KwaZulu-Natal Welfare MEC Prince Gideon Zulu had ordered IFP hit-squads to kill people, including ANC activist Nathi Gumede.

INKATHA Freedom Party (IFP) soldiers, who are serving jail sentences of up to 75 years for murders they say they committed for the party, are furious that those who gave the killing orders are free and still hold senior positions in government and the police force.

Self-confessed hit-squad leader Gcina Mkhize, who is applying for amnesty, told a Truth and Reconciliation Commission hearing here yesterday that Prince Gideon Zulu, then a KwaZulu minister and now Welfare MEC in KwaZulu-Natal, had issued instructions to kill people — using



the code that they should "catch the first bus" — as had Captain Leonard Langeni, then a KwaZulu policeman and now stationed at Umtata with the rank of superintendent.

He named Mr B B Byela, now mayor of Richards Bay, Ms Lindiwe Mbuyazi, now an IFP MP, Mr Robert Mzimela, now secretary of the KwaZulu-Natal legislature, and IFP general secretary Mr M Z Khumalo as having been involved in the establishment and operations of the hit-squad.

Mkhize said Brigadier Xolo Mzimela, a district commissioner

who was based in the township and is now deputy area commissioner of the police at Eshowe, "covered up" their illegal activities.

The gist of his evidence is expected to be corroborated today by Mr Daluxolo Luthuli, the former political commissar of the IFP who has admitted his role in training 200 party recruits at Caprivi and their deployment as "hit men" in the province.

Mr John Wills, who is acting for Mkhize and two other hit-squad members, Romeo Mbambo and Israel Hlongwane — all of whom are serving long jail sentences for murder and kidnapping — said the men were "very uptight that the top guys are still free."

"I believe they should be prosecuted. If they aren't, the political violence will never end," he said.

Mkhize had testified earlier that he had undergone military training at Caprivi under instructors from the then SA Defence Force.

When he returned to the country, he underwent normal police training and worked with the KwaZulu police in the reaction unit until, one day, he had been summoned to a meeting in Umtata.

At the meeting, attended by Prince Gideon, Mr Mzimela, Khumalo, Langeni and Luthuli, he had been told that the IFP was "getting eliminated" by the ANC, the party was losing support and it was time to put the skills he had learnt at Caprivi to use. He was assured that he would not be arrested because Brig Mzimela would see to it.

Mkhize said that while the instructions to kill usually came from Langeni, the initial sugges-

tions often came from local leaders. He said they never spoke of killing someone, but always said they should "catch the first bus" in case telephones were bugged.

Initially the murders were "single hits" on individual ANC supporters, but in 1992 at an IFP rally which had to be abandoned after an ANC attack, Prince Gideon, who had crawled on his stomach to avoid bullets, "brushed the dirt from his big tummy" and ordered the squad to carry out similar, random attacks on buses carrying ANC supporters or at their rallies.

He detailed several murders, including that of ANC activist Mr Nathi Gumede in May 1993 after Prince Gideon had instructed that he should "catch the first bus". Mr Mzimela had supplied the car to do the job — Own Correspondent

(252) CT 8/8/97

7

Advocate 'knew of Caprivi cover-up'

CT 8/8/97 3 (252)

DURBAN. A senior advocate representing former police generals at a Truth and Reconciliation Commission probe here was accused yesterday of knowing about an IFP cover-up of the Caprivi trainee issue at the Goldstone Commission inquiry.

Mr Louis Visser, SC, was cross-examining Caprivi trainee and self-confessed killer Gcina Mkhize about why his story to the truth commission differed from the version he gave the Goldstone Commission.

Mkhize said they had been told by the party's lawyers to lie.

"You should know, Mr Visser; you were there with your secretary at the legislative building with M Z Khumalo when we were told to deny everything.

"I remind you, you yourself were involved in trying to give false information to Goldstone we did it because we were scared for our lives."

Visser retorted: "You have just proven yourself to be an outright liar. I never met you together with Mr Khumalo at any time. The person with me was my attorney and the purpose was to obtain facts and prepare statements from as many Caprivi trainees as I could find."

Mr Mkhize responded: "In Zulu I won't say you are a liar, but you are mistaken. You are still on the same mission of hiding the truth away from the public."

Visser offered to "leave it at that", saying "I know and you know that it is not true."

But Mkhize carried on. "We are talking about lives lost. If you are thinking of reconciliation, you should start speaking the truth."

Visser accused him of making political speeches, at which point a commissioner called for an end to the debate, describing it as "not very seemly" — Own Correspondent

Truth body's salaries were 'not authorised'

Linda Ensor

BD 8/8/97

(252)

CAPE TOWN — The truth commission notched up R720.133 in unauthorised expenditure on salaries in the 1995/96 financial year, Auditor-General Henri Kluever said in a report in Parliament yesterday.

This was because salary structures of staff members had not yet been approved by Parliament.

Further irregularities included non-compliance with state expenditure and tender board regulations, and failure to draw up a budget as required by the Promotion of National Unity and Reconciliation Act.

"The control over assets, other than motor vehicles, was not satisfactory as no asset register was maintained for office furniture, whilst the asset registers for computers and office equipment did not contain sufficient information to verify the physical existence thereof," Kluever said.

Regarding financial transactions, the auditor-general found there was limited internal checking and control. Shortcomings included the failure to reconcile monthly payrolls with services rendered, failure to compile letters of appointment and contracts for employees, failure to authorise expenditure on procurements and travel expenses beforehand, and a lack of authorisation on some cheques.

The report noted that the commission's accounting officer had taken corrective steps to ensure internal checking and control and that fiscal controls and policies were adopted in May last year.

A separately tabled audit report on the local government bodies training fund for 1995/96 noted that only one of the 15 training centres had submitted audited financial statements. The Training Board was later dissolved and replaced with a new structure. The report was therefore not able to express an opinion on several items of the fund's income, expenditure and fixed assets.

Vlok's legal representative accused at truth hearing

Farouk Chothia

(252)

DURBAN

Self-confessed hit-squad commander Gcina Mkhize yesterday accused former Law and Order minister Adriaan Vlok's legal representative Louis Visser of being involved in manufacturing "false information" presented to Judge Richard Goldstone's then commission of inquiry into political violence.

He made the allegation at a truth commission hearing into the training of 200 Inkatha Freedom Party members in the Caprivi in the mid-1980s, under cross-examination by Visser.

The altercation started when Visser asked Mkhize whether it was true that his evidence to the truth commission this week was different from an affidavit he had given to the Goldstone commission when it was looking into the Caprivi training.

Confirming that this was the case, Mkhize told Visser that Visser himself was "involved in trying to give false information to the Goldstone commission".

Visser called Mkhize a "downright liar". The latter accused him of "hiding the truth from the public".

Mkhize had based his allegations on an Uhundi meeting. He claimed that he, IFP general secretary for administration Zakhela Khumalo, Visser and his secretary were present.

Khumalo stressed at the meeting "guidelines" for dealing with the Goldstone commission would be to "deny everything", Mkhize said.

Visser confirmed a meeting took place, but denied that Mkhize was present.

IFP suspends peace talks over ANC evidence to truth

Farouk Choithia

DURBAN — The Inkatha Freedom Party (IFP) suspended peace talks with the African National Congress (ANC) in KwaZulu-Natal yesterday because of the claims made against the party and its leader Mangosuthu Buthelezi at a truth commission hearing in Durban.

IFP national chairman Ben Ngubane said the IFP KwaZulu-Natal caucus had "withdrawn" the mandate of its caucus and he could not see

them meeting their ANC counterparts "immediately".

He said it was difficult to hold peace talks while "hostile activity" — a reference to the commission hearing into the paramilitary training of IFP members in the Caprivi in the mid-1980s — was in progress.

Former IFP paramilitary fighters told the commission earlier this week that Buthelezi "must have known" about their hit-squad activities. His right-hand man, Zekhele Khumalo, gave instructions to assassinate and

supply weapons, it was alleged.

Ngubane said the commission was a creation of the ANC. Its "power and authority" had become an instrument to "hit" Buthelezi and the IFP.

He described the commission as a disaster, and said its "show" would end after a few days but "hostility will be revived".

The IFP caucus said President Nelson Mandela and Deputy President Thabo Mbeki needed to "fundamentally re-examine" before it was too late; the damage the commission was doing

to the cause of reconciliation.

IFP KwaZulu-Natal caucus spokesman Blessed Gwala said the commission hearing "is a war declared by those who are trying to tarnish the image of Dr Buthelezi and the IFP".

"Peace is now in the hands of the ANC — whether to dismantle it or to protect it for the sake of SA."

ANC KwaZulu-Natal deputy chairman Sibusiso Ndebele said his only reaction was that all the people of KwaZulu-Natal were tired of war, and they would not allow anyone to hold

the peace process to "ransom".

The IFP caucus said statement by "discredited witnesses" such as former IFP paramilitary trainer Daluxolo Luthuli "pose the single biggest threat to peace and stability" in KwaZulu-Natal since talks started last year.

IFP youth commissioner Richard Lyer said the commission wanted to "encourage" the talks to continue. He could not see how the hearing could lead to hostility "unless they (the IFP) are saying they will recommence hostility, which I hope they are not".

Commission
8/8/97

By JACKIE CAMERON

As the SA Human Rights Commission goes cap in hand to ask the Government for several million rands to make up a massive budget shortfall, it has granted its chairman Barney Pityana and commissioners substantial increases and "backpay" lump sums totalling about R1-million.

The state is also expected to pay hundreds of thousands more to keep the constitutional watchdog body ensconced in plush offices, rented for about R75 000 a month.

At the same time, there is no money for an additional computer printer to alleviate a 500-case backlog in its legal department. The commission is looking at reducing expenditure by cutting staff, especially those earmarked for regional offices.

Department of Justice spokesman Pieter du Rand said Pityana's total package had been boosted to more than R400 000 a year - about R33 000 a month. Commissioners now earn more than R300 000 a year.

National Police Commissioner George Fivaz earns a basic salary of about R303 000. With perks, he earns little more than Pityana, who heads an office of fewer than 30 people.

Pityana told the *Saturday Star* his basic salary had jumped from about R183 000 to R256 000 - "the same as a deputy director-general in the civil service." "We receive our increases at the end of August, with backpay to July 1996."

His new salary package is "in line" with that of Youth Commission chairman Mahlengi Bhengu (26), who made headlines last year when it was revealed she earned an annual package of about R350 000.

National Association of Democratic Lawyers spokesman Krish Govender slammed the increases. He called for a moratorium on increases for all senior government officials.

"The Government needs to save money. If they do not want the workers to be restless, they will look at giving those at the cutting edge of survival a better chance. We are not getting delivery on certain issues because there is not enough money to go around. The rich are getting

richer and the poor are getting poorer."

Tony Leon, the Democratic Party leader, said the pay hikes were outrageous and "at least R100 000 more than I get paid it's even more than the pay of MPs or university scientists."

"The SAHRC has been less than a towering success. Just because the constitution creates instruments like the commission, it does not mean they have to get paid like judges, fly first class around the world and have



BARNEY PITZYANA: Experience justifies the increases, he claims

mahogany desks."

Leon said Pityana was "quite a nice guy" but the SAHRC had developed an "attitude of get the snouts in the trough or you freeze in the cold", like many other commissions.

"The whole aspect of commissions needs to be revised. Commissions cost taxpayers R200-million last year."

Pityana justified the rises. "We have people here with a lot of experience. There are advocates and very senior people."

He said the SAHRC had spent most of its R6,8-million budget and would run out of money by October. More was needed for the last five months of the financial year. "The message has gone through that something needs to be done seriously. I think the Government will help us out, but I do not expect them to give us R11-million."

The Government was obliged to help the SAHRC because, unlike the Truth and Reconciliation Commission, "our commission will be here as long as

the constitution is here."

Late last year Pityana asked for R32-million for the 1997/98 financial year. He said at the time the SAHRC would "go bankrupt and liquidate" unless it received this amount.

This week he said a revised budget and cost-cutting (including reducing the number of staff for regional offices and sharing offices in other provinces) meant the SAHRC would not need as much as initially requested.

The SAHRC planned a trust to facilitate funds from sources other than the Government. It had already been offered about R1,4-million from USAid and was negotiating with the Swedish government for R2,25-million.

"This will cover human rights advocacy projects, including an inquiry on the aged, one into victims of crime, a unit on the disabled, and the monitoring of socio-economic rights. USAid offered to pay for the programme towards equality legislation."

Pityana said he was satisfied with the SAHRC offices - "they are actually in Parktown" - part of an upmarket complex shared with Absa and Nedcor.

"We've got fabulous space. We wouldn't find rent cheaper anywhere else unless we went into some parts of the inner city. But this would not be convenient. We would have to accept disadvantages, like for example the fears and concerns of staff and people who come to us, about crime. The staff would also be unable to work late."

Pityana said his administrative staff were not well paid but their salaries were in line with government administrative staff.

The huge discrepancies between commissioners' and other staff salaries have caused tension within the SAHRC.

Meanwhile, four commissioners and several staff members have left the commission. One well-placed source told the *Saturday Star* more resignations could be expected soon.

"The commission is managed very badly. More time is spent trying to resolve administrative stumbling blocks than getting work done," the source said.

Pityana said the resignations stemmed "from a variety of reasons." He was "confident all of this is now behind us."

Give themselves higher pay cash-strapped commiss

252
Star 9/8/97

IFP pulls out of peace talks in KwaZulu and calls on Mandela to investigate 'biased' TRC

Durban - The Inkatha Freedom Party yesterday withdrew from the peace process in KwaZulu Natal until the Truth and Reconciliation Commission was replaced with "a more acceptable and impartial structure"

Provincial premier Ben Ngubane called on President Nelson Mandela to appoint a judicial commission of inquiry to "investigate the partiality of the members of the TRC" The TRC's "bias" was threatening peace and stability

Ngubane said the IFP could not continue talks with an organisation bent on destabilising the province for party-political gain "We will no longer continue peace negotiations with the ANC until its leaders

demonstrate their commitment to peace and reconciliation"

The IFP was objecting to testimony given by three former IFP recruits trained in the Caprivi in the 1980s. Former recruit and political commissar Dalu Xolo Luthuli testified that IFP president Mangosuthu Buthelezi apparently knew of hit-squad activities involving the Caprivi trainees.

The IFP described the TRC as a charade where commissioners demonstrated open bias and hostility towards the IFP Ngubane named commissioners the IFP claimed had been card-carrying members of the ANC and some who were former members of the ANC-aligned United Democratic Front - Sapa



OUTRAGED: Dr Ben Ngubane calls for judicial commission of inquiry

Cash-strapped commissioners give themselves higher pay

BY JACKIE CAMERON

As the SA Human Rights Commission goes cap in hand to ask the Government for several million rands to make up a massive budget shortfall, it has granted its chairman Barney Pitso and commissioners substantial increases and "backpay" lump sums totalling about R1-million.

The state is also expected to pay hundreds of thousands more to keep the constitutional watchdog body enmeshed in plush offices, rented for about R75 000 a month.

At the same time, there is no money for an additional computer printer to alleviate a 500-case backlog in its legal department. The commission is looking at reducing expenditure by cutting staff, especially those earmarked for regional offices.

Department of Justice spokesman Pieter du Rand said Pitso's total package had been boosted to more than R400 000 a year - about R33 000 a month. Commissioners now earn more than R300 000 a year.

National Police Commissioner George Fivaz earns a basic salary of about R303 000. With perks, he earns little more than Pitso, who heads an office of fewer than 30 people.

Pitso told the *Star* his basic salary had jumped from about R183 000 to R258 000 - the same as a deputy director-general in the civil service. "We receive our increases at the end of August, with backpay to July 1996."

His new salary package is "in line" with that of Youth Commission chairman Mahlagi Bhengu (26), who made headlines last year when it was revealed she earned an annual package of about R350 000.

National Association of Democratic Lawyers spokesman Krish Goverder slammed the increases. He called for a moratorium on increases for all senior government officials.

"The Government needs to save money. If they do not want the workers to be restless, they will look at giving those at the cutting edge of survival a better chance. We are not getting delivery on certain issues because there is not enough money to go around. The rich are getting

richer and the poor are getting poorer."

Thony Leon, the Democratic Party leader, said the pay hikes were outrageous and "at least R100 000 more than I get paid. It's even more than the pay of MPs or university scientists."

"The SAHRC has been less than a towering success just because the constitution creates instruments like the commission, it does not mean they have to get paid like judges. My first class around the world and have



BARNEY PITSO, Experience justifies the increases, he claims

Leon said Pitso was "quite a nice guy" but the SAHRC had developed an "attitude of get the snouts in the trough or you freeze in the cold" like many other commissions.

"The whole aspect of commissions needs to be revised. Commissions cost taxpayers R200-million last year."

Pitso justified the rises "we have people here with a lot of experience. There are advocates and very senior people."

He said the SAHRC had spent most of its R6.8-million budget and would run out of money by October. More was needed for the last five months of the financial year. "The message has gone through that something needs to be done seriously. I think the Government will help us out, but I do not expect them to give us R1-million."

The Government was obliged to help the SAHRC because, unlike the Truth and Reconciliation Commission, "our commission will be here as long as

the constitution is here."

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Pitso said his administrative staff were not well paid but their salaries were in line with government administrative staff.

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"The commission is managed very badly. More time is spent trying to resolve administrative stumbling blocks than getting work done," the source said.

Pitso said the resignations stemmed "from a variety of reasons." He was "confident all of this is now behind us."

LIP SERVICE

Star 9/8/97

(252)



KISS AND TELL: The new Miss South Africa, Kishine Naicker, met President Nelson Mandela for lunch at his official residence in Pretoria yesterday in what has become an annual and apparently very popular duty for the president after every pageant. During the photo shoot, 79-year-old Mandela, ever the Romeo, was more than happy to repeat the kiss for photographers who missed the first shot. Mandela, who introduced 24-year-old Naicker as "her royal highness", said her crowning was significant in that all communities in the country had now been represented by winners in the contest.

Long arm of the law finally reaches Trevor Tutu

Police yesterday arrested Trevor Tutu, son of Truth and Reconciliation Commission chairman Archbishop Desmond Tutu, for contempt of court.

Police said Tutu gave an account of court arising from his failure to comply with bail conditions set when he was sentenced in 1993 in the East London Magistrate's

Court for a contravention of the Civil Aviation Act.

Tutu was arrested at noon in Randburg, where he has a house.

He will be taken to East London to face charges against him, where it will be decided whether he should serve his sentence or not, Captain Sipho Ngubane said.

Ngubane denied earlier reports that police had withdrawn their warrant of arrest for Tutu.

Tutu was to have started a three-and-a-half-year prison sentence in September 1993 after his appeal against conviction for making a bomb threat in East London in 1989 failed.

He has eluded police since then. He was out on bail of R10 000. After investigators were contacted by Trevor Tutu's lawyers, police said on Wednesday they hoped to arrest him before the end of the week.

Archbishop Tutu said on Thursday he stood by his son. The cleric is in the United States receiving treatment for cancer.

-Sapa

PHOTOGRAPH: T. LEMON

Rage over Human Rights pay

JACKIE CAMERON

As the SA Human Rights Commission goes cap in hand to ask for several million rands to make up massive shortfalls in its budget, it has granted chairman Barney Pitjana and commissioners "backpay" and increases totalling about R1-million.

The Government is also expected to cough up hundreds of thousands more to keep the constitutional watchdog body in its plush Johannesburg offices which it rents for about R75 000 a month.

But, at the same time, there is no money for an additional printer to alleviate a backlog of about 500 cases in its legal department.

The commission is looking at reducing staff, especially those earmarked for regional offices.

Department of Justice spokesman Pieter du Rand said Dr Pitjana's total package had been boosted to more than R400 000 a year - about R33 000 a month.

Commissioners now earn more than R300 000 a year, Mr Du Rand said.

National Police Commissioner George Frivaz, at the helm of the largest civil ser-

vice, was paid a basic salary of about R303 000.

With perks, he is paid a little more than Dr Pitjana, who heads an office of fewer than 30 people.



Barney Pitjana

Dr Pitjana told the Saturday Argus that his basic salary had jumped from about R183 000 to R256 000, and that he "was getting the same as a deputy director-general in the civil service."

"We received our salary increases at the end of August with backpay to July 1996."

He said his new salary package was "in line" with that of 26-year-old Youth Commission chairman Mahlengi Bhengu, who made headlines last year when it was revealed she was paid about R350 000 a year.

Spokesman for the National Association of Democratic Lawyers Krish Gov-

der slammed the latest increases, calling for a moratorium on pay rises for all senior government officials, including judges and politicians.

"The Government needs to save money. If it does not want the workers to be restless, it will look at giving those at the cutting edge of survival a better chance. Our state resources are already stretched."

"We are not getting delivery on certain issues because there is not enough money to go round. The rich are getting richer and the poor are getting poorer. There needs to be a serious examination of the socio-economic system."

DP leader Tony Leon said the pay hikes were "outrageous" and "at least R100 000 more than I get paid - it's even more than the pay of MPs or university scientists."

"The SAHRC has been less than a towering success. Just because the constitution creates instruments like the commission, it does not mean they have to get paid like judges, fly first-class around the world and have mahogany desks."

Dr Pitjana was "quite a nice guy", but the SAHRC had developed an attitude of "get the snouts in the trough or you freeze

ARRG 9/18/97 (252)

in the cold", like other commissions.

"The whole aspect of commissions needs to be revised from top to bottom. Commissions cost taxpayers something in the region of R200-million last year. They have spun totally out of control," he said.

Dr Pitjana justified the increases by saying "we have people working here who have a lot of experience. There are advocates and very senior people working on the commission."

He said the SAHRC had spent most of its R6.8-million budget for the year and would run out of money by October.

Additional funding would be needed for the last five months of the financial year.

The Government was obliged to help the SAHRC out because, unlike the Truth and Reconciliation Commission, "our commission will be here as long as the constitution is here."

Late last year, Dr Pitjana asked for R32-million from the Government for the 1997/98 financial year. At the time he said that the SAHRC would "go bankrupt and liquidate" without it. However, this week he said a revised budget and cost-cutting measures had reduced the amount.

Amnesty bid by Chris Hani's killers starts

Star 11/8/97

252

Family has hired top advocate to fight
application by Derby-Lewis and Walus

The killers of SA Communist Party leader Chris Hani will finally get their chance to testify before the Truth and Reconciliation Commission's amnesty committee in Pretoria this week.

Hani's family and the SACP have said they will oppose amnesty for former Conservative Party politician Clive Derby-Lewis and Polish immigrant Janusz Walus. The two were sentenced to death for the April 1993 murder of Hani outside his Boksburg home, but the sentences were later commuted to life imprisonment.

The Hani family and the SACP have retained one of South Africa's foremost advocates, George Bizos, to cross-examine the two and to argue why they should not be given amnesty.

Bizos said he would lead evidence, not made public before, challenging claims in the amnesty applications.

The hearing was postponed on June 23 to today after Bizos complained he had received a substantial part of the applications only two weeks before the June 23 hearing.

Bizos said he would need two weeks to complete his cross-examination. The hearing is scheduled to take place from today to August 22 in the Pretoria City Hall.

The amnesty committee's chief leader of evidence, Mokotedi Mpshe, said Derby-Lewis

would take the stand first, followed by Walus.

Meanwhile, SACP deputy general-secretary Jeremy Cronin has made a written submission to the amnesty committee on the "political role and contribution of Chris Hani between 1990 and 1993".

"It shows he agreed with Walus that it was a bad idea to introduce Soviet-style socialism in SA," Cronin told Sapa.

The submission also highlighted Hani's belief that change should come through a negotiated settlement. Cronin said the thrust of his submission was to challenge the applicants' claim that Hani was a military target.

Mathews Phosa said he would prepare a similar submission on behalf of the ANC.

"They suggest he was not a man of peace, we are going to say they are lying," he said.

The Hani family is opposing amnesty on four points.

- Derby-Lewis and Walus had not made a full disclosure, a key requirement for amnesty, either in their trial or their amnesty applications.

- They had failed to explain the role of Gaye Derby-Lewis, and others, in Hani's murder.

- The murder was completely disproportionate to the political aims Derby-Lewis and Walus wanted to achieve.

- They lied when they claimed they had killed Hani because he was regarded as a legitimate military target - Sapa

Nofomela pleads for clemency

By Simon Zwane and Ido Lekota

CONVICTED murderer, assassin and former policeman Almond Nofomela has called on President Nelson Mandela to grant him clemency for the murder of a white farmer, Mr Hansie Lourens.

This comes after Nofomela, former death squad commander Dirk Coetzee and fellow assassin David Tshikalange were granted amnesty by the Truth and Reconciliation Commission for the killing of Durban human rights lawyer Griffiths Mxenge.

In an exclusive interview with *Sowetan* in Durban, Nofomela also called for the overhaul of the judicial system and for KwaZulu-Natal Attorney General Tim McNally to appear before the TRC.

He said McNally and Mr Justice Louis Harms should explain to the TRC why they had rejected his revelations of the existence of a police death squad.

McNally has accepted Nofomela's challenge "If the TRC would like to hear from me, I would be willing to oblige," he said at the weekend.

Nofomela said he was not asking for a payback for exposing the police death squads but thought he deserved

(252) Sowetan 11/8/97
ANC gears up for its big battle to keep Walusz and Derby-Lewis in jail

a Presidential pardon. He blew the whistle on the Third Force in 1989, hours before he was to have been executed for the Lourens murder.

He also revealed for the first time then that he, Tshikalanga, Joseph Mamasela and the late Brian Ngqulunga had killed Mxenge on the instructions of Brigadier Willem Schoon and Dirk Coetzee.

After lengthy investigations both McNally and Harms rejected his statement and labelled him a liar.

Confession

However in May this year - eight years later - the judge in the Mxenge murder trial, Mr Justice Piet Combrinck, relied on the same confession when he found Nofomela, Coetzee and Tshikalange guilty of the murder of Mxenge.

The trio were granted amnesty for Mxenge's murder by the TRC last week. On Friday they appeared before Combrinck in the Durban High Court where their trial was concluded.

Instead of passing sentence, Combrinck recorded that they had

been pardoned and released them.

Meanwhile, the scene is set for a legal battle between the African National Congress and the TRC's amnesty committee when the hearing of an amnesty application by the killers of the late SA Communist Party general secretary Chris Hanu resumes in Pretoria today.

Yesterday ANC legal department head and Mpumalanga Premier Mathews Phosa said they were ready to "strongly oppose the application" by former Conservative Party MP Clive Derby-Lewis and Polish immigrant Janus Walusz who claim the killing of the popular SACP leader was politically motivated.

Derby-Lewis and Walusz are currently serving life sentences after their death sentences were commuted in 1994.

The pair lodged their application earlier this year but the amnesty committee hearing was postponed after the ANC legal team had asked for more time to study legal documents on the matter.

Walusz killed Hanu outside the SACP leader's home in Dawn Park,



Convicted murderer and self-confessed political assassin Almond Nofomela is to ask President Nelson Mandela for clemency for the murder of farmer Mr Hansie Lourens. Nofomela was pictured in Durban after an interview he gave *Sowetan*. PIC MASTER MOSUNKUTU

Boksburg, in April 1993. It was later discovered that Derby-Lewis provided the gun used in the assassination.

Phosa said the ANC's opposition was based on the fact that there were no full disclosures by Walusz and Derby-Lewis.

The two are claiming that Hanu was killed because he was a military

target. In terms of the Promotion of Truth and National Reconciliation Act full disclosure in this regard would mean releasing the name of the person who gave the order.

The ANC is refuting the claim, saying Hanu was killed while involved in negotiations which ushered in the current democracy in the country.



CP support: Conservative Party leader Ferdi Hartzenberg and his wife Judy at the hearing today

'Hani's killers lying' in amnesty submission

ARGUS 11/8/97 (252)

ARGUS CORRESPONDENT

Pretoria - Previously unpublished documents in the police docket on the murder of SACP leader Chris Hani reveal that his killers are not telling the truth in their amnesty applications, a lawyer for Hani's family said today.

The documents were served on the amnesty applicants, Clive Derby-Lewis and Janusz Walus, 15 minutes before the start of their amnesty hearing in Pretoria.

George Bizos SC, who represents the Hani family, the SACP and the ANC, said the docket contained statements made by Derby-Lewis and Walus soon after their arrest in 1993. They were not used as evidence in their trial.

The amnesty committee, headed by Mr Justice Hassen Mall, adjourned the hearing until this afternoon to give the applicants' lawyers time to study the new evidence. Mr Bizos said the new statements, made by Derby-Lewis and Walus while detained under section 29 of the Internal Security Act, were "of vital importance to the issue of full disclosure".

"The statements contradict the case the applicants are trying to put before the amnesty committee. They also contradict

the evidence given by (Derby-Lewis' wife) Mrs Gaye Derby-Lewis in her own defence and in the defence of the applicants at their trial."

Derby-Lewis and Walus were convicted of murdering Hani, but Mrs Derby-Lewis was acquitted because of a lack of evidence tying her to the assassination.

In their amnesty applications, Derby-Lewis and Walus maintain that the assassination had been planned and executed by them alone, without help from Mrs Derby-Lewis or any political organisation. They say, however, that they had been acting "on behalf of" the Conservative Party (CP). The CP has denied this.

The turnout at the hearing, which is being held at the Pretoria City Hall, was smaller today than at the previous hearing in Benoni, when it was postponed. About 20 rightwingers, including CP leader Dr Ferdi Hartzenberg, attended the hearing.

A small group of SACP supporters held a demonstration outside the City Hall.

Hani's widow Limpho and her daughter Nomakwezi arrived with Gauteng Premier Tokyo Sexwale.

Others present were SACP general secretary Jeremy Cronin, Broadcasting, Posts and Telecommunications Minister Jay Naidoo and Winnie Madikizela-Mandela.

Beeld journalists in TRC submission

ARGUS CORRESPONDENT

Johannesburg – A group of journalists at the Afrikaans daily newspaper Beeld say they want to make a submission to the Truth and Reconciliation Commission on their newspaper's activities during the apartheid years.

Beeld and its parent company, Nasionale Pers, have declined to make a submission

ARG 11/8/97

The TRC is holding a hearing into the role of the media during the apartheid years later this month.

Nasionale Pers chairman Ton Vosloo said the newspaper group had not committed any human rights violations and therefore had nothing to confess

But a senior journalist at Beeld, who asked not to be named, said the Afrikaans public had not been as well informed on the

~~(245)~~ (252)
situation during the apartheid years as they should have been

"The Afrikaans newspapers were closely aligned to the National Party, which effectively paralysed their critical function," said the journalist.

"We've been close to the beast and we should tell them (the TRC) what it was like

"Let's acknowledge it – we often didn't report as well as we should have," he said

Hani's killers made statements under duress, say lawyers

By ROBERT BRAND
AND DAISY JONES

Legal argument about the admissibility of statements made to police by Clive Derby-Lewis and Janusz Walus, dominated the first day of their amnesty hearing for the murder of South African Communist Party leader Chris Hani.

Lawyers representing the two men told the TRC's amnesty committee yesterday the statements were obtained by plying Walus with hard liquor and threatening Derby-Lewis with lengthy detention.

George Bizos, SC for the Hani family and the ANC and SACF, said the statements con-



Walus ... 'given liquor'

tradicted the account Derby-Lewis and Walus give of the murder in their amnesty applications, proving that they were not disclosing the full truth.



Derby-Lewis ... the planner.

Derby-Lewis and Walus want amnesty for assassinating Hani outside his Boksburg home on April 10 1993. They were convicted of the murder and sen-

Star 12/8/97 (262)

tenced to death, later commuted to life imprisonment. Derby-Lewis' wife Gaye was acquitted. In their amnesty applications they say they planned the assassination together, but that Walus had been alone when he shot Hani. Walus says Derby-Lewis gave him a pistol, as well as a silencer and subsonic ammunition, "for the purpose of assassinating Chris Hani".

He says he chose Hani as a target from a list of political figures and journalists he had found in Derby-Lewis' house. The list had been drawn up by journalist Arthur Kemp, a friend of Gaye Derby-Lewis. Derby-Lewis, a Conservative Party member of the Presi-

dent's Council at the time of the murder, said he had proposed delaying the assassination until he had given it further thought. "I, however, accepted and associated myself with its execution on the day in question."

Bizos argued that the pair's statements made to police shortly after their arrest should be used to test the applicants' truthfulness.

Louisa van der Walt, for Walus, and Harry Prinsloo, for Derby-Lewis, said the statements should not be admitted as evidence because they had been obtained under duress.

► IFP hitmen

Another IFP legislature member is accused of giving orders to hit-squads

OWN CORRESPONDENT

Durban - Another Inkatha Freedom Party member of the legislature was named at a Truth and Reconciliation Commission hearing yesterday as having given instructions to party hit men to kill political foes

Gcina Mkhize, who is serving a lengthy prison sentence, told the "Caprivi hearing" that prominent North Coast chief, Khayelihle Mathaba, who is presently a member of the KwaZulu Natal legislature, had ordered him to kill twice

Once the target had

Chief Mathaba's name was on list of suspects

been the chief's *Induna*, (headman) who was becoming sympathetic to the ANC

It emerged later during the hearing that Chief Mathaba's name was on a list of murder suspects sent to attorney-general Tim McNally in October 1996 by the police's investigation task unit, but McNally had declined to prosecute.

Also on the list were the names of several other prominent IFP leaders, who have already been implicated at the hearing, including present welfare MEC Prince Gideon Zulu, B B Biyela, mayor of Richards Bay, secretary of parliament Robert Mzimela, IFP

general secretary M Z Khumalo, and another IFP member of parliament, Lindiwe Mbuyazi.

Lawyers acting for the IFP have repeatedly told the hearing - which is focusing on the training of 200 Inkatha "soldiers" by the former defence force at Caprivi and their deployment as political assassins in townships around KwaZulu Natal - that their clients deny any knowledge of "illegal acts".

But Mkhize, one of the trainees who became the leader of a hit squad, said they were only trying to protect their images and positions.

"The community was not aware of their actions and it would be quite embarrassing to admit to it because it went against the aims of the organisation."

Another member of the hit squad, Romeo Mbambo, testified yesterday that while he had not been trained at Caprivi, he had been recruited to join a hit squad while a member of the KwaZulu police.

He said one of his tasks had been to infiltrate the KwaZulu police's detective branch in order to destroy evidence of the squad's activities.

He did this by writing "misleading information" on dockets such as the fact that no cartridges had been found at the scene

He said he had also taken part in several murders, including that of a KwaZulu policeman, Sergeant Dumisani Dlamini, who had been targeted be-

cause he had called IFP supporters "Gatsha's prostitutes".

After his arrest for this and other murders, Mbambo explained how he had been kept at the police station of his choice, in an unlocked cell and allowed out to shop and draw his bail money

Superintendent Clifford Marion, who was based with the investigation task unit which investigated hit squad killings in KwaZulu Natal, told the commission that several murder suspects with links to hit squads had absconded on bail and "disappeared without trace"

But A-G McNally said he would not prosecute

Attempts to have others prosecuted had failed because "Mr McNally was of the opinion that the matter would not succeed in a court of law".

He had also declined to prosecute the former head of the KwaZulu police, Brigadier Siphon Mzimela, on fraud charges relating to the false issuing of police appointment certificates to the trainees.

Superintendent Marion said he had a list of the names of all 200 trainees, about 30 of whom had been charged for offences such as murder, attempted murder and political violence.

The hearing has adjourned until Thursday.

Star 12/8/97

(252)

NO MONEY FOR STAFF

Western Cape legislature hamstrung

CF 12/8/97

(252)

THE UNDERSTAFFED Western Cape legislature cannot afford to send its workers on a training project this week to help remedy its skills shortage, reports **KARIN SCHIMKE**

WHILE some staff members from provincial legislatures across the country will be meeting for a European Union-sponsored training project in Gauteng today and tomorrow, no-one will represent the Western Cape legislature.

There is no money to pay for air fares and accommodation. Finances are so tight, in fact, that no extra people are being appointed to cope with work loads that have increased.

While some would praise the fiscal restraint evident in this gesture, staff members of the provincial legislature are seriously hamstrung in their work, which indirectly affects the smooth running of the province.

For the 46 members of the legislature there are 30 staff members. This contrasts sharply with the Mpumalanga legislature which has 34 members and 110 staff members — just over three staff members for each politician.

Of the 30 employees, only one has parliamentary work experience, but there is no money for training staff.

Where some legislatures have appointed up to six people for the extra work required since the inception in February of the National Council of Provinces (NCO), Western Cape legislature

staff have had to absorb the extra work without further help.

One committee clerk sees to the needs of six portfolio committees and several other committees. In most legislatures, committee clerks seldom deal with more than two committees.

The result is that one committee meeting is held at a time, which can cause undue delay in the passing of legislation.

While other provincial legislatures have up to five lawyers, the Western Cape legislature does not have any.

Usually bills are drafted at ministerial level and then sent to portfolio committees to be scrutinised with the help of a legal adviser.

In this province, however, this cross-checking is often done by the same lawyer who originally drafted the legislation.

"We can do no checks and balances. We are on the borderline of our ability to deliver," said secretary of the Western Cape legislature Mr Pieter Pretorius.

This year, the legislature was also given the smallest budget of all the provinces at R16,82 million. The Gauteng legislature, with its 90 members and 88 staff members got around R46m.

Things are not about to improve, however. Because of drastic provincial budget constraints, the portfolio committee on public accounts, finance and pensions decided earlier this year to put a moratorium on all civil service appointments.

Speaker Willem Doman is urgently applying for an exception on the moratorium resolution for the legislature. His argument is based on a recommendation of the public accounts committee that "the building of the legislature's capacity to perform its duties, especially in standing committees, be given high priority".

Counting in his favour is a general awareness by provincial politicians that the problem is severe.

Pretorius said "The staff are totally committed. That's the only reason I think we've survived".

He added there was "increased understanding" on the part of the executive for the need for the legislature to have better human and financial resources.

Out of the R10 million in the premier's vote this year, Hernus Kriel has given R1,25m to alleviate the legislature's plight.

This would help the situation in the current financial year, said Pretorius, but was a once-off gesture and could not be relied on in the future.

This money and savings on unfilled posts was being used to "stop gaps", Pretorius said.

"We are not saying we should be on par with the best-resourced provincial legislatures, but we should at least be empowered to render the most basic of services."

How Western Cape legislature shapes up

Province	Members of legislature	Members of staff
Western Cape	46	30
Mpumalanga	34	110
Northern Province	44	75
Northern Cape	34	51
Free State	34	52
KwaZulu-Natal	84	108
North West Province	38	43
Eastern Cape	90	88
Free State	56	135

Provincial legislature budgets this year (rounded off to closest million and not including salaries of executive members of legislature)

Western Cape	R17 million
Mpumalanga	R30 million
Northern Province	R23 million
Free State	R18 million
KwaZulu-Natal	R23 million
North West	R43 million
Eastern Cape	R23 million
Free State	R46 million
Free State	R37 million

MPL named by IFP hit-man

ET 12/8/97

(252)

DURBAN Another Inkatha Freedom Party member of the KwaZulu-Natal legislature has been named at a Truth and Reconciliation Commission hearing as having instructed the party's hit-men to kill political foes

Gcina Mkhize, who is serving a long prison sentence, told the hearing yesterday that Chief Khayelihle Mathaba — a member of the legislature — had twice given him orders to kill

One of the targets had been the chief's induna (headman), who was becoming sympathetic to the African National Congress

The TRC is hearing evidence about the former defence force's training of IFP members in the Caprivi Strip and their deployment as political assassins in KwaZulu-Natal townships

It emerged later during the hearing that Mathaba's name was on a list of murder suspects sent to KwaZulu-Natal Attorney-General Mr Tim McNally in October 1996 by the police Investigation Task Unit. McNally had declined to prosecute

Also on the list were the names of several other prominent IFP members who have been implicated at the hearing. They include MEC for Welfare Prince Gideon Zulu, mayor of Richards Bay Mr B B

Biyela, secretary of the provincial legislature Mr Robert Mzimela, IFP general secretary Mr M Z Khumalo and Mrs Lindiwe Mbuyazi, a member of the provincial legislature

Lawyers for the IFP have repeatedly told the hearing that the party's leaders deny any knowledge of "illegal acts"

However, Mkhize, a trainee who became the leader of a hit squad, said they were only trying to protect their images and positions

"The community was not aware of their actions and it would be quite embarrassing to admit to it because it went against the aims of the organisation"

Another member of the hit squad, Mr Romeo Mbambo, testified yesterday that although he had not been trained at Caprivi, he had been recruited to join a hit squad while he was a member of the KwaZulu Police

One of his tasks had been to infiltrate the KwaZulu Police's detective branch to destroy evidence of the squad's activities. He had done so by writing "misleading information" on dockets

He had also taken part in several murders, including that of a

Sergeant Dumisani Dlamini of the KwaZulu Police who had been targeted because he had called IFP supporters "Gatsha's prostitutes"

After his arrest for this and other murders, Mbambo said, he had been kept in an unlocked cell at the police station of his choice

Superintendent Clifford Marion, who was with the Investigation Task Unit that investigated hit-squad killings in KwaZulu-Natal, said several murder suspects with links to hit squads had been released on bail and "disappeared without trace"

Attempts to have others prosecuted had failed because "Mr McNally was of the opinion that the matter would not succeed in a court of law"

McNally had also declined to prosecute the former head of the KwaZulu Police, Brigadier Siphon Mzimela, on fraud charges arising from the false issuing of police appointment certificates to the trainees

Marion said he had a list of the names of all 200 trainees. About 30 had been charged for offences such as murder and political violence. The hearing is to continue on Thursday — Own Correspondent



'Wanted to delay assassination'

□ From Page 1

up by journalist Arthur Kemp, a friend of Derby-Lewis' wife Gaye

Derby-Lewis, who was a CP member on the President's Council at the time of the murder, said he had proposed delaying the assassination until he had given it further thought

"I, however, accepted and associated myself with its execution on the day in question"

Bizos argued that the statements they made to the police shortly after their arrest should be used to test the applicants' truthfulness, especially with regard to the role played by Gaye Derby-Lewis and their contention that the murder had been sanctioned by the CP

Ms Louisa van der Walt, for Walus, and Mr Harry Prinsloo, for Derby-Lewis, said the statements should not be admitted as evidence as they had been obtained under duress.

Van der Walt said Walus had been made so drunk during questioning by



GRIEVING: Chris Hani's daughter Lindiwe (centre) at the hearing **PICTURE: AP**

a Captain Niklaas Deetlefs that on one occasion "he did not know how he had managed to get back to his cell. In these circumstances, statements were taken from him," she said

A Colonel Van Niekerk had given him the undertaking that both he and Walus would be given amnesty if they agreed to make statements. He had also promised Derby-Lewis that his wife, Gaye, would not be arrested

Bizos said it was also important to establish once and for all whether the CP approved of the assassination

He had public statements by CP leaders, including Hartzenberg and Mr Tom Langley in which they distanced themselves from the killing

The hearing, which is expected to last two weeks, continues today. — Own Correspondents, Sapa

● See Page 5

WALLUS TELLS OF SHOOTING

Crowd taunts Hani killers

(252) CT 12/8/97

PRETORIA: The amnesty hearing of SA Communist Party leader Chris Hani's killers began yesterday with the introduction of statements they made to police at the time, which they now want suppressed on the grounds that they were made under duress.

THE amnesty hearing of Janusz Wallus and Clive Derby-Lewis got off to a rowdy start yesterday, with amnesty committee chairperson Mr Justice Hassen Mall eventually telling the clapping, cheering, toy-toying, placard-waving crowd that they were not at a theatrical performance.

They had come to the Pretoria City Hall to hear one of the most controversial amnesty applications so far brought before the Truth and Reconciliation Commission. Statements by attorneys were often followed by applause, laughter or jeering, and the floor shook as members of the audience toy-toyed and chanted.

Eventually Judge Mall told the audience "This is not a performance or a theatre, ladies and gentlemen, and as far as possible I would like to avoid any applauding or anything like that."

In the audience, just metres away from the two applicants, sat Hani's widow Limphe and their teenager daughter Normakhwezi, quietly looking at the men who killed him.

They heard Wallus say that he had killed Hani to prevent South Africa being handed over to communist rule. They heard Derby-Lewis tell how he had wanted to delay the assassination for further thought, but had gone along with it on the day.

High-profile figures at both ends of the political spectrum also put in appearances at the hearing.

Those on the government side included Post and Telecommunications Minister Mr Jay Naidoo, Gauteng Premier Mr Tokyo Sexwale, Ms Winnie Madikizela-Mandela, Cosatu secretary-general Mr Sam Shilowa and SACP deputy secretary-general Mr Jeremy Cronin.

Noticeable among about 30 right-wingers, who had earlier held a prayer meeting in the city hall gardens, were Mr Matthys de Villiers (nicknamed Kaalvoet Thysse), Mrs Karen Strydom (wife of Wit Wolf Barend Strydom), and Conservative Party Leader Dr Ferdi Hartzenberg.

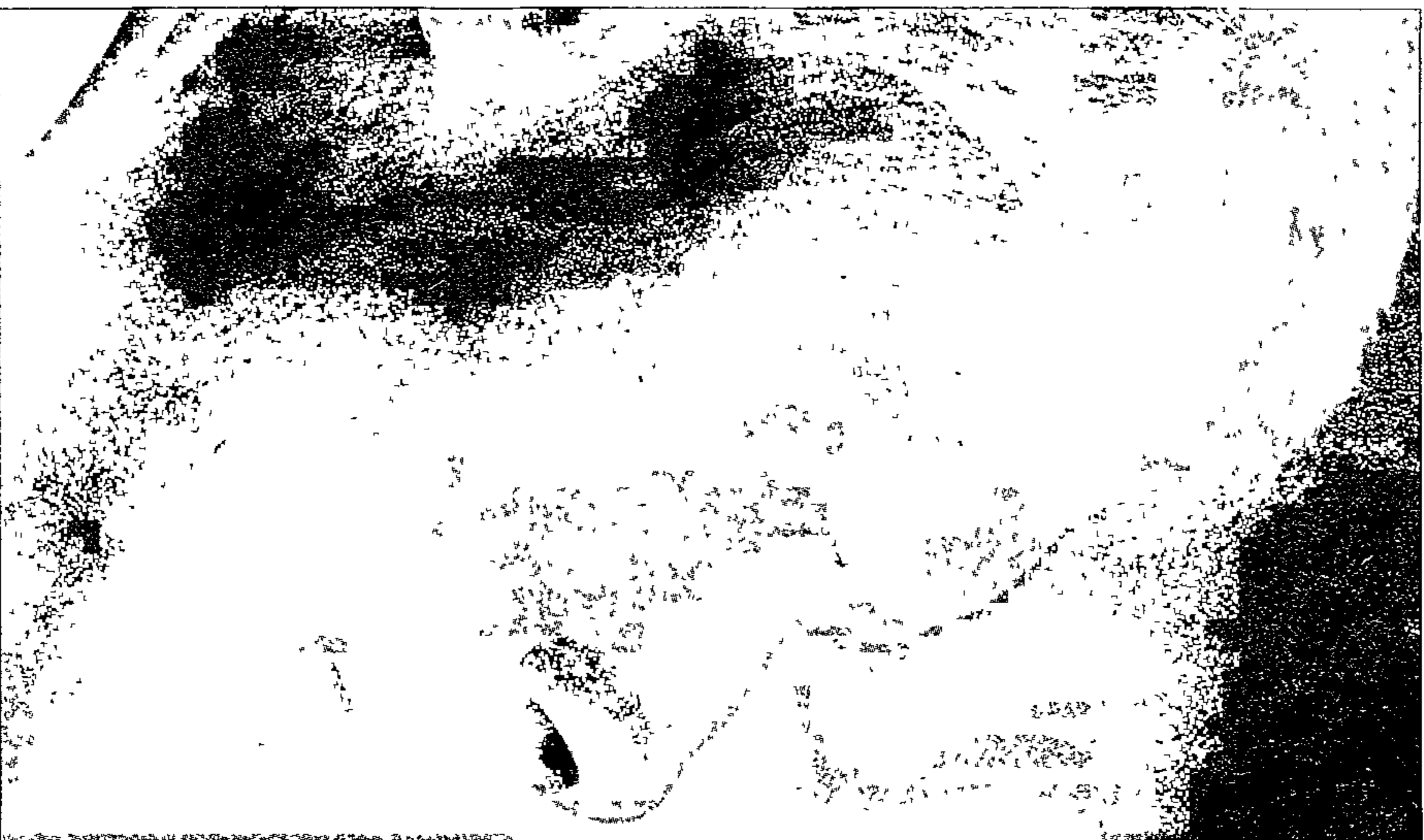
Mr George Bizos, SC, for the Hani family, the ANC and the SACP, then produced statements made by Wallus and Derby-Lewis after their arrest for the April 10, 1993 shooting of Hani outside his Boksburg home.

Bizos said he had obtained the statements from former Transvaal attorney-general Mr Jan D'Oliviera. He had no idea why the statements had not been used in their Supreme Court trial, but he argued that the statements were admissible. He said the statements contradicted the account Derby-Lewis and Wallus gave of the murder in their amnesty applications, proving that they are not disclosing the full truth.

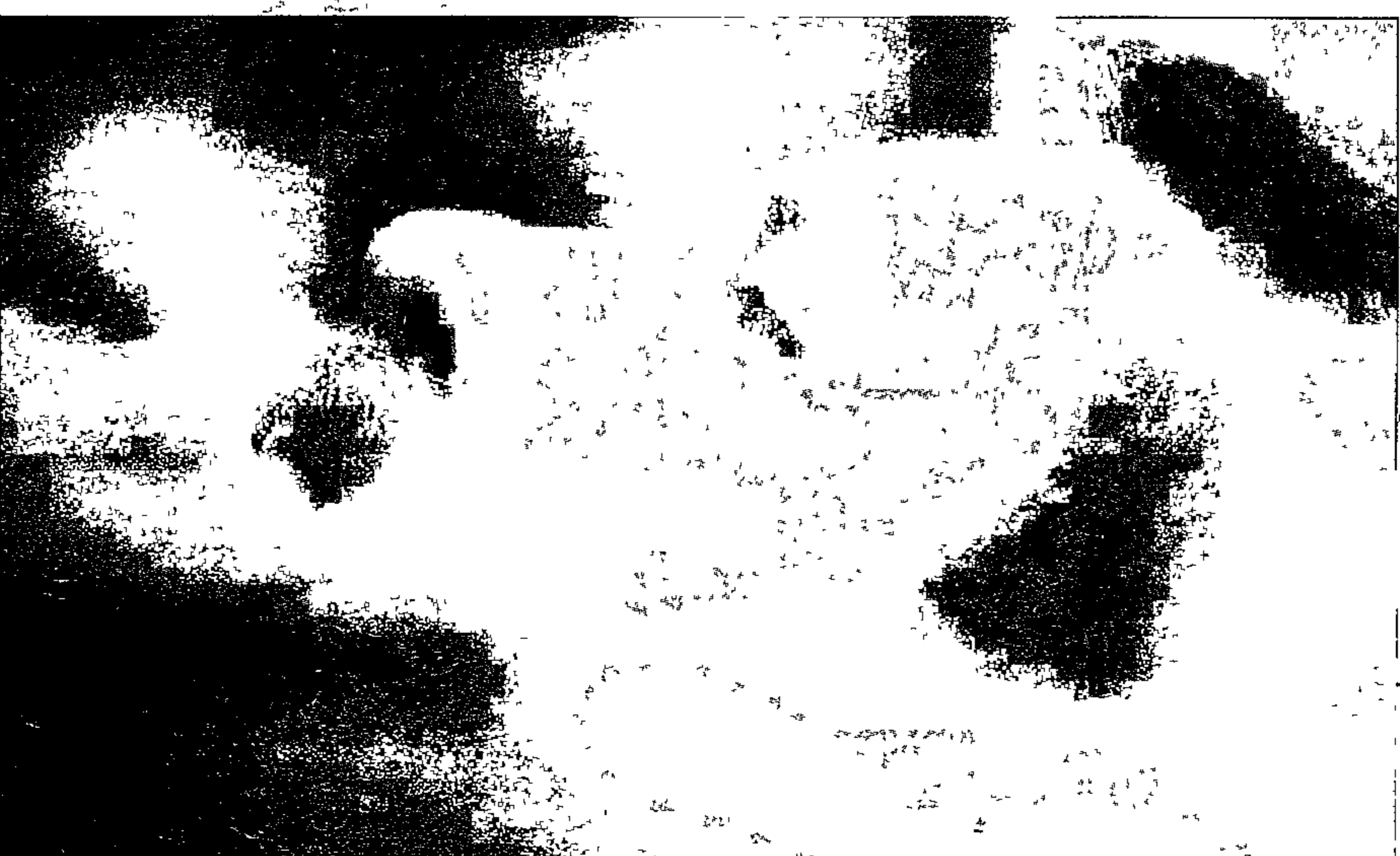
In their amnesty applications, they say they had planned the assassination together but that Wallus had been alone when he shot Hani. Wallus says Derby-Lewis gave him a pistol, as well as a silencer and subsonic ammunition "for the purpose of assassinating Chris Hani."

He says he chose Hani as a target from a list of political figures and journalists he had found in Derby-Lewis' house. The list had been drawn

□ Turn to Page 3.



'UNDER DURESS': Janusz Wallus listens as his counsel argues that he made his statements after his interrogator had piled him with drink. **PICTURES AP**



'THREATENED': Clive Derby-Lewis claims he was kept awake for long periods after his arrest and threatened with detention.



Bid for freedom: assassins Janusz Walus, left, and Clive Derby-Lewis at yesterday's amnesty hearing

Statements row as Hani's killers bid for amnesty

ARG 12/8/97 (252)

'Undue influence' used

Pretoria - The amnesty hearing of the two rightwingers convicted for the assassination of South African Communist Party leader Chris Hani resumed today with lawyers for Clive Derby-Lewis and Janusz Walus again objecting to the admissibility of statements made to police in 1993.

Derby Lewis' lawyer, Harry Prinsloo, said the statements were not made voluntarily and were extracted after the two were subjected to "undue influence" by the police.

Mr Prinsloo said police arrested Derby-Lewis on April 17 1993, and soon after midnight, in the early hours of April 18, the for-

mer Conservative Party politician signed a statement in which he declined to say anything.

Derby-Lewis was subsequently detained under Section 29 of the Internal Security Act. While in detention, during which he was deprived of sleep and threatened with continued detention, Derby-Lewis agreed to make a statement, Mr Prinsloo said.

Prinsloo argued that the questionable means used by police to extract the statement should be investigated before a decision on its admissibility to the amnesty hearing was made.

He said the onus was on George Bizos,



Weeping, slain SA Communist Party leader Chris Hani's daughter Lindiwe at the amnesty hearing

the lawyer for the Hani family and the South African Communist Party, to prove that the statements made by Derby-Lewis and Walus were made voluntarily.

But amnesty committee chairman Judge Hassen Mail disagreed, saying the onus was on Derby-Lewis to explain the apparent contradictions between the statement and his amnesty application.

This was echoed by fellow committee member Judge Bernard Ngoepe, who told Mr Prinsloo "The contents of the statement must be admitted. We may decide, after the applicants have explained that the information was extracted by improper means, what weight we attach to it."

He said the statement was admissible as long as it was relevant to the amnesty application.

Mr Bizos has argued that the contradictions between the statement and Derby-Lewis' application show that he has not made full disclosure, a key requirement for amnesty.

Derby-Lewis, who was a Conservative Party member of the President's Council at the time of the murder, and Walus want amnesty for assassinating Mr Hani outside his Boksburg home on June 10 1993. They were convicted and sentenced to death, later commuted to life imprisonment - Sapa

Extension of amnesty still contested

CLIVE SAWYER
POLITICAL CORRESPONDENT

(252)

ARG 12/8/97

The Justice Ministry has been asked by MPs to clarify when legislation to extend the cut-off date for applications to the Truth Commission for amnesty will reach Parliament.

"The perception is that the amnesty date will be amended and the Truth Commission has received a number of applications it cannot process," African National

Congress MP Melanie Verwoerd told the constitutional committee yesterday

The committee has begun work on the Republic of South Africa Constitution Amendment Bill, which extends the deadline for amnesty to May 10 1994

Colin Eglin of the Democratic Party said his party was against extending the deadline "Everyone who acted after December 6 (1993, the current cut-off date) did it in the full knowledge that no amnesty was available"

Hani killers' earlier statements 'contradict their amnesty

Stephen Laifer

THE truth commission hearing into amnesty applications by SA Communist Party (SACP) leader Chris Hani's killers Jannusz Walus and Clive Derby-Lewis was told yesterday that statements by the applicants while in detention contradicted the case they were making to be allowed to go free.

Hani, family lawyer, advocate George Bizos said the statements implicating Derby-Lewis's wife, Gaye, were made while the former Conser-

vative Party (CP) politician and Walus were held under section 29 of the Internal Security Act after the murder. There was no mention of Gaye Derby-Lewis's role in the assassination in the pair's amnesty applications.

Gaye Derby-Lewis was acquitted in the 1993 trial at which her husband and Walus were sentenced to death for Hani's killing. The sentence was later commuted to life imprisonment.

The statement made while in detention would be used to show that the applicants had failed to make full dis-

closure when applying for amnesty, Bizos said. Amnesty could be denied if he proves his case.

Bizos and the lawyers for Walus and Derby-Lewis, Harry Prinsloo and Louisa van der Walt, argued over the admissibility of the statements, obtained while the two were detained under section 29. "If there are statements implicating anyone other than the two applicants, we are entitled to put them," Bizos said. Having been acquitted, Gaye Derby-Lewis could not be harmed by being implicated now.

The applicants had been subject to undue coercion, their lawyers argued. Walus had been plied with "so much hard liquor" by security branch Capt Nikolaas Deelefs, van der Walt said, that he did not know how he got back to his cell. Deelefs had added to Walus's statement without his knowledge.

Derby-Lewis had been kept awake for a weekend, promised amnesty and that his wife would not be arrested if he made a statement, Prinsloo said.

Bizos said the police investigation diary showed Walus and Derby-Lewis

had been treated fairly in detention.

CP leaders Ferdi Harzenberg, Willy Snyman, Daan du Plessis, and Thomas Langley — now SA ambassador in Prague — should be subpoenaed to confirm Derby-Lewis and Walus had acted without the party's authority. Bizos said. The two claim to have acted on behalf of the party, but could be denied amnesty if they did not have the backing of a recognised political grouping.

The hearing continues today.

(252)
BD 12/8/97

Picture: Page 2

application

More power urged for regional magistrates

Wyndham Hartley

CAPE TOWN — The present maximum jurisdiction of Regional Court magistrates would have to be increased if the minimum sentences in the Criminal Law Amendment Bill are passed into law, Parliament's justice committee was told yesterday.

In a presentation to the committee, Association of Regional Magistrates chairman Les Wilkins said it was not viable to prosecute all offenders deserving a sentence of more than 10 years in the High Court, "as it would be swamped with a high percentage of the cases currently tried in the Regional Court". He said the only reasonable alternative would be to increase the jurisdiction of the Regional Court, and this should be done as soon as possible.

The bill seeks to make a 15-year sentence mandatory for those guilty of committing certain serious crimes as a first offence. A second offender should get 20 years and a third or subsequent offender 25 years. Less serious crimes have 10, 15 and 20-year minimum sentences prescribed for first, second and third or subsequent offences respectively.

Wilkins pointed out that murder, rape, bank robbery and vehicle hijacking were already being tried in the Regional Court and the 10-year maximum was "clearly insufficient with most of the serious crimes". "Increasing the jurisdiction of the Regional Courts to 20 years' imprisonment will allow both the High Court and the Regional Court to impose appropriate sentences in respect of serious crimes," he said. He stressed that minimum sentencing had historically not found favour with the courts because they affected the discretion of the court and the separation of powers.

Wilkins also argued that the minimum sentence prescribed for murder with a dangerous weapon should be changed to cover murder only because "strangulation, poisoning, torching and drowning were as deserving of heavy sentences".

He suggested that the qualification of "psychological harm" be removed from the rape clause because "one can hardly think of a rape which does not cause psychological harm". The minimum sentences for dealing in firearms, explosives or armaments should be expanded to cover illegal traffic in ammunition.

'Appoint prosecutors on merit, not race'

Stephané Bothma

PRETORIA — The decline in the performance of the justice department can be stemmed only if new prosecutors are appointed on merit rather than race, the SA Institute of Race Relations says.

While Justice Minister Dullah Omar approved the creation of new prosecutors' posts, there were more than 150 vacancies among prosecutors, state advocates and state attorneys and a waiting list of 1 600 law graduates wishing to fill those positions, institute parliamentary analyst Martin Schonreich said.

"One reason for the slow filling of the vacant posts has been the department's

desire to fill these posts with affirmative action appointees, preferring to leave posts vacant rather than to fill them with qualified white male candidates," Schonreich wrote in the institute's monthly publication, *Fast Facts*.

Since 1987 the number of prosecutors in SA had increased from 1 019 to 1 620 (59%), Schonreich said, adding that the crime rate in the country far outstripped this increase.

"Over a similar period, 1987 to 1996, the number of serious crimes reported more than doubled — rape rose 103%, robbery 122% and murder 163%."

Schonreich said the situation in the justice department had become critical in 1995 when, on average, for every 1 460

crimes investigated by the police during the year, there was only one prosecutor.

"Prosecutors spend about a fifth of their working day doing clerical and administrative work to the detriment of their actual responsibilities. Interviewing witnesses and presenting evidence in court," he said.

Low remuneration, described as a "national disgrace" by the latest Hoexter commission report, resulted in a high staff turnover for prosecutors of 33% in 1994 to 1996.

"Not surprisingly, the number of both prosecutions and convictions has been declining during a period of rising crime and lawlessness," Schonreich wrote.

He believed that Omar's cabinet col-

leagues did not seem to appreciate the financial needs of the justice department. In terms of the 1997/98 budget, R1,98bn — 1% of total state expenditure — was allocated to justice.

Schonreich believed that an obvious and cost-effective way of improving the prosecution service would be to retain and build on the skilled personnel already in existence.

"Omar's decision to appeal against the Pretoria High Court judgment, which held that white male state attorneys who had been passed over for promotion had been unfairly discriminated against, will do little to encourage experienced white prosecutors to stay in the service," Schonreich wrote.

BD 12/8/97

(252)

Apartheid support by SA media to be TRC hearings focus

By Joyce Ozyński

THE role of South Africa's media in supporting the former apartheid regime's propaganda will be in the spotlight of the Truth and Reconciliation Commission (TRC) this month

The commission will be told how information was processed and distorted to manipulate public opinion

Critical reports from several groups, such as the Freedom of Expression Institute, will be submitted at hearings in Johannesburg on August 25 and 26

"The commission wants to see whether the media promoted certain views and will make recommendations for the future so that similar things don't happen again," says TRC communications officer Laura Pollecutt

The most bitter controversy is likely to be over the role of the English language press, which saw itself as a voice of dissent. But the Forum of Black Journalists says it "wittingly colluded with successive apartheid governments to perpetuate the system of apartheid"

Propaganda

Submissions are also being made about the state-controlled broadcast media, giving outsiders an opportunity to see how propaganda works

A report by John van Zyl of the Independent Media Monitoring Project describes the South African Broadcasting Corporation (SABC) as a "willing lackey of the government", promoting policies even more conservative than those of the National Party (NP)

Van Zyl says the Broederbond, the elite Afrikaner secret society, played a key role in enabling the NP to subordinate the electronic media to its own goals, shaping policy and determining high-level appointments

Dr Piet Meyer, Broederbond chairman from 1960 to 1972, was also the head of the SABC from 1959 to 1971. SABC radio dominated the airwaves and broadcasting laws set up separate language channels for black listeners - reinforcing racial separation

Some conservatives in government were worried about the social effects of television, which was not



Flashback ... TRC chairman Archbishop Desmond Tutu and vice-chairman Dr Alex Boraine at a hearing in Johannesburg.

introduced until 1976 - six years after a Broederbond document set out plans for it

Van Zyl's study scrutinises news, current affairs, documentaries, dramas and religious programmes aired between 1977 and 1989

Analysis of news broadcasts illustrates how the SABC omitted important events taking place in South Africa and distracted viewers with coverage of conflict elsewhere

During the week October 23-30 1985, for example, TV news ignored large-scale demonstrations in Cape Town. Bulletins focused instead on items such as a speech to the United Nations by the British premier of the time, Margaret Thatcher, and comments by the then United States president Ronald Reagan on terrorism following the hijacking of an airliner

To help control coverage of unrest, the government placed restrictions on media access to volatile townships such as Soweto, "except for approved SABC-TV footage"

When news reports did turn to township struggles, they concentrated on images of crowds, stone-throwing and flames

Police were depicted resorting to force only with the greatest reluctance

The submission notes that "drama as propaganda" was often

broadcast. These include nationalistic and racist melodramas such as *Rooi Komplot* (Red Conspiracy)

A South African Defence Force-funded film, which starred the daughter of the former prime minister Mr PW Botha is described as "a rabidly anti-communist and anti-terrorist propaganda piece"

War psychosis

Many dramas and documentaries are said to have helped to create a war psychosis. Political commentator Cliff Saunders produced a documentary on the 75th anniversary of the SADF in 1987

It is described in the submission as "not a documentary but a propaganda film about the need for war"

Brug 14 (Bridge 14) and *Vuis vir Vrede* (Fist for Freedom) gave the SABC version of events in Angola, in which SADF soldiers played Cubans, Russians and South Africans in combat scenes centred on a South African hero

Documentaries produced by journalist Al Venter depicted the rest of Africa as a ruined and helpless continent, says the IMMP submission

The TRC, which may call or subpoena SABC personnel to give evidence, will produce a final report after studying the submissions - *Gemini News*



I. Clive Derby-Lewis during his amnesty hearing in Pretoria. PIC AP

RIGHT: Mrs Linpho Hani and her daughter Nomakhwezi Frank Gauteng Premier Tokyo Sexwale during the hearing. Nomakhwezi witnessed her father Chris Hani being killed. PIC ANTONIO MUCHAVE



Hani was 'military target', TRC hears

By Simon Zwane

SOUTH African Communist Party leader Chris Hani was killed because the rightwing saw him as a military target, and a possible successor to President Nelson Mandela, the Truth and Reconciliation Commission's amnesty committee heard in Pretoria yesterday.

In his application for amnesty before the TRC, convicted murderer and former Conservative Party leader Clive Derby-Lewis said many rightwingers saw Hani as a military target because of his status as Umkhonto we Sizwe commander

They feared he would succeed Mandela.

Derby-Lewis and Polish immigrant Janusz Walus have applied for amnesty for killing Hani in 1993.

Walus, who shot Hani in front of his house in Dawn Park on the East Rand, is expected to testify today.

Cross-examination of the applicants has been postponed until their lawyers have studied statements that the two made to police during the investigation of the case.

Derby-Lewis said the rightwingers thought that by killing Hani they would realise their objective of plunging the country into chaos which would then lead to the

takeover of political power by the CP.

He denied that the CP was bent on perpetrating apartheid, but argued that the rightwing was involved in a just war like the ANC "to secure ourself a place in the sun".

ANC Women's League President Mrs Winnie Madikizela-Mandela, Hani's widow, Mrs Linpho Hani, and other prominent ANC and SACP leaders listened intently to the day's proceedings.

Derby-Lewis claimed that the ANC slogan "Every patriot a combatant and every combatant a patriot" also applied to Afrikaners. Derby-Lewis told the committee

that the death sentences he and Walus received for the murder had not been changed although the Constitutional Court had outlawed the death penalty.

Derby-Lewis took the stand after the committee had ordered his legal representative Mr Harry Prinsloo to lead evidence on his application.

This came after a legal wrangle in which Prinsloo had requested another postponement to study the original statements made by the applicant to the police soon after his arrest in 1993.

In making the order, committee chairman Judge Hassan Mall noted that Advocate George Bizos, repre-

senting the SACP and Hani's family, had undertaken not to cross-examine the applicant until his lawyer had had the opportunity to listen to the tape recording of the statement Derby-Lewis had made to the police during interrogation in 1993.

The committee also ordered Bizos to make available the original statements and the recording to Derby-Lewis's lawyer as soon as possible.

Copies of the statements and the transcript of the tape have been tabled before the committee by Bizos to show that the applicants had not made full disclosure of their crime in their application

Lawetan 13/8/97

252

WIDOW MISSES DERBY-LEWIS APOLOGY

Hani assassinated , to set stage for coup

CT 13/8/97
(252)

JOHANNESBURG: Clive Derby-Lewis said he did not expect former SACP leader Chris Hani's family to forgive him for his part in the assassination, but asked for understanding.

CHRIS HANI was killed to plunge South Africa into chaos and prepare the ground for a right-wing coup, one of his murderers, Clive Derby-Lewis, told the Truth and Reconciliation Commission's amnesty committee yesterday.

That Hani was considered a possible successor to President Nelson Mandela had also made him a target, he said.

Speaking for the first time about the murder, Derby-Lewis apologised to Hani's family — but Mrs Limphe Hani, the popular SACP leader's widow, was not there to hear his remorse.

Mrs Hani returned from lunch to the hearing in the Pretoria City Hall minutes after Derby-Lewis' apology.

Derby-Lewis, a former Conservative Party MP, and Polish immigrant Janusz Walus want amnesty for murdering Hani at his Boksburg home on April 10, 1993. Both are serving life sentences.

Derby-Lewis' long-awaited testimony started after yet more legal wrangling about the admissibility of statements he and Walus had made to police shortly after their arrest. The statements allegedly contradict the account they give of the assassination in their amnesty applications, especially about the role played by Derby-Lewis' wife, Gaye.



Although Derby-Lewis' advocate, Mr Harry Prinsloo, protested that the admissibility issue was still unresolved, committee chairperson Mr Justice Hassen Mall ordered Derby-Lewis to start his testimony.

For more than two hours, he regaled the committee with what Hani family lawyer Mr George Bizos, SC, later described as the "lengthy memoirs of Mr Derby-Lewis", detailing his personal history and political career from his days as a Bedfordview town councillor.

Derby-Lewis, who says in his written application he "jointly planned" the assassination with Walus and provided the murder weapon, told the committee Hani had been a "priority" target because of his former position as chief of staff of uMkhonto weSizwe, the ANC's armed wing.

"It should be remembered that Chris Hani was first and foremost a military soldier. In this context he was a military target."

"The fact that he was also leader of the SACP, and therefore most likely to succeed Mandela as president if the SACP came to power, made him a priority political target which, if successfully attacked, would most likely cause our objective to be realised."

"That was to plunge the country into a situation of chaos which

could be used to advantage by the right to effect a takeover."

Derby-Lewis said Hani's high profile and popularity made him a natural target. "It was an indication of the importance, the status of the man that he was chosen as a target. If he had been only a normal member of the SACP or MK, he would in all probability still be alive today."

The National Party government's "betrayal" of Afrikaners had set the scene for the assassination, he said.

"The NP departed from its mandate when it unbanned the ANC and SACP in 1990. The CP started mobilising and the culmination of this was in 1993. We now had the structures of war, we were ready for war. In this climate the attack on Chris Hani was launched."

Although he did not implicate the CP or any of its leaders in the assassination, he said he had acted in the interests of the party.

"I was prepared to do anything to further the cause of justice as far as the right was concerned, and the CP did not repudiate me once. On the contrary, I was seen as a fighter for the cause."

He still felt "deep remorse" towards Mrs Hani and her children.

"I do not expect them to forgive me, but I want them to understand there was nothing personal in our attack on Chris Hani. I'm not looking for sympathy... but I certainly expect understanding of my position. It is essential that this struggle period becomes a closed episode so that we can move forward, and that is why I am here today."

His testimony continues today — Own Correspondent



PLEA FOR UNDERSTANDING: Clive Derby-Lewis prepares his headphones during his amnesty hearing in Pretoria yesterday for the murder of former SACP leader Chris Hani.

PICTURE: AP

Hani 'a prime target of rightwing resistance'

CP 'propagated violence'

ANCIS CORRESPONDENT

Pretoria - Conservative Party leaders had openly propagated violence against the ANC and the SA Communist Party in the years before Chris Hani was assassinated, Clive Derby-Lewis told the Truth and Reconciliation Commission today.

They had also identified Chris Hani as one of the prime targets of rightwing resistance, Derby-Lewis said.

Continuing his testimony before the TRC's amnesty committee in the Pretoria City Hall, Derby-Lewis quoted from reports in the CP's official mouthpiece, Die Patriot, in which CP leaders called on their followers to prepare for armed resistance. Yesterday, Derby-Lewis said he and Polish immigrant Janusz Walus had murdered Mr Hani to spark chaos and prepare the ground for a rightwing coup.

Derby-Lewis and Walus were sentenced to death for the murder, later commuted to life imprisonment. They now want amnesty, claiming the assassination was carried out at the behest of the CP.

In 1992, then CP deputy leader Ferdi Hartzenberg had warned that ANC leaders would be slain if the ANC came to power in South Africa, Derby-Lewis said.

"In the freedom struggle of whites, the CP will focus on the leaders, and Nelson Mandela, leader of the ANC, will be the first," he quoted Dr Hartzenberg as saying. Mr Mandela's name was top of the "hit list" found in the possession of Walus after he had killed Mr Hani.

Another report in Die Patriot quoted the late CP leader Andries Treurnicht as saying Mr Hani had "declared war against whites".

In the same report, Dr Treurnicht called on CP followers to "mobilise now" for

resistance against an ANC/SACP government.

Yesterday Derby-Lewis said the fact that Mr Hani was considered a possible successor to President Mandela as head of state also made him a target.

Derby-Lewis apologised yesterday to Mr Hani's family - but Limpho, the SACP leader's widow, was not there to hear his remorse. She returned from lunch to the hearing in the Pretoria City Hall minutes after the apology had been made.

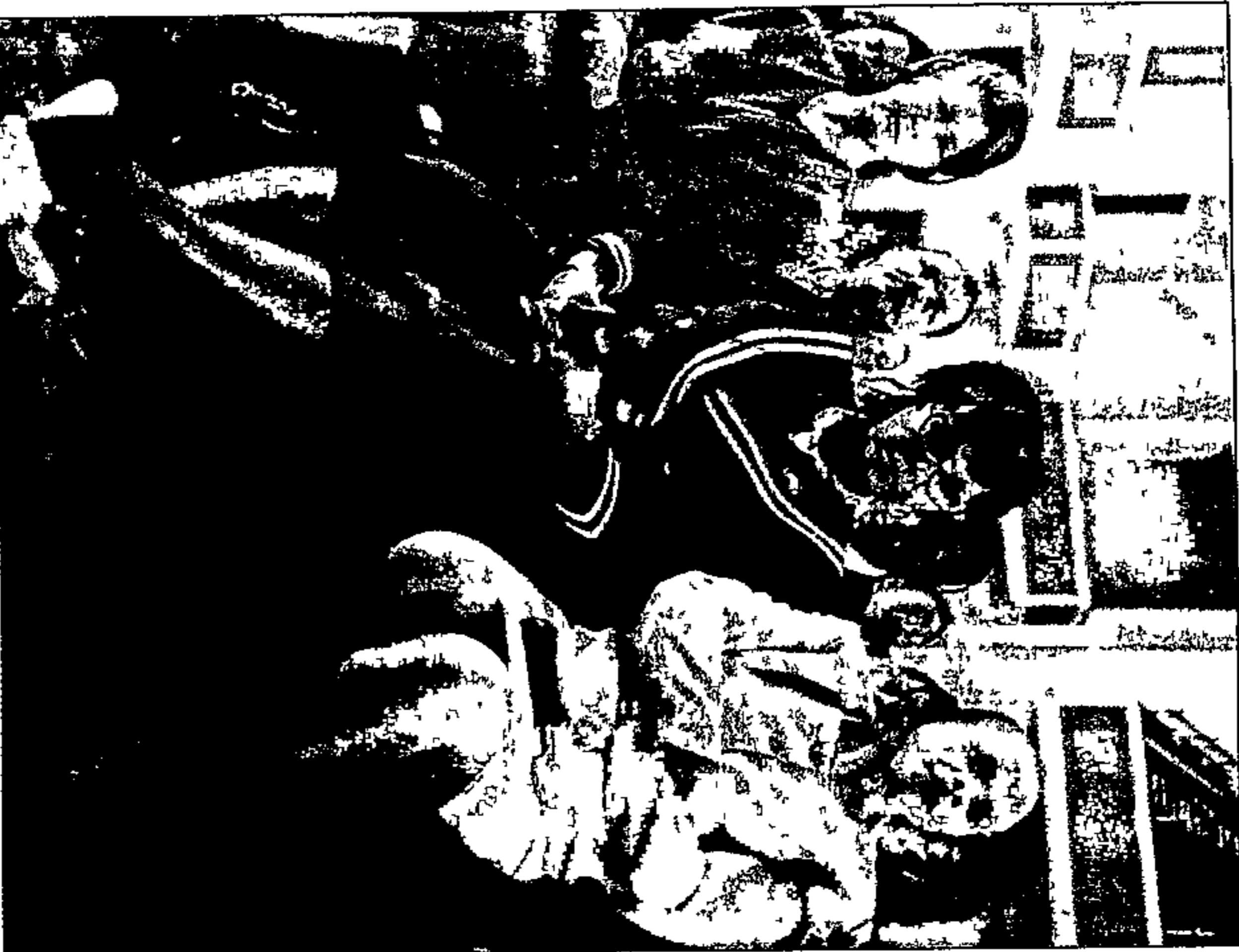
Derby-Lewis' long-awaited testimony started after yet more legal wrangling about the admissibility of statements he and Walus had made after their arrest.

Although Derby-Lewis' advocate, Harry Prinsloo, protested that the admissibility issue was still unresolved, committee chairman Mr Justice Hassen Mall ordered Derby-Lewis to start his testimony.

For more than two hours yesterday, Derby-Lewis detailed his personal history and political career, from his days as a Bedfordview town councillor.

Derby-Lewis, who in his written application says he "jointly planned" the assassination with Walus and provided the weapon, told the committee Mr Hani had been a "priority" target because of his former position as chief of staff of Umkhonto weSizwe, the ANC's armed wing.

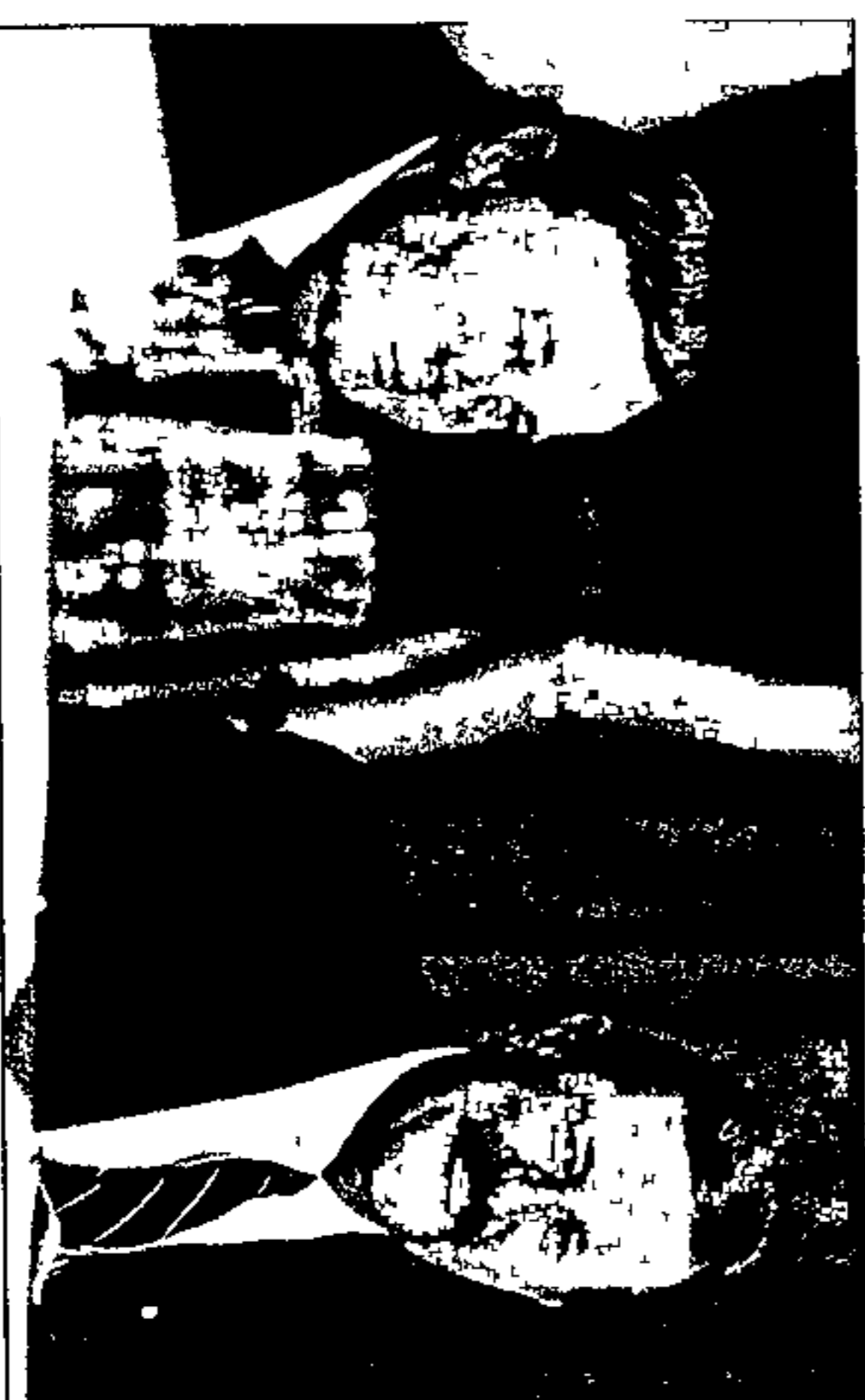
"It should be remembered that Chris Hani was first and foremost a military soldier of his people. In this context he was a military target. The fact that he was also leader of the SACP, and therefore most likely to succeed Mandela as president if the SACP came to power, made him also a priority political target which, if successfully attacked, would most likely cause our objective to be realised. That was to plunge the country into a situation of chaos which could be used to advantage by the Right to effect a takeover," Derby-Lewis said.



Women watch: Farida Omar, Winnie Madikizela-Mandela and Limpho Hani at the hearing



Looking on: Clive Derby-Lewis listens to evidence at an earlier TRC hearing



Light moment: Clive Derby-Lewis greets at Hani supporters after talking of his 'white tribe'

Hani was killed to create chaos — Derby-Lewis

80/13/8/97 (252)

Stephen Laufer

PRETORIA — Chris Hani's assassination was aimed at creating chaos ahead of a right-wing takeover of the country, the SA Communist Party (SACP) leader's convicted murderer Clive Derby-Lewis told the truth commission yesterday

Derby-Lewis said he had been involved in the creation of a network which gave the right wing and his own Conservative Party (CP) "the structures for war" by 1993, after then president FW de Klerk had "betrayed" Afrikaners by unbanning the SACP and the African National Congress (ANC)

Hani had been "a foremost soldier of his people" and as such a "prime military, political and psychological target".

It had been unfortunate for the right wing that the National Party had convinced security force generals "that their duty was to the party and not the state — I mean the people", Derby-Lewis said.

Speaking publicly for the first time since his arrest a week after the murder, Derby-Lewis said he felt remorse towards Hani's widow Limpho and the SACP leader's children, as well as towards those who died in the killing's aftermath, but he did not expect sympathy from them.

He also felt remorse towards his family and the family of Janusz Walus, whom he had provided with the weapon to shoot Hani. There were unfortunately always casualties in war, and SA had been at war, he said.

"I want to be seen as a fighter for the liberation of my people," Derby-Lewis said, later explaining that although he had grown up speaking English, he considered himself an Afrikaner.

The Hani family was not in the room while Derby-Lewis told the amnesty committee of his feelings. Limpho Hani refused to comment later.

Derby-Lewis's expression of remorse came as an aside during a rambling explanation of his amnesty submission, due to continue today after the committee ruled that he must put his case despite a challenge by the amnesty applicants against documents submitted by the Hani family's lawyers

The documents — statements to police by the amnesty applicants apparently implicating Derby-Lewis's wife Gaye — are expected to be used to argue that they should be denied amnesty because of a failure to make full disclosure. Lawyers for the applicants said the statements were obtained under duress and needed to be checked before they could proceed.

In an apparent attempt to pre-empt moves to show that he lacked the backing of a recognised political organisation — necessary if amnesty is to be granted — Derby-Lewis claimed the CP had never once repudiated him following the Hani killing. "On the contrary, I believe I was seen as a fighter for the cause."

He said his activities had led others to label him a racist and anti-semitic, "but nobody can doubt my sincerity in working for the self-determination of my people"

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Enn

'Treurnicht talk helped justify Hani killing'

By ROBERT BRAND

The late Conservative Party leader Dr Andries Treurnicht unwittingly gave his blessing for the assassination of Chris Hani by providing Clive Derby-Lewis with biblical justification for murder, the Truth and Reconciliation Commission heard yesterday.

Derby-Lewis told the commission's amnesty committee that after he and Janusz Walus had decided to kill the SACP leader, he had canvassed Treurnicht's opinion. Treurnicht, a doctor of theology with whom he had often discussed "deep theological matters," had reassured him.

"Without mentioning names or particulars, I discussed this issue with Dr Treurnicht. The impression I got from Dr Treurnicht was that in certain circumstances it would be permitted to kill in the fight against the antichrist."

Derby-Lewis and Walus, both serving life sentences for killing Hani, claim they committed the act on behalf of the CP, of which Derby-Lewis was a leading member.

Derby-Lewis said although the CP never publicly approved of the assassination, and the party had started a fund to contribute towards his legal costs.

He said he had interpreted CP policy statements about "mass mobilisation of the volk" as a call to war.

He became convinced that armed resistance was the only way to prevent domination of whites by a black, communist government, a feeling shared by Walus, who had had "traumatic" experiences under communism in Poland.

They felt the best strategy would be to "strike a crippling blow against the communist leadership as the real enemy." They had hoped this would create a political void into which the Right could step.

Although he had given Walus the pistol on April 6 1993, he had decided to delay the assassination attempt because he wanted to "give the matter further thought", Derby-Lewis said. However, Walus struck on April 10.

When he heard the next day that Walus had been arrested, he was in a state of shock, but decided to wait it out, believing there was no evidence to link him to Walus. He was arrested a week later.

Derby-Lewis continues with his testimony today.

► Questions on 'hit list'

Stan 14/8/97 (252)

Price of forgiveness

THEIR crimes are dastardly Their souls twisted They are children of yesteryear, locked in an irrelevant anti-communist ideological mould

They are what remains after their political masters have washed their hands in pseudo-innocence, to turn their attention to new ways of guaranteeing themselves the fat of the land

How shall we respond as South Africans, beyond the fact of a Truth and Reconciliation Commission-mediated political amnesty they might or might not get?

Many have criticised the amnesty provisions of the TRC as a quest for reconciliation at the expense of justice, particularly in view of the fact that even simple remorse is not demanded by the law that gave birth to the TRC

But we must not allow ourselves to be a nation of criticisers and complainers That is a sign of spiritual lethargy

Nor may we remain aloof, as many are, leaving it to those in the immediate family to work through the intricacies of the justice or otherwise of amnesty

After all, the argument goes, their loss is deeper, personal and more painful They are the ones who have to live with the loss at a very intimate level

While that is so, South Africans more generally also need to search their souls Chris Hani and others were not only parents, husbands, wives, sons, daughters, sisters and brothers

They were national heroes and leaders National assets Now they are gone To leave the matter only to government or to the TRC is to abdicate our democratic and national duty

These matters are South African matters Reconciliation is not, in the final instance, the responsibility of government It is a matter that touches every soul under the South African skies

Shall we or shall we not forgive? What are the pros and cons? In a sense, to punish them is like cutting the finger that pulls the trigger, rather than the mind that ordered it

It could be argued that such a way of dealing with our multifaceted problems falls far short of a sober analysis of the nature of our predicament

Without minimising the emotional trauma caused, nor the national loss black South Africa suffered when heroes like Hani Griffiths Mxenge, Steve Biko and others died, it is important to situate the issue in a broader moral horizon

It is hardly possible to quantify the centuries-old injury to black personhood caused by white South Africans The pain was deep, personal and incalculable

Nor is it easier to decide who is guiltier Jan van Riebeeck, Hendrik Verwoerd, FW de Klerk

Apportioning blame for the apartheid hell is difficult. Pardoning does not come easy either, but it must be done. **Moss Ntlha** explains why



Chris Hani . his death was a national loss.

or Janusz Walus? Put another way Does punishing Walus not amount to excusing the rest? Are they not all guilty?

The curious thing is that often white liberals wish to see the Eugene de Kocks of the world swing because, we are told, they were worse We are supposed to believe it is they who spoil an otherwise fine party

Sharing the guilt

Yet to grant amnesty to these culprits could be an important statement that as far as Afrikaners are concerned the indictment is upon the entire colonial project and all its beneficiaries White liberals share the guilt

The hairsplitting exercise of deciding who is guiltier suggests that we tolerate the less-dramatic rape of our personhood because our gaze is trained for the moment on spectacular atrocities committed by the likes of Walus on those who happen to be the finest leaders among us

But there is an even stronger case to rise to the challenge of magnanimity Not to forgive requires us to reserve space in our hearts for the silent rage that will simmer for a long time yet A rage we will pass on to our children

Harbouring this type of bitterness stifles one's spiritual resources, which could be better applied to worthier causes

The historic task of reconstruction demands every last fibre of our spirituality

How we raise our children, work in our factories, mines and farms, stamp out crime, perform on the sports fields, learn in our schools or build a reconciled South Africa

Vengeance

All this does not permit us the luxury to seek vengeance The sense of rage we feel inside may be legitimate, but is it redemptive?

It is also a matter that demands that we look deep into our spiritual heritage The Christian prayer that goes "Father forgive us as we forgive those who sin against us" raises important questions

● It shifts the responsibility and initiative to the "sinned against", rather than the sinner It is as if God takes it that the sinner is unlikely to take the initiative to confess, repent and reconcile in the first place

● This restores the dignity of the "sinned against" From embracing the "victim syndrome" that waits for the unlikely remorse of folk with twisted souls, the victim takes the initiative to forgive, freeing not only him/herself, but also releasing the villain from the knots with which they have bound themselves

● It reminds us we are accountable to God, and must seek his mercy for our own failures - big or small The principle of forgiveness is not based on the size of the crime committed Only this type of humility can lay a strong enough foundation for lasting community - in our homes, communities or nation

But forgiving in this way comes at a price for the perpetrators They need to come clean and tell us the whole truth about their violation of human rights This is a minimum requirement - the least they can do to remain worthy of being called South Africans

(The writer is general secretary of the Evangelical Alliance of South Africa, Johannesburg)

Lawrence
(252) 14/8/97



Hani's killing preceded by CP war-talk

Sowetan 14/8/97

(252)

Derby-Lewis attempts to show there was a political motive behind SACP chief's murder

By Simon Zwane

THE amnesty committee listened to lengthy quotes of rightwing war-talk in Pretoria yesterday as Clive Derby-Lewis attempted to prove that a climate of war existed in South Africa when South African Communist Party (SACP) leader Chris Hani was assassinated.

Derby-Lewis also tried to show that there was a political motive for the assassination and to discount the existence of a wider conspiracy.

Derby-Lewis and Polish immigrant Janusz Walus are serving life sentences for the murder. In their amnesty application, they maintain they were the only ones involved in planning the assassination. Walus pulled the trigger.

Derby-Lewis quoted extensively from press reports of the Conservative Party mouthpiece, *Die Patriot*. Rightwing leaders like Mr Ferdie Hartzenberg and Mr Andriés Treunicht were reported as threatening to destabilise the country as early as 1990 when liberation movements were unbanned and negotiations started.

He quoted Hartzenberg, the current CP leader who has been attending the hearing since Monday, as having said that the establishment of an interim government "is tanta-

mount to a declaration of war against the Afrikaners"

Derby-Lewis also said the CP decided at its congress in Kimberley in 1992 to mobilise and inspire Afrikaners to fight for their heritage.

"As a military man, mobilisation means one thing and that is you get ready for war."

Both Derby-Lewis and Walus have said their offence must be seen in the context of a broad rightwing attempt to stop the imminent handover of power to the African National Congress and SACP.

"The CP never rejected violence," they said. "On the contrary, references were made to violence as an option to regain freedom if the constitutional path was closed to the Afrikaner and to the supporters of CP policy."

Derby-Lewis told the committee that the CP never repudiated him for his involvement in Hani's murder. Instead the party had sent him messages of support and raised R100 000 for his legal fees.

The city hall burst into life again yesterday as ANC Women's League president Mrs Winnie Madikizela-Mandela led the audience in a chant during the morning adjournment.

Mrs Limpho Hani and her daughters also joined in the chanting and dancing.

TRC TOLD OF BIBLICAL JUSTIFICATION

Treurnicht unwittingly backed Hami murder

AT 14/8/97 (252)

JOHANNESBURG: Clive Derby-Lewis told the TRC yesterday that SACP leader Chris Hami was killed "in the fight against the Antichrist"

THE late Conservative Party leader, Dr Andries Treurnicht, unwittingly gave his blessing for the assassination of Chris Hami by providing Clive Derby-Lewis with Biblical justification for murder, the Truth and Reconciliation Commission heard yesterday.

Derby-Lewis told the TRC's amnesty committee that after he and his co-conspirator, Janusz Walus, had decided to assassinate the popular SACP leader, he had sought Treurnicht's opinion on the subject of killing "in the fight against the Antichrist".

Treurnicht, a doctor of theology with whom he had often discussed "deep theological matters", had reassured him.

"Without mentioning names, I discussed this issue with Dr Treurnicht. The impression I got from him was that in certain circumstances it would be permitted to kill in the fight against the Antichrist.

"The Bible teaches that it is our duty as Christians to fight the Antichrist in whichever way we can. The act of war I was prompted into doing could also be justified in terms of my Christian beliefs."

Derby-Lewis, who has confessed that he had planned the assassination with Walus and provided the murder weapon, also told the committee he had had tea with friends and gone shopping on the day Hami was killed.

Derby-Lewis and Walus, who are serving life sentences for the Hami murder, claim they commu-

Pik Botha suspected of being US spy, TRC hears

OWN CORRESPONDENT

JOHANNESBURG Retired Foreign Affairs Minister Mr Pik Botha was suspected of being an American spy, former Conservative Party politician Clive Derby-Lewis alleged at his amnesty hearing yesterday.

"It is well known in right-wing circles that Pik Botha was not what he presented himself to be. We suspected him of being an agent of the Americans," Derby-Lewis told the Truth and Reconciliation Commission's amnesty committee.

He was explaining why Botha's name was on the alleged hit list found in the possession of Janusz Walus shortly after he shot Chris Hami.

The list also included the names of Nelson Mandela, Joe Slovo, Pik Botha, then Sunday Times editor Ken Owen, Mr Justice Richard Goldstone, and Beeld political writer Tim du

ressed the assassination on behalf of the CP, of which Derby-Lewis was a leading member.

Derby-Lewis said that although the CP never publicly approved of the assassination, he had received "tremendous" support after his arrest and the party had started a fund to help with his legal costs. He said he had interpreted CP policy statements about "mass

press.

Derby-Lewis denied that it was a hit list, although he and Walus had used it to identify Hami as a target.

He said yesterday the list had been compiled by his wife, Gaye, for "journalistic purposes". She had been working on an article about SACP and ANC politicians "jumping on the gravy train" intending to show that political leaders had benefited financially from the struggle.

Derby-Lewis struggled to explain why the list included information such as security arrangements at Mandela's house. He also battled to justify the inclusion of people not in the ANC/SACP fold, such as Botha, Owen and Du Plessis.

Detailed descriptions of some of the houses were necessary to make them easily identifiable. The list included people who had opposed the CP's policies, he said.

Derby-Lewis said that although the CP never publicly approved of the assassination, he had received "tremendous" support after his arrest and the party had started a fund to help with his legal costs.

He said he had interpreted CP policy statements about "mass



LISTENING Nomakwez Hami (left) leans on the shoulder of her mother, Linpho, yesterday during the amnesty hearing for Polish immigrant Janusz Walus and former CP politician Clive Derby-Lewis, the man convicted of the 1993 killing of their father and husband, popular SACP leader Chris Hami. Walus and Derby-Lewis are serving life terms. PICTURE AP

mobilisation" of the "vork" as a call to war, and for this reason he had obtained through his right-wing associates an unlicensed pistol fitted with a silencer.

The silencer was necessary, he said, to "allow me to practise with (the pistol) at home without disturbing the neighbours and also to surprise me with some element of mystery in the event of an MK or

strategy would be to "strike a crippling blow against the communist leadership as the real enemy". They had hoped this would create a chaotic political void into which the right could step to seize power, Derby-Lewis said.

He gave Walus a list of names and addresses, including that of Hami. Derby-Lewis denied this was a "hit list", insisting that it had been compiled by Gaye Derby-Lewis during her research into "gravy train" practices by ANC politicians and other public figures. Although he had given Walus the pistol on April 5, 1993, he had decided to delay the assassination attempt because he had wanted to "give the matter further thought", Derby-Lewis said. But Walus struck on Saturday, April 10.

Derby-Lewis said he was sipping tea on the lawn of a friend's home when he heard that Hami had been killed. At first, he did not believe Walus had been the killer.

"I thought Jeppers, has something happened which has, in a way, come to our rescue? Now we won't have to do what we had to do. We finished our tea and then we went shopping."

When he heard the following day that Walus had been arrested, he was "in a state of shock", Derby-Lewis said. But he decided to wait it out, believing there was no evidence to link him to Walus. He was arrested a week later.

Derby-Lewis continues his testimony today — Own Correspondent

Lawyers row over Hani case files

Statements held back, says Walus counsel

ARGUS CORRESPONDENT

Pretoria - A furious row broke out between legal representatives at the amnesty hearing for the killers of Chris Hani today about documents submitted to the Truth Commission by lawyers for the Hani family.

Accusations of dishonesty were flung about as advocates for Clive Derby-Lewis and Janusz Walus argued the Hani family lawyer, George Bizos SC, had not given them timely access to the documents.

The documents include previously undisclosed statements by Derby-Lewis and Walus after their arrest for the 1993 murder.

The statements allegedly contradict the account they give of the assassination in their written amnesty applications.

Harry Prinsloo, for Derby-Lewis, and Louisa van der Walt, for Walus, were served with copies of the documents, but insist they needed to see the originals in

order to prepare their clients for cross-examination.

Ms Van der Walt today accused Mr Bizos's instructing attorney, Caroline Nicholls, of not returning some of the original documents - of which they had made copies - to the files in the possession of the Transvaal Attorney-General Jan D'Oliveira.

They also said the attorney had had some of the documents in her possession since June but had not disclosed them until Monday this week.

"Why were the attorneys of Mr Bizos dishonest in keeping from us this fact?" Ms Van der Walt asked.

Mr Bizos replied "My instructing attorney resents the suggestion that she behaved in any way improperly. We hope counsel for the applicants would refrain from making statements that impinge upon the manner in which my instructing attorney and I are conducting this case. "We did more than we were obliged to

do by making copies of the statements available we are not obliged to prepare the applicants' case for them."

The committee is expected to make a ruling today on whether the hearing should be adjourned to give the applicants' lawyers time to study the documents.

Clive Derby-Lewis was closely questioned by the TRC's amnesty committee about a "hit list" found in the possession of Janusz Walus soon after he shot Chris Hani.

The list also included the names of Nelson Mandela, Joe Slovo, Pik Botha, then Sunday Times editor Ken Owen, Mr Justice Richard Goldstone and Beeld political writer Tim du Plessis.

Derby-Lewis denied it was a hit list, although he said he and Walus had used it to identify Mr Hani as a target.

He said yesterday that it had been compiled by his wife, Gaye, for "journalistic purposes." She had been working on an article

about South African Communist Party and African National Congress alliance politicians "jumping on the gravy train", intending to show that political leaders had benefited financially from the struggle.

Derby-Lewis struggled to explain to the committee why the list included information such as security arrangements at Mr Mandela's house.

He also tried to justify the inclusion on the list of people not in the ANC and SACP fold, such as Mr Botha, Mr Owen and Mr Du Plessis.

Detailed descriptions of some of the houses were necessary to make them easily identifiable, he said.

The list included people who had opposed the Conservative Party's policies, he said.

Explaining why the then National Party cabinet minister Pik Botha's name was in the list, he told the amnesty committee "We suspected him of being an agent for the Americans."

(252) RALF 14/8/97 10:30

Plan for military service in a crisis supported

Myndham Hartley

JAPE TOWN — A proposal that volunteers to the SA National Defence Force (SANDF) be legally obliged for all-up over a 16-year period to perform up to nine months of active service in the event of a national emergency or crisis found broad support within the defence family yesterday.

The defence ministry proposal was outlined during a day-long seminar on the controversial "liability to serve" clause in the defence review. The clause, in its original form, was rejected by civil society organisations on the rounds that it was a form of conscription, which was not policy in SA. The version of the defence review which was approved by cabinet in June did not contain the controversial clause.

Deputy Defence Minister Ronnie Kasrils, who chaired the seminar, said Defence Minister Joe Modise was committed to a volunteer force and an end to conscription, and that the seminar had been called to find an alternative. The problem with the old draft was that old order conscripts would have been compelled to serve because they had military experience.

Kasrils also unveiled a new defence view of conscientious objection and confirmed that those who were contracted to the military and had a liability to serve in a crisis could still apply to a board on the grounds that they had changed their beliefs. He said it would also be possible for someone with a liability to serve to apply for exemption on specific grounds of conscience to a specific war, rather than because of a more general rejection of military service. Those owing service to the state would be allowed to do this in a nonmilitary capacity.

Brig Joan van der Poel, in a detailed briefing on the staffing policy of the SANDF, stressed that the defence force had a constitutional obligation to have a force available should a state of emergency be declared by the president, or a state of national defence be called. For this reason, those who received voluntary training would be included on the national reserve for a period of 16 years or until the age of 65, or whichever came sooner. They would then be liable for active service, if needed, for a period of 90 days which, should a "national crisis" demand, could be extended by a further six months by Parliament.

Concern was expressed at the seminar about SANDF members who had volunteered to serve before these suggestions were made. Their positions would have to be renegotiated.

Derby-Lewis drops attempt to block statements

Stephen Laufer

HRIS Han's murderer Clive Derby-Lewis yesterday dropped his opposition to the introduction into his amnesty hearing of statements he made while detained under section 29 of the Internal Security Act.

Derby-Lewis's about-face came after truth commission members — visibly irritated by his rambling tales of political successes, meetings with reign right-wing groups and speech during by-elections — told him to get to the point of his verbal submission.

Derby-Lewis apologised for having resisted the introduction of the evidence-for-three days after it was presented by lawyers for the assassinated SA Communist Party (SACP) leader's family, who are opposing the amnesty bid. He had been wrongly advised by his lawyers that the documents were irrelevant, and had been "terribly shocked" to hear that failure to address them could be interpreted as not making full disclosure, necessary for amnesty to be granted.

Your client knows better than anyone what the truth is, he doesn't need documents," committee member Bernard Ngoepe told Derby-Lewis's counsel Harry Prinsloo after another attempt to block the statements. "You don't want your client to commit himself until you've seen the documents," committee member Andrew Wilson charged, an apparent hint that Derby-Lewis's credibility was being damaged.

Derby-Lewis said that his readings from Die Patriot were aimed at illustrating how the threat of violence in defence of white privilege had become central to CP policy. It had been clear the party was calling on its supporters to mobilise for war. As part of the mobilisation, he obtained a 9mm pistol. He later gave it to Janusz Walus, who shot Han after the two had agreed to target the SACP leader.

He had been shocked when the news of Han's killing had been telephoned to the house of a friend he was visiting on Easter Saturday, because he told Walus not to commit the murder during the holiday weekend. Thinking the death had been perpetrated by others, he was relieved "that we did not have to do it", and he and his wife had finished their tea before going shopping.

Once approved by Parliament's joint standing committee on defence, and the National Assembly, the provisions will be included in new defence legislation, together with refinements made during the process.

Defence force members, particularly Gen Andrew Masondo, expressed the view that if the situation was so critical that SA was about to be taken over, all able-bodied persons should be liable to serve. This was rejected as planning for doomsday. Kasrils said he was sure that South Africans would volunteer to defend their country if the situation became that serious.

Forum fails to attend KwaZulu security meeting

Forum Kwazulu-Natal chair-man Sifiso Nkabinde said Ngunjane had not given him sufficient notice of the meeting. This made it

MARTIUBURG — The National Consultative Forum failed to attend a meeting yesterday hosted by KwaZulu-Natal safety and security MEC Nyanga Ngubane to discuss an end to violence between its supporters and those of the African National Congress (ANC) in Richmond.

Assassin speaks out

September 15/8/97 (252)

POLISH RIGHT-WINGER Janusz Walus stared into space, seldom altering his stoical expression as his co-conspirator Clive Derby-Lewis continued his long-winded presentation

It was the third day of hearings before the Truth and Reconciliation Commission's amnesty committee for the two assassins of Chris Hani, the former South African Communist Party general secretary

After hours of meandering testimony about his political history, Derby-Lewis was implored by the chairman to get to the point and speak about his role in the murder

But when the former Conservative Party President's Councillor finally got round to talking about the issue at hand, he revealed nothing new about the April 1993 murder of the popular Umkhonto we Sizwe commander

Derby-Lewis admits that he plotted with Walus to kill Hani, and had given him a pistol fitted with a silencer

The silenced gun was for him to practise with at home without disturbing the neighbours and for the element of surprise "in the event of an Apla or ANC attack", he says

He and his wife Gaye were having tea with his friend Faan Venter (the man who had given him the gun) when they heard about the assassination. They finished tea, went shopping and only learnt of Walus' arrest the next morning

"I was in a state of shock," he says. He had decided to lay low because he knew there was nothing to connect him with murder weapon

Freedom fighter

Speaking without hesitation and with no apparent emotion, Derby-Lewis more than once claimed to be a "freedom fighter involved in the Afrikaners' third freedom struggle"

By killing Hani, he believed they would plunge the country into chaos so that right-wingers could "effect a counter-revolution" and take over

By April 1993 multi-party negotiations were well under way and the ANC had already suspended its armed struggle

But the "treachery of the National Party regime", which had "betrayed" the Afrikaners by preparing to hand over the country to the ANC and SACP, had left them no choice, he maintains

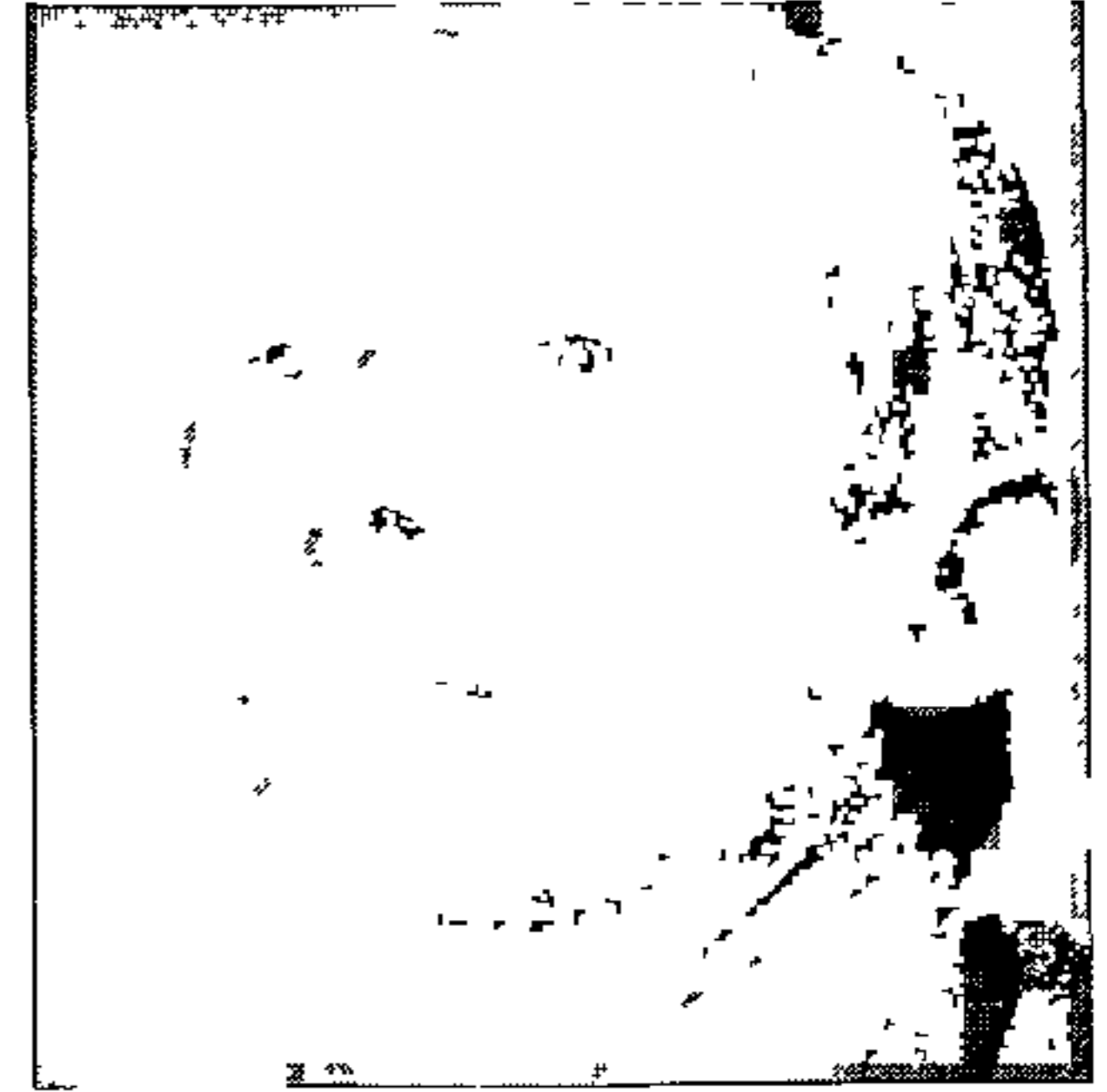
In almost the same breath he said that it was a "tribute to Hani that he was chosen", because of his status and following

The eagerly awaited hearings – which were postponed in June – were at first bogged down by legal argument and several adjournments when the murderers' lawyers asked for time to study documents handed to them on Monday morning by George Bizos, the senior counsel

As Hani's assassins unveil the events leading to his fateful death, no remorse is shown; instead they sing their own praises. **Sharon Chetty** explains...



Clive Derby-Lewis



Janusz Walus

PICS VELI NHLAPO

representing the Hani family, the ANC and the SACP, who have opposed amnesty

The contents of the documents – statements made to the police by Derby-Lewis and Walus soon after their arrest, but which were never revealed at their criminal trial – are the key to the opposition's case

Bizos maintains that the statements will show that the two were untruthful in their amnesty applications and will prove that they did not make a full disclosure, one of the requirements for amnesty

Their lawyers, Louisa van der Walt and Harry Prinsloo, say the statements were "coerced" from Walus and Derby-Lewis while they were under Section 29 detention, and were therefore inadmissible

They also claim that the two were kept awake for days, had been plied with alcohol by the security policemen interrogating them, that Derby-Lewis was promised amnesty and told that his wife would not be arrested if he cooperated with them

Sings own praises

Gaye Derby-Lewis was acquitted at their trial

Glib and confident, and looking every bit the seasoned politician, Derby-Lewis made sure he did not miss a chance to sing his own praises

He boasted of helping "his people" – the Afrikaners (among whom he was accepted, although English-speaking, because he spoke their language so well), that he served in the army when his English-speaking compatriots

avoided doing so and that he was the first to use the services of an advertising agency to fight an election

Walus sat at the end of the table, looking awkward in an ill-fitting suit, seemingly aloof, even when Derby-Lewis referred to him

They had first met in Harrismith when he was electioneering during a by-election and were both active in the Stellard Foundation, a "think-tank" used to propagate right-wing views

Often they talked about communism in Poland, and Walus "couldn't believe that South Africans could be that stupid to let the communists take over"

Violent methods

He was at pains to illustrate the CP's support of violent methods in its "war", and tried to draw parallels between the armed struggle of the liberation movements and that of the Afrikaners

Derby-Lewis said such methods were sanctioned by the late CP leader Andries Treurnicht

When questioned about a "hit list" drawn up by his wife containing Hani's name, that of several ANC leaders (including President Nelson Mandela and the late Joe Slovo), Pik Botha, Judge Richard Goldstone, *Beeld* deputy editor Tim du Plessis and former *Sunday Times* editor Ken Owen, Derby-Lewis said it was only produced for an article in the CP mouthpiece *Die Patriot*

All of those on the list had done things in opposition to the CP

Self-confessed torturer named at amnesty hearing

By ROBERT BRAND

A former policeman who has applied for amnesty for the torture death of ANC activist Stanza Bopape was named yesterday as one of the investigators who had allegedly used unlawful means to extract statements from the killers of Chris Hani

(252) Star 15/8/97

Hani family lawyer George Bizos asked the Truth and Reconciliation Commission's amnesty committee to subpoena Van Niekerk, Warrant-Officer Andre Beetge and Captain Nikolaas Deetjefs, who were all involved in the interrogation, to testify

Colonel Adriaan van Niekerk is one of three policemen who may be subpoenaed to the amnesty hearing of Clive Derby-Lewis and Janusz Walus to testify about whether the killers' statements had been made freely and voluntarily

Derby-Lewis and Walus have confessed to plotting the assassination of Hani. But they say the statements they made while in detention, which allegedly contradict the account of the plot they give in their amnesty applications, were made under duress

Derby-Lewis said he was threatened with indefinite detention and deprived of sleep, while Walus alleged he was plied with liquor.

Derby-Lewis' wife Gaye said at a press conference yesterday that Deetjefs was a "professional torturer" who had applied for amnesty for gross human-rights violations, while Van Niekerk had admitted involvement in the death of Bopape

Bizos, she said, was "scraping the bottom of the barrel" in his attempt to prove that Derby-Lewis and Walus were not telling the truth.

Mrs Derby-Lewis, who was also arrested and charged for the Hani murder but acquitted, said neither she nor the two amnesty applicants had been physically tortured

She said they had been kept awake for up to four days at a time until they became disoriented.

Lawyers for Hani's killers rapped by TRC over delays

Patience wears thin after barrage of adjournments are asked for

By ROBERT BRAND

The Truth and Reconciliation Commission's amnesty committee has strongly criticised lawyers for the killers of Chris Hani for "constant interruptions" and delaying tactics during their amnesty hearing this week.

The hearing for Clive Derby-Lewis and Janusz Walus, which has been beset by legal arguments and interruptions since it started on Monday, was yesterday adjourned three hours early to allow the applicants' lawyers to study documents and listen to tape recordings made during questioning of their clients by police

Harry Prinsloo, for Derby-Lewis, asked for a postponement until Monday but am-

nesty committee chairman Mr Justice Hassen Mall, and he had reached the end of his patience with constant adjournments.

"A great deal of time has already been lost in this matter. The committee is extremely unhappy that its work is inter-

the matter very, very hard before you make a further request for postponement."

Another committee member, Mr Justice Bernard Ngoepe, said the committee had done everything it could to "indulge" the applicants

"These things should have been done a long time ago. The committee does not have an indefinite lifetime. We are trying to lean over backwards to indulge you, but you seem to be engaging in some kind of fishing expedition."

The hearing had first been set down for June 23, but it was postponed at the request of Hani family lawyer George Bizos SC, who said he had received a bundle of documents from the applicants too late to prepare for the hearing. Also,

Concern at 'fishing expedition'

rupted on a daily basis, sometimes two or three times a day, for short adjournments and postponements.

"This is not how we visualised how our work should be done," he said. "I want you to think about

Hani's widow, Limpho, was unable to attend that week

When the hearing resumed on Monday, Bizos submitted a bundle of documents including previously undisclosed statements made by Derby-Lewis and Walus

Their lawyers challenged the admissibility of the statements, saying they had been made under duress

Earlier yesterday, Louisa van der Walt, for Walus, accused Bizos' instructing attorney, Caroline Nicholls, of acting dishonestly in withholding certain documents

"My instructing attorney presents suggestions that she in any way acted improperly. We are not obliged to prepare the applicants' case," Bizos retorted

15

Buthelezi 'must have known of hit squad'

OWN CORRESPONDENT
Durban

(252)

STW 15/8/97

Inkatha Freedom Party leader Mangosuthu Buthelezi should be subpoenaed to appear before an in camera hearing by the Truth Commission where he would have to explain his involvement with the Caprivi hit squad, a lawyer acting for two former hit squad members told the TRC yesterday.

But commissioner Richard Lyster said although it was within the TRC's powers to subpoena Buthelezi to such a hearing, the organisation did not think it was necessary to do so.

"We subpoena people to these hearings if we think we can get more out of them than we could at a public hearing," Lyster said.

Angus Stewart, legal representative of Daluxolo Luthuli and Zweli Dlamini - self-confessed members of the hit squad - told the TRC yesterday that it was "inconceivable" that Buthelezi had not known about the hit squad and its activities.

"He was minister of police in KwaZulu at all material times," Stewart said. "He never intervened to stop the hit squad activities or to tell them that he did not support them."

Buthelezi remained on the outside, always attacking the process of investigation but never becoming part of the solution, Stewart said.

John Wills, the lawyer representing other hit squad members Romeo Mbambo, Israel Hlongwane and Brian Mkhize, supported Stewart's submission, saying evidence that had been submitted implicated various IFP figures in the hit squad's activities.

In the meantime, Mkhize, Mbambo and Hlongwane told journalists at a press conference during the hearing that IFP leaders involved in hit-squad activities should apologise to the public for their roles, instead of refuting them in the media.

Lawyers representing the IFP are expected to make a submission to the TRC today.

Committee faces growing backlog

(262) Star 15/8/97

By ROBERT BRAND

The Truth and Reconciliation Commission is facing a crisis in dealing with its huge backlog of amnesty applications

The commission will consider its options – which may include lengthening the commission's life well into next year – at a full commission meeting in Cape Town next week.

This follows an internal report which found it would be impossible to complete the more than 7 000 pending amnesty applications before the commission's mandate expires in December, acting chairman Dr Alex Boraine confirmed yesterday.

The report, which was drawn up by a TRC committee headed by Boraine and includes recommendations on how to deal with the crisis, will be presented to the commission at next week's meeting.

Commission staff made a projection based on the number of amnesty applications which have to be dealt with by way of a public hearing and concluded there was not enough time to hear them all before December 14, Boraine said.

The enlargement of the amnesty committee to enable it to hold up to three hearings simultaneously would not solve the problem.

Boraine would not

elaborate on the recommendations but said the options were "very few". He added, however, that the commission would not consider a blanket amnesty solution.

Sources told The Star that one option would be to lengthen the life of the amnesty committee until March next year, when the commission has to present its final report to Parliament. This will allow the committee an extra three months to hear remaining applications.

However, the sources expressed doubt that three months would be enough.

► More reports, pictures

Jo'burg court's backlog 3 500

Interpreters' action leads to accused, witnesses, lawyers being put on hold

BY FIKILE-NTSIKELELO
MOYA

The Johannesburg Magistrates' Court has a backlog of over 3 500 cases, many as a result of interpreters who have embarked on various forms of industrial action since last month to press for better salaries.

The Johannesburg District Court has had to postpone about 120 cases, affecting 183 witnesses, 29 attorneys and two advocates because of a lack of interpreters who could translate English and Afrikaans mainly to African languages and vice-versa.

The court had 3 130 outstanding cases in July, 174

more than it had in June

The regional court had a 502-case backlog in the same period. The court spokesman could not say how many lawyers or witnesses were affected.

Interpreters are presently back at work after a court interdict.

The courts could be hamstrung further if talks between National Education, Health and Allied Workers Union (Nehawu) affiliated interpreters and the Government do not strike a deal soon.

As with other public-sector unions affiliated to Cosatu, Nehawu is demanding a 9% salary increase while the Government has offered 7,5%, which some staff associa-

(252) tions have accepted

Although a Johannesburg magistrate said there were no time limits set, in terms of the constitution, an accused has a right to have his or her trial heard as soon as possible.

All court orderlies interviewed agreed that most of the accused were black and many needed the services of interpreters.

But the lack of interpreters does not only affect "unsophisticated" people.

Ntsika Dlamini, a bank consultant and grandson of President Mandela and a member of the Swazi royal family, has used an interpreter to face a fraud charge.

It costs the Justice Department an unspecified

amount of money in witness fees. Some witnesses, said a senior magistrate, was flown from as far as Durban or Cape Town for trials.

"It costs about R1 000 to bring a witness from say Durban. Imagine if we have to send him back again unheard," said the magistrate.

A public defender who declined to be named said the strike was leaving them with a dilemma.

"Our primary aim is securing the interest of the accused and we obviously have to object if cases drag on. But I fear sometimes this means sending a criminal back on to the streets where he could continue with his acts," she said.

(252)

Nov 15/8/97

The Star, 15/8/97

Afrikanerdom's 'tame Englishman' left in wilderness

BY ROBERT BRAND

(252)

The bronze mounted statue of Andries Pretorius, the Voortrekker leader who gave Pretoria its name, is positioned with its back to the Pretoria City Hall

Just as well, because inside the hall this week a piece of history not particularly flattering to Pretorius' descendants was being relived by a man who wanted so desperately to be one of the "volk" that he went a step further than his leaders could have expected. Clive Derby-Lewis, the "Engelsman" who found a political home in the heart of conservative Afrikanerdom by zealously embracing all that was bad about it, was describing how he had plotted to kill Chris Han

b. That we got to hear his story is a wonder in itself. His lawyers tried their very best to delay the moment when he had to face South Africa and tell the full truth about the plot to kill Han

When Derby-Lewis eventually took the stand on Wednesday, he regaled the amnesty committee for two-and-a-half hours with a detailed account of his political career from the day he won a debating competition at Christian Brothers College in Kimberley to his nomination to Parliament as a member of the Conservative Party

He often digressed from his written statement to indulge the committee with anecdotes

He eventually got to the matter of the Han murder, but he might, by yesterday still have been enlightening us on his triumphs, as mayor of Bedfordview in 1974 had it not been for an interjection by the Han family advocate, George Bizos

b. "The committee has been listening very patiently to these lengthy memoirs of Mr Derby-Lewis, but can we please get down to the issue the committee is concerned with?" an exasperated Bizos implored.

Not that the hours and hours of personal history were entirely without value. It taught us two things

Firstly, the value of the saying, "Speak softly and carry a big stick." For years, the Conservative Party talked big and did nothing. It threatened revolution but did not deliver.

The sporadic acts of rightwing violence during the late 1980s and early 1990s were committed by individuals and splinter groupings on the fringes of rightwing politics. Nothing came of the CP's exhortations to war, and when one of their number finally did something - kill Chris Han - his party repudiated his deed.

Secondly, a convert is often more zealous than his new allies. Clive Derby-Lewis is living embodiment of all that was wrong about Afrikaner hegemony. He was English in language and in culture. A public-school regimental type if ever there was one, he probably owns a smoking jacket. What's more, he is Catholic, the "Roomse gevaar", more despised in traditional Afrikaner ideology than Judaism.

Yet because his skin is white he could become an Afrikaner, an honour denied those of darker hue even if they were baptised in the Dutch Reformed Church and were mother-tongue Afrikaans speakers.

This seemed to be a matter of particular pride to Derby-Lewis. He beamed when he told the committee that he would most certainly have ascended to the exalted ranks of the Afrikaner Broederbond had he not been kicked out of the Bond's junior wing, the Rapportryerskorps, because of an injudicious public gesture betraying his contempt for the State President, PW Botha.

Instead of toasting Botha during a Rapportryers function, he turned his glass upside down, Derby-Lewis said, the ultimate Scottish insult.

It wasn't wasted on those who anointed the inner circle of Afrikanerdom. But by then, the Afrikaners were already irreconcilably divided, and Derby-Lewis, once a tame Englishman for the National Party, became a tame Englishman for the Conservative Party, to be paraded on public stages with Dr Andries Treurnicht and Dr Ferdinand Hartzenberg in a futile attempt to win support from conservative English-speakers.

Andries Pretorius, for all the faults of his historical paradigm, was a brave man who stood for justice and freedom from oppression. I'd love to know what he would have thought about this.

Time to consider making your own reconciliation contribution

By FRANZ AUERBACH

I hope that The Star's systematic coverage of TRC activities is making some impact on most of its readers.

There are people who run down the TRC, and some turn their backs on the process. But most South Africans accept the TRC is doing much worthwhile work, throwing light on our past and helping some people to deal with its "baggage". Yes, there are problems - but we are making progress.

By June, 10 800 statements had been taken for the human rights violations committee, and 7 000 for amnesty hearings. Apart from that, I'm sure many people were moved by the genuine reconciliation in the amnesty hearings surrounding Amy Biehl and the St James massacre, even if there were cases where little remorse was shown. We now know there are cases where the TRC has brought about genuine reconciliation.

It is natural that stories of horror and suffering, and confessions by people who tortured and killed, grab public attention. But I feel strongly it is time we started applying our minds to the issues handled by the reparations and rehabilitation committee.

At a Johannesburg workshop in June, we gained important insights into this sector. Professor Piet Meuring explained the committee was list-

ing and prioritising requests from victims before drawing up recommendations to Government. A President's Fund to pay for the costs of the reparations enterprise has been set up with an initial state input of R1-million.

At some stage not only the state but also private individuals and organisations in civil society will be asked to contribute. Some overseas bodies have promised substantial contributions.

Meuring said there were five areas of need which victims saw as most important:

First are medical needs: we must remember that some have been wounded and maimed, these will need all manner of help. More long-term help will also be needed for traumatised people.

Second, there is much need for pastoral care and counselling; many people still suffer from post-traumatic stress disorder. Ongoing counselling will help ease their pain and perhaps their nightmares.

The third area is that of education. So many young people missed out on completing their education, some of them cannot now find jobs and need educational bridging facilities and job training; tertiary education is a special area of need.

Fourth, some people say they need money. When asked "Money for what?" said Meur-

ing, their most frequent reply was they needed money for shelter.

If people who have suffered great wrong and great trauma could get better shelter and a better environment, this may make them feel post-apartheid South Africa appreciates their often painful contribution to the liberation of our society.

Last, there were various suggestions loosely summarised as symbolic reparations.

This sometimes involved re-burial, like the ones in Soweto, or erection of tombstones. It might mean naming streets, suburbs or towns after people who have made an important contribution to the struggle. Some suggested monuments where those who feel the need can sit, remember and meditate.

TRC commissioner Tom Mathata has warned monuments sometimes served to keep old hatreds alive. It was important as far as possible all groups should be involved in their planning and construction.

Other countries have put up such monuments. I should like to report on what my wife and I saw in Dublin.

In Parnell Square there is an impressive Garden of Remembrance. At one end there is a curved wall with an inscription and a huge sculpture, three figures and four birds; one looks on a very long oblong pool, with flower beds on the sides, and

benches on pathways - a place to reflect on and remember all those who died for Irish freedom. It is a place of peace and contemplation. Something of this nature might well serve as a model for a SA monument.

But that was not all. Near the main railway station, there is another monument, a two-metre high cage, a sphere made up of black metal slaves, and inside the sphere a candle burns permanently.

Outside the monument there is an inscription which reads: *The candle burns not for us, but for all those whom we failed to rescue from prison, who were tortured, who were kidnapped, who disappeared. That is what the candle is for.*

That, too, may be worth visiting for inspiration for a permanent South African symbol.

The issue of reparations is difficult, but there are precedents. I have some knowledge of German reparations. Though the situations are not parallel, we can learn at least two things. One is, while no one can bring back the dead, relief offered by reparations can make many lives easier, especially for those no longer young.

We cannot think of shutting off such a national enterprise in five years. Special pensions must be for life; other forms of restitution may have to be extended over some years. Let me end by coming back

Star 15/8/97

(252)

TRC DIARY

THIS WEEK
The amnesty hearing of Chris Han's killers, Clive Derby-Lewis and Janusz Walus, continues next week in Pretoria. The hearing is scheduled to end on August 22.

COMING UP
A special hearing about the media, which was provisionally set down for August 25 and 26, the

following week, has been rescheduled for September. The exact dates have not yet been publicised. For the week starting on August 25 the Amnesty Committee will sit in Bloemfontein, where it will hear 14 amnesty applications: Khulilekani Lawrence Mbatsha (39) and Walter Smiles (28) are due to appear on August 25 and

26. At a Human Rights Violations hearing last year Smiles said he had thrown the handgrenade which killed Ezekiel Mokone (19) and injured 43 people in Kimberley on May 25 1993.

Two men, who have told the TRC they are innocent, are serving jail sentences for charges related to the blast. Smiles and Mbatsha were never arrested in connection with the crime. The Han hearing is being held at the Pretoria City Hall and the venue for the Bloemfontein hearings is the Bloemfontein Education Centre.

to the President's Fund. At the June workshop some people gave moving testimony about having known what was happening but having been paralysed by fear. "I made my own choices, but I want to make amends," said Lesley Morgan. Those of us who feel we have not done as much as we now realise we could have done to oppose an evil system that brought immense suffering to millions of fellow citizens, and

who feel we have benefited from the apartheid dispensation at the expense of a majority of our fellow citizens, could express our collective and individual responsibility by making personal contributions to the President's Fund.

I suggest we should each commit ourselves to donating one month's income, payable in three instalments. We do not have to wait for others. We can set a trend without saying we first want to see what's recommended in the field of reparations, or who will run the fund, or a hundred other excuses. I have sent the first of my three contributions to the TRC's Johannesburg office, which has told me that my support "is appreciated by the TRC as well as by the many victims who will benefit from the President's Fund".

■ Franz Auerbach is a retired educator.

Editor, judge, Pik among baffling names found on the 'hit list' compiled

By DAISY JONES

Live Derby-Lewis was closely questioned by the TRC's amnesty committee this week about the so-called "hit list" found in the possession of Janusz Walus shortly after the shooting.

The list included the names of Nelson Mandela, Joe Slovo,

Pik Botha, then Sunday Times editor Ken Owen, Mr Justice Richard Goldstone, and Beeld newspaper's political writer Tim du Plessis.

Derby-Lewis denied that it was a hit list although he and Walus had used it to identify Hani as a target.

He said the list had been compiled by his wife, Gaye, for

"journalistic purposes". She had been working on an article about SACP-ANC alliance politicians "jumping on the gravy train", intending to show political leaders had benefited financially from the struggle.

Derby-Lewis struggled to explain why the list included information such as security arrangements at Mandela's

house. He also battled to justify the inclusion of people not in the ANC/SACP fold, such as Botha, Owen and Du Plessis.

Detailed descriptions of some of the houses were necessary to make them easily identifiable. The list included people who had opposed the CP's policies, he said.

When questioned about the

inclusion of Owen, he said "We know what kind of salaries journalists earn. We wanted to see whether his house was above his means."

"It was a well-known communist modus operandus that they employed journalists as agents and informers. We wanted to know if Owen was being motivated by concerns

other than his sympathy for the oppressed in his attacks on the Conservative Party."

About Du Plessis he said: "It's a well-known fact that he was taken to America as a Nieman scholar and those people who go over to America are totally different people when they come back because of the brainwashing."

Star 15/8/97

252

On Botha, the former foreign minister: "We suspected him of being an agent for the Americans."

Botha had tipped off the Americans about a planned SADF attack on the oil installations at Cabinda in Angola, resulting in an ambush in which South African soldiers were captured, Derby-Lewis said.

by Gaye

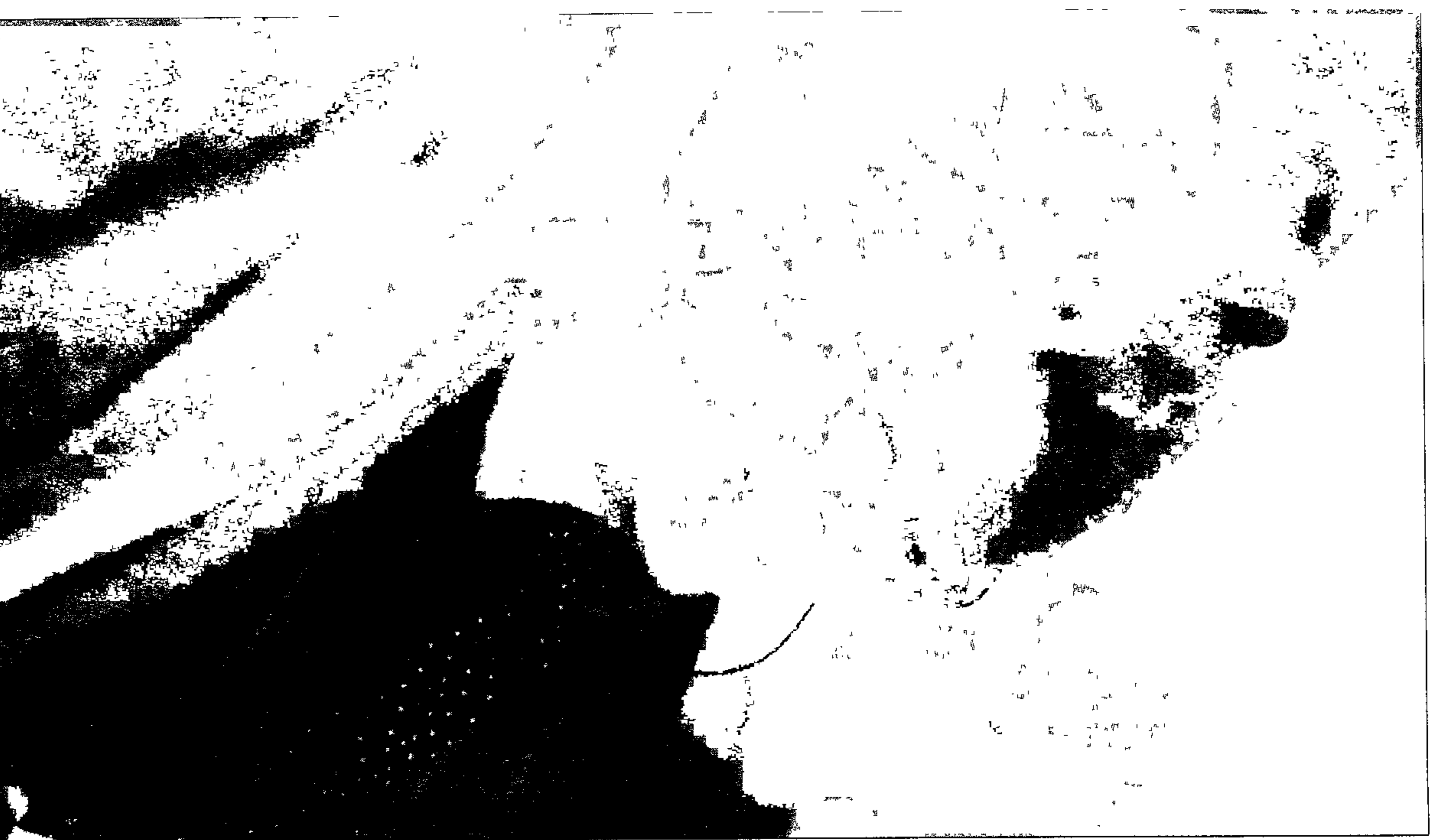
'Jeepers, someone killed Jim for us'

DEBBIE YAZBEK

After 25-15/8/97

(25~)

Derby-Lewis tells amnesty hearing of his astonishment when he learned Chris Hani had been shot and his confidence the deed could not be traced back to him



Supportive ... Gaye Derby-Lewis (centre) winks at her husband Clive at the TRC amnesty hearing.

By ROBERT BRAND

LIVE Derby-Lewis was sipping tea on the lawn of a friend's home on April 10 1993 when the telephone rang inside the house.



The friend's wife answered, and called out to the party on the lawn that Chris Hani had been shot that morning outside his house in Boksburg.

Although Derby-Lewis had been plotting for some time to assassinate Hani, the news surprised him, he told the Truth and Reconciliation Commission's amnesty committee.

His co-conspirator, Janusz Walus, was not supposed to kill the SACP leader during the Easter weekend, when the chance of being observed or of innocents getting hurt was too great, Derby-Lewis said.

"I thought jeepers, somebody has rescued us. Somebody has done what we wanted to do."

He finished his tea and took his wife shopping. Only the next day, when details about the assassination started filtering through and he learnt that Walus had been arrested, did Derby-Lewis realise his accomplice had indeed done what they had talked about, and an event had occurred which might change South Africa's history.

"To be quite honest, I was in a state of shock. It wasn't something that could be undone. I had terrible thoughts about the whole thing."

"But I decided to wait and see what happened, because I knew there was nothing which could connect me with Walus or the firearm he had used."

Derby-Lewis was wrong. In Walus' apartment, detectives found a list of names, and addresses including Hani's, and that list led them a week later to Derby-Lewis' Krugersdorp home.

Derby-Lewis was shocked when they said they were arresting me,

but I did not faint as was reported in the media.

"I went white, and Captain (Niklaas) Deetlefs took me by the arm and said I had better lie down on the couch and have some sugar water."

Derby-Lewis, at that time a Conservative Party member of the President's Council, told the committee he and Walus had hoped by murdering Hani to create a situation of chaos into which right-wing forces could step to seize power. But this was not to happen.

"What we had planned was what unfolded."

"Everybody was running around. I planned to call a meeting of the CP caucus to motivate them into imitating what I believed should be imitated, and I was quite confident that I would have enough support. Unfortunately, I was arrested before I could do that."

Crucial to Derby-Lewis' and Walus' amnesty bids is their contention that the plot to kill Hani had been hatched on behalf of the CP, and the somewhat contradictory claim that they had acted alone, without the knowledge of anyone else.

To qualify for amnesty the two have to convince the committee that they are telling the full truth and that their crime was politically motivated and sanctioned by a publicly known political organisation.

Keeping you informed

I would like to see the full truth and the details of the events leading up to the assassination of Chris Hani. I am interested in the role of the CP and the involvement of the various individuals mentioned in the media. I would like to see the full truth and the details of the events leading up to the assassination of Chris Hani.



THEMBA HADEBE

Derby-Lewis ... hoped Right could seize power amidst chaos.

George Bizos SC, opposing the amnesty application on behalf of the Hani family, will attempt to show that they satisfy neither of these criteria.

They are not being truthful about the role played in the plot by Derby-Lewis' wife Gaye, and the CP did not approve of the assassination, he said. Derby-Lewis spent much of his testimony trying to show that the CP had created the climate in which the assassination took place.

He quoted numerous statements by CP leaders about the necessity to resort to armed resistance to prevent a takeover of the country by a black or communist government.

He also contended that the CP's mass mobilisation policy, adopted late in 1992, was a mobilisation for armed insurrection rather than peaceful resistance, and that he was therefore acting out the wishes of his party when he assassinated a leader of the "enemy".

The CP supported him to the hilt when he was arrested for the murder, he said, even starting a fund to raise money for his defence.

"Does that sound like repudiation, or does it sound like it

was obvious to these people that I was acting on behalf of the CP when I did it?"

He could not, however, entirely explain away statements made by CP leaders shortly after the assassination in which they deployed the assassination and distanced the party from acts of violence. He had to concede there was "some doubt" about his involvement in the assassination, that the CP's support may have been based on the assumption that he was innocent.

Another area of contention is the so-called "hit list" found in Walus' possession after the murder. Derby-Lewis said the list was compiled by his wife in the course of a journalistic investigation into "gray train" practices by ANC and SACP politicians.

Members of the committee were clearly not impressed by this explanation, pointing out that it was unlikely a list for journalistic purposes would contain details about, for instance, the security arrangements at Nelson Mandela's home.

More details are expected to emerge when Bizos starts his cross-examination, and when Walus starts his testimony next week.

Judges criticise assassins lawyers for interruptions

(252) CF 15/8/97

OWN CORRESPONDENT

JOHANNESBURG: The Truth and Reconciliation Commission's amnesty committee has strongly criticised lawyers for the killers of *Thabo Mbeki* for "constant interruptions" and delaying tactics during their amnesty hearing this week.

The hearing for Clive Derby-Lewis and Janusz Walus, which has been beset by legal arguments and interruptions since it started on Monday, was adjourned three hours early yesterday to allow the applicants' lawyers to study documents and listen to tape recordings made during police questioning of their clients.

Mr Harry Prinsloo, for Derby-Lewis, asked for a postponement until Monday, but amnesty committee chairman Mr Justice Hassen Mall said he had reached the end of his patience with constant adjournments.

"A great deal of time has already been lost in this matter. The committee is extremely unhappy that

its work is interrupted on a daily basis, sometimes two or three times a day, for short adjournments and postponements. This is not how we visualised our work should be done," he said.

"We are going to begin tomorrow (Friday) morning at 11am. And I want you to think about the matter very, very hard before you make a further request for postponement."

Another committee member, Mr Justice Bernard Ngoepe, said the committee had done everything it could to "indulge" the applicants.

"These things should have been done a long time ago. The committee does not have an indefinite lifetime. We are trying to lean over backwards to indulge you but you seem to be engaging in some kind of fishing expedition."

The hearing had first been set down for June 23, but it was postponed at the request of Hani family lawyer Mr George Bizos, SC, who said he had received a bundle of documents from the applicants too

late to prepare for the hearing. Also, the assassinated SACP leader's wife, Lympho, was unable to attend that week.

When the hearing resumed on Monday, Bizos submitted a bundle of documents including previously undisclosed statements made by Derby-Lewis and Walus.

Their lawyers challenged the admissibility of the statements, saying they had been made under duress.

Prinsloo and Ms Louisa van der Walt, for Walus, have demanded to be furnished with the originals of the documents in the bundle, as well as tapes made of interrogations. During the week they asked for many adjournments to deal with matters related to the documents and tapes.

Earlier yesterday Van der Walt accused Bizos' instructing attorney, Ms Caroline Nicholls, of acting dishonestly in withholding certain documents.

Bizos retorted "My instructing attorney resents suggestions that she in any way acted improperly. We are not obliged to prepare the applicants' case."



KILLER 'NOT SHIELDING WIFE'

Derby-Lewis sees TRC as his 'last hope'

CT ~~15/8/97~~ (252)

PRETORIA: Gaye Derby-Lewis, acquitted of Chris Hani's murder, has refuted charges that her husband is withholding evidence from the TRC and is seeking to shield her.

THE Australian wife of former Conservative Party politician Clive Derby-Lewis who killed South African Communist Party leader Chris Hani said yesterday her husband saw the Truth Commission as his last hope for freedom.

Mrs Gaye Derby-Lewis, acquitted of involvement in the 1993 Easter weekend murder, refuted charges that her husband was withholding evidence from the Truth and Reconciliation Commission and was seeking to shield her.

"I can't be tried for the same crime twice. Why would my husband hide anything about me or himself? He has one chance to get out," she told a news conference after the hearing adjourned until today.

"If a man is in jail for the rest of his life, why should he lie? Who should he cover up for, for whom, for what reason? We're not worried about the facts."

Derby-Lewis, 61, who provided the gun that killed Hani, and Polish-born Janusz Walus, the assassin, are seeking amnesty for the killing, which almost destroyed the transition from apartheid.

But the family of Hani, who was second only to President Nelson



PROTECTED? Gaye Derby-Lewis

Mandela in popularity, fiercely opposes freedom for the pair, whose death sentences were commuted to life in prison.

Mrs Derby-Lewis, a right-wing political activist, said she opposed Hani family lawyer Mr George Bizos' request to produce police statements by the two men and herself to prove they had not told the full story of their actions.

Deriding the policemen who took their statements as "sadists" and "professional torturers", she said it was unheard of for the TRC

to admit statements made by people under duress while in solitary confinement.

"Our ire and wrath are directed at George Bizos for his Byzantine manoeuvres. (He) is going to use statements made under duress — half of them are rubbish, made when people were drunk.

"I'm not here to extract sympathy about me," she said.

The commission had previously heard allegations that Walus was made drunk during his interrogation, and that a sleep-deprived Derby-Lewis was promised his wife would not be arrested if he made the statement.

Mrs Derby-Lewis said that she, her husband and Walus were subjected to mental torture during their detention, and that her frightened maid had suffered a heart attack after police showed her a room filled with "electrodes" and other electrical items.

Mrs Derby-Lewis, flanked by Conservative Party leader Dr Ferdi Hartzenberg and other right-wingers, said she was in touch with her family in Australia and her son in Canada during the hearing.

Rejecting reports that they were being represented by highly paid lawyers, she countered "We're on legal aid. My husband gets a pension and that's what we live on. I'm the poorest politician in the country" — Reuter.

New delay in Hani case

Stephen Laufer

BD 15/8/97
(252)

PRETORIA — The amnesty committee "very regrettably" granted former SA Communist Party leader Chris Hani's murderers Clive Derby-Lewis and Janusz Walus a 24-hour adjournment yesterday to scrutinise documents submitted by the Hani family last Monday.

The postponement — the latest in a daily series as lawyers for the applicants have fought tooth and nail not to have the documents admitted to the hearing — came after a rancorous morning during which committee members and lawyers grew increasingly irate. Committee chairman Hassan Mall warned lawyers for Walus and Derby-Lewis to "think very, very hard before you request further adjournments".

Committee member Bernard Ngoepe said he suspected the reason the applicants' lawyers wanted time to plough through original documents and tapes from the interrogation was that they were "engaged in some kind of fishing expedition". The documents should have been scrutinised "a long time ago — the committee does not have an indefinite lifetime".

Mall and Ngoepe's interventions were among several hinting that the applicants' delays could be damaging their credibility.

Advocate Louisa van der Walt, acting for Walus, accused attorneys for the Hani family of "acting dishonestly" by not submitting the documents — statements by the applicants while in police custody — earlier.

However, Advocate George Bizos, for the family, said the law did not require opponents of amnesty to reveal their submissions beforehand.

The applicants' lawyers have never explained why they failed to scrutinise the statements and police tapes in the months between the submission of the amnesty application and the hearing. They argue they are inadmissible because they were obtained while Derby-Lewis was held under section 29 of the Internal Security Act and by making Walus drunk.

Derby-Lewis's wife, Gaye, said the statements had been obtained under "torture". Asked to detail her treatment while in custody, she said she had been deprived of sleep "for three or four days". Fear had taken over when Capt Nik Deetlefs — "a sadist and torturer" — had questioned the three.

Conservative Party leader Ferdi Hartzenberg refused to be drawn on whether his party was involved in or had backed Derby-Lewis's and Walus's plan to kill Hani. There was a possibility he would be subpoenaed to give evidence.

□ Sapa says Col Adriaan van Niekerk, alleged to have extracted involuntary statements from the killers of SA Communist Party leader Chris Hani, has applied for amnesty — for the death of leading African National Congress member Stanza Bopape. Van Niekerk was one of three policemen Bizos asked to be subpoenaed to testify at the Derby-Lewis, Walus amnesty hearing.

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Hotline from 7 00am
 (011) 726-8490
 (021) 406-9171
 (031) 368-5838

IFP fighters ask commission to subpoena Buthelezi

Farouk Chothia

DURBAN — Legal representatives of former Inkatha Freedom Party (IFP) paramilitary fighters called on the truth commission yesterday to subpoena IFP leader and former KwaZulu leader Mangosuthu Buthelezi to answer charges that he had been aware of their covert hit squad activities.

The hit squad members call concluded with a demand by Buthelezi yesterday that the commission be scrapped because "his story will show that it did nothing to either reveal the truth or to reconcile people."

Former paramilitary fighter Dainxolo Luthuli's legal representative, Angus Stewart, said at a commission hearing there was overwhelming circumstantial evidence against Buthelezi. It "certainly justified the issuing of a subpoena to Buthelezi, in terms of the truth commission legislation, to respond to claims made in relation to the SA Defence Force's covert training of 200 IFP members in the Caprivi."

John Wills, the legal representative of three other hit squad members, said Buthelezi was among IFP leaders who could be guilty of a serious breach of the law.

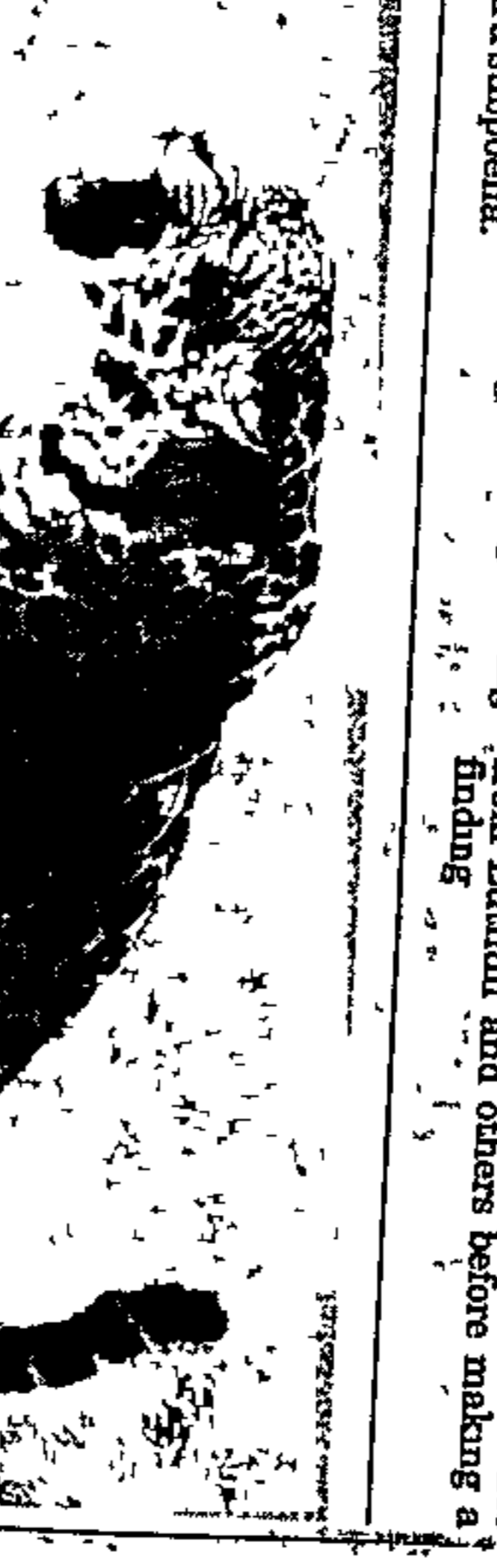
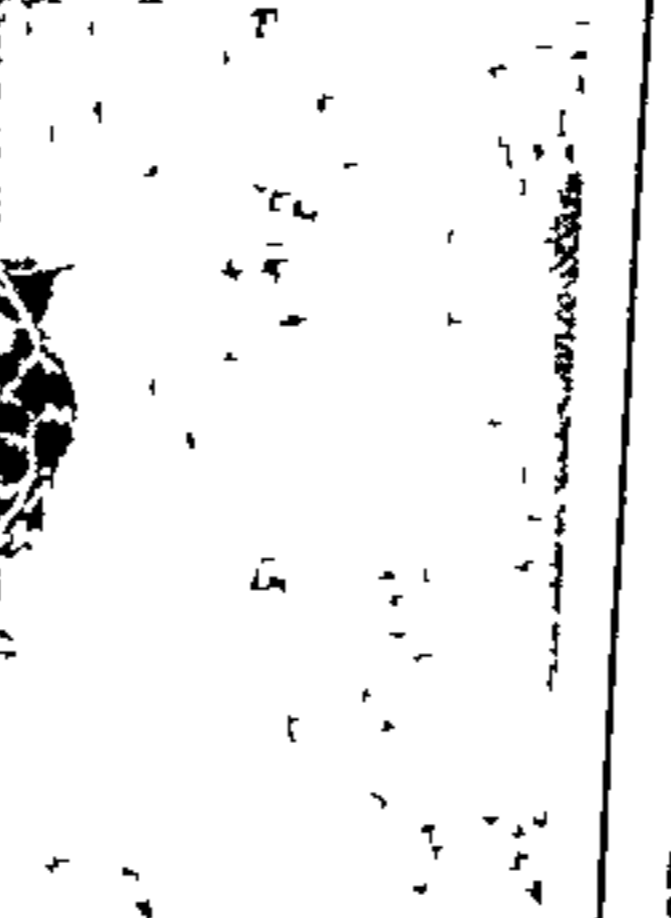
Wills conceded that it had not been proved that Buthelezi was directly implicated in hit squad activities, but "on balance must have known what his personal assistant (Zakhele Khumalo), his senior KwaZulu Police (KZP) officers, fellow IFP leaders and IFP footsoldiers were up to."

Stewart said Buthelezi was the KwaZulu minister of police at all material times. The KZP's role in carrying out "hits" and cover-ups was well-established. Buthelezi never intervened to stop the hit squad activities, and it was inconceivable that he did not know of them, Stewart said.

Despite all the evidence against him, Buthelezi had never come forward to explain his role, he said.

"He remains on the outside, always attacking the process of investigation or prosecution," Stewart said.

Commissioner Richard Lyster said the commission had still to decide whether to subpoena Buthelezi, but he doubted this would happen. He said Buthelezi was in an "adversarial mode" in relation to the commission and it was unlikely that anything fruitful would come of a hearing arising from a subpoena.



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New delay in Hani case

Stephen Laufer ^{BD 15/8/97}
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Mandela topped Walus's death list

(252)

Jan 16/8/97

By JULIETTE SAUNDERS

The Polish assassin who killed communist leader Chris Hani told police he had also hoped to kill Nelson Mandela.

According to transcripts of his interrogation, Janusz Walus, who is serving a life sentence for Hani's 1993 murder, told police after his arrest that Mandela topped the list given to him by co-conspirator Clive Derby-Lewis.

Communist party leader Joe Slovo was next on the list, and Hani, whose popularity was second only to Mandela, third.

The transcript was released to reporters yesterday at a Truth and Reconciliation Commission hearing in Pretoria by lawyers for Hani's family, who are opposing amnesty for the killers.

According to the transcript, Walus admitted to police that he shot Hani in the driveway of his home, saying he addressed him by name and, when he answered "Hi", shot him.

"The first shot hit him in the stomach. He screamed and fell down. It was a scream of fear. He was lying down when I shot him in the head. One shot in the ear and two shots behind the same ear," Walus told his interrogators.

Walus said security around Mandela was too tight and he could not find Slovo's house.

"After I received the list from Clive Derby-Lewis, I started to do reccees (reconnaissance). I started with number one on the list, Nelson Mandela, and (after I recceed his house once) I thought the old goat was not worth it," he told police.

"Joe Slovo, priority number two on the list, address was not available (sic), and I decided to concentrate on priority number three on the list, Chris Hani."

Walus said he was unmoved by Hani's death, telling a police officer "I am the last to cry for him. He was the leader of the communists in this country and I hated him for that."

The transcript has not previously been released and Walus did not testify at his trial. Lawyers for Walus and Derby-Lewis, who is also serving a life sentence, are contesting the validity of the documents, saying they were made under duress.

Walus alleges he was plied with alcohol by police during questioning and coerced into making statements while drunk.

The three former policemen who took the statements have been subpoenaed to appear before the Truth Commission next week to answer the accusations.

During yesterday's hearing, Derby-Lewis (61), a far-right Conservative Party politician, urged forgiveness across the political spectrum, saying that South Africans on both sides of the apartheid divide were victims of the past.

"There can be no fingers pointed, only deep sympathy for those bereft of loved ones, and hopefully forgiveness all round," he said - Reuters.

By CHARLENE SMITH

It is 6:30pm and Gaye Derby-Lewis is already in her pyjamas, answering phone calls and sorting through the piles of press clippings she keeps relating to her husband Clive's amnesty application for the assassination of Communist Party leader Chris Hani.

She is a curious mixture of a woman Tall and wearing her 58 years well, she alternates between being brusque and business-like, to being an almost childlike vulnerability.



The stoic wife and the angry widow

BOUND BY DESTINY: The husband of Gaye Derby-Lewis (left) wants amnesty for killing the husband of Limpho Hani (right)



on her and her family to be shining examples. They have mourned, and will never stop mourning, but now they need to get on with their lives.

Mrs Derby-Lewis has ironically found a strange sort of peace. "I'm happy to be alone, I like living on my own. I'm the poorest politician in the country. I live on my husband's pension and I make a little money writing for US publications and Radio Pretoria."

"Last year I made a travel video and I loved that. I also sell a bit of property."

"It has been a terrible struggle and if it wasn't for my family in Australia, I don't think I could have kept this house."

She has lived in South Africa for 34 years but her Australian accent is still apparent.

"I love South Africa. I went to Australia last year and found it boring."

Once a week, as she has done for almost five years, she travels from the West Rand home she shares with a woman, who has been her housekeeper for 10 years, to Pretoria. Maximum prison where she has a 45-minute contact visit with her husband.

She praises the correctional services officers, most of whom, she notes, are black.

"Clive and I talk about movies and television and the nice things in life, we don't moan or get dramatic."

"I'm very happy with the way he is treated in prison. A lot of things have been granted to prisoners under the new constitution to try and help prisoners, things could have been much worse under an ANC government."

"We were the losers but the legislation is fair. Living in South Africa is basically the same as before."

"Clive keeps busy on the bodybuilding and weightlifting committees. He was elected chairman of the recreation committee - and 70% of those who voted were black."

"If I told you what was going on in terms of our relationships with the ANC and Pan Africanist Congress prisoners and their families, you wouldn't believe it. In prison they have effected a reconciliation and if it was part of South Africa we would not have the conflict we have. Every month I put money into a fund for black prisoners who have no one to visit them."

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"As I have said to the warders, there but for the grace of God go I."

The Conservative Party believes George Bizos, the advocate appearing for the Hani family, is trying to build a case suggesting she was the brains behind the assassination of Hani.

Certainly she appears more in control than her husband, whose vague, meandering submission, low on remorse and high on past recollections, failed to impress.

Indeed, Clive Derby-Lewis (an English South African) and his Australian wife and Polish co-conspirator Janusz Walus gave the impression of actors in a fantasy fed by the madness of South Africa's racial past.

Harnessing the beloved plight of the Afrikaner, these Don Quixotes tipped at windmills and built conspiracies, but despite murder and the reality of imprisonment, an enduring belief in racial privilege seems to have left them in a slumber.

The hearing has been marked by endless postponements, sometimes two or three a day, called for by the Walus/Derby-Lewis legal team.

During each, Mrs Derby-Lewis scurries to confer with her husband and the team.

An irritable member of the public shakes his head as yet another adjournment is granted. "If these people want to tell the truth, why is it so difficult? Why do they need all these papers? The truth should be here in their heads."

Bizos wants section-29 statements - those made while the Derby-Lewis couple and Walus were in detention - brought before the commission. Those implicating Gaye Derby-Lewis were never presented at the trial and, perhaps unwisely, she holds a press conference on Thursday to protest against Bizos' move.

She tells the press conference "I can't be tried for the same crime twice. Why would

my husband hide anything about me? He has one chance to get out. We don't have confidence in Mr Bizos. Half the section-29 statements were made under duress (she claims three to four days of sleep deprivation), and half were made while people were drunk (Walus claims he was pled with alcohol before making his statement.) Will they say that contradictions are enough to stop amnesty?"

She and Limpho Hani, the widow of Chris Hani, were both journalists before marriage to politically ambitious men saw their careers take a secondary role.

While Mrs Hani plans to write a book about life with her husband, Gaye Derby-Lewis is already in the middle of a book on political change in South Africa.

Will she write a book about herself and her husband? "Oh no, I think some people think we are right-wing crackpots, they don't see how ordinary we are."

The frown in her voice is replaced by wistfulness. "I love paintings and art exhibitions, piano concerts and reading. We are eclectic people with a lot of interests," she sighs.

Both women adore their children and are sensitive to the heavy burden their political careers have placed on them. At the press conference, Gaye Derby-Lewis' voice falters slightly when she talks of her son, a wood-products engineer, phoning from Canada to inquire about the progress of the hearing.



RAMBLING TESTIMONY: Hani killer Clive Derby-Lewis

is her son from an earlier marriage.

Limpho Hani still burns with fury at the recollection of a journalist who phoned to ask her daughter Nomakwezi, who discovered her father's body. "It's the anniversary of your father's death, how do you feel?"

Mrs Hani lights a cigarette, and says "How could they do that to a child?"

In 1981 the Hani children hid under beds while a firefight raged outside their home in Maseru when SA commandos raided, killing almost 50 people - Lesotho civilians and ANC cadres - with the avowed aim of exterminating the Hanis.

Letter 'contradicts coercion claim'

Former Conservative Party politician Clive Derby-Lewis wrote a letter to his police interrogators thanking them for the "decent" treatment he received in detention, the Truth and Reconciliation Commission was told yesterday.

The letter was submitted to the commission's amnesty committee by George Bizos, the lawyer for the family of slain SA Communist Party leader Chris Hani, at the start of yesterday's proceedings.

Derby-Lewis and Polish immigrant Janusz Walus are seeking amnesty for assassinating Hani in April 1993.

Hani's family is opposing their amnesty applications. Bizos said the letter contradicted Derby-Lewis' claim that he was coerced by police into making

an incriminating statement after being subjected to sleep deprivation and threats of continued detention.

Bizos said the letter, which began "Dear Colonel", had been sent to Colonel Adriaan van Niekerk, who led the team of policemen who interrogated Derby-Lewis while he was being detained under section 29 of the Internal Security Act.

Derby-Lewis, however, claimed the letter, with a President's Council letterhead, was sent to the uniformed branch at Benoni police station not to Van Niekerk.

Testifying before the amnesty committee yesterday, Derby-Lewis insisted he was subjected to mental torture by his interrogators. - Sapa

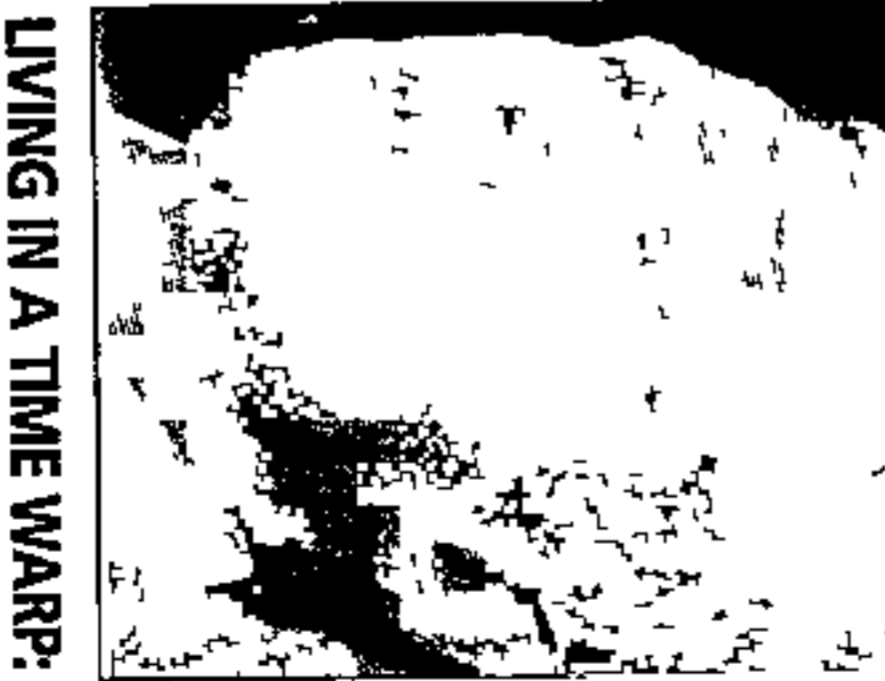
They failed on that mission, Mrs Hani recalls, because the ANC informant who guided the soldiers had been cared for by her when he fell very ill shortly after going into exile.

It was she who nursed him to recovery.

During the raid, he pointed to a house close to theirs, saying her life and those of her family. A neighbour died and the Hanis escaped with their terrified children.

Both women are exhausted by the strains of trials and hearings.

Gaye Derby-Lewis always sits in the fourth row of the left flank of chairs in the Pretoria City Hall - so beloved by the right



LIVING IN A TIME WARP: Hani killer Janusz Walus

In their smart suits, and with the women in the expensive cladding of the nouveau riche, it is clear how far the political tables have turned.

Mrs Hani refuses to talk to the press. She says she will not say anything until after the Truth Commission is over.

Even though she is vivacious and laughs often with friends, her hazel eyes are hard and wary, reflecting the years of strain and pain. Friends say that although she never complains, they believe she feels constrained by Hani's martyrdom and the burden it places

on her and her family to be shining examples. They have mourned, and will never stop mourning, but now they need to get on with their lives.

Mrs Derby-Lewis has ironically found a strange sort of peace. "I'm happy to be alone, I like living on my own. I'm the poorest politician in the country. I live on my husband's pension and I make a little money writing for US publications and Radio Pretoria."

"Last year I made a travel video and I loved that. I also sell a bit of property."

"It has been a terrible struggle and if it wasn't for my family in Australia, I don't think I could have kept this house."

She has lived in South Africa for 34 years but her Australian accent is still apparent.

"I love South Africa. I went to Australia last year and found it boring."

Once a week, as she has done for almost five years, she travels from the West Rand home she shares with a woman, who has been her housekeeper for 10 years, to Pretoria. Maximum prison where she has a 45-minute contact visit with her husband.

She praises the correctional services officers, most of whom, she notes, are black.

"Clive and I talk about movies and television and the nice things in life, we don't moan or get dramatic."

"I'm very happy with the way he is treated in prison. A lot of things have been granted to prisoners under the new constitution to try and help prisoners, things could have been much worse under an ANC government."

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"There is no animosity, no tension, there are extraordinary relationships. Prison is an interesting place."

"As I have said to the warders, there but for the grace of God go I."

Past haunts killer's wife and martyr's widow

Gaye Derby-Lewis, Limpheo Hani relive assassination at TRC hearing

ART 16/8/97

(252)

CHARLENE SMITH

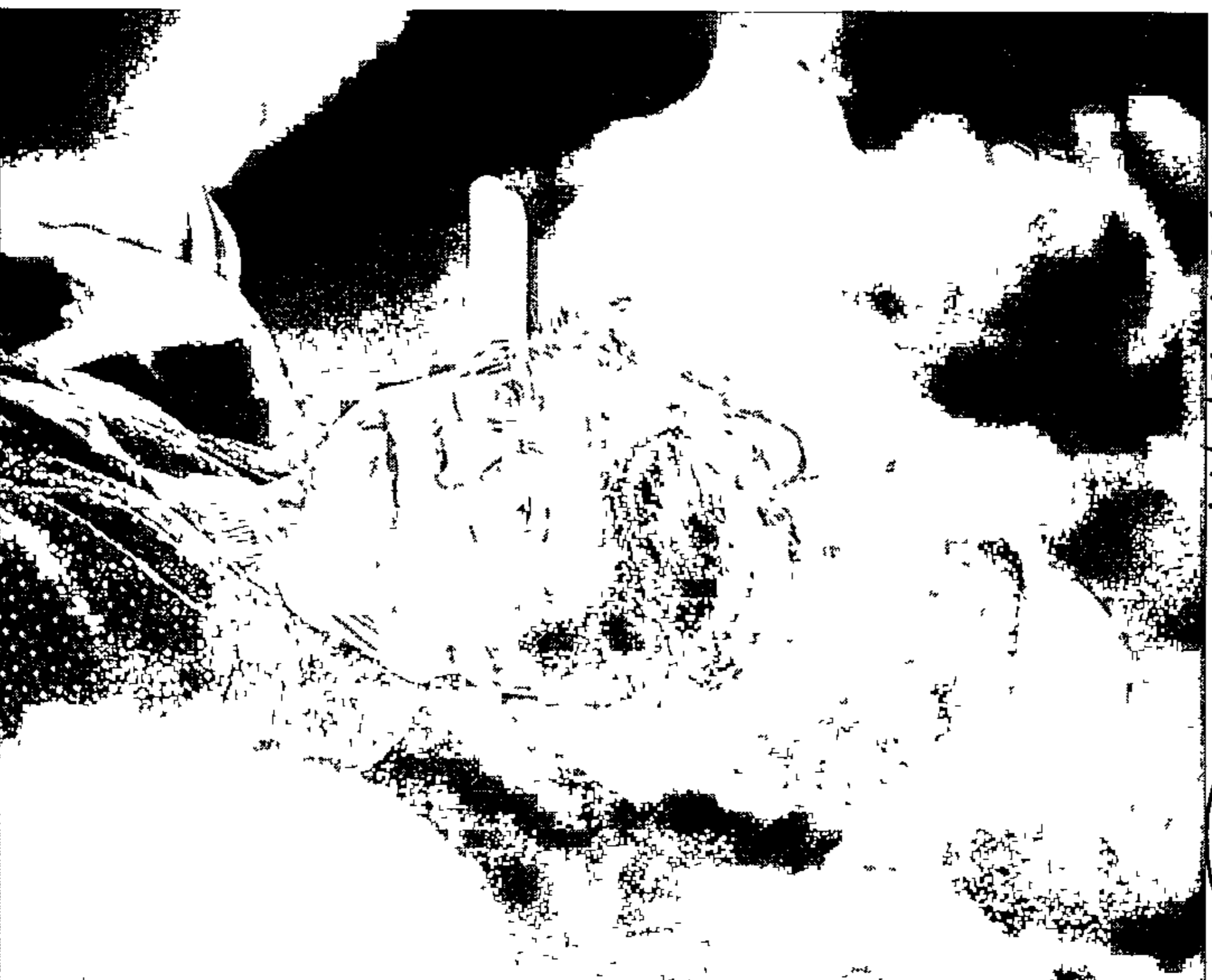
Johannesburg - It is 6.30pm and Gaye Derby-Lewis is already in her pyjamas, answering phone calls and sorting through the piles of press clippings relating to her husband Clive's bid for amnesty in connection with the assassination of Communist Party leader Chris Hani.

She is a curious mixture of a woman, tall and wearing her 58 years well. She alternates between brusque and business like, to an almost child-like vulnerability. She clearly has a sharper intellect than most of the greying, dullard Conservative Party men who flank her at a press conference at the Truth Commission hearings in Pretoria.

The Conservative Party says George Bizos, the advocate appearing for the Hani family, is attempting to build a case suggesting she was the brains behind the assassination of Chris Hani. Certainly she appears more in control than her husband whose vague meandering submission, low on remorse and high on past recollections, failed to impress.

Indeed, Clive Derby Lewis (an English South African), his Australian wife and Polish co-conspirator Janusz Walus gave the impression of actors in a fantasy fed by the madness of South Africa's racial past.

The hearing has been marked by endless postponements, sometimes two or three a day, called for by the Walusz/Derby Lewis legal team Dur-



Focus: Gaye Derby-Lewis. 'This country is like mercury. It's difficult to get a perspective'

the political tables have turned. Mrs Hani refuses to talk to the press. She says she will not say anything until after the Truth Commission is over and perhaps not even until the civil trial that will follow is complete.

Even though she is vivacious and laughs often with friends, her hazel eyes are hard and wary, reflecting the year of strain she is still enduring. She touches people on the arm while she talks with them and listens carefully. Friends say that although she never complains, she feels constrained by her husband's martyrdom and the burden it places on her and her family.

Mrs Derby-Lewis has ironically, found a strange sort of peace. "I'm happy to be alone. Like living on my own. I'm the poorest politician in the country. I live on my husband's pension and I make a little money writing for US publications and Radio Pretoria. Last year I made a travel video and I loved that. I also sell a bit of property. It's been a terrible struggle and if it was not for my family in Australia, I don't think I could have kept this house."

She has lived in South Africa for 34 years but her Australian accent is still in evidence. "I love South Africa. I went to Australia last year and found it boring. Despite the heartache and disappointment and a feeling of hopelessness after fighting for so long and losing, South Africa is endearing."

"It is a polyglot country of so many people and I like it."



ree's a crowd: Janusz Walus, right, with legal advisor Louisa van der Walt, left, and Clive Derby-Lewis at the hearing

AP

Asgus 16/18/97 (252)

ing each, Mrs Derby Lewis scurries to confer with her husband and the team. The delays have clearly begun to irritate the commissioners.

An irritable member of the public shakes his head as yet another adjournment is granted. "If these people want to tell the truth, why is it so difficult? Why do they need all these papers? The truth should be there in their heads."

Mr Bizos wants Section 29 statements - those made while the Derby-Lewis couple and Janusz Walus were in detention - brought before the commission. Those implicating Gaye Derby-Lewis were never presented at the trial, and perhaps unwisely, she held a press conference on Thursday to protest Mr Bizos' move.

She complained about courtroom behaviour (SACP supporters singing during the frequent postponements) and torturers - security policemen, Nic Deetlefs and Colonel Adrian van Niekerk being called as witnesses. But it is clear that is the Section 29 documents she fears.

"I can't be tried for the same crime twice. Why would my husband hide anything about me? He has one chance to get out. We don't have confidence in Mr Bizos, half the Section 29 statements were made under duress (she claims three to four days of sleep deprivation), and half were made while people were drunk (Walus claims he was plied with alcohol before making his statement). Will they say that contradictions are enough to stop amnesty?"

She and Limphe Hanu, the widow of Chris Hanu, were both journalists before they married politically ambitious men and put their careers second. While Mrs Hanu plans to write a book about life with her husband and his assassination, Gaye Derby-Lewis is already in the middle of a book on political change in South Africa. Commissioned by US publishers, it is due for completion by December. But she is finding the project difficult. "What was current a week ago is dead a week later, this country is like mercury, it's difficult to get a perspective."

Will she write a book about herself and her husband? "Oh no, I think some people think we are rightwing crackpots, they don't see how ordinary we are."

The frown in her voice is replaced by wistfulness. "I love paintings and art exhibitions, piano concertos and reading. We are eclectic people with a lot of interests." She sighs.

Both women adore their children and are sensitive to the heavy burden their parents' political careers have placed on them. At the press conference, Derby-Lewis' voice falters slightly when she talks of her son, a wood products engineer, phoning from Canada to enquire about the progress of the hearing. He is her son from an earlier marriage.

'People think we are rightwing crackpots. They don't see how ordinary we are'

Mrs Hanu still burns with fury at the recollection of a journalist who phoned to ask her daughter, Nomakwezi, who discovered her father's body. "It's the anniversary of your father's death, how do you feel?" Mrs Hanu lights a cigarette. "How could they do that to a child? Look at how stressed even I am."

Both women are exhausted by the strains of trials and hearings. Mrs Derby-Lewis always sits in the fourth row of the left flank of chairs in the Pretoria City Hall - so beloved by the rightwing for their political rallies in the past. The seating ensures that if her husband turns his head only slightly he can see her Conservative Party supporters sit slightly distant from her.

Most Hanu supporters sit across the aisle Limphe Hanu, always elegant in suits, subtle jewellery and her hair pulled back, sits in the front row, usually with one of her children and a stony-faced Winnie Madikizela Mandela and Communist Party official Jeremy Cronin.

Others pop in Jay Naidoo, Minister of Telecommunications and Broadcasting, Gauteng premier, Tokyo Sexwale, Cosatu boss, Sam Shlowa - the new political elite. And in their smart suits, and the women in the expensive cladding of the nouveau riche, it is clear how far

Once a week, as she has done for almost five years, she travels from the West Rand home she shares with a woman who has been her housekeeper for 10 years, to Pretoria Maximum Prison where she has a 45-minute contact visit with her husband. She praises the Correctional Services officers, most of whom, she notes are black.

"Clive and I talk about movies and television and the nice things in life, we don't moan or get dramatic. I'm very happy with the way he is treated in prison. A lot of things have been granted to prisoners under the new Constitution to try and help prisoners, things could have been much worse under an ANC government. We were the losers but the legislation is fair. Living in South Africa is basically the same as before."

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It seems the truth is inconvenient . . .

CP 17/8/97

(252)

TELLING the truth about Chris Hani's death would probably have set Clive Derby-Lewis free at his amnesty hearing. But it seems he prefers half-truths, writes **DESMOND BLOW**.

CLIVE DERBY-Lewis had only to tell the truth for him and assassin Janusz Walus to go free for one of the most emotional political murders in this country's history – the callous gunning down of Chris Hani, the people's hero.

All he had to do was tell the full story about the role played by him, his wife Gaye, Walus and maybe one or two minor players

After the amnesty granted to Dirk Coetzee and his henchmen it looked like a mere formality for the former member of the President's Council and the Polish immigrant to go free

A thorough police investigation under one of South Africa's top detectives, Captain Mike Holmes, failed to find a much broader conspiracy than the Derby-Lewis and Walus and perhaps one or two minor players.

Even the brilliance of advocate George Bizos for the Hani family would have been hard-pressed to prove there were other major players in the script

His best bet was a document in which both applicants had said, while being held under Section 29 of the Security Act, that it was part of a conspiracy

But the special branch officers who obtained these "confessions" are notorious policemen, who are also applying for amnesty because of their treatment of anti-apartheid activists in detention

However, instead of disclosing what was a dastardly plot to kill not only Hani, but President Mandela, the late Joe Slovo, and others they believed to be enemies of the folk, Derby-Lewis has chosen to tell half-truths

No matter how bad the crime, it only had to be political for them to go free, providing they made full disclosure

Even if, as police investigators still believe after she was freed, Gaye Derby-Lewis had been the master-mind, she was acquitted during the murder trial, and cannot be tried again even were she to admit that she was guilty

The worst that could happen to her is that she could be charged with perjury, a small price to pay when her husband faces the rest of his life in jail.

But instead Derby-Lewis this week tried to act as a mixture of an English gentleman (who however considered himself an Afrikaner), a boy scout and a fervent SS trooper fighting to save his folk

So far he appears to be avoiding "making a full disclosure" but evidence still to come will say that Hani was only number three on the list of victims

It will be testified that Nelson Mandela was number one and Slovo number two – but that the lists given to assassin Walus did not have the addresses of the first two, only that of Hani

So Walus killed Hani first

Derby-Lewis also clung to the evidence at his trial that his wife had obtained the list of names because she wanted to do an article about the "gravy train" of the representatives of the people.

He tried playing time-consuming and immature games – throwing away his chances of amnesty even before being cross-examined by George Bizos

And Gaye Derby-Lewis tried to run the show. The legal team for Derby-Lewis and Walus appeared to be more harrassed by Gaye Derby-Lewis's frequent consultations with them, than by members of the Truth Commission or Bizos

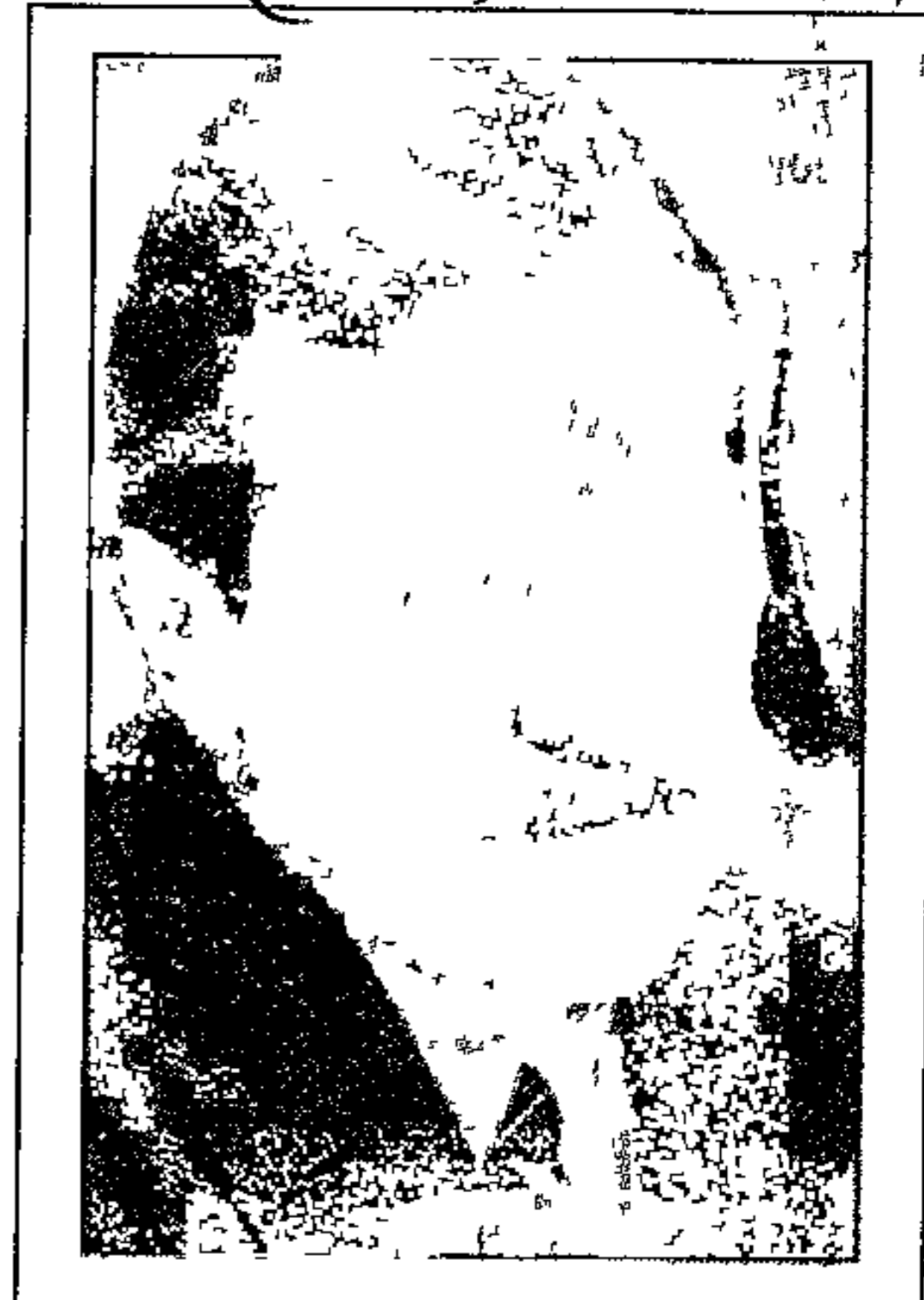
On Thursday she even called a press conference and summonsed Ferdi Hartzenberg, leader of the Conservative Party and another CP official to sit at her side

"I want you next to me," she ordered Hartzenberg

She then slated the security branch officers who had detained them under Section 29, formerly used against anti-apartheid activists

She claimed, as did Derby-Lewis in his testimony, that they had been tortured in custody – but when questioned it appeared this was mental torture and not physical as anti-apartheid activists had suffered

Derby-Lewis claimed he had only made a statement because he was told that if he did so his wife would not be harrassed, but



later found out that the police had lied to him

He twice apologised to Mrs Limpho Hani and her family for the murder

He repeated his apology because he had learned Mrs Hani was not at the meeting when he made his first apology

He said he wished to meet Mrs Hani personally to apologise, but she sat expressionless in the audience

The petite woman, who had to hide under a bed in Lesotho with her small daughters as SADF soldiers went through the building seeking to kill her, said later she had no wish to meet the man who had taken the beloved father of her children away

The hearings are being heard in the Pretoria Town Hall and most of the audience are black supporters of the ANC and Communist Party

There is a small sprinkling of elderly, seedy-looking men and women who were once the prominent Conservative Party

Hartzenberg would not say yet if he would support Derby-Lewis's claim that his activities were supported by the CP

The chairman of the Amnesty Committee, Judge Hassen Mall, warned the crowd early in the proceedings that "this is not a performance or a theatre" but this has not stopped peals of laughter and jeers when Derby-Lewis makes allegations they regard as ridiculous

TRC is investigating Nkabinde over files (252)

THE Truth and Reconciliation Commission is investigating possible human rights violations in the Richmond area and have former ANC leader Sifiso Nkabinde on their list of people to subpoena

TRC commissioner, Richard Lyster, said on Friday Nkabinde had been put on the list before he was expelled from the ANC in April.

The TRC wanted to question Nkabinde about information contained in 10 top-secret informer files which the TRC obtained from the police security branch in Pietermaritzburg days after Nkabinde was expelled, he said

The Democratic Party will on Monday give the TRC copies of military intelligence documents and other reports which were placed before the safety and security portfolio sub-committee on Richmond

The TRC requested the information within an hour of receiving a fax from DP MPLs Roger Burrows and Wessel Nel, calling on the TRC to exert its influence to end conflict in Richmond by exposing the truth about events prior to 1994

The DP also called on the TRC to subpoena people and organisations involved in the Richmond crisis, including ANC MPLs Jacob Zuma, John Jeffrey, MP Blade Nzimande, Sifiso Nkabinde and one of the most wanted men in the country, Patrick Skhumbuzo "Bob" Ndlovu

Documents in the files seized by the TRC could shed light on a police informer with the number SR 4252, alleged to be Nkabinde, whose handlers included Shane Morris.

According to copies of information notes, a source with the number SR 4252 gave information to the Crime Intelligence Service in March 1994 regarding the deaths of three people, and in October 1993 about the killing of two people

A Richmond town council member is implicated in one note written by a Sergeant SE Morris.

Another note alleges that both the people who died and those believed to be responsible, were members of the Richmond ANC branch

Nkabinde's expulsion from the ANC in April followed an investigation by the ANC's internal intelligence department.

At the time, ANC spokesman Ronnie Mamoepa said the ANC had been investigating Nkabinde for some time.

The ANC claimed then that Nkabinde was still acting as an informer and was involved in destabilisation and fomenting violence which could have resulted in the death of some ANC members and supporters

The DP said in a statement yesterday: "If there is any truth to the ANC leadership's allegations, then Nkabinde as a 'police agent' could be seen as a fomenter of political violence against the IFP and PAC in the area at the time, as a possible 'third force' agent"

Burrows said it was necessary to get to the bottom of the information which the ANC claimed caused them to expel Nkabinde, and for testimony to be heard from anyone who had knowledge of Nkabinde's conduct - Sapa

CF 17/8/97

SPARKED by a few rows of chairs in the Pretoria city hall, Limphe Hanu and Gaye Derby-Lewis observe one another across an abyss, inextricably linked by an act of terror that changed both their lives forever.

When SA Communist Party leader Chris Hanu was assassinated outside his Boksburg home on Easter Saturday morning in 1993, his wife wasn't at home.

Derby-Lewis wasn't at home either. She and her husband, Clive, the former National Party and Conservative Party politician, were taking tea in the garden of the Krugersdorp home of old friends, Faan Venter and his wife.

Less than a month before, Venter had arranged for Derby-Lewis to acquire a stolen 9mm Z88 pistol which had been fitted with a silencer so he could "practise with it in my garden and not disturb the neighbours".

It was that pistol given to him four days earlier by Derby-Lewis, that Polish immigrant Janusz Walusz used to gun down Hanu on April 10 "so that South Africa would be plunged into chaos and the right wing could seize power".

As the truth commission's amnesty committee began hearing evidence from Derby-Lewis this week, the political divisions that spawned Hanu's murder seemed as pronounced as ever.

While rightwingers bowed their heads in prayer on the lawns, SA Communist Party and ANC supporters brandished placards bearing such chilling messages as "I'm hungry, give me Walusz head for lunch (sic)" and "Mr Hanu boss in heaven, not even a shack there for you, Walusz".

Ironically, the single overt bid for reconciliation, Derby-Lewis's apology to Hanu's widow and children for the pain his act had caused, may have been in vain — she was not in the hall at the time.

On Monday, Gauteng Premier Tokyo Sexwale led protesters in singing "Icala labo linzima bazoytheha nyani" (their crime is severe, they will tell the truth). Another refrain heard repeatedly as demonstrators toyed during adjournments was "Ayadalela amadlagusha" (the whites are spited).

Hanu's widow and daughters, Lindwe and Nomakwezi, who found her father's body, have joined enthusiastically in the demonstrations, a source of chagrin for Derby-Lewis's wife, who claimed "we were given a written undertaking that there would be none of this".

Supporters surrounding Hanu — now an ANC member of Parliament who dresses in stylish suits of rainbow hue — have included ANC acting secretary general Cheryl Carolus, Cosatu secretary general Sam Shilowa, Jay Naidoo, the Minister of Posts and Telecommunications, the wife of Deputy President Thabo Mbeki and Justice Minister Dullah Omar, and ANC Women's League president Winnie Madikela.



OFF CENTRE: ANC MP Limphe Hanu, widow of Chris Hanu, and Gaye Derby-Lewis, wife of right-wing politician Clive, who is applying for amnesty for the assassination

Pictures: RAYMOND PRESTON

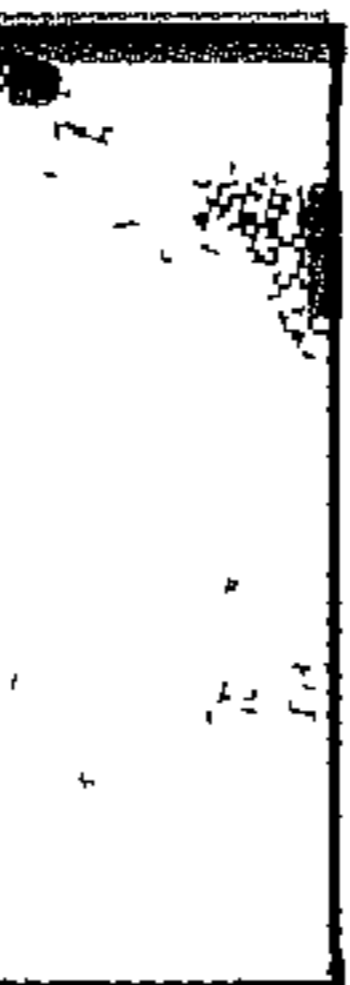


Tied by blood, irreconcilably apart

Through the wives of the killer and the killed, SA revisits its political poles, writes MARLENE BURGER

(252)

ST 17/8/97



ASSASSIN: Janusz Walusz, who pulled the trigger on Hanu

His first thought on hearing that Hanu had been shot was "leepers, has something happened that means we don't have to do it after all".

Then he finished his tea and took his wife shopping, not thinking for a moment, he claims, that Walusz had carried out the plan they had hatched together "because I didn't think the Easter weekend was a good time to do it".

When the police came for him a week later, he had his feet up after a tiring day canvassing support for the CP.

"I heard a lot of car doors slamming and thought the neighbour who looked like a CP supporter so I stuck out my hand and introduced myself then he said he was a police sergeant".

The next moment, "about 25 policemen descended on me". Derby-Lewis told the hearing "When they said I was being arrested, I went white — one of



CONVICT: Clive Derby-Lewis apologised to the Hanus

them said I'd better be down, and called for sugar water".

Four hours later, he was behind bars.

Denied a public platform since, Derby-Lewis seized the opportunity this week to deliver a political diatribe, jarringly illustrated by runours of war and liberally sprinkled with references

to betrayal of "his" people, the Afrikaners.

His spirited defence of the use of violence to ensure their freedom was made incongruous by the fact that it was delivered almost entirely in English, and that the designated savour of the volk is a Polish immigrant.

For more than 90 minutes, Derby-Lewis quoted reports published in the CP mouthpiece Die Patriot, as proof that he acted "on behalf of the party".

In a scathing attack on the NP, he called P W Botha a "disastrous" leader, accused F W de Klerk of treachery and dismissed Pik Botha as a "paid American agent" responsible for the ambush of South African troops in Angola.

Journalists, too, came under fire. Former Sunday Times editor Ken Owen, whose name was on the same hit list as Hanu's, was "being investigated to see if he lived beyond his means" and was thus possibly in the pay of the communists, while Beeld's political editor, Tim du Plessis, had returned from a year at Harvard University on a prestigious Niemann fellowship "a changed person... due to the systematic brainwashing he received in America".

CP luminary Connie Mulder, on the other hand, "had more honour than P W, F W and Pik combined" and party leader Andres Treurnicht was a man "for whom I had the highest regard. I would have done anything he asked of me".

Indeed, Derby-Lewis implied, Treurnicht had tacitly approved the Hanu assassination — although the target's name was never mentioned — by once assuring him that "in our battle against the Antichrist, murder could be justified under certain circumstances".

Looking remarkably dapper for a man of 61, with not a single strand of grey visible in his Auburn hair or neatly clipped moustache, Derby-Lewis punctuated his testimony with a chronicle of his achievements: 17 years

of part-time military service crowned by becoming the youngest ever commanding officer of the Witwatersrand Rifle Regiment, his introduction of special training for "city-bred boys on how to deal with the snakes and scorpions" they could expect to encounter on stints of border duty, youngest ever mayor of Bedfordview, during which his finest moment was attracting the Eastgate shopping centre to the area, membership of the Rapportryers, "the first English-speaker admitted, and I was well on my way to joining the Broederbond", and bombarding cabinet ministers with more than 500 questions during a single parliamentary session.

But it is for his final act in the political arena that Derby-Lewis will be remembered, and though both he and Walusz claim their war is over, their battle for amnesty is undoubtedly the most crucial of their lives.

And when it's over, only one of the two women seated daily in the hearings will be satisfied

consumed by acrimonious legal wrangling over statements made by the Derby-Lewis while in detention, which Bizos says will prove his point.

In all, Derby-Lewis spent little more than hour outlining his association with Walusz, his role in the assassination and his reactions in the days that followed.

Acquitted during the October 1993 trial which saw death sentences imposed on her husband and Walusz, it was Derby-Lewis who gave Hanu's address to his killer, and veteran human rights advocate George Bizos SC has made it clear he intends to show she was more deeply involved in the assassination than she claims.

Which of the week has been

Judges continue to receive homeland allowance

CARMEL RICKARD

(252) ST 17/8/97

THREE judges are still earning special allowances and other perks for being seconded to homeland judiciaries — even though these territories' governmentments were abolished in 1994.

The judges who still receive the allowance — 24 percent of their salaries of about R360 000 — are Bobby Rickard, the judge president of the Ciskei High Court, his colleague on the Ciskei bench, Mr Justice Willem Heath, who heads the Special Investigating Unit into corruption, and Mr Justice Herbert Hendler of the Bophuthatswana High Court.

Although the payment of this "foreign allowance" is provided for under

the interim constitution, it has been described as inappropriate by some judges and the legal profession.

Krish Goverder, of the National Association of Democratic Lawyers, called the perks an "apartheid allowance" and said they should be stopped. Other lawyers said the judges had a moral obligation to give up their allowances.

Judge Pickard said he had been seconded to Ciskei in terms of an agreement between Ciskei and Pretoria. Ciskei, as a "foreign territory", had to supply seconded judges with a house and a car for official use. This was in addition to the car provided by South Africa. Judges were also paid a "foreign allowance" of between 18 and 24 percent of their salary. Under the interim constitution, all

judges are entitled to the perks they received before the change in government, "until amended or repealed by a competent authority". No legislation has been passed, so the allowances have continued, even though Ciskei and Bophuthatswana ceased being "foreign countries" several years ago.

Earlier this year, Justice Minister Dullah Omar referred the question to the Judicial Service Commission, which mandated him to negotiate with the judges concerned. Since then, the judges and the minister have been in contact over how to resolve the situation, although no meeting has yet taken place.

Omar said that one solution being investigated was to pass special legislation, a step that would have to be

taken in consultation with the judges who, in the view of some, had a "vested right" to these perks.

Judge Hendler has not been available for comment but Judge Heath said that it had been agreed between Omar's office and Judge Pickard that the minister and Judge Pickard would deal with the question.

Judge Heath said he had no objection to the law being changed and had offered his full co-operation. Asked about voluntarily relinquishing the allowance, he said: "I have given my word that I would not do anything (unilaterally)."

Judge Pickard said he had given up his official house, but had retained the second car for official use to ensure the driver did not lose his job. As for the allowance, the judge said, "We

had to pull up roots and move at great expense and inconvenience to ourselves to come and serve in what was then a very difficult situation."

He said the allowance and other perks were quite in order, and that those who complained were trying to get at him over the controversy concerning where the High Court should be sited in the Eastern Cape.

"I am not prepared to just do it; (give up the allowance), as some people are suggesting. I want negotiations. I accept that it will probably go, but I want to ask them why I should give it up, and to what extent."

He said the allowance amounted to about R3 000 a month after tax and added, "I do not understand why these critics are making such a fuss about a couple of bob."

HANI KILLER TRIED TO DELAY

Jail dream was 'bad omen' to Derby-Lewis

CT 18/8/97

(252)

PRETORIA: A bad dream almost made the man who planned Chris Hani's death think twice.

ONE of SA Communist Party leader Chris Hani's killers, Clive Derby-Lewis, told police after his arrest that he tried to delay Hani's assassination after having a disturbing dream which he interpreted as a bad omen.

Derby-Lewis said fellow right-winger Janusz Walus made repeated calls to him in the days before the assassination, asking whether he had obtained the special sub-sonic ammunition needed for the silenced pistol to be used to kill Hani.

"I suggested that he contact me from time to time regarding the ammunition as I was having trouble getting it," Derby-Lewis said in a document released to the media during his amnesty hearing before the Truth and Reconciliation Commission in Pretoria on Friday.

In his statement to police, Janusz Walus said that President Nelson Mandela was the No 1 target for assassination.

In transcripts of his police interrogation released for the first time, Walus said Mandela's name was at the top of the target list handed to him by Derby-Lewis.

"I started with number one on the list, Nelson Mandela, and after I reconnoitred his home, I thought the old goat was not worth it," Walus said in his statement.

The amnesty committee hearing for Derby-Lewis and Walus is to resume in the city hall here this morning.

The former Conservative Party politician and Walus, a Polish immigrant, are seeking amnesty for assassinating Hani, in April 1993.

Walus said he had failed to find "target number two" — Joe Slovo, a former Communist Party leader — so he concentrated on number three, Hani. He followed the communist leader from a supermarket back to his home in Boksburg, east of Johannesburg. When he saw there were no bodyguards "I realised I would never have a better chance."

"As Hani got out of his car, I approached him and said "Mr Hani?" He smiled and said "Hi there."

"The first shot hit him in the stomach. He screamed and fell down. It was a scream of fear. He was lying down when I shot him in the head. One shot in the ear and two shots behind the same ear."

Walus said he walked calmly back to his car and drove away. He was arrested at a police roadblock less than an hour later after a neighbour of the Hanis raised the alarm and gave the registration number of the attacker's car.

Derby-Lewis said he had been using the absence of ammunition to try to delay the assassination.

"The reason for this was that I had recently had a bad dream in which I saw myself cashiered as an officer (Derby-Lewis is a former commanding officer of the Witwatersrand Rifles Regiment) and being sentenced to prison."

"What was most significant about this was that I very seldom, if ever, recall anything I dream. This dream made an



WANTS AMNESTY: Janusz Walus during the TRC hearings last week

PICTURE: AP

extremely strong impression on me and certainly contributed to my uncertainty about proceeding with the attack."

Derby-Lewis' recollection of the dream was made in a statement to police while being detained without trial under the Internal Security Act.

His lawyers last week claimed the statement was inadmissible as it had been made under duress.

Derby-Lewis claimed he was subjected to periods of sleep deprivation and threats of continued detention.

During his interrogation Walus was asked if there was a possibility that others

on an alleged "hit-list" compiled by Derby-Lewis' wife, Gaye, could still be eliminated in spite of his arrest.

"Yes," Walus replied. "They are all bastards. The one is only more dangerous than the other one. Clive is a guy with balls, he will know what to do. You must know, we saw it as a war situation."

The statement showed that Walus tried to protect Derby-Lewis while simultaneously implicating him.

"He is a very big friend of mine. I will take everything on myself. I was alone when I shot Hani. Clive and I only planned the murder together." — Sapa

Justice set for a major streamlining

DENNIS CAVERNELLS
HIGH COURT REPORTER

A streamlined and user-friendly Justice Department is in the making for the Western Cape with the creation of the Regional Department of Justice, headed by city advocate Hisamodien Mohamed.

Nine new regional departments in all the provinces are the result of the decentralisation of the Department of Justice. Previously the department was administered entirely from the national office in Pretoria.

The Western Cape's regional office will be launched in October, said Mr Mohamed, its recently appointed chief and former head of the office of the Family Advocate in Cape Town.

The administration of all the department's services in the region will be run from the office - "which means quicker services to the courts and the department's offices and bet-

ter service for the community". Plans to make court's user-friendly and accessible to the public are also underway, said Mr Mohamed.

He cited examples of a "special room for people coming to court for maintenance matters, so they do not have to mix with the criminal element", and information desks manned by specially trained members of the community. "These desks will not be manned by a clerk who should be doing administrative work or by security guards. We will work on a roster system, using people we have trained to give information. They won't be handing out pamphlets."

He said the proposed information desks would also have complaints registers.

The regional department will also take over administrative work previously done by the Cape's three chief magistrates, said Mr Mohamed.

"A magistrate must be on the Bench, not doing administrative



New chief: Hisamodien Mohamed, head of the Western Cape Regional Department of Justice

work, which will now come to our office so the magistrates can concentrate on judicial work." The George and Mitchell's Plain magistrate's courts will be used as models for the

implementation of recommendations from a task team, said Mr Mohamed.

There are also plans to legislate an assessor system to make provision for assessors to sit in all courts.

APR 18/8/97

(252)

ROY WIGLEY

Hani killer admits CP didn't back violence

(252)
IF ARG 18/8/97
Amnesty drama

ARGUS CORRESPONDENT

Pretoria – Clive Derby-Lewis, who is applying for amnesty for the 1993 assassination of SA Communist Party leader Chris Hani, was forced to admit today that the Conservative Party had never officially adopted a policy of violence against political opponents.

Derby-Lewis and his co-applicant Janusz Walus claim they carried out the assassination "on behalf of" the CP, of which Derby-Lewis was a leading member. They say the assassination was committed in the context of a "war of freedom" declared by CP leaders.

But under cross-examination by Hani family lawyer George Bizos SC, Derby-Lewis was forced to concede today that statements by CP leaders before the assassination indicated the party was opposed to violence.

Mr Bizos, quoting from a speech in Parliament by the CP's Daan du Plessis, said the party had condemned acts of violence committed by one of its MPs, Koos Botha, and had expelled Mr Botha from the party.

"Did any leader of the CP ever tell you personally that the party had changed its policy from non-violence to violence," Mr Bizos asked.

"No," Derby-Lewis answered. "There were no official discussions held by the CP but if you look at the overall situation it was clear that the party was preparing for war."

Hani amnesty testimony raises unanswered questions

By 18 | 8 | 97

(262)

Hearings are now behind schedule

Stephen Lauffer

Former Conservative Party MP Clive Derby-Lewis and Polish immigrant Janusz Walus appeared before the truth commission in Pretoria last week to ask for amnesty for the death of SA Communist Party leader Chris Hani. Stephen Lauffer analyses a week characterised by rambling anecdotes and inconsistent testimony

THE dog ate my homework and I cannot remember whether my wife told the truth in court. And yes, I have lied about the hit list with SA Communist Party leader Chris Hani's name on it and about what my wife knew of our plans to kill him. I lied to the police because I saw it as my duty to the struggle against PW De Klerk's sellout of white interests to give the authorities up-hill once they arrested me.

Appearing before the commission's amnesty committee, Derby-Lewis appears locked in a struggle with the multitude of often contradictory realities which have come to dominate his life.

The amnesty committee can trust the version he has given them this week, he implies, because the amnesty process requires that he tell the truth and he has nothing to gain from lying.

Once the mayor of Bedfordview and the commanding officer of the Witwatersrand Rifles, he was recently elected the first chairman of the Pretoria Maximum Security Prison recreation committee, he says. The implication is that he is a man of honour and integrity and should be believed.

In another place and another time, it is a fair bet that Derby-Lewis would have been a boy scout master. The uniforms, the ceremony, the easily accessible and often conservative values, the adolescent admiration, and the hierarchies would probably have gone a long way towards satisfying the craving for recognition he displayed during the first week of his amnesty application.

In the SA of the early 1990s, those cravings turned him into a murderer and occasioned the country's greatest crisis.

To outsiders for whom President Nelson Mandela and an African National Congress (ANC) government have long been a reality, he appears to have little understanding of his situation as a prisoner on what was death row, far removed from the centre of the political stage. Observers have spent the week groping for explanations for his inability to put everything on the table and get the process over and done with.

In the matter at hand — the plot to kill

Hani — Derby-Lewis is battling to reconcile several different versions he himself has generated around the key events and players. His understanding, and that of his lawyers, of what they must do for amnesty to be granted appears tenuous at best.

How else does one explain the group's failure to respond to repeated and increasingly urgent admonitions from the amnesty committee to make full disclosure — required by law if a pardon is to be granted?

Instead, they demanded postponement upon adjournment as they scrambled to find ever new reasons why statements to police by Derby-Lewis, his wife Gaye, and co-applicant Walus should not form part of the amnesty proceedings.

Gaye Derby-Lewis made the point that she could not be charged again with the murder judge Franka Rhooff acquitted her of almost four years ago. So why the prevarication? For what reason the iron resistance to admitting statements made under oath implicating Gaye Derby-Lewis — at least in the compilation of the hit list which included Hani, Mandela, Joe Slovo, other leading politicians, and journalists?

Why deny earlier statements that she knew through discussions before and after the murder about what was planned and who was involved?

Derby-Lewis's often contradictory recollections of the killing, its precursors and aftermath, are in statements he gave to the police and his lawyers, in his application to the truth commission, and in his verbal submissions during the hearing. He has tried to explain to the amnesty committee that they differ because while in police custody he lied in continuation of the struggle.

"What yardstick," the Hani family's advocate, George Bizos, asked him, "can you give the committee to show you are not lying now in pursuance of your struggle?"

Derby-Lewis could be lying again, he suggested, "in order to go free and pursue the struggle again."

Many of Bizos's questions leave Derby-Lewis and his lawyer, Harry Frimsoe, gasping for air. Not so much because Bizos, as an experienced courtroom tactician, is showing what he is capable of, but because the legal team is so appallingly badly prepared

with the provisions or intentions of the act governing the truth commission's work. They have not anticipated the introduction of statements made by the Derby-Lewis and Walus to the police but not presented in court. And they have failed to advise their clients to apply for amnesty for perjury, standard practice among the police applicants who were involved in earlier cover-ups of their bloody deeds.

Derby-Lewis is not the first amnesty applicant to grapple with details of his participation in horrific, often gruesome events. Former security branch policemen implicated in murders of dozens of activists have many times battled to give a coherent and logical account of events which left people dead, maimed, or brutalised.

Unlike Derby-Lewis last week, their battle with the truth has been the grappling of men themselves mortally scarred by a life as the storm troopers of the previous government. It has been the struggle of men suffering from post-traumatic stress disorder and facing the prospects of a future burdened by the mark of Cain.

As Bizos indicated with his question on a possible intention to continue the struggle, the impression gained by observers at last week's hearings was that Derby-Lewis, far from traumatised by Hani's killing and its consequences, is conducting himself like a man on the comeback trail.

He shows no awareness of his status as a pariah outside a dwindling group of marginalised right-wingers. Rather than recognise his situation as a reason to rethink his life as many policemen are doing, Derby-Lewis appears concerned not to admit publicly that he and his wife failed to put up a fight while in police custody.

Instead, they apparently spied the beans readily — either because they feared police brutality even though it was never directed against them, or because they thought they were among allies and wanted to put their deeds on record in advance of taking power.

To admit this naïveté could tarnish their image as heroes in the eyes of the far right. Either way, the appearance this week of the officers responsible for the investigation should shed light on the atmosphere surrounding the interrogations, and on why the applicants' legal team has fought tooth and nail not to have the statements admitted in evidence.

See Page 11



DERBY LEWIS



WALUS

COMMENT & ANALYSIS

Amnesty laws weighed on scales of justice

Political compromises have left SA with difficult problems — like an amnesty law which undermines confidence in the justice system, writes Steven Friedman

IN A SOCIETY battling violent crime, a man explains to a hearing that he ought to be free — because the murder he committed was cold-blooded.

Describing the Hanu killers' amnesty hearing that way may explain why it has once more raised troubling questions about reconciliation and justice in our new society.

The Hanu applications have, to be sure, received more attention than any others because of their political, rather than their moral or judicial, implications.

Killing a prominent politician is no greater an affront to justice than engineering the murder of more than 20 villagers (for which Brian Mitchell received amnesty) or shooting people in a public place because they happened to be black (as Barend Strydom did before he was set free by the previous government) or the torture of African National Congress (ANC) dissidents in Angola.

The Hanu killers have received more attention than the other applicants because of the identity of their victim and their purpose — to derail the transition — rather than because they crossed a moral line within which other amnesty candidates remained.

Yet in an important — and probably unwelcome — way, Clive Derby-Lewis's evidence has ensured that this particular hearing does shed important light on the uncomfortable link between amnesty and a sense of justice.

Derby-Lewis has been at pains to stress he arranged Hanu's killing because, in his view, the Conservative Party, to which he belonged, preached violence and he hoped to create chaos and pave the way for a right-wing coup.

In just about any other society, that would be an abject confession of guilt which could add several years onto a sentence in court, it could be a passport to amnesty.

Whatever interpretation the amnesty committee uses in this case, Derby-Lewis and his lawyers clearly believe — and not without reason — that amnesty depends less on a sense of justice than on showing that a crime was committ-

ed with political intent. In other words, that what might elsewhere be seen as evidence of the severity of the offence might here be a formula for a pardon.

This would be a problem for any system of justice anywhere, and it is a particularly serious one for ours, now.

For obvious reasons, one of our most pressing needs is to rebuild our society's confidence in and respect for justice. Can we really expect to achieve that if killers are able to argue that a murder should be condoned precisely because it was calculated — whatever the amnesty committee's decision?

Crime has many causes, and it would be oversimplifying to claim that if we showed that people will spend their life in jail for murder, however many political motives they had, criminal violence would drop dramatically.

However, it is surely reasonable to insist that our ability to achieve respect for justice throughout society is greatly hampered by a law which can allow killers to walk free because they planned a coup. All of which suggests it is time for a hard look at amnesty and its effect on society.

The arguments for amnesty are well known. Since democracy was achieved by a compromise settlement, applying strict justice to political crimes is not politically feasible. In any event, whose idea of justice is to be applied?

Many in SA would insist that justice demands those who planted bombs in bars or in a Pretoria Square should join those who killed Hanu or Mitchell and Strydom in jail. To insist on punishment for one side — the ruling majority — but not the other could, it might be argued, do as much to destroy respect for justice as the amnesty conditions.

Respect for justice must, in other



BD 18/8/97 (252)

Janusz Walus, left, and Clive Derby-Lewis at their amnesty hearing in Pretoria last week

er words, be shared. It cannot simply be imposed by a political majority onto a minority. Amnesty's supporters argue that, since we do not share a common understanding of the difference between po-

litical crimes and patriotic acts, we will fear the society apart if we prosecute rather than forgive. And, if we begin applying normal judicial criteria to some apartheid-era crimes, the political

outcome could be unmanageable. While some prominent political figures may not have pulled any triggers or planted bombs, it is at least possible that their links to those who did were close enough to make them accomplices.

These arguments are valid, but perhaps only up to a point. The reality of a compromise settlement and the need for a shared sense of justice do warn that a retributive witch-hunt against those who fought for apartheid is not feasible. It could also destroy democracy, since it could become a shield for jailing just about anyone considered an accomplice of the old order.

Nor is it politically feasible or sensible for the criminal justice system to begin deciding where cabinet ministers were when an assassination plot against Mangosuthu Buthelezi was hatched, or former ones were when anti-apartheid activists were murdered, or where Inkatha Freedom Party leaders were during the Natal conflict.

It is surely possible, though, to draw a line which both acknowledges that we have emerged from a dirty war and which contributes to a shared respect for justice. Somehow, the sight of convicted murderers demanding — and receiving — amnesty seems to cross that line.

Precisely where the line should be drawn is a matter for debate. If a sense of justice is to be shared, it must emerge from open public discussion, not through a formula devised by lawyers and backroom negotiators. It must also, for reasons cited earlier, take seriously the minority's sense of justice.

What is increasingly doubtful, however, is that the current amnesty criteria succeed in drawing a line which can begin to recover respect for justice.

Some reasons have already been suggested. To name but one other, while expressions of regret might count in a criminal's favour in the justice system, they are not a necessary criterion in amnesty hearings. Murderers do not, in other words, have to say they are sorry (even if some opt to do so).

Debate over what we should allow and what we should not — at the very least — it could force us into considering ways of dealing with our past which do more to repair society than a formalistic amnesty law.

The amnesty issue is important in another way — because it helps to highlight a wider problem. We are, perhaps, beginning to realise that our "miraculous" compromise, while clearly necessary, had some important costs.

Evidence is beginning to emerge that, as in some Latin American countries, former soldiers in the "dirty war", on both sides, may be applying the skills they learned and the methods they used to preying on the citizenry rather than each other.

The compromise creates more space for them than a decisive victory of one side over the other — not least because the divisions which reigned when the war was fought are now found within the agencies which are meant to guarantee public safety and because the compromise has limited the extent to which many who took up arms against the army and police can be fully integrated into those forces now.

We are, for better rather than worse, stuck with our past and our compromise. However it is becoming increasingly clear that papering over cracks at Kempton Park has left us with some difficult problems now.

We need, therefore, to look far more closely, and think far more carefully, about ways of ensuring that the compromises which brought us the possibility of a new society do not prevent us from building it.

□ Steven Friedman is director of the Centre for Policy Studies



Leader remembered ... a young supporter of murdered SA Communist Party chief Chris Hani holds a portrait of Hani at the amnesty hearing of his killers in Pretoria yesterday. Janusz Walus and Clive Derby-Lewis are claiming the assassination, shortly before South Africa's April 1994 elections, had legitimate political motives.

Hani's assassination also had religious motive – Derby-Lewis

(252) Stav 19/8/97

By ROBERT BRAND

Clive Derby-Lewis told the Truth and Reconciliation Commission's amnesty committee in Pretoria yesterday that if the assassination attempt on SA Communist Party (SACP) leader Chris Hani had failed, he and Janusz Walus would have killed another politician.

He also disclosed for the first time that Hani's assassination had a religious motive in addition to the alleged political motive, and that he believed his church would have approved of the killing because it

had been a blow against the "antichrist".

Derby-Lewis, who told the committee last week he had committed the murder together with Walus "on behalf of" the Conservative Party (CP), was subjected to a gruelling cross-examination by the Hani family advocate George Bizos SC yesterday.

The questioning, often interspersed with acrimonious exchanges between Bizos and Derby-Lewis, centred around the CP's policy on violence, the "hit list" found in Walus' possession after the assassina-

tion, and the role played in the plot by Derby-Lewis' wife Gaye.

Forced to concede that the CP had never officially authorised the use of violence against political opponents, Derby-Lewis said he had hoped the murder of Hani would "activate Afrikaner leaders into united action to save their fatherland and their people".

Derby-Lewis said that although Hani's name appeared third on the list found in Walus' possession, this did not mean Hani was third in order of priority for elimination.

"He was the number one choice for elimination because his death would achieve the purpose we wanted to achieve," Derby-Lewis said.

He added he had not ordered Walus to kill anyone other than the SACP leader.

Derby-Lewis admitted, however, that he and Walus would have struck at other political targets if the plot to kill Hani had failed or if it had not had "the desired effect" of plunging the country into chaos.

Derby-Lewis, who had swopped the Catholic Church for the right-wing Afrikaanse Protes-

tantse Kerk (APK), said he had seen the assassination first and foremost as a blow against "antichrist".

"As a Christian, my duty is to the Almighty God before everything else.

"We were fighting against communism, and communism is the vehicle of the antichrist," Derby-Lewis added.

He said the APK would have approved of the murder, but he conceded that he had not discussed it with any members of the church and that the church did not have a policy on violence.

Pre-trial services could oil the wheels of justice

(252) Star 19/8/97

By Jovial Rantao
Political Correspondent

Cape Town — Jessica Saunders stood between a rape conviction or the acquittal of a Cape Town gangster she had witnessed raping someone.

As she walked the corridors of the Mitchell Plain's court, waiting to testify, she was intimidated, harassed by gangsters and warned against testifying for the State.

Scared out of her wits and nervous, Jessica was ready to yield under pressure.

After her ordeal, Jessica was whisked by a bail officer to a special witness waiting room, where the prosecutor and the investigating officer were able to assure her that she would be safe even after giving evidence.

She took the stand and the gangster was convicted and given a long prison sentence.

The witness waiting room and bail officers are new features at the Mitchell Plain's court. The room forms part of a service provided by the Justice Department and the police to provide security for witnesses and to track the offenders through the system.

A crucial part that will be played by the Pre-trial Services which will be formally launched by Justice Minister Dullah Omar this week, will be to determine whether or not an offender should be granted bail. The system is designed to be able to easily identify repeat offenders.

According to project co-ordinator Michelle Bird, the Pre-trial Services initially aims to improve court operations in two ways.

First, serious or repeat offenders should be held pending trial, while those who pose little danger to the public are released on their own recognisance or affordable bail. Second, defendants who are released on bail should attend court when required and must not intimidate witnesses. These two things, together, can help build a culture of justice within which courts can become

respected forums which respond to crime effectively and efficiently," Bird said.

She said the project was designed to achieve

- An increase in the number of serious, repeat offenders held without bail until trial

- A reduction in the number of awaiting-trial prisoners held on minor charges with low bail

- An increase in the appearance rate of defendants released pending trial on minor charges

- A reduction in waiting time at court for complainants and witnesses

Magistrates, bail officers (court clerks), police, prosecutors, probation officers and community volunteers play a crucial role in the project.

Bird said magistrates will guide the implementation of the

Security for witnesses

project, and the bail officers will interview defendants awaiting their initial hearing, verify information and prepare bail recommendations. Other staff will record the appearance at court of defendants on bail, complainants and witnesses.

Police would be asked to assist in the verification of defendants' details and enforce conditions of bail for those released.

Prosecutors will receive bail recommendations from the clerks and assist in organising witnesses and monitoring compliance with bail conditions. Probation officers would be asked to assist witnesses, particularly women and children.

The Bureau of Justice within the Ministry of Justice will operate pilot projects in Johannesburg, Durban, Port Elizabeth and Transkei or Venda.

Jessica Saunders' real name was not used for her own protection.

Chris Hanzi's slayings was a 'wake-up call'

By Simon Zwane

THE murder of South African Communist Party leader Chris Hanzi was meant to activate the Afrikaner leaders to save their fatherland and their people from communism, the Truth and Reconciliation Commission's amnesty committee heard in Pretoria yesterday.

Under cross-examination by Mr George Bizos for the Hanzi family and SACP, one of the killers, Clive Derby-Lewis said he had planned the murder because Afrikaner leaders "needed to be woken up and shown how to lead

their people"

Derby-Lewis said he expected the chaos that followed Hanzi's assassination to induce Afrikaner leaders to forget their divisions and "come together to see what future action might be"

"I expected the leaders to mobilise the people and to step into the vacuum that was created by this chaos," he said

However, he admitted that he did nothing to call the leaders to seize the opportunity once the news of Hanzi's murder and chaos broke out in the country

"I was caught unawares I did not expect it to happen over the Easter weekend," he said.

The murder was planned by Derby-Lewis and Polish immigrant Janusz Walus, who pulled the trigger

Bizos spent half the day trying to prove that the Conservative Party, to which Derby-Lewis belonged, did not approve of Hanzi's murder

He referred to press cuttings in which CP leaders said their policy was one of non-violence

He also said the CP leadership was not aware of Derby-Lewis' involvement and thought that he was being

victimised when he was arrested

One of the requirements for the granting of amnesty is that the perpetrator should prove that his/her actions were committed on behalf of a known political party

A video recording of the South African Broadcasting Corporation's (SABC) programme *Agenda*, in which CP deputy leader Dr Ferdi Hartzenberg participated, was shown to prove that the CP did not espouse violence at the time of Hanzi's murder

In the programme, recorded a day after Hanzi's burial, Hartzenberg said that the CP policy remained one of

non-violence. He said the party aimed "to create a situation where there would be peace and stability"

Derby-Lewis admitted under cross-examination that no CP leader ever told him that the policy had changed. He also admitted that CP leaders knew nothing about his involvement in Hanzi's assassination

Last week, Derby-Lewis spent a lot of time quoting from press reports in an attempt to show that the murder had been influenced by the war-talk of CP leaders. He also tried to convince the committee that he had done it on behalf of the party

Lawuvelan 19/8/97

(252)

Hani killer sticks by apartheid

Derby-Lewis accused of lies in amnesty plea

ARG 19/8/97 (252)

Pretoria - One of the killers of SA Communist Party leader Chris Hani, Clive Derby-Lewis, says he still believes apartheid is the answer to South Africa's problems.

"I do not believe that a united South Africa is the solution for a problem that was resolved elsewhere in the world through separate development," the right-winger told the Truth Commission's amnesty committee today.

Derby-Lewis, who denied being a racist, was asked by George Bizos, the Hani family's lawyer, whether he accepted a common citizenship in which all South Africans had equal rights.

"I do not believe South Africa's prob-

lems can be solved with a common citizenship," he said "I believe my people are entitled to a territory where they are able to exercise their right to self-determination."

Derby-Lewis said although the fighting continued in South Africa, particularly in KwaZulu Natal, for him the armed struggle was over. If granted amnesty and freed from prison, where he is serving a life sentence, he would concentrate on spending time with his family and friends.

"I believe I have done my bit as far as the freedom struggle is concerned. I have been detained for four-and-a-half years and I have seen my grandchildren only once."

Derby-Lewis was closely questioned by Mr Bizos about discrepancies in two

amnesty applications he filed with the Truth Commission.

"There were material changes in the facts in both amnesty applications, made under oath, in order to assist yourself in the success of the application without any particular regard for the truth," Mr Bizos said as he grilled Derby-Lewis.

Yesterday Derby-Lewis denied plotting the assassination of President Mandela - but he admits to discussing the murder of other political opponents.

He said he and Polish immigrant Janusz Walus, who shot Mr Hani dead in 1993, had discussed the possibility of further murders if the assassination failed to plunge the country into chaos - Sapa.

Ceres police inspector seeks amnesty on murder charge

STAFF REPORTER

Michael Phillip Luff, a Ceres police inspector charged with the murder of a Worcester man, will apply for amnesty.

He appeared briefly in Worcester Regional Court yesterday.

Mr Luff, 37, of Oranje Street, was arrested last September for allegedly shooting dead William Dyasi at the Zwelethemba community hall in Worcester in 1985.

Mr Dyasi's parents, Mbedle and Selina Dyasi, told the Truth and Reconciliation Commission that before their son died he

told them police had dragged him from where he was hiding and had shot him.

The case was postponed to April 4 pending Inspector Luff's amnesty application.

Magistrate P J J van Rensburg presided, B Avenant appeared for the State and F van Zyl for Inspector Luff.

'KILLING HAD RELIGIOUS MOTIVE'

Hani murder 'a blow against the Antichrist'

CT 19/8/97 (252)

JOHANNESBURG: Clive Derby-Lewis believed his church would have approved of his assassinating Chris Hani, who represented communism, the "vehicle of the Antichrist"

If the attempt to assassinate SA Communist Party leader Mr Chris Hani had failed, he and Janusz Walus would have killed another politician, Clive Derby-Lewis told the Truth and Reconciliation Commission's amnesty committee yesterday

Claiming for the first time that Hani's assassination had had a religious as well as a political motive, Derby-Lewis said he believed his church would have approved of the killing because it had been a blow against the "Antichrist"



THIRD ON 'HIT-LIST': Chris Hani

He told the committee last week he had committed the murder with Walus "on behalf of" the Conservative Party (CP)

Derby-Lewis was cross-examined in detail by Mr George Bizos, SC, for the Hani family, yesterday

The questioning, punctuated by acrimonious exchanges between Bizos and Derby-Lewis, focused on the CP's policy on violence, the "hit list" found in Walus' possession after the assassination, and the role played in the plot by Derby-Lewis' wife, Gaye

Conceding that the CP had not officially authorised the use of violence against political opponents, Derby-Lewis said he had hoped the murder of Hani would "activate" Afrikaner leaders into united action to save their fatherland and their people

Bizos "Why is it that you and

Questioned about statements to the police in which Walus admitted having monitored President Nelson Mandela's home before killing Hani, Derby-Lewis said Walus must have been acting on his own initiative

Mandela's name was number one on the list and followed by Joe Slovo and Hani

Walus told police he had decided not to kill Mandela because "the old goat wasn't worth it" He also said he couldn't strike at Slovo because he did not have his precise address

Derby-Lewis said he had not ordered Walus to kill anyone other than Hani He admitted, however, that he and Walus would have struck at other political targets if the plot to kill Hani failed or if it did not have "the desired effect" of plunging the country into chaos

Derby-Lewis, who had switched allegiance from the Catholic Church to the right-wing Afrikaanse Protestantse Kerk, said he had seen the assassination first and foremost as a blow against the "Antichrist"

"As a Christian, my first duty is to the Almighty God before everything else We were fighting against communism and communism is the vehicle of the Antichrist"

He said the Afrikaanse Protestantse Kerk would have approved of the murder He conceded, however, that he had not discussed the plot with any church member and that the church did not have a policy of violence — Own Correspondent



SISTERS IN SOLIDARITY: Winnie Madizela-Mandela and Limpho Hani, widow of assassinated SA Communist Party leader Chris Hani, join in the chanting at the amnesty hearing yesterday of former Conservative Party politician Clive Derby-Lewis and Polish immigrant Janusz Walus

CCB's top members testify this week at closed hearing

FORMER Civil Co-operation Bureau (CCB) managing director Mr Joe Verster will appear before a closed hearing of the Truth and Reconciliation Commission's investigative unit for a second consecutive day today, a TRC spokesman said yesterday

Verster, along with Mr Abram

"Slang" van Zyl and Mr Wouter Basson (alias Christo Britz) were subpoenaed to appear before the unit in Cape Town this week, the spokesman said

The unit was also set to question Van Zyl today, but no date had been set for Basson's appearance

Verster, who appeared in disguise before the Harns Commission, refused to be photographed by the media at the start of proceedings at the TRC's Cape Town head office yesterday

A TRC spokesman declined to say whether Verster was co-operating with the commission The

unnamed spokesman said a statement might be released today

Verster and Van Zyl were implicated as accomplices by a Namibian High Court inquest in the 1989 assassination of Swapo lawyer Anton Lubowski

News reports at the weekend said the CCB men would not be

restricted to answering questions on the Lubowski matter

Earlier, Lubowski's mother, Molly, said she would meet Justice Minister Mr Dullah Omar on Friday to disclose new information that could finally lead to the prosecution of her son's murderers — Sapa

Iani was not the only hit-list target

Stephen Laufer

ED 19/8/97 (262)

CHRIS Hani's murderers planned further political killings if Hani's death failed to create chaos in SA, but Nelson Mandela was not targeted despite appearing on a list with the number 1 against his name, Clive Derby-Lewis said yesterday.

Derby-Lewis told the truth commission's amnesty committee the killings had been planned as a signal to Afrikaner leaders to seize power and prevent a sellout to the African National Congress (ANC). It had never occurred to him to kill FW de Klerk despite his control of the army, police, and other organs of state "because he had already handed over power".

Derby-Lewis said he had not contacted other right-wing leaders in the aftermath of Hani's assassination, because "I was demotivated, standing back, demobilised, waiting for something to happen". He had been shocked when his co-applicant for amnesty, Janusz Walus, "unexpectedly" carried out the killing.

Under cross-examination Derby-Lewis struggled to explain why Mandela had been given the No 1 on the same list on which a three appeared against Hani's name. SA Communist Party chairman Joe Slovo had been the second name on the list.

After claiming his wife Gaye had drawn up the list and Walus had numbered it, Derby-Lewis said it had not been a hit list, but had ranked the Conservative Party's (CP's) opponents according to the strength of their enmity towards the party.

He could not explain why Walus had told police that plans had existed to kill Mandela and could not be held responsible for what his wife told police about the purpose of the list. A statement by Gaye Derby-Lewis to police was read in which she conceded having discussed the need to "do something dramatic against the enemies of SA" with her husband.

Walus's statement to police that the list ranked targets for assassination had probably been the result of poor communications because of Walus's poor grasp of English, Derby-Lewis suggested. Asked whether he spoke Polish, he agreed that he had communicated adequately with Walus in English.

ANC member denied amnesty

Star 20/8/97

(252)

No pardon for the murderer of two women and 2-year-old boy in Kwazulu Natal

By Daisy Jones

The Truth and Reconciliation Commission has refused amnesty to an ANC member convicted of murdering two women and a 2-year-old boy in a politically motivated revenge attack in Kwazulu Natal.

The amnesty committee said it had denied Mkhanyi Khanyile amnesty because "the applicant chose not to be frank, and in the process has failed to make a full disclosure of all relevant facts"

The Promotion of National Unity and Reconciliation Act requires that applicants tell the truth and provide all the relevant facts surrounding the incident for which they are applying for amnesty

Khanyile told the committee he and other ANC members had attacked the home of a Mr Ngcobo on March 15 1992 in the Mapumulo district of Kwazulu Natal after the house of an

ANC member was set alight, allegedly by members or supporters of the IFP

Khanyile was convicted of killing a 73-year-old woman, a 38-year-old woman and a 2-year-old boy. He was also convicted of attempting to murder two other boys during the attack.

In main- taining that he never entered the house but merely shot blindly from outside, the applicant did not, in our view, tell us the truth on this material aspect of the case.

"One must also bear in mind that each victim was shot more than once. In our view the applicant must have entered the house and shot his victims there, as was testified to during his trial," the committee said

Another applicant who told the committee he had acted on

behalf of the ANC when he attacked a family home, was also denied full amnesty

Nzimeni Menera was convicted of attempting to murder local council member Susan Phehlane and her 11-year-old son Patrick near Brandfort on July 14 1991. Menera, then the leader of a self-defence unit, was also convicted of assaulting Edward, another ward, another son, with intent to do grievous bodily harm.

The committee found that Menera contradicted his trial testimony when he told the TRC that another member of the self-defence unit had attacked Patrick.

The effect of the committee's decision was to cut an effective jail sentence of 10 years to six years.

A group of three applicants

were granted amnesty for the attempted murder and murder of a Mr. Plaatie, who was allegedly part of a gang which used to terrorise people, especially ANC members.

The committee accepted that the acts of all three were associated with political objectives, and therefore, granted them amnesty.

It heard that one night in May 1992, Diteko Cholota and William Oupanyana Thobabala, members of an ANC self-defence unit, visited several taverns in order to disarm "enemies of the ANC".

At one tavern they attacked Plaatie and assaulted a prison warden, Pule Moalosi. Moalosi fled and returned with his gun.

He then shot and killed Plaatie, having mistaken him for Thobabala, whom he regarded as a dangerous man. Cholota and Thobabala were granted amnesty for attempted murder and Moalosi was granted amnesty for murder.

Applicant chose not to be frank

CCB's Verster photographed at last

Star 20/8/97 (252)

Truth Commission orders former undercover agent to allow his picture to be taken before hearing

BENNY GOOL

STAFF REPORTER

Civil Co-operation Bureau spymaster Joe Verster avoided cameras throughout his undercover career, in which he orchestrated dirty tricks against opponents of the apartheid government

But yesterday, photographers and camera operators focused on the bespectacled, grey-haired former CCB "managing director", in response to the Truth and Reconciliation Commission's notification of a photo opportunity

In 1990, Vrye Weekblad published a photograph of Verster in contravention of an order against publication by Mr Justice Louis Harms

The photograph, taken for a false travel document, showed him wearing glasses, with his eyes half closed.

Verster, who appeared disguised in a grey wig and false beard before the 1990 Harms Commission, refused to be photographed when he went to the TRC for the first time on Monday Yesterday he showed no emotion while being captured on camera Verster stared impassively at documents in front of him, Sapa reports

Dumisa Ntsebeza, head of the commission's investigative unit, issued a statement yesterday saying he had instructed Verster to allow the media to take his photograph

"I was not convinced that his life or career would be at risk if his photograph appears in the media. I also pointed out that the TRC has a witness-protection programme, but he refused to apply for that," he said

Verster was also threatened by Ntsebeza with a fine of R2 000 or two years' jail if he did not co-operate with the TRC's inquiry into the CCB.

Ntsebeza said Verster was "still refusing to answer questions or give evidence on foreign CCB operations" by late yesterday.

Verster is the first of three of his former region-six CCB colleagues to have been questioned this week

Abram "Slang" van Zyl is due to be questioned tomorrow and Wouter Jacobus Basson, alias Christo Brits, is to testify on Friday

Basson, the former CCB treasurer, should not be confused with the "other" Wouter Basson, the medical doctor who headed the government's chemical warfare programme and is due to be questioned at a separate inquiry this month

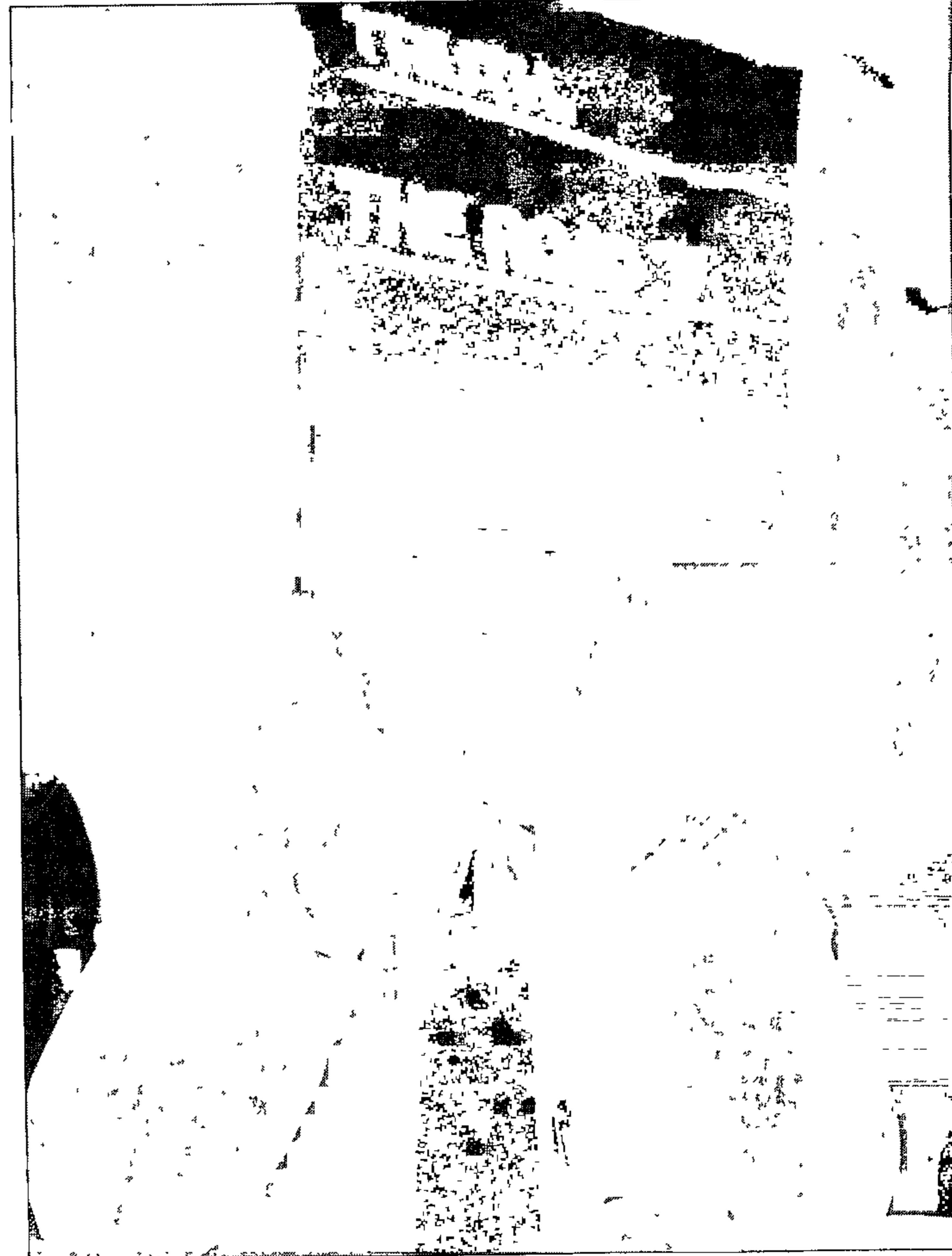
The TRC earlier this year issued a statement saying it would question Verster, Van Zyl and Basson about unsolved crimes including the 1989 murders of Swapo activist Anton Lubowski in Windhoek and Wits academic David Webster in Johannesburg, as well as the parcel-bomb attack which maimed Anglican priest Michael Lapsley in Harare in 1990.

The men will be quizzed about the bombing of the Early Learning Centre in Athlone, Cape Town, in 1989 and the CCB's role in the death of Edward "Peaches" Gordon

Verster has been quoted as saying he never undertook a single mission that had not been approved at the highest level

Verster, Staal Burger and other CCB operatives were among the eleventh-hour applicants who submitted their amnesty applications to the TRC hours before the midnight, May 10, deadline this year

▶ ANC member denied amnesty



Impassive ... Joe Verster is first of six CCB members questioned by TRC about unsolved crimes.

Hint of wider conspiracy to kill Hani

Star 20/8/97 (252)

By ROBERT BRAND

Evidence submitted to the Truth and Reconciliation Commission yesterday suggested the men convicted of murdering Chris Hani might not have been the only ones who knew of the plot, Hani family advocate George Bizos SC said.

Wrapping up his cross-examination of Clive Derby-Lewis, Bizos said he would argue against amnesty for him because he had not told the truth about the involvement of others and did not have the backing of a political party.

"You killed Chris

Hani because you had a sense of self-importance which is not justified by the facts. You had no authority from any political party," Bizos said.

"You committed this murder when you saw that your racist policies had no chance of success because the country was about to enter into a historical settlement in which racism would play no part."

Former Conservative Party President's Councillor Derby-Lewis and Polish immigrant Janusz Walus killed Hani, then leader of the SACP, in 1993.

Derby-Lewis testified last week that he and

Walus had planned the assassination without any outside help and committed the murder on behalf of the CP.

Three days of grueling cross-examination by Bizos has revealed a number of contradictions in Derby-Lewis' testimony and statements he had made to police after his arrest.

But it has failed to unearth any hard evidence of a wider conspiracy beyond the possible involvement of Derby-Lewis' wife Gaye.

Yesterday, Bizos submitted a statement by Afrikaner Volksfront member N J Visser which, he said, sug-

gested that Visser might have had prior knowledge of the plot.

Visser has been subpoenaed to testify tomorrow.

Visser is applying for amnesty for the theft of R369 182 from the JCI pension fund.

In his amnesty application, he states that the money was to be used to buy two-way radios for the Volksfront.

In earlier testimony, Derby-Lewis said that although he believed the Afrikaner's "freedom struggle" still continued, he would withdraw from political and public life if he were granted amnesty.

Derby-Lewis is telling lies, the TRC is told ⁽²⁶²⁾

By Simon Zwane

CLIVE Derby-Lewis, who is applying for amnesty for the 1993 killing of SA Communist Party leader Mr Chris Hanu, had not told the truth about the circumstances in which he had obtained the murder weapon, the Truth and Reconciliation Commission's amnesty committee was told in Pretoria yesterday.

Mr George Bizos, appearing for the Hanu family and the SACP, said Derby-Lewis had "painted a highly improbable story" that Mr Faan Venter, who had supplied the murder weapon, knew nothing about the assassination plot.

Derby-Lewis has told the committee in his application that he had jokingly asked Venter whether he could obtain an unlicensed weapon. He said

Venter had not asked him what the weapon was to be used for, and he (Derby-Lewis) had not volunteered any information.

Bizos told Derby-Lewis it was hardly believable that he had fitted the weapon with a silencer to protect his family from intruders.

He produced a letter Derby-Lewis had written to the head of the murder and robbery unit to show that Derby-Lewis had cooperated with the police while he was being held under Section 29 of the Internal Security Act.

Derby-Lewis has challenged certain of his own statements on the basis that they were not made freely and voluntarily. He has also claimed that he was tortured while in detention. In the letter he thanked the police for the treatment he was given.

He denied the letter was intended for members of the murder and robbery unit. He said it had been intended for members of the police's uniformed branch, who had treated him well while he was being held in Benoni.

Bizos challenged evidence that the plot to murder Hanu was known only to Derby-Lewis and his co-accused, Polish immigrant Janusz Walus, who actually pulled the trigger. Bizos said a certain Mr Visser had said he was personally against the murder of Hanu because of information that Hanu and Mrs Winnie Madikizela-Mandela intended to form a political party.

Derby-Lewis said he did not anticipate that there would be a race war as a result of Hanu's assassination, although he expected there could be killings and general mayhem.

Sowetan 20/8/97

Others knew of Hani plot, says advocate

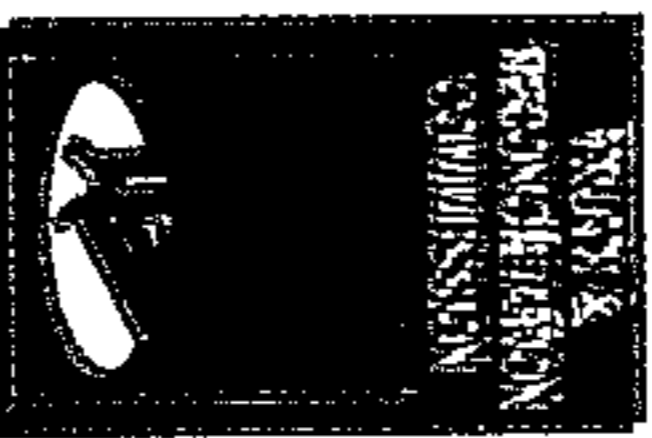
CT 20/8197

(252)

JOHANNESBURG: Volksfront member N J Visser has claimed, in his application for amnesty for theft from the JCI pension fund, that he was opposed to Chris Hani's murder.

NEW evidence before the Truth and Reconciliation Commission suggested the two men convicted of assassinating Mr Chris Hani might not have been alone in knowing about the plot, Mr George Bizos, SC, for the Hani family, said yesterday.

Bizos submitted a statement by Afrikaner Volksfront member N J Visser and said it suggested Visser might have known about the plot.



Visser has been subpoenaed to testify tomorrow.

Former Conservative Party President's Councillor Clive Derby-Lewis and Polish immigrant Janusz Walus are serving life sentences for the murder of Hani, leader of the South African Communist Party, in 1993

Derby-Lewis has testified that he and Walus planned the assassination without outside help and carried it out on behalf of the CP.

Visser is applying for amnesty for the theft of R369 182 from the JCI pension fund. In his amnesty application, he says the money was to have been used to buy two-way radios for the Volksfront.

His application mentions a dispute between him and another right-winger, Mr Edwin Clarke, after the Hani murder. Clarke, a frequent visitor to the Derby-Lewis home, had wanted the money to be used for Derby-Lewis' legal costs.

In his application, Visser says "I personally was against the murder of Mr Hani because we had infor-

mation that Hani and Winnie Mandela wanted to establish a political party of their own and that would cause the youth to vote for them (rather than the ANC)."

This, Bizos said, indicated Visser "knew" about plans to kill Mr Hani. Derby-Lewis denied this.

Wrapping up his cross-examination of Derby-Lewis yesterday, Bizos said he would argue against amnesty because Derby-Lewis had not told the truth about the involvement of others in the assassination. Also, he had not had the backing of a political party.

"You killed Chris Hani because you had a sense of self-importance which is not justified by the facts. You had no authority from any political party," Bizos said.

"You committed this murder when you saw that your racist policies had no chance of success because the country was about to enter into a historical settlement in which racism would play no part."

—Own Correspondent

Ntsebeza unmask CCB head

JOHANNESBURG: The face of elusive Civil Co-operation Bureau (CCB) head Mr Joe Verster was finally seen yesterday.

He has avoided cameras throughout a dirty tricks campaign he allegedly orchestrated against opponents of the apartheid regime.

But yesterday photographers focused on the former CCB "managing director" in response to a TRC invitation.

When Verster testified before the Harns Commission he was heavily disguised in a wig and false beard.

When he appeared before the TRC on Monday Verster again refused to be photographed. Mr Dumisa Ntsebeza, head of the commission's investigative unit, said yesterday he had instructed Verster to allow the media photographs.

Verster is the first of three Region Six CCB operatives to appear before the TRC this week.

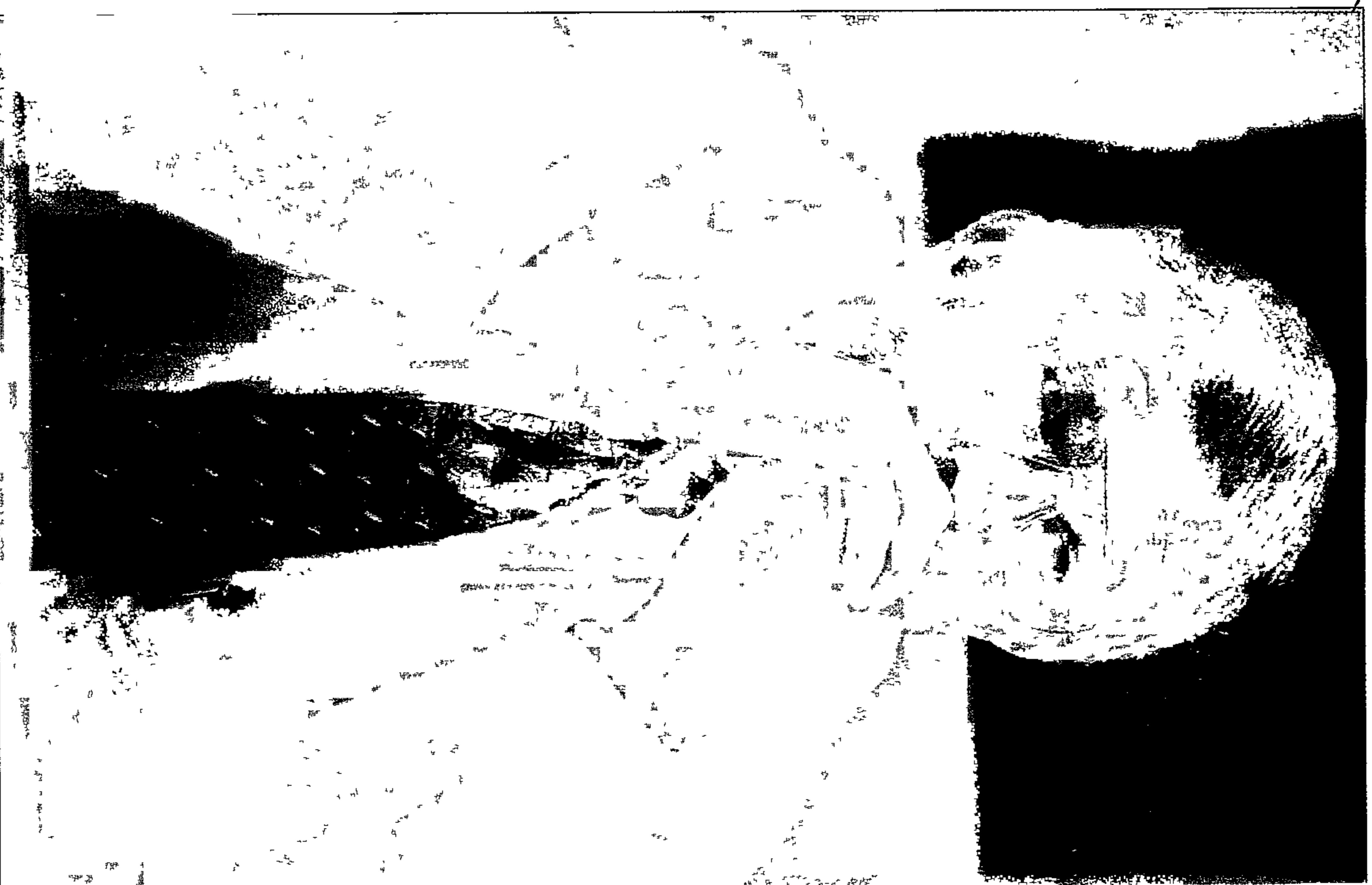
Mr Abram "Slang" van Zyl is to be questioned tomorrow, and Mr

Wouter Jacobus Basson, alias Christo Brits, is to testify on Friday.

The TRC wants to question them on the murders of Swapo's Anton Lubowski and the ANC's David Webster, as well as the parcel-bomb attack which maimed Anglican priest Michael Lapsley.

They will also be quizzed about the 1989 bombing of the Athlone Early Learning Centre, and the death of gangster and CCB recruit, Edward "Peaches" Gordon.

All have applied for amnesty — Own Correspondent



REVEALED: Here, for the first time, CCB head Joe Verster, before the TRC yesterday

PICTURE: BENNY GOOL

Former CCB chief silent on foreign actions

TRC may prosecute

ARG 20/8/97 (252)

Former Civil Co-operation Bureau chief Pieter Johan "Joe" Verster has refused to give Truth Commission investigators information about the unit's overseas operations, and could face prosecution.

Mr Verster, named by a Namibian judge as being involved in the 1989 murder of Swapo advocate Anton Lubowski, has been questioned behind closed doors by Truth Commission investigators for a second day.

Afterwards Dumisa Ntsebeza, head of the commission's investigative unit, said Mr Verster had refused to answer questions about foreign operations and operatives who had worked under him while he was head of the notorious unit of Military Intelligence.

On Monday, he had also refused to be photographed by the media during a break in the Truth Commission's Section 29 inquiry to which he had been subpoenaed with former CCB members Abram "Slang" van Zyl and Wouter Basson, alias Christo Brits.

Mr Ntsebeza said he had given Mr Verster an undertaking that the Section 29 inquiry could not be used by foreign attorneys-general to prosecute him or anyone he named.

"(But) Mr Verster is still refusing to answer questions or give evidence on foreign CCB operations."

Mr Ntsebeza said he had pointed out that penalties for failing to co-operate fully with the commission included a possible two-year jail term.

In 1990, Mr Verster (then a SADF

YELD



ON THE TRUTH COMMISSION

(colonel) appeared heavily disguised at the Harms Commission of inquiry into politically motivated murders, wearing sunglasses, a mass of grey hair and a long, wavy grey beard to hide his face.

Commission chairman Mr Justice Louis Harms ordered that no photographs be taken of him.

But yesterday, an impassive Mr Verster was photographed by the media after the lunch-break at the Truth Commission inquiry. His legal representative warned the media they were taking pictures of his client at their peril.

"Mr Verster is not agreeing to his photograph being taken," he said.

Mr Ntsebeza said he had considered all the arguments advanced by Mr Verster's legal representatives for their client not to be photographed, but did not feel he could stop the media.

"I did not feel the arguments advanced were such that he could fear for his life, and in any case we have a witness protection programme," Mr Ntsebeza said.

Mr Van Zyl is to appear tomorrow and Mr Basson on Friday.



In the flesh: former Civil Co-operation Bureau chief Joe Verster at the Truth Commission

Mr Basson is not the same person as Dr Wouter Basson who has also been subpoenaed to answer questions about the chemical weapons programme and other operations of the former SA Defence Force.

■ The Truth and Reconciliation Commission has refused amnesty to three former policemen who waged a reign of terror against ANC supporters in KwaZulu Natal in the early 1990s.

Former Pietermaritzburg Riot Unit con-

stable William Harrington and Frans Erasmus, and erstwhile Special Constable N Madlala, applied for amnesty for murdering Mbongeni Jama in the Elandsfontein area in February 1991.

Harrington was sentenced in February 1992 to eight years' imprisonment, but the Appellate Division increased this on appeal to 18 years. Erasmus's six-year sentence was doubled on appeal and Madlala had his increased from eight to 15 years.

LEON MURPHY



Justice for all: Dullah Omar talks to court staff and community organisations at the Cape Town Magistrate's Court about accountability in the judicial system

OBSD ZLWA

Community watchdog to patrol courts, says Omar

RDG 20/8/97

LENORE OLIVER
STAFF REPORTER

A commission of magistrates to act as community watchdog will be established as a matter of urgency, says Justice Minister Dullah Omar.

Mr Omar was speaking at a meeting yesterday at the Cape Town Magistrate's Court attended by prosecutors, magistrates, police chiefs and community organisations

"The independence of the judiciary does not mean the courts can do what they like," Mr Omar said

"They need to consider the community's feelings and therefore it is necessary to make the judiciary accountable to the people"

Discussions were being held about appointments to the commission and these were expected to be made in about two months

"I hope that most of the people appointed will be women," Mr Omar said

Crimes against women and children had to be given priority "Rape is one of the most serious crimes and the courts must send out a signal to the community that we are doing something about it"

(252)

Hani murder 'motivated by racist fear' (252)

ARG 20/8/97

Pretoria - Former Conservative Party MP Clive Derby-Lewis plotted the assassination of SA Communist Party leader Chris Hani in 1993 because he was a racist who feared a black government, the Truth Commission was told today.

Derby-Lewis is seeking amnesty for the April 1993 murder on the grounds that it was politically motivated. If it is shown that racism was the real motive he will not be eligible for amnesty.

The right-winger has told the TRC's amnesty committee he had hoped Mr Hani's death would plunge the country into chaos, paving the way for the right-wing to depose the National Party government and seize power.

He said Mr Hani had been chosen as a target because of his seniority in the SACP and because he was seen as a potential successor to President Mandela.

The amnesty committee's chief leader of evidence, Mokotedi Mpshe, disputed this when he began cross-examining Derby-Lewis today.

"You killed him because you saw this black man as a potential leader who was going to take up (a seat) in Parliament."

Mr Mpshe read out a number of racist remarks attributed to Derby-Lewis in newspaper reports on speeches he made as a CP politician.

In one, he was reported as saying that he had spoken to "50 radical blacks and my experience was that few of them could repair a toilet."

Denying he was a racist, Derby-Lewis said the statement had been reported out of context. "I see a racist as somebody who hates other people. I do not hate blacks. I do not hate yellow people. I do not hate Greeks."

"The media said I was a racist if I made a statement that African people are not as technologically advanced as Western people. I don't see that as a racist statement. I see that as a statement of fact and we just need to look around us (for) proof of that," he told the hearing.

Derby-Lewis vows to leave politics if he is given amnesty

Stephen Laufer

CLIVE Derby-Lewis has told the truth commission that he will leave politics and confine himself to his family and friends if he is granted amnesty for the murder of SA Communist Party (SACP) leader Chris Hanu.

His political career and the armed struggle against majority rule were over, Derby-Lewis insisted, while explaining that he still rejected constitutional provisions establishing a united SA and a common citizenship for all South Africans.

He continued to believe in separate development but saw a "ray of hope" in the constitution's mention of minority rights. "I've done my bit for the freedom struggle," Derby-Lewis said to jeers from a large part of the audience.

Following a news video showing Hanu calling for efforts towards peace broadcast four days before his death, advocate George Bizos for the Hanu family asked Derby-Lewis whether he regretted killing someone capable of making a major contribution to the future of SA.

The assassination had been an act of war, Derby-Lewis said, and he did not intend apologising for it.

He had been unaware of Hanu's peace calls as "he did not phone to inform me or (Conservative Party leader Ferd) Hartzenberg and I did not watch television".

Derby-Lewis was testifying on the seventh day of truth commission hearings in his and Janusz Walus's request for amnesty for Hanu's murder.

Truth commission counsel Mokotedi Mpshe said he expected the hearings to continue in November and December as it had been impossible to hear Walus's verbal submission or the testimony of a number of other witnesses in the time allotted.

Stolen cheque

Among witnesses likely to be called before the current round of hearings ends tomorrow is right-wing amnesty applicant JN Visser, Sapa reports.

Bizos questioned Derby-Lewis on his relationship with computer technician Edwin Clarke, who Visser allegedly gave the proceeds of a stolen pension fund cheque made out for R368 000.

Visser claims in his amnesty application that Clarke — a frequent guest in the Derby-Lewis household — had wanted to use

part of the money to cover Derby-Lewis's legal costs. Visser said he had objected because he had opposed Hanu's murder as "we had information that Hanu was preparing to set up a breakaway party with Winnie Mandela".

Bizos questioned Derby-Lewis on Clarke's and Visser's role in the plot to kill Hanu, suggesting that Visser's amnesty application showed prior knowledge.

Derby-Lewis continued to deny the involvement of anyone besides himself and Walus in the plan to kill Hanu.

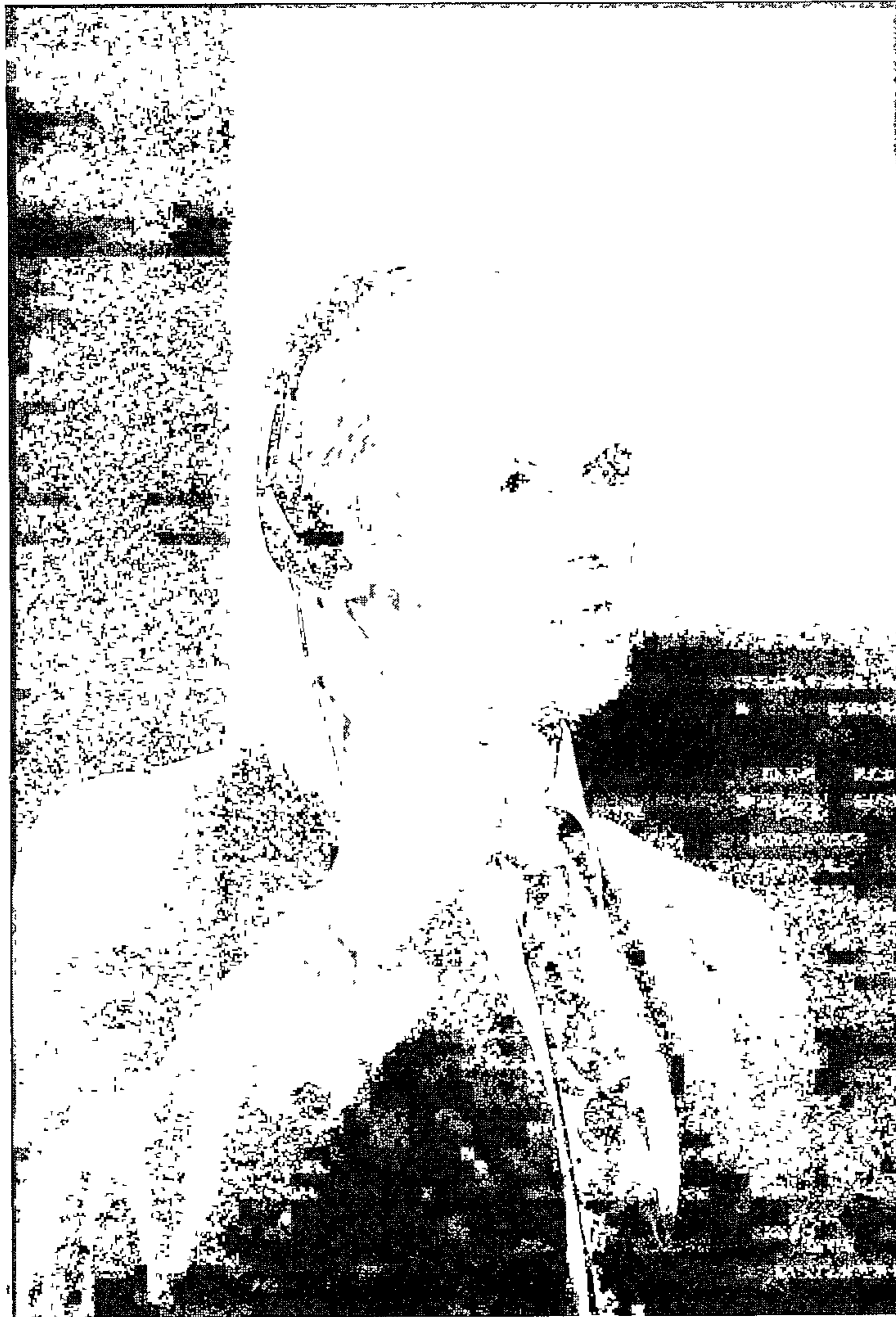
The Hanu family and the SACP would oppose amnesty on the grounds that Derby-Lewis had not made full disclosure, choosing to cover up for his wife Gaye and others who had supplied the weapon, researched the addresses of possible victims and otherwise been involved, Bizos said.

The assassination had not been politically motivated, but the result of "your sense of self-importance not justified by the facts". The murderers had not acted with the authority of a political party, liberation movement, or organ of state as required by the law governing the granting of amnesty.

Asked to respond, Derby-Lewis said: "That is so ridiculous I will not comment."

Bd 20/8/97

(252)



Disenchanted ... Janusz Walus says he felt cheated by reforms introduced by the National Party.

Hani gunman speaks out for the first time ⁽²⁵²⁾

Star 21/8/97 (252)

Walus says he was harassed constantly under communist regime in Poland

By ROBERT BRAND

Janusz Walus, the Polish immigrant who killed Chris Hani, told the Truth and Reconciliation Commission yesterday that he had felt cheated when the National Party government began abandoning apartheid in the mid-1980s

Speaking for the first time in public since being arrested and jailed in 1993 for the assassination, Walus described his life under communism in Poland and his increasing involvement in right-wing politics after he had made South Africa his home in 1981

Walus testified in Polish through an interpreter. In a clear, measured voice, he told the TRC's amnesty committee that Home Affairs Department officials processing his application for permanent residency had assured him the country would not depart from the policy of separate development

"All of this appeared less and less convincing. After the 1983 referendum it seemed to me the governing NP was moving to the Left

"P W Botha introduced policies completely different to those he had promised. I felt

cheated by P W Botha and the NP."

Walus is applying for amnesty for the assassination of Hani together with former Conservative Party MP Clive Derby-Lewis

They claim the murder was committed on behalf of the CP

Walus said he had met Derby-Lewis in 1985 and joined the CP soon after

He later also became a member of the Afrikaner Weerstandsbeweging after listening to a speech in English by AWB leader Eugene TerreBlanche.

Walus, a glass grinder by trade who worked for the family business distributing glass products, said he had left his native Poland because he did not want to live under a communist regime

"My late father's business was closed down six times for the sole reason that it was too prosperous

"I was constantly harassed while delivering goods"

Walus is expected to continue his testimony today, when he will be questioned on his role in the Hani assassination plot

Derby-Lewis completed his testimony yesterday after six days of questioning

All, but a mock trial

semetan 21/8/97

(252)

THE MOST CONTENTIOUS amnesty hearing by the Truth and Reconciliation Commission seems unlikely to yield any major new revelations

Instead, a week and a half into the application for amnesty by Chris Hani's assassins, Clive Derby-Lewis and Janusz Walus, the hearing has been characterised by intricate questioning and cross-examination about details mostly already known

It is quite unlike any other hearing, resembling more a court case bogged down in legalese than the emotional remorse often displayed at other hearings

Derby-Lewis dispelled speculation of African National Congress involvement in the conspiracy to kill the South African Communist Party chief, and this week was once again at pains to confine blame for the murder on himself and Polish immigrant Walus, the man who pulled the trigger

By the end of his cross-examination, Hani's family advocate George Bizos made it clear he intended to prove that the man who plotted the killing was a mere racist murderer who was not working under the authority or orders of a political organisation and was not telling the whole truth about the killing

On the surface it would appear to be a simple case as the two men have already been convicted for the murder

But intense cross-examination of Derby-Lewis has exposed numerous contradictions in his version of the killing and, as Bizos says, shows the man to "have a sense of self-importance which is not justified by the facts"

Besides, the cross-examination revealed factual discrepancies in two different amnesty applications

● Derby-Lewis often quoted extensively from media reports, but after an SABC news footage was shown with Hani saying four days before his death that he hoped negotiations would succeed and called for peace, he replied "He said that to his own people. He did not phone the Conservative Party and say that to its leaders"

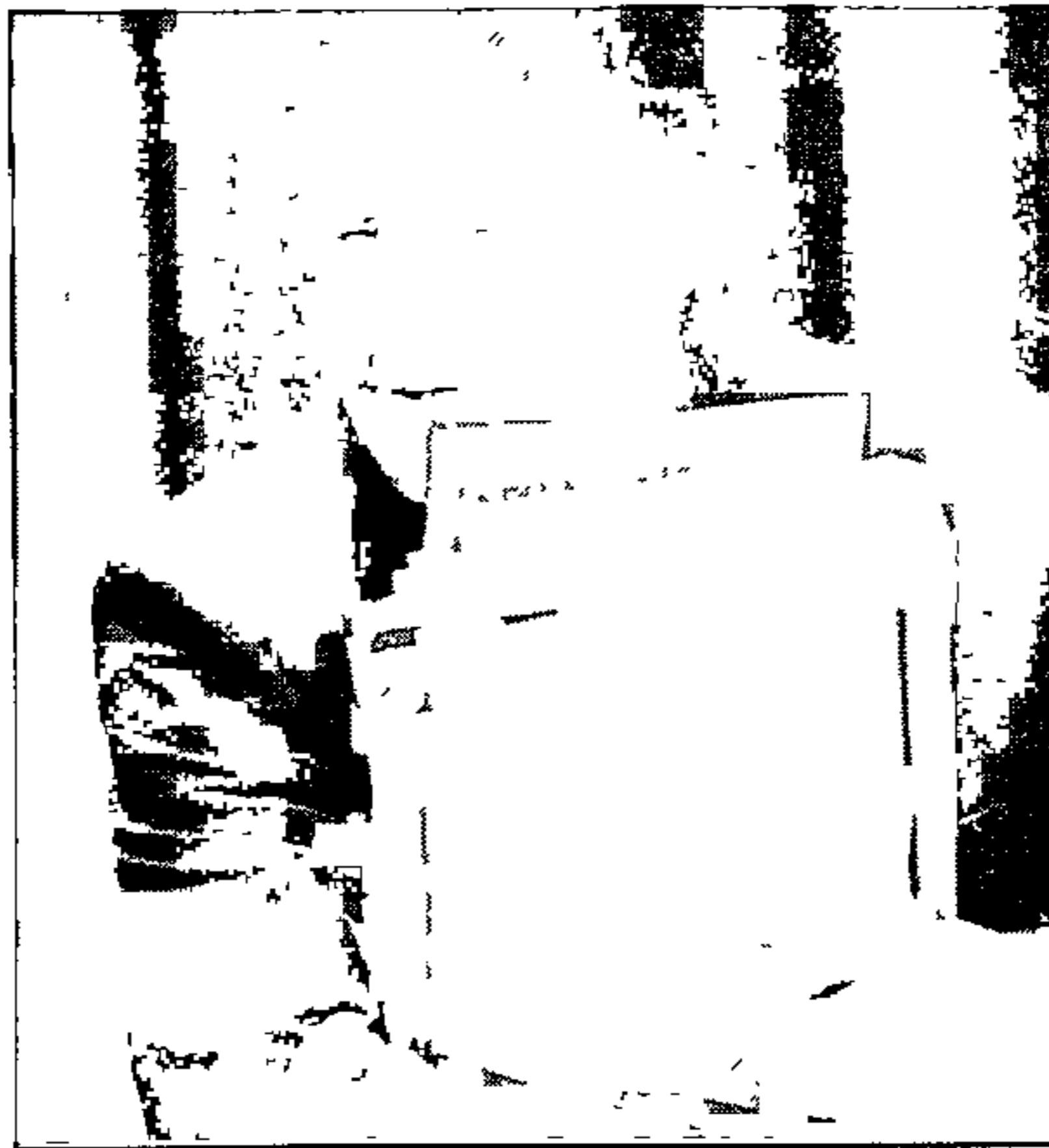
● Derby-Lewis admitted that no political organisation on the Right had told him that assassination was part of their policy

Bizos referred to Derby-Lewis's military training and suggested that to "an officer and a gentleman", assassination was "abhorrent", and quoted Eugene Terre'Blanche as describing Hani's murder as "not proper war, but an assassination"

● Derby-Lewis insists that he was acting on behalf of the CP, but admits that at no time were there discussions in the organisation about the adoption of violence as a strategy

Nor did any CP leader know about the assas-

The contentious amnesty hearing has resulted in much trumpet blowing by the principals. But nothing new has been revealed. **Sharon Chetty** explains...



Clive Derby-Lewis during the amnesty hearing in Pretoria on Tuesday.

PIC AFP

sination plan. Instead, then deputy leader Ferdie Hartzenberg had believed Derby-Lewis to be innocent and a victim of a plot of the former government led by the *verrader* (traitor) FW de Klerk

Bizos suggests that monetary support for the assassins' defence was only forthcoming because CP members believed them innocent and not because they supported the deed

When asked by Bizos if then leader Dr Andries Treurnicht had committed the CP to violence without speaking to anyone, Derby-Lewis said that it had been his perception that a violent "war" had already started, but admitted that no other leader had told him personally that CP policy had changed from non-violence to violence

Hartzenberg was quoted in the media as saying the CP does not kill people. References were also made to statements in Parliament by CP leaders condemning violence, and quoting Treurnicht as doing so too

● The assassin also claims that his Christian beliefs prompted him to kill Hani, the "anti-Christ", but he did not discuss the deed with members of his church, the Afrikaanse Protestantse Kerk (a conservative breakaway from the Dutch Reformed

Church), nor did he go to church on the Sunday after the murder

● Also, Derby-Lewis wanted to "wake up Afrikaners" and get them to mobilise for their freedom struggle, but he did not discuss the deed with any leader. Nor did he have any contact with any of the right-wing leaders in the week between the assassination and his arrest

● Referring to De Klerk as the rightwing's hated enemy, Bizos questioned why the former president was not the target for assassination "If you wanted to create a power vacuum, why not go for the man in power?"

Derby-Lewis replied "De Klerk had transferred power to the communists" Earlier, he said "No-one would have gone to any trouble to avenge De Klerk's death"

And while he wanted to cause chaos and mayhem, he wanted a minimum number of deaths

● When questioned repeatedly about a list of names of prominent politicians, Derby-Lewis insisted that it was only for propaganda purposes, but could not explain the need for numbers against the names or the need for security details of the homes in which some of the people lived

Nelson Mandela was first, followed by Joe Slovo and Hani, "in terms of their enmity to the CP"

Other names besides Hani's were on the list to cause "confusion", although he could not say why it was necessary to cause confusion if they had just one target

● Despite his complaint about his treatment at the hands of the police, at some stage Derby-Lewis wrote to a Colonel Roos to thank him for the good care they had received

● He was also questioned about the need for a gun with a silencer to practise at home with, when he already possessed another weapon and had been trained in the army

Derby-Lewis, who was quick to deny that he was an Englishman, and proudly declared his Scottish and German ancestry, said he had killed Hani "for God, my people and my country" and to save the Afrikaner nation

NP was moving left

- Waulus

Source: 21/8/1977

(252)

By Simon Zwane

THE voice of Polish immigrant Janusz Waulus, who shot and killed SA Communist Party leader Chris Hami in 1993, was heard in public for the first time in Pretoria yesterday when he gave evidence before the amnesty committee of the Truth and Reconciliation Commission.

Waulus's soft, almost squeaky voice, belied his stern features. His testimony was preceded by the singing of the now well-known ditty, "Waulus, leno o yencile avilunganga (Waulus, what you have done is not acceptable) by supporters of the Hami family.

Waulus and former Conservative Party leader Clive Derby-Lewis have applied for amnesty for Hami's killing.

Waulus told the committee that when he first came into the country in 1981, he did not get involved in politics but "after the 1983 referendum it became clear to me that the National Party was moving to the left".

Felt cheated

He said he had spoken to a number of people after the referendum who felt cheated by the NP and the then state president Mr PW Botha. He remained outside politics until he met Derby-Lewis in Pretoria in 1985 at a meeting addressed by author David Irving on World War II.

Derby-Lewis invited him to his house in Johannesburg where they had a discussion about the political situation in South Africa and Poland.

Derby-Lewis also invited him to join the CP and the Stallard Foundation, an organisation formed by Derby-Lewis to attract conservative English-speakers to the CP.

He said he was also invited to join the Afrikaner Weerstandsbeweging (AWB) by its leader Mr Eugene Terre-Blanche.

He had met Terre-Blanche at one of the Stallard Foundation meetings which he had

invited Terre-Blanche to address. Waulus also gave a brief history of the political and economic situation in Poland before he emigrated.

Waulus took the stand after Derby-Lewis had admitted to the committee that the CP had not ordered Hami's killing.

Derby-Lewis admitted under questioning by advocate Mokotedi Mpshe of the TRC that he did not discuss the assassination with the then CP leader Dr Andries Treurnicht with whom he had a close relationship.

He said, however, that he had consulted Treurnicht on the principle of killing an anti-Christ.

He told the committee he did not even discuss the plot with any of his colleagues in the upper echelons of the CP because he was obsessed with keeping it confidential - between himself and Waulus.

Derby-Lewis maintained that he was not a racist, although his attention was drawn to statements he had made in the past.

"To say African people are not as technologically advanced as Western people is not racist. It is a statement of fact," he said.

Mpshe produced a document wherein Derby-Lewis was quoted as having said he had spoken to at least 15 radical blacks and his practical experience was that few of them could repair a toilet.

In another statement he was quoted as having said "there are cultural differences between whites and blacks. Black people like to make babies." Derby-Lewis insisted that this statement was not racist, but fact.

In his application, Derby-Lewis said the objective of killing Hami was to plunge the country into chaos which would result in the take over of political power by the right wing. Yesterday, however, he said no prior planning had been made with Afrikaner leaders to step into the vacuum created by the chaos and seize power.

"This killing was in vain," committee member advocate Bernard Ngoepe observed.

Unchained melody



Scores of Krugersdorp prisoners participated yesterday in an anti-crime campaign that raised R2 499. It was donated to President Nelson Mandela's Children's Fund Performers at the bash included Chimora, who entertained the inmates, and made them think twice about breaking the law.

PIC MBUZENI ZULU

'I FELT CHEATED BY P W BOTHA'

Hani's killer breaks his silence in bid for amnesty

ET 21/8/97

PRETORIA: Janusz Walus says in his amnesty application that after P.W Botha introduced the tri-cameral parliament in 1983, it was his fear of a communist government coming to power in South Africa, which led him to assassinate Chris Hani.



THE man who shot dead SA Communist Party leader Mr Chris Hani outside his Boksburg home in 1993 broke his long silence yesterday when he spoke for the first time of the events which led to the murder.

Polish immigrant Janusz Walus, who is serving a term of life imprisonment for the murder, never testified at his trial.

Since the start of his amnesty hearing in the Pretoria city hall 10 days ago, Walus has listened to co-conspirator Clive Derby-Lewis attempt to explain the political motivation for Hani's murder.

Derby-Lewis' rambling testimony yesterday caused his wife Gaye to doze off and prompted ANC Women's League president Ms Winnie Madikizela-Mandela, who has been attending proceedings daily, to call him arrogant.

"There is no remorse. To have the nerve to sit here and say he doesn't have to apologise (for Hani's death)," Madikizela-Mandela said.

Finally, at 3.30pm, as Derby-Lewis wrapped up his testimony, Walus, 44, took the stand, while Hani's widow Limpho and children watched silently from the front row of the hall.

Speaking through an interpreter in a clear, measured voice, Walus told of the hardships he suffered under communist rule in Poland. In particular, the food rationing, indoctrination and harassment he experienced.

"The police had unlimited powers; there was a total collapse of the economy due to corruption, lack of competition and the open stripping of the

country's minerals by the Soviet Union. "The overtaxed private sector was constantly harassed by the receiver of revenue and police. My late father had to start from scratch at least six times after his business was closed down (because) it was so prosperous."



BROKE SILENCE: Janusz Walus

In his amnesty application, Walus says it was his fear of a communist government coming to power in South Africa that led him to kill Hani.

"The applicant tried to halt this coming to power and thus to influence the course of South Africa's political direction," the application reads.

The glasscutter told of his immigration to South Africa in 1981 and his move into right-wing politics after the

1983 referendum, when former state president Mr P.W Botha introduced "policies completely different to those he had promised".

"I felt cheated by P.W Botha and the NP," he told the amnesty committee chaired by Mr Justice Hassen Mall.

"After the 1983 referendum (when whites voted on the introduction of a tri-cameral parliament), it was clear to me that the NP government was moving to the left," he said.

When he had applied for his permanent residence permit, Department of Home Affairs officials had assured him that the changes introduced by Botha were cosmetic and would not alter the government's anti-communist stance or its separate development policy.

"All of this appeared less and less convincing," he said.

He first met Derby-Lewis in Pretoria at a right-wing gathering addressed by controversial British historian Mr David Irving.

Derby-Lewis invited him to his home, where he met Gaye Derby-Lewis, and introduced him to the Stalard Foundation, which produced a newsletter aimed at conservative English-speaking South Africans.

"After meeting Clive and Gaye I gave whatever free time I had towards the promotion of the CP and the Stalard Foundation."

He also met Afrikaner Weerstandsbeweging leader Mr Eugene Terre-Blanche, who encouraged him to join the organisation.

After testifying for less than 30 minutes, proceedings were adjourned until today. SACP supporters left the hall chanting "Walus, what you have done is not right, it is wrong", and waved placards which read "Janusz Walus rot in jail. You are a cold-blooded murderer" — Sapa.

(252)

F1



OBED ZILWA

Flap over fez: Ismail Davids in a Mitchell's Plain court where he and two other Muslim men were told by a magistrate to remove their traditional headgear

Magistrate brings fez row to a head

ASHLEY SMITH
STAFF REPORTER
ARG 21/8/97
(252)

A row has erupted between a Mitchell's Plain magistrate and three Muslim men who were asked to remove their fezzes in court.

Ismail Davids, Hadji-Moegsien Samie and a third man say they were "humiliated" and furious when magistrate Judy van Schalkwyk asked them to remove "that thing" from their heads as they were not "in a mosque"

The incident happened last week when the men went to sit in on a case which was of academic interest to them

When they entered the court Ms Van Schalkwyk asked them to remove their fezzes - traditional headgear for men who practise Islam

Mr Samie said he would not rest until Ms Van Schalkwyk's behaviour was "addressed"

When he was asked to remove his fez, he stood up and told the magistrate he would not do so

"I hammered the magistrate but later decided to take off my fez as I wanted the case to continue," he said

"After the incident I went straight to the office of the chief magistrate, Peter Festus, as I felt terrible. I also went to the charge

office to lay a complaint for my dignity's sake"

Mr Samie said he would meet Mr Festus to talk about the matter

Mr Davids told Ms Van Schalkwyk that the constitution allowed for cultural and religious freedom. However, his protests fell on deaf ears and he was asked to remove his fez or leave the court

"On a matter of principle I decided to leave," he said

Ms Van Schalkwyk declined to comment, saying all queries had to go through Mr Festus

Mr Festus was not available for comment at the time of going to press

'Anarchy'

looms in

our courts

ARG 21/8/97 (252)

Alarm at bail plan

LINDSAY BARNES
CRIME DESK

The Western Cape's "chaotic" regional courts will be plunged deeper into crisis by new legislation requiring the higher courts to hear bail applications in cases of serious crime, senior magistrates are warning

The courts will be unable to dispense justice and the country may slide into anarchy if regional magistrates' already unreasonable workload is increased, says the Association of Regional Magistrates of South Africa

The requirement that regional and high courts hear applications for bail by people accused of serious crime is contained in the draft Criminal Procedure Amendment Bill expected to be passed by Parliament this year

A new code in the bill severely restricts bail for suspects in cases of violent crimes such as murder, aggravated rape and car hijacking

The Western Cape's 24 regional courts would be particularly hard hit if the legislation went through, as they had a backlog of 5 000 cases that they were unable to clear, said Awie Kotze, a Wynberg regional magistrate and Western Cape chairman of the association

The proposed legislation would have drastic consequences for the public

In the past five years the province's regional courts had degenerated from an efficient service into a chaotic one, in which overworked regional magistrates were expected to deal with an unreasonable number of cases

Cases heard in Wynberg Regional Court might take more than a year to be finalised. If they were postponed, the earliest date

available was three and a half months later. "When people are in custody, it is just bad luck," he said

Witnesses - and in some cases complainants - battled to recall details and lost interest, and cases floundered

A few years ago it was possible for a case to come to court and be finalised the same day. "Now the matter is heard piecemeal. Cases sometimes run for more than a year," said Mr Kotze

Unless the Government improved salaries and filled the many vacant posts in regional courts, the Western Cape was doomed

"Unless they do something drastic very soon, we might find ourselves in the situation where crime does pay in this country. We will sink into more chaos and - dare I say it - anarchy"



ROY WIGLEY

Snowed under: prosecutor Thinus Groenewald

Attempt to extend life of amnesty committee

Stephen Laufer

THE truth commission will today discuss proposals to government for the extension of the life of the amnesty committee by up to nine months to enable it to deal with at least 1 600 applications still to be heard in public.

The committee's life is due to end with the rest of the commission on December 15. But commissioner Denzil Potgieter said yesterday there was a "general acceptance that we will not be able to get through the cases and will have to call for an extension."

The number of hearings is expected to grow further when legislation extending the amnesty cutoff date to May 10 1994 is promulgated.

The commission has been advised to reopen applications for a month once the new date becomes law to allow submissions by perpetrators who committed acts in the period between the old and new deadlines.

Amnesty committee executive secretary Martin Coetzee said 2 400 amnesty applications had already been turned down, many because the acts for which pardon was requested had been committed after the old cutoff date. "We expect a significant number to be resubmitted."

Only 78 cases heard publicly had been decided so far, with 50 applicants granted and 28 denied amnesty. A further 67 cases had been decided in chambers.

Among important applicants still to

be heard are convicted Vlakplaas commander Eugene de Kock, Eastern Cape security policemen responsible for the death of Steve Biko, the Pebco Three, and other activists, and Umkhonto we Sizwe's special operations operatives. Each is expected to take several days, if not weeks.

The number of panels able to hear applications would be doubled to two in September. Up to four panels would be operative once another five committee members had been appointed.

Working on the assumption that each panel could hear an average of three applications a day, the current number to be heard in public required at least another 27 working weeks. The committee must also adjudicate thousands of other applications for which a public hearing is not required.

The committee would try to get all of the applications which could be dealt with in chambers completed by the end of December. Panels could then concentrate exclusively on public hearings in the new year.

Potgieter said the continuation of the hearings into 1998 would not hold up the commission's report to President Nelson Mandela, due in March. The section on amnesty could be submitted separately.

Jacob Dlamini reports that Parliament's constitutional affairs committee yesterday approved draft legislation extending the amnesty cutoff date to May 10 1994. The date was agreed to by Mandela late last year.

(262)

BD 21/8/97

Harsh sentences 'do not lower crime rate'

Wyndham Hartley

BD21/8/97 (252)

CAPE TOWN — Mandatory, heavy sentences for serious crimes being contemplated by government would not help to lower the crime rate, the chairman of the National Council on Correctional Services, Judge Gerald Kumleben, said yesterday.

Kumleben, in a presentation to the National Assembly's correctional services committee, said the belief that harsh sentences would bring down the crime rate was "largely an illusion unsupported by empirical evidence or history"

He said that harsh punishments, unless they were like the public amputation of the hands of thieves, did not work because criminals committed crimes in the belief that they would not be caught. He argued that, as in the case of car theft in the Western Cape, where only 10% of offenders were apprehended, the issue was detection and conviction and not the sentences handed down by the bench.

Kumleben said the minimum sentences as contemplated in the Criminal Law Amendment Bill, at present before Parliament, embodied the popular but erroneous belief that harsh sentences halted crime.

The legislation at present before the justice committee commits the judiciary to impose 15-year sentences for first offences for serious crimes, followed by 20- and 25-year sentences for subsequent offences and allows judges discretion in imposing lesser sentences only if they offered their reasons in writing

He also argued against life sentences that mean remaining in prison until death. While this would probably not pass muster with the constitution, Kumleben said that it removed any incentive for prisoners to behave themselves and not commit further murders. It would also involve the creation of geriatric prison units for holding prisoners who were of advanced years. The cost of this did not make sense.

The judge said there was a general misconception among the public that "lifers" did not spend that much time in prison. He pointed out that only under special circumstances did they achieve parole before they had served 20 years in prison. Last year of 19 cases referred to the council for consideration, only seven were recommended for early parole. This year the figures so far were two from seven applications.

Walus uses a POLISH interpreter for amnesty

Stephen Laufer

DD 21/8/97

(252)

JANUSZ Walus's testimony to the truth commission — his first words in public since he killed SA Communist Party leader Chris Hani in April 1993 — almost went astray yesterday as he, his lawyers, and a Polish interpreter struggled with electronic translating equipment

As Walus swore an oath to "tell the truth, rapidly repeating the word "pravda" (truth) several times, all that could be heard from the translator was "I cannot hear, I cannot hear" in a thick Polish accent.

Reuter reports that Walusz said he sought a new home in SA 16 years ago when white rule seemed indestructible.

"I emigrated to SA mainly because I wanted to run away from the communist system in Poland at the time."

Walus said he had joined the Conservative Party after meeting Derby-Lewis, about four years after his arrival in SA because the then ruling National Party seemed to be moving left.

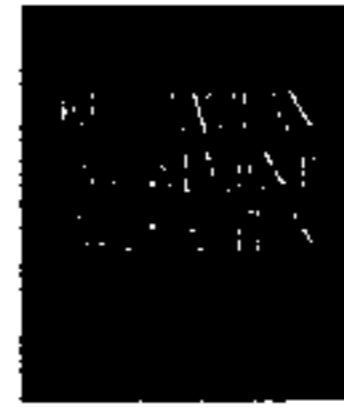
Walus will resume his testimony today to try to convince the commission he had a political motive, has confessed in full and deserves amnesty.

Derby-Lewis earlier gave evidence that they had discussed their plot to kill Hani in English.

Walus's testimony came at the end of a day during which Derby-Lewis denied he was a racist despite a statement that "African people are not as technologically advanced as Western people. It is a fact, we just have to look around us to see that."

Challenged by committee evidence leader advocate Mokotedi Mpshe, Derby-Lewis stood by his statement that "blacks like to make babies". He said he "would like to have more babies myself — there is nothing racist in saying that".

Mpshe said he would argue Derby-Lewis was a racist. The amnesty committee has rejected applications where race hatred was the motivation because it is not recognised by the governing act.



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The acquisition which is consiste network, doubles its total student b for further expansion into the Afric

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The acquisition will not have a m expected to contribute significantly

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Legal loophole leaves gap for late amnesty bids

By DAISY JONES

A legal loophole means that perpetrators of human-rights abuses, who still want to apply for amnesty for offences committed between December 6 1993 and May 11 1994, may be offered a period of 30 days to do so.

The deadline for amnesty applications was extended after President Nelson Mandela announced in December that the Truth and Reconciliation Commission's mandate period would be extended from December 6 1993 to May 11 1994.

The TRC's national legal officer, Hanif Vally, told The Star

262
yesterday that, according to the law, people must know what their official legal position is before they can be expected to act

Vally said the draft legislation allowing for the extension

30 days' grace may be given

of the TRC's mandate was unanimously approved by Parliament's constitutional affairs portfolio committee on

Wednesday.

But the Constitution of the Republic of South Africa Amendment Bill still had to be debated and voted on by the National Assembly on August 27, Vally said.

Before the amendment became law it would have to be signed by Mandela, and the details of the amendment would have to be published in the Government Gazette

Vally said applicants should be allowed 30 days from the publication of the bill in which to submit their applications.

He said the commission did not expect a flood of applica-

tions after the probable passing of the bill. He also did not expect any problems arising from the 30 days' grace period likely to be granted to the late applicants.

Vally said he thought those who would benefit would be perpetrators who had had "a change of heart".

For the TRC, the most significant effect of passing the bill would be to legally validate all the applications received between December 14 last year - the original deadline for amnesty applications - and May 10 this year; the second deadline set

Former CCB operator 'Slang' van Zyl keeps mum at TRC

Cape Town - Former Civil Co-operation Bureau member Abram "Slang" van Zyl is refusing to testify to the Truth and Reconciliation Commission about the organisation's overseas operations and foreign agents.

This emerged at yesterday's "Section 29" inquiry at the commission's Cape Town offices,

where Van Zyl has been subpoenaed to answer questions about the CCB, a unit of the former SA Defence Force's military intelligence.

Van Zyl and his former boss, Joe Verster, who was subpoenaed to testify earlier this week, were implicated in the 1989 assassination of Swapo lawyer Anton Lubowski by the Namib-

ian judge who headed the inquest inquiry.

Van Zyl posed freely for photographs during a break in the proceedings.

"This is just to show you there's full co-operation and that we're very relaxed," he said.

But the man who admitted before the Harms Commission

that he was involved in the 1989 bombing of the Early Learning Centre in Athlone, the attempted murder of Gavin Evans, the attempted murder of then ANC lawyer Dullah Omar, and the planting of an ape foetus at the residence of former Anglican archbishop Desmond Tutu, was apparently not co-operating with the TRC.

der one, Joe Slovo himself, the and Hani number three explanation for the list of names and addresses found in his possession after the assassination Derby-Lewis claimed the list had been drawn up by his wife Gaye in the course of journalistic research, and was not used in the planning of the murder. Walus, however, described how Derby-Lewis had handed him the list and instructed him

tion four days before the assassination murder at a meeting on April 6, had discussed a date for the Walus, however, said they weekend. nated Hani during the Easter surprise when Walus assassi- explanation for the list of names and addresses found in his possession after the assassination Derby-Lewis claimed the list had been drawn up by his wife Gaye in the course of journalistic research, and was not used in the planning of the murder. Walus, however, described how Derby-Lewis had handed him the list and instructed him

In Poland, he said, the Easter. "It was mentioned it would not be a bad time to do it before

and then twice

behind his ear

(252) Star 22/8/97

On April 10 1993 I planned to go to Johannesburg to the Stan Schmidt sports centre where I was training.

After that I planned to reconnoitre the house of Mr Hani I went to the sports centre but the instructor told me there was no training that day

I left the centre and went to the Gun Exchange shop in Coxlett Drive where I bought 25 rounds of ammunition of Czech origin, 9mm Parabellum, I loaded the Z88 pistol

Then I went to Dawn Park, planning to do the last reconnaissance before the final moment

Next to Mr Hani's house I noticed a Toyota Corolla. I saw a man similar to Mr Hani going from the house and getting into the Toyota

I followed the Toyota to the Dawn Park shopping centre I watched the man get out of the car, and recognised him as Mr Hani for sure

He entered the supermarket and was back after a few minutes with a newspaper

At that moment I decided that this was the best chance to execute my task, and that this chance may never be repeated. I decided not to do it at the shopping centre because there were lots of people

I waited for Mr Hani to get into his car When I was sure he was going in the direction of his house, I chose another way



Chris Hani ... turned around when his name was called.



Janusz Walus ... hoped police would not find his pistol.

I was in the street of Mr Hani's house before him Mr Hani got out of his car

I put the Z88 pistol into my trousers behind my back I didn't want to shoot him in the back

► More reports and pictures

I called 'Mr Hani' and when he turned around I shot him the first time in the body His body turned and as he fell down, I shot a second shot into his head

When he had fallen on the ground I shot two times behind his ear, then I got into my car and I moved away, trying to do it quickly without being noticed

On the way to Boksburg a white Nissan Sentra with three policemen passed me at quite a speed.

I understood this as a sign that I was safe. But when I entered Boksburg, the policemen had been blocked by traffic and the white Nissan came next to me

One of the policemen showed me to turn off to the side of the road

I was thinking that nothing will happen, they just want to talk to me.

I didn't want to show any nervousness

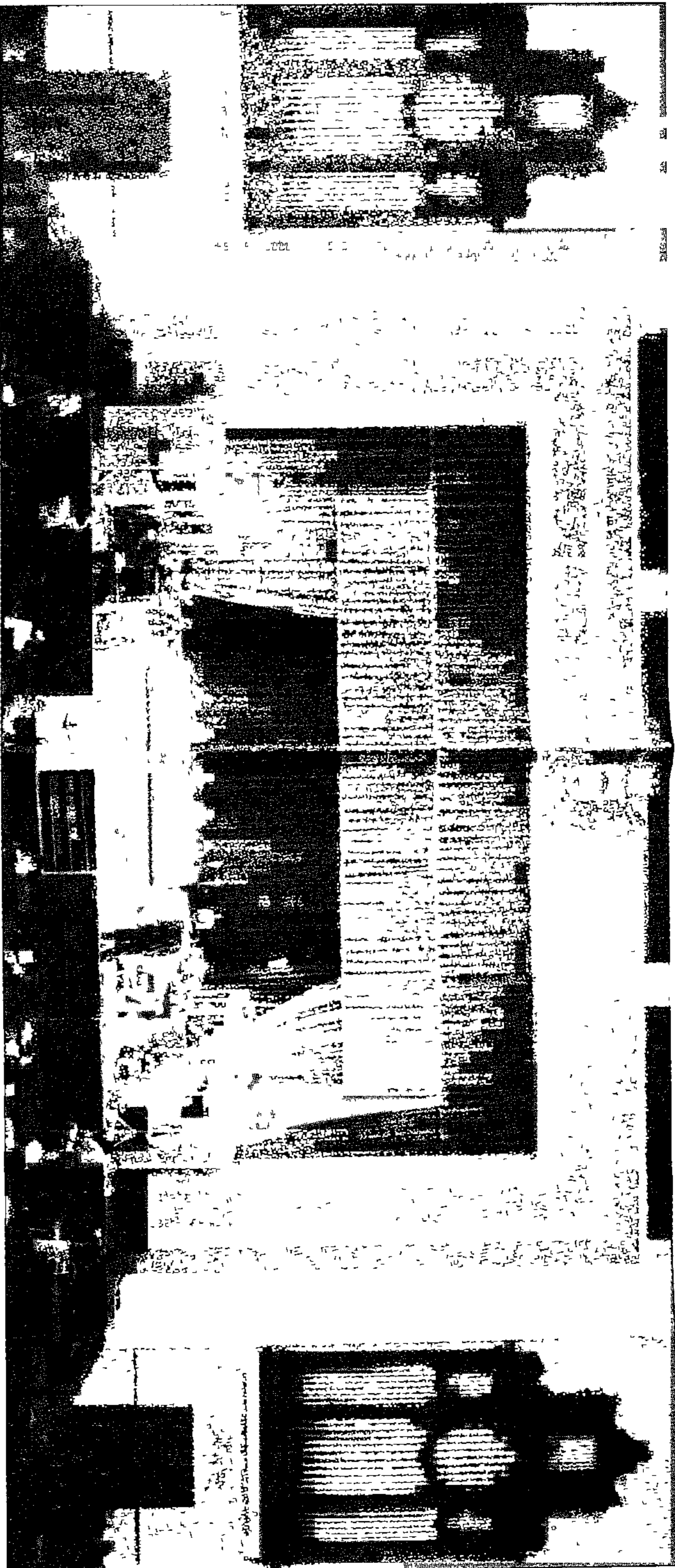
One of the policemen asked me if I had a firearm I showed them my registered CZ 9mm pistol.

The policeman opened the gun and smelled the chamber and at that moment I knew that my time was counted

I was still hoping that they would not find the Z88 in their search but they found it in my sports bag where I had put it after shooting Mr Hani.

I was arrested





Theatre of nightmares . the Pretoria City Hall, where the amnesty applications for the Hanu assassination are being debated, looks for all the world like a playhouse theatre.

Hanu killers: case for and against amnesty

Derby-Lewis and Walus must satisfy the TRC that they are telling the whole truth and that the shooting of South African Communist Party leader was a political act

By ROBERT BRAND

The amnesty application by Clive Derby-Lewis and Janusz Walus for the murder of Chris Hanu is far from over, but when Derby-Lewis concluded his testimony this week a picture had already emerged of their case for amnesty and the case against

To receive amnesty, an applicant has to convince the Truth and Reconciliation Commission's amnesty committee of four things, that he is telling the full truth; that he did not act out of malice or for personal gain, that he falls within one of the criteria

whether it was directed at a political opponent

Whether it was committed on the order of, on behalf of or with the approval of the political organisation of which the applicant was a member

Whether the act was in proportion to the objective it sought to achieve

Derby-Lewis and Walus were both members of the CP and they claim they were acting in support of it when they murdered Hanu. There is no evidence that either received material reward, and Derby-Lewis said that he had "nothing personal" against his victim

Crucial to their application

now lying about his wife's involvement. He also suggested that Derby-Lewis may be covering up the involvement of several other people, including the person from whom he had obtained the murder weapon

His reason for obtaining an unlicensed pistol with a silencer

Derby-Lewis said when he obtained the gun from a rightwing contact in March, 1993, he was not yet planning to murder Hanu.

He said he wanted the pistol for self-defence purposes and needed the silencer so that he could practice in his back yard without disturbing his neighbours.

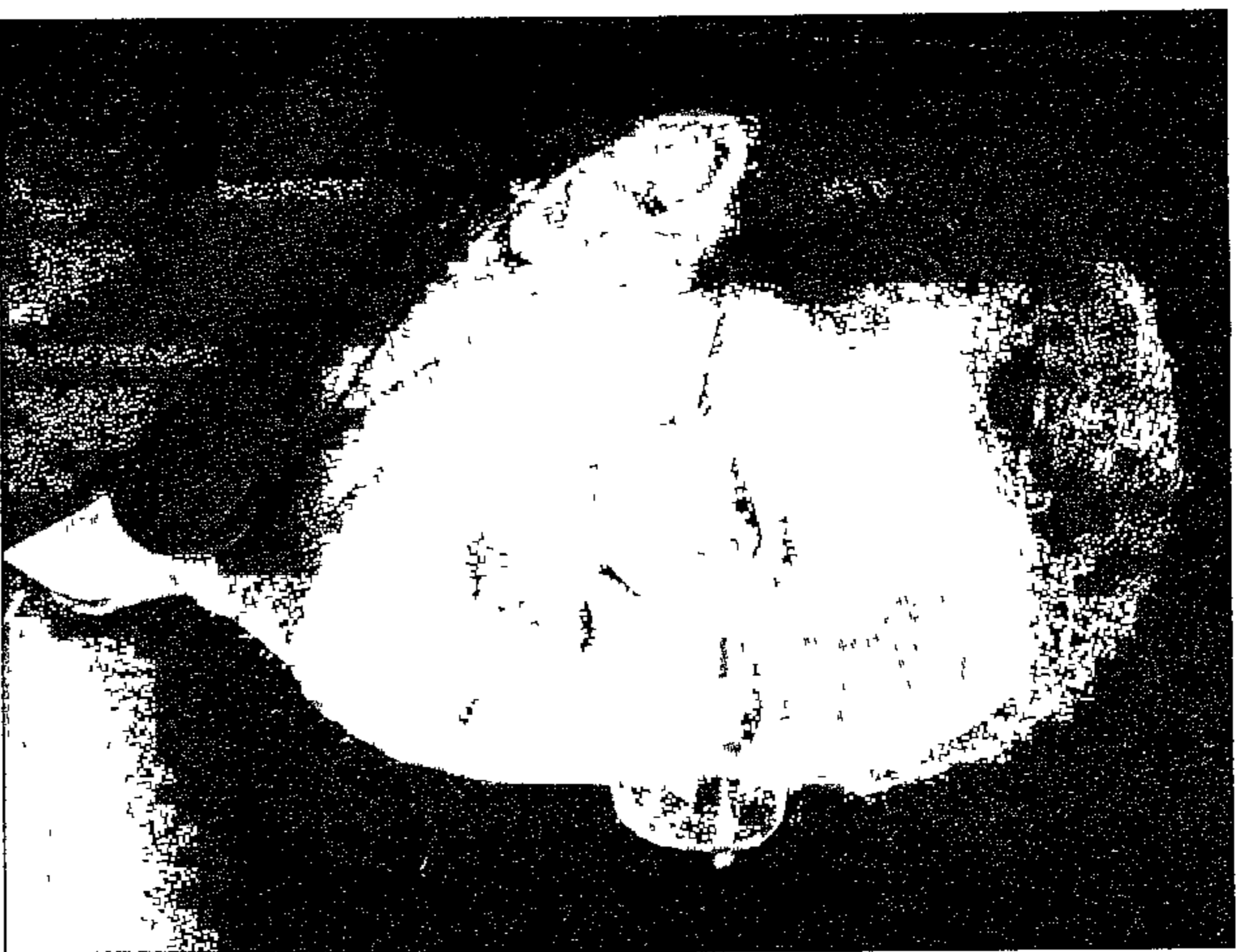
plunge the country into chaos" and create the conditions for a rightwing coup. The political objective, he argued, was to prevent the coming to power of a black, communist government and so advance the probability of an exclusive state in which Afrikaners could exercise self-determination.

And he claimed the CP, although it did not order the attack, approved of it and created the "war situation" in which it took place.

To back up his claims, he presented a mountain of evidence ranging from reports in the CP mouthpiece Die Patriot, to quotations from speeches



Hit list... Walus says killing Mandela was not feasible.



Loners... Derby-Lewis says he and Walus acted alone.

Statements made under duress, say applicants

amnesty legislation

The first two conditions are self-explanatory, the others require some elucidation.

The amnesty legislation defines seven categories of people who may qualify for amnesty provided all the other conditions are met. One category, into which Derby-Lewis and Walus claim they fit is for "members or supporters of a publicly known political organisation" who were acting "on behalf of or in support of" that organisation and in the furtherance of a political struggle waged by the organisation.

To adjudge whether a political act was committed with a political objective, the committee must consider six criteria:

- The motive of the person who committed the act.
- The context within which it was committed, in particular whether it was committed in the course of a political uprising or disturbance or in reaction to such an event.
- The seriousness of the act
- The objective of the act, and

have a political objective in terms of the six criteria set by the law.

George Bizos SC, who represents the Hani family and the SACR, this week outlined the grounds on which he aims to oppose amnesty. Derby-Lewis and Walus were concealing relevant facts from the committee, and their plot did not have a political objective as defined by the law.

Bizos cross-examined Derby-Lewis for three days, and while his probing questions revealed a number of contradictions in Derby-Lewis' testimony and statements he had made to police previously, it failed to produce any hard evidence of a conspiracy stretching beyond the two applicants and, perhaps, Derby-Lewis' wife Gaye.

But Bizos may have done enough to create serious doubt about the veracity of Derby-Lewis' story.

In particular Bizos will argue, Derby-Lewis had not told the truth about

- The role played by others in the assassination plot
- Derby-Lewis' claim that he and Walus planned the murder alone
- But in statements to police shortly after his arrest, he said his wife knew about the plot
- He now claims the statements were made under duress
- Bizos will argue the statements were made freely and they show that Derby-Lewis is

Amnesty applicants 'a law unto themselves'

By DASTY JONES

Amnesty has been denied to three former police-men who beat and killed ANC member Mborgeni Jama in KwaZulu Natal in February 1991 - after the ANC had been unbanned.

The Amnesty Committee of the Truth and Reconciliation Commission (TRC) said the murder had not been politically motivated.

The applicants were "quite clearly a law unto themselves" and "were clearly not acting under the instructions of their superiors".

The committee said the applicants told them Jama was perceived as a political enemy. But it would not accept that he had been killed because of his

Recording South Africa's untold history

Every Friday, The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission.

The feature, produced by our team of specialist reporters, will provide all the background, the news and the insights you need to understand the dramatic story of our unfolding.

ANC membership.

"The evidence leads us to the conclusion that Jama had been beaten up so badly that the applicants would never have been able to justify it to their superior," the committee said.

Former SAP riot unit constables in Pietermaritzburg, William Harrington and Frans Erasmus, and former special

constable, N Madlala, had monitored an ANC mass meeting hours before killing Jama.

Y et the applicants took no action against the organisers or speakers at the meeting. This must have been because they knew that the ANC was no longer a banned organisation and it was no

longer a criminal offence to be a member of that organisation."

The committee said Harrington and Erasmus had regarded it as "justifiable procedure to search, detain, interrogate and perhaps assault ANC people."

Harrington had admitted that after beating some ANC supporters he had dropped

them off in Inkatha areas and, on occasion, had thrown his captives into a river "without bothering to look back to see if they could get out of the water."

He had also admitted to confiscating between 100 and 150 guns from ANC supporters before selling them to Inkatha members.

the gun-selling, which Harrington said was "common practice" among members of the riot squad, was never reported to his superiors. He had used the money to buy alcohol and braai meat. Harrington has served five years of an 18-year jail term. Erasmus is serving 12 years, and Madlala was imprisoned for 15 years.

Wanted to plunge country into chaos

But Bizos produced telling evidence suggesting otherwise, most importantly a television interview with CP deputy leader Dr Ferdi Hartzenberg days after Derby-Lewis' arrest for the murder in which Hartzenberg categorically stated that the CP had never planned any act of violence and believed in a peaceful political solution for South Africa.

Bizos pointed out another flaw in Derby-Lewis' testimony: the murder did in fact spark mayhem and chaos, but Derby-Lewis, instead of seizing the moment and initiating a coup, sat tight until he was arrested a week later.

He did not attempt to contact rightwing leaders and did not tell anyone about his involvement, hardly the course of action one would expect from someone planning a coup.

Also, Bizos will argue, the assassination of Hani fails the proportionality test and the motive for the crime had been hatred and racism, not politics.

For Hani family... Bizos quizzed Derby-Lewis for three days.



Ordeal... Hani's widow Limpho during the hearings.

TRC DIARY

For the next two weeks the amnesty committee will be sitting in Bloemfontein.

From August 25-29 they expect to hear 14 applications, related to four incidents. All the applicants claim to have been members of left-wing organisations at the time of the incidents.

The applications of Khululekani Mbatsha and Walter Smiles will be heard on Monday and Tuesday. The two men, who claim to have been Umkhonto weSizwe cadres in 1993, have applied for amnesty for killing Ezekiel Mokoena during a protest march. Mokoena died when a hand-grenade landed in the crowd of protesters.

Two other men are currently serving prison sentences for the murder of Mokoena. From September 1-5 the committee will hear

the amnesty applications of two former security policemen.

Mohoraeze Mofisani, a former sergeant in the security police, is applying for amnesty for twice setting fire to Winnie Mandela's house in Brandfort in the 1980s.

He is also applying for amnesty for the murder of a person in Botshabelo near Bloemfontein, attacks on the houses of members of liberation movements in Botshabelo and Mangau and the burning of a vehicle belonging to a liberation movement youth leader Mphithizel Ngo, a former Security Branch officer, is currently serving a 25-year jail term for murdering P D Venter in February, 1990. He was also convicted of robbery and the illegal possession of a gun and ammunition.

Ngo's application will be heard from Monday to Wednesday, and the committee will hear Mofisani's application on Thursday and Friday.

The hearings will take place at the Bloemfontein Education Centre.

Walus could not resist the chance to kill

seweta 22/8/97 (262)
Polish immigrant says he knew only a few of the people on infamous political hitlist

By Simon Zwane

POLISH IMMIGRANT Janusz Walus said yesterday that when he went to the home of Mr Chris Hanı in Boksburg it was to check out the address and not to kill him, but when he saw Hanı standing in the driveway he felt he could not let the opportunity pass and so shot him dead

"At that moment I decided this was the best occasion to execute my task. This occasion can never be repeated."

Speaking through an interpreter, Walus told the amnesty committee of the Truth and Reconciliation Commission in Pretoria that he had decided not to shoot the popular SA Communist Party leader at a shopping centre because there were too many people in the parking lot

He described how he followed Hanı back home and into his yard with an unlicensed Z88 pistol hidden on his back. "I saw Mr Hanı move away from the car. I did not want to shoot him in the back so I called out, 'Mr Hanı'. When he turned I took out the pistol. I shot him first in the body. When he fell I shot him in the head and twice behind his ears."

Walus contradicted evidence by his co-conspirator Clive Derby-Lewis. He said the unlicensed firearm used to kill Hanı was not ever supposed to be used for the protection of Derby-Lewis and his family

He said Derby-Lewis had instructed him to place numbers next to names of people on a hit list he found at the Derby-Lewis house. Derby-Lewis had told the committee the list had been numbered by Walus on his own

But Walus said he did not know any of the people on the list except Nelson Mandela, Chris Hanı, Pık Botha and Judge Richard Goldstone. Mandela was number one on the list followed by Joe Slovo, Hanı, Mac Maharaj, Botha, journalists Karen Brynard, Tim du Plessis and Ken Owen, and Judge Goldstone

Derby-Lewis had also testified that he had obtained the unregistered firearm after rumours that legal firearms would be confiscated after the change of government. He fitted it with a silencer to allow himself "to practise with it at home without disturbing the neighbours and also to supply me with some element of surprise in the event of an attack"

(252) *sewetam*
22/8/99

Now, 'the main event'

WHEN SOMEONE muttered "This is the main event", almost with glee, he echoed the sentiments of most of the people at the Pretoria City Hall on Wednesday afternoon

There was much anticipation – much like the mood at a major sports event – when Chris Hani's killer Janusz Walus finally started his testimony in support of his amnesty application before the Truth and Reconciliation Commission

Walus was met by a boisterous crowd which clearly was relieved that the spotlight was going to fall on him

During a brief adjournment while his lawyer discussed procedure with officials, an eager group of South African Communist Party and African National Congress supporters toy-toyed, sang freedom songs and waved placards declaring "Janusz rot in jail" and "No, no amnesty"

After a week and a half of sitting through the tedious testimony of Walus' co-conspirator Clive Derby-Lewis, the audience was keen to hear from the killer himself

Most of the time the Polish immigrant displayed little emotion. He sat staring into space, sometimes looking as if he was day-dreaming but mostly with a blank expression on his face

His body language was that of an outsider always sitting at the edge of the row, awkward in ill-fitting suits

In a clear, even voice Walus took the oath in Polish and declared through an interpreter "Everything I say here will be the truth" He began his testimony by complaining about the hardships of life in communist Poland, where he was born

There had been food rations, petrol shortages and compulsory voting. His late father's business had been closed down six times "because it was too prosperous"

Distortion of history

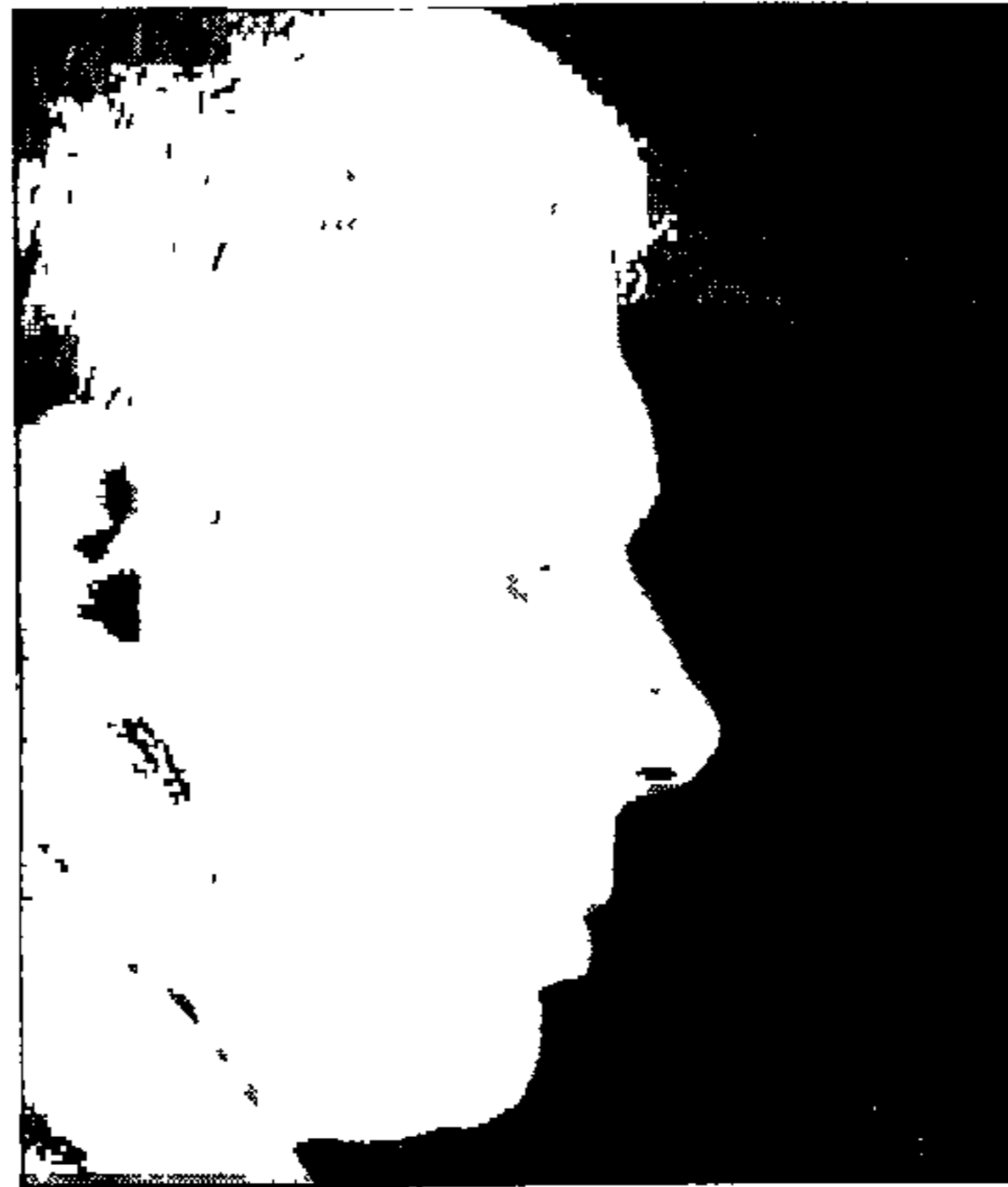
Ironically, some of Walus' complaints about Poland could just as easily have been echoed by black South Africans about the former National Party government here

There was distortion of history, the youth were indoctrinated, the police had practically unlimited powers with the right to hold anyone for 48 hours, passports were difficult to obtain (his took two years), and martial law delayed his wife and daughter joining him here

In 1981 he immigrated to South Africa and after just two years in the country, he decided that the NP was moving to the left

Apparently the crunch came after the 1983 white referendum which decided that Indians and coloureds should join the tricameral par-

Walus revealed that he thought Mandela was not worth killing. He claims that he killed Hani to prevent a communist takeover, **Sharon Chetty** writes ...



Janusz Walus ... he finally gave testimony on Wednesday in support of his amnesty application.

PIC ANTONIO MUCHAVHE

liament. He, like the many people he had discussions with, felt "cheated" by then president PW Botha

Nevertheless, he was reassured by department of home affairs officials that the changes were just cosmetic and that anti-communism and separate development would always be fundamental to the NP

"All this appeared less and less convincing" by the time he met Derby-Lewis in 1985, (the year the first of a series of states of emergency was declared), at the launch of a book by the controversial right-wing British historian David Irving

Walus then became active in both the Conservative Party and the Stallard Foundation, an organisation set up to introduce conservative English-speaking people to each other, and which published a right-wing propaganda newsletter

He also donated money to the foundation

After meeting Afrikaner Weerstandsbeweging (AWB) leader Eugene Terre'Blanche at a meeting of English-speaking conservatives, he was invited to join that organisation and did so with Derby-Lewis' blessing as he hoped it "would lead to more solidarity among conservatives"

Walus distanced himself from the AWB after the scandal over the alleged affair between Terre'Blanche and journalist Jani Allen

Walus' main defence for Hani's murder is that he feared a "communist takeover" as he had suffered under that system

In his amnesty application, the 44-year-old glasscutter says he went to Hani's home in Dawn Park, Boksburg, to check out the area but realised that he had a good opportunity when he saw no bodyguards around

"I looked in the mirror and saw him (Hani) coming out of the house to the Toyota (parked in the front driveway)"

Walus then followed Hani to a local shopping centre and returned to the ANC man's house before him. When Hani returned, he drove up behind him

He approached him and asked "Mr Hani?" to confirm he had the right man as he "was not known to me by face"

Hani smiled at his killer and said "Hi, there"

Without using a silencer, Walus shot at him. "He screamed and fell down. It was a scream of fear. I can't remember the fourth shot. He was lying down when I shot him in the head," he recounts in chilling detail

Although he "calmly" fled the scene, he was soon arrested

The right-winger was naturalised as a South African citizen in April 1987. He volunteered to do military service and was later granted a South African passport

Walus also admits that he did a "recce" (surveillance) of President Nelson Mandela's house in Houghton. "I thought the old goat was not worth it"

Murder weapon

Walus got the Z88 pistol – the murder weapon – from Derby-Lewis four days before the attack. It was part of an arms cache stolen from the military

At the time of the murder, he also had a CZ75 9mm pistol in a bag in the car. Walus owns four other licensed firearms, two 9mm Parabellums, a .38 Special revolver and a .45 Colt

He was refused a licence for a fifth weapon, a 9mm Star pistol bought for him by his brother

OMAR IN ZUMA'S FOOTSTEPS

Lawyers may also serve internship ⁽²⁵²⁾

A PROPOSED internship system could make the legal profession more accessible and representative, says a government adviser. **WILLEM STEENKAMP** reports.

FIRST the medical profession, now the legal. Plans are afoot for aspirant lawyers also to serve a year of "internship" on completing their studies.

Law students usually study at university for five years — some longer — and do up to two more years of articles, although some universities, from next year, will offer four-year LL.B courses.

Now Justice Minister Mr Dullah Omar has set up a task team to work out a plan for law graduates to complete another year of internship, possibly as prosecutors or legal aid representatives. It is to report back by the end of this year.

Health Minister Dr Nkosazana Zuma unleashed howls of outrage from the medical community, particularly students, when she announced plans earlier this year to force doctors to do two years of "community service" in rural areas.

The two-year period was later reduced to a year, and the Medical and Dental Supplementary Health Service Professions Amendment Bill — which will legislate the community service — is due to be discussed in the current Parliamentary session.

Zuma did not take kindly to critics of community service, saying "It is part of the patriotism President Nelson Mandela talks about. To me community service is something our young people should do with honour."

Intimating that she would have introduced it in other sectors if she could, Zuma added that community service should not be restricted to health workers.

And now it may not be, should the task team propose that law graduates complete a year of internship — an idea first mooted earlier this year in a memorandum to Omar from Constitutional Court president Mr Justice Arthur Chaskalson.

The major difference between Zuma's plan and Omar's intention, however, is that Zuma is trying to fill a gap in the health system, whereas the justice ministry also intends making it easier for law graduates to enter the profession.

A major headache for law graduates — particularly those from disadvantaged backgrounds — is securing a place in a law firm to serve their articles, which they must do to complete their train-

ing ^{CT 22/8/97}

Omar's special adviser, Mr Enver Daniels, said yesterday that it seemed most candidates could not get articles. The proposed internship system was a way of making the profession more accessible and representative, he said.

Already there is concern about whether such internship would wholly or partly replace the two years of articles — and whether all law graduates, many of whom never go on to become lawyers, would have to complete the internship regardless.

However, internship is only one of a number of possibilities being mooted for law graduates.

Professor Cheryl Loots, of Wits university and vice-president of the Society of University Teachers of Law, said in a letter to Omar last month that the society recommended that all graduates do a year of "approved training before being admitted to legal practice."

The society suggested that options could include practical training courses by universities or professional bodies, articles with an attorney, training at a bar, and prosecuting and community service as defined by Omar.

The Law Students' Council of UCT believes Omar's objectives are "sincere", but the key to success lies in consulting students.

'I DIDN'T WANT TO SHOOT HIM IN THE BACK'

Walus tells how he assassinated Hani

ET 22/8/94

(202)

PRETORIA: "I knew my time had been counted out," Hani's murderer Janusz Walus said yesterday of his reaction to being arrested minutes after the killing.

ONE of South Africa's most notorious assassins publicly told for the first time yesterday how he pumped four bullets at close range into communist leader Mr Chris Hani, hoping to prevent a negotiated end to apartheid.

Hani's widow, Limpho, and her daughter watched flinching from the audience at Pretoria City Hall as Polish immigrant Janusz Walus, seeking amnesty from the Truth Commission, revealed how he planned and carried out the 1993 assassination.

Walus, tall, blond and blue-eyed, told the commission he

had been a devout foot soldier doing the bidding of his co-plotter and now amnesty co-applicant, Conservative Party (CP) politician Clive Derby-Lewis, to please their masters on the far right.

Derby-Lewis selected Hani as the man to die, but Walus was the lone assassin, and Hani's supporters, who oppose amnesty, have waited four years to hear how his last moments passed.

Walus said Derby-Lewis gave him a list of enemies of the right wing — African National Congress leader Nelson Mandela was number one, leading white

communist Joe Slovo number two and Hani number three.

"Clive Derby-Lewis told me we would concentrate on eliminating number three and asked if, for the CP and the right wing, I would agree to take this task on me," he said.

"I expressed my readiness," Walus said he had staked out Hani's home in a middle-class suburb in Boksburg, cruising the area in his red Ford Laser car to check for bodyguards and security.

On the Saturday of the Easter weekend in April, he decided it was time to kill the man Derby-Lewis described as the Antichrist.

He bought some bullets and discreetly followed Hani's car on a morning trip to a nearby shopping centre but decided that was too crowded for him to strike. He followed him home again



KILLER: Janusz Walus

"When Mr Hani got out of the car I tucked my Z88 pistol into the back of my trouser belt. I got out from my car," the 44-year-old virulent anti-communist told the hushed hall.

"I saw Hani move away from

the car. I didn't want to shoot him in his back. I called 'Mr Hani'. When he was turning, I took out the pistol from the belt and shot the first time into Mr Hani's body."

His body twisted as he fell towards the ground. "I shot a second bullet into his head. When he fell on the ground I shot him twice behind his ear, then got into my car and moved away," Walus said. The last two shots were at point-blank range.

The murder took South Africa to the brink of an explosion, averted only by skilful politics and a presidential-style national plea for calm by Mandela.

It was far from the perfect crime. The silencer for the 9mm gun Derby-Lewis gave him was unusable, and Walus fled in his own car — whose number plate

Hani's horrified neighbour had noted. Police pulled him over a few minutes later.

"I knew my time had been counted out," said Walus.

He and Derby-Lewis, who testified before Walus, were sentenced to death, now commuted to life imprisonment. Neither spoke at their trial.

The Hani family lawyers hope to prove that the pair have not told the full story about others who may have been involved and are thus ineligible for amnesty.

"I have no knowledge about anybody else. I planned it all with Clive," Walus said, testifying in Polish.

He said he had been a member of the AWB and still believed in the justice of his anti-communist crusade. The hearing was adjourned until November 24. — Reuter

Slang's operations stay foreign for now

(252)

FORMER Civil Co-operation Bureau (CCB) operative, Abram "Slang" van Zyl, has appeared before an S29 closed-door inquiry at the Truth and Reconciliation Commission's Cape Town office

Unlike former CCB managing director Joe Verster — who

appeared for questioning on Monday and Tuesday — Van Zyl posed freely for photographs during a break yesterday

Sporting a navy blazer, blue shirt and slick moustache, Van Zyl smiled broadly and bantered with his attorney

His long-time lawyer, Mr Piet du Plessis, exuded the same geniality, joking with photographers about how his client wanted the photographs as "souvenirs"

"This is just to show you there's full co-operation and that we're very relaxed," said Du Plessis

But the man who admitted before the

Harms Commission that he was involved in the 1989 bombing of the Early Learning Centre in Athlone, the attempted murder of Mr Gavin Evans, the attempted murder of then ANC lawyer Mr Dullah Omar, and the planting of an ape foetus at the residence of Archbishop Desmond Tutu, was apparently not wholly co-operative

Like Verster, who was subpoenaed to appear at the inquiry, Van Zyl was not willing to answer questions about the CCB's foreign operations

Investigative unit head Mr Dumisa Ntsebeza said argument was being heard on the matter

In terms of the Promotion of National Unity and Reconciliation Act,

details of an S29 inquiry cannot be made public

Reports at the weekend indicated Van Zyl would also be questioned on the CCB's recruitment of local gangsters — Sapa



DEFYING QUESTIONERS:
Abram "Slang" van Zyl

CT 22 | 8 | 97

Walus contradicts the story told by fellow Hani-killer

AAL 22/8/97

ARGUS CORRESPONDENT

(252)

Pretoria – Blue-eyed assassin Janusz Walus described in chilling detail how he had shot Chris Hani in 1993 – and in the process contradicted the story told by his co-conspirator, Clive Derby-Lewis.

Testifying through an interpreter before the Truth and Reconciliation Commission's amnesty committee here yesterday, Walus' version of events differed in two important respects from the account given by Derby-Lewis earlier.

Derby-Lewis said earlier this week he had not decided on a date for the assassination because he wanted to give the matter further thought.

He was taken by surprise when Walus assassinated Hani during the Easter weekend. Walus, however, said they had discussed a date for the murder at a meeting on April 6, four days before the assassination.

"It was mentioned it would not be a bad time to do it before Easter."

Walus also had a different explanation for the list of names and addresses found in his possession after the assassination.

ACDP plan calls for death penalty

SD 22/8/97 (252)

CAPE TOWN — A seven-point anticrime plan which would bring back hanging, force prisoners to pay rent in jail and introduce the death penalty for lying witnesses in certain cases, was released by the African Christian Democratic Party (ACDP) yesterday.

Speaking at a news briefing at Parliament, ACDP leader Kenneth Meshoe said government was responsible for ensuring crime was eradicated, but so far nothing had been seen of its threatened tougher action against criminals.

His party believed the parole system should be scrapped and that court judgments and sentences should not be undermined by prison authorities who thought a prisoner had been rehabilitated.

Sentences should be harsher, criminals should be forced to pay restitution to their victims, and bail should be denied for crimes such as rape, armed robbery, car hijacking and first-degree murder. The ACDP welcomed Justice Minister Dullah Omar's proposed bail legislation which made this possible.

Prisoners should not have any comforts or special privileges — such as better medical treatment or food — than citizens outside jails. They should be forced to take part in work programmes to generate funds that would help reduce the cost to the taxpayer of maintaining prisons.

"Poor, law-abiding citizens are paying rent and, we argue, so must the prisoners," he said.

Capital punishment, which was favoured by more than 80% of South Africans, should be reintroduced. Opponents of hanging forgot that when capital punishment was applied, there were no problems with repeat offenders "because they were gone for good".

Testimony in capital cases should be corroborated by at least three witnesses. The law of God provided severe penalties for lying in trials, and a witness who gave false evidence in a capital case should also be punished by death.

Meshoe said his party was convinced that its strategy, based on Christian principles, would deal with the problem — Sapa

CCB man testifies ⁽²⁵²⁾ before closed inquiry ^{BD 22/8/97}

CAPE TOWN — Former Civil Co-operation Bureau (CCB) operative Abram "Slang" van Zyl, appeared before an S29 closed-door inquiry at the truth commission's office in Cape Town yesterday. In terms of the Promotion of National Unity and Reconciliation Act, details of an S29 inquiry cannot be made public.

Van Zyl posed for photographs and his lawyer, Piet du Plessis, said, "This is to show you there's full co-operation and that we're very relaxed."

However, Van Zyl, who admitted before the Harms commission that he was involved in the 1989 bombing of the Early Learning Centre in Athlone, the attempted murder of Gavin Evans, the attempted murder of then African National Congress lawyer Dullah Omar, and the planting of an

ape foetus at the residence of Archbishop Desmond Tutu, was apparently not co-operating in full with the truth commission.

Like former CCB MD Joe Verster, who was subpoenaed and appeared at the inquiry this week, Van Zyl was not willing to answer questions about CCB foreign operations. Investigative unit head Dumisa Ntsebeza confirmed that argument was being heard on the matter.

Reports at the weekend indicated that Van Zyl would, among other things, be questioned on the manner in which

the CCB recruited local gangsters to carry out its dirty work.

Van Zyl testified at the inquest of slain academic David Webster that the CCB had decided that Omar was an enemy of the state and should be killed — Sapa



Van Zyl at the hearing yesterday

Picture: AFRIKA

Differences emerge in Walus's testimony

BD 22/8/97

(252)

Stephen Laufer

PRETORIA — Subtle and potentially significant differences in the amnesty testimony of the two men convicted of murdering SA Communist Party (SACP) leader Chris Hani emerged yesterday as gunman Janusz Walus continued his verbal submission.

Key differences emerged on the numbered list found in his possession which included Hani's name as well as that of Nelson Mandela. Discrepancies also emerged on whether Walus and Derby-Lewis had decided a date for the assassination.

Walus said Derby-Lewis had said it would "not be bad to assassinate Hani before Easter", contradicting Derby-Lewis's testimony that he had wanted to think the timing over until after the holiday.

Derby-Lewis said he had been "shocked and surprised" by the Easter Saturday killing, while Walus explained he had committed the murder then because the holiday begins in the Polish calendar on Easter Sunday.

Walus said he and Derby-Lewis had numbered names on the list in order of enmity towards the Conservative Party (CP). Derby-Lewis had then told him they would concentrate on number three — Hani — for elimination, and he had accepted.

However, Derby-Lewis told the committee earlier the list had not been part of the assassination planning. He said it had been obtained from his wife Gaye, who had drawn it up for journalistic purposes, after the decision to kill Hani had been taken because Walus needed the SACP leader's address.

Walus said he believed the instructions from Derby-Lewis were issued on behalf of the CP, of which his co-applicant had been a cofounder and important leader. This could allow him to argue political motivation within the parameters of the act governing the truth commission, despite lawyers for the Hani family having shot holes in Derby-Lewis's claim to have acted on behalf of the party.

The hearing was adjourned until November 24.

The press fails the Constitutional Court

The press has not yet grasped the importance of the Constitutional Court in a democracy, argues Judge Albie Sachs, a member of the court



When Hugo, sitting in his cell in Westville jail, decided to bring an action against President Nelson Mandela to vindicate his constitutional right not to be discriminated against unfairly, he could hardly have realised that he would produce one of South Africa's most important cases on the question of the division of powers in the government, and one of its least reported.

Shortly after his inauguration, Mandela issued a decree in terms of which juvenile prisoners, disabled prisoners and prisoners who were mothers of children under twelve, could be entitled to early release, violent offenders being excluded.

Hugo pointed out that he was a single parent of a child under twelve, and claimed that simply because he was a father and not a mother he was being excluded from the amnesty.

Thus, he said, violated his right not to be discriminated against unfairly on the ground of his sex.

The first question which the Constitutional Court had to decide was whether or not it had the power to strike down an act by the president

on the constitutional significance of the decision, expressing approval or disapproval of the approach adopted by the court and commenting on its significance for the future of governmental conduct in the country.

A few days later a column by Anthony Lewis would have pointed out the enormous changes in the character of governmental power signalled by the decision. He would have compared the role of the president in a constitutional state to that of the President in the old society who exercised autocratic powers as the so-called supreme chief of the majority of the population.

He might have picked up the point that one of the main cases quoted in the judgment was that of *Sachs v Donges*, which dealt with the prerogative power of the executive to issue and withdraw passports, and have mentioned in passing that the Sachs in that case was the father of one of the judges in the present case.

If he had been in mischievous mood, he might also have observed that the judge in Transvaal provincial division who held that the presidential power could not be reviewed by the court, was later to resign from

(252) M+G 22-28 | 8 | 97



Faces of law: South Africa's Constitutional Court judges. PHOTO: HENNER FRANKENFELD/PICTURENET AFRICA

be filtered by public consciousness. There is a deep, underlying problem, namely, that none of us is used to living in a constitutional state. We

modes of court reporting are quite inadequate, the issues in our judgment are normally not related to fast-breaking news, there is no evidence

a technical one. What seems most to be missing in the editorial mind is an understanding that in a constitutional democracy, the judiciary is

powers of the presidential pardon. The issue was one of principle, with extensive implications for the relationship between the judiciary and the executive.

In many countries, courts have refused to review the exercise of such a power, saying that by its very nature it is an act of executive discretion which must take into account factors which lie beyond the purview of the judiciary.

What did our court decide? We came to the conclusion that the Presidential Act was reviewable. To summarise the judgment rather crudely, we decided that the nature of our new constitutional order was such that all persons in the government, from the highest to the lowest, were subject at all times to the Bill of Rights.

As Justice Richard Goldstone put it, giving the judgment of the court: "The Constitution obliges us to test impugned action by any organ of the state against the discipline of the Constitution and, in particular, the Bill of Rights. That is a fundamental incidence of the constitutional state."

Although the court would not lightly interfere with the president's discretion in a matter such as this, there was no barrier in principle to its doing so, and the court in fact went on to review the Presidential Act. Save for one judge who felt it was unnecessary to decide the matter, the court was unanimous on the point.

If a decision like this had been given by the United States Supreme Court, I have no doubt that on the very next day the *New York Times* would have been filled with stories dealing with its implications. There would have been an extensive report by Linda Greenhouse summarising the gist of the decision, spelling out its main implications and quoting key passages from the judgments.

Almost certainly there would have been an editorial commenting

sions his view that the Constitutional Court was too closely aligned to the government and too unwilling to subject governmental action to review.

After the delivery of any judgment with great potential public resonance, I look to the media hoping for lively and intelligent comment, and time and again I am disappointed. Hugo's case rated the most minimal reportage consistent with being noted at all.

The press carried either nothing, or else a few laconic paragraphs tucked away on inner pages giving the outcome. As far as I know, there was no mention at all on television. The wide implications for the relations between the executive and the judiciary were not picked by anybody.

Nor was there any discussion of the significance of the case for relations between men and women in the new South Africa.

Yet, constitutionalism is far too serious a subject to be left to the Constitutional Court judges and constitutional lawyers. The public needs to be involved.

In due course, law journal articles will comment on our decisions, usually with a delay of a year or two. What is being lost is the ongoing public debate.

As US Chief Justice Burger observed, "A court which is final and unreviewable needs more careful scrutiny than any other. Unreviewable power is the most likely to indulge itself and the least likely to engage in dispassionate self-analysis. In a country like ours, no public institution, or the people who operate it, can be above public debate."

The question is not whether our decisions are popular or unpopular, what is important is that they be understood and that they enter into and

about how to make a Constitution, and what should go into a Constitution — indeed, we might be world leaders in this respect.

We pioneered new methods of negotiations and new ways of resolving disputes. Our two-stage process of constitution-making, during which our court declared the Constitution to be unconstitutional, was unique, and has been greatly admired in various parts of the world.

We achieved a Bill of Rights that is widely acclaimed and many other features of our Constitution are held up as models for other countries.

Once more, it seems that South Africa are outstanding at doing the almost impossible, but not so good at doing the ordinary.

Constitutionalism is far too serious a subject to be left to the

Constitutional Court judges and lawyers ... The public needs to be involved

We seem to suffer from a fear of freedom, an unwillingness to explore the new spaces which we have opened up for ourselves. We remain baffled by the problems of living under the rule of law in a constitutional state. We are reluctant to slip out of the moulds of familiar political argument.

Yet, none of the issues which come before our court, and none of our decisions, can usefully be addressed by the kinds of debates in which political parties across the spectrum habitually engage, whether inside or outside Parliament.

Our judgments touch on questions of fundamental political morality and on balancing competing interests. The kind of reasoning we employ does not slot comfortably into the cut-and-thrust of ordinary political debate.

The decisions of our court do not slide neatly into the normal journalistic contexts. The ordinary

no sentences are passed on any of our damages made.

Yet the decisions have great potential impact, both directly on the lives of millions of people and in terms of impacting on the nature of public discussion about fundamental issues of government and personal freedom. I have reasons for hope.

The media coverage of the early phases of negotiations was, in my view, lamentable, but gradually it picked up. By the time the constitutional assembly was drafting a new Constitution, we had extensive and at times outstanding media coverage of the process. Some of the coverage of the commission has been brilliantly adoptive.

To this day, we benefit from the television programme *Future Imperfect*, which keeps the public involved in debates over fundamental constitutional questions. Surely we can take the leap from lively and absorbing discussions of hypothetical cases, to spirited and multifaceted debate over real decisions.

For a number of years we had brilliant weekly newspaper polemics from Ken Owen which, like them or loathe them, you had to read, and which, willy nilly, compelled you to think about fundamental issues.

I am convinced that South African journalists have it in them to provide an alive, critical and well-informed coverage of the decisions of our court so as to ensure that they enter into public consciousness in an appropriate way.

At the moment, the only cases which do get strong coverage are those where newsworthiness has been established either by the obvious poignancy of the situation (so-called fathers' rights), or where strong interest groups have clashed (Business South Africa versus Cosatu, different liquor interests). The main obstacle is not simply

parliamentary debates and comment on legislation as it is being passed, and just as there are many editors and reporters who closely follow the activities of the president and the government at all levels, so, in my view, should there be specialist journalists engaged in intelligent reporting and analysis of and commentary on the activities of our court.

I am told that every year two million people visit the US Supreme Court. When that court is in session, they have long queues to allow people in for five minute glimpses of the judges before moving on again. This is just to see the court in action. Obviously, the US Supreme Court has built up its reputation over two centuries.

What we are doing now in South Africa is to establish the Constitutional Court as an institution which plays a fundamental role in preserving our painfully won democracy and basic rights.

The significance of this institution will not be felt in the country at large if journalists covering its activities simply pick up a few quips made from the bench, and then go on to report the outcome of cases on the simplistic basis of who "won" or who "lost".

The fundamental thing is to get at the deeper principles involved and their meaning for national life. In this way the media will deepen public understanding of basic issues of life in the emerging South African society, find new and interesting controversies to engage the attention of readers and viewers, and to promote the democracy which is the foundation of a truly free press and lively media.

This is an edited extract of the Godlonton commemorative media lecture delivered by Sachs at the Pretoria Technikon on July 22

A tale of two legal teams

The Hani truth commission hearings have brought old ideological rivals face to face once again, reports **Charlene Smith** (252)

The harsh political trials of the old South Africa are familiar territory for the two legal teams in the Chris Hani amnesty hearing

The two advocates acting for Janusz Walus and Clive Derby Lewis at the Truth and Reconciliation Commission hearings, which continued in the Pretoria City Hall this week, have a long time link with Hani because of the many Umkhonto weSizwe (MK) cadres whom they prosecuted

An attorney who has worked opposite the pair — Louise van der Walt and Harry Prinsloo — recalls that in times past "Hani was public enemy number one in trials involving MK, and Van der Walt would be particularly vigorous in her prosecution of those who had come into contact with him"

The two lawyers are also a married couple Prinsloo, a former deputy attorney general, is quiet, plump and grey and constantly rifles through papers as his client, Derby Lewis, speaks

Van der Walt dresses in simple elegant blouses in bright hues, and long skirts She has dark, neat hair and an angular, sharp face She represents Walus and they sit side by side, expressionless or staring hard at their opponents

Sheila Nyanda, the wife of South African National Defence Force commander, Siphwe Nyanda, was abducted from Swaziland and had to face Van der Walt who prosecuted in a trial held in Bethal Van der Walt would arrive at the court wearing a firearm strapped to her hip, barely concealed under her jacket

A colleague says Van der Walt 'was particularly harsh on the women involved with MK We had to ask her permission as a representative of the office of the attorney general for permission for the children of those women to be allowed to visit them and she would often refuse She would also refuse to speak English'

One lawyer says that Van der Walt was meticulous in her research "While the rest of us would fall asleep over the turgid prose in *Sechaba* [the African National Congress journal banned at the time] she would memorise entire sections and quote them back at us verbatim

"She always led the prosecution perhaps because she was so cutting She would not even be more gentle with the Mr Xs of the day — those ANC members who turned state witness she would be as tough on them as she was with the accused

Opposing them now, acting for the Hani family, are George Bizos and his team Bizos has been a main player in many major political trials of the past three decades He sits listening to evidence with folded hands that unfurl into sharp points propping up his chin When he hears something that perks his interest, his eyes become unfocused and his

MTC 22-28/8/97

face clears of its lines as he ponders Trusted implicitly by President Nelson Mandela, whom he has known since the Rivonia trial of 1964, Bizos too is a lawyer who has never seen law as only a job It is his passion

His legal team also has a married couple Caroline Heaton Nicholls met her husband, Gcina Malindi, when he stood accused of treason during the Delmas treason trial that included other political luminaries such as Patrick "Terror" Lekota (later the Free State premier) and Popo Molefe (the North West premier) in the mid 1970s

After the trial and Malindi's later release from prison he completed his law studies and the two married. He now sits on one side of Bizos in a dark suit and blue shirt, taking notes.

Heaton Nicholls looks pale and drawn She has also been acting in the drawn out Shell House inquest.

Cape Town trained, she became well known during the 1980s for tak-



Defending the assassin. Louise van der Walt (left), who led the prosecution in many political trials in the old South Africa, with her client Janusz Walus. PHOTOGRAPH: DANNY HOFFMAN

ing on the less lucrative, lower profile assignments which faced human rights lawyers — but ones which of ten dealt with the crimes apartheid perpetrated against ordinary people

A friend who knows her well comments "Journalists say they need therapy for some of what they face, but they don't think of those lawyers, like Caroline, who are still locked into the era before the democratic elections She is still representing people in trials where there is talk of the terrorist ANC, of 'communist subversives' and 'kaffirs',

where there is graphic detail about torture or murder That takes a toll

"It is not well-known how prisoners in the past relied on people like her They would come out and be traumatised and anxious If they went to therapy it rarely worked because most psychologists lived in the northern suburbs and although they may have been sympathetic they were unable to empathise in ways that helped those people

"And now after democracy they still spend day after day, month after month in the old South Africa

That is exhausting"

Next to the Bizos team sits Jeremy Cronin A senior South African Communist Party official, he listens and occasionally speaks to Bizos or Heaton Nicholls The son of a South African navy admiral, he has had two award winning poetry books published and is at work on a lengthy poem about the hearing

During tea breaks the Derby-Lewis couple will sometimes approach him to chat, but Walus never does so Walus keeps to himself, silent, watching



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Walus, invisible drifter - and killer

(A2)

APR 23/89

CHARLENE SMITH

Pretoria - Janusz Walus often sits staring intently across the stage of the Pretoria City Hall at Jeremy Cronin. The two men are separated in age by three years. Cronin is older, but time has been kinder to him. Walus has faded good looks and displays no personality.

They are united only by communism - the support of Mr Cronin for the doctrine and the claimed opposition of Walus to it.

Both men know the inside of Pretoria Maximum Prison well. Mr Cronin spent three of his seven years in jail among the inmates of Pretoria Maximum, then known as Death Row.

The son of a South African admiral, Mr Cronin was sentenced in 1976 for having been an underground operative of the African National Congress for some years.

In sentencing him, the judge said "So far as you are concerned Cronin, I get the impression you are quite unrepentant. I do not suppose the prison sentence I am going to give you is going to reform you."

If reform meant Mr Cronin abandoning his opposition to apartheid and human rights for all South Africans, the judge was spot on. A gifted writer, Mr Cronin has opted for a poorly-paid job with the Communist Party in pursuit of his principles. He has not deviated from these.

Walus, however, is a splintered personality. His life is filled with contradiction. He is a person who drifts through life without anybody recalling his presence until being jolted into recollection by the assassination of Chris Hani.

South Africa gave him a reason of exile. At the Truth and Reconciliation Commission hearings in Pretoria this week, Walus testified for the first time. For the first time, he found a public voice and perhaps for the first time the South African public got closer to hearing the truth about the assassination.

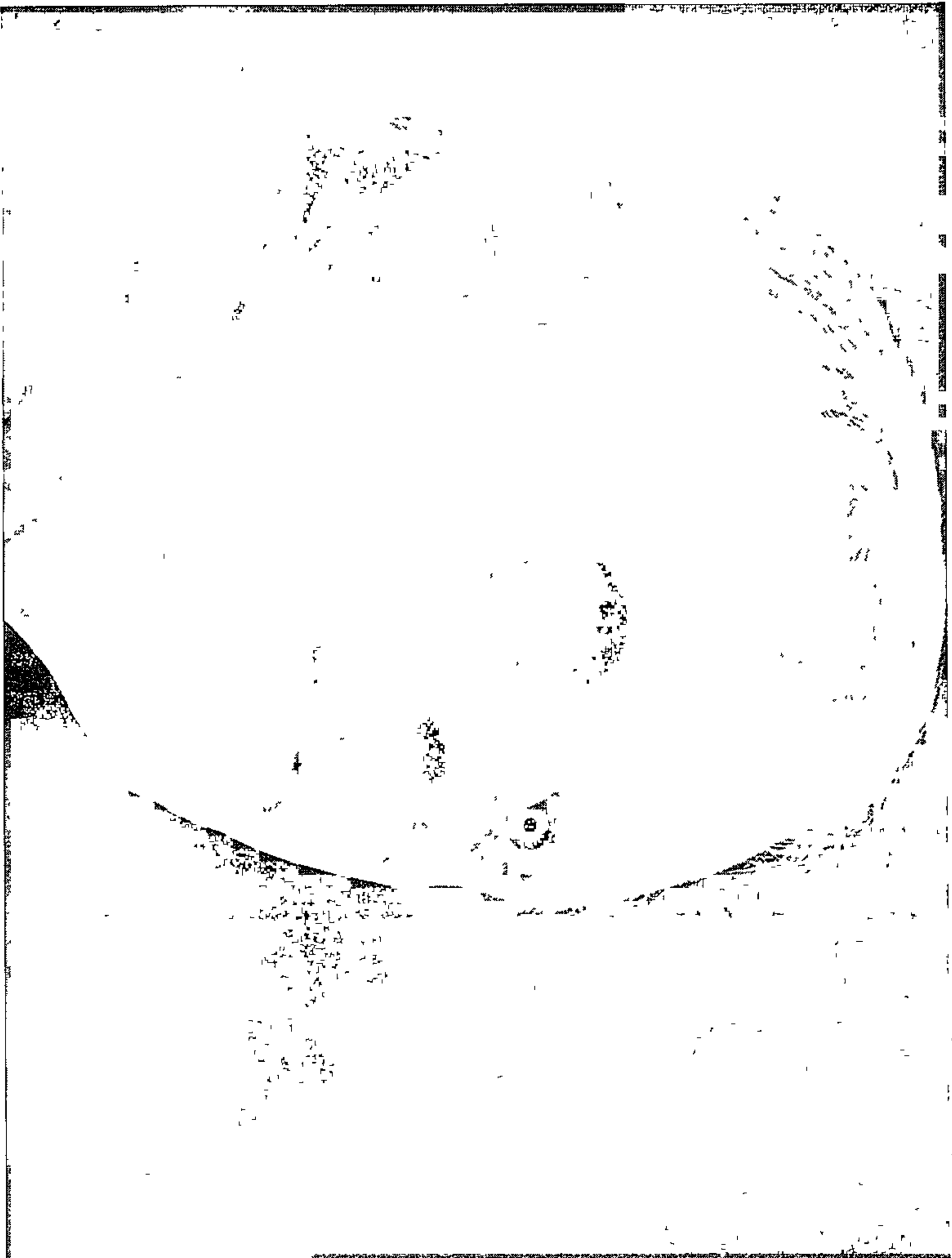
While he spoke about the minutes leading up to shooting Chris Hani, Mr Hani's wife, Linpho, and the daughter who found him, Nomakhwezi, were visibly distressed and tried hard to control their emotions.

Mrs Hani closed her eyes until shortly before he talked of the shots, her meditation disturbed only by her daughter's unhappy restlessness. Nomakhwezi briefly took off the headphones that translated Walus' Polish testimony into English, rubbing her head and blinking rapidly. Clearly displeasing something, he said, she spoke animatedly to her mother.

Walus spoke without expression of the case registered as Boksburg MR 189/04/93. Murder, but drank often from a glass of water.

Walus was part of a successful Polish family. His father owned the biggest crystal glass-cutting works in Poland (which he claims were shut down six times by the authorities because it was so successful).

He and his family relocated to South Africa and opened a glass-cutting works here, which went into liquidation. He then worked as a crystal glass salesman and



Janusz Walus, 'a person who drifts spectral-like through life without anybody recalling his presence until being jolted into recollection by the assassination'

after that as a truck driver.

The only sector of society he seems to have fitted into was rightwing, extremist politics - the pariahs of society finding each other and nurturing each other with bravado and hatred.

His greatest achievement, in his terms, and the one that should have boosted him in the eyes of those he sought to impress in the right, was the murder of Chris Hani.

The invisible man developed a form. During police investigations he appears to have believed he could get away with being duplicitous.

He claimed to have been a long-time opponent of communism, but police records show that his ex-wife, Wanda Kiepas, who remained in Poland, told investigators that he had never even joined.

Solidarity, the anti-communist workers' union that drew huge support among Polish people in the late 1970s and early 1980s. She knew of no anti-communist activism on his part.

Police records presented to the commission show that family members (his mother, two sisters and brother live in Pretoria) said they had no recollection of him ever being involved in politics in Poland.

Walus claimed that in 1971, while at school, he was a member of the anti-communist Confederation of Independent Poland in Krakow. He also claimed that he and five others were held for three weeks in 1971 for their involvement in the organisation. He would have been 19 and in his final year at school. It is remarkable that no family member, in particular his mother, recalled this.

But facing a lifetime in jail, he appears to believe that truth, or an approximation, might be a better option before the Amnesty Committee.

His karate instructor for some years, Basil Grevler of the Stan Schmidt Karate Centre, cannot recall precisely how long he attended his classes. According to police records it was from 1988 to 1993.

"He was a very gentle type of person, he used to come to the gym and train. He was very quiet, never violent. It was a shock to see that he was a killer. He had a black belt in karate, but I don't really want to discuss this, I don't want anything to do with these people."

It was after Mr Grevler told Walus that there was no karate class on the morning of April 10, 1993, that Walus phoned Clive

Derby-Lewis to ask if he had the ammunition for the Czech pistol. Derby-Lewis had given him to perform the deed.

Derby-Lewis, Walus told the commission, said "he still did not have it in his possession and said he'd phone me at my house a bit later."

Walus then went and bought ammunition at a Corlett Drive weapons store and travelled to Dawn Park, Boksburg, where he assassinated Chris Hani.

Prison warders at Pretoria Maximum Prison say that Walus is quiet and socialises with only a few inmates.

Walus' new home is a long, narrow cell, set within the old heavy-walled Pretoria Maximum Prison. The old gallows are set to one side of the cells. Visitors walk past a small garden with marigolds, cannas and roses to gloomy visiting rooms. Outside the walls of the prison, ducks live in a small pond set in a neat garden.

Most of his fellow inmates are black, he cannot help but live in a non-racial society now. "He is a nice man", one black warder says.

During his interrogation, which he claims followed a drinking session with his arresting officers, the day after the assassi-

*Even they
without
amnesty,
even they now
live in a new
humane society.
Even they.
This must be
their
punishment;
to chew and
chew and chew,
lifelong,
the bitter irony?*

From a poem by Jeremy Cronin, deputy general secretary of the SA Communist Party, friend of Chris Hani and SACP observer at the amnesty hearings

nation and his arrest, a police officer asks "What do you feel about the blacks in South Africa?"

He replied "I love them the way they love me" (laughter).
Police officer "What do you mean by that?"

Walus "You know. Anybody saying that they share power with these guys is mad. The NP wants to give the country to the ANC on a plate, in one piece."

His 10-year relationship with Maria Ras, a receptionist at a tourist resort, ended after his imprisonment. His new girlfriend, a plump former railway police-woman, sits chewing gum most days at the Pretoria City Hall, either next to Gaye Derby-Lewis or among other Conservative Party supporters.

His testimony is delivered in a strong confident voice, which needs no amplification to be heard across the vast expanse of the Pretoria City Hall. It is strangely at odds with a man nobody seems to notice. He never once lifts his eyes to his questioner - they remain expressionless and fixed on a place somewhere on the stage.

The notes from his interrogation reveal him as calm, shrewd and cunning.

During the amnesty hearings, however, the bravado of his interrogation seems to have dissipated.

He and Derby-Lewis seem to have loved the world of male machismo - Derby-Lewis is a keen bodybuilder and weightlifter, while Walus trained in judo, karate, was a Polish diving champion and for a time raced Formula 3 vehicles.

Walus had a small armoury too. He owned four weapons, a 9mm Parabellum CZ, a 38 Special Charter Arms revolver, a 45 Colt, a 9mm Parabellum Commander and would have bought a fifth weapon, a 9mm Star pistol from his brother, but the application was turned down for unknown reasons.

A member of the Afrikaner Weerstandbeweging in 1986 and 1987, he said he lost interest in the movement during the Jani Allen debacle of 1989.

While many of those in the AWP and Conservative Party talked of overthrowing their opponents during rounds of Klipdrift and Coca Cola, Walus was a man who needed to belong.

While Derby-Lewis is a man who gained political credibility through a myriad of little court trials against him for issues such as defamation, nobody would ever consider Walus important enough to sue.

Walus needed to do something more. He had made a number of recesses to the Hani house, "maybe three or five times". On the day of the killing he told Derby-Lewis he was going to reeve Hani's house and asked for ammunition that six weeks after handing over the gun Derby-Lewis had still not obtained.

Walus bought ammunition, loaded the gun and as he drove slowly past the house Mr Hani came out, climbed into a vehicle and drove to a nearby shopping centre. Walus followed him, then returned to the house ahead of Mr Hani.

As Mr Hani stepped out of his car at his home, Walus approached and said "Mr Hani".

Mr Hani smiled and said, "Hi, there."
Walus shot him in the stomach.
"He screamed and fell down. It was a scream of fear."

He then shot him three times, execution style, behind his ear.
A white neighbour saw the shooting and told the police, who arrested Walus some kilometres away on the highway.

During his interrogation Walus was asked "Do you know Barand Strijdom (the rightwinger who at random shot eight pedestrians in a Pretoria street)?"
Walus "Only from the newspaper. I do not admire him, there is no sense in killing innocent people. I can understand his frustration."

Police "Define innocent people."
Walus "It is one who in your eyes has not proven to you that he has to be killed."
Police "Was Chris Hani an innocent?"

Walus "I cannot answer that."
Will Walus be amnestied? There won't be an answer to that until after the hearings resume on November 24, and probably not until next year.

Winnie subpoenaed to appear before closed session of TRC

JOHN YELD
ON THE TRUTH COMMISSION

Winnie Madikizela-Mandela has been subpoenaed to appear at a closed Truth and Reconciliation Commission inquiry at which she will be questioned about the murder of teenage activist Stompie Sepele, the disappearance of other youths and the activities of the Mandela United Football Club.

No date has yet been set for the inquiry which will be conducted by the TRC's investigative unit. The subpoena was signed by the head of the unit, Dumisa Ntsebeza, on Thursday, although the Commission could not say whether it had been served by late yesterday. The TRC acting chairman Alex Boraine, speaking at a media confer-

ence at the end of a two-day Commission meeting in Cape Town, described Mrs Madikizela-Mandela as "a very key person in the South African political landscape".

In another development, Dr Boraine announced that the Commission would hold a three-day public hearing in October into the State security policy of the former apartheid government, which former State President P.W. Botha and his cabinet ministers, Pik Botha, Leon Wessels, Roelf Meyer, Adriaan Vlok and - possibly - F.W. de Klerk, as well as several other senior government officials, would be invited to attend. If they refused the invitation, they would be subpoenaed.

Dr Boraine stressed that this hearing would be preceded by an "armed forces" public hearing, which would coincide with the recall of the former SA Defence Force and to which Umkhonto we Sizwe

(MK, the armed wing of the African National Congress), the Azanian People's Liberation Army (Apla, the armed wing of the Pan Africanist Congress), the SA National Defence Force and the SA Police Services would also be invited.

Dr Boraine said he had sent a fax yesterday to Mr P.W. Botha, inviting him to the security-policy hearing and asking him to submit answers to the questions sent to him by the Commission last year, not later than the end of September. According to the latest analysis, 6,944 amnesty applications have been registered by the Commission, of which some 1,700 have been dealt with.

Of these, 50 have been granted after public hearings, 23 granted after being dealt with in chambers, 17 refused after public hearings, and 1,648 refused after consideration in chambers.

AA4 23/8/97

252

Alarm over stopwatch justice and draft bill that gives minister power to jail magistrates

(252)

Star 23/8/97

The Cabinet has approved a draft amendment bill which enables the minister of justice to criminalise misconduct by magistrates and sentence them to a maximum of three months' jail.

Ministry of Justice spokesman Paul Setsetse said the regulations, which would effectively criminalise the misconduct of magistrates, had yet to be decided but it was envisaged that racism in court and a failure to co-operate with inquiries into misconduct would be included among the "offences".

The draft bill has sent ripples through the ranks of magistrates, who believe that any magistrate who commits a criminal offence currently faces the same trial as any other citizen and that current regulations, with a stiff fine, are sufficient to penalise magistrates who contravene regulations.

"What is a labour relations issue in any organisation is being turned into a criminal offence. I cannot understand what the necessity for this is," one magistrate said.

"Any magistrate who commits a criminal offence should not be a magistrate," said another.

Complaints

Setsetse said the draft bill would go to Parliament before the end of the year.

"The public have sent the ministry letters of complaint about racism and ill treatment in court. For example, in the Western Cape this week, there was a report that a magistrate refused to allow people into his court because they were wearing religious hats (fezzes)."

Setsetse said the proposed amendment was to "enable" the minister to make contraventions of certain regulations for magistrates punishable by a fine or imprisonment.

"The regulations concerned will be decided on," he added.

Meanwhile, a Pretoria Regional Court magistrate has claimed that District Court magistrates are expected to finalise trials within one hour and 10 minutes - from the time a crime suspect first sets foot in the dock. Bail hearings are expected to take five minutes, regardless of whether the case is a traffic offence or murder.

This is according to Pretoria Regional Court Magistrate Graham Travers, who has submitted a complaint about the so-called "norm" time policy to the South African Human Rights Commission.

Travers has submitted documents to the SAHRC which show that lower-court magistrates have been evaluated on whether they are "faster" or "slower" than their colleagues.

The appointment of additional magistrates to jurisdictions are dependent on "norm time" statistics, Travers said.

Ministry of Justice officials have scoffed at the complaint, saying there is a "norm time" but it is used because time/work studies are implemented in all businesses to "evaluate resources", and that "most trials and bail hearings take far longer than this in reality".

They said Travers may have missed out on a promotion opportunity or not performed to standard and therefore has an axe to grind, and that the time a magistrate takes to complete a court proceeding is just one of many criteria used to evaluate performance.

Travers has handed policy documents to the SAHRC that list the times in which magistrates are expected to complete certain court procedures.

■ An entire trial, with evidence, is expected to take one hour and 10 minutes, irrespective of the number of people facing charges in one case, the number of charges or how many witnesses take the stand. Language difficulties, which often lengthen the time of a trial, are not taken into account.

■ A plea of guilty, with questioning by the magistrate or a statement by legal representatives and the following imposition of a sentence, is expected to last 21 minutes.

■ Five minutes is all that is given for a case in which a criminal pleads guilty and is sentenced, without being questioned immediately.

■ Proceedings to determine whether the case justifies the accused being tried in the Regional Court are expected to be completed within 11 minutes.

■ A "mini-preparatory examination" - a precursor to a High Court trial - should last 19 minutes. During these proceedings many undefended suspects have made admissions which have led to severe penalties, including execution before the abolition of the death sentence.

■ A postponement is supposed to take five minutes, and this includes

a bail proceeding for a serious case.

■ Bail applications are considered part of a court postponement, and there is no statistical record kept of how many bail applications are dealt with or the outcomes.

Travers also highlighted a government document, gazetted in 1994, which is still used as a tool to evaluate District Court magistrates nationwide. Under a section headed "productivity", superiors are expected to take into account "working speed, the ability to finish a given amount (quantity) of work in a fixed period of time".

Magistrates also have to fill in daily production sheets which list the types of work, for example postponements and children's court inquiries, which they have pushed through their courts.

"Magistrates cannot tell you what their conviction rates are but they can

tell you what their speed is in relation to the norm time. Perhaps if the evaluation of magistrates didn't concentrate on quantity of work and rather on quality of justice dispensed, then maybe the little girl in Germiston would not have lost her life," Travers has said. Seven-year-old Mamokgethi Malebane, of Germiston, was allegedly murdered by a man who raped her but had been let out on bail.

The *Saturday Star* has obtained copies of the documents Travers handed in to the SAHRC.

The documents date back to 1994, but Travers has told the commission that the norm-time practice

has continued at some district courts, particularly those in smaller towns, and that this policy has led to discrimination against people appearing before courts as well as magistrates.

"The number of magistrates appointed to each area is based on this norm time. Each magistrate is expected to push through a certain number of cases. Additional magistrates are appointed if the number of cases on the roll exceed the norm time.

"If a calculation is unrealistic, how can you have the right number of magistrates? This prejudices the accused (person), witnesses and complainants (victims). What happens is that there is a pressure which is put on magistrates to complete in a certain time.



'Norm times' on court cases mean that some people are being processed through the system like sausages, writes JACKIE CAMERON

"They take this out on undefended, vulnerable people. You won't take it out on an advocate. But the guy who's a little slow at comprehending is sometimes given short shrift in court. I'm against any norm, except the norm of justice."

"This particular norm is discriminatory against people of colour because if you don't speak Afrikaans or English, you effectively get, at most, half the time to defend your case in court or, if you are a victim, to have your case heard in court.

"Prosecutors are also under pressure to complete cases swiftly but they do not have a norm-time policy," Travers told the SAHRC.

Finalised cases are reviewed by High Court judges to assess the quality of judgments when a magistrate who has less than seven years' experience passes a jail sentence of three months or a fine of R2 500. Judges review the cases of magistrates with more than seven years' experience if they pass sentences of more than six months. If a case is defended, there's no automatic review - but there is a right to appeal, one magistrate said.

Productivity

Travers, who suffers from muscular dystrophy, believes he was discriminated against in the past for not being able to "write" as fast as his colleagues, but he has told the SAHRC that he has submitted his complaint "not for myself but for the injustice which has emanated from this policy".

Johannesburg deputy chief magistrate Frans Stassen told the *Saturday Star* "There might be a perception about norm times among the older magistrates but I don't apply it personally."

"Those are policy issues. I would not like to elaborate, save to say that if you're in a factory, for example, and you make one dress a day and a colleague makes five, then don't you think there is a reflection on productivity?"

A senior Cape Town magistrate said "We all work on norms but we don't worry about it. The main concern is how many court hours we work so that it can be seen that we are gainfully employed."

"If you run over your trial time, your court hours will still be good even if you fail on the norms. I've never heard of a magistrate being hauled over the coals for not meeting norm times. Besides, you'd have to have a pretty weird approach to your work if you took the norm times seriously."

Stompie: TRC calls Winnie

By JOHN YELD

Winnie Madikizela-Mandela has been subpoenaed to appear at a closed Truth and Reconciliation Commission inquiry at which she will be questioned about the murder of teenage activist Stompie Seipei, the disappearance of other youths and the activities of the Mandela United Football Club

No date has yet been set for the inquiry, which will be conducted by the Truth Commission's investigative unit

The subpoena was signed by the head of the unit, Dumisa Ntsebeza, on Thursday, but the commission could not say whether it had been served by late yesterday

TRC acting chairman Dr Alex Boraine, speaking at a media conference at the end of a two-day commission meeting in Cape Town, described Madikizela-Mandela as "a very key person in the South African political landscape"

In another development, Boraine announced the commission would hold a three-day public hearing in October into the state security policy of the former apartheid government, to which former state president PW Botha and his cabinet ministers Pk Botha, Leon Wessels, Roelf Meyer, Adriaan Vlok and - possibly - FW de Klerk, as well as several other senior government officials, would be invited

If they refused the invitation, they would be subpoenaed, Boraine emphasised

This hearing would be preceded by an "armed forces" public hearing. The former SA Defence Force, Umkhonto we-Sizwe (MK, the armed wing of the ANC), Azanian People's Liberation Army (Apla, the armed

Staw 23/8/97
wing of the Pan Africanist Congress), the SA National Defence Force and the SA Police Service would be invited

Boraine said he had sent a fax yesterday to PW Botha, inviting him to the security policy hearing and asking him to submit answers to the questions sent to him by the commission last year, by not later than the end of September

"I discussed this with the commission and we cannot wait (for Botha's replies) indefinitely," Boraine said

At the media conference, Ntsebeza announced that three members of the Civil Co-operation Bureau, a unit of the former SA Defence Force's military intelligence, would be prosecuted for refusing to answer questions about their operations and agents in foreign countries when they appeared at "Section 29" closed-door inquiries at the TRC's Cape Town offices this week

Ntsebeza, who chaired the inquiries, said he had rejected arguments by the legal representatives of CCB managing director Joe Verster and his juniors, Abram "Slang" van Zyl and Wouter Basson (alias Christo Britz) that they were not obliged to answer questions about their activities in foreign countries because they could incriminate themselves and would not be immune from possible prosecution there

"The investigative unit concerned will get a copy of the record (of the inquiry) and will lay a charge with the attorney-general, and the process will then be in the hands of the attorney-general. They are definitely going to be charged," Ntsebeza said

FROM PAGE 1

◆ Winnie and the TRC

(252)
If convicted, the men could face fines of R2 000 or up to two years in jail, or both

Boraine said the commission had decided it would not seek to extend its mandate. The mandate expires on December 14 and a report must be submitted to President Nelson Mandela by March 14 next year.

However, it was clear the commission's semi-autonomous amnesty committee would not complete its work by that time, and a subcommittee consisting of senior TRC commissioners would meet next week to make recommendations on how the amnesty process should continue in the commission's absence, Boraine said

Staw 23/8/97
According to the latest analysis, 6 944 amnesty applications had been registered by the commission, of which some 1 700 had been dealt with. Of these, 50 had been granted after public hearings, 23 granted after being dealt with in chambers; 17 refused after public hearings, and 1 648 refused after consideration in chambers, said Boraine. The other 3 000-odd applications were being dealt with administratively and most were also likely to be refused after consideration in chambers, according to commission staff.

'No flood'

Boraine said enabling legislation changing the cut-off date for offences for which amnesty could be sought - from December 5 1993 to May 10 1994 - was expected to be passed by Parliament by the end of this month

This would validate all amnesty applications received by the commission by May 10. However, because of legal considerations, President Mandela was expected to sign a proclamation which would allow new amnesty applications for any offences in the entire period of the commission's mandate - from March 1 1960 to May 10 1994 - to be submitted

Boraine said the commission was not expecting a flood of new applications, but anything was possible.

The most optimistic forecasts were for the amnesty committee to complete its work by June next year, he added. "I do not share that view, and I think September would be a safer bet, but it is very difficult to estimate."

Boraine said commission chairman Archbishop Desmond Tutu, who is having treatment for prostate cancer in New York, had sent them a "special message" for the meeting

"The news remains very good. By all accounts he seems to be making excellent progress and will be back in about the third week of September."



perform the deed. Derby-Lewis, Walus told the commission, said "he still did not have it in his possession and said he'd phone me at my house a bit later."

Walus then went and bought ammunition at a Corlett Drive, Johannesburg, weapons store and travelled to Dawn Park, Boksburg, where he assassinated Hanu.

Prison warders at Pretoria Maximum Prison say Walus is quiet and socialises with only a few inmates. Walus' new home is a long, narrow cell. The old gallows are set to one side of the cells. Visitors walk past a small garden with marigolds, cannas and roses to gloomy visiting rooms. Outside the prison, ducks live in a small pond in a neat garden. Most of Walus' fellow inmates are black - he can't help but live in a nonracial society now. "He is a nice man," one black warder said.

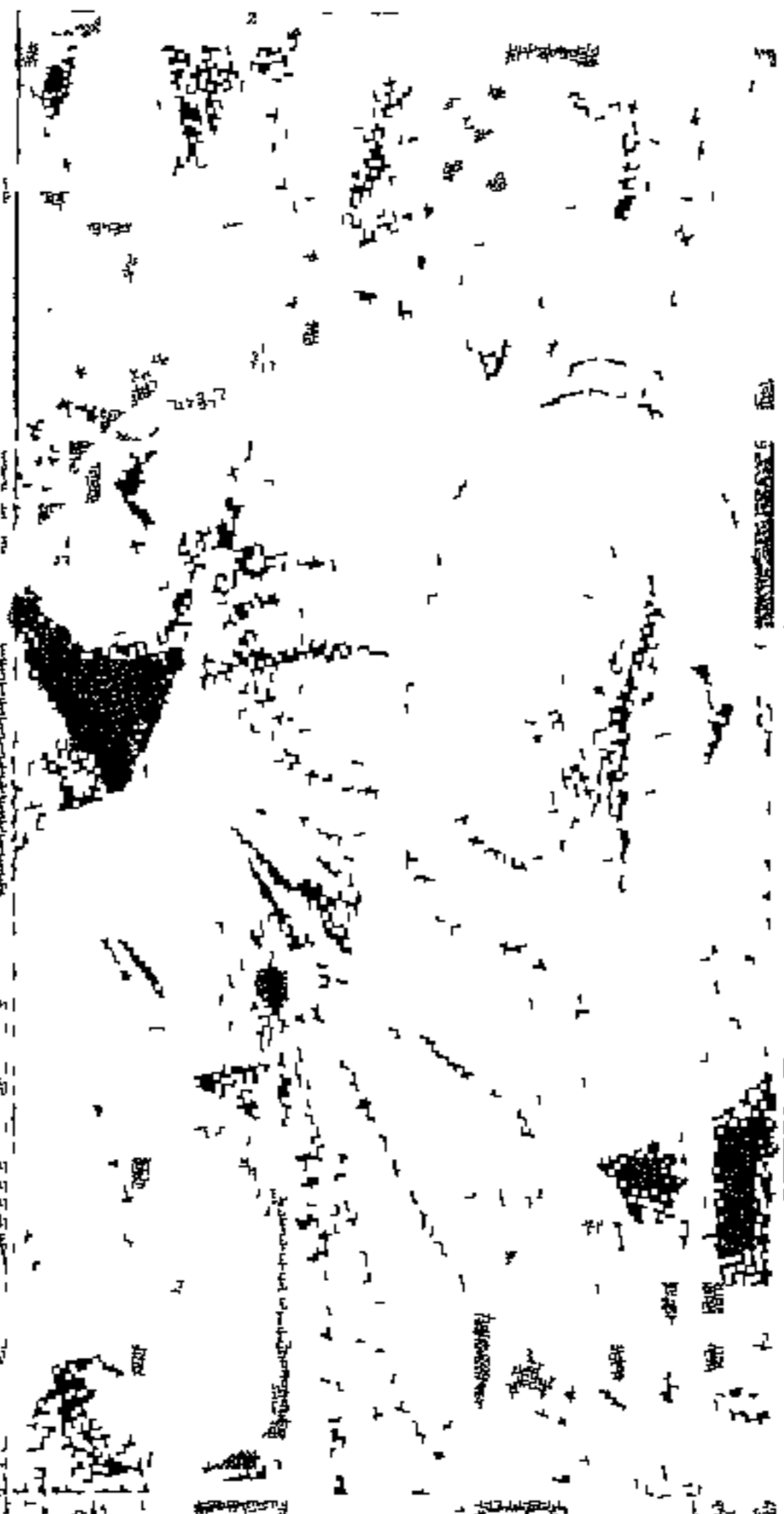
During his interrogation - which he claims followed a drinking session with his arresting officers - the day after the assassination and his arrest, a police officer asked "What do you feel about the blacks in South Africa?"

Walus "I love them the way they love me" (laughter).

Police officer "What do you mean by that?"

Walus "You know Anybody saying that they share power with these guys is mad. The NP wants to give country to the ANC on a plate in one piece."

Walus' 10-year relationship with Maria Ras, a receptionist at a tourist resort, ended after his imprisonment. His new girlfriend, a former railways policewoman, sits chewing gum most



MAN OF THE PEOPLE Chris Hanu, who was murdered outside his home in 1993

days at the Pretoria City Hall, either next to Gaye Derby-Lewis or among other Conservative Party supporters.

His testimony is, delivered in a strong, confident voice, it needs no amplification to be heard across the expanse of the venue. It is strangely at odds with a man no one seems to notice. He never once lifts his eyes to

those of his questioner, they remain fixed and expressionless at a place somewhere on the stage. The notes from his interrogation reveal Walus as calm, shrewd and cunning.

During the amnesty hearings, however, the bravado of his interrogation seems to have dissipated. But he and Derby-Lewis seemed to have loved the world of machismo - Derby-Lewis is a keen bodybuilder and weightlifter, while Walus trained in judo and karate, was a Polish diving champion and, for a time, raced Formula 3 cars.

Walus had a small armoury too. He owned four weapons - a 9mm Parabellum CZ, a 38 Special Charter Arms revolver, a 45 Colt and a 9mm Parabellum Commander - and would have bought a fifth weapon, a 9mm Star pistol, from his brother, but the application was turned down for unknown reasons.

A member of the Afrikaner Weerstandsbeweging in 1986 and 1987, he said he lost interest in the movement during the Jani Allan debacle of 1989.

While many of those in the AWB and Conservative Party talked of overthrowing their opponents during rounds of Klipdrift and Coca-Cola, Walus was a man who needed to belong. While Derby-Lewis is a man who gained political credibility through a myriad little court trials against him, for issues such as defamation, no one would ever have considered Walus important enough to sue. Walus needed to do something more.

He had made a number of recesses to the Hanu house, "maybe three or five times." On the day of the killing he told

Derby-Lewis he was going to check out Hanu's house and asked for ammunition that, six weeks after Hanu's death, over the gun, Derby-Lewis had still not obtained. Walus bought ammunition, loaded the gun and, as he drove to the house, Hanu came out, got into a vehicle and drove to a shopping centre. Walus followed him, returned to the house ahead of Hanu.

As Hanu stepped out of his car, his home, Walus approached and, confirm his identity, said "Mr Hanu Hanu smiled and said "Hi there."

Innocent

Walus shot him in the stomach. "He screamed and fell down." He then shot him twice behind his ear. A neighbour saw the shooting and called the police, who arrested Walus a few kilometres away.

During his interrogation Walus was asked by a police officer "Do you know Barend Strydom?" (the winger who at random shot 11 pedestrians dead in a Pretoria street).

Walus "Only from the newspaper. I do not admire him, there is no sense in killing innocent people. I understand his frustration."

Police "Define 'innocent people'." Walus "It is one in your eyes. I has not proved to you that he has to be killed."

Police "Was Chris Hanu an innocent person?"

Walus "I cannot answer that." Will Walus get amnesty? That won't be an answer to that until the hearings resume on November 2 and probably not until next year.

The invisible rebel's day of infamy



MOMENT OF TRUTH: Widow Limpho Hani and the Hani's young daughter Nomakhwezi (left) listen intently to the words of Janusz Walus (right) at the hearing in Pretoria this week
PHOTOGRAPHS
GARY BERNARD

The murder of Hani suddenly gave some form to misfit Janusz Walus

Janusz Walus often sits staring intently across the stage of the Pretoria City Hall at Jeremy Cronin. The two men are separated in age by three years, Cronin is older, but time has been kinder to him. Walus has faded good looks and displays no personality.

They are linked only by communism - the support of Cronin for the doctrine and the claimed opposition of Walus to it.

Both men know the inside of Pretoria Maximum Prison well. Cronin spent three of his seven years in jail among the inmates of Pretoria Maximum, then known as death row. The son of a naval admiral, Cronin was sentenced in 1976 for having been an underground operative of the ANC for some years.

In sentencing him, the judge said "So far as you are concerned, Cronin, I get the impression that you are quite unrepentant. I do not suppose the prison sentence I am going to give you is going to reform you." If reform meant Cronin abandoning his opposition to apartheid and his desire for human rights for all South Africans, the judge was spot on. A gifted writer, Cronin has opted for a poorly paid job with the SA Communist Party in pursuit of his principles. He has not deviated from these.

Walus, however, is a splintered personality. His life is filled with contradiction. He is a person who drifts, spectre-like, through life without anyone recalling his presence until being jolted into recollection by the assassination of Chris Hani. South Africa gave him a *raison d'être*.

Distress

At the Truth and Reconciliation Commission hearings in Pretoria this week, Walus testified for the first time. For the first time, he found a public voice and perhaps for the first time the public got closer to hearing the truth about the assassination.

While he spoke about the minutes leading up to the shooting, Hani's wife Limpho and the daughter who found him, Nomakhwezi, were visibly distressed and tried to control their emotions. Limpho closed her eyes until shortly before he talked of the shots, her meditation disturbed only by her daughter's unhappy restlessness.

Nomakhwezi briefly took off the headphones with the translation of Walus' Polish testimony into English, rubbing her head and blinking. Clear-

This week, for the first time, South Africans have heard the voice of Chris Hani's killer Janusz Walus as he testified before the amnesty committee in the Pretoria City Hall, reports
CHARLENE SMITH

ly disbelieving something he had said, she gesticulated and spoke animatedly to her mother.

Walus spoke without expression, of the case registered as Boksburg MR 183/04/93 Murder, but drank frequently from a glass of water.

The road to the assassination was circuitous. He was part of a successful Polish family - his father owned the

The only sector of society he seems to have fitted in to was right-wing extremist politics - the pariahs of society finding each other and nurturing each other with bravado and hatred. His greatest achievement, in his terms, and the one that should have boosted him in the eyes of those he sought to impress on the Right, was the murder of Hani.

All of a sudden the invisible man developed a form.

During police investigations, he appears to have believed he could get away with being duplicitous. He claimed to have been a long-time opponent of communism but police records show that his ex-wife Wanda Kiepas, who remained in Poland when he came to South Africa, told investigators that he had never even joined Solidarity, the anti-communist workers' union that gained huge support among Polish people in the late 1970s and early 1980s. She knew of no anti-communist activism on his behalf.

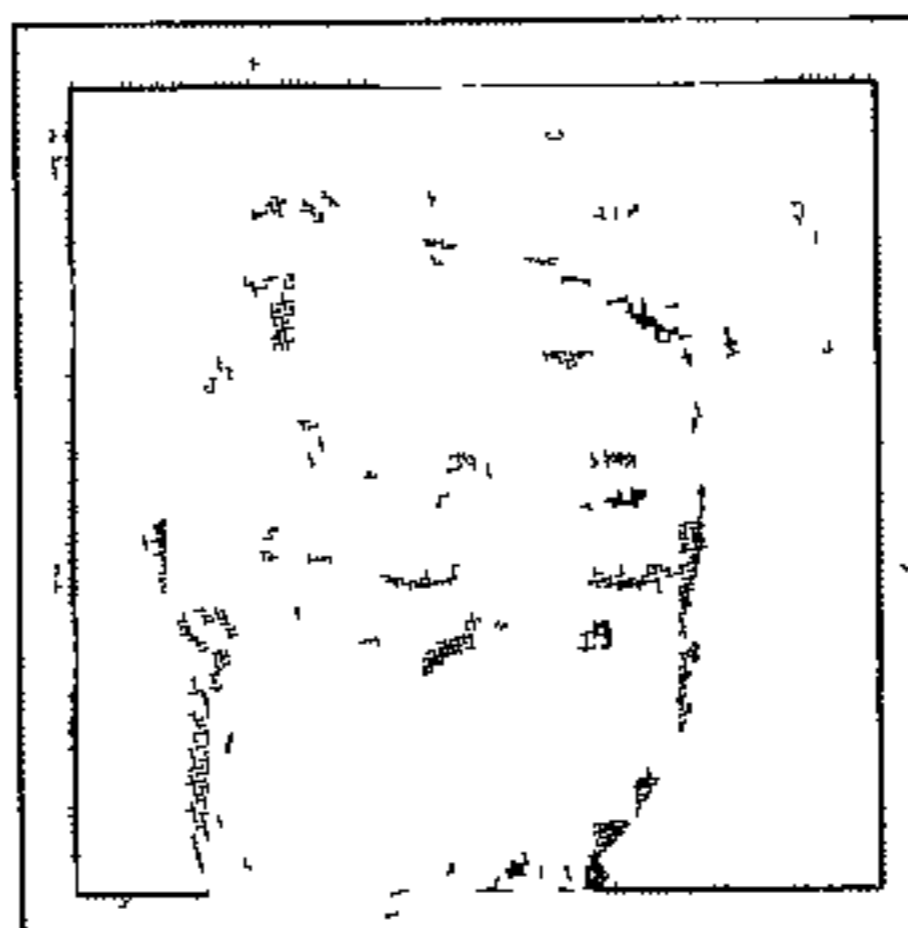
Police records presented to the commission show that family members (his mother, two sisters and brother live in Pretoria) "said they had no recollection of him ever being involved in politics in Poland. (However) he claimed that in 1971 while at school he was a member of the anti-communist Confederation of Independent Poland in Krakow; and claimed that he and five others were held for three weeks in 1971 for their involvement in the organisation." He would have been 19 and in his final year at school. It is remarkable that no family member, in particular his mother, recalled this.

Karate

Facing a lifetime in jail, Walus appeared to believe that truth, or an approximation, might be a better option before the amnesty committee.

His karate instructor for some years, Basil Grevler of the Stan Schmidt Karate Centre, can't recall precisely how long Walus attended his classes (According to police records it was from 1988 to 1993). "He was a very gentle type of person, he used to come to the gym and train. He was very quiet, never violent. It was a shock to see that he was a killer."

It was after Grevler told Walus that there was no karate class on the morning of April 10 1993 that Walus phoned Clive Derby-Lewis to ask if he had the ammunition for the Czech pistol Derby-Lewis had given him to



JEREMY CRONIN

*Even then,
Without amnesty,
Even they now live in a
new humane society.
Even then
This must
The bitter irony
- Jeremy Cronin, deputy
general secretary, South
African Communist Party,
friend of Hani, and SACP
observer at amnesty
hearing*

biggest crystal glass-cutting works in Poland (which he claims was shut down six times by the authorities because it was so successful). He and his family relocated to South Africa and opened a glass-cutting works here, which went into liquidation. He then worked as a crystal glass salesman and after that as a truck driver.

Star 23/8/97 (252)

Secret TRC Winnie hearings for Wini

Fugitive from Stompie kidnapping trial will fly home to seek amnesty

ST 24/8/97
CYRIL MADLALA
Political Correspondent

THE key witness who disappeared shortly before testifying in Winnie Madikizela-Mandela's trial on kidnapping charges is to appear before the Truth and Reconciliation Commission. Katiza Cebekehu, who vanished in 1991 as he was about to tell the court about the abduction of activist Stompie Seipei, will return from London to seek amnesty.

This week the truth commission subpoenaed Madikizela-Mandela to appear at a closed inquiry at which she will be questioned about the Seipei murder and the activities of the Mandela United Football Club.

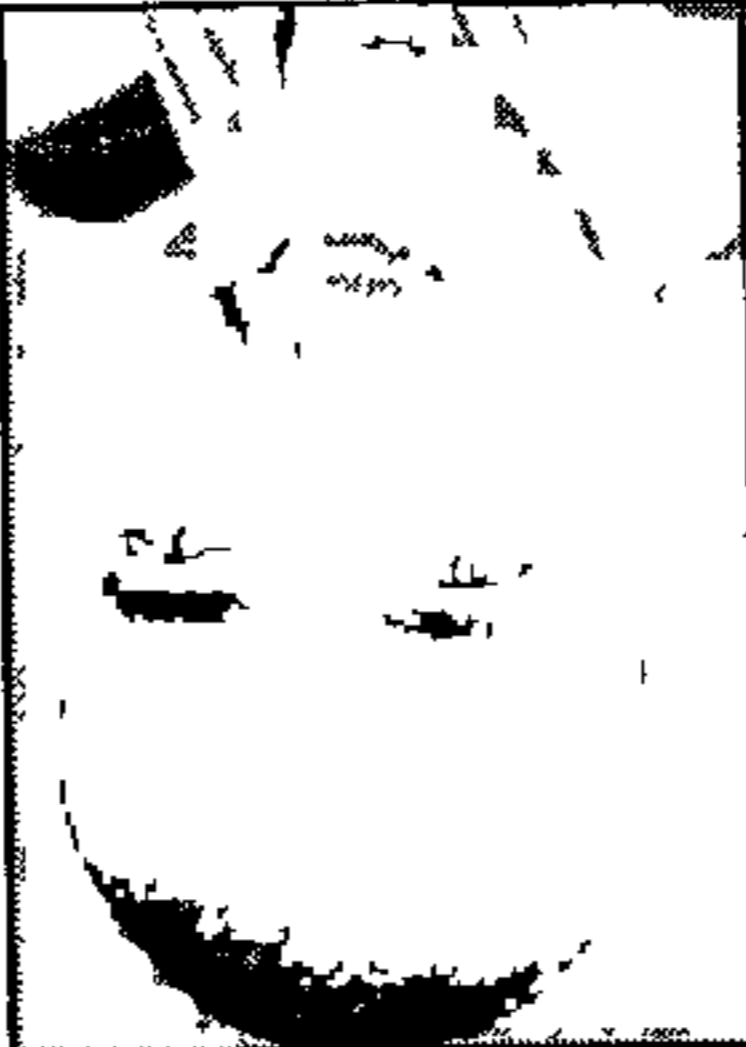
Dumisa Ntsebeza, a spokesman for the TRC, said Cebekehu was expected to appear before the commission but would not say when this would take place. The Sunday Times understands that his return is expected to be finalised by the middle of next month.

Although Cebekehu's evidence was never heard, Madikizela-Mandela was found guilty in March 1991 of kidnapping Seipei and three other youths and fined R15 000 on appeal.

A former member of Madikizela-Mandela's notorious Mandela United Football Club, Cebekehu disappeared amid allegations that ANC security department officials had abducted him to protect Winnie Mandela, as she was then known. After being spotted in Lusaka, Cebekehu surfaced in London where he has since been in the care of former British MP Emma Nicholson.

Cebekehu has applied for amnesty for his involvement in the Seipei affair. No date has been set for this hearing. Ntsebeza, who signed Madikizela-Mandela's subpoena yesterday, confirmed on Thursday that the commission was in possession of Cebekehu's application for amnesty.

Sapa reported yesterday Madikizela-Mandela said in a statement issued on her behalf that she objected to appearing before a closed inquiry, as she had "no need to address secret meetings be-



KATIZA CEBEKHULLU

"She has nothing to hide, and anything she has to say she will say out in the open and in front of her country and the world," the statement said.

The office of the Witwatersrand attorney general confirmed yesterday that it had received a letter two weeks ago from Nicholson requesting that Cebekehu's warrant of arrest not be executed on his return. Nicholson, who has been reported as holding "full and legal power of attorney" for Cebekehu, proposed in the letter that he be allowed to pay a fine instead.

Kevin Attwell, deputy attorney general in the Witwatersrand office, said the matter was out of his control as the warrant for Cebekehu's failure to appear in court had been issued by a judge. Apart from the warrant of arrest for contempt of court, Cebekehu was also accused in connection with the same charges for which Madikizela-Mandela was convicted.

Ntsebeza said yesterday that he had been told by Nicholson that she had instructed a barrister in Britain to prepare Cebekehu's evidence. Nicholson hoped to visit South Africa soon for further consultation with the TRC ahead of Cebekehu's testimony.

● The TRC said this week it would invite former president P W Botha, former National Party cabinet ministers, including Pik Botha, Roelf Meyer and Adrian Vlok, and possibly former president F W de Klerk to a public hearing in October on the former government's security policy. Subpoenas would be issued if they declined to attend.

CT 25/8/97

Winnie objects to closed Seipei inquiry ⁽²⁵²⁾

JOHANNESBURG: Ms Winnie Madikizela-Mandela has objected to appearing before a TRC closed inquiry in connection with the Stompie Seipei murder, and said she has nothing to hide.

This follows the announcement last week that Madikizela-Mandela was to be subpoenaed to appear at the inquiry for questioning in connection with the Seipei murder and the activities of the Mandela United Football Club

TRC spokesperson Ms Christelle Terreblanche said the purpose of the closed inquiry, for which no date had been set, was to gather information for further investigations by the TRC's special unit.

Terreblanche said the matter was being discussed with Madikizela-Mandela's lawyers "If she wants to do it in public then we can negotiate around that."

Madikizela-Mandela was convicted of kidnapping Seipei and given a two-year suspended sentence and a R15 000 fine. The coach of the Mandela Football team, Jerry Richardson, was convicted of murdering the teenage activist

The man believed to have the inside story on the kidnapping and death of Seipei and four other youths — and who could spill the beans on Ms Winnie Madikizela-Mandela's involvement in the case —

has applied to the Truth and Reconciliation Commission for amnesty.

The TRC confirmed yesterday that Mr Katiza Cebekhulu, who fled the country before testifying in the notorious case which implicated Madikizela-Mandela, could soon be returning to the country. He is now believed to be based in London.

Terreblanche, said it was difficult to say whether he would return to South Africa after being absent since 1991.

She said he could be asked to appear before the commission, but this depended on the severity of his violation of human rights.

A source said Cebekhulu has been helping to write a revealing book over the past several months about the Seipei affair.

The move by Cebekhulu to apply for amnesty follows lengthy investigations in Europe in June this year that saw the head of the commission's investigative unit, Mr Dumisa Ntsebeza, returning to South Africa empty-handed. At the time he said the search for Cebekhulu was a "lost cause".

According to Ntsebeza, Cebekhulu has been in the care of former British MP Ms Emma Nicholson since he surfaced in a Zambian jail — Own Correspondent

● See Page 8



TRC hails Winnie offer to talk

ARGUS CORRESPONDENT, SAPA AND
REUTERS

The Truth and Reconciliation Commission has welcomed an offer by Winnie Madikizela-Mandela to give evidence in public about the murder of teenage activist Stompie Seipei.

Preparations are under way for the hearing, says the acting

TRC chairman, Alex Boraine

President Mandela's former wife said at the weekend she would decline an invitation by the TRC to give evidence in camera about the murder and the disappearance of three other youths and would insist on being heard in public. She said she had nothing to hide

She was subpoenaed by the TRC last week to provide the com-

mission with information about Seipei's murder

Her move coincides with an amnesty application by Katiza Cebekhulu, a key witness who disappeared before testifying at Mrs Madikizela-Mandela's trial in 1991 for the kidnapping of Seipei

Dr Boraine said no date had been set for Mr Cebekhulu's return to South Africa

ARG 25/8/97

(252)

Mandela football club member seeks amnesty

25/8/97 BD

(252)

KATIZA Cebekhulu, a key witness who vanished from SA before testifying at Winnie Madikizela-Mandela's trial for the 1989 kidnap and murder of 14-year-old Stompie Seipei, had applied from England for amnesty, the truth commission confirmed yesterday.

Cebekhulu, a former member of the Mandela United Football Club, surfaced in London, where former Conservative MP Emma Nicholson became his guardian.

Commission spokesman Christelle Terreblanche said Cebekhulu had submitted an amnesty application, but could not say what acts he was seeking amnesty for.

"If it is for gross human rights violations, the hearing would have to be in public and he would have to come back to SA," she said.

Terreblanche said that any amnesty hearing for Cebekhulu would be completely separate from the session where Madikizela-Mandela would appear. No date for her testimony had

been set.

Truth commission deputy chairman Alex Boraine said on Friday Madikizela-Mandela had been subpoenaed to testify at a closed hearing to help investigations into several cases, including Seipei's.

"There are a number of inquiries ... made at public hearings of the commission surrounding the deaths and disappearance of youngsters.... (It's) about seeking information relating to gross human rights violations. We think Mrs Mandela will be able to assist us," Boraine said.

Seipei's body was found in a ditch with his throat cut in January 1989. The parents of at least two other black boys who disappeared in Soweto at the time of Seipei's murder have asked the commission to try to find out what happened.

Madikizela-Mandela said she wanted to testify in public, not at a closed-door hearing.

Madikizela-Mandela was convicted and fined for kidnapping Seipei — Reuter.

Legislation being drafted to extend life of amnesty committee

Drew Forrest

THE justice department is drafting legislation to extend the life of the truth commission's amnesty committee in response to the huge backlog of amnesty applications which must still be processed.

This was disclosed yesterday by Justice department spokesman Paul Setense, who said the length of the Nelson Mandela amnesty would be decided by President It would not apply to the ex-commission's other committees, which must

complete their work by December 15. The commission itself would continue drafting its final report, which must be submitted to Mandela by March.

Setense said Mandela by March would weigh a short list of additional amnesty committee members, whose appointment would enable up to four panels to process amnesty pleas simultaneously.

The commission has already nominated two extra members from its ranks in terms of a recent amendment to the Promotion of National Unity and Reconciliation Act, and Mandela is expected to appoint a further six.

Farouk Chothia reports that commission and government sources said the Inkatha Freedom Party had recommended that Maritzburg-based IFP members in the Shobashobane massacre trial, be one of the new committee members.

However, IFP national chairman Ben Ngubane said he could not confirm that the party had submitted a name. The government source said the

BO 20/8/197 The commission said on Friday that even if four panels were operating at the same time, the signs were that they would not be able to process all outstanding applications by March.amnesty committee

The commission has disclosed that although about 1 700 applications have been processed, only 67 had been adjudicated.

A further flood of applications is expected when the law is changed to make political crimes committed up to May 10 1994 eligible for amnesty.

Pan Africanist Congress and Freedom Front had also submitted names. The National Party, which was boycotting the commission, was not known to have done so.

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A further flood of applications is expected when the law is changed to make political crimes committed up to May 10 1994 eligible for amnesty.

However, the commission intended to continue to be heard after the amnesty had closed down.



Cheryl Deavall, left, and her Siberian husky Alcindas Rave Review, are congratulated by Miss SA Kerishne Naicker after winning the Dogmor 1997 dog of the year competition. Picture TYRONE ARTHUR

Mandela football club

member seeks amnesty

25/8/97 BD

KATIZA Cebekhulu, a key witness who vanished from SA before testifying at Winnie Madikizela-Mandela's trial for the 1989 kidnap and murder of 14-year-old Stompie Seipei, had applied from England for amnesty, the truth commission confirmed yesterday.

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Madikizela-Mandela said she wanted to testify in public, not at a closed-door hearing. Madikizela-Mandela was convicted and fined for kidnapping Seipei. — Reuter.

'SAPS strategy must not be made public'

Jacob Dlamini

CAPE TOWN — It would not make sense for the SA Police Service (SAPS) to make its crime-combating strategies public, new CEO Meyer Kahn said at the weekend.

Doing so would raise expectations and give criminals the edge over police. Speaking at a briefing with the parliamentary safety and security committee, Kahn said the "police were besieged with too much to do". There was a need for the SAPS to scale down the high levels of activity within the force. Kahn said he believed SAPS mem-

bers were grossly underpaid, even by the worst international standards. However, he would be able to argue for the lot of the police to be improved only if they improved their performance and the service offered to communities.

There was a case to be made for the SAPS to be treated as a special service to be lifted out of the public service. SAPS Labour Relations manager Sakhe Steyn said about 50% of the labour force had accepted the 7.05% wage increase offered. Some unionised staff had rejected the offer and demanded a 20% increase. It would cost R4,9bn to meet this demand, he said.

Twenty-three illegal taxis impounded

Bonlie Ngqiyaza

BD 26/8/97

TWENTY-three taxis operating illegally in Hammanskraal and townships around Pretoria were impounded last week by the Gauteng and North West governments in roadblocks set up for the purpose, Gauteng transport spokesman Kate Bapela said.

The vehicles were impounded under "Operation Thiba" — an exercise set up in terms of extraordinary powers given last month to Gauteng and North West transport MECs Paul Mashatile and Star Vlakazi by their respective legislatures.

The operation is targeting areas north of Pretoria. Impounded vehicles would remain in custody for up to 14 days and a R500 administration fee would be charged. The fee did not include the R1 500 fine.

Sapa reports that transport and roads committee member Lennox Mabaso said that many in the industry had accused Gauteng of ruthlessness in amending the Road Transportation Act to force taxi operators to register and get permits.

However, Bapela warned the confiscation of taxis without valid permits would begin in Johannesburg soon.

Winnie wins demand for public probe

Star 25/8/97

(252)

President's former wife says she has nothing to hide and insists on open TRC hearing about murder of activist

By **SHIRLEY WOODGATE,**
SAPA AND REUTERS

Winnie Madikizela-Mandela will give evidence in public before the Truth and Reconciliation Commission (TRC) about the murder of teenage activist Stompie Sepei and the disappearance of other youths after insisting that the hearing should not be heard in private.

President Mandela's former wife said this weekend she would refuse a demand by the TRC to give in-camera evidence about Sepei and the disappearance of three other youths.

She said she had nothing to hide and anything she had to say would be said in the open.

Welcoming her move, acting TRC chairman Dr Alex Boraine said today preparations are underway for the hearing.

Madikizela-Mandela was subpoenaed by the TRC last week to provide the commission with information.

Her move coincides with an

amnesty application by Katiza Cebekhulu, a key witness who disappeared before testifying in Madikizela-Mandela's 1991 trial for the kidnapping of teenage activist Sepei.

Boraine said no date had been set for Cebekhulu's return to South Africa, but he was definitely coming.

The activist, who is currently under the wing of former British MP Emma Nicholson, had applied for amnesty and would be placed in a witness protection programme on his return to South Africa if he so requested, TRC investigation unit head Dumisa Ntsebeza said yesterday.

Originally accused of assault and kidnapping, Madikizela-Mandela was convicted of kidnapping Sepei and given a R15 000 fine on appeal.

Former Mandela football team coach and Madikizela-Mandela's chief bodyguard, Jerry Richardson, was convicted of the teenager's murder.

The TRC now wants to

interview Madikizela-Mandela about the activities of her former bodyguards, the notorious Mandela United Football Team which allegedly terrorised Soweto in the late 1980s.

It will cover the death of Sepei, who was found with his throat slit in 1989.

Before the boy was killed he had been taken to Madikizela-Mandela's home and severely beaten.

In recent weeks there has been a frenzy of "leaks" from the TRC claiming that Madikizela-Mandela's bodyguards could be implicated in as many as 11 murders.

Some reports have claimed former team members are now "singing" in their bid to win over the commission which will grant amnesty in return for full disclosure of political crimes.

Madikizela-Mandela still has considerable grassroots support despite her fall from grace and her divorce by her husband.

Winnie, Katiza face TRC Youth applies for amnesty over Stompie's death

Forwepan 25/8/97 (252)

By Themba Molefe

AND STOMPIE SEIPEI, who disappeared mysteriously as he was about to testify, has applied for amnesty for his part in the killing of youth activist Stompie Seipei.

The Truth and Reconciliation Commission has also confirmed that Madikizela-Mandela has been subpoenaed in terms of the Promotion of National Reconciliation and Truth Act to appear before the commission about the Seipei murder and the disappearance of three other youths.

Discussion, whether her testimony should be held in camera or in public, is continuing. TRC spokesperson Ms Terblanche said yesterday.

The commission still had to decide whether Madikizela-Mandela's hearing would be held in camera or in public, but Terblanche stressed that the hearing would be in public if it was about gross human rights violations.

She confirmed that the TRC had received the amnesty application from Cebekhulu, who re-surfaced in London where he had been in the care of former British MP Emma Nicholson.

Terblanche said Cebekhulu would have to be physically present at his hearing as the commission would not follow him out of the borders of South Africa.

However, late for both Madikizela-Mandela and Cebekhulu's hearings have not yet been set but it is believed they could take place as early as next month.

Although Cebekhulu's evidence was never heard, Madikizela-Mandela was found guilty in March 1991 of kidnapping Seipei and three other youths and sentenced to six years in jail. The sentence was reduced to a fine of R15 000 on appeal.

Cebekhulu was rumoured to have been abducted by Madikizela-Mandela's aides to protect her. A former member of Madikizela-Mandela's notorious Marikopa United Football Club, Cebekhulu spent several years in Zambia.

Former Mandela FC coach Jerry Richardson, who is serving a life jail sentence for killing Seipei, has claimed in a written statement that Madikizela-Mandela had ordered that murder and those of at least two other activists, according to weekend reports.

Richardson has applied to the TRC Truth commission acting chairman Dr Alex Boraine said on Friday that Madikizela-Mandela had been subpoenaed to help investigator behind closed doors to help in the missing youth.

"A number of questions have been asked by the commission about the disappearance of a number of youths in Soweto," Boraine said.

In a statement issued on her behalf on Saturday, Madikizela-Mandela said she had no need to address "secret meetings behind closed doors".

"She has nothing to hide, and anything she has to say she will say out in the open and in front of her country and the world," the statement said.

Government extends amnesty cut-off date and term of TRC committee

Cape Town – The lifespan of the entire Truth and Reconciliation Commission would not be extended but that of the amnesty committee would be, to ensure it could deal with its work load, Justice Minister Dullah Omar said yesterday

Speaking during debate on the Constitution of the Republic of South Africa Amendment Bill, Omar said he intended to allow a further month for

amnesty applications after the bill was promulgated

It was clear that the last phase of the amnesty process was now being entered, he said, and there was no intention to again extend the cut-off date. This would be the final opportunity to apply for amnesty.

The bill provides for the amnesty cut-off date to be changed from December 6 1993 to May 10 1994

It also abolishes the need for a person to be sworn in as acting president each time he occupies that position, if he had been acting president before

Omar said the Government had been reluctant to extend the amnesty cut-off date because it could send the wrong message to society. The decision had not been easy and had not been made lightly

However, representations

made by the Freedom Front and its constructive approach, as well as representations by the Pan Africanist Congress, had resulted in the initial "arbitrary" date being extended to make the amnesty process fully inclusive

The ANC, NP, IFP, ACDP, PAC and FF supported the bill because it was a step in the right direction, furthering the goals of reconciliation, forgiveness and peace – Sapa

Star 27/8/97 (252)

Omar vows to stick to amnesty cut-off date

CLIVE SAWYER
POLITICAL CORRESPONDENT

Justice Minister Dullah Omar says the Government has no intention of again extending the cut-off date for amnesty.

He was speaking in the National Assembly shortly before the approval of the Constitution Amendment Bill, which changes the cut-off date for amnesty to May 11 1994

The new date could allow applications by, among others, rightwingers who set off bombs during the elections, the Heidelberg Tavern killers, and those involved in the March 1994 shootings in central Johannesburg

The bill was approved by an overwhelming majority, with only the Democratic Party dissenting

DP leader Tony Leon said extending the date made a farce of the "post-amble" to the 1993 interim constitution, and would undermine the rule of law and the spirit of reconciliation.

"To extend the cut-off date is to say that amnesty is really a licence for

political expediency and decision-making."

Mr Leon quoted earlier statements by Mr Omar that the Government was reluctant to change the cut-off date.

Replying to the debate, Mr Omar confirmed the Government had been reluctant to make the change. Everyone who committed a crime should be held accountable.

The decision to change the date, made after representations by the Freedom Front and Pan Africanist Congress, both of which had renounced violence in favour of parliamentary politics, had not been taken lightly

Another reason for agreeing to the change was that the Government hoped to help in ending the violence in KwaZulu Natal. Many in KwaZulu Natal had not applied for amnesty and he hoped they would take advantage of the opportunity to do so.

A further reason for the change was that many victims of violence would have been excluded from eligibility for reparations

Ratepayers in angry protest

NORMAN JOSEPH
CITY REPORTER

Watched by police and soldiers, Oostenberg mayor Kobus Brynard adjourned a council meeting to face dozens of angry ratepayers protesting against the municipality's debt-collecting policy.

At the Kuils River municipal building last night, representatives of Stratford Green, Eerste River and Blue Downs ratepayer associations demanded that the council stop attaching people's goods.

Ratepayer spokesman Paul Thompson said that court officials daily confiscated furniture and other belongings from the homes of people in arrears with rates and service charges

Mr Brynard and deputy mayor Gawa Samuels were confronted by angry ratepayers who demanded a meeting with the council and its attorneys.

In a heated exchange, Mr Thompson told Mr Brynard residents demanded that the municipality negotiate with people behind with payments "because we are human beings"

Truth body 'will charge CCB men'

CAPE TOWN — The Truth and Reconciliation Commission would within the week press criminal charges against three former Civil Co-operation Bureau (CCB) operatives who refused to co-operate with its investigative unit, TRC acting deputy chairman Dumisa Ntsebeza said yesterday.

CCB managing director Joe Verster, operative Abram "Slang" van Zyl and regional director Wouter Basson appeared last week at separate in-camera inquiries at the commission's Cape Town headquarters.

The three men, who were subpoenaed, refused to answer questions on the CCB's foreign operations on the grounds that they could incriminate themselves and expose themselves to possible prosecutions in the countries concerned.

Ntsebeza, who heads the investiga-

22
(252)
tive unit, said he had received the transcripts of the proceedings and would forward these along with a formal complaint to Western Cape attorney-general Frank Kahn for a decision.

He declined to give a firm date, saying it would be done within the week.

Legislation governing the truth commission states that a person served with a subpoena must answer questions "fully and satisfactorily to the best of his or her knowledge".

Failing to co-operate with the commission could result in a fine of R2 000 or up to two years of imprisonment for anyone found guilty.

The foreign operations apparently include the murder of Swapo lawyer Anton Lubowski in Windhoek in 1989.

A Namibian High Court inquest in 1994 named the three CCB operatives as accomplices in the murder. — Sapa.

BD 28/8/97

Bid to keep High Court in Grahamstown

BO 28/8/97 (252)

GRAHAMSTOWN — In a final bid to keep the seat of the High Court in Grahamstown, the city's mayor and town clerk appeared in Cape Town yesterday before a parliamentary committee which is studying the Hoexter Commission's report

Grahamstown mayor Mzukisi Mpahlwa and town clerk Steven Cridland were given 45 minutes to persuade the committee not to relocate the High Court to Bisho

A move to Bisho would result in the loss of 249 direct and indirectly related employment opportunities in Grahamstown, which has a population — largely unemployed — of 110 000

The Eastern Cape attorney general's office employs 32 full-time staff including state advocates' secretarial

services and clerks. Private advocates practising from chambers and firms of attorneys would also be obliged to relocate if the court were moved.

The Hoexter Commission's report, which was released in early April, recommended three-to-one that Grahamstown keep its position as the seat of the High Court.

Judges Hoexter and Leon, supported by advocate Jappie voted in favour. The vote against the status quo recommended that the Grahamstown high court be either closed or changed to a circuit court

Cridland said: "The mayor has canvassed a lot of support across the political spectrum for the court to remain here and he has done his homework on the issue" — ECN

Judges shouldn't be judged by TRC

(252) M+G 29/8-4/9/97

Former chief justice **Michael Corbett** has written to the Truth and Reconciliation Commission arguing against any inquiry into the judiciary during apartheid

There are, and always have been, constraints upon the exercise of judicial power. Prior to the coming into effect of the interim Constitution on April 27 1997, Parliament was supreme. For practical purposes it could pass any law it liked, and it did so.

The courts had no power to question the validity of the laws Parliament made. Still less could they declare them invalid. The courts had no option but to apply the law as they found it, however unjust it might appear to be.

Of course, often the statute passed by Parliament was unclear and in such cases, when required to interpret it, the court was presented with a choice between an interpretation which produced inequity and one which did not. In such cases the courts were in a position to make the latter choice in the process of construing the will of Parliament, and they often did so.

In this they were legitimately applying the principles of Roman-Dutch law relating to statutory interpretation, which included the presumption that the legislature did not intend to oust the jurisdiction of a court of law, or to interfere with the common law more than was plainly and unambiguously indicated, the presumption against retrospectivity, the presumption that the legislature did not intend an inequitable, unjustifiable or unreasonable result, the restrictive interpretation given to penal provisions and the presumption in *favorem libertatis*, and so on.

Generally speaking, our courts did, by a process of interpretation, ameliorate in many instances the effect of harsh laws. It would be foolish of me to contend that they always did so, or to seek to defend every decision in the human rights field, or to claim that the courts did all that they could have done.

It might perhaps be said that I, having served on the Bench since 1963, have been too close to

the action to make an objective assessment. Let me, therefore, quote what Sydney Kentridge, QC, had to say on the topic in an article in the September/October 1994 issue of *Council* under the heading "The independent Bar in South Africa".

"During the apartheid years in South Africa many people helped keep alive the idea that the individual has rights and liberties which the state is not entitled to infringe. But there are not many organised institutions of which this could be said. Among them were certainly the Bar and the Supreme Court."

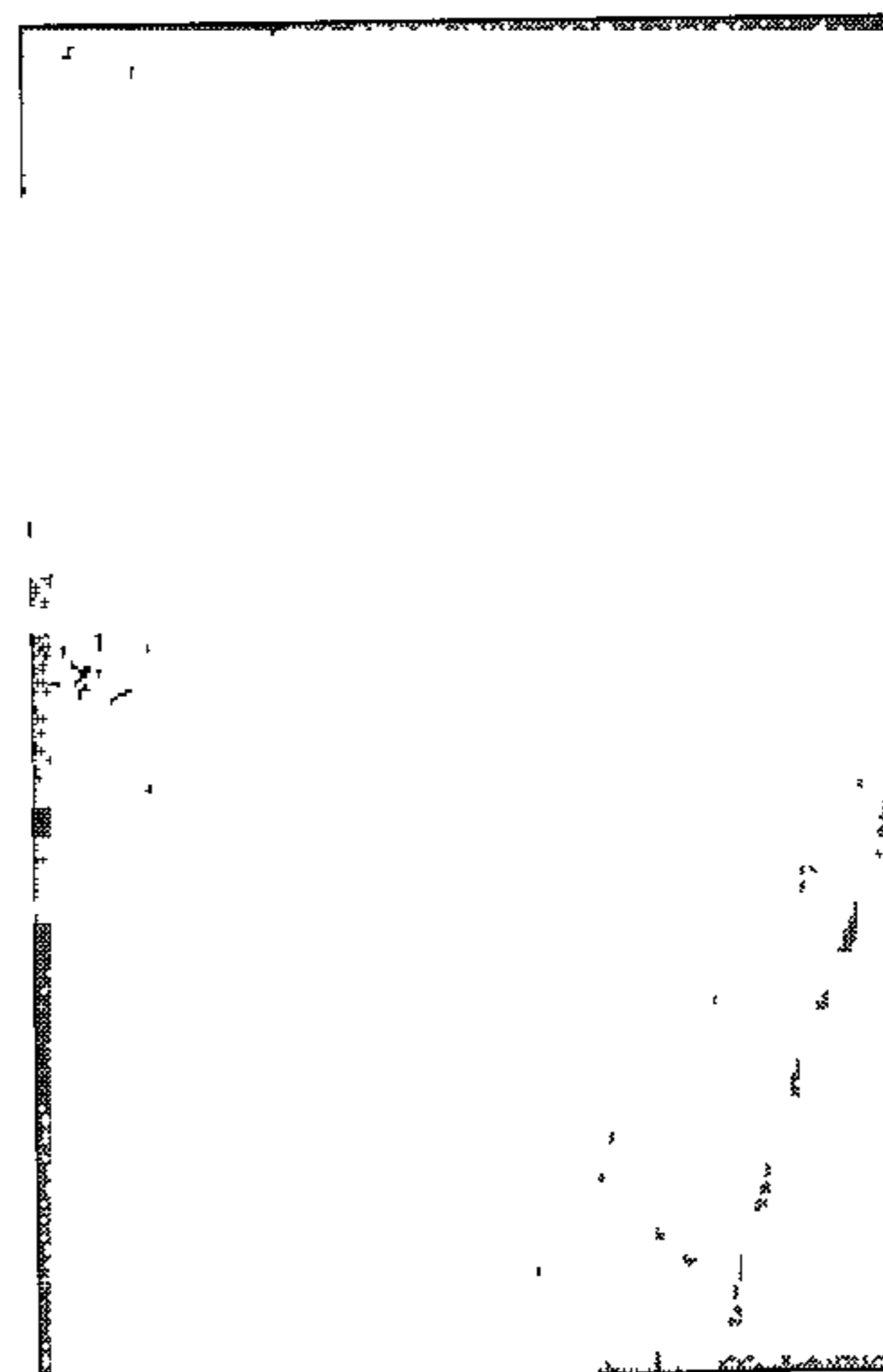
After referring to certain political appointments made by the then government, Kentridge proceeds: "It had undoubted and serious effect on the standards and the standing of the court. Nonetheless, throughout the period the South African Supreme Court as a whole remained an independent court which in an appreciable number of cases provided some protection against the excesses of the executive. Government

hopes that their appointees would take their side were frequently disappointed."

In an article in 1989, the present president of the Constitutional Court, Judge Arthur Chaskalson, stated: "In reviewing the history of the courts of this country some writers have criticised the way in which South African judges have discharged their duties over the years. That they could have done better than they did is I think now clear. But that is true of all of us, and little is to be gained by lamenting the past."

"What is important is the future, and that we owe much to our judges, and a great deal to some of them. For despite all the paradoxes they have somehow held to the infrastructure and have kept alive the principles of freedom and justice which permeate the common law."

"True, at times no more than lip service has



Judge Corbett: Courts had no power to question validity of laws. PHOTOGRAPH: TML

been paid to these principles, and there have been landmark cases where opportunities to give substance to and uphold fundamental rights have been allowed to pass without even an expression of discomfort, let alone a vindication of the right.

"Yet the notion that freedom and fairness are inherent qualities of law lives on, and if not reflected in all the decisions, is nonetheless acknowledged and reinforced in numerous judgments of the courts. That is an important legacy and one which deserves neither to be diminished nor squandered."

Of course the position is very different today. Parliament is no longer supreme. Its laws and the laws passed by previous Parliaments can be tested against the "Bill of Rights" and, if found wanting, be declared invalid by the Constitutional Court. In passing judgment on the judges for what happened prior to 1994, this

fundamental difference must constantly be borne in mind.

It must also be borne in mind that judges are not automatons, but human beings and they bring to their office human frailties, and strengths. They also bring certain personal inclinations and predilections arising from upbringing, experience and fundamental beliefs. These will inevitably play some role in a few cases, but will generally not be a major factor. Especially in appeals the single voice of one judge is of limited importance. An appeal to the Appellate Division is normally heard by five judges of appeal.

Govender appears to suggest that judges who held office prior to April 1994, or some of them, should be held accountable for their conduct, should show remorse and commit themselves to "truth and justice for the future". Presumably the suggestion is that this should take place before the TRC.

In the first place, it is not practically feasible. The TRC would in effect have to retry the case, read the record of the proceedings and determine whether this was due to some improper factor or reason. The impracticality of it all is manifest.

But there is a more fundamental objection. This has to do with the principle of judicial independence. A judge must enjoy independence from the legislature, from the executive, from any other body or authority which could be tempted to influence his decisions.

This does not mean that a judge is not accountable or above the law. He is accountable to a superior court of appeal, he performs his duties openly and in public and is thus subject to daily scrutiny and criticism, and in the resort there is impeachment. Outside these parameters, however, a judge may not be called upon to account for his or her judgments or to debate and justify before, for instance, governmental bodies or commissions.

To require such accounting before the TRC would, in my view, be contrary to and subversive of the principle of judicial independence.

This is an extract from Corbett's reply to Krish Govender, chair of the National Association of Democratic Lawyers, who urged the TRC to investigate the judiciary.

Probe by TRC causes man to black out

Sowetan
29/8/97

Hearing adjourned for a short period while amnesty applicant is attended to (252)

By Simon Zwane

THERE was drama at the Truth and Reconciliation Commission's amnesty hearing in Bloemfontein yesterday when an amnesty applicant had a blackout while facing probing questions from the committee

Petros Thapelo Mohapi appeared to black out in his chair when committee member Ms Sisi Khampempe pointed out discrepancies between his written application and his oral testimony

The hearing had to be adjourned for a short period while Mohapi was being attended to

It was later reported that his blood sugar level had dropped because he did not have breakfast

Mohapi, who claims to be an Azanian People's Liberation Army member, is applying for amnesty for the 1993 murder of a white farmer, Johnnie Smith, injury to his wife, Rene, and theft from their Wesseldal farm in the Free State

Mohapi and five other Apla members, who are also applying for amnesty, are currently serving sentences ranging from 12

years to life imprisonment

In his written amnesty application, Mohapi said the attack on the Smiths was made on behalf of the African National Congress Youth League

"I wanted to raise funds for my organisation. As I was a general secretary of the ANC, I understood that money was needed to run such a big organisation"

He further stated that as a secretary of the organisation, he had "absolute powers" to conduct the operation

However, in his oral testimony, he said he had defected from the ANC and the killing was done on behalf of the Pan Africanist Congress' military wing, Apla

The order had come from his commander Paulos Mtjikelo, who is also applying for amnesty

In his written application he however, mentioned Botshabelo ANC chairman Mr Koalane and his deputy, Mr Kotte M... as the people who issued the order

Mohapi's co-accused Mtjikelo, Moleleki Xhiba, Nthoba Wa-Nthoba, Jacob Mabitsa and Thabang Olifant have already testified

They have all claimed that the murder was carried out on behalf of Apla

BRITTS

221 refused
amnesty (252)

THE Truth and Reconciliation Commission has rejected 221 applications for amnesty after finding that the applicants acted for personal gain, Justice Minister Dullah Omar said yesterday.

Sixty applications had been refused because applicants denied guilt, he said. A total of 6 944 applications had been registered by August 22. Of these, 1 237 had been rejected because the act was not political and 130 had been refused because the offences fell outside the amnesty cut-off date. At the last count, 73 applicants had been granted amnesty.

ET 29/8/97
TRC accused of
bias by PAC

BLOEMFONTEIN. The Pan Africanist Congress yesterday accused the TRC of bias against blacks in dealing with applications for amnesty. PAC's Free State chairman, Mr Mofihl Likotsi, said the TRC displayed a lack of impartiality in granting amnesty to former policemen, Brian Mitchell and Dirk Coetzee, but had not released a single PAC cadre.



Bailing in: Former court interpreter Lukanyo Zantsi is now a bail officer. PHOTOGRAPH: RODGER BOSCH

Success of SA's first bail officers

Marion Edmunds

A quiet revolution in South African justice is taking place in the Mitchells Plain Magistrate's Court, where some of South Africa's most hardened criminals are tried

The country's first two bail officers were appointed there a month ago, and say their model project is already bearing fruit. Lukanyo Zantsi is a former court interpreter and Jennifer Barker, a former clerk.

The project was spearheaded by the Bureau of Justice Assistance, a joint project of the Department of Justice and the New York-based Vera Institute of Justice.

"The pilot project's success — measured along with similar projects in Johannesburg, Port Elizabeth and Durban — could lead to the creation of the bail officer in every court throughout the land," said project director Michelle India Baird.

The initiative comes as Minister of Justice Dullah Omar is pushing

new tighter bail legislation through Parliament, reducing the possibility of bail in serious crimes. Yet legal commentators argue that these amendments are less important than the massive improvements needed in South Africa's beleaguered courts.

The job of the bail officer is simple yet effective. At the start of the day, the officer interviews all accused who are appearing in court for the first time. On a Monday, Mitchells Plain Magistrate's Court is hit with 60 such cases, with the numbers tailing off during the week.

The officers take a photograph of each accused, stick it on to a form which has basic details about the person and the charge. They then verify the accused's address — in some instances by travelling to the physical location — log the data on to a computer, and hand the report to the prosecutor with bail recommendations.

If bail is granted, the accused has an exit interview with the bail officer, in which the conditions for bail

are explained, and detailed in a form, copies of which go to the police so they can recognise the person reporting at a police station as part of bail requirements. The officer also monitors witness intimidation.

A courtroom has been converted into a witness waiting room, guarded by a local justice of the peace, to create a safe haven for frightened witnesses. At the Mitchells Plain court, the bail officer has expelled gangsters, who usually range freely through the dirty corridors.

Now courts can monitor the granting of bail and the adherence to conditions on a daily basis. They also become a link between the judicial process and the police.

The project could also assist in improving overcrowding at Pollsmoor prison. There are 4 372 prisoners there — more than half are awaiting trial, 10% of them sent there by the Mitchells Plain court.

Omar launched the project at a ceremony this week.

M+G 29/8-4/9/97 (252)

Truth body 'biased against blacks in granting amnesty'

BD 29/8/97

(252)

BLOEMFONTEIN — The Pan Africanist Congress (PAC) yesterday accused the truth commission of bias against blacks when dealing with applications for amnesty.

The PAC's Free State chairman, Mofihli Likotsi, said the truth commission had displayed a lack of impartiality by granting amnesty to former policemen Brian Mitchell and Dirk Coetzee and "AWB racists", while not releasing a single PAC cadre.

Likotsi addressed a media conference during a break in the proceedings of the commission's amnesty committee hearing in Bloemfontein, which is considering applications for amnesty by six members of the Azanian People's Liberation Army (Apla), the PAC's former military wing.

The six Apla members attacked a farm in the eastern Free State in July 1993 and killed farmer John Bernard Smith, 62, and injured his wife, René

Thabo Mtjkelo, 34, Simon Ohfant, 27, John Xhiba, 24, John Wa-Nthoba, 35, Petrus Mohapi, 27, and Jacob Mabitsa, 35, are serving jail sentences following conviction on charges of murder and robbery with aggravating circumstances.

They have applied for amnesty on the grounds that their attack on Smith's farm was part of the PAC's "Operation Great Storm", aimed at driving white farmers off their land.

Likotsi told reporters that in view of the truth commission's lack of impartiality, the PAC would not co-operate with the amnesty committee. Apla's operations commander at the time, Letlapa Mpahlele, would thus not provide details of orders given the cadres.

He accused the truth body's white commissioners of showing "crude racism" towards PAC youths during the Amy Biehl and St James Church attack hearings in Cape Town.

Mpahlele would be allowed to participate in amnesty hearings subject to certain conditions. These included full disclosure by those who ordered SA Defence Force raids on liberation camps in neighbouring states, and the release of all liberation fighters from prison.

Mpahlele said the amnesty committee was a "farce and a sham" and sought to perpetuate white supremacy. It was unacceptable that Apla cadres were kept in prison while not a single SADF member had been charged "for killing schoolchildren" — Sapa.

Why Omar had to act on amnesty

(2522) Star 29/8/97

THE ARGUS

Although commission as a whole won't be extended, legislation will allow more applications to be heard



Next week

The amnesty committee sits in Bloemfontein from Monday to Friday to hear the applications of Mphahlele Nelson Ngo and Mchonaetse Stephen Motsamai. Ngo is a former security policeman who has applied for amnesty for the murder of P D Venter in Bloemfontein in 1990. He is serving a sentence of 25 years. Motsamai, also a former security policeman, wants amnesty for murder and for two acts of arson on Winnie Mandela's house in Brandfort during the 1980s. The hearings will be held at the Bloemfontein Education Centre in Bayswater.

Coming up

On September 8, the amnesty committee moves to Port Elizabeth for a marathon five-week amnesty hearing. Several policemen have applied for amnesty for high-profile cases including the death of Steve Biko, the murder of the Cradock Four and the disappearance of the Peko Three. The hearings will continue until October 9. A hearing into the role of the media during apartheid will be held in Johannesburg on September 15 to 17, while a hearing on the armed forces had provisionally been scheduled for September 25 in Cape Town.

By Robert Brand

Justice Minister Dullah Omar gave the go-ahead this week to extend the life of the Truth and Reconciliation Commission's amnesty committee to enable it to complete the large number of pending amnesty applications.

Omar said in Parliament the commission as a whole would not be extended beyond its expiry date of March 14 next year, but the TRC legislation would be amended to allow the amnesty committee to continue hearing applications after that date.

This follows the admission by the TRC that even an enlarged amnesty committee would not be able to get through the more than 2,000 applications still to be considered.

The commission has until December 14 this year to complete its investigations, and another three months - until March 14 next year - to prepare its report to Parliament.

TRC acting chairman Dr Alex Boraine said the commission would ask the Government to amend the law to allow the amnesty committee to continue operating independently of the commission.

The committee, which originally consisted of five members, will be enlarged to allow four panels to hear applications simultaneously. Since it started operating in June last year, the committee has heard only a fraction of the 6,944 applications registered with the commission.

A number of applications have taken weeks to hear, and many high-profile applicants have yet to appear before the committee. They include former police minister Adriaan Vlok, former police commissioner Johan van der Merwe, and several high-ranking former police officers who want amnesty for offences including the murder of Matthew Goniwe and his four comrades, and the death of of Steve Biko.

The committee does not have to hold a public hearing for every amnesty application. Those who do not entail a gross violation of human rights (murder, serious assault, kidnapping, torture, rape) can be



Under pressure ... the TRC's amnesty committee is running out of time. From left to right: Mr Justice Bernard Ngoepe, Sisi Kampepe, a committee staff member, Chris de Jager, Mr Justice Andrew Wilson and chairman Mr Justice Hassen Mall

judged in chambers, while applications which do not display any political motive can be turned down without a hearing. So far, the committee has dealt with 1,700 applications. Hearings have been held in 67 applications, of which 17 have been turned down and 50 granted. The committee has granted 23 amnesties in chambers and refused 1,648 after consideration in chambers. Boraine said it is estimated that another 627 applications need to be considered in chambers, while hearings will have to be held in 1,635 cases.

Although the TRC has already seconded two commissions to the amnesty committee and President Mandela is expected to appoint another six members soon, even the enlarged committee would not be able to process the remaining cases before March next year. "The commission envisages recommending that the act governing the work of the commission be amended to allow retaining amnesty applications to be heard by amnesty committee panels - after the commission has closed down if necessary."

One problem with this arrangement is that the amnesty committee's work should form part of the commission's final report, which has to be completed by March.

Boraine said this difficulty could be overcome by publishing a report on the completed work of the amnesty committee as an appendix to the commission's final report.

In-depth TRC coverage

Every Friday, The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds.

State won't bring back death penalty, says Mandela

ARG 30/8/97 (252)
POLITICAL STAFF AND SAPA

South Africa would not reintroduce the death penalty, President Mandela has said.

Replying yesterday to debate on his address to the National Council of Provinces (NCOP) - Parliament's second house - he said the Constitutional Court had held that the death penalty was unconstitutional.

"It is not easy for the Government to ignore the view of such a tribunal," he said. He was replying to acting Western Cape Premier Gerald Morkel's appeal to reintroduce the death penalty, as crime had reached unacceptable levels.

Mr Morkel referred to Cape High Court judge Mr Justice A J Lategan, who in sentencing one of the Worcester bombers, said "For crimes like these there is place for imposition of the death sentence, if that sentence still existed in this country."

"We, as law-abiding citizens, are no longer willing to tolerate the situation, plans must now be made desperately to make the punishment suit the crime."

Gauteng Premier Tokyo Sexwale said in reply that he had personal experience of Death Row and that there were no statistics worldwide which proved that the death sentence was a deterrent.

His impassioned plea was greeted with cheers from fellow African National Congress NCOP delegates, and a nod of approval from the president.

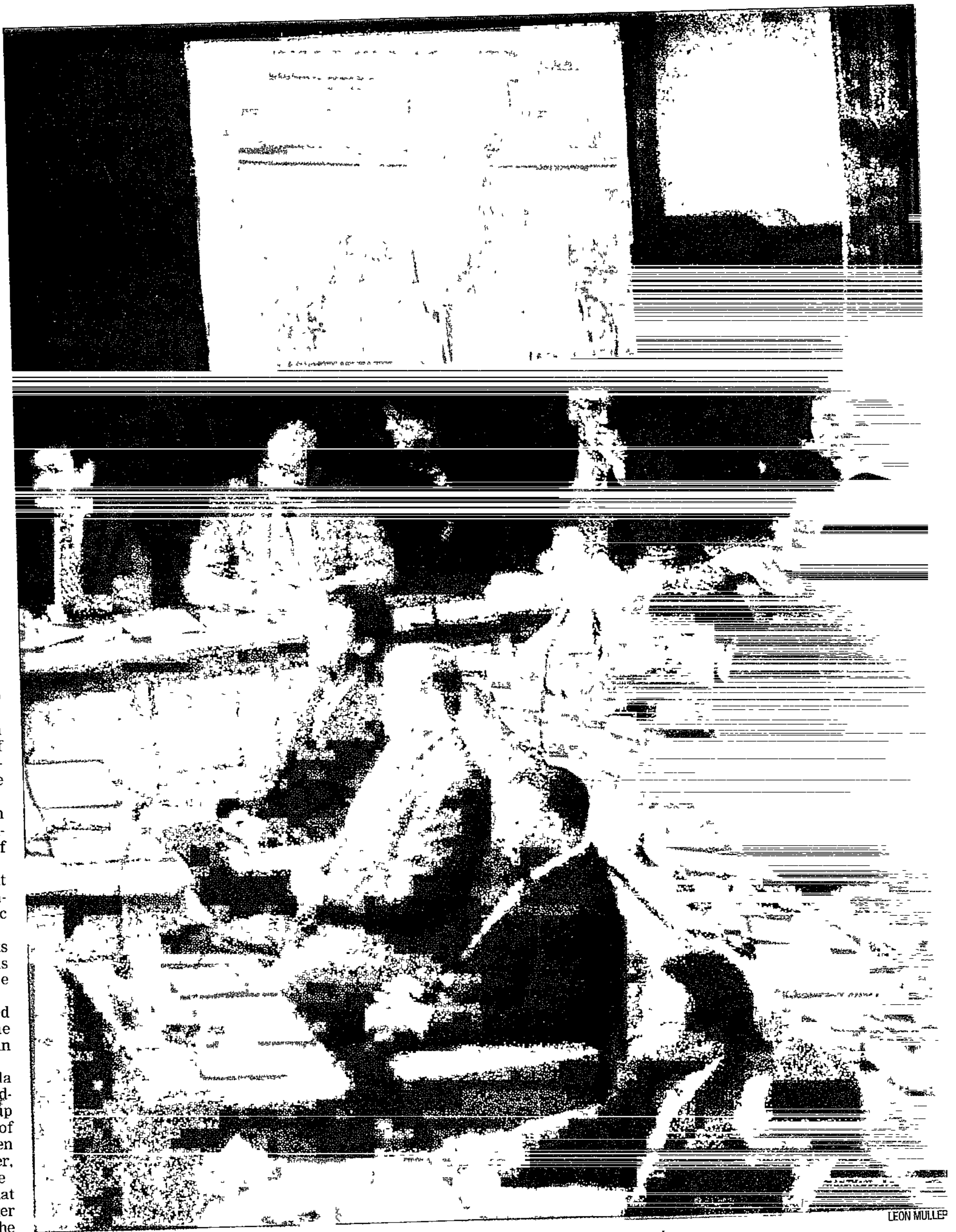
In his address, Mr Mandela was upbeat about the progress provincial governments were making towards economic growth and meeting social needs.

He labelled as "impressive" the efforts being made by provinces to fix problems exposed by a recent review of all nine regional governments.

However, Mr Mandela acknowledged there were serious weaknesses in the machinery of government, particularly in financial management.

At the close of the debate, Mr Mandela remarked that political parties whose leadership consisted of only one ethnic group opened themselves to perceptions of racism. This remark comes at a time when the National Party is seeking a new leader, who in all probability will be a white male.

Mr Mandela also said perceptions that democracy in South Africa was in danger just because the Government criticised the opposition were wrong. Democracy was a "robust exercise," he said.



Capital issues. President Mandela addresses members of the National Council of Provinces yesterday

Powell claims victimisation as TRC subpoenas its first IFP leader

(252)

Nov 30/8/97

Cape Town – Prominent Inkatha Freedom Party politician Phillip Powell yesterday became the first IFP leader to be subpoenaed by the Truth and Reconciliation Commission to answer questions at a closed inquiry

The serving of the subpoena at Powell's legislature office in Pietermaritzburg was not without incident

His lawyers complained that the TRC had leaked details of the subpoena to a journalist before the summons was served on the KwaZulu Natal MP

Powell said that the first he knew of the TRC's plans to subpoena him was when a journalist telephoned him, asking for his comment

When a TRC investigator had arrived shortly afterwards with the subpoena, said Powell, he turned him away and refused to accept the document

TRC commissioner Richard Lyster disputed Powell's version of events. He said the IFP leader did accept the subpoena, although he did not sign for it. "This is sufficient in terms of the law." It was also untrue that Powell had not received prior warning from the TRC about the subpoena, Lyster said.

Paramilitary training

"The investigator telephoned him beforehand and said he had a subpoena to serve on him." He also called Powell before the journalist telephoned

Lyster admitted that an internal leak had led to details of the subpoena being given to the journalist "It is wrong and should not have happened, but it does not prejudice Mr Powell"

Powell is required to attend a closed inquiry in Durban on September 29. If he refuses to attend he could face prosecution. It is understood that he has been named in a range of amnesty applications

Powell said he had seen the list of questions the TRC intended asking him

"They want me to answer questions on allegations made by jailed former Vlakplaas commander Eugene de Kock on paramilitary training and my alleged role in the death of a person in the Table Mountain area"

Powell claimed he was being victimised by the TRC because of his outspoken criticism of the body

"That's complete rubbish," Lyster said. "We don't use Section 29 inquiries to humiliate people, and the IFP has hardly been a target" – Sapa

Omar sued by Nalssa

By JIMMY SEEPE

(252) CP 31/8/97

A NEWLY FORMED association of attorneys and advocates has filed summons in the Pretoria High Court against the Minister of Justice and other established law bodies over the use of old laws that continue to prohibit their members from freedom of association and practice, City Press was informed this week.

The body, the National Association of Law Societies of South Africa (Nalssa), has called on the High Court to rule against certain provisions in various Acts of Parliament established during the apartheid era to be declared as unconstitutional.

The Minister of Justice, Dullah Omar, the Association of Law Societies of the Republic of South Africa, the General Bar Council and the Fidelity Fund Board of Control have 21 days to respond to the summons.

Nalssa president Post Moloto said his association would like to see changes made in a number of laws governing the admission and practice of advocates and attorneys in South Africa.

Chief among the laws which the association would like to see changed include the Admission of Advocates Act 74 of 1964 and Attorneys Admission Act 53 of 1979.

In terms of Act 74 of 1964, a person can be admitted as an advocate of the High Court of South Africa on proof that he has satisfied all the requirements for the LLB degree of any university without undergoing further training or writing any board examination as a prerequisite.

This contrasts with Act 53 of 1979 which stipulates that any person intending to be admitted as an attorney shall serve under articles of clerkship for a period of two years and then become entitled to be admitted as an advocate of the High Court.

"It is obvious that during the pass-

ing of these Acts, the then Republic of South Africa passed legislation with the intention of discriminating attorneys from advocates and also to subject aspiring lawyers to a contemporary form of slavery in the form of articles of clerkship," said the summon.

Nalssa also wants the High Court to rule on their members being allowed to use their mother tongues in terms of the provision of Act 108 of 1996.

The summon calls on the minister of justice to elevate the status and advance the use of other indigenous languages.

"We do not see how our members should continue to be subjected by the Law Society of the Cape of Good Hope, Orange Free State, Transvaal, Natal and of South West Africa," he said.

He pointed out that the country does not consist of four provinces any longer and these associations have outlived their usefulness.

Moloto said Nalssa members are therefore entitled to disassociate from the societies of the Association of Law Societies and the General Council of the Bar of South Africa.

Moloto said since Nalssa was now an autonomous legal professional body, it was therefore entitled to be treated as such in all its operations and functions.

He stressed that the association would subject itself to the provisions of its code of conduct which incorporates the International Code of Ethics as adopted by the International Bar Association in Oslo.

As a result, Moloto said he does not see why his association should not be part of the Board of Control for Fidelity Fund which consists of serving presidents of all societies including two members selected annually by the council of each society.

"Nalssa members qualify to be part of the Board of Control on equal basis with other societies."

□ SOCCER

No joy from the gods for Josephs

CLINTON ASARY

HELLENIC were once again crowned the kings of Cape Town when they scored a well-deserved 2-1 victory over Cape Town Spurs in a keenly contested Cape derby at Green Point on Friday night.

While Hellenic fully deserved their victory as they created the more clear-cut chances and threatened for most of this Premier Soccer League game, Spurs' teenage goalkeeper, Moeneeb Josephs, also learnt that the football gods can be very cruel.

Josephs made at least three brilliant saves which denied Hellenic goals, but the moment fans will remember most was when he punched Bradley August's cross into his own net in the 72nd minute.

Spurs opened the scoring against the run of play in the 26th minute when Hellenic defender Edo Dangi steered the ball into his own net while trying to clear.

But Hellenic equalised only four minutes later. John Paskin nodded August's cross into the path of Craig Bianchi, who hammered the ball home powerfully.

The Greek Gods sorely lacked a genuine target man over the past few months, but veteran Paskin fitted that role perfectly. He made his presence felt with some intelligent touches.

After a promising start to the season, Spurs have now only picked up three out of a possible 15 points, while Hellenic seem to be rediscovering the form that was so prevalent at the end of last season.

Kaizer Chiefs were made to fight all the way against relegation candidates Real Rovers in Pietersburg. Only a late goal by Marc Batchelor saw the Amakhosi draw level after Rovers had taken an early lead through man of the match George Mathiba, who has so far scored six of Rovers' seven league goals this season.

With this result, Kaizer Chiefs moved ahead of Manning Rangers in the standings, but the defending champions have a match in hand. Chiefs are still behind Bush Bucks, Sundowns and Witwatersrand University.

A goal five minutes from time by veteran striker Robison

A little relief for Vil

LONDON: Arsenal failed to get the win they needed to go back to the top of the English Premier League standings yesterday as Aston Villa secured a 0-0 draw that eased the pressure on manager Brian Little.

Arsene Wenger's men stayed in second place, a point behind leaders Manchester United, 7-0 winners over Barnsley on Saturday. Villa remained a disappointing 13th after 12 matches.

Villa, without the suspended Stan Collymore and with Steve Staunton and Savo Milosevic away on international duty, gave it their all, but were unable to get the three points they so badly need on the ground, Highbury, where their last league championship was clinched 16 years ago.

Arsenal were reduced to 10 men in the 82nd minute when Emmanuel Petit was sent off after the Frenchman had pushed the referee while remonstrating with him over a booking for Steve Bould.

Villa pressed in the final five minutes but Arsenal held on for a share of the points.

Bolton Wanderers moved off the foot of the table thanks to Dean Holdsworth, who scored his first goal for the club to send jaded Chelsea crashing to a 1-0 defeat at the Reebok Stadium yesterday.

Bolton went ahead after 72 minutes when Scott Sellars crossed from the left and Holdsworth raced in to fire home his first goal since his £2 million move from Wimbledon three games ago.

His strike was enough to give Bolton only their second league win of the season and lift them three places to 17th.

Chelsea, missing eight players through injury or suspension, struggled to make an impact following their Cup Winners' Cup exertions in Norway on Thursday, when they were beaten 3-2 by Tromso in blizzard conditions.

Manchester United manager Alex Ferguson described his side's 7-0 demolition of Barnsley as "breathtaking".

"That kind of performance doesn't happen very often. When they come, you relish them — it was breathtaking," he said.

"The speed and the making of the goals was superb."

United's scoring spree was highlighted by Andy Cole's first-half hat trick. Cole, who had missed several decent chances



HEADS YOU DRAW: Newcastle's John Beresford gets to the ball first as Premier League match at St James' Park.

against Feyenoord in the European Champions' League in midweek, was back to his clinical best.

Ryan Giggs (two), Paul Scholes and Karel Poborsky completed the thrashing as United maintained the pressure on Arsenal.

Liverpool also got among the goals, beating Derby County 4-0, while Southampton moved off the bottom of the standings by coming from behind to outscore Tottenham Hotspur 3-2.

Crystal Palace continued their impressive away form with a 3-1 win at Sheffield Wednesday, Wimbledon beat Leeds 1-0 and Coventry against Everton finished scoreless.

Blackburn Rovers kept up their good form, but had to come from behind at St James' Park to earn a 1-

1 draw against Newcastle.

United were always likely to beat Barnsley, but this was a superb show, even by their recent high standards.



Ferguson was particularly happy for Cole, who never really sparked since his £6 million

move from Newcastle during the 1994-95 season.

"I'm not a bit surprised he got that trick — he creates chances the time," said the manager. "Everyone was pleased for him."

Liverpool had had a week to forget as defeat by Everton was followed by a feeble 3-0 loss against