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TRC roadshow's over, so courts must

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ANTHONY HOLIDAY

One need not be a frightfully committed postmodernist to believe that such things as legal and political arrangements are - much like systems of magical and religious beliefs - best understood as mimetic art forms

They are a kind of theatre of the actual in which lawyers and lawmakers, priests and politicians enact and re-enact the solemn and often comic ceremonies that make the world go round - ceremonies wherein authorship doesn't count for much, because all that really matters is the play

This (rather unoriginal) thought is most helpful in trying to understand the whys and wherefores of the Truth and Reconciliation Commission's latest crop of calamities

For the past three years or so, there have been, as far as the politi-

cally observant South African public was concerned, three major shows in town

The first of these has been Parliament, which, according to a time-honoured fictional convention, makes and debates the laws of the land

In reality, of course, it does nothing of the sort. The laws it passes have been crafted by faceless teams of legal experts, vetted and fought about in closed caucus rooms, mullied over and modified by anonymous "advisers" long before the curtain rises in the debating chamber

As for debate, we have seen precious little of that, the exercise having been rendered almost impossible by the introduction during the 1980s of a Speaker's podium and the demise of the rule forbidding MPs to read their speeches

The second theatrical arena has been provided by the courts of law,

which occupy a specially privileged space in the post-apartheid dispensation. The constitution stipulates that the law, not any individual or group, no matter how powerful, is the supreme authority in our nation

This is why the third theatrical site on our political landscape, the truth commission, is something of an anomaly

Its powers to grant amnesty permit it to circumvent the courts. It could indemnify Eugene de Kock, a convicted killer, or Craig Williamson, a self-confessed murderer, placing them for ever beyond the reach of criminal or civil prosecution in South African courts, provided only that its officials were satisfied that these assassins had told the commission the whole truth, had shown that their crimes were politically motivated and that there was a degree of proportionality between the murderous means they employed and

the political ends they sought to serve

There is a deeper anomaly still in the circumstance that, at the very moment when the commission was poised to publish its long-awaited report on human rights violations during the apartheid era, two major participants in the political trade-off that resulted in the establishment of the commission should have rushed to the courts in attempts to stop publication of sections of the report that happened not to suit them

On the one hand, we were treated to the spectacle of the ex-state president and former National Party leader, F W de Klerk, seeking a preventive interdict on the grounds, among others, that publication would impede his performances on the international speaking circuit - a kind of travelling global theatre that pays fat fees to performers

At the other end of the spectrum,

we had the African National Congress leadership (or a portion thereof) complaining mightily in the High Court that those portions of the report that charged the ANC with human rights abuses distorted the true nature of the liberation struggle and ought not to see the light of day

Why did these things happen? Why was poor Archbishop Tutu, who for three hard years had pranced, prayed, cried and clowned his way through the TRC pantomime, deprived of a final triumphal curtain call?

Why were events allowed to happen that made the dance Tutu and President Mandela performed, when the former ceremonially handed his report to the latter, seem less of a joyous light fantastic than the TRC's dwindling body of well-wishers might have wanted to see?

The answer, I think, lies in the character of politico-legal theatre

is to go on

■ Dr Holiday teaches philosophy at the University of the Western Cape's school of government

the courts if their own political show that, from now on, they must rely on enough of Tutu's roadshow, and if subliminally - that they have had political players have decided - even closing act seem to mean that key

The events surrounding the TRC's become laws unto ourselves

exact vengeance and, in so doing, so that the rest of us are less likely to

And, yes, our courts exact retribution from guilty persons and parties, and tested over decades

while they may strike some as forbiddingly austere, have been tried principles and methods, which, innocence by adhering to forensic

"They do try to determine guilt and do not even claim to dispense that inefable commodity called "justice" But they do dispense law

They do try to determine guilt and do not even claim to dispense that inefable commodity called "justice" But they do dispense law

and in the conventions determining what distinctive varieties of this genre will and will not do

These conventions dictate that you cannot have two entirely different shows with competing purposes running at the same time and not expect that the patrons will eventually desert one in favour of the other

The TRC's purpose was to achieve what Aristotle diagnosed as the dramatic effect he called "catharsis"

The commission's hearings relied on displays of grief, guilt, and accusation in order to achieve something its apologists called "healing"

Its public performances were an uncomfortable combination of courtroom proceedings and group psychotherapy sessions

The dramas played out in our courts have a different purpose

Our judges and magistrates do not pretend to dispense healing. Some jurisprudentialists would say they

dispense justice

Community courts — can they work?

The contentious issue of community courts has been raised again by Gauteng premier Mathole Motshekga. But whatever merits the idea has could be damaged by political spin-doctoring, writes Jonny Steinberg

(1972) 9/11/98

ANYONE seeking a lesson in spin-doctoring need look no further than Gauteng premier Mathole Motshekga. Ever since the premier publicly announced his intention to have community courts recognised by SA law, the ranks of the community court lobby have swelled. From cabinet ministers to lawyers to town mayors to members of the SA Law Commission, Motshekga has rallied the entire spectrum of SA's black public elite behind him.

Yet for every black friend Motshekga has acquired, he has earned himself a white enemy. Opposition parties, members of the bench, white lawyers and politicians are greeting the prospect of lay justice with a great deal of misgiving.

"The greatest treasure of the new SA is the rule of law," a High Court judge said last week. "Mr Motshekga is forgetting that communities can be dark and nasty things. They are the seat of jealousy, of desires for reprisal, of homophobia and misogyny. What body of law will these lay justices administer? What checks and balances are in place when a man finds his neighbours have ganged up on him because they find him odd?"

"With respect, the good judge is missing Motshekga's point," a visiting United Nations official said last week. "The criminal justice system has failed catastrophically to fight urban crime. Most social fabric violence in poor communities never finds its way to a courtroom. And where it does, the offender is thrown in jail and brutalised. He comes out itching to re-offend. Third world cities are crying out for alternatives that force poor communities to deal with their own vices." Motshekga says "I am not talking about

communities being empowered to sentence people to prison. I am talking about restoring justice, about the offender recognising that he has hurt somebody, and being obliged to perform a gesture that acknowledges he has done wrong. We need a mechanism that acts as a sieve, which decides what goes into formal courts and what can be dealt with by communities themselves. When a hungry child walks past a house and steals a piece of bread, do we really need to bring in the police and send the youngster through the criminal justice system? For some things, communities need to impose their own moral authority."

As the debate among lawyers and politicians slips into familiar lines of racial antagonism, so it develops its own political premium and becomes detached from the issue at stake. It is worth looking elsewhere for enlightenment.

Earlier this year the Human Sciences Research Council conducted a victim survey in the informal settlements around the Gauteng town of Midrand. The community court debate has much to learn from its findings.

The most alarming of its findings was that one in every three crimes committed in the settlements involved family violence against women and children. Yet only 20% of these crimes were reported to police. In contrast, 46% were reported to street committees and civic structures.

"We are talking of fragile and unstable communities," says the council's Executive Director, Schurink. "Most people in the informal settlements are recently urbanised. They come from the rural areas alone. No networks, no extended families, no common history with their neighbours. We are talking of single mothers without a stable partner, living a



Gauteng premier Mathole Motshekga ... finding alternative sources of justice

tough and precarious life. Thirty-five percent of the children we interviewed in the Winlie Mandela settlement said they had no father. For Schurink, it is the plight of young men that represents the informal settlements' greatest danger.

"They are frozen in time. They cannot become a child again, but neither can they become adults and settle, as they have no income. They are stranded in no man's land. Young men tell me, 'no-one respects me because I am useless. But what I do know is how to shoot. I know where I have power'."

These are conditions that breed vigilante justice, and the local police — who are known to get lost in the labyrinths of the settlements as they seek offenders — often welcome its eruption.

"A victim will shout out, a crowd will gather. They will drag the offender to the police station and beat him along the way. The police, relieved that their work has already been done for them, keep him overnight and recommend that no charges are laid."

If there is a source of moral authority in this precarious and barely policed country, it comes, for Schurink, from middle-aged women. "When a girl cries rape, watch who runs out into the street. It is the 'informal mamas'."

The council's victim survey hand-picked such women and used them as its

researchers. Several "sentinels" were psychologically screened, trained as lay counsellors and asked to interview women and children about their lives. According to Schurink, their status as mediators and counsellors long survived the termination of the Council's project. The informal authority they already wielded was honed and codified.

Based on the success of the council's project, Schurink envisages the street and section committees of informal settlements formally electing groups of people to undergo training as lay counsellors. Such people would mediate nonviolent disputes and become a first line of moral responsibility on the settlements' streets.

In regard to violent crimes, they would serve as the criminal justice system's eyes and ears. SA detectives are notorious for their incapacity to investigate and solve crimes where the victim and the offender are familiar to each other. If the system Schurink proposes works, counsellors would lead detectives both to sources of intelligence and to the offender and victim. Once the machinery of the criminal justice system is set into motion, the counsellors would guide the victim through it, from persuading her to lay charges, to accompanying her to court. There are many affinities between the

council's and Motshekga's respective visions. Both realise that communities afflicted with crime are often communities of strangers with no common history, little trust and few stabilising institutions. Both are wise enough to know that short of developing their own sources of moral authority, such communities are set to bleed themselves to destruction.

But there is one crucial difference. "It is not advisable to turn these informal structures into courts," Schurink says. "We have courts already. The task is to bring them to the poor."

Motshekga, asked in an interview whether a man who beats his wife unconvincingly should be tried in a criminal or a community court, said, "There are no hard and fast rules. What evolves evolves."

Heroin lies the rub. As he plays his audience, Motshekga is in danger of turning a project to bring justice to the poor into a dangerous charade.

When the populist spin of people's justice is set aside, it is clear that debate is not really about adding another tier to the judiciary at all. It is about mending the criminal justice system we already have. It is about developing intermediary institutions to lead the justice system to places it has never been. We would do well to ignore politicians for a while, and take the debate back to its roots

ANC 'vetoed attacks on politicians,

Stephané Bothma

The organisation had the opportunity to kill most of the NP cabinet in 1981, Mac Maharaj tells the truth

PRETORIA — Despite the murder by the security police of an innocent child and two women never involved in the African National Congress (ANC) armed struggle, the organisation vetoed all suggestions by cadres that National Party (NP) politicians and their families be attacked, Transport Minister Mac Maharaj told the truth commission's amnesty committee on Friday.

Mac Maharaj, called to testify by the families of Ruth First and Jeanette and Katryn Schoon — all killed by parcel bombs mailed by apartheid spy Craig Williamson in the early 1980s — said it was strict ANC policy not to target families of politicians or high-profile civilians.

He gave no details, but said the ANC had the opportunity to kill about 90% of the NP cabinet in 1981 during a Republic Day celebration. The hearing, in which 10 former policemen applied for amnesty for the bombing of the ANC offices in London, the murders of First and the Schoons and the attempted murder of Marus Schoon, was postponed until February 22 next year.

Marus Schoon and his son Fritz, who are opposing the application by Williamson and Gerry Raven, an explosives expert who manufactured the bomb that killed Jeanette and her six-year-old daughter in 1984, insinuated that the Schoon family had been targeted by Williamson out of personal revenge.

The amnesty committee heard that Schoon and his wife played a major role in exposing Williamson as a security police spy in the late '70s. "The Schoons regularly passed on their suspicions about Williamson's loyalty to the ANC, to the organisation's structures in Lusaka," Maharaj testified. He said he also had strong suspicions about

Steve Biko

Shortly before his death, Biko explored the idea of working more closely with the ANC. Williamson, a spy at the time, came to know about a scheduled meeting between Biko and then ANC president Oliver Tambo. "The security forces saw this planned meeting as being too dangerous to allow, and Biko died in detention shortly afterwards," Maharaj testified.

Commission

families'

TRC's legal impact will be felt for 'at least six years'

(252) ARG 9/11/98
Pretoria — At least six years of prosecutions would follow the release of the Truth and Reconciliation Commission's final report, said Transvaal director of public prosecutions Dr Jan d'Oliveira today

He told a Pretoria Press Club breakfast that criminal investigations were underway regarding two generals of the former security forces, one of whom had applied for amnesty

A number of African National Congress members, including Winnie Madikizela-Mandela, were also being probed

Dr D'Oliveira said not enough evidence existed as yet to open criminal charges against any former government ministers

"We know where we are going. With some of those mentioned in the report we are, in fact, a long way down the road preparing for them. We need just the go-ahead, in the absence of amnesty, to take these into court," he said. Dr D'Oliveira said prosecutors would have to work carefully through the TRC report

"One has to investigate the quality of the evidence and apply a purely legal test. Is there, on the evidence, a

reasonable prospect of success of a conviction? If there is not, we will not prosecute"

He said cases such as those mentioned in the TRC report had to be handled with care, as "intrigue covered everything"

"When one is dealing with intrigue, you deal with people who used to tell lies. To convince a court beyond reasonable doubt that such a deed did take place and was committed by persons A, B and C, is an uphill task"

Reacting to a statement by TRC chairman Archbishop Desmond Tutu that prosecutions arising from the findings could be completed within two years, Dr D'Oliveira said this was impractical

"If the representatives of society agree that it (prosecutions) must stop, they must pass a law. In the meanwhile, we will continue with the justice process"

Dr D'Oliveira said limited resources may hinder prosecutions

"We have past crimes on the one hand and current crime, which is increasing, on the other hand. Somehow we have to attend to both."

— Sapa

UDM demands amnesty

Prosecutions will

lead SA to chaos'

By Russel Molefe

UNITED Democratic Movement president General Bantu Holomisa yesterday warned of possible chaos in South Africa if people implicated in human rights abuses by the Truth and Reconciliation Commission were prosecuted.

Speaking to more than 2 500 supporters at the UDM's first anniversary rally at Orlando Stadium, Soweto, Holomisa said a TRC recommendation that former apartheid enforcers and members of the liberation movements who had been implicated in human rights violations be prosecuted, should not be implemented.

"The prosecutions will cause alien-



United Democratic Movement followers attended the party's first anniversary celebrations at Orlando Stadium, Soweto, yesterday. UDM president General Bantu Holomisa called for a general amnesty for people implicated in human rights violations to avoid further conflict in the country.

Source: Star 9/11/98

PIC PAT SEBOKO

ation, which will be detrimental to national cooperation. We should not give the diehards a chance to derail what we have achieved so far," Holomisa said. He said prosecuting others after the granting of amnesty to 37 high-profile leaders of the African National Congress would revive the "flames of violence", which the country could ill-afford.

Undermined

"The ANC demands amnesty for its leaders only. You cannot grant amnesty to a selected few while acting against others such as Winnie (Madikizela-Mandela)."

"This has undermined the process started by (President Nelson) Mandela. Violence may again erupt in

KwaZulu-Natal if (Chief Mangosuthu) Buthelezi was to be prosecuted. South Africans are committed to reconciliation and we should encourage this spirit to take root. I support the granting of a general amnesty because it encourages national building. It is time to put the past to rest and concentrate on the development of the country," Holomisa said.

He also raised the issue of ANC members being councillors at the Independent Electoral Commission (IEC), warning that next year's general elections would not be free and fair.

The UDM will raise this matter with the IEC at a meeting tomorrow. Holomisa told the rally that the party would concentrate on safety and

security, education, housing, health and corruption in its campaign in the run-up to next year's general elections. He labelled as an "insult" statements attributed to Gauteng Premier Mabhoele Motshhega that the UDM leadership had no track record in the liberation of South Africa.

Toy-toying

"I was the first to give them (the ANC) an opportunity to be heard when they were still banned. When we were toy-toying, he (Motshhega) was working for apartheid intelligence," Holomisa said.

UDM deputy president Mr Roelf Meyer said Parliament had become a rubber-stamp for the ANC.

"Their slogan 'Let the people speak' is gone. The ANC drafts the laws and Parliament just rubber-stamps them," he said to loud applause from the crowd.

UDM general secretary Mr Sifiso Nkabinde also lambasted the Government for failing to fulfil its election promises.

"The Government promised people jobs but many are losing them under different names such as downsizing, retrenchment and restructuring. The ANC has failed to govern and it is a dream that they will emerge with a two-thirds majority next year," Nkabinde said.

Justice Minister Mr Dullah Omar said last week that rumours that a general amnesty would be granted were groundless.

'Prosecutions to take place over six years'

Transvaal director says suits against apartheid era criminals will not take the form of Nuremberg trials

Stephané Bothma

PRETORIA — Prosecutions for apartheid-era crimes would continue unless a law was passed granting a general amnesty to those guilty of gross human rights violations, Transvaal director of prosecutions Jan d'Oliveira said yesterday

Addressing a Pretoria Press Club breakfast, he said these prosecutions would take about six years to complete

However, they would not take the form of Nuremberg trials

The findings of the truth commission would not be followed blindly, but that evidence would be analysed very carefully to ascertain its quality, he said.

"The mere allegation of a crime does not constitute guilt," he said, warning that one should tread very carefully when reading the findings and the recommendations of the truth commission's final report, released two weeks ago

"We will have to apply a pure legal test. Unless a reasonable prospect of success exists, we will not prosecute"

Financial and manpower restraints would result in only serious human rights abuses, such as murder, being prosecuted, D'Oliveira said

He said cross-border crimes were currently not a priority for his office

"Unless we are stopped by the law, justice demands that prosecutions continue," he said

Expressing a personal opinion, D'Oliveira said the granting of a general amnesty to apartheid-era criminals went against his profession as a prosecutor.

He said cases against two former security force generals, Winnie Madikizela-Mandela,

chemical and biological warfare expert Wouter Basson and certain Inkatha Freedom Party (IFP) officials were at an advanced stage

"We have probed certain former National Party (NP) ministers, but not enough evidence could be found against them to institute criminal proceedings," D'Oliveira said

However, he said he was confident that another suspect involved in the murder of Wits University lecturer David Webster would be brought to book soon

D'Oliveira would not elaborate

However, he said the suspect would be charged soon and that the person would not be charged with Webster's murder only

Former Civil Co-operation Bureau (CCB) operative Ferdi Barnard was convicted of Webster's murder earlier this year. At the time, the court said Barnard had probably acted on the orders of the CCB, a covert military intelligence unit

D'Oliveira said a special team in his office had also been probing gross human rights violations by the African National Congress (ANC), but was awaiting the finalisation of the work of the truth commission's amnesty committee before proceeding with prosecutions

According to D'Oliveira, his office had been concentrating on those criminals who had not applied for amnesty and against whom reliable evidence existed

"We are dealing with people used to not telling the truth," he said

Reacting to a statement by truth commission chairman Archbishop Desmond Tutu that a cut-off date for prosecutions should be set at two years, D'Oliveira said this was wholly impractical

He said a "thumb suck" told him that prosecutions should take about six years

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FW seeks state aid in TRC suit

AR 10/11/98

Plea set to be rejected (257)

CHARLES PHHLANE
POLITICAL CORRESPONDENT

FW de Klerk has applied to the Government to fund his court case against the Truth and Reconciliation Commission.

But the issue is expected to explode into controversy after a statement today by President Mandela's spokesman, Parks Manklana, that "in all likelihood we are going to reject this request".

Mr De Klerk's spokesman, Dave Steward, said last night that Mr De Klerk was still waiting for a response from the Government.

The State Attorneys Act allows Mr De Klerk, as a former state employee, to apply to the Government to fund legal action that may arise from any action he committed as a government official.

His predecessor as state president, PW Botha, also applied to the Government under the act to fund his defence against a lawsuit launched by the TRC, and received more than R1,6-million for legal fees. Former

defence minister Magnus Malan's defence of hit-squad activities under Operation Marion was also funded by the state.

Mr Steward said Mr De Klerk was at present paying his costs but had applied for government funding at the time he launched the court action.

"He has applied to the Government as a former state employee and since he is addressed (in the TRC report) in his capacity as state president," Mr Steward said.

The National Party said it was not involved in funding the court case since it was Mr De Klerk's own initiative and had been launched in his personal capacity.

Mr De Klerk was granted an interim interdict last month to stop the TRC publishing its finding that he was "an accessory after the fact" to the bombing in the 1980s of Khotso House and Cosatu House.

The case will be heard on March 4. In the meantime the damaging reference to Mr De Klerk was excised from the final report pending the court's decision.



Public cash: FW de Klerk

TRC prosecutions may take six years

OWN CORRESPONDENT

CT10/11/98

PRETORIA: South Africa faces at least six years of prosecutions in connection with apartheid-era crimes, the deputy director of public prosecutions, Jan d'Oliveira, has estimated

D'Oliveira told a Pretoria Press Club breakfast yesterday that a two-year time limit for prosecutions, as suggested by Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu, was impractical.

"(Two years) is wholly impractical because each case takes a long time to prepare properly. If representatives of society agree the prosecutions should stop (after a certain period), they must pass a law

"Unless we are stopped by law, we must continue because justice demands it.

"This is our essential difference with the TRC. Justice is a necessary and essential element in society, therefore we must proceed."

Asked how long prosecutions would continue, D'Oliveira said a "thumb-suck estimate" was six years.

On the idea of a general amnesty, he said: "I don't want to commit myself to amnesty because amnesties run right against my job as prosecutor"

However, he said the TRC's amnesty process — scheduled to continue until the middle of next year — had halted a number of cases.

"We have prepared a number of cases which are ready for trial —

two come to mind immediately — and under pressure of court appearance the suspects ran to the TRC amnesty division and we are held up. We cannot proceed with those cases until the amnesty committee has decided one way or the other

"Our resources are very limited. We have past crimes on the one hand and current crime, which is increasing, on the other. Somewhere, somehow, we have to attend to both."

He said a process was under way to deal with the findings of the TRC report.

"The mere allegation of a bad deed does not mean proof of that deed. We have encountered that in our four years of 'third force' work

"Whether one comes from the left or the right, intrigue covers everything — and when one is dealing with intrigue one is dealing with people who are used to telling lies. To convince a court beyond reasonable doubt that such a deed did take place and was committed by persons A, B and C is an uphill task

"One has to investigate the quality of the evidence and then apply a purely legal test. Is there on the evidence a reasonable prospect of success in prosecution? If there is not we will not prosecute."

However, cases could not be dismissed lightly if evidence existed.

"Should we decline to prosecute there is nothing stopping the victims taking it to court and we, the prosecution, have to pay costs," D'Oliveira said

Public protector's office to quadruple

Recognition that Baqwa and Heath are doing good work, says Omar

BD 11/11/98

(252)
(304A)

David Greybe

CAPE TOWN — Government would more than quadruple the size of the public protector's office to deal with the backlog of 2 500 cases, Public Service Minister Zola Skweyiya said yesterday.

News of the increase in the office's complement from 32 to 150 in personnel coincided with government's two-day conference against corruption, which ends today. "This expansion is in line with the fact that Public Protector Selby Baqwa has to be accessible to all South Africans," Skweyiya said.

It also emerged that Justice Minister Dullah Omar could lead a review of the role of agencies against corruption, such as the Heath special investigating unit and the public protector

The Heath unit would also receive much-needed extra funds and resources, one senior official said

Omar said: "There is a recognition in government that the public protector and Heath unit are doing good work and need to be strengthened."

He said if the cabinet decided that, based on the outcome of the conference, he should lead a review of agencies against corruption, "I would be quite happy to do that". The justice department had done a lot of work on corruption and therefore had "a key role to play" in seeking improved practical and administrative co-operation between agencies, and the better use of resources, Omar said

Putting Omar in charge of the review process suggests a shift from his earlier suggestion of the possible creation of a single centre against corruption under a special cabinet committee as part of the rationalisation of such agencies. This irked Judge Willem Heath who questioned whether such a body would be apolitical and called on government not



BAQWA

to compromise his unit's independence.

The conference against corruption is looking at ways to strengthen and co-ordinate the capacity of the state to deal with rampant corruption in the public sector at all levels of government.

Omar said the conference would look at the experience of countries such as Hong Kong, Germany and France "where they have been able to co-ordinate the activities of all roleplayers to improve the quality of the fight against corruption".

However, LaLa Camerer of the Institute for Security Studies, warned against any rush to centralise SA's estimated 10 anticorruption agencies (civil and criminal) into one co-ordinated structure without proper investigation

The tone of the conference was set by keynote speaker Deputy President Thabo Mbeki when he said government's ultimate aim was to transform the public service in its entirety.

"This will necessitate the re-examination of the soul of the public sector and the quest for a philosophy of service in which human interdependence would replace selfish pursuits, mutual trust would replace suspicion and greed would be replaced by sharing," Mbeki said. He proposed the development of an ethics management system to eliminate corruption and malpractice in the public sector

The conference will lay the groundwork for a national summit on corruption in February. Delegates are discussing improvements to investigation and prosecution; the rationalisation of agencies against corruption; the review of legislation; improved management systems and discipline, and the protection of "whistle blowers" and witnesses.

Skweyiya said in addition to the 118 extra posts, two new investigative branches would be established in Baqwa's office: the national investigations and corporate services branch, to undertake investigations at national government level, and the regional investigations and services branch, to work at provincial and local government levels

He said "70% of this expansion relates to investigative staff of which the majority will be operative in regional offices in each of the provinces"

Root of corruption: Page 5
Mbeki's speech: Page 13

Why I kicked out ANC's bid to gag TRC, by High Court judge

LENORE OLIVER
HIGH COURT REPORTER

(252)

ARG 11/11/98

The attempt by the African National Congress to block the Truth Commission from publishing its findings on the liberation movement questioned the commission's credibility and competence.

Cape High Court judge Mr Justice Wilfred Thring said this was one of his reasons for refusing an application by the ANC to stop the release of the commission's final report last month.

The ANC wanted the report stopped because it felt the commission had not adequately addressed the party's objections to being identified as an abuser of human rights.

The organisation wanted Judge Thring to order the commission to refrain from publishing any portion of the final report that implicated the party in gross human rights.

The application was brought before the court hours before the

report was handed to President Nelson Mandela on October 29.

The ANC brought the 11th-hour application because it felt the commission had not given it enough time to submit representations on allegations of gross human rights violations.

Evidence before the court was that the ANC had submitted its representations after the 15-day deadline for submissions after the receipt of a Section 30 notice.

The Section 30 notice told the ANC that it would be implicated in gross human rights abuses.

Judge Thring said the representations were "far-reaching" and included severe criticisms of the commission and its findings.

Extracts from the ANC's representations included

■ The TRC has grossly misdirected itself in its *Findings on the Role of the African National Congress*, through the pursuit of objectives contrary to the spirit and the intention of the act under which it was established.

■ By making "findings" that in

effect delegitimise the struggle against apartheid, the TRC, wittingly or unwittingly, accords legitimacy to real gross violations of human rights committed under apartheid.

■ The finding ... had the deliberate intention, contrary to the truth readily available to the TRC, of shifting the blame for the political violence that occurred since 1990 away from the apartheid regime to the democratic movement, and condemning the oppressed for the efforts they took to defend themselves against a very intense campaign.

■ Devoid of any sense of shame, the TRC, now hypocritically ... suggests that we could have taken "appropriate and timely action" against the apartheid agents to stop them committing acts of gross violation of human rights.

■ Suddenly, to serve the particular and puzzling purposes of the TRC, we are now responsible for the criminal activities of members of the apartheid counter-insurgency forces.

Sweeping measures to fight corruption

Special court to be established to help get rid of 'this curse in our society'

David Greybe

CAPE TOWN — Government is to implement sweeping measures to combat public sector corruption, including blacklisting individuals and companies, implementing asset registers for managers and revamping the tender board system

Justice Minister Dullah Omar said the public sector conference against corruption, which ended yesterday, adopted short-, medium- and long-term measures to "get rid of this curse in our society".

The conference recommended that Omar's department create a special court staffed by retired magistrates to deal with cases more rapidly and expertly.

Omar said government's working group against corruption would report back to the cabinet and he had "no doubt" that the cabinet would give it the authority to implement short-term measures immediately. The working group would at the same time work on the medium- and long-term anti-corruption measures

Omar said government would not allow political interference in the work of anti-corruption bodies such as the Heath special investigating unit and the public protector. The quadrupling of personnel in the public protector's office, an-

nounced this week, would be followed up with extra resources and personnel for the Heath unit "Government would like to see the two bodies become even more independent and strengthened."

Judge Willem Heath said the onus now rested on senior government officials to prove their commitment to eradicating corruption in the public service by urgently implementing measures agreed to at the conference

Heath, who chaired one of the six conference commissions, said he would immediately convene a meeting of the various anti-corruption agencies. Existing control measures which were not being implemented would be identified.

The guidelines drawn up at that meeting would be distributed to all departments and "senior people will have to accept responsibility for that. If they do not then they are guilty of being negligent in looking after state assets and allowing corruption to take place"

The conference also resolved that national and provincial public service managers, "at least from deputy director up", had to report their personal assets in the relevant legislatures annually. Steps would be taken to broaden this to include local government and parastatals.

(252) ~~252~~
Officials in the public and private sector, as well as companies, who were found to be involved in corruption would be blacklisted, with the lists circulated between departments and provinces.

A system would be implemented in the tendering process to check on the bona fides of tenderers and prevent corrupt individuals and companies from being awarded contracts.

In the short term, uniform rules and procedures for the various tender boards would be drawn up, with a major revamp envisaged over the long term.

All public service rules would be audited "to ensure that they are consistent and deal effectively with problems as they begin to emerge". Protection for whistle-blowers would be strengthened.

A new code of conduct was being negotiated between government and the unions. Government senior negotiator Neva Makgetla said the code would streamline the unwieldy and lengthy process by placing a two-week deadline on most investigations of misconduct as well as excluding lawyers from hearings. The code was due to be finalised this year.

Simplified code: Page 8
Comment: Page 19

BD 12/11/98

Anti-corruption courts needed within civil service

ANDRE KOOPMAN
PARLIAMENTARY BUREAU

THE anti-corruption conference at Parliament, attended by cabinet ministers and top officials from state departments, has been warned that there is an urgent need for anti-corruption courts within the civil service

Jasper Noeth, director-general of the justice department, proposed that special anti-corruption courts be set up

These should comprise retired magistrates and prosecutors so that corrupt officials from all departments of government could be dealt with swiftly

The conference heard that the criminal justice system was so overloaded and some corruption cases so complex that matters could take up to four years to resolve

Another recommendation made to the conference was that each department within the criminal justice system should have its own anti-corruption unit

The conference's criminal justice commission identified an urgent need to simplify and speed up the process

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disciplinary procedures against officials charged with misconduct

Noeth cited a case in which a justice official had been refused bail on a robbery charge but continued to draw a salary and receive benefits such as leave for two years

He suggested that officials criminally charged with corruption be suspended without pay

Azhar Cachala, the chairperson of the conference's safety and security commission, suggested that the commission "not act too rashly" against police officials facing disciplinary action, since police officers were often mischievously charged with non-existent crimes by people whom they were investigating

The misuse of state legal representation also had to be examined, the conference heard.

Johnny de Lange, chairperson of the National Assembly's justice portfolio committee, said some officials charged with corruption had successfully applied to the state for legal representation

De Lange cited instances in which officials in corruption cases

"involving hundreds of millions of rands" had received legal representation at state expense

Noeth said management in the justice department often lacked adequate knowledge of the powers available to them to deal with corruption

Urgent attention should be given to training managers and setting guidelines on how they should deal with corruption, he added

Correctional services officials said that while the police anti-corruption unit consisted of more than 200 members, their own unit had only four officers

Despite the unit's modest size, it had achieved some success in rectifying matters within the corruption-riven correctional services system, officials said

Deputy national police commissioner Zoli Lavisa urged other departments to assist correctional services with its anti-corruption efforts

Lavisa also called for better coordination of anti-corruption procedures within the criminal justice system

Pick up the phone to nail the local tax fraudster

ANDRE KOOPMAN

A HOTLINE for whistle-blowers will be set up by the South African Revenue Service (Sars) to enable the public to report tax-dodgers

SARS deputy-chief Pravin Gordhan told the public sector anti-corruption conference in Parliament yesterday that the line would be set up later this month and run for a two-week trial period

Government is losing an estimated R20 billion a year in terms of the tax gap — "what we should be collecting and what we are collecting", Gordhan said

Between October 1997 and September 1998, SARS embarked on a "tax base-broadening exercise", in which staff visited people at their homes and businesses

They came up with some interesting findings

● On PAYE, where employers were collecting tax from employees, 81 000 businesses were investigated and 18 000 employees, or 22%, were not registered

● About 22% of people who should be registered as taxpayers are not In January of this year, the figure stood at 33%

● Out of 480 000 income tax

investigations, 123 000 businesses were not registered for payment of income tax (26%) while of 100 000 investigations on VAT, 19 000 businesses were not registered (19%)

Regarding the accounting and auditing professions, Gordhan said the question that needs to be debated is "where respectable tax structuring starts and ends, and where tax avoidance and tax evasion starts and ends"

The government is losing millions in uncollected VAT through myriad schemes — some of them with the connivance of Sars staff and some with bank staff, he said

As much as R200 million could be lost in just one sector during this financial year

The biggest area of VAT frauds in the export area One case involved R76 million of ersatz "exports" on which VAT was then claimed from the government

Gordhan said it was hoped that on November 16 a new border control regime would be put in place to ensure that exports would require a certain protocol to be followed, at least with exports to Lesotho, Botswana and Swaziland

The taxi industry is also to go under the microscope, he said

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

FM 17/11/98

HE WHO WIELDS THE AXE (257)

Bulelani Ngcuka may be a sure bet to nail crime bosses, but politics and funding shortages loom

A small revolution is under way in the fight against organised crime in SA — a revolution obscured by the political dust clouds being kicked up over who will and who won't be prosecuted from the Truth Commission's final report, and whether the new "super Attorney-General" is the cunningly constructed puppet of a manipulative ANC regime

The political questions are addressed here, but will be answered conclusively only in the coming months and years. While the issue of villains past runs its course, that of criminals present and future is the focus of sweeping steps by "super AG" Bulelani Ngcuka, the National Director of Public Prosecutions, who took office three-and-a-half months ago

Since moving into barren premises in the Dutch Reformed Synodal Centre in Pretoria on August 1 — "there wasn't even a telephone or furniture" — Ngcuka (44) has

□ Established two special investigating teams, under a national investigative directorate, with lawyers, handpicked police detectives, forensic accountants, intelligence agents and other specialists led by deputy attorneys-general to target gang warfare in the Western Cape and hit squad activity in KwaZulu-Natal. Percy Sonn, cousin of ambassador to Washington Franklin Sonn, is national investigative director and heads the Western Cape unit, while senior prosecutor Chris Macadam heads the KwaZulu-Natal unit (see page 45). A third team, to crack vehicle hijacking syndicates in Gauteng, is in the process of formation. The entire investigative directorate is co-ordinated by former Transvaal AG, now Deputy National Director, Jan d'Oliveira, who will continue an investigation into "Third Force" activities,

□ Broken the hiring logjam by appointing nearly 30 senior prosecutors to beef up the 11 prosecutorial divisions of the country, as well as the staff-starved Office for Serious Economic Offences (Oseo), which now falls under the National Director,

□ Completed the first draft of a general policy document for prosecutors nationwide. The policy, drawn up in consultation with the divisional attorneys-general and incorporating a code of prosecutorial conduct, is prescribed by law and must be presented to parliament before February. Ngcuka promises to have it ready for public comment this month, and

□ Drawn up detailed plans, in consultation

with divisional attorneys-general, to change prosecutorial methods so that more senior prosecutors are freed from administrative tasks and sent to handle trials

Ngcuka is also believed to be negotiating improvements in the working packages of prosecutors — thus tackling a key cause of poor staff morale and the consequent decline in criminal convictions

Remarkably, he has accomplished the above on a budgetary shoestring. A quirk of financial regulation meant that no funds were allocated in advance of the establishment of the National Directorate, even though it was in the pipeline for a year

Consequently Ngcuka has had to make do with reallocations from the Justice Department's budget. He asked for R32m to get started, he was given R4,5m — about half of what Judge Willem Heath's anti-corruption unit will spend in the same period. As a result, Ngcuka has hired only three full-time staff. Yet his offices are abuzz with people — nearly all secondees from Justice and various AGs' offices. He is agitating for R64m next year, with a request that all prosecutorial budgets be combined into one for allocation by his directorate

Ngcuka's energetic, can-do approach has gone miles towards overcoming the suspicion with which the 11 mostly white male attorneys-general, now called "directors of public prosecutions", regarded the creation of a national director

He's even impressed KwaZulu-Natal director Tim McNally, currently in dispute with Ngcuka and Justice Minister Dullah Omar over their efforts to transfer him, under Presidential order, from Maritzburg to Pretoria

"He's a great guy," says McNally. "He's energised the prosecuting authority through the actions of both himself and others appointed by him, and has put forward many ideas that, when implemented, will benefit greatly the effectiveness of prosecutions. And I don't say that as an attempt to arse-lick."

One of Ngcuka's most ardent supporters is garrulous Western Cape prosecutions director Frank Kahn, who has known his



new boss since they met as adversaries in trials during the late Eighties. Ngcuka was an attorney specialising in anti-apartheid defence.

"He's a man of calibre and undoubted integrity," says Kahn. "He's highly professional and has brought enormous energy to the prosecutorial service, the speed with which he has moved has been impressive." He says he had the option of taking a retirement package, but decided to stay on when he heard that Ngcuka would get the job.

Kahn is also enthusiastic about the National Prosecuting Authority Act, which created the post of National Director. He describes it as "progressive" legislation which will serve to bring the police and prosecutorial services closer in the course of criminal investigations. Countless trials have failed or been thrown out of court for want of legally correct police investigations resulting in weak prosecutions.

Yet it is unlikely the national prosecutor will ever be free of political controversy, whether it be a decision to prosecute, or the appointment of a particular prosecutor. The issue of McNally's removal from KwaZulu-Natal is the first political test of Ngcuka's office, though Ngcuka himself prefers to portray it as a matter of governance and democracy.

"Even though we are not elected, we are still public servants," he says. "If you've lost the confidence and credibility of the community it's a serious matter, because as prosecutors we are dependent on public trust."

McNally has long been criticised from several quarters — particularly the ANC —



»He's a man of calibre and undoubted integrity . . . highly professional and has brought enormous energy to the prosecutorial service«

Prosecuting director Frank Kahn (left)

McNally to remain in Maritzburg as a special prosecutor attached to the national directorate with responsibility for restructuring the national prosecuting authority.

McNally says he may accept that offer. But he continues to question the motives behind his removal from the provincial directorship. "Who is this 'community' which disapproves of me?" he asks. "It seems to be the ANC and fellow travellers. It certainly doesn't seem to be the IFP — the majority party in

the province — nor the business community, my church community or even my tennis club."

Ngcuka rejects suggestions that he is bowing to ANC pressure, and points to a detailed report by the government-appointed Investigation Task Unit into political violence in KwaZulu-Natal that was critical of McNally.

"We have lost a number of high-profile cases, and there is a public perception that it was McNally's fault," says Ngcuka.

"I told him that if we make another high-profile arrest with political implications and we lose, the blame will fall on me, it will not be seen as a natural, just decision. That is not a risk we can afford as prosecutors."

The question of who, and whether, to prosecute from the TRC's report will be an even bigger political football for Ngcuka. But he does have breathing time, he says. It would not be advisable to proceed until the Amnesty Committee has completed its work next year. Besides, the five-volume report is so dense that it will require a full-time team to establish whether there is sufficient evidence for prosecution.

On the question of whether a blanket amnesty may be granted, Ngcuka smiles. "That, thankfully, is out of my jurisdiction. The law is clear, and I must only apply the law."

But the issue is not likely to go away. D'Oliveira says the TRC investigation could take up to six years to complete. That's more than enough time for the politicians to turn the matter into a political football.

Peter Honey

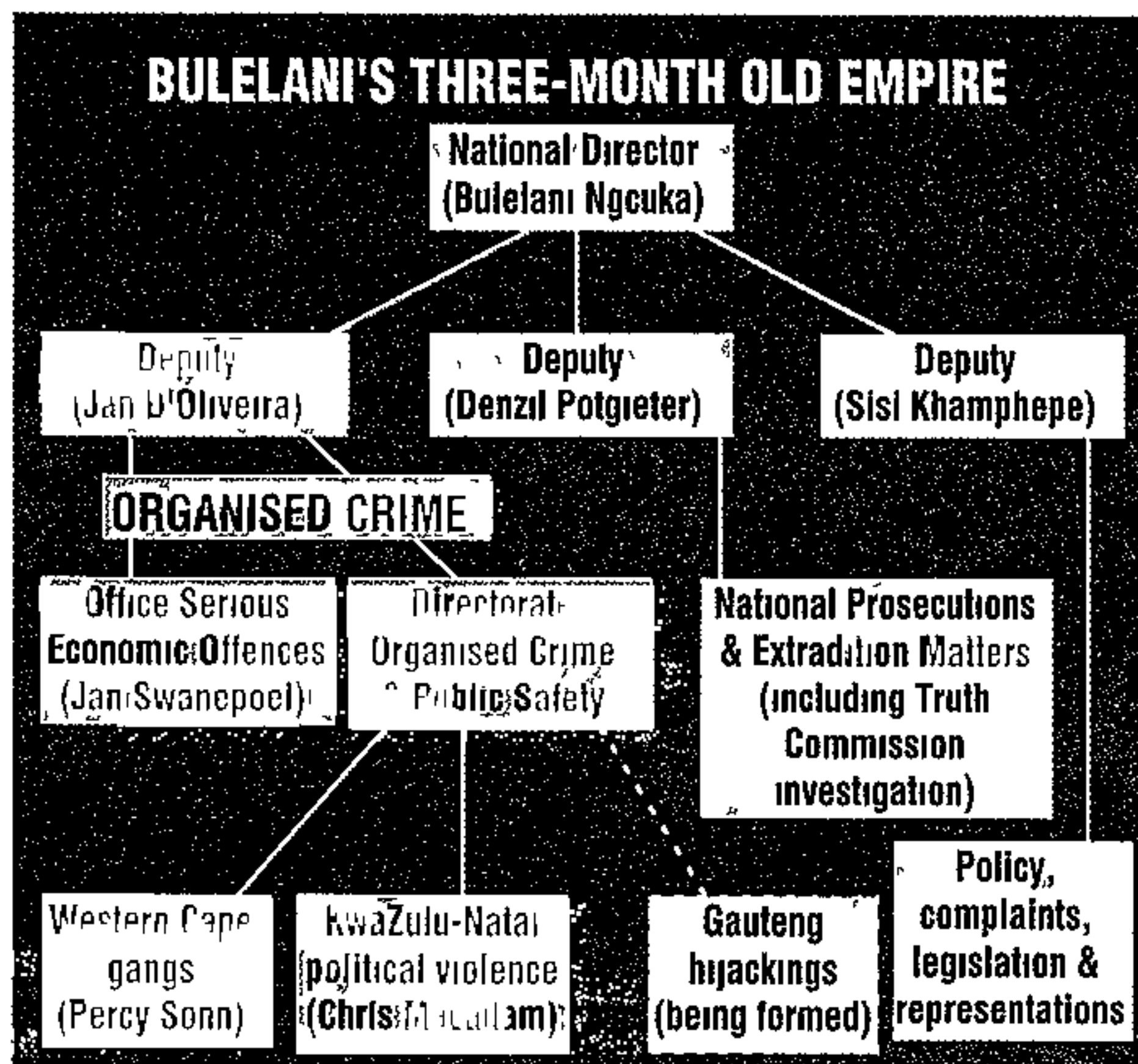
for refusing to prosecute IFP individuals accused of involvement in political violence in KwaZulu-Natal. He has been blamed for the failure of the State to secure convictions in the KwaMakhutha murder trial, which freed former Defence Minister Magnus Malan and several former military generals accused of instigating a massacre.

On Ngcuka's recommendation, President Nelson Mandela has offered McNally a position as special director in the national directorate in Pretoria, and has given him until November 15 to accept. Whatever happens, it seems certain that from December 1, McNally will no longer

be head of prosecutions in KwaZulu-Natal, and Ngcuka has already indicated his intention to appoint a black director.

McNally, who turns 60 this month — five years from mandatory retirement after 41 years in public service — refuses to leave Maritzburg, saying it would disadvantage him financially and disrupt his family life.

There may yet be a face-saving compromise for Ngcuka, who acknowledged last weekend that he was considering allowing



TRUTH & RECONCILIATION

NP (AND THE ANC) SEEK TO WIDEN AMNESTY NET

(252)
FM 13/11/98

Old Indemnity Act might do the trick

With the ink still drying on the Truth & Reconciliation Commission's massive report, the National Party is seeking to widen the parameters of the amnesty process beyond that followed by the TRC and — more important — appears to have the ear of the ANC

The NP is known to have raised the issue with Deputy President Thabo Mbeki and is planning to meet him again. It is convinced that the ANC leadership is, for its own reasons, not averse to its plea.

The TRC report anticipates moves to introduce a general amnesty and strongly advises against them, stating "in order to avoid a culture of impunity and to entrench the rule of law, the granting of a general amnesty in whatever guise should be resisted."

The NP's motivation is plain enough. Its two immediate past leaders, F W de Klerk and P W Botha, are held accountable for gross abuses of human rights during the apartheid era, though the charge against De Klerk had been excised from the report pending a court hearing scheduled for March. Neither has applied for amnesty.

Aside from its former leaders, the NP is concerned about several generals who served under Botha and De Klerk and who are named in the report as men implicated in human rights abuses. They include Generals Magnus Malan, Constand Viljoen and Johan van der Merwe (whose amnesty application does not cover his alleged role in Operation Marion, the covert training of Inkatha members as a strike force against ANC members and sympathisers), as well as Vice-Admiral Dries Putter.

A key component of the NP plea is principle of equity. It contends that the ANC was the prime beneficiary of the Further Indemnity Act of 1992. De Klerk's

spokesman, Dave Steward, says the law was placed on the statute book to provide the release of hundreds of ANC prisoners, which the ANC set as a condition for resuming settlement negotiations after breaking them off in the wake of Boipatong massacre of June 1992.

In recent articles published in *Die Burger*, NP spokesman on the TRC Jaco Maree says more than 3 100 ANC prisoners were released under the 1990 Indemnity Act and the 1992 Further Indemnity Act, the bulk of them under the latter law.

Eschewing the phrase "general amnesty" (NP leader Marthinus van Schalkwyk admits that a general amnesty is likely to generate problems) the NP is hoping to persuade its ANC interlocutors to agree that the solution might lie in the enactment of a law based on the Further Indemnity Act (which was rescinded by the Promotion of National Unity and Reconciliation Act which established the TRC).

A major problem, however, is that the 1992 Indemnity Act was criticised at the time by virtually every political party except the NP but including the ANC which,

lished at the time "Applications are heard in camera and those involved in the proceedings are sworn to secrecy. The Further Indemnity Act clearly facilitates self-amnesty." To enact it, or a law modelled on it, would contravene the new culture of transparency, Du Plessis adds in an interview conducted in the context of the latest moves toward a broader form of amnesty.

The ANC's Willie Hofmeyr, who serves as Mbeki's parliamentary adviser, is emphatic that the ANC will never agree to a general amnesty. But he adds a significant rider: "I will not completely discount a possible arrangement to meet the concerns raised by the generals."

Hofmeyr's comment appears to confirm observations by political analysts that the ANC is amenable to adding another dimension to the amnesty process, for its own agenda as well as a willingness to consider the generals, who may be vulnerable to extradition proceedings for crimes committed in neighbouring countries and even as far afield as Britain.

The ANC's readiness to consider wider amnesty parameters is manifest in two moves:

- The failed attempt by 37 of its notables, including Mbeki, to secure a form of blanket amnesty for themselves from the TRC, and

- The not yet abandoned bid by ANC leaders in KwaZulu-Natal to obtain a special form of amnesty for all ANC and Inkatha Freedom Party leaders in that



Mbeki . . . has met NP delegations on amnesty



Van Schalkwyk . . . admits general amnesty is problematic



Viljoen . . . a general who may be caught in the cross-fire



Buthelezi . . . amnesty vital to ANC rapprochement with Inkatha

on the face of it, was a prime beneficiary. The reason is that the process provided for in the law is opaque and that the ultimate decision on whether or not to grant amnesty lay with then President De Klerk.

Stellenbosch University's Lourens du Plessis says of the law in an article pub-

province

ANC hopes of complete rapprochement, if not fusion, with Mangosuthu Buthelezi's IFP may depend on a special dispensation in KwaZulu-Natal. To win NP support, they may have to go along with its quest for wider amnesty.

Patrick Laurence

South Africans ignorant of rights

NO 19/11/98
(2172)

Study shows that bodies such as the Public Protector and gender commission are unknown to most

Pearl Sebolao

SOUTH Africans had a poor knowledge of human rights, with the majority of citizens unaware how to protect or enforce their rights, a survey commissioned by the European Union Foundation for Human Rights in SA concluded.

The study, which was conducted by the Community Agency for Human Rights, found people had little experience with the constitutional bodies charged with the protection of human rights.

Bodies such as the Human Rights Commission, the Public Protector and the gender commission were rarely ever mentioned among respondents when asked about where to go if their rights were violated.

A total of 1 200 respondents was inter-

viewed throughout the country during March and April. They included eight identified vulnerable groups such as women, children, migrants, refugees and people with disabilities.

The research showed that people thought of human rights as needs, demands or entitlements, and not in terms of the constitution and the Bill of Rights.

An understanding of the rights contained in the constitution "was the preserve of a very small minority". Only 55% of the respondents said they had heard about the constitution. However, 66% of those who had heard of it could not explain what it was. The most important rights listed by the respondents were freedom of speech (25%), the right to equality (24%), education (22%), housing (18%) and employment (17%).

On specific rights, 73% believed it was a mistake to ban the death penalty. The law on abortion was regarded by 31% as a positive development.

With regard to attitudes towards foreigners, over half felt that human rights contained in the constitution should be the exclusive preserve of South Africans, while only 25% rejected the notion.

Half the population blamed illegal immigrants for crime, with blacks accounting for 55% of those who believed this.

Nicolas Marcoux, the foundation's director, said the survey highlighted the need for more education and dissemination of information, as most of the opinions were not based on informed choices. The foundation would allocate R4.5m for an awareness campaign and educational programmes on human rights.

Meanwhile, Sapa reports that the country's media would be the subject of a racism probe in the first half of next year, the SA Human Rights Commission said yesterday.

The proposed probe has its origins in a joint request by the Black Lawyers' Association and the Association of Black Accountants of SA to investigate the Mail and Guardian and the Sunday Times newspapers "for alleged violations of the fundamental rights of black people".

However, the commission said yesterday that it had decided not to undertake an investigation against the specified newspapers because the issue of racism in the media could not be confined to the two publications only.

It would therefore launch an investigation into racism in the media in general.

Krappies in deep ...

M+G 13-19/11/98 (252)

Wally Mbhele

The former head of the security police, General Krappies Engelbrecht, may be charged for his alleged role in tampering with evidence relating to the plane crash that killed former Mozambican president Samora Machel

Machel and 24 others died on October 19 1986 when their plane crashed near Mbuzini in Komatipoort

Engelbrecht and a number of former apartheid security forces are currently under investigation by the Transvaal attorney general's special investigation team for apparently covering up evidence pointing to the South Africa government's involvement in the crash

Engelbrecht is one of several apartheid generals who have been under investigation by the former Transvaal attorney general, Jan d'Oliviera, for offences allegedly committed during their defence of apartheid

D'Oliviera said this week cases had been lined up against two generals. Although he did not mention their names, the *Mail & Guardian* has learned that one of them is Engelbrecht and one of the charges he could face is defeating the aims of justice

The other charges against Engelbrecht relate to his role as a former head of the security branch and also his tenure as a senior officer in the murder and robbery unit. Former Vlakplaas hit squad boss Eugene de Kock is expected to be the main state witness against Engelbrecht

National Director of Public Prosecutions Bulelani Ngcuka would not "deny or confirm" Engelbrecht's alleged involvement in the Machel cover-up. "That investigation has reached a sensitive stage," he said

Newly appointed head of prosecutions in Gauteng, Silas Ramaite, said he is aware of

the Machel investigation but did not know the details as he was only appointed last week to succeed D'Oliviera

In its final report, the Truth and Reconciliation Commission said a number of South African special forces converged on the site of the crash

A former military intelligence officer told a commission inquiry that he had been based at Skwamans, a secret security police base shared with military intelligence operatives between Mbuzini and Komatipoort.

He claimed that a number of high-ranking security force officials came to Skwamans for a meeting and a braai the day before the crash. They left late that night in a small plane and some returned after the crash

The officer said the group included apartheid heavyweights like General Kat Liebenberg, former foreign affairs minister Pik Botha, General van der Westhuizen of military intelligence and about 15 others from Eastern Transvaal command and group 33 of the South African Defence Force

A senior ANC leader yesterday described Engelbrecht as: "Mr Fixit in many cases. He has always acted on behalf of a bigger collective and it would be interesting to know on whose behalf was he acting"

Other charges to be brought against Engelbrecht relate to his role in misleading the Harms commission, appointed to investigate claims of apartheid hit squads in the early 1990s. He was the commission's main investigator

He also allegedly played a key role in covering up the murder of Japie Maponya by Vlakplaas operatives. Maponya was abducted from Krugersdorp where he worked as a security guard. His brother was a member of the ANC's armed wing, Umkhonto weSizwe. He has also been linked to the provision of weapons to the Inkatha Freedom Party

Reconciliation flaws come to the forefront

The truth commission has, by default, provided an opportunity for the country to decide whether it really wants reconciliation, writes Steven Friedman

DD 16/11/98 (AFS)

THE past fortnight has perhaps finally buried the Pollyanna view of post-apartheid reconciliation. The reaction to the truth commission's report shows clearly that the practice of reconciliation is rather different from the theory. First, it is one thing for ANC politicians to extol national healing, another for them to see themselves accused of rights abuses. It is one thing for the National Party to endorse reconciliation, quite another for it to see itself accused of crimes against humanity.

We do have, to our credit, a Tutu, a Mandela and a Lekota who offer a glimpse of what we might be. But for the rest, our leaders and much of the society remain a reminder of what we are — inheritors of a polarised past. The NP and Inkatha Freedom Party's failure to face their complicity came as less of a surprise than the apparent rejection by the ANC — or part of it — of a commission which was largely its own creation. However, in one sense, that interpretation may misread the ANC reaction.

The truth commission was not the commission much of the ANC wanted. It hoped for an inquiry which, like the Chilean equivalent, would unmask the immorality of the previous order. What it got was more of a reflection of the balance in our society, an attempt to treat the antagonists fairly even-handedly in the hope of fostering commonality. And, when it saw what that meant, it was unable to adjust.

Secondly, it is one thing to pass laws stipulating that those who do not seek amnesty will be prosecuted, but quite another to order prosecutions if the accused are politicians needed to solidify the new order.

It is easy to see the commission's outcome as a morality play in which grubby politicians thwart the moral force of the commission. The truth, though, may be more complicated. Many politicians who rejected the report are not simply spurred by self-interest. They remain deeply wedded to their versions of our history, present and future. Equally importantly, so do many of their supporters.

And the dilemma between the need to establish standards of justice by prosecuting all who did not seek amnesty and the possible costs, in disorder and human suffering, of prosecutions against key politicians, is a real one which highlights the problem of seeking justice in a divided society held together by a compromise.

So the reaction is a reminder also of the severe limits to the idea of reconciliation which lay behind the truth commission. The belief that we could somehow wish away our divisions by talking about them to a commission. We know now that four years and a partial public confession is not enough to unite us. And we now need to decide whether and how to tackle the task.

Some ingredients have been suggested here before — the need for protagonists to accept their role in the past rather than simply demand this of the other side, that we can find what unites us only if we recognise our differences and do not seek to dissolve them by demanding that others become like us, the urgency of a national vision which might enable us to embrace a common goal beyond ourselves, such as fighting poverty.

One theme stands out. The need to recognise, as the truth commission process perhaps sought to deny, that, just as the root of



Reconciliation .. a rockier road than imagined when truth commissioners such as Alex Boraine and Archbishop Desmond Tutu, set about their work about three years ago

our problems is political, so too is a possible solution.

On amnesty, the truth commission has, perhaps unwittingly, thrown the task of weighing the demands of justice against those of peace to those with whom it belongs — the politicians. It is they who must decide now whether to grant amnesty or prosecute offenders. Either way, they will have to lay down the criteria by which the sins of the past are to be judged.

Whichever course they choose will hold risks. The first may entrench a culture of impunity, the second may imperil order. So critical a choice can be made only by those who were chosen by, and are accountable to, voters in response to open public debate. Whether or not we like the decision, this is vastly preferable to shunting an essentially political choice to a collection of "experts" not directly accountable to an electorate.

We now know that none of our competing visions of justice can impose themselves on the others, that not even a commission led by our most outstanding moral personality can impose on the adversaries a vision dif-

ferent to their own. If we want reconciliation, then, it is political leadership — and that of the major interests and institutions — who will need to seek it through compromise.

Broadly, society faces three options, those which it always faced but which the truth commission process hid.

The first is to declare reconciliation neither realistic nor necessary. In this view, the majority has freed itself of tyranny, good has triumphed over evil, and the task is to consolidate the victory. The second, seemingly popular among government leaders, is to seek reconciliation, but to see it largely as a state achieved when the minority accepts the vision of the majority, when the perpetrators understand the needs and hopes of their victims. And the third, the most difficult, is to seek a compromise different from, but achieved perhaps in much the same way as, that of 1993.

This strategy would recognise that 1993 did not agree on much more than a political system. Important as that was, it left most questions unresolved, of which perhaps the

central one was the sort of justice we believed in — not only in relation to the deeds of the past, but society and the economy. And it could be that it is agreement on justice that we now need to seek.

Agreeing on justice is much more difficult than deciding political arrangements. It cannot be achieved in months of negotiation or even, perhaps, in a few years. At best, some interim compromises might emerge.

However, if we want reconciliation we need to begin the discussion now and to adopt the attitudes which negotiation or dialogue requires: an ability to listen to the other side and a desire to conciliate rather than polarise.

This approach may prove beyond us. However, if we are not prepared to attempt it, we should abandon talk of reconciliation or even a perhaps more realistic goal, co-existence.

For all its flaws, the truth commission may have forced us and political leaders to decide whether we really want to work together, and by omission pointed to what we still need to do to achieve this.

HEALING A WOUND
FIRST HEALING - 15 - 18 AS

Killing 'a victory for ANC'

DD 17/11/98
WELKOM — Amnesty applicant Stephen Donald Makhura told the truth commission at the Thabong community centre yesterday that killing a policeman was a burden for the apartheid state and a victory for the African National Congress

Makhura is seeking amnesty for the murder of policeman Lourens Cornelius Oosthuizen and the attempted murder of five other policemen during a shoot-out between self-defence unit members and the police at a roadblock near Bethlehem in April 1992

Two unit members, identified only as Sebenzile and McGregor, were killed during the shoot out

Makhura, an Umkhonto we Sizwe and ANC member, is serving a life sentence for the killing

Explaining his comment that murdering a policeman was a victory for the

(252)
struggle, Makhura said "If the police managed to arrest us with so many weapons of war, it was going to be a victory for the state and so we decided to gain a military and political victory against the state"

Makhura said at the time of the incident the self-defence unit members were on their way to Natal to reinforce units there. They were transporting five AK47 rifles, ammunition and two pistols

He said at no stage during their trip were they going to allow themselves to be disarmed by the police

"People in Natal were being killed daily. Since we were strong in arms and in personnel in the East Rand and Johannesburg, an order was issued that we go and reinforce units in Natal

"We were fighting apartheid structures who were frequently killing and maiming innocent people" — Sapa

Cooperate with us or else, warns rights body

(252) *Sowetan* 17/11/98
INDIVIDUALS or institutions that fail to cooperate with an inquiry into racism and the media by the South African Human Rights Commission will be severely dealt with, commission chairman Barney Pityana said yesterday

Launching the investigation in Johannesburg, he warned that the culprits would be subpoenaed to appear before the commission. If they failed to comply they would be arrested.

A *Government Gazette* detailing the terms of reference and rules of procedure for the inquiry would be published in January. Pityana said he hoped resorting to such measures would not be necessary and that all involved would cooperate with the SAHRC.

Pityana said by launching the inquiry the SAHRC hoped to generate debate and dialogue among South

Africans about the nature, meaning and incidence of racism in the country.

He said there was need to inform South Africans about racism if "they are to be able to address it". Pityana told journalists the commission believed the media would benefit from closer scrutiny so that they could understand how their work was viewed by citizens.

This would help the media sharpen their capacity to be responsive to the needs of people and reflect the true nature of society.

"We believe that South Africans, through dialogue, will learn, understand and have the facility to use race theory and analysis so that there need be no defensiveness, will adopt practical and relevant language, and will be sensitive to one another, especially when it comes to accusations of

racism," said Pityana.

It was hoped the probe would engage all people in seeking common solutions to racism and thus construct a society free of racism.

Pityana dismissed suggestions that the probe was launched with the influence of the Government, which in many instances had criticised the role of the media in South Africa's transformation phase.

"We are not a Government institution. We are not even accountable to it but only to Parliament. Let me stress this. We don't take instructions from the Government and therefore it has nothing to do with this inquiry."

He said it was not a probe into freedom of expression but racism, adding that the commission had considered the impact of the investigation on freedom of expression - *Sapa*

Units 'had to prove themselves'

DD 18/11/98 (252)

ANC self-defence units ignored official organisation policy, amnesty committee hears

WELKOM — African National Congress-aligned self-defence units had continued to kill policemen in the early '90s even though the organisation had suspended its armed struggle, the truth commission's amnesty committee heard yesterday

Testifying before the committee at the Thabong community centre in Welkom in connection with the murder of Sgt Hadibonoe Tsosane in Phuthaditjhaba in the Free State in May 1993, Molahlehi Motlokoa said the units still had operations to carry out, including killing policemen

"It was necessary to kill them because the apartheid state had to see we were still serious, even though the ANC had suspended its armed struggle," said Motlokoa

Motlokoa, John Khubeka and Phillip Mosia were charged for Tsosane's murder but the latter was acquitted. Motlokoa and Khubeka are serving 18 years each for the incident

Khubeka claims to have applied for amnesty, but his form could not be found by the truth commission

Motlokoa told the committee that on May 19 1993 the three of them saw Tsosane remov-

ing barricades from the road

They approached him and demanded his service firearm, but he refused and Khubeka fired a warning shot into the air

"But when John (Khubeka) saw he was a policeman, he shot him. We also retrieved his gun," he said. They took a woman who was with Tsosane and locked her in the boot of her car and left her there

He said the unit commander had told them former ANC youth league president and current Deputy Environmental Affairs Minister Peter Mokaba, and former SA Communist Party secretary-general Chris Hanu knew of continuing unit activities

In an unrelated incident, Isaac Mohomane, who claimed to be a unit and ANC member, appeared before the amnesty committee in connection with the murder of Sgt Mokete Makau and Tselane Mosebi, also in Phuthaditjhaba, in June 1993

Makau and Mosebi were gunned down by Mohomane, Jack Mofokeng, Phillip Mosia and Solomon Sera, who are serving sentences ranging from 18-years to life for the murders

Mohomane claimed they were all members

of the self-defence units and were instructed by their commander, Simon Mofokeng, to kill the policemen because they were playing a major role in the unrest and killing of people

"We reached a decision that we should do something in QwaQwa to send a message to their masters and bosses that what they were doing was not acceptable," said Mohomane

He said their task as a unit was to counteract violence perpetrated by the police and the state. The commander of the unit had given them specific instructions not to disarm the police but to kill them, he said

It emerged during cross-examination by the lawyer for the families for the deceased, Lesane Sesele, that Makau was killed because he was an investigating officer in an armed robbery case against Mohomane

Mohomane denied this, saying Makau was never the investigating officer in the case

Asked about the operations that were in conflict with the ANC's policies regarding the suspension of armed struggle, he said "I personally did not support the suspension because people continued to die in our areas"

The hearing continues — Sapa

De Klerk holds out olive branch to TRC

ARG 19/11/98
ARGUS CORRESPONDENT

Dublin - Former president F W de Klerk has sounded a conciliatory note in his dispute with the Truth and Reconciliation Commission (TRC), saying they had done "a great deal of very good work" and he was "grieved" by the souring of relations between him and TRC chairman Archbishop Desmond Tutu.

Speaking to a student audience at Dublin's University College yesterday, Mr De Klerk said that although he disagreed with many of the TRC's key findings, the commission had succeeded in establishing the truth about many gross violations of human rights.

It also had a cathartic effect, he said.

"Only the most callous observers could fail to be moved by the testimony of victims from all sides of the political spectrum or horrified by the evidence of many of the perpetrators."

But the commission had not succeeded in its main objective of promoting reconciliation, said Mr De Klerk, adding that he was considering establishing a foundation with the objective of working for "real reconciliation".

The acrimonious relationship between himself and Archbishop Tutu, Mr De Klerk said, was a "sad reflection" of the divisions in South African society.

"I have great and genuine admiration for much of the work he has done."

"It grieves me that we evidently hold such divergent views about the past and that our relationship has been characterised by

so much recrimination and bitterness.

"If the two of us, both Nobel Peace Prize winners, cannot rise above our differences, what chance is there for the essentially decent constituencies that we both represent to find lasting reconciliation?"

Mr De Klerk was upbeat about South Africa's economic and social prospects, saying that although the country faced great problems, it had done remarkably well since the transformation to democracy.

The greatest challenge still facing South Africa was massive unemployment, he said.

This was the fault of the trade unions, which had raised the cost of labour to unrealistic levels, and the Government's "intrusive" labour legislation.

On other fronts, the country had done as well as could be expected.

"Crime remains a serious problem, although there are indications that we are at last beginning to turn the tide."

"Our economy has not grown at the rates we had planned, but at least for the past five years it has grown. Given the parlous condition of many emerging market countries, South Africa has fared quite well."

"Our multi-party constitutional democracy is doing well and is about to hold its second election. Most of our institutions are rapidly becoming more representative of the population as a whole."

"Thus, five years after our transition to full democracy, South Africa is doing reasonably well. We have lost many of our earlier illusions and are wrestling with difficult problems."

"However serious these problems may be, they are insignificant when measured against the catastrophe which would have overwhelmed us had we not taken the decision and the risk in 1990 to transform our society."

Hearing portrays struggle in Durban during late '80s

By Mbongeni Hlophe

POLICE informants and Vlakplaas askaris played a vital role in the abduction and assassination of Umkhonto we Sizwe (MK) cadres believed to be responsible for several bombings that went off in greater Durban in the 1980s.

This is the picture painted by the testimony of six former Durban security branch police officers applying for amnesty in Durban this week in connection with four incidents that led to the disappearance and death of six African National Congress activists in the late 1980s.

Among them are the late MK Swaziland commander Phila Portia Ndawandwe (also known as Zandile), who was abducted in Manzini in 1987.

She was forced into a vehicle by three police officers assisted by informants who are now "not traceable."

General Johannes Albertus Steyn, Colonel Johannes Hendrik Botha and Sergeant Lourens Gerald Wasserman are applying for amnesty in connection with Ndawandwe's death.

According to them she was killed on a farm in Elandsdorp, outside Pietermaritzburg, on instructions of the late Durban security branch commander Colonel Andy Taylor.

"We blindfolded her and led her to a shallow grave," said Wasserman. "I struck her with a riot baton until she lost consciousness and I pulled out my pistol and shot her in the head once."

Wasserman said Ndawandwe was killed because she refused to cooperate with them when they tried to recruit her as an informer.

"We laid her body in the grave, stripped it of all the clothing and poured agricultural lime on the body to make sure there was no smell to attract unnecessary attention," he said.

Ndawandwe's grave was filled with refuse bags. "We wanted it to look like an old refuse dump. If someone dug, they would be discouraged from digging further," Wasserman added.

Phinezo Nxaweni, another MK cadre and University of Natal law student, was killed and buried in a similar fashion in 1988.

For the past seven days Botha, Wasserman and Colóndel Sám dhí Preez have been

attempting to explain to the Truth and Reconciliation Commission's amnesty committee why they had to blow up the bodies of three MK cadres.

The "KwaMashu Three" - Sibusiso Ndlovu, Manzi Vliakazi and Elias Mshali - were lured to Avoca bridge, where they were intercepted by three policemen who later killed them in November 1988.

"We tied them to a railway line and placed their bodies on three land mines to make it look like they were blown up by their own mines while trying to blast the railway line," said Botha.

The three were killed near Phoenix railway station and their bodies were mutilated beyond recognition.

"We forced them to kneel down on the same railway line they were going to blow up and we each had a pistol to shoot the suspects simultaneously," said Wasserman.

The three applicants informed the committee that Taylor told them that the three cadres were very dangerous and that it was impossible to recruit them to join the police network of informants.

However, when questioned about why they did not arrest the three cadres and charge them for formal prosecution, the three former policemen failed to explain this to the committee.

"This could have been a very easy way to remove these people from their activities for at least eight years that they would spend in prison," said amnesty committee chairman Judge Andrew Wilson.

All the former policemen claim they were "just following orders" from their seniors, who were in turn bowing to political pressure on them from National Party politicians.

Utterances such as "you are senseless murderers" and "you deserve to be killed yourself" were constantly heard from the audience during the hearings.

"You will never see heaven because you killed our relatives without any reason," said Sipho Ndlovu, whose brother was among the assassinated.

Members of Stanley Sipho Bhula's family appealed to the committee to assist them to locate the spot and the cliff from which his

(253) Sowetan 20/11/98

body was thrown. His killers said the body was dumped at Umbumbulu, south of Durban, 11 years ago. But attempts to find his body on Wednesday proved fruitless.

Bhula's death seemed to indicate the frustration of police because his assassination came only three days after he was acquitted in the Pietermaritzburg High Court on charges related to the bombing of Amantzimtoni's Sanlam Centre in December 1985.

Steyn, Wasserman, Sergeant Adrian Roslee, Sergeant Daniel Bosch and Colonel Frank McCarter admitted that Bhula's killing was prompted by anger at his having escaped conviction because of a lack of evidence in the bombing trial.

"We were convinced that he was guilty of the offence but the court failed to convict and sentence him," said McCarter during his testimony last week.

It emerged during the amnesty hearing that the lack of evidence in Bhula's prosecution was due to the possible implication of police informants who apparently participated in the bombing while they were still on the side of the ANC.

It appears that police did not submit this evidence in court because their informants would have been forced to testify and their identities would then be disclosed.

But Bhula's family still hope that his body will be found.

"Just knowing the spot where he was dumped will have positive meaning to us," his sister Nonhlanhla told Sowetan.



AWB men get amnesty for planting bombs (252)

JOHN YELD
THE TRUTH COMMISSION

ARG 20/11/98

An Afrikaner Weerstandsbeweging (AWB) member, who bombed the Independent Electoral Commission offices near Hoopstad just days before the April 1994 elections, is one of seven people granted amnesty by the Truth Commission today.

Eduard Roux, 36, told the TRC's amnesty committee he had been trying to scuttle the election process

Another AWB member, Pieter Nel, 42, was granted amnesty for planting a home-made bomb at the Calvary Church School in Nelspruit in January 1992

Former KwaZulu Natal Police con-

stable and Inkatha Freedom Party member Mduduzi Ndlovu, 27, was granted amnesty for murdering a former colleague in April 1991.

John Jeffery, 35, was given amnesty for spraying political slogans on a bus terminal in George in December 1985.

African National Congress Youth League member Mzwakhe Mndebele, 30, was granted amnesty for unlawfully having a firearm in November 1992.

Another IFP member, 54-year-old Makhanda Ndwalane, was granted amnesty for unlawfully having a firearm and ammunition near Port Shepstone in July 1992

Josias Mogashoa, 33, an active member of Azanla (military wing of the Azania People's Organisation) was given amnesty for planting explosives in 1993

'REALISTIC SALARIES' ON THE WAY

Pay rise for prosecutors

ET 20/11/98

(252)

JOHANNESBURG: Prosecutors dismayed by a recent justice department decision to stop overtime pay can take comfort from the fact that a salary raise is imminent. **CATHY POWERS** reports.

THE dispute between the justice department and prosecutors over meagre salaries is likely to be resolved before the end of the month, National Director of Prosecutions Bulelam Ngcuka has assured the legal fraternity

In an address to the Justice College this week, Ngcuka said an announcement about a salary raise for prosecutors was imminent

He noted that the National Prosecuting Authority Act drew a distinction between prosecutors' salaries and civil servants' salaries, allowing prosecutors to negotiate higher salaries. Prosecutors would therefore no longer have to depend on overtime pay to supplement their income

This news was welcomed by prosecutors, who were struck a blow last month when the justice department announced it would suspend overtime pay from December 1

Prosecutors said they had held off taking any "serious action" against the department for fear of alienating the one man who can pull the strings for better salaries — the newly-appointed Ngcuka

The National Union of State Prosecutors and the Society of State Advocates of SA considered taking steps against the department to prevent the suspension of overtime pay, the president of the Society of State Advocates of SA, Retha Meintjies, said yesterday.

"We have full confidence that Ngcuka is doing everything he can," Meintjies said

She said the unions hoped to get increases that would at least equal what they presently got from the 40 hours of overtime they could claim monthly

"If what is announced does not cover that, it won't be acceptable," Meintjies said

Discussions were already under way

between the finance, justice and public service and administration ministers and Ngcuka to "fix more realistic salaries for professionals" when the suspension of overtime was announced

Since assuming his post Ngcuka has laid down his vision for prosecutors. A body of highly skilled professionals known in all communities as the "people's lawyers"

Ngcuka's task is to establish a single prosecuting authority under national leadership for the first time. For this reason he must draw up a prosecution policy, including a code of conduct, within six months

Ngcuka said there was a "severe shortage" of personnel, with more than 130 prosecutor vacancies nationally

Compounding the problem was that the average level of experience was less than one year.

In the past, the training of prosecutors was fragmented and at times "sorely neglected"

However, he noted that South Africa was now in an era in which prosecutors needed "increasingly specialised skills"

Appeal fails, so McNally is retiring

(252) Star 2/11/98

Ousted KwaZulu Natal attorney-general Tim McNally has been granted early retirement from November 30 this year and will not be relocated to the super-attorney-general's office in Pretoria as intended by the government.

This follows his last-ditch appeal to President Mandela this week. Mandela's decision was communicated in a letter from Justice Minister Dullah Omar to McNally yesterday. In a statement, Omar said his relationship with the controversial attorney-general was characterised by mutual respect and co-operation.

Omar wanted to place on record his appreciation for the services McNally had rendered to the country for more than 40 years. McNally was the country's senior attorney-general.

Omar, who last month ordered McNally to relocate to Pretoria and to accept a position in the office of the national director of prosecutions from December 1, said he wished McNally and his family "everything of the best in his retirement and for the future generally".

McNally appealed to Mandela against the transfer to Pretoria, citing personal and financial constraints if he were forced to leave KwaZulu Natal.

Counter-proposals

At a meeting with Mandela on Monday - attended by Omar and National Director of Prosecutions Bulelani Ngcuka - McNally indicated that he accepted that he would no longer be KwaZulu Natal's attorney-general.

He made two counter-proposals: that his early retirement be accepted, or that he be appointed to a special post to be created, with headquarters in Pietermaritzburg, to deal with corruption and white-collar crime.

"The two options were considered by the president, and after consultation... the president came to the conclusion that the second option was not feasible, which then left the president with no alternative but to accept advocate McNally's retirement with effect from December 1 1998," Omar said.

Omar added that he phoned McNally yesterday morning to inform him of the decision and sent a letter to confirm this.

McNally emphasised that, after 41 years of public service, he had not been given a special golden handshake, and that his package was what was due to him in terms of the law and his pension fund contributions. He added: "I'll be leaving without bitterness." Sapa

Premiers' forum to decide future role of tribal police

By JIMMY SEEPE

THE FUTURE of tribal police and rural community courts in crime prevention is to be decided by a special national task force which was this week established by the country's nine provincial premiers.

The premiers, who met under their umbrella organisation - Premier's Forum - called for the speedy investigation into the possibility of using tribal police in combating and preventing crime.

Under current legislation, tribal police, who were used by the apartheid system to try to suppress the rural population, still do not qualify to enforce safety and security in rural protection.

The task team, to be headed by Northern Province Safety and Security MEC, Seth Nthai, will look at the possibility of integrating the tribal police into the police reserves, commando system and to protect

tourists (252) Star 22/11/98 CP
Although three of the nine provinces do not currently have tribal police, the premiers endorsed the call for tribal police and urban and rural community courts to help in crime prevention and reducing the backlog in the courts.

There are currently more than 2 400 tribal police in South African rural areas, with the bulk in KwaZulu-Natal (900) and the Northern Province (797).

The Forum said the involvement of tribal police in providing safety and security in rural areas would be similar to those in countries such as Lesotho, Botswana and Zimbabwe. Nthai said it was regrettable that the present government had ignored the role of a traditional police service in crime prevention.

Nthai said tribal police had continuously played an important policing function in the protection of life and property.

He said the SAPS Amendment Bill which sought to establish a municipal police service had not made provision for the establishment of rural policing structures.

He said it was important that proper rules and procedures be laid out that would regulate the functions of tribal police despite them not being part of current legislation.

He said "Due to lack of training, some are not performing their functions in accordance with our new constitution."

"Some tribal authorities still keep jails to lock up offenders, especially violent criminals and tribal tax dodgers."

"Most of the courts still impose corporal punishment, which is meted out to offenders by members of the traditional police service."

Nthai said there was an urgent need to transform the tribal police service into an effective prevention unit adhering to the new human rights culture.

Zama's disbarment fuels debate

BLA wants a moratorium on applications for the expulsion of lawyers

(2777) 28 22/11/98

By CHRIS HLONGWA



STRUCK OFF THE ROLL... KwaZulu-Natal lawyer Linda Zama was disbarred by the Pietermaritzburg High Court this week

THE disbarment of prominent KwaZulu-Natal lawyer Linda Zama by the Pietermaritzburg High Court this week has caused much debate among black lawyers.

One of the most well-known "struggle" lawyers, and a former member of Deputy President Thabo Mbeki's consultative committee and also a director of companies, Zama was struck off the roll with the possibility of a criminal investigation being launched into her affairs.

This ended a more than a year of adjournments after the Natal Law Society lodged an application for her disbarment. Its probe into her management of trust funds had revealed a history of impropriety and repeated huge shortfalls, amounting to half a million rand.

The money also involved subsidies for the housing of the poor put in her trust by the Provincial Housing Board.

Judge Peter Combrunck, sitting with Judge Nick van der Reyden, ordered her expulsion after Zama's attorneys sent a letter stating she had withdrawn her defence against the application by the NLS.

Combrunck said he would refer the case to the Director of Public Prosecutions to investigate if there were grounds for a criminal prosecution.

But some black lawyers feel there is a too high incidence of black lawyers being disbarred in South Africa and the Black Lawyers' Association is fighting for a moratorium while the matter is debated.

These lawyers believe law societies are racist and target black attorneys. "They are not as energetic in pursuing cases against white lawyers," said one lawyer.

The Durban branch chairperson of the BLA, Edward Ngubane, said being struck off the roll "was like a death sentence". He said other forms of punishment could have been explored, such as suspension.

"Zama approached us and was prepared to be suspended for five years. She was prepared to pay back any deficit. They decided to go for the jugular. There is some agenda to eliminate as many black lawyers as possible. A person can be rehabilitated," he said.

He said one heard of some big white firms with alleged irregularities being investigated then "one hears nothing after that".

But Ngubane said the judge was entitled to refer the Zama matter for possible prosecution.

On the other hand, other senior black lawyers believe there is a "big fuss" over the matter of, as they see it, lawyers who are stealing money put in their trust mainly by black and poor clients.

The problem with this is that the debate is only waged within the profession. The public should be involved because this is public money being stolen. Not a cent should be taken from a trust account. It is another person's money," said a senior Durban black lawyer.

On Thursday the council of the Law Society of South Africa will debate the BLA's proposal that a moratorium be placed on all pending applications for the expulsion of lawyers while plans to deal with the issue are discussed.

However, one thorny issue will be how to handle the issue of lawyers "who were cheating clients during the moratorium. Clients may suffer irrevocable prejudice".

"Would the moratorium also apply to white lawyers?" asks Esme du Plessis, co-chairperson of the ISSA. Ngubane says it should.

It is also understood the Road Accident Fund believes the law societies are lenient with errant lawyers.

Many road accidents victims are being fleeced, it believes. It has set up an investigating structure that will involve direct contact with the lawyer's client.

On Friday the Transvaal Law Society resolved to "find the cause of the problem" that led to some lawyers mismanaging accounts.

One proposal is that there should be consultation with lawyers who have problems to find ways to help them.

However, it is pointed out that the Natal Law Society had "discussions and meetings over a long period with Zama before it decided to take action against her".

The Law Society of South Africa this week announced it would from next year present courses and seminars to its members "on practice management, to assist in particular small firms and disadvantaged practitioners with the proper administration and running of their practices".

It said the striking off the roll of attorneys had "drawn mixed responses in the legal profession. On the one hand there are those who believe that whenever a shortage in an attorney's trust account is discovered, such a person should be removed from the roll forthwith.

Then there are those who believe there may be extenuating circumstances and that striking off is not necessarily the only action that should be taken," said the ISSA in a statement by co-chairpersons Dr Willie Serrit and Esme du Plessis.

They said it was true there were "unfortunately a small minority of attorneys who deliberately and with intent defraud their clients of their money, but there are also a number of practitioners who, because of their heavy case load, other administrative functions and lack of management skills, do not keep a watchful enough eye over the administration of their practices".

It suggested that such lawyers could be suspended rather than struck off the roll.

"Proposals are being considered to provide that in future, practitioners who have a shortfall in their trust accounts because of inefficient management may not summarily be struck off the roll but be suspended from practising without supervision for such a period of time to enable them to obtain the necessary skills and prove that they are capable of managing their practices professionally and correctly."

TRC hearings on East Rand violence begin

(252)

Members of self-defence units to testify
in largest single application for amnesty

By HOPEWELL RADEBE

Details of the "bloody and bitter war" that engulfed the East Rand during the early 1990s will be revealed over the next three weeks when 135 former self-defence unit (SDU) members start testifying before the Truth and Reconciliation Commission about their roles in that conflict.

The hearing, set to last from today until December 11, is the largest single amnesty application the TRC has had to deal with since its inception.

Among the applicants are 56 senior civic and political leaders who served on the central command of the SDUs in Thokoza and the neighbouring Phola Park informal settlement.

In its submission, the central command admits to being "guilty of excesses" during its "bloody and bitter" war with the IFP.

There will be a separate hearing for SDU members from Katlehong and Vosloorus next year.

While claiming responsibility, the SDU members lay the blame for the violence largely at the door of the IFP, the then South African Defence Force and the SA Police. They accuse the three of starting and sustaining the township violence.

They will also blame the criminal element which took advantage of the carnage and

often played parties off against each other in order to be able "to loot houses, rape women and kill their enemies without detection".

The applicants will testify in two simultaneous hearings at the Vosloorus community centre and the Palm Ridge community centre.

TRC spokesperson Mbulelo Sompetha said that among applicants were women who provided food for SDUs, kept weapons, and provided their homes as hideouts for teenagers who acted as "lookouts" and intelligence scouts for the SDUs.

Former central command member and applicant Duma Nkosi said the former SDU members had been encouraged to come forward "to tell the proper story through the eyes of the perpetrators and victims".

Nkosi, now an ANC MP, said that, through claiming responsibility, the central command wanted to "lay to rest the spirit of the victims".

But before this can happen, the central command faces a demand by the TRC that applicants give details of incidents as well as names of people murdered by the defence units.

Nkosi said that because of the nature of the conflict, SDU members did not know the victims by name, nor could they claim with certainty the number of people they were individually responsible for killing.

NATIO

McNally opts for retirement after refusing to relocate

Taryn Lamberti

KWAZULU-Natal director of public prosecutions Tim McNally was on Friday granted early retirement from the end of this month after he turned down an offer to relocate to the office of the national director in Pretoria.

McNally met President Nelson Mandela last week in a last-ditch effort to be allowed to stay in Maritzburg. McNally suggested that he be appointed to head a new special unit to investigate white-collar crime and corruption.

Justice Minister Dullah Omar told a news briefing on Friday that the suggestion was not feasible because the Independent Director Serious Economic Offences was doing a similar job.

McNally said the president at last week's meeting that he would take voluntary early retirement if the new unit was not set up. Omar said his relationship with McNally was characterised by respect and co-operation, but there were "a large number of people in KwaZulu-Natal who had lost respect for him".

PD 22/11/98

The situation had become a "target for conflict", Omar said. The newly appointed national director of public prosecutions Bulelani Ngcuka had done an "exemplary job" by restructuring the offices of the former attorneys-general and the prosecution service. Ngcuka had taken "effective" and "rapid" steps in this regard, Omar said.

TRC told of Apla's robberies

AZANIAN People's Liberation Army commanders ordered its members in South Africa in the '80s to steal to raise funds for weapons, the Truth and Reconciliation Commission's amnesty committee heard yesterday

"We stole cash, jewellery, cars and everything worth money so that we could fund Apla's operations, and this we carried out successfully," then Apla commander in Westonia, Patrick Thapelo Maseko told the committee in Mayfair, Johannesburg

Apla was the military wing of the Pan Africanist Congress

Maseko said on returning from military training in Tanzania, Apla soldiers had no weapons, and were told to rob to get arms

They formed a unit dubbed the "Beauty Salon", which reported directly to Apla director of operations Letlapa Mphahlele

In the process of carrying out the operations, people were killed, especially whites who at that time were regarded as enemies of black people, Maseko said

In his application he said they robbed the Libanon Gold Mine Fresar's Stores of R16 000, R6 000 at Elsburg mine and R11 000 at the Cala Hotel. He also mentioned attacks on various police stations in and around Soweto

The group robbed the Transkei University of R500 000. A policeman was killed and two more were injured in this operation

Maseko's affidavit listed 24 operations the four-member unit carried out but he said there had been more operations

The other members of the unit were Donga Maleka (codenamed Lumumba), Christopher Botshabelo (codenamed Small Baby) and a Tefo, who was apparently a SA Defence Force member at De Brug

Under cross-examination Maseko denied they were a group of tsotisis who wanted to enrich themselves by carrying out robberies

The hearing continues - Sapa

Soweto 24/11/98

Hearing told of killing policy

Self-defence units were involved in pre-election carnage on the East Rand

BY SIMON ZWANE

A breakdown in discipline, and the policy of "a killer must be killed", which was adopted by East Rand self-defence unit members, were some of the major factors which contributed to the escalation of violence that ravaged the area in the early 1990s.

Former self-defence unit members told the Truth and Reconciliation Commission's amnesty committee sitting in Palm Ridge, near Alberton, yesterday that the recruitment of criminals into the SDUs and police collusion with Inkatha Freedom Party-supporting hostel residents worsened the conflict between township and hostel residents

(252) How 24/1/98

Glen Vilakazi, a member of the committee of seven which co-ordinated SDU activities at Ntshansibi (renamed Lusaka A) section, told the committee that the "killer must be killed" policy was adopted to discourage random killing in the area. But killings continued after the adoption of this policy, and the committee could not prevent them because they often received reports after the alleged perpetrator had also been killed.

Vilakazi said community leaders discovered the extent of these atrocities only recently, when they were preparing their amnesty applications. Sally Sealey, an independent researcher from the Independent Board of Inquiry, said it was "clear that not all SDU



Glen Vilakazi... bought weapons with donated money.

members were disciplined and abided by the code of conduct". Those individuals who did not should be dealt with accordingly, she said.

About 135 SDU members and community leaders have applied for amnesty in connection with the bloody violence which engulfed the East Rand townships just before the historic 1994 election.

Although the majority of the applicants have never been arrested, they have decided to apply so that a clear picture of

their role can emerge.

Vilakazi told the committee that he was responsible for buying the firearms with money donated by the community.

Members of the police's Internal Stability Unit were allegedly often seen transporting IFP members with red headbands. Police allegedly often opened fire on people who were trying to defend themselves against these men.

Amnesty applications by 37 leaders of the ANC are currently being reconsidered by the TRC, a commission official said yesterday. Among them are Deputy President Thabo Mbeki, Justice Minister Dullah Omar, Transport Minister Mac Maharaj and Defence Minister Joe Modise.

I supplied guns to SDUs, admits Kasrils

By Claire Keeton

D EPUTY Defence Minister Ronnie Kasrils said yesterday he had provided weapons for self-defence to people on the East Rand, West Rand and Soweto in the early 1990s

Kasrils was speaking in Vosloorus in support of amnesty applications to the Truth and Reconciliation Commission by 56 members of self-defence units (SDUs) and Umkhonto we Sizwe (MK) cadres operating in Thokoza

"I participated in providing weapons in order to protect people's lives," said Kasrils, who has submitted an amnesty application

Kasrils said about 150 people died every month on the East Rand after July 1990 and the residents could not rely on the security forces to protect them

"The African National Congress was under enormous pressure. People wanted to know 'Why is the ANC not protecting us? MK people are trained. They cannot stand by and let us die'"

Kasrils said about 700 people died from August to September 1990, the majority of whom came from the East Rand and Soweto

"The killings continued without letting up and by the end of the year 1 800 people were dead. By April 1991 about 2 400 people were killed," said Kasrils

"You have to understand the response of the community. War had been launched against them and the majority who were killed were ordinary township dwellers"

He said in response to this the ANC decided to establish and train SDUs to defend their communities

He emphasised it was against ANC policy for SDUs to launch attacks, but in practice there were times when members "overstepped the mark"

"On these occasions ANC leadership would race to the area and remind members of policy. They were acting out of anger, as a deterrent, as a way of proving in a war situation that they could hit back"

He said in his experience most attacks came from the hostel dwellers and not from the community

Thokoza MK commander Mr Chechela Machitje said the SDUs were forced to take action to protect the community against bloodshed. He has applied for amnesty in connection with several incidents

In one case Machitje personally ordered that SDUs attack members of an Inkatha Freedom Party funeral procession who were armed and brandishing weapons

"Those attending funerals had a habit of shooting and killing, leaving dead bodies in their trail," said amnesty panel chairman Judge Ronnie Pillay

"So even funeral processions were part of pitched political battles"

Kasrils agreed "Generally after funerals hostel dwellers would come through a township and attack people in the streets and their houses

"This happened over and over again, virtually every weekend"

But Machitje said after the SDUs attacked the IFP procession, Inkatha-backed funeral processions never again went on the rampage in Khumalo Street or through the ANC-supporting Beirut section of Thokoza

25/11/98
Soweto

500 died in SDU-IFP clashes, TRC told

(GMA) 26/11/98
THEMBA HADEBE

ANC decided on units because communities said the security forces failed to protect them, Kasrils testifies

By RAPULU TSWANE AND SIMON ZWANE

More than 500 people were buried as paupers in East Rand townships during the violence in the early 1990s as mortuaries overflowed with unclaimed bodies.

At least 200 of these were in Thokoza.

Testifying yesterday before the Truth and Reconciliation Commission's amnesty committee sitting in Alberton, self-defence unit (SDU) central command member Duma Nkosi said the violence between township residents and Inkatha Freedom Party-supporting hostel dwellers cheapened the life of people in the area.

Nkosi, now an ANC MP, said Thokoza residents were forced to defend themselves because the police did nothing to protect the community against attacks by hostel dwellers.

Instead the police charged people a fee of between R25 to R250 to help them flee the area. The community clubbed together to do whatever they could to defend themselves.

"A church minister prayed, a doctor gave injections and an inyanga gave *hrakazi* (muti)," he said.

Deputy Defence Minister and former Umkhonto weSizwe leader Ronnie Kasrils told a simultaneous TRC hearing in Vosloorus, Boksburg, that the ANC leadership recommended the formation of SDUs after communities said they could not rely on security forces to protect them.

"The nature of the violence in the East Rand townships was so horrific and barbaric that it is difficult to erase from memory. About 150 people were killed every month and you had to understand the mood in the community at that time.

"They could not be left to die in that way while discussions to find a political solution were happening."

"We were left with no other method than to assist them to develop organs of self-defence," Kasrils said.

He said the formation of the SDUs was discussed at various ANC and MK conferences in 1990 and 1991. At one conference, Nelson Mandela called on MK guerrillas to play a role in safeguarding their communities.

Kasrils said he helped to draft the document *For the Sake of Our Lives*, which formally endorsed the formation of the SDUs.

Nkosi said the ANC's national, provincial and local structures responded to this by establishing central command structures to co-ordinate the activities of the SDUs in townships.

He said suspended foreign affairs director Robert McBride, then head of the ANC's Witwatersrand peace desk, helped to establish the Thokoza structures.

He said the township was awash with firearms and it was not necessary to ask the ANC to supply these. Community members also launched their own initiatives to obtain firearms.

Kasrils admitted that SDUs did not always limit themselves to defence. "Out of anger and retaliation they would attack to prove to the other side that 'we can hit you back'."

"It is easy to understand what compelled them to do what they did."

He said the ANC "accepted responsibility and admitted failures on its part."

"I am proud of the fact that I am a member of an organisation that protected people in a disciplined way," Kasrils said.



THEMBA HADEBE

Taking stock... Deputy Defence Minister Ronnie Kasrils explains why self-defence units were necessary in violence-torn Thokoza during the early 1990s.

'I spent three magazines from my AK-47 that day'

By RAPULU TSWANE

A self-defence unit (SDU) commander who masterminded attacks on the IFP told the Truth and Reconciliation Commission's amnesty committee yesterday that there was a pattern of telephone tapping, disconnection and power failing whenever Thokoza residents were attacked by hostel dwellers.

Former Umkhonto weSizwe guerrilla Chechela Machitje (37) said he personally participated in attacking the IFP members at the Thokoza stadium after the IFP members, assisted by the former South African Defence Force's 32 Battalion, had attacked the



CHECHELA MACHITJE

Spilling the beans... former SDU leader Chechela Machitje told the Truth and Reconciliation Commission how he instructed the Thokoza community to defend itself against the IFP.

Thokoza residents for two days in September 1990. "I spent three magazines from my AK-47 that day I am quite sure that people died during the attack but I do not know

135 are applying for amnesty

how many. The IFP were planning to launch an attack on Phola Park but we stopped them at the Thokoza stadium," he said.

Machitje is one of 135 former SDU members who are

applying for amnesty for their part in the violence that ravaged the East Rand township in the early 1990s.

Machitje, currently a member of the South African Secret Service, said he had just been released from jail in September 1990 when he realised that the violence against his community was being conducted by professional attackers.

"As a former MK soldier, I found myself in a situation where my community were being attacked and I could not help them. The late comrade Jackie Mathego came to me and gave me an AK-47," he said.

Machitje said the late MK chief of staff, Chris Hanu, asked him to identify SDU members and train them how to handle weapons.

As an SDU commander, he also ordered an attack on an IFP funeral that was passing through the notorious Khumalo Street to the cemetery in 1992.

"I moved from section to section and told SDU members that there was to be a funeral of an IFP member and they had to attack it," he said.

Machitje, who said he was still suffering from post-traumatic stress as a result of the violence, apologised for his actions. "I am not apologising for IFP people who died. I am sorry for the war that led to so many people dying," he said.

TRC rejects IFP demand to call off East Rand hearings

BY SIMON ZWANE
AND RAPULE TABANE

Attempts by the IFP to prevent the TRC hearing the amnesty applications of former Thokoza ANC self-defence unit (SDU) members failed yesterday.

Rejecting the IFP demand to postpone the hearings, advocate Denzil Potgieter, chairperson of the amnesty panel, said there was no basis to discontinue the hearings. He said it was clear that IFP MP Abram Mzizi, who said he needed more time to respond to what SDU applicants would say about him, had been told of the hearings timeously.

He had also been informed of the difficulties the committee faced in that the applicants cannot identify the people they attacked or killed in the conflict.

In total, about 4 000 lives were lost in the war between the ANC and IFP from 1990 to 1994.

Mzizi, on Monday faxed a letter to the TRC demanding that the hearings be halted because he felt that insufficient notices about the hearing had been given to possible victims.

But the committee was told that an advertisement had been placed in mainstream newspapers a month before the hearings, and two weeks ago, radio broadcasts were made urging victims to come forward.

About 150 SDU members have applied for amnesty. Their hearings have been divided - one is taking place in Palm Ridge near Alberton and the other in Mayfair, Johannesburg. The Mayfair hearing was adjourned until Monday to allow applicants time to furnish more details in their applications.

The adjournment came after applicant Themba Richard Xaba mentioned his involvement in burning down Mzizi's house at the height of the conflict. Mzizi had no knowledge of this evidence and, according to the TRC Act, he had to be informed before the evidence was heard, to allow him an opportunity to question the witness.

Certain applications may be withdrawn because they do not involve the violation of human rights.

26/11/98

IFP moves to postpone SDU amnesty hearings

Sowetan 26/11/98
Sowetan Reporter

THE Inkatha Freedom Party has called on the Truth and Reconciliation Commission to postpone the amnesty applications of members of the former ANC-aligned self-defence units

The hearings are currently taking place in the Gauteng centres of Vosloorus, Alberton and Mayfair

IFP MP Mr Abraham Mzizi accused the TRC of "bias", saying it had not informed victims about the hearings

"We are outraged by the behaviour of the TRC. The IFP accepts national reconciliation provided the perpetrators make full disclosure of their acts of

terror," Mzizi said

He said the contents of the applications were weak and appalling, the applicants had failed to provide specific details such as the names of the victims or the streets in which they had lived. Mzizi said on these grounds, the TRC should dismiss the applications

In a letter addressed to the TRC, Mzizi wrote

"It has come to my attention (although very late) that the amnesty applications for the so-called SDU members were set for hearing in Vosloorus, Palm Ridge and Mayfair for November 23 up to December 11

"I have been informed that the amnesty applicants were not in a posi-

(252)
tion to identify their victims or the places where they attacked people. We suspect that the victims were either IFP members or supporters"

Mzizi said he was unaware of any efforts taken by the TRC to locate the victims and doubted whether sufficient notice had been served on victims regarding their rights

However, TRC evidence leader Mr Andrie Steenkamp contended that all possible steps, including advertising in newspapers, were taken to notify the victims and that they had the right to oppose the applications

A representative of the applicants, Mr Vusi Sibeko, moved for the dismissal of the request by the IFP

Terror of night attacks revealed

Sowetan 26/11/98 (552)

By Claire Keeton
Feature Writer

WHEN the lights went out in Thokoza on the East Rand in the early 1990s, even the children knew that the blackout signalled danger - a possible attack that night

Power failures and out-of-order phones were among the warnings of a full-scale attack on African National Congress supporters living in Thokoza, according to former ANC commander Chechela Machiye

"The victims were normally members of the ANC and the community of Thokoza," he said, explaining that Buthelezi Street was the demarcation line between the residents and inhabitants of Inkatha-dominated hostels such as Madala, Mshayazafe and Khuthuza

Machiye was the first of 56 amnesty applicants from Thokoza Self-Defence Units (SDUs) and the ANC's armed wing Umkhonto we Sizwe (MK) to testify before an amnesty panel in Vosloorus on Tuesday about the SDUs in Palm Ridge, another amnesty panel also heard testimony from members of the Thokoza SDUs

Submitted by the ANC on their behalf, the applications came from all members of the community the military commanders, the foot soldiers, the political leadership who sat on the central command, the women who cooked and hid weapons for the SDUs, the youths who acted as lookouts, the doctors who treated SDU members and the "Committee of Seven" who saw to the daily running of the SDUs

Machiye, the MK Thokoza commander, identified particular types of violence that marked the East Rand conflict in the early 1990s - during

which about 150 people were killed a month

"I wanted to give this panel those patterns," he said "Even the Truth and Reconciliation Commission missed some events and methods I went through the final report and they are not there"

Machiye said the cycle of killings at funerals was central to the violence, and for this reason he gave orders to attack a funeral procession where the marchers were brandishing weapons in September 1992

"I personally moved from section to section instructing people to attack I wanted to protect the community from more killing," Machiye said "It was the last funeral procession to the cemetery (past the ANC-supporting Beirut section)"

He said that two or three people may have died during the attack, though he did not know the exact number of casualties

"Due to the nature of the conflict in Thokoza during the early 1990s, the majority of applications to be heard in Thokoza do not mention specific dates or acts but rather refer generally to defending the community over a period of four years," the TRC said in a statement about the SDU hearings, scheduled to finish on December 11.

But the amnesty panel asked Machiye for specific details when hearing his application

"He thinks people were killed as a result of his actions Further he did supply weapons to SDU members for attack," his lawyer Sanjay Makaanjee said

Machiye said when he came out of prison in September 1990, he found the community and SDUs had armed themselves but they lacked coordination and direction

In contrast, he said, it was clear that "professionals" were controlling the violence that exploded during that period From August to September 1990 about 700 people died on the East Rand and in townships around Johannesburg

"The people attacking (from hostels) were professionals As a trained person I could detect trained people. There was a perception that the violence was an ethnic conflict I do not believe that," he said

Following Machiye's release, the late MK chief of staff Chris Hanu appointed him to organise the SDUs in Thokoza

"As a kid I was well known inside the township and could assist I could show those defending the township what to do," he told the amnesty panel

"The SDU's purpose was to defend the people of Thokoza from Inkatha, who were assisted by Koevoet (Battalion 32), the Internal Stability Unit and the East Rand Car Theft Unit

"We would not normally say the Thurd Force were the attackers as that is people you don't know .. we knew exactly who were handling the attacks"

Deputy Defence Minister Ronnie Kasrils told the amnesty panel that, rightly or wrongly, the hostels were seen as the "major source of terror and war against innocent, law-abiding people"

He said 1 800 people had been killed by the end of 1990, and 2 400 by April 1991, in the war in Thokoza, Kaitleng, Vosloorus and Soweto

Kasrils outlined the patterns of violence which destroyed these communities from mid-1990 up until the April 1994 election

"There were drive-by shootings on buses, taxi ranks and shebeens There



Flashback ... An ANC-aligned self-defence unit charges a predominantly Inkatha-aligned hostel during pre-election violence on the East Rand. PIC PICTURENET

were killings on trains," he said, and added that hit squads singled out and assassinated ANC, community and trade union leaders

"Within all that were the night-marish attacks on people dwelling in Swamerville on the West Rand and later Bopatong," Kasrils said, describing the massacres in which hundreds of attackers surprised people while they were sleeping

"This was not new to us, there was already a pattern established," Kasrils said, referring to attacks in 1976 on township residents in the Western Cape and Soweto by black collaborators of the apartheid state

"The East Rand was a stronghold of the liberation movement and post-1990 and tension is a relief," he said.

Kasrils said visiting the East Rand now was "like coming to a different planet"

"To drive in the streets without fear and tension is a relief," he said.

Buthelezi: The BOSS connection

(252) M+G 27/11-3/12/98

Mail & Guardian reporter

Minister of Home Affairs Mangosuthu Buthelezi had an extremely close relationship with the notorious Bureau for State Security (BOSS) during a decades-long collaboration with apartheid-era security structures, according to explosive in-camera testimony presented to the Truth and Reconciliation Commission (TRC).

This testimony — leaked to the *Mail & Guardian* this week — was made by former Inkatha Freedom Party central committee member Walter Felgate before the TRC last year, shortly after he defected from the IFP to the African National Congress. He had been one of Buthelezi's closest confidants for years.

Attempts to reach Buthelezi for comment this week were unsuccessful. IFP secretary general MZ Khumalo said he could not comment on behalf of Buthelezi.

Felgate also revealed that Buthelezi allegedly formulated a secret conspiracy with right-wing whites to prevent South Africa's 1994 elections by triggering a civil war. The plans were disbanded just before the voting that elected an ANC government.

Felgate reportedly possesses substantial incriminating evidence about IFP activities.

He said that Buthelezi received monthly briefings from top intelligence agents of former prime minister BJ Vorster, former president PW Botha and apartheid generals for more than 20 years.

According to Felgate's testimony, Buthelezi held meetings with BOSS operatives on a regular monthly basis before 1973.

Felgate told the truth commission behind closed doors that the contact person at this stage was a BOSS agent ostensibly working for Natal Tanning Extract, a front company with which Felgate was also associated.

In the commission transcript, Felgate identified the agent as a Captain Alkers. However, long-serving intelligence sources told the *M&G* that the agent in question was a man named Olckers, who later went on to serve in National Intelligence Services, the successor to BOSS.

It is unclear how long this Olckers served as the Buthelezi liaison person. But according to Felgate, Buthelezi was still receiving monthly briefings — which included the transfer of top-secret documentation, particularly around the deployment, mobilisation and strategies of the ANC — after the elections that brought the ANC to power in 1994.

Another key intelligence contact named by Felgate in the hearing was academic Kobus Bosman. Bosman was apparently named by former Inkatha institute chief Lawrence Schlemmer as his successor when he stood down from that position in the mid-1980s — though this appointment never materialised.

Felgate testified Bosman made it clear that "he was on active call; although he wasn't in

the military on a full-time basis any more, he was on active call for special task force work".

Eventually Bosman, who apparently had personal links with PW Botha and his defence minister, Magnus Malan, was appointed as an adviser with a special responsibility for liaison with the apartheid "government and Afrikanerdom".

In this capacity, according to Felgate, Bosman was instrumental in establishing Inkatha's Caprivi paramilitary training programme under the auspices of the South African Defence Force (SADF) in the late 1980s. The Caprivi training of "one hundred loyal Zulus" led to the creation of IFP hit-squads.

According to Felgate, Bosman was given a military promotion on Malan's orders to give him the necessary authority to carry out the militarisation of Inkatha.

Felgate testified that, at the time the Caprivi trainees were mustered, Buthelezi was meeting with former military intelligence chief General Tienie Groenewald, apparently through the offices of Bosman.

Later, in the early 1990s, as the truth commission transcript shows, Groenewald reappears in the murky politics of KwaZulu-Natal, but now wearing a different hat — that of the right-wing Freedom Front.

He was in partnership with Riaan van Rensburg, then bodyguard and private secretary to FF leader Constand Viljoen. Special Forces's Jan Breytenbach and right-wing militant Willem Rattie apparently were associated with FF activities.

Van Rensburg, together with Groenewald and other members of the rightist Volksfront/FF group, had previously trained supporters of Oupa Gqozo's regime as paramilitaries in the Ciskei during South Africa's constitutional negotiations in the early 1990s.

As Viljoen has testified previously, training of Gqozo's paramilitaries was part of a military strategy centred on the so-called Concerned South Africans Group — an alliance of homeland leaders and rightwingers who planned to prevent the 1994 democratic elections and take over the country by force.

The Felgate testimony also records that at this time the old SADF commando structures were already being mobilised in the event of civil war, and that Viljoen had made them available to assist in training IFP militants.

In Felgate's version of the events, Van Rensburg proposed in 1993 a R3-million specialist training course for IFP loyalists labeled Proposed Training Programme and Deployment of Zulu Forces to Protect the Zulu Nation. The proposal was turned down by Buthelezi's money man, Stan Armstrong.

However, Van Rensburg's testimony to the truth commission records that he handed over the programme — with extensive input from Felgate — at a meeting with Buthelezi in No-



Spilling the beans: Former IFP stalwart Walter Felgate has told all to the truth commission

vember 1993 and also facilitated face-to-face meetings between Buthelezi and Breytenbach and Rattie.

They planned an "offensive structure" to include training in sniping and counter-sniping, in specialised weapons, in carrying out raids and in demolition techniques.

According to Felgate, this plan was never adopted. However, shortly after, 64 IFP loyalists were given specialised training by Van Rensburg with the involvement of Buthelezi's then private secretary MZ Khumalo on an unspecified farm in the mountains in Gauteng.

Khumalo said this week. "If Felgate is talking about the group that I know, whatever I did I was instructed to by him."

Later, Van Rensburg and Groenewald were paid at least R387 000 by the IFP. Felgate puts the figure at around R500 000. Other intelligence sources have said the final pay-out stood at around R800 000.

In Felgate's version, the training project fizzled out and the trainees were dumped without any particular brief at Jozini in KwaZulu-Natal. Afterwards, Felgate testified he was asked by Khumalo to find money or employment for the trainees.

The trainees were eventually relocated to another secret training camp at Dimizulu in northern KwaZulu-Natal, where their instruction was supervised by Felgate.

He claims the training at Dimizulu was geared towards making elections impossible in rural areas, but did not include significant weapons training.

Intelligence sources have indicated that weapons were supplied to the special trainees through Vlakplaas operatives. The camp, monitored by national intelligence and the security police, was disbanded in April 1994, five months after training had begun.

The termination of the training followed the sudden decision of Buthelezi to take the IFP into the 1994 elections rather than engaging in civil disruption as had apparently earlier been planned.

Probe into media racism won't affect freedom of

By SANDILE MEMELA

WHEN the chairman of the Human Rights Commission, Barney Pitso, announced plans to launch a probe into racism in the media, he stirred a hornet's nest.

Opponents brand the probe an attempt to maul the press and undermine not only its independence but the constitution.

Those in favour say resistance to the Commission's initiative is part of the agenda to systematically maintain white

supremacy and racism.

They argue that whites continue to control and colonise the minds of Africans through a media monopoly that blatantly expresses the conquest and ownership of one people by another.

The executive director of the Freedom of Expression Institute (FXI), Laura Pollcut, views the proposed investigation with caution.

"We have adopted a wait-and-see attitude until the Commission has defined its terms of reference," she said.

"However, we do believe that racism

exists in the media, as in any other segment of our society."

Mandisa Seleane, chair of the FXI, told City Press he acknowledged that racism permeated the media industry.

"I want to state quite clearly from the outset that I am not concerned with the factual inquiry whether there is racism in the media in South Africa."

"The Commission has already resolved to carry out that inquiry and we must await its findings."

"Similarly, I am not concerned with the denial by some people that there is racism

in the media.

"Instead, I am concerned with the philosophical issues entailed in the debate," said Seleane.

The Commission's spokesperson, Edwin Naidoo told City Press the fierce resistance would not stop the probe.

"We see this as natural extension of our work to investigate racism that continues to violate human rights. In fact, more than 60 percent of complaints received concern racism and nothing is going to stop us from looking at it, especially in the media," said Naidoo.

The Black Lawyers Association was the first to approach the Commission about the white-owned media's alleged agenda to indoctrinate people to believe in the inherent inferiority and corruption of blacks in positions of power.

Although its charges were thrown out, the Commission's intention to investigate racism has left the BLA with a sense of vindication.

According to Naidoo the Commission was following a self-determined programme to pursue its aims.

"We have not received specific complaints from any individual, except in en-

counters with journalists throughout the land who have insisted that racism is highest in the media.

"The issue at stake here is racism and not freedom of expression as has been suggested."

"In fact, there is no way that we can dictate to the media on what to do about its problems. We can only make recommendations to Parliament and the industry in the hope that we can make the country move forward."

"It is very good that the issue has been brought out into the public arena."

1198
Expression, says HRC (2002)

29/11/98

CP 201#

Mpshe clearly a political appointee — IFP

Pule Molebeledi

THE appointment of advocate Mokotedi Mpshe as the new director of public prosecutions for KwaZulu-Natal has been met with cynicism by the Inkatha Freedom Party which labelled the new incumbent as a "clear political appointee"

IFP treasurer-general Arthur Konigkramer said the new appointment vindicated the party's long-held view that the recent removal of Mpshe's predecessor was politically motivated

Konigkramer described Mpshe's appointment as a "clear party political" one because of his association with the truth commission which sought, Konigkramer alleged, "not to implement justice but to achieve propaganda aims against the IFP"

He said "We are prepared to give him a chance, but time will

show that we were right. We do not hold any hope for justice and equity"

The Democratic Party in KwaZulu-Natal also said it viewed the termination of Tim McNally's services and the employment of Mpshe as a co-ordinated effort by the African National Congress (ANC) to achieve its own party political interests

"We certainly hope the new appointment will be independent-minded and prosecute all crimes — political or not — with a fair and even hand," DP spokesman Roger Burrows said

McNally experienced many problems in the province during his tenure after he failed to secure prosecutions or convictions in a number of high-profile cases

Announcing Mpshe's appointment on Friday, Justice Minister Dullah Omar said he was chosen because "of his fine track record

and solid legal background"

Mpshe, who is at present chief leader of evidence at the truth commission, assumes office tomorrow. A former chief magistrate, Mpshe has held various positions since starting his legal profession at the justice department in the former Bophuthatswana in 1978

The Black Lawyers' Association, of which Mpshe is a member, welcomed his appointment, as did the Natal Law Society and the ANC

Law society president Julian von Klemper described the appointment as an important step towards clarifying uncertainty in the office of the attorney-general. He said Mpshe appeared to be "well qualified" for the job

He said Mpshe would be able to enjoy the confidence of all sections of the community only by running a successful and indepen-

dent office that was free from political pressure

ANC KwaZulu-Natal spokesman Dumisani Makhaye said the party hoped Mpshe possessed a deeper understanding and knowledge of political crimes perpetrated against the people of KwaZulu-Natal than his predecessor had

"We hope his appointment will enhance the confidence of our people in the criminal justice system which was totally eroded under the office of McNally"

Omar was confident that the appointment would further help transform the beleaguered KwaZulu-Natal arm of the directorate of national prosecutions. He said the office was facing a number of challenges, the foremost of which was to re-establish its credibility with the community and ensure that justice was carried out

BD 30/11/98

(252)

Weapons, were readily available in conflict between IFP, ANC,

ILLEGAL arms and ammunition had been readily available for use by self-defence units in Thokoza on the East Rand, to protect the community from attacks by people believed to be aligned to the Inkatha Freedom Party (IFP), amnesty applicant Meshack Thulo told the truth commission in Mayfair yesterday.

He told the commission's amnesty committee hearings in Mayfair that township residents who lived near hostels were regularly

attacked by hostel dwellers. The community decided to defend itself through self-defence units. Thulo said the hostels housed IFP members and hit squad assassins.

Thulo said children could not freely play in the streets because they would be attacked by men with assegais and pangas in the presence of the police, whom he accused of colluding with hostel dwellers.

"So many people were kidnapped by

these hostel dwellers, and the police did nothing to protect the community," he said.

The house of then Thokoza councillor and Inkatha Freedom Party member Abram Mzizi was burnt down in the early 1990s because he brought hardship and misery to township residents, amnesty applicant Themba Xaba, a member of the Thokoza self-defence unit, told the committee yesterday.

Xaba said if Mzizi had died in the incident,

this would have brought joy to residents.

The house was attacked with petrol bombs during the height of political party rivalry between the African National Congress and the IFP. Xaba said they were sure that Mzizi was alone in the house at the time because his family had been visiting relatives.

Amnesty applicant Lucky Richard Molahlehi told the hearing that many school

boys in Thokoza had to leave school in the early 1990s to protect their families and the community against attacks from the IFP and the "third force".

Molahlehi said he had to drop out of standard 9 in 1992 so that he could join the ANC self-defence units. He is applying for amnesty for attempted murder and two charges of possession of illegal firearms: an AK47 and an R4 rifle — Sapa.

ANC,

'Illegal arms were readily available'

ILLEGAL arms and ammunition were readily available for use by self-defence units in Thokoza, East Rand, to protect the community from attacks by people believed to be aligned to the Inkatha Freedom Party, amnesty applicant Meshack Thulo said yesterday.

Thulo told the Truth and Reconciliation Commission's amnesty committee hearings in Mayfair that township residents who lived near hostels were regularly attacked by hostel dwellers.

Hit squads assassins

The community then decided to defend itself through self-defence units from attacks from hostels, which housed IFP members and hit squad assassins.

He said children could not freely play in the streets because they would be attacked by men with assegais and pangas in the presence of the police, whom he accused of colluding with hostel dwellers.

"So many people were kidnapped by these hostel dwellers and the police did nothing to protect the community," he told the committee.

Thulo said he bought about 3 000

rounds of ammunition from a person codenamed "Ace" for self-defence purposes between 1993 and 1994.

Thulo is applying for amnesty for kidnapping Peter Sewasi and for arms smuggling in and around East Rand townships.

He told the committee he abducted Sewasi, whom he described as a township resident aligned to the IFP and who was allegedly working with police hit squads.

Thulo said he left Sewasi at a general meeting in Phola Park, where he subsequently died after being severely assaulted.

Hostel killers

He said he believed Sewasi was killed because he associated himself with the killers from the hostels.

"I left Sewasi at the general meeting because it was not safe to drive around the township with him while police were patrolling the area," he said.

Thulo said Sewasi was abducted for the purposes of obtaining information about the disappearance of many township residents.

The hearing continues — Sapa

Sawetan 11/10/98

(2/2)

'Hani supplied weapons for self-defence units'

Pule Molebeledi

DURBAN — Slain SA Communist Party leader Chris Hani had given instructions to arm self-defence units in southern Natal and had provided the weapons, Public Works Minister Jeff Radebe told a truth commission amnesty committee yesterday.

Radebe said Hani, who was Umkhonto we Sizwe's commander at the time, had instructed him to arm the self-defence units. He said Hani had provided the weapons, including AK-47s, handgrenades and pistols.

Radebe, together with his special adviser Ian Phillips and former MK chief of staff in

Radebe denies that Natal units were given either rockets or rocket launchers (AP)

southern Natal Sipho Sithole, is applying for amnesty for his role in establishing and arming ANC self-defence units in the region between 1990 and 1994.

Radebe, who was Southern Natal ANC chairman, denied under cross-examination by Inkatha Freedom Party counsel Jeff Hewitt SC that the defence units were also armed with rockets and rocket launchers.

Radebe said he participated in only one transaction concerning the delivery of weapons, but stopped once the operational mechanism became smoother. He participated after he was given duplicate keys by Deputy Defence Minister Ronnie Kasrils for three cars fitted with secret compartments. The cars included a Rover, VW and bakkie and had weapons hidden inside.

After receiving information that the cars had arrived at a pre-arranged parking space in Durban, Radebe said he handed over the duplicate keys to Sithole, who had been identified to handle operational aspects of MK.

was to liaise with the ANC on MK functions in the province, said he had never seen the delivered weapons physically.

He did not know how many had been delivered to the province but estimated that during his involvement, there were about 120 AK-47s given to the defence units.

Asked whether the weapons were retrieved after the 1994 elections, Radebe estimated that between 85% and 90% of the weapons were accounted for and recovered. He said this excluded the number of arms

caches confiscated by security forces "because we did have problems there"

He said comrades who overstepped the mark were disciplined and disarmed

Testifying after Radebe, Phillips told the hearing that his role was that of establishing a communication link for the delivery of weapons.

This included informing relevant operatives about the arrival of "presents" and also providing military headquarters with a "shopping list for goodies."

Phillips, who is Radebe's special adviser, asked to be granted amnesty for dealing with weapons "of a particular nature at that time"

DD 2/12/98

Tears bear silent witness to acts of horror

BY KHANYISILE NKOSI

Thokoza resident Sibongile Sambo (37) sat silently as former self-defence unit members relived the day in 1993 when they raped and shot her and her sister.

Sambo was abducted along with her sister, Francisca Mthethwa, by about 25 ANC-aligned youths who accused them of being Inkatha Freedom Party informers.

They were taken to a house where they were gang-raped. The youths then shot them execution style, killing her sister and badly wounding her.

Yesterday, the mother of two listened as the former SDU members testified before the TRC's amnesty committee.

Applicant Jabu Nyethe told the committee that it was be-



Gang-raped and then shot ... Sibongile Sambo (left) and her late sister Francisca Mthethwa.

lieved that Sambo's house was used as a place where IFP members celebrated after they had attacked the community.

He said he and his three co-applicants were instructed by their SDU commander, Ben Mashinini, to kidnap Sambo and Mthethwa and kill them be-

cause they were IFP informers. Nyethe said the two were abducted and taken to a place known as "Danger Zone" in Thokoza's Unit E. While he waited outside for his colleagues to kill the women, he learnt that the women were being raped.

"I got angry and decided to shoot them myself. I shot them until there were no bullets left in my gun. I saw that the other one was still moving and ordered Ndamase (another SDU member) to finish them with an AK-47," Nyethe said.

Nyethe said he did not know what happened to the "bodies" after they left the scene.

But Sambo later told The Star that the applicants were not telling the "whole truth", as they had not revealed what had happened to her sister's corpse, which has never been found.

Better pay deal for prosecutors

ARGUS CORRESPONDENT

Johannesburg - Prosecutors are getting an early Christmas gift, with their salaries adjusted to the same level as those of magistrates by the justice department.

The proposal was approved last week and sources said it had also been discussed and agreed between the National Director of Prosecutions Bulelani Ngcuka and

Deputy President Thabo Mbeki. The proposals, which would see the salaries of prosecutors improving by more than 30%, depending on their experience, is now being discussed by the justice and finance departments

It was expected that prosecutors, who were dealt a blow when their overtime pay was stopped with effect from December 1, would receive their increase with their December salaries

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Justice spokesperson Paul Setsetse said they were hoping to make an announcement soon

He said Justice Minister Dullah Omar was still consulting relevant government departments

Mr Setsetse said the ministry was willing to improve the salaries for prosecutors and "the minister had indicated in the past that prosecutors had to be paid a market related salary so that they do not have to depend on overtime pay"

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Prosecutors receive 30% salary hike

By SIMON ZWANE
3/12/98

Prosecutors are headed for an early Christmas this year, with their salaries adjusted to the same level as those of magistrates by the Justice Department.

The proposal was approved last week and sources said it had also been discussed and agreed between National Director of Prosecutions Bulelani Ngcuka and Deputy President Thabo Mbeki.

The proposals, which would see the salaries of prosecutors improving by more than 30%, depending on their experience, is now being discussed by the justice and finance departments.

It is expected that prosecutors, who were dealt a blow when their overtime pay was stopped with effect from December 1, will receive their increase with their December salaries.

Justice Department spokesperson Paul Setsetse said an announcement would hopefully be made in the next few days. He said Justice Minister Dullah Omar was still consulting relevant government departments.

Ngcuka has had consultations with prosecutors countrywide to discuss the improvement of working conditions.

Setsetse appealed to prosecutors, who have been unsettled by the delay in making the announcement, to be patient.

We were peace brokers, says apartheid intelligence chief

Niel Barnard challenges TRC report in court

ANDREA WEISS
POLITICAL REPORTER

Western Cape director-general Niel Barnard has characterised himself and the National Intelligence Service as peace-brokers instrumental in bringing South Africa to a negotiated solution, in his High Court application for a review of the Truth Commission's findings.

Dr Barnard, and his successor Michael James Louw, launched the application in the Cape High Court yesterday on behalf of all former NIS operatives to clear their names.

The application follows the findings in the final report of the TRC which held them accountable for "extra-judicial killings" on the grounds that the information they gathered was used to wipe out politi-

cal opponents.

Dr Barnard, who was head of the NIS from June 1980 to January 1992, said he had been grouped with the likes of Eugene de Kock, Joe Mamasela and Dirk Coetzee, whereas he had been held in high esteem, not only by his colleagues, but also by those who had initially perceived him as an enemy.

He said the application was urgent because the Truth Commission had a limited lifespan.

Its findings reflected seriously on his reputation which had led to calls for his resignation.

"In my view, the incumbent of a position such as mine must be above suspicion.

"It would therefore be in the interests of the province itself and its inhabitants if the blot on my reputation could be removed as a matter of

urgency," he said.

Describing his role in the former government, Dr Barnard, who engineered the first meeting between President Mandela and former state president P W Botha, said it was a matter of public record that the preparatory work in which he was involved from the outset had culminated in talks between the ANC and the South African government.

Other areas of peace-brokering he had been involved in as head of the NIS included:

■ The normalisation of relations with Mozambique, resulting in the Nkomati Accord

■ The independence of Namibia and the resolution of the Angolan conflict

■ The development of African capacity to defuse conflicts

He said many heads of state he had

negotiated with over the years were still in office, and his counterparts in the intelligence community had understood and appreciated his role and involvement in the transition.

Dr Barnard also described a difference of approach between the NIS and the South African Defence Force. He said the SADF had manipulated security intelligence to enlarge its "claim on South Africa's human and financial resources."

He said the NIS had argued that South Africa's problems had to be resolved peacefully.

He said the most fundamental position developed by the NIS was that the problems and dangers facing South Africa could only be effectively addressed by means of radical change to the political status quo.

The TRC has 14 days to produce their records.

AR 4/12/98 (352)

SA human rights 'on a seesaw'

Watchdog body states lack of direction in policies

RICH MKHONDO

WASHINGTON BUREAU

ARG 4/12/98

Washington — South Africa's foreign policy lacked direction and human rights focus, an international watchdog said here.

In a 506-page report yesterday offering a synopsis of the human rights situation in 68 countries, as well as analyses of US, European, and United Nations responses to those abuses, Human Rights Watch (HRW) said South Africa made significant progress during 1998.

However, South Africa had floundered on many human rights issues

"The Government apparently regretted its earlier support for President Laurent Kabila in the newly-renamed Democratic Republic of Congo, and when new rebels threatened Kabila in July and August 1998, urged Kabila to reach an accommodation," said the annual Human Rights World Report 1999.

"However, South Africa was ultimately forced to back military support given to Kabila by fellow members of the Southern African Development Community, Zimbabwe and Angola.

"South Africa led a botched military intervention on behalf of the SADC in Lesotho in September, which exacerbated rather than

resolved a crisis resulting from disputed general elections.

"Deputy President Thabo Mbeki was criticised for visiting China in April and failing to raise human rights issues," it added.

However, South Africa was also praised on many fronts.

This included how the Truth and Reconciliation Commission conducted its hearings on human rights abuses during the apartheid era.

South Africa's positive human rights attitudes included

■ The launching of a new police code of conduct and police training which now include a human rights curriculum

■ The creation of a new position

of national director of public prosecutions as part of a reform of prosecution services

■ The introduction of the Open Democracy Bill which would, among other things, increase public access to government information

■ A Government programme aimed at keeping children out of prisons and in more appropriate facilities.

■ South Africa hosted a conference in March among SADC members where a declaration on violence against women was adopted.

■ South Africa ratified the Ottawa landmines convention, which it had played a leading role in bringing into existence.

Apartheid spy chief says

TRC has libelled him

STAFF WRITER

NIEL BARNARD, former director-general of the National Intelligence Service (NIS), yesterday launched High Court proceedings against Archbishop Desmond Tutu and the Truth and Reconciliation Commission (TRC) over several adverse findings made against him

Barnard, now director-general of provincial administration in the Western Cape, is joined by his successor as NIS head, Michael James Louw, and brings the class action on behalf of all former NIS operatives

Barnard said that since he is constrained to bring the application to clear his own name, he is in a position to protect the interests of those NIS members he supervised for 12 years

"It cannot reasonably be expected of any of them to become involved in expensive, potentially protracted litigation in order to defend themselves against embarrassingly vague findings," he said

In the report that it handed to President Nelson Mandela, the TRC rejected Barnard's denial of involvement or knowledge that intelligence gathered by the NIS was put to operational uses that included elimination of political opponents — and that he was accountable

ET 4/12/98 (252)
for extra-judicial killings of those political opponents

"In the public perception, my former NIS colleagues and I have been grouped with the likes of Eugène de Kock, Joe Mamasela and Dirk Coetzee," he complained.

The TRC's findings were also tantamount to a rejection of his evidence before the TRC about the role that NIS played in persuading the apartheid government — particularly the then-State Security Council (SSC) — that there was no military solution to South Africa's problems and that only a negotiated settlement would secure lasting peace

Barnard wants the High Court to review and set aside the TRC's finding that from January to June 1986, the NIS covertly conspired to endorse and promote the activities of the Crossroads Witdoek leaders — and that NIS was responsible for gross human rights violations, for the deaths of more than 60 people and the severe ill treatment suffered by those people whose houses were destroyed between May and June, 1986

Barnard also wants the court to review and set aside the TRC's finding that the attempt to overthrow the Seychelles government was an

□ Turn to Page 3

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Apartheid spy chief cries foul

(252)

□ From Page 1

operation also undertaken by senior NIS operatives and that it is accountable for the coup attempt, the violation of international law, the infringement of the sovereignty of the Seychelles government and the death of a Seychelles citizen during the attempt.

Barnard said that in his capacity as a director-general he is the head of 72 000 people whose morale had been detrimentally affected by the fact that unjustified findings had been made against his character.

"I respectfully say that libel is by definition urgent. It is publication of the libel that causes damage to one's reputation and such publication continues day by day. The damage can never really be undone but it should, in fairness, be curtailed as soon as possible."

Barnard said the TRC's findings had upset his family, particularly his ageing mother, his wife and children, his current and erstwhile colleagues and had serious implica-

tions for his career, his emotional well-being and the emotional well-being of his family.

Those whom he represents in the application also had their reputations tarnished, with the result that many are finding it difficult to start new careers or obtain new appointments, he claimed.

Barnard lists details of his role at NIS and his version of how he had initiated contact between the apartheid government and the then-banned African National Congress.

He suspected the TRC had set out to corroborate its preconceived findings and that he had been proved right.

The TRC ignored findings not consonant with its own thinking and attached undue significance to "a few selected documents", relied on untested evidence of people seeking amnesty and avoided vast quantities of documents "which would have given its preconceived conclusions the lie", Barnard said.

TRC hears why SDU men turned to crime

Star 4/12/98
By KHANYISILE NKOSI

An amnesty applicant yesterday told the Truth and Reconciliation Commission that lack of trauma counselling, the dearth of educational opportunities and the fear of losing their jobs had turned former Thokoza self-defence unit (SDU) members from community heroes to criminals.

Sipho Ngubane (26) told the TRC's amnesty committee sitting in Palm Ridge that many of his former SDU comrades had turned to crime after the end of the war that gripped the East Rand in the early 1990s.

He is seeking amnesty for his part in the burning down of a house of a certain Pastor Khumalo, who was believed to be helping the police terrorise the community.

An emotional Ngubane, who claimed he was still traumatised by the events of the time, said he had resorted to crime in 1994 after hearing that he was about to lose his job as a community constable at Thokoza police station because he did not have the necessary qualifications.

He and four fellow disgruntled SDU members then went on a spree of armed robberies. They were arrested in 1996 and were this year sentenced to 35 years' jail for their roles in armed heists.

Ngubane said he wanted amnesty because he thought there might have been people injured during his activities. "I deeply regret that my actions in defence of my community left other people wounded. I am asking for forgiveness," he said.

SA criticised, praised over human rights

World report condemns role in Congo
and Lesotho, but commends TRC

Star 4/12/98

(252)

By Rich Mkhondo
Washington

South Africa's foreign policy lacked direction and human rights focus, an international watchdog said yesterday.

In a 506-page report offering a synopsis of the human rights situation in 68 countries, as well as analyses of US, European, and United Nations responses to those abuses, Human Rights Watch said South Africa made significant progress during 1998, but flipped-flopped on many human rights issues.

"The Government apparently regretted its earlier support for President Laurent Kabila in the newly renamed Democratic Republic of Congo, and when new rebels threatened Kabila in July and August 1998, urged Kabila to reach an accommodation," the annual *Human Rights World Report* said.

"However, South Africa was ultimately forced to back military support given to Kabila by fellow members of the Southern African Development Community, Zimbabwe and Angola. South Africa led a botched military intervention on behalf of SADC in Lesotho in September, which exacerbated rather than

resolved a crisis resulting from disputed general elections. Deputy President Thabo Mbeki was criticised for visiting China in April and failing to raise human rights issues," it added. Other human rights concerns included:

- Although a number of super-maximum security prisons were planned or built, in the face of criticism by human rights groups, prisons remained seriously overcrowded and plagued by prisoner violence.
- Some 480 deaths in custody or as a result of police action during the first six months of 1998 were reported.
- Attacks on foreigners, including the killing of three in September, continued during 1998.
- South Africa was the largest producer of weapons in Africa, exporting weapons and military equipment worth more than R1,324-billion during 1997.

However, South Africa was praised on many fronts, including how the Truth and Reconciliation Commission had conducted its hearings on human rights abuses during the apartheid era.

Also praised were a new police code of conduct, the introduction of the Open Democracy Bill and ratification of the Ottawa landmines convention.

TRC may be over- the process is not

By Claire Keeton
Feature Writer

THE Truth and Reconciliation Commission is not yet over for many victims and they are relying on the Ministry of Justice to take up their demands for reparation.

Justice Minister Mr Dullah Omar met with the victim support group Khulumani last week in response to a memorandum they handed to the Government in October.

"Omar has agreed to follow up a number of issues," said Khulumani member Ms Maggie Friedmann. Her former partner Dr David Webster was assassinated outside his Johannesburg home by apartheid hitmen in the late 1980s.

"Omar can make no promises about reparations as it still has to be debated by Parliament," she said.

Omar's spokesman Mr Paul Setseise said the budget for reparations would be debated when Parliament reopens in February.

The TRC has recommended that between R3 billion and R4 billion be set aside for financial reparations, among other reparations, and Khulumani plans to petition the Government early next year to grant this amount.

Omar suggested to Khulumani that he submit their petition to Deputy President Thabo Mbeki.

Not enough money

"We want an undertaking that a minimum of R3 billion is guaranteed," said Ms Ntombi Mosikare at Khulumani's Johannesburg office.

The financial reparations would work out at about R16 000 to R23 000 paid over six years for those found to be victims of rights violations.

"Khulumani says this is not enough money and is not over a long enough period," Friedmann said. "We may ask for individual cases to continue after six years."

Wits University law student Ms Lebogang Montjane, who assists Khulumani members, said the final reparations did not include everyone.

"Some people who were former combatants did not fall within the TRC frame of reference. They are entitled to money from the special pensions fund but this has been pillaged."

"How will the reparations be allocated? Who will be charged?" she asked.

Meanwhile, TRC commissioner Ms Yasmin

Sooka said about 16 000 people had been declared victims and are receiving urgent interim reparations of R2 000 each.

One victim, Ms Sylvia Diomo - whose son Sicelo was killed in Soweto and for whose murder four people have applied for amnesty - said she was still waiting for urgent interim reparations. "It might take time since only one person processes the claims," she said.

Khulumani has dealt with many people who did not meet the TRC's criteria to qualify as victims of human rights abuses, despite what the organisation sees as evidence to the contrary.

Sooka said about 5 000 people fell outside the TRC's terms of reference for what qualifies one for compensation.

The right questions

"The people may be victims according to the TRC law, but in particular cases the statement-takers did not ask the right questions," said Montjane.

For example, in one case the TRC declared the person was not a victim of politically motivated human rights violations, but the amnesty committee has received an application for the same violation on political grounds.

Montjane said those who did not make the cut had the right to appeal within 30 days and Khulumani was supporting those with valid cases as they often did not have the skills to lodge an appeal on their own.

He said the organisation takes new sworn statements with all the relevant information and passes these on to the TRC to prove the applicants are eligible for reparations.

"With many negative findings, the TRC was simply disorganised," said Mr Thiboki Mosokeng from the Centre for the Study of Violence and Reconciliation. He knows of statements which never reached the TRC or got lost in their offices.

Friedmann said there were also victims who "never came forward because they did not feel safe", and Khulumani would like the process to be opened to them now.

In another significant development, Khulumani is looking at launching civil claims against perpetrators who did not apply for amnesty. They had a meeting yesterday with supportive parties and lawyers to discuss their strategy in this.

"We want to go for perpetrators untouched by the TRC process," said Friedmann.

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She added that Khulumani, supported by many non-government organisations, was totally opposed to a blanket amnesty for perpetrators.

Another priority for victims was further investigation into the disappearance of their loved ones during apartheid.

Friedmann said Omar promised to recommend ongoing investigations into disappearances.

Mosokeng commented "While Omar is looking at prosecutions, it is clear many victims need investigation into disappearances. The minister must pursue this with Safety and Security."

"There is a wealth of information and we would like civilian participation in this."

"We also need to gain access to information held by the TRC, like that from the closed hearings."

He said the TRC was limited by resources and time in its investigations.

"The commission had little time for investigations and their focus was simply the corroboration of information."

Mosokeng said victims were determined that the Government tackled the work outstanding from the process.

But Setseise cautioned: "The Cabinet must still make a decision on the TRC proposal from the final report released at the end of October. It is not an individual decision for the Minister of Justice to make."

Friedmann said that Omar had proposed an inter-ministerial meeting to deal with these issues, since some of the problems raised by Khulumani



Flashback ... a Truth and Reconciliation Commission hearing on human rights violations earlier this year. Many victims are relying on the Ministry of Justice to take up their demands concerning reparation.

fell outside of the jurisdiction of the Ministry of Justice.

Above all, she said, it was critical that these concerns were not ignored in public debate. "It is important to keep the issues alive."

Khulumani can be contacted at (011) 403-5650.

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'Lappies' linked to gun-running

M+G 4-10/12/98
Peter Dickson



Eugene de Kock: Revealed 'Lappies' Labuschagne's shadowy past

Early next year, the Truth and Reconciliation Commission's (TRC) amnesty committee will ask a feared ex-security policeman if guns smuggled from Mozambique were used to kill hundreds of people in the Transkei killing fields of Tsolo and Qumbu.

TRC spokesperson Vuyani Green said controversial Superintendent Frans "Lappies" Labuschagne, withdrawn from the Robert McBride investigation once his shadowy past was revealed by convicted Vlakplaas killer Eugene de Kock, had applied for amnesty for "various incidents" in the 1980s.

Green said Labuschagne, who appeared before the amnesty committee in Durban weeks ago in connection with an apartheid era assassination, would appear again next year in the Eastern Cape.

Labuschagne, now a top Mpumalanga detective, was quizzed by the TRC at an emotional inquiry in Cape Town in June this year regarding guns and ammunition given to him by De Kock, hit squads, how well he knew McBride's police spy accuser Vusi Mbatha, and his "role in the inter-cine violence in Tsolo and Qumbu." He applied for amnesty during the hearing.

More than 600 people — largely the elderly, women and children — died in the

remote and poorly policed areas north of Umtata since 1993. Rampant stock theft and witchcraft are some theories advanced for the motive, but most victims have been killed by contracted gunmen from Gauteng and Free State mines.

Police have set up a network throughout the country to end the killings, says Superintendent Gary MacLaren of the 50-strong special police task team for Tsolo and Qumbu, and for two years have believed the seemingly random violence is fuelled by a mysterious Mozambique gun-running ring.

TRC investigative sources said that links had long been suspected between Mozambique gun-running — also linked to pre-election activities by the infamous Vlakplaas security police hit squad run by De Kock, the mines and Tsolo and Qumbu.

Eastern Cape MEC for Safety and Security Dennis Neer, who could not be reached for comment this week, has publicly stated that a third force-type operation has been behind the killings.

PAC man's amnesty appeal for Crossroads killings turned down (252)

Jonny Steinberg

THE truth commission's amnesty committee refused to a Pan Africanist Congress (PAC) member yesterday for the murder of three people at Crossroads near Cape Town in 1993.

In contrast to its ruling earlier

this year granting amnesty to the killers of American exchange student Amy Blehl, the commission rejected PAC member Mandla Maduna's application on the grounds that those he killed "had no quarrel whatsoever with the PAC".

Five people were killed in Crossroads in March 1993 when

armed men burst into their home and opened fire

Maduna, who was convicted for the murders in late 1993, claimed at his amnesty hearing that the killers were instructed by the PAC to attack the home as it was occupied by a gang which was attacking PAC members in the area

In yesterday's decision, the Committee said "Tragically, the victims and occupants were not members of a gangster group as (the) applicant had been told.

They were civilians who included women and children who had been watching television. There is no evidence that they were involved in any political

association "

In the Blehl case, the killers had attended a political rally hours before Blehl's murder, at which they were told that "setters" were enemies of the PAC

The amnesty committee said in that case the youths believed they were attacking a political enemy

BD 4/12/98

A general amnesty or not?

By JIMMY SEEPE (252)

THE TRUTH and Reconciliation Commission's controversial final report, and the question of whether a general amnesty should be given to leading political figures for the sake of national reconciliation, are expected to be discussed at the ANC's National Executive Committee meeting tomorrow and Tuesday.

The NEC meeting is expected to receive and debate an annual report prepared by ANC secretary general Kgalema Motlanthe.

He is expected to table the ANC's position on the TRC report. The ANC was sharply critical of the report when it was released.

The ANC is expected to once again reject calls by opposition parties and former apartheid generals for a blanket amnesty.

Since publication of the TRC report opposition parties have called on the

ANC and President Nelson Mandela to consider giving a general amnesty to individuals and political figures accused of human rights violations during the apartheid years.

But ANC national spokesperson Thabo Masebe told City Press the organisation would not delve deeply into whether a general amnesty should be granted.

Masebe said the secretary general, in tabling his annual report, would certainly deal with all events of the year including the TRC report.

He said the ANC's position was clear. There would be no general amnesty for anyone implicated in human rights violations who did not apply for amnesty to the TRC.

The NEC would discuss the domestic and global political situation.

"The report will assist the NEC in making a general assessment of the programme of the ANC for the year 1998 and in identifying priorities for 1999," he said.

Watchdog to keep eye on magistrates

GLYNNIS UNDERHILL
SPECIAL CORRESPONDENT

Magistrates will come under scrutiny with the establishment of a new Magistrates Commission to which people may report any conduct they believe shows impropriety or prejudice. The newly-introduced Magis-

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trates Amendment Act provides for the composition of a revamped Magistrates Commission and the creation of a structure for complaints

The new regulations will not abolish the existing practice which requires that efforts are made to settle grievances by people against magistrates

To take the matter further, how-

ever, Justice Minister Dullah Omar has introduced the Complaints Procedure Regulations, which will provide for the establishment of complaints committees.

Complaints committee hearings will be in camera, unless the chairman directs otherwise. Complaints will have to be lodged in the form of a written declaration

Suspended council officials in talks with Zuma

Josey Ballenger

“VERY sensitive” negotiations were continuing between legal counsel and the health department and lawyers acting for suspended Medicines Control Council registrar Johan Schlebusch and deputy director of medicines registration Christel Bruckner, it emerged yesterday.

However, neither side could predict when an agreement would be reached. Webber Wentzel Bovens

labour lawyer Rod Harper, who represents the MCC officials, said “some progress” had been made during talks yesterday, but there was “nothing further to report at this stage. If the negotiations are not successful, then we will be instituting legal proceedings.”

Harper confirmed — for the first time from a source directly involved in the matter — a media report that Bruckner and Schlebusch were told by health director-general Dr Olive Shisana to take sever-

ance packages or face maladministration charges.

“There was a threat of a disciplinary inquiry. It was absolute nonsense. Both Schlebusch and Bruckner contend emphatically that there is no basis for charging them,” Harper said. “They are seeking industrial justice and they will achieve (that) either through an appropriate settlement or through the courts.” He said talks were “at a very sensitive point”. The health department put

the two department employees, who are also the council secretariat’s highest-ranking members, “on leave” two weeks ago. To date, the department and Health Minister Nkosazana Zuma have not given a public explanation other than to say they acted on the recommendations of an independent task team to “shift” the two individuals “for the purposes of effective transformation and restructuring”.

The task team also called for a new medicines regulatory

authority, which Zuma aims to have in place by October. After speculation and “concern” among a number of interest groups that the council would be scrapped overnight, Zuma announced last week that current council members would remain on board throughout the transition.

With the exceptions of Schlebusch and Bruckner, the council secretariat has also remained untouched. The two officials were temporarily replaced by Patience Matsoso,

8/4/98

Soldier gave SDU member rifle, TRC told

By Claire Keeton

A MEMBER of the National Peace Keeping Force gave his rifle to a self-defence unit member in Katilehong on the East Rand to shoot at Inkatha Freedom Party gunmen, a Truth and Reconciliation Commission amnesty panel heard yesterday.

The former SDU member, Mbongeni Mbuza, said he fired a few shots with the R4 rifle and after the shooting subsided he fled with the weapon, which was later used to defend his community.

Mbuza is applying for amnesty for arson, malicious damage to property, illegal possession of firearms and attempted murder, and for possible injuries or loss of life caused by his actions.

He was handed over the R4 rifle on April 18 1994 shortly before South Africa's first democratic elections. This was the same day that top press photographer Ken Oosterbroek was shot dead in nearby Tholoza.

Mbuza told the amnesty committee that SDU members rushed to "Mshaya Zafe" (beat him until he dies) hostel when they heard gunshots from there.

He told the amnesty panel "The IFP and those in the houses nearby were shooting at the peacekeepers".

They exchanged gunshots and the peacekeepers were in a tight spot, he said.

"We had heard they were members of MK and Apla (the armed wings of the liberation movements) and decided not to shoot at them. Instead we assisted them to attack the people in the houses," Mbuza said.

He said while he was shooting with the peacekeepers, he ran out of ammunition. He then assisted them in pointing out the attackers.

"This soldier ended up giving me his firearm. It was an R4 rifle," he said.

Mbuza said he shot towards at IFP gunmen as well as policemen from the internal stability unit, who often targeted SDU members on the East Rand.

He used the rifle "for a long while" after he was given it. But finally disposed of it at the funeral of an African National Congress comrade, which was surrounded by soldiers.

Shooting into the air

"We were shooting into the air and the soldiers opened only one exit (for us). I happened to drop the rifle in one of the unused graves."

Mbuza's attorney Mr Lawley Shaen said that weapons collected by the SDUs were used for "the protection of their communities".

"This (incident) shows a clear bias on the part of the authority forces - the South African Defence Force, the South African Police and the internal stability unit," Shaen said, referring to their attacks on members of SDUs.

"It highlights the tensions and the possible alignment the National Peace Keeping Force may have taken," he said.

"All these (incidents) were somehow aimed at eliminating attacks," said amnesty panel chairman Advocate Denzil Potgieter - reflecting on an event in which the community destroyed a section of the railway line on which many train attacks took place.

FW denies he granted blanket amnesty to 3 000 apartheid-era security personnel

Former president FW de Klerk yesterday issued a statement denying he had granted blanket amnesty to 3 000 members of the apartheid-era security police, as charged by President Nelson Mandela in an interview with a Sunday newspaper

In the interview, Mandela said that during one of his gov-

ernment's first cabinet meetings it came to light that De Klerk had granted the amnesties

De Klerk said those involved had applied for indemnity for certain limited offences in terms of the same legislation under which many thousands of ANC members had already been granted indemnity.

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"The offences did not include gross violations of human rights, and I was not involved personally at any stage of the process, which was dealt with administratively within the Department of Justice," he said

De Klerk said it had been forgotten that many thousands of people, nearly all of them

ANC supporters, were granted amnesty for offences which did include gross human-rights violations under the Further Indemnity Act

Mandela, in the interview, rejected the idea of blanket amnesty, saying amnesty would be granted only to individuals who applied for it - Sapa

Star 8/12/98

Human rights are 'still being compromised'

(272) 00 9/12/98
Taryn Lambert

IN MANY instances, human rights were still being compromised in SA, Justice Minister Dullah Omar told a media conference yesterday on government's action plan for the protection and promotion of human rights.

The plan will be launched officially on International Human Rights Day tomorrow.

Many people still die in prison and government is very concerned about that, Omar said.

The constitutional rights to education, health care and clean water could be achieved over the next five years, he said.

The action plan also sought to protect citizens from the state. "The state has a positive duty to perform and the relationship between civil society and the state is very important in that regard."

"Nongovernmental organisations should act as watchdogs."

Omar said the government's commitments in the action plan were real and attainable though results would not be achieved overnight.

The plan was formulated in response to the call made at the Vienna World Conference in 1993 for states to draw up national plans to protect human rights.

Justice department's herculean task far from done

(2572) PD 10/12/98

CONTROVERSIAL as it is, and will always be, the truth commission report is a historical document because of its documentation of the violation of human rights in our country which apexed with the apartheid regime.

The task before all South Africans was to firmly establish democracy, a culture of human rights and the rule of law within the context of our collective social responsibilities.

But it is the arena of law that is the key to this trilogy safeguarding the moral health and sanity of our society.

Under Justice Minister Dullah Omar, the transformation of the courts and judiciary, the legal system, and the review of our legislation is inspired by this vision. It is encompassed in the strategic document called Vision 2000 which took a year and half of extensive consultations to arrive at.

It is therefore not without reason that some of the most important neo-

parastatals fall under the umbrella of the justice ministry. They are the Human Rights Commission, the Truth Commission, the Constitutional Court, the public protector's office, the Judicial Services Commission and the Gender Commission, among others.

Transformation in this sense is not to be conceived in terms of mere representativity, but in terms of the quality of our judicial system.

The emerging jurisprudence is closely tied to the needs of our constitutional democracy and the building of a human rights culture. The constitution is actually its point of departure. It can also be said that the truth commission report is also its point of departure, for ultimately the report points to justice, democracy and human rights. From the detritus of the past we have to create this new moral order. While our constitution marches in tandem with the most advanced ideas of our time, our jurisprudence and legal system must do so also. A series of initiatives and measures aim to achieve this.

The judiciary is gradually becoming sensitised to a hu-

man rights culture. Courts are being made user friendly. The department of justice has set up the concept of the model court which means updating them so that they have modern facilities, and changing the attitude of staff towards the public from the authoritarianism of the past to democratic traditions so that they are not the intimidating institutions we have known them to be. Judges, magistrates and prosecutors in particular are being sensitised to the needs of the most vulnerable in our society.

Justice College, the main training centre for the judiciary and legal profession, has revised its training programmes to take these goals into account. Legal training is also being transformed to meet current needs.

The key to transformation is the question of access to justice for the poor. Legal fees are prohibitive in a profession that is quite unscrupulous in this regard. Ordinary people cannot have equal access to justice without state aid, ie legal aid. But since this tends to be abused by the legal profession, a cost effective public defender system is being considered where by salaried attorneys will work for the state and law clinics at universities will also take on minor cases. Community participation is being



Justice Minister Dullah Omar

encouraged. Apart from community policing, which is working in places like Gugulethu and Khayelitsha, the use of lay assessors from the community is being expanded.

The community court notion builds on this idea. Similarly, family courts will deal more sympathetically with issues relating to divorce, maintenance, custody and children with a concilia-

tory approach to family law matters. These are fine ideals but the public's concern is that criminals must be put into jail and crime stopped. The administration of justice belongs to the justice department, which has also tightened bail conditions. Minimum sentences have been imposed for serious crimes like murder and rape.

Instead of centralised court management from Pretoria, a cluster system has brought about more efficient management of the courts while there has also been a separation between judicial and administrative functions.

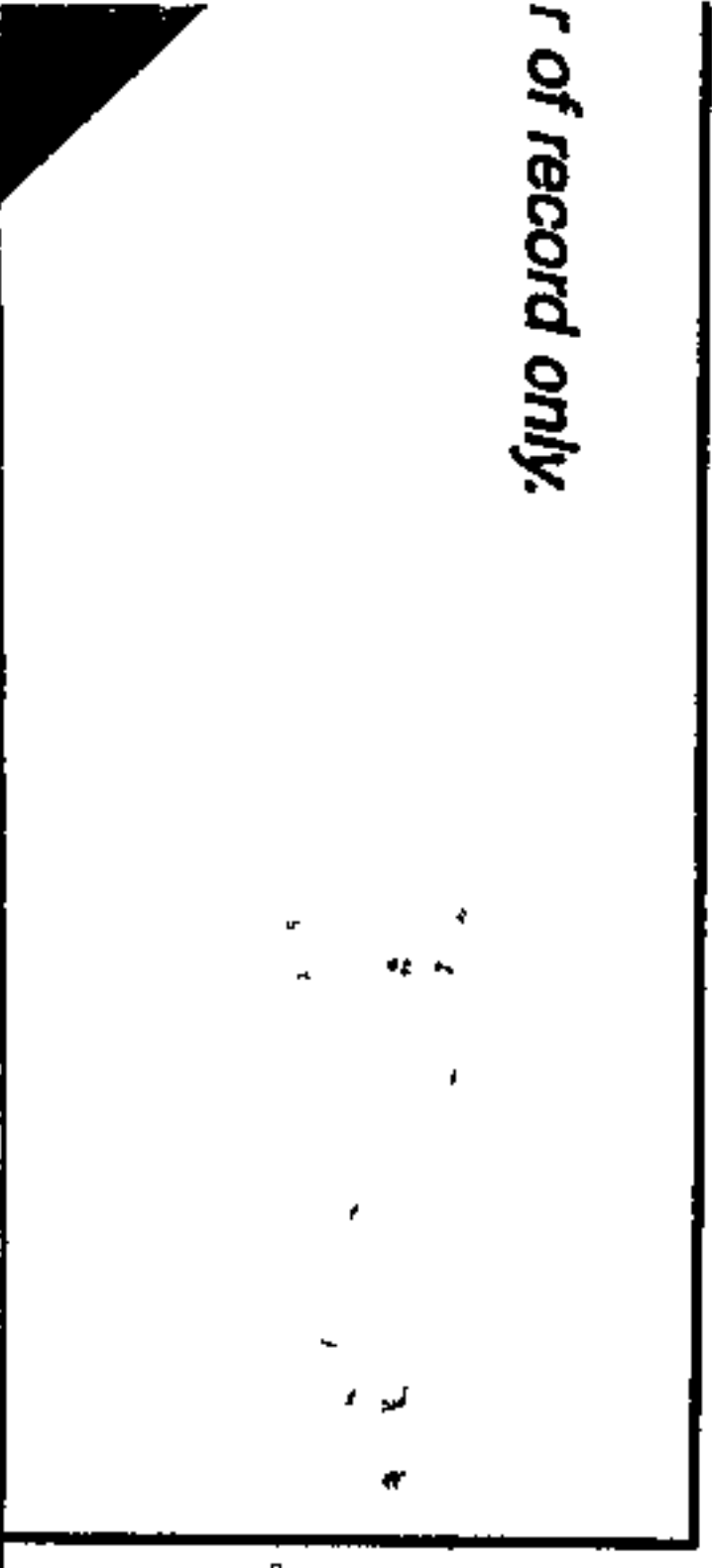
While attempting to transform the value system of the new judiciary, this had to be preceded by rebuilding its infrastructure, much of which was in total disarray.

The first task immediately after the 1994 election was to integrate the justice system. The setting up of the National Prosecution Authority completes this process, and makes it more effective.

The tasks of the justice department are mammoth. While much has yet to be done, much has been achieved. It is now well set to giving top priority to the court management system.

El Bunsaei is spokesman for Justice Minister Dullah Omar.

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Bid to avoid war crimes trials

ART 10/12/98

(252)

POLITICAL STAFF

Johannesburg – The African National Congress is considering amending legislation to avoid Nuremberg-style trials for human rights violators who did not apply for amnesty.

The proposal, which was discussed at the three-day ANC national executive committee (NEC) meeting which ended yesterday, will mainly cover former SA Defence Force generals and senior Inkatha Freedom Party official who could be investigated and charged with apartheid atrocities

The amnesty process, including the botched amnesty application of 47 top ANC figures, was the subject of a lengthy

discussion at the NEC meeting

The NEC amnesty sub-committee, headed by ANC president Thabo Mbeki, was asked to find ways of extending the amnesty process to ensure that "national reconciliation and nation-building" remained intact

An option to be considered by the sub-committee was that the life of the Truth and Reconciliation's Commission's amnesty committee be extended to enable it to hear amnesty applications for those who did not apply before last year's deadline

As chairman of the sub-committee, Mr Mbeki recently met several opposition parties to discuss how to avoid Nuremberg-style trials. ANC insiders said the NEC had ruled out blanket amnesty

How the train attacks ran out of steam

By Claire Keeton
Feature Writer

AN EXPLOSION of community anger against train attacks in Kaitlengong -- in which members of Self-Defence Units and the community sabotaged the local railway line -- stopped train massacres on the East Rand

This was the evidence of amnesty applicant and former SDU leader Jeremiah Mboongeni Mbuza before the Truth and Reconciliation Commission (TRC) on Tuesday in Palm Ridge, east of Johannesburg

Mbuza's testimony suggested that united action by the Kaitlengong community effectively reduced the levels of violence on trains -- which the police had failed to do.

"Those in houses facing the railway line would wake up to dead bodies in the morning," he said.

From January to September 1993, more than 100 commuters died in train attacks in and around Johannesburg.

And the decline in train killings on the East Rand in late 1993 was not the pattern elsewhere around Johannesburg, where the massacre of passengers continued unabated, particularly in Soweto

Mbuza told the TRC that the Luanda, Ndlangeni and Hlongwani sections of Kaitlengong were constantly under attack from Inkatha Freedom Party supporters using the train between Pilot station and Kwesini hostel

That section of the railway line was

less than 20m from their houses and IFP hostel-dwellers would often shoot at them from the train

"They knew the area was a stronghold of the African National Congress and the Pan Africanist Congress," Mbuza said.

"They would throw people out of the moving train through the windows

"Every boy would come and assist and they were targets of the IFP. They were needed to take the wounded to hospital"

Mbuza said the police and the army were of no use in protecting the community, on the contrary, they were a threat to them

"The police as well as the soldiers would come to harass us, not to assist us. We got no help from them."

He said this was why the community decided to give firearms to the SDUs to defend them.

"We came to the conclusion as a community that this had gone too far," said Mbuza. "We had to come up with a strategy to stop it and we resolved to start shooting at the train

"Shortly after this meeting, as we were dispersing, the train approached and there was random shooting from it"

Mbuza said this prompted residents to go to the railway line to destroy it

"We went as a community and pulled up the lines. We pushed the rail tracks and we also used hammers. We burnt the rail itself."



Flashback ... old shoes lie on stones covered with blood on the side of a railway line during the period of train violence against commuters. PIC-PICTURENET

Sowetan 10/12/98

But this did not solve the community's problem as there were two tracks -- for trains travelling in opposite directions

"(The sabotage) didn't help us in any way. The train was now using one line and the shooting and throwing out (of) people continued incessantly.

"One day the community decided the railway line should be broken. We took a cutting torch and used this. But we did not remove one piece. We left it to appear as if nothing was wrong

"The train came as usual and when it came to this spot, two coaches derailed. This stopped the shooting"

Mbuza said police and soldiers arrived to guard the train, and a steam train came to pull away the derailed coaches

"There were many police on the steam train and we were disturbed. We wondered why there were not any police when we were thrown out."

He added "The community was very excited and thrilled that day with the knowledge that the train would no longer travel that route"

TRC investigator Sally Sealey said that day was decisive in ending the train violence in the area, and more broadly the conflict between Kwesini

hostel-dwellers and residents

"It was a landmark. It ended the train violence from Germiston to Kwesini," she said.

"If you wanted the Kwesini residents to enter into peace negotiations in the area because they were under siege."

Amnesty panel chairman Denizil Potgieter said the community clearly saw the sabotage as a way of stopping the violence. "All this was aimed at somehow eliminating attacks," he said.

'A hero in community'

Mbuza's attorney, Lawley Shem, said the attack was politically motivated, and although people may have been injured, or even lives lost, his client should qualify for amnesty. Shem described him as "a hero" within the Kaitlengong community.

Mbuza applied for amnesty on several counts of arson, malicious damage to property, public violence, unlawful possession of firearms and attempted murder

The attempted murder happened when there was a high level of conflict in the community.

"We were at school when we heard gunshots and decided to go home. On

the way we saw IFP hit squads but fortunately we got home," said Mbuza

"We were told the fighting between the ANC and IFP had started ... and we had to do something."

"Mbuza said he and SDU members then went to a known IFP house looking for two men who lived there. Instead, they found women and children.

"But we were not cowards, we did not kill women or children. We told them to get out and they followed me into the street"

They were safe but their house was set alight. They never found the men

In his application, Mbuza described a cycle of killings, arson and funerals that destroyed the community where he lived in the early 1990s

"To those whose belongings I burnt and many others who suffered trauma at my hand, I would like to ask forgiveness. But not forgiveness for my duties in defending my community"

Mbuza still works for the protection of his community today -- as a policeman in Kaitlengong

"I was prompted to be a policeman because I realised the police were not doing as well as expected by the community."

Super-A-G in ANC bail Ngcuka lashes judge over allegations

ARGUS CORRESPONDENT AND SAPA

Johannesburg - A suggestion by a High Court judge that the newly appointed National Director of Public Prosecutions, Bulelani Ngcuka, misused his influence to help ANC members get bail has triggered a furious row at the highest levels of the justice system.

The row erupted when Mr Justice Piet van der Walt suggested that Mr Ngcuka, a former African National Congress MP, had

withdrawn his opposition to bail for three convicted ANC killers because of his back-ground in the movement.

Mr Ngcuka today hit back at the judge, in a sharp exchange which threatens to plunge the new national prosecution office into political controversy.

He defended his decision not to oppose bail for the so-called Eikenhof Three when their bail application was heard in the Pretoria High Court yesterday.

The three former ANC soldiers say they

are not guilty of the 1994 murders of Zandra Mitchell, her son Shaun Nel, 14, and Clare Silberbauer, 13, in an attack in Eikenhof, south of Johannesburg.

Siphwe Bholo, 29, Sipho Gayin, 27, and Boy Titi Ndweni, 22, were sentenced to death by Mr Justice David Curlewis in 1994. The sentences were later commuted to life terms.

They claim the State withheld evidence to secure a conviction and to embarrass the ANC during talks on a new constitution.

Pan Africanist Congress members have

since claimed responsibility.

Yesterday the State said it would no longer oppose bail for the three.

But Judge Van der Walt ruled that bail had to be opposed and accused Mr Ngcuka of making an "extremely unfortunate, ill-considered and extremely unwise" decision.

"He himself is an ANC member, appointed by an ANC government. Any person in his position should be extremely wary to take a decision of this nature."

Last night, Mr Ngcuka hit back at the

ARG 11/12/98

judge. In a statement he said the judge had "absolutely no factual basis" for his remarks he made to the court when refusing bail.

Mr Ngcuka said after representations from the defence it became clear new evidence which had considerable bearing on the case had come to light.

"I was of the view that in the event the court accepts the evidence and the accused are acquitted as a result thereof, a substantial injustice will have occurred if the accused remained in custody."

of bias

Judge 'ANC' blasts 'ANC' Super AG

17/12/98

Wonder Hlongwa and Sechaba ka Nkosi

The "Super Attorney General", Bulelani Ngcuka, this week made an unprecedented intervention in the trial of the Eikenhof Three — the African National Congress cadres who have spent five years in jail for a crime allegedly pulled off by a Pan Africanist Congress hit squad — by persuading former Transvaal attorney general Jan d'Oliviera not to block their bail application.

However, in an extraordinary judgment, Judge Piet van der Walt denied the accused bail, pointing out that Ngcuka, the national director of public prosecutions, himself was "a card-carrying member of the ANC". Judge van der Walt, who was recently grilled by the Judicial Service Commission for being a member of the Broederbond while sitting on the Bench, said "It is an unfortunate, ill-considered, unwise decision by the director of public prosecutions [to have intervened]."

Judge van der Walt hit the headlines last month when he resigned as deputy judge president of Pretoria after being passed over for the presidency of the division by the Judicial Service Commission in favour of a less experienced black judge, Bernard Ngoepe.

Judge van der Walt nevertheless said he hoped the Supreme Court of Appeal would expedite its hearing on the matter next year.

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Ngcuka's persuaded D'Oliviera not to oppose bail after holding lengthy behind-the-scenes meetings with legal teams representing the state and the three accused.

Until Ngcuka took up the case, D'Oliviera's representative, advocate Abile Leonard, had opposed bail. Judge van der Walt heard argument from the Eikenhof Three's senior counsel, David Sogot, that the case boiled down to an attempt on the part of the police to frame the ANC during its negotiations with the National Party government.

Sogot catalogued the holes in the state's case but each time was told by Judge van der Walt that he was not the trial judge in the case. Judge van der Walt countered several of Sogot's points by repeating elements of the state's case.

The judge also said that the new evidence from the Truth and Reconciliation Commission (TRC) — that it was in fact the PAC's armed wing, the Azanian People's Liberation Army (APLA), and not the ANC which had pulled off the attack — had yet to be tested in open court.

Judge van der Walt said his main problem with granting bail was over-coming the lynxpin of the state's case: that two of the three ANC cadres had signed sworn confessions admitting to the massacre.

These confessions were obtained by some of South Africa's most notorious policemen. Their disputed accuracy — and the claim that they were extracted under duress — are aspects in the state's case which, according to the Eikenhof Three's lawyers, suggest the ANC men were framed.



No relief: Despite the apparent strength of the Eikenhof Three's case, their sworn confessions could thwart attempts at proving their innocence. PHOTOGRAPHS: SIDDIQUE DAVIS

Curlewis in 1994, but their sentences were subsequently commuted to lengthy prison terms. Judge Curlewis refused them bail, but allowed the Eikenhof team to apply for another judge to hear a new bail application.

While the men were serving out their sentences at Pretoria Central, a commander from Apla, Phila Dolo, confessed to the truth commission that his organisation had pulled off the ambush on a Volkswagen car, killing Sandra Mitchell, her son and one of his friends.

This sensational development is one of the battery of arguments in the Eikenhof lawyers' case that their clients are innocent and must, at least, be granted bail. The accused are appealing to the Supreme Court of Appeal.

The other salient features of their case are:

● In 1996, police discovered a secret Apla report which chronicled the attack in detail. Neither the police nor D'Oliviera ever said anything about it. In their written heads of argument, the advocates representing the accused say:

"The State has never been able to suggest any theory to explain why these Secret Reports were not wholly authentic. The secret reports present objective and circumstantial evidence wholly corroborated by Dolo which are definitively destructive of the State claim that Apla's and Dolo's acceptance of respon-

sibility is not honest."

● The ANC men's fingerprints were never found at the scene of the crime.

● Despite the fact that they confessed to the crime, the guns they were supposed to have used were never found.

● The gun used in the Eikenhof massacre was the one used by Dolo in another attack for which Dolo was convicted — a fact confirmed by Dolo's lawyer: "There is indisputable evi-

dence that the AK-47 which was confiscated from my client at a road block is the same one which was used at Eikenhof. It was ballistically linked to the massacre when Dolo was arrested," he said at the time of Dolo's earnest application to the TRC.

D'Oliviera has recently given the court two anonymous statements from prisoners with the Eikenhof Three who claim that the accused hatched an elaborate conspiracy to escape liability for the crime.

Two of the Eikenhof Three were sentenced to death by Judge David

Government, the people have roles in human

BY BARNEY PTYANA

Yesterday marked the 50th anniversary of the Universal Declaration of Human Rights. Exactly one year ago, leading to the celebration of this historic event, Mary Robinson, the UN High Commissioner for Human Rights, launched (in South Africa) 1998 as International Human Rights Year.

It must be remembered that there is a double significance to 1998. Besides the 50th anniversary of the UDHR, the year also marks the more modest-fifth anniversary of the Vienna Declaration and Programme of Action adopted by representatives of some 171 states at the world conference on human rights in Vienna, Austria, on June 25 1993.

The Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations on December 10 1948, "as a common standard of achievement for all peoples and all nations..." has been an inspiration for human rights promotion and protection in South Africa from the beginning.

The UDHR, which the apartheid regime of the time declined to align itself with, was nonetheless the inspiration for those who sought justice and equality in South Africa. The UDHR ensured that the torch of freedom and justice continued to burn throughout the period of strife in our country.

The UDHR has given South Africa a vision of a just society that they dreamed of for many years and which was eventually embodied in the Constitution and Bill of Rights. The UDHR sets basic minimum standards which all people in all nations can justly expect to enjoy.

The Vienna Declaration and Programme of Action (1973) supplemented the UDHR. The UDHR cannot be complete without the Vienna Declaration. The two go together.

The Vienna Declaration for its part affirmed some basic, fundamental principles of human rights theory and practice. But they also advance thinking on human rights for the modern age.

Vienna states that human rights promotion and protection is a

matter of priority for the international community. It also affirms the principle that human rights and fundamental freedoms are a "birthright of all human beings".

It goes on to say that the protection and promotion of human rights "is the first responsibility of governments". Vienna, however, broke new ground in human rights theory when it stated unequivocally that "all human rights are universal, indivisible and interdependent and interrelated". It went on to say that all human rights must be treated holistically "in a fair and equal manner, on the same footing and with equal emphasis..."

By making this assertion, Vienna put to rest debates on the hierarchies of rights as well as the differentiation that some nations claimed because of their historical and cultural traditions.

By recognising interdependence and interrelatedness of human rights, Vienna signalled not only that no human rights are absolute and without limitations, but also established the interdependence of

For its part the SAHRC will continue to monitor the implementation of the commitments set out in the NAP. We are also committed to publishing the NAP and making it available to ordinary South Africans. It is our hope that the NAP will become a tool in the hands of South Africans to keep government accountable, and for the rest of society to play their part in the promotion and protection of human rights in South Africa.

the NAP and was intimately involved in its development. The commission wishes to thank the Minister of Justice, Dr A M Omar, MP and his deputy, Dr M E Tshabalala-Msimang, MP for their dedication to this project. We hope the Government will retain the interdepartmental consultative forum convened by Tshabalala-Msimang which oversaw the development of the NAP. It will be an essential tool to maintain the momentum on human rights achieved through the NAP process.

So 1998 has been a special year for human rights in South Africa. South Africa is now urged to take steps to ratify the new international instruments adopted this year, the protocol to the African Charter on the Establishment of the African Court and the Charter of the International Criminal Court.

The SAHRC is proud to have been associated with such momentous events in the history of our country. The commission initiated the process leading to the adoption of



Barney Pitjana ... excited about the emerging consensus among all political parties across the nation.

nations, thus placing limits on national sovereignty. This historic year was marked appropriately by South Africa Cabinet established a national committee convened by the Deputy Minister

of Justice, Dr Manto Tshabalala-Msimang, MP. The committee promoted the observance of human rights throughout the year. The committee also consulted about and made preparations for the adoption of the National Action Plan for human rights for South Africa.

The NAP was approved by Cabinet on November 4 1998 and submitted to the United Nations by the Minister of Foreign Affairs yesterday. The National Action Plan (NAP) strongly recommended by Vienna is a strategic plan for the nation. It is a means whereby government can set clear targets for achievement of human rights in our country.

The debate in parliament on November 5 indicated that there was all-party support for this country adhering to human rights norms, principles and practices. We are very excited about the emerging national consensus on human rights in our country. If that is the case, we can then expect that human rights will not be the subject of inter-party rivalry during the forthcoming general elections.

The commission convened the 2nd Conference of African National Institutions for the promotion and protection of human rights in Durban on 1-3 July 1998. Delegates from about 20 African national institutions attended the conference.

The conference adopted the Durban Declaration and the South African Human Rights Commission (SAHRC) was elected as the secretary for the Co-ordinating Committee of African National Institutions until 2000 when the next conference takes place in Lome, Togo.

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The SAHRC is proud to have been associated with such momentous events in the history of our country. The commission initiated the process leading to the adoption of

CP 13/12/98

Not all amnesty applications granted

By CHRIS HLONGWA

IT WILL be a bleak Christmas for former Azanian People's Liberation Army (Apla) cadres whose amnesty applications for armed robberies and murders were rejected by the amnesty committee of the Truth and Reconciliation Commission this week.

Serving long sentences, they had claimed they had had a political motive when they robbed and killed, but the amnesty committee was not convinced that they were not just common robbers and murderers.

Phillip Faizel Malefane's application was turned down. He is serving a life sentence for his role in the armed robbery of a Fidelity Guard van at the Stilfontein Mine on July 1, 1991 where a guard was killed.

According to TRC spokesman Mdu Lembede, Malefane claimed to be a trained Apla

member who committed the crimes to raise funds for the Pan Africanist Congress.

"The committee found that he committed the robbery for personal gain and turned down his application," said Lembede in a statement.

Two other people claiming to be Apla members appeared before the committee on the same day.

"They were applying for amnesty following the murder of a prison warder during a jailbreak at Krugersdorp Prison on March 22, 1992. The committee failed to find a political motive for the murder and duly refused them amnesty," said Lembede.

Two others, Michael Kgiba Mofokeng (33) and Nkosinathi Nkabinde (38), who also claimed Apla membership, failed in their amnesty bids.

Self-defence unit members were believed by the commit-

tee. (2/12/98)
Andile Shiceka (29), Fahlbango Walter Thanda (38) and Gcinekhaya Makoma (22), were granted amnesty for the bombing incident in Khayelitsha station in December 1992 where Jan Bambo was killed and several people injured.

ANC member Thulasizwe Philemon Moses was pardoned for the murder of fellow ANC member Shadrack Lindela Zulu in Ixopo, KwaZulu-Natal, in July 1993.

"Maseko told the committee that Zulu, a fellow SDU member of the ANC had defected to the IFP and had formed part of the group of IFP supporters killing ANC members in the area," said Lembede.

Another successful applicant was Sonkalana Moses Mabhena (35) who attempted to murder Sergeant Jan van Zyl in KwaThema, near Springs, in November 1992.

By CHRIS HLONGWA

HE DOESN'T have an office yet but that does not prevent Chris MacAdam, the prosecutor who carries on his shoulders fervent hopes of many in KwaZulu-Natal, from steaming ahead with his much-awaited review of hundreds of political cases

MacAdam has been appointed special prosecutor in the new KwaZulu Attorney General's office to head a team of special investigators into political crimes.

"He doesn't have an office. You'll get him on his cell phone. He moves around with it," says a prosecutor from former attorney-general Tim McNally's office.

A receptionist says MacAdam is based in Pretoria. "I have not been told anything," she says.

Another, in Pretoria, says she doesn't understand why people are being told he is in Pretoria.

"He is in Pietermaritzburg. He's bought a house there," she fumes.

"He told us he will be opening his office in Printing Office Lane," says someone from the High Court prosecutors' office.

There is much pressure on him to deliver where McNally and his assistants failed. There may also be pressure from those associated with McNally to see if he can do better than they did.

Though he can't re-open bungled cases in which high-profile people, like Sifiso Nkabinde, were acquitted, he is determined to ensure that political cases being prepared from now on are rock-solid.

MacAdam is re-evaluating 300 political murder cases from Richmond, Lindelani and Port Shepstone.

In Richmond he has already stopped the case involving two men arrested in connection with a tavern massacre from going to court until he is satisfied there is reasonable expectation a judge will find in the state's favour.

On January 29, he will decide whether or not to prosecute in the tavern massacre case.

He confirmed that detectors are to be used as aids when his unit doubts the veracity of a witness.

"One of the main features of the failed political trials in KwaZulu-Natal is that witnesses were found by courts to be liars," he said.

Likened by some to the special prosecutors, lawyers and judges who broke the Mafia in Italy, the investigating directorate has special investigators and lawyers charged with bringing to book the killers who have ruled in the province for so long.

"We are negotiating with the justice ministry to release six lawyers to be brought into our team," he said.

MacAdam, a former provincial deputy attorney-general, is working closely with Adv Mokotedi "Corky" Mpshe, who assumes the office of an investigating attorney-general on January 1.

MacAdam is understood to be surprised by the allegations of impropriety levelled against Mpshe when he was in private practice.

He still thinks highly of the "man I worked with for three years in the amnesty investigations" of the Truth and Reconciliation Commission.

Whatever fate awaits Mpshe the investigations by the directorate will go ahead.

"We are separate from his office," explained MacAdam. His unit does not deal with taxi violence cases or "ordinary" murders, only political murders.

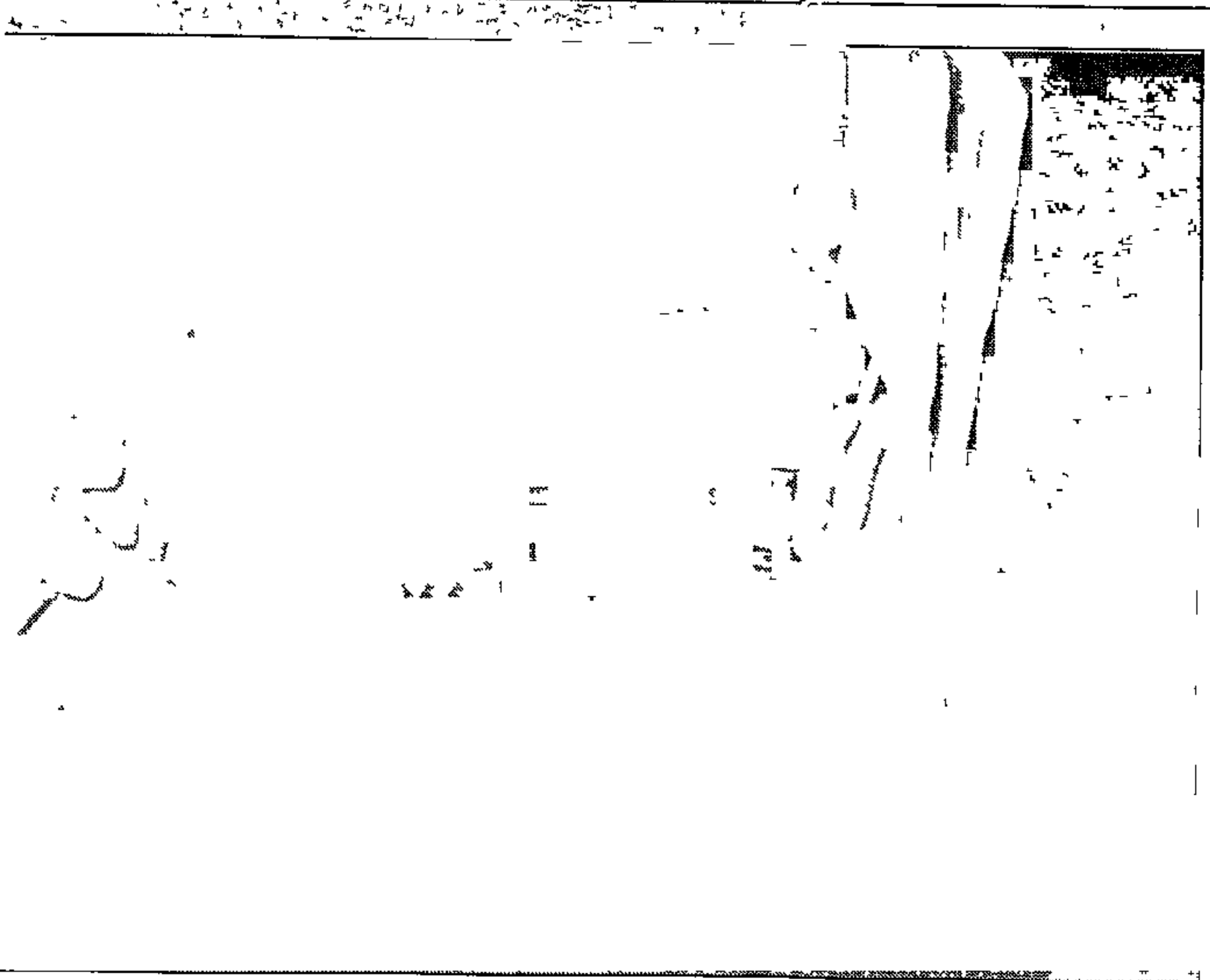
The special unit is also closely watching amnesty applications and assessing witnesses from there if their evidence impresses the judges who preside over them.

"A witness who impresses one judge is likely to have the same impression on another judge," said MacAdam.

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CITY PRESS NEWS

MacAdam to hit political thugs with rock-solid cases



GOING FOR THE JUGULAR ... KZN special prosecutor Chris MacAdam

Prosecutors stop work in pay dispute

ART 14/12/98 (272)
Johannesburg - Prosecutors around the country stopped work today in protest against not receiving a salary increase.

Last Thursday prosecutors received their salary slips in advance and found they had not received an expected increase.

A ban on overtime pay saw prosecutors start court later than usual on Thursday and Friday as they prepared their cases during court time.

By today, Johannesburg courts had only essential services as prosecutors protested with placards bearing slogans such as "Stop tipping, start paying" and "Crime should be treated with more conviction".

Similar action was seen in Durban, Pretoria, Kempton Park, and Soweto.

Spokesmen for the National Union of Prosecutors and the Justice ministry were not available for comment.

Sapa

No joy in prosecutors' pay packets

BY CATHY POWERS

Another broken promise This was the feeling among some Gauteng prosecutors when the second deadline of an announcement of salary increases came and went on Friday

After missing the December 1 deadline, the National Director of Prosecutions Bulelani Ngcuka assured prosecutors that salary increases would be included in their Christmas packages

But this week, prosecutors were stunned when not a cent more was included in their pay packets

Pretoria prosecutor Vleis van Zyl of the National Union of State Prosecutors (NUSP) said prosecutors were "extremely despondent and demoralised"

Some prosecutors were still holding on to vague hopes that the salary promises would be fulfilled. Overtime pay, relied on by prosecutors to augment meagre salaries, was suspended on November 30.

Prosecutors' salaries were to be de-linked from civil servants' salaries with the establishment of the National Prosecuting Authority earlier this year

Nov 14/12/98
Retha Meintjies, president of the Society of State Advocates (SSA), said: "We are still hopeful of an announcement. I don't know if we can have a lower level of desperation than this"

Sipho Ngwema, spokesperson for the national director of prosecutions, said efforts were still being made to get the deal tied up before Christmas.

Meanwhile, Gauteng prose-

Justice Dept accused of going back on promises

cutors had decided to work-to-rule in the face of these "shifting goal posts"

Justice ministry spokesperson Paul Setsetse said he believed the go-slows were not widespread and would affect only Johannesburg, Pretoria and Durban

Eduard van der Spuy, president of the NUSP, said it appeared that most of the approximately 150 prosecutors at the Johannesburg Magistrate's Court had refused to work over-

time. This was likely to continue until an acceptable announcement had been made.

This work-to-rule would upset court rosters and delay cases that would have been prepared after hours and were now being prepared during office hours.

A Pretoria prosecutor said virtually all of the approximately 60 prosecutors at the Pretoria Magistrate's Court and Pretoria district courts had decided not to work overtime.

"We realise that overtime pay was not a permanent solution but we are simply asking for professional salaries," the source said.

In a statement, the SSA accused the justice department of being inept, saying it had not budgeted for a pay rise for prosecutors. "Certainly this repeated unexplained shifting of the goalposts more than justifies the inference that there is probably nothing on the cards"

Low salaries resulted in resignations, a loss of expertise and ever-increasing vacancies, the society said

Any national effort to combat crime and corruption was doomed to failure if the prosecution was unable to deliver an expert service, the society said.

Go-slow could hit holiday roads clampdown

Despite threat of court chaos, traffic department pledges to continue with tough drive against offenders

BY CATRY POWERS

A national go-slow by prosecutors could hamper the Arrive Alive campaign's on-the-spot prosecution of traffic offenders during the festive season if the salary dispute is not resolved.

Prosecutors began a go-slow last week after Justice Minister Dullah Omar failed to announce a salary increase for prosecutors in time for inclusion in their Christmas packages after overtime pay was suspended on November 30.

Johannesburg prosecutors were not hearing trials or bail applications yesterday, and cases were postponed.

In the District Court, 123 cases were postponed yesterday because of the go-slow. Fifty of those were new cases. In the Regional Court 127 cases were postponed - 30 of those were new cases.

Justice Ministry spokesperson Paul Setsetse said the go-slow by the nation's prosecutors would hamper on-the-spot prosecutions of traffic offenders.

But he stressed that not all prosecutors had embarked on the go-slow.

This comes in the midst of the Traffic Department's harsh clampdown on traffic offenders over the festive season.

Drivers found to be over the legal breath alcohol limit are arrested on the spot, booked and locked in a police cell. When sober, they are charged and made to appear in court on the next weekday.

Although Transport Minister Mac Maharaj assured that there would be no court delays in waiting for the results of blood tests, there could be delays if the prosecutors' go-slow continues.

Spokespersons for the

Star 15/12/98

(252)

MOTHLALEI MAHLABE



Halting justice . disgruntled prosecutors gathered outside the Johannesburg Magistrates' Court yesterday to show their dissatisfaction over promised salary increases which have not taken place.

Transport Department and the Arrive Alive Campaign were adamant that traffic officers would not soften their approach to unruly motorists.

Regarding prosecutors' salaries, it was unclear when an announcement would be made. Setsetse said Omar was still in

consultation with the finance ministry and an announcement should be made shortly. A statement from the National Prosecuting Authority of South Africa said it was confident the announcement would be made before Christmas.

"We urge (the prosecutors) to go back to work because substantial injustice would occur if people who are not supposed to be in custody spend their Christmas behind bars because of industrial action."

The go-slow appeared mainly to affect courts in Durban and Gauteng.

■ Lunka Oshphant reports that about 30 prosecutors yesterday protested on the steps outside the Johannesburg Magistrate's Court, carrying placards asking: "Why does crime pay more than justice?" Inside the court, confusion reigned among defence attor-

neys and the public.

In the Pretoria Magistrate's Court, only nine of the 16 district courts were functioning. All matters in the Durban Magistrate's Court were postponed yesterday and no trials were heard, said prosecutor Mike Vehbi.

Ngucka apologises for delay of salary increases

BD 15/12/98 (272)

Prosecutors strike over 'broken promises' and being let down

Taryn Lamberti

NATIONAL Director of Public Prosecutions Bulelani Ngucka has apologised to state prosecutors for the delay in the introduction of the salary increases he promised they would receive before Christmas, his spokesman Siphon Ngwema said yesterday.

While prosecutors went on a one-day strike yesterday to protest against Justice Minister Dullah Omar's decision to cut overtime payment at the end of last month, Ngwema said he hoped an announcement over salary increases would be made soon. The effect of the strike would be calculated today at a meeting to discuss further steps.

Prosecutors in most major centres had indicated that they were striking yesterday.

Some prosecutors felt angry and disillusioned by Ngucka's "broken promises" while others felt he had been "let down" by the justice department. Ngwema said the delay

was caused by technical hitches and "red tape" in the department. He said Ngucka was confident that an announcement would be made before the end of the year.

Prosecutors sat outside the Johannesburg Magistrate's Court with placards protesting against the lack of salary increases and a ban on overtime payment which they claimed cut their incomes by 30%. Trials due to be heard yesterday were postponed to March next year.

"People do not realise how significant the effect of the strike will be. Awaiting trial prisoners will be held in custody for a longer period and the backlog of cases which is already substantial will be compounded," a source said.

Prosecutors said the strike was illegal but they had decided to embark on unprotected action after a strike ballot had been circulated.

The justice department stopped paying prosecutors for overtime at the end of last month because of budget constraints. Overtime pay-

ment cuts were reversed last year when prosecutors refused to work overtime in protest.

A source also accused Omar of choosing December to cut overtime payment because the courts were quiet and work-to-rule action had little effect.

The president of the National Union of Prosecutors of SA, Eduard van der Spuy, said last week that prosecutors were being kept in the dark about increases. The union had made it clear from the outset that it did not want a time lapse between the overtime payment cut at the end of November and salary increases.

The union had advised prosecutors to work to rule and not work overtime because the message from the department was that they were not going to be paid for overtime and would therefore not be forced to do so, he said.

The union's Vleis van Zyl said that the strike was not organised by the union but that prosecutors were acting in their individual capacities.

Prosecutors strike in several cities as Ngcuka promises pay hike 'fairly soon'

ET 15/12/98

ANDRE KOOPMAN

PUBLIC Prosecutors in Durban, Maritzburg, Pretoria, Kempton Park and Soweto went on strike yesterday after failing to receive a promised pay increase, but courts in the greater Cape Town area were not affected by the walkout.

place between prosecutors' representatives, Justice Minister Dullah Omar and National Director of Public Prosecutions Bhelelam Ngcuka.

Ngcuka, who had promised to announce salary increases for prosecutors by the end of November, yesterday apologised for the delay. Ngcuka said he understood the "frustration, anger and impa-

rest of the festive season behind bars" because of the strike. While prosecutors in the Western Cape did not strike yesterday, they were seriously considering industrial action, said prosecutors who did not want to be named.

Prosecutors were angered when they opened their pay slips yesterday to find that there had been no pay increase.

While it had been announced in November that they would no longer be paid overtime from December, prosecutors continued working overtime until late last week when it became apparent that they would also not be receiving the pay increase as promised. Last week, prosecutors started

preparing their cases in what would normally have been court time, said a Wynberg prosecutor. Ande Bouwer, local representative of the National Union of Prosecutors of SA (Nupsa), confirmed yesterday that some city prosecutors had not been working overtime. Overtime pay amounted to about R1 500 after taxes, he said.

In contrast to Ngcuka's apologetic tone, Justice director-general Jasper Noeth took a hard line yesterday. According to spokesperson Amanda Haasbroek, Noeth said that since prosecutors rendered an essential service, their strike was "illegal".

● Sapa reports that Johannesburg's courts had only essential services in operation yesterday. A group of prosecutors sat on the steps at the Bezuidehout Street court entrance, displaying placards bearing slogans such as "Stop Tipping, Start Paying" and "Crime should be treated with more conviction". Similar action was seen in Durban, Pretoria, Kempton Park and Soweto.

Ngcuka urged prosecutors to return to work since "substantial injustice would occur if people who are not supposed to be in custody spend their Christmas and the

hence" of his staff, but he was confident that an announcement would be made "fairly soon". "We will keep our promise," he vowed.

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Soweto 15/12/98

Prosecutors protest over salary increases

(252)
COURT prosecutors around the country stopped work yesterday calling for salary increases

Magistrates at Johannesburg's regional and magistrate's courts in West Street remained in their offices while members of the public thronged the passages

Last Thursday prosecutors received their salary slips in advance and found they had not received an expected increase

A ban on overtime pay saw prosecutors start court later than usual on Thursday and Friday as they prepared their cases during court time

In section one of the regional court, one court dealt with bail applications; another with postponements and new cases, and a third took the overflow

Many of the prosecutors sat on the steps at the court's Bezuidenhout Street entrance, displaying placards

(158)
bearing slogans such as "Stop Tipping, Start Paying" and "Crime should be treated with more conviction"

Similar action occurred in Durban, Pretoria and Soweto

Neither the president of the National Union of Prosecutors of South Africa, Mr Eduard van der Spuy, nor a Justice Ministry spokesman immediately available for comment

The prosecutors embarked on a strike despite national director of prosecutions Mr Bulelani Ngcuka's assurances that increases would be included in their Christmas salaries

Ngcuka's spokesman, Mr Siphon Ngema, said efforts were being made to get the deal tied up

The Society of State Advocates accused the Justice Ministry of being inept, saying it had not budgeted for a pay rise for prosecutors - Sapa

Wheels of justice turn even more slowly as prosecutors slack off

Government departments pass the buck on money question

BY CATHY POWERS

Government departments passed the buck yesterday, cash-strapped prosecutors around the country embarked on a work-to-rule after Monday's strike action.

Cases started between an hour and an hour-and-a-half late at the Johannesburg Magistrate's Court because prosecutors were preparing their cases during office hours, according to acting senior public prosecutor George Thiar.

Only four of the 14 regional courts were in operation.

A similar situation prevailed in Durban. Prosecutor Mike Vehbi said the Durban regional and district courts were operating in a "crippled fashion".

Durban prosecutors were following the work-to-rule strategy of their Johannesburg's counterparts.

"We think it is the most appropriate action and it is the least disruptive," he said.

Courts started up to two-

and-a-half hours late yesterday.

Vehbi added that there would be "precious little time" for trials to be heard after case preparation, remands and bail applications were heard.

Prosecutors were disillusioned after a promised pay rise failed to materialise when they received their Christmas pay slips last week.

Overtime payment was suspended at the end of last month and National Director of Public Prosecutions Bulelani Ngcuka has made repeated assurances of an announcement regarding increases.

Meanwhile government departments could not say who was ultimately responsible for the delayed announcement of a salary increase for prosecutors.

The finance department referred *The Star* to the public service and administration department, which referred the matter to the justice department.

Justice ministry spokesperson Paul Setsetse said he could not comment and referred *The*

Star to the office of the national director of public prosecutions.

Ngcuka said there were bureaucratic problems but he was "not at liberty" to specify them.

He was trying to get all concerned parties - the finance, justice and public service and administration ministers - to agree on a settlement, he said.

"I am really frustrated about this matter - I've had enough," he said.

Logan Wort, spokesperson for the finance department, confirmed that the department was involved in re-structuring prosecutors' salaries. He said money had been set aside for the increase but would not divulge the amount.

"Our role is to ensure that increments can be financed within the justice budget and that increases are sustainable over three years."

The negotiated increase had to be agreed by the cabinet's mandate committee, Wort said, adding that the delay was in the bargaining chamber.

Promise of increase fails to halt strike

(252)

By Gabi Khumalo and Mbongeni Hlophe

STRIKE action by prosecutors throughout the country continued yesterday despite an announcement by national director of public prosecutions Mr Bulelani Ngcuka that prosecutors' salaries will be increased.

Thousands of prosecutors in Durban, Johannesburg and Pretoria courts engaged in strike action this week demanding salary increases to replace the overtime payment suspended by the justice department at the beginning of December.

Department of Justice spokesman Mr Paul Setsetse said yesterday the minister Mr Dullah Omar was still holding discussions with Minister of Finance Mr

Trevor Manuel for funds to pay the strike until Ngcuka make a formal announcement directly to state advocates the prosecutors

However, Setsetse could not say what contingency plans were put in place for prosecutors to return to work before they received any increases. "Yesterday prosecutors explained to state witnesses and informed them of the current situation and postponed all cases that were due for yesterday's sitting," he said.

Prosecutors' salaries

The announcement of how much would be added on to the prosecutors' salaries would be made before the end of this week. Vehbi said they had not received any announcement from Ngcuka's office but were promised a report-back after they had written a letter to Ngcuka.

The strike began after the prosecutors discovered from their payslips that the increases that were due yesterday had not been included in the payment. "Sipho Ngwema, (spokesman for Ngcuka's office) made an announcement through the media, saying that they were sorry and that they had problems but the prosecutors didn't receive that report," said Vehbi.

Spokesman for the National Union of Prosecutors in South Africa Mr Mike Vehbi said yesterday that they would continue

16/12/98

D. 1.

AT



Eikenhof case: D'Oliveira had his doubts

May 18 - 27/12/98

Sechaba ka'Nkosi

Former Transvaal attorney general Jan d'Oliveira confessed his doubts about the state's case against the Eikenhof Three to the Chief Justice Ismail Mahomed as early as last September.

However, exactly six weeks later, D'Oliveira surprisingly revoked his earlier stance, citing "certain consultations" and said he would oppose any application for remittal.

D'Oliveira has been unable to explain these consultations to his boss, the National Director of Public Prosecutions, Bulelani Ngcuka.

After new evidence presented to the Truth and Reconciliation Commission suggested that a Pan Africanist Congress hit squad pulled off the attack — and not the African National Congress members accused of the crime — D'Oliveira wrote to Judge Mahomed asking him to expedite the appeal of the case.

"The effects of the new evidence and information could result in there being, at the end of the day, reasonable doubt in favour of the convicted persons," D'Oliveira said in a letter to the chief justice on September 15 1997.

The details of this letter emerged this week as Ngcuka indicated he was uncomfortable with the state's handling of the case.

D'Oliveira pleaded with Judge Mahomed to set a date for early in the fourth quarter of the year so that a hearing could be scheduled at the earliest possible opportunity for

remittal. D'Oliveira signalled his doubts about the case following an admission by former Azanian People's Liberation Army commander Phala Dolo to the truth commission that he ordered the killings.

Referring to Dolo's refusal to identify three other people he claimed participated in the killing, D'Oliveira wrote "The accused in case may or may not be the co-perpetrators, but they claim that they are 'ANC' people."

D'Oliveira told Judge Mahomed that the prosecution would readily concede that the matter should go back to trial.

"Normally the defence would have to apply on appeal for the matter to be remitted for the purpose of introducing new evidence," stated D'Oliveira.

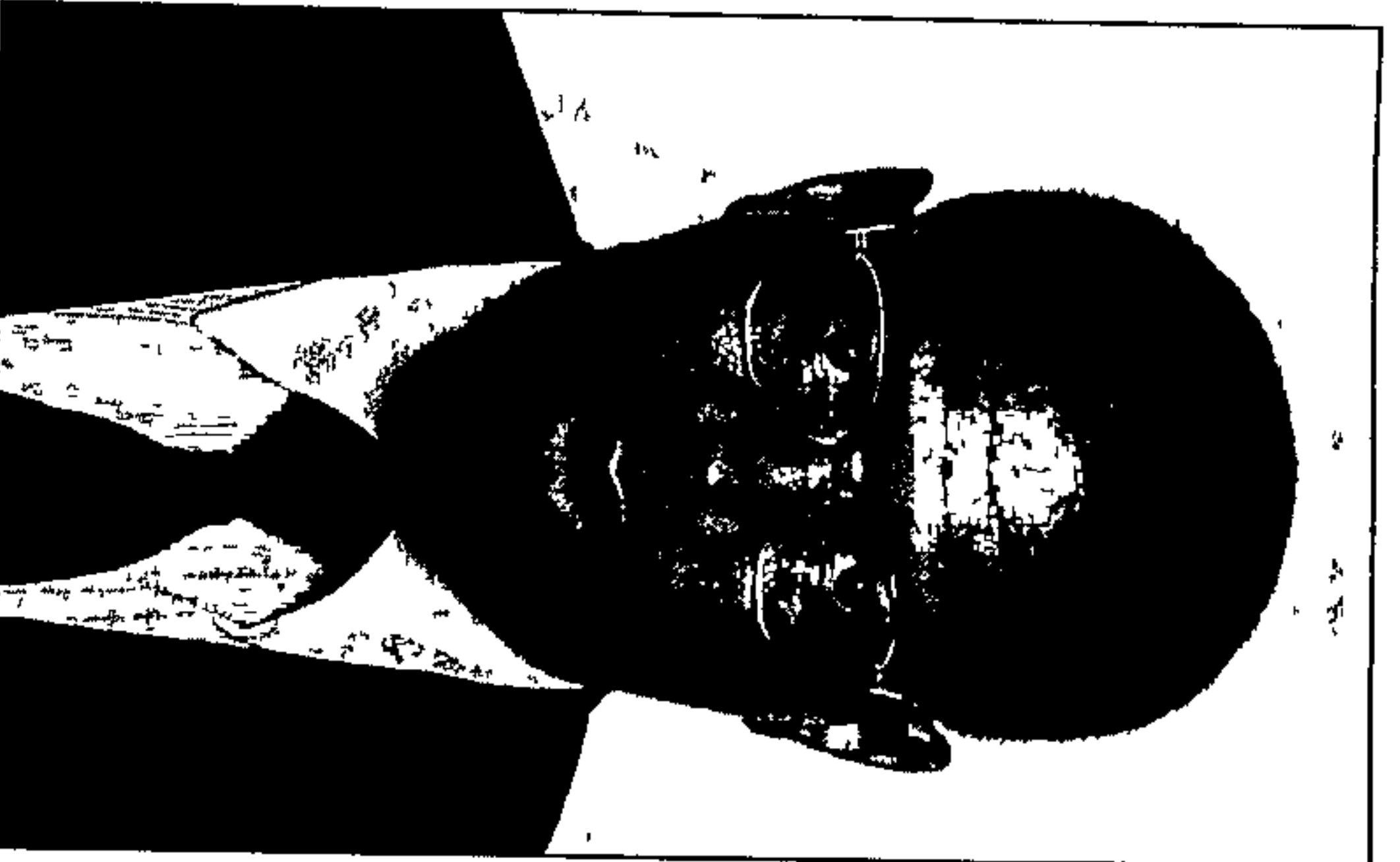
He said the Eikenhof Three — Siphiwe Dolo, Sipho Gavin and Boy Ndweni — could wait a long time in prison for the matter to be finally disposed of. "In the present circumstances, this will not be fair to them."

Six weeks later, D'Oliveira wrote again to Judge Mahomed arguing that as a result of "certain consultations" he was convinced there was no case for remittal. He said he would oppose the appeal and any application for remittal, as well as the new evidence that was coming to light.

"In the circumstances I am also no longer of the view that it would be unfair for the accused to wait in prison pending the outcome of the scheduled process of appeal."



Jan d'Oliveira: Had doubts about the case following evidence presented to the truth commission



Bulelani Ngcuka: Uncomfortable with the state's handling of the case

sault. D'Oliveira was unable to explain why key state witnesses in the case told his former deputy advocate, Anton Ackerman, the police told them what to say, but stuck to their original "confessions" when interviewed by D'Oliveira.

D'Oliveira's inability to present Ngcuka with answers to this question led to serious tensions between the two. This has frustrated Ngcuka who is said to be convinced that the state has completely lost its case on the Eikenhof killings.

Ngcuka is understood to have told some of his colleagues that he does not see himself leading the opposition to the appeal because of the weaknesses in the state's case.

Ngcuka downplayed the impact of the divisions in his fledgling office this week. But he confessed that the controversial case has put the credibility of some of his top officials on the line.

The Eikenhof Three, all members of an ANC self-defence unit in the Vaal Triangle, were convicted in 1994 for the slayings in Eikenhof of Zandra Mitchell, her son Shaun (14) and his friend Claire Silberbauer (13) in 1993.

They have already spent five years in jail for crimes allegedly perpetrated by PAC militants.

There is also no further clarity on anonymous affidavits Judge Piet van der Walt claimed during the bail application last week were from co-prisoners at Pretoria Central prison.

The affidavits are alleged to have been made by prison warders who allegedly overheard the three accused boasting about how they were pressing the PAC to claim responsibility for the killings. Ngcuka was this week attempting

to arrange a meeting with Judge Mahomed to discuss the case and see if the three's appeal could be expedited. Ngcuka also wants to explain his unhappiness with Judge van der Walt's attack on his decision not to oppose the bail application last week.

While Ngcuka and D'Oliveira were initially agreed that the state needed to oppose the bail application by the three ANC cadres who maintain their innocence in the killing, Ngcuka is now understood to be angry and frustrated at his office's reluctance to admit the flaws that have weakened their case.

D'Oliveira also blocked numerous attempts by the defence to interview key witnesses to establish whether they were forced into making the crucial statements that led to the conviction of the three.

Why are the Eikenhof Three still in jail? PAGE 18

Prosecutors to persist with their strike action

By ZOLILE NQAYI

PROSECUTORS' strike action is set to continue this week, despite an announcement by the national Director of Public Prosecutions, Bulelani Ngcuka, that they will receive salary increases.

Ngcuka apologised for the delay to implement increases for prosecutors and promised the matter will be resolved before the end of the year.

"The director met some of the prosecutors this week and they were informed an increase was imminent.

"However, I cannot say when this is going to happen, because I do not know what's causing the delay," said Christo Roberts, a senior public prosecutor at the Pretoria Magistrates' Courts.

About 2 000 prosecutors embarked on a go-slow last week, after the 30 percent increase they expected was not reflected in their December salaries.

This followed a decision by Justice Minister Dullah Omar to ban overtime payment from the end of last month, because of



NO PAY ... Justice Minister Dullah Omar decided to cut all overtime pay to prosecutors.

budget constraints in the department.

A ban on overtime payments was shelved last year, when prosecutors refused to work any overtime without pay.

Earlier Ngcuka's spokesperson, Siphon Ngwema, said the delay was caused by technical hitches Ngwema added that an announcement pertaining to the increases would be made before the end of the year.

Since the cut in overtime pay, which prosecutors claim reduced their income by about 30 percent, many prosecutors started preparing cases in the morning instead of at home.

"This resulted in some cases, which were scheduled to be heard at 9 am, being heard about two hours later. It caused serious disruptions," Roberts said.

The strike is expected to again have an adverse effect on the backlog of cases that courts around the country are faced with. Because of the strike action last Monday, a number of courts had to be closed and cases postponed until next year.

SA justice system 'neglects the poor'

ARGUS CORRESPONDENT (252)

Pretoria - There is widespread ignorance of the criminal justice system, particularly relating to gender crimes, according to a Human Sciences Research Council study.

The study shows that township and squatter camp residents believe themselves to be neglected or discriminated against by the police and courts, and that there is a perception that sentences for crimes committed against whites are 'heavier' than for crimes against other population groups

ARG 21/12/98
The results of the study, conducted in the Bloemfontein, QwaQwa and Welkom areas, were published here today

"In all areas there was little support for the criminal justice system mainly, and this was mainly ascribed to a lack of confidence in the system and ignorance about procedures for laying charges and opening cases," the study states

"Whereas the system was seen to be harsh and insensitive towards victims, especially women, it was seen to be lenient towards perpetrators in that court sentences were not in line with the

seriousness of the crime

"In respect of crime against women, the majority indicated that nothing - or little - was being done by their communities in fighting or preventing these crimes and that the criminal justice system was generally deemed inaccessible to women," it adds.

The study has recommended that a new service ethic be sought to bring about a partnership between the criminal justice system and local communities, which in turn should also become involved in the national crime prevention strategy

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NEW ACTING JUDGES APPOINTED

Shake-up in Cape

(2/12)

Judiciary

CT 22/12/98



ERIC NTABAZALILA reports.

THE DEPARTMENT of Justice has announced the appointment to the Cape High Court of a number of acting judges chosen from the ranks of those excluded under apartheid.

THE former head of the Truth and Reconciliation Commission Investigation Unit, Dumisa Ntsebeza, has been made an acting judge of the Cape High Court — one of several appointments announced yesterday and designed to hasten the transformation of the white male-dominated judiciary

The others are veteran human rights attorney Essa Moosa, an associate professor at the University of Cape Town, Belinda van Heerden, advocates Renate Williams, Leslie Weinkove, Jeffrey Immerman, Rudolph Hiemstra and Gerald Josman.

Some are to serve for the first quarter of the next year and others for the second

The Cape bench is the most representative in the country other than the Constitutional Court, whose members were appointed in the post-apartheid era.

Minister of Justice Dullah Omar said yesterday that he and the Judge President of the Cape, Edwin King, had agreed that all possible steps should be taken to make acting appointments to the bench from the ranks of those who had been excluded, including attorneys and academics

"We are happy that in a short period we will develop a pool of capable people so that when the Judicial Service Commission considers appointments it will be possible to promote representivity at a much faster rate," Omar said

Judge King hinted that further acting appointments from among the previously disadvantaged would be announced next year

Before his appointment to the TRC, Ntsebeza was a lawyer in Umtata. He is also a former president of the Black Lawyers' Association

He completed his law degree while serving a prison term between 1977 and 1981 for furthering communism.

"What is interesting is that the judge in the case was from the bench to which I've been appointed," Ntsebeza said.

He practised as a lawyer from 1982 until his appointment in 1996 as head of the TRC's Investigative Unit.

In 1993, he successfully sued the then-state president and minister of defence for the murders of five boys by members of the old South African Defence Force.

"I feel honoured by my appointment, though it is not the first time that I will act," Ntsebeza said.

"I was the first attorney to be appointed to the bench in Umtata.

"There are a number of interesting developments in legal circles in the Cape, including the formation of the group Advocates of Transformation. Previously judges were appointed exclusively from the ranks of the Bar, so it will be interesting to see the attitude of this organisation and that of my colleagues."

Moosa, an Athlone lawyer, rose from humble beginnings to become one of the leading human rights lawyers in the Western Cape. He has been in practice since 1960 and his clients have included President Nelson Mandela, Winnie Madikizela-Mandela, Allan Boesak, Matthew Goniwe, trade unions and a host of anti-apartheid organisations

This year, he served as an acting judge in the Free State

He has also been director of a Department of Justice planning unit that has been looking at the transformation of the administration of justice.

Williams, 37, has been appointed to act from the second term of 1999. She completed her LLB at the University of Cape Town in 1984 and joined the Cape Bar in 1985. Her practice includes a substantial number of family and gender-related cases. She is overseas and was not available for comment.

"I gave the Judicial Service Commission the assurance that I would further the process of transformation, or representivity, on the bench," Judge King said. "The obvious starting point is the

Turn to Page 3

Court reform

(2/12)
From Page 1

appointment of suitable people as acting judges. That is exactly what I've done, with regard to ethnicity and gender. I'm looking for suitable people — and Williams is not the only person from the previously disadvantaged group who will be acting for the second term."

Interviewed by the *Cape Times* earlier this year, Judge King said "The perception of the bench undoubtedly leaves a lot to be desired. The immediate need is the appointment of suitably qualified, competent people of colour."

In October, 192 permanent judges were listed in the *South African Law Reports*. Twenty-eight of them were black. There was only one black judge president of a provincial division — in Transkei. But this profile has begun to change with the appointment of several senior black judges in the past two months.

Judge Vuka Tshabalala, 52, was appointed Deputy Judge President of the Natal division, Judge John Hlope was appointed acting Deputy Judge President of the Cape and Judge Bernard Ngoepe was appointed Judge President of the Transvaal.

CT 22/12/98

Ngcuka scoffs at prosecutors' rise

DD 23/2/98

Stephané Bothma (258)

ecutors, is the largest that is involved in

the pay dispute.

Omar said the justice department

would process the new salary scales as a

matter of urgency.

In the light of the implementation of

the National Prosecuting Authority Act, a

consultative mechanism would be set up

early in the new year in consultation with

Ngcuka so that future remuneration mat-

ters and conditions of service could be

discussed at an appropriate level, he said.

This would also provide an opportu-

nity for unions representing prosecutors

to participate in the process.

"The change we desire cannot and will

not happen overnight," Omar said, rel-

erating his commitment to the transfor-

mation of the prosecution service. This

would include promoting equality, mak-

ing the service representative at all levels,

promoting professionals as professionals

in all respects and improving salaries.

"I know that prosecutors want greater

increases and parity with magistrates.

What has now been achieved must be

seen as a first step in a process which is

the best the country can afford at pre-

sent," he said.

The executive committee of the Na-

tional Union of Prosecutors would meet

during the first week of next month to dis-

cuss the increase, Van der Spuy said.

Society of State Advocates spokesman

Retha Meinjies described the increase as

"ridiculous". "We have no option but to

accept it. In our opinion it will not do

much to spur prosecutors and advocates

to work overtime," she said.

Sapa reports that the National Educa-

tion, Health and Allied Workers' Union al-

so expressed dissatisfaction with the in-

crease, but said it would urge members to

go back to work while intensifying nego-

tiations with government in the new year.

Union president Vusi Nhlapo said the

increase was only a stop-gap measure

aimed at pacifying the unions.

PRETORIA — The national director of

prosecutions, Bulelani Ngcuka, has added

his voice to unions' condemnation of the

6% salary increase for prosecutors and

state advocates announced by Justice

Minister Dullah Omar yesterday.

The increase, backdated to July, was

in addition to the 5% to 8% increase all

public servants received earlier this year.

National Union of Prosecutors presi-

dent Eduard van der Spuy said expecta-

tions had been created by Omar and

Ngcuka over the past few weeks that the

increase would be more in the region of

30% to achieve parity with magistrates.

Ngcuka himself scoffed at the in-

crease, saying it was insufficient "Pro-

secutors are entitled to more and they

deserve it I am bitterly disappointed."

He met unions yesterday to discuss

the increase.

Ngcuka said he would pursue the issue

of the reinstatement of overtime pay to

compensate for the small increase

Van der Spuy said the monetary value

of a 6% increase on the salary of a pros-

ecutor with four years of experience, after

tax and pension deductions, came to the

" princely sum" of R100 a month.

Omar said the increase was "the best

the country can afford at present, taking

into account the serious financial crisis

that exists in the world and that has also

engulfed SA.

Van der Spuy said Omar was making a

big and costly mistake if he believed the

6% increase would stem the flow of pros-

ecutors from the department.

"This announcement creates serious

doubt about the intention of the depart-

ment to fight crime," he said.

Some members of the prosecutors'

union participated in labour action earlier

this month that brought several courts

around the country to a halt. The union,

which represents more than 1 000 pros-

West Cape prosecutors set to strike over pay (2/7)

ANDREA WEISS
STAFF REPORTER

ARC 23/12/98

Western Cape prosecutors may go on strike in the new year. This follows widespread disappointments after the government announced a 6% salary increase for prosecutors.

Bulelani Ngcuka, the national director of public prosecutions, has slammed the increase.

"I understand that the government operates under a very tight fiscal policy and severe financial constraints. However, the 6% that has been given to prosecutors is insufficient. Prosecutors are entitled to more and they deserve it."

The Wynberg courts were today delayed for about half an hour while prosecutors met to discuss Justice Minister Dullah Omar's announcement.

They had invited Western Cape representative André Boucher to meet them.

Mr Boucher said the majority of prosecutors in the Western Cape were very unhappy. "Action will be taken".

Prosecutors at Wynberg however, were considering whether to take action before January 5 when a national decision regarding the strike was to be made.

It is understood that similar meetings were being held at other Cape Town courts.

Nyanga court likely to curb vigilantism

CT 23/12/98

(2/12/98)

ERIC NTABAZALILA

THERE is light at the end of the tunnel for crime-weary Nyanga residents — new court facilities are due to open in the township in April next year.

A Department of Justice spokesperson said the Nyanga Branch Court — a district court dealing mainly with criminal and maintenance cases — will strengthen the justice system in the area and help curb "an increasing spiral of vigilante action".

Residents often claim that one of the main reasons for vigilantism in township areas is that their people have lost faith in the justice system.

Over the past few months, many Guguletu residents have taken the law in their own hands, claiming that cases are regularly delayed and that witnesses in criminal cases usually lose interest. This in turn results in suspects being released back into the community.

Danile Landingwe, chairperson of the Guguletu Policing Forum, welcomed the establishment of the court,

saying it would help alleviate the large backlog of cases at the Mitchells Plain Magistrate's Court.

"The prosecutors and magistrates from Mitchells Plain are always tired. I hope this idea will help them to get their work done quickly," Landingwe said.

Hisham Mohamed, regional head of the Department of Justice, said the new court would reduce the strain on Mitchells Plain court officials, help speed up the finalisation rate of matters on the roll, dispense justice closer to the community and improve access for witnesses and accused.

The resultant freeing of office space at the Mitchells Plain court would allow for the establishment of a sexual offences court — a need which has long been identified but not implemented because of the lack of space.

Mohamed said he would consult community organisations early in January on the launch of the branch court. However, he was "not expecting

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Nyanga court to reduce case load

□ From Page 1

any objections" to the idea.

A prosecutor at the Mitchells Plain Magistrate's Court welcomed the step.

"We receive hundreds of small cases from Nyanga, Guguletu, Khayelitsha, Crossroads and Philippi," she said.

"This will really ease the heavy load on us. I'm convinced that cases will be solved very quickly as we will have fewer than before."

Serious cases will continue to be heard in Mitchells Plain and Wynberg.

Mohamed said the national security and safety situation and the ability of the state to address crime are among the greatest challenges facing the country's democracy.

He said the "growing disillusionment of communities" with the justice system was evident everywhere, as was demonstrated by calls for the reinstatement of the death penalty and the rise of vigilante groups.

"Over recent months, there has been a steady increase in gangsterism in Cape Town's black townships — in particular Nyanga, Guguletu and Khayelitsha."

"This has sparked a vigilante backlash from the community that is tantamount to an expression that the society has lost faith in the ability of the system to deliver safety, security and justice."

"The establishment of a branch court in Nyanga serves as a direct and practical response by the state to developing and strengthening the justice system in the area."

"It will serve as the key to breaking an increasing spiral of vigilante action," said Mohamed.

The establishment of the branch court was identified as a need by the Community Safety Forum, established as a pilot project in Nyanga.

Since the beginning of the year, various partner departments within the justice system — co-ordinated through the Multi Agency Action Mechanism of the Western Cape — have been involved in establishing community safety forums.

These forums have sought to develop and build, at grassroots level, an "integrated and sustainable relationship" between the partner departments of the criminal justice system and the community — a key requirement identified by the National Crime Prevention Strategy.

Mohamed said that not only did the number of cases from the Nyanga area warrant the establishment of a branch court but that it would assist community members who found it difficult to make their way to Mitchells Plain.

"Currently the (Mitchells Plain) court hears some 150 new cases a month coming from the Nyanga area. The current roll average is about 400 to 500 cases a month emanating from the Nyanga area."

"If Guguletu were added to this, an increase of 1 000 cases a month would not be unlikely," he said.

'THEY DESERVE MORE'

Ngcuka hits out at 6% raise for prosecutors

JOHANNESBURG: The announcement by Justice Minister Dullah Omar yesterday that prosecutors will receive a 6% salary increase has been received with dismay

SOUTH AFRICA'S head of prosecutions has expressed his "bitter disappointment" and angry prosecutors — who are already on a protracted go-slow — have threatened legal action after a meagre 6% salary hike was announced yesterday

National Director of Public Prosecutions Bulelani Ngcuka slammed the government in a statement, saying "I understand that the government operates under a very tight fiscal policy and severe financial constraints. However, the 6% that has been given to prosecutors is insufficient, prosecutors are entitled to more and they deserve it

"I was very optimistic that we would have the ear of the state because of our special circumstances. That was not to be. I am bitterly disappointed. However, I will continue to strive for the betterment of the prosecutors' conditions."

Justice Minister Dullah Omar announced, after repeated delays, that prosecutors would receive a 6% increase in addition to the 5%-8% they received along with other civil servants earlier in the year

But Eduard van der Spuy, president of the National Union of State Prosecutors, said the increase gives prosecutors with four years' experience a mere R100-a-month

increase after deductions. Some prosecutors receive as little as R2 700 a month after deductions

He said Omar and Ngcuka had given the impression that increases would be as high as 30%. "Six percent won't stem the flow of experienced prosecutors out of the department," he said



DISAPPOINTED:
Bulelani Ngcuka

Democratic Party justice spokesperson Douglas Gibson criticised the decision. "The Minister of Justice promised so much and delivered so little," he said. "We will not get the justice system right until we accord it the priority it deserves. This means paying decent

salaries to get and retain good people."

Van der Spuy said prosecutors were worse off than before overtime pay was suspended at the end of last month. He said prosecutors would continue to refuse to work overtime

Vice-chairperson of the Society of State Advocates of SA, Billy Downer, said the union was considering legal action

The society said in a statement that the increase is far less than prosecutors earned in overtime pay

Downer said Ngcuka had to some extent delivered on his promise of an increase before Christmas, although it is much lower than expected

Ngcuka had also filled some of

(252) CT 23/12/98
the vacant posts he promised to fill. He had appointed three deputy national directors and a chief executive officer and was busy appointing senior public prosecutors

Ngcuka said in a statement that prosecutors are the most important link in the fight against crime and that he had always been "extremely concerned" about their working conditions

The result of the salary negotiations, however, calls into question how much power Ngcuka and his office actually have

Ngcuka's spokesperson, Siphon Ngwema, said salary negotiations were difficult because other ministers, such as those of Finance and of Public Services and Administration, were involved

In future, the office of the National Director of Public Prosecutions would function as a separate unit, while maintaining a relationship with the Justice Department. "This is a process," he added

Justice Department director Jasper Noeth said about R14 million would be needed to cover prosecutors' increases to the end of the financial year in March next year. The funds had come from the department of Public Service and Administration, he said

Omar said in a statement that the increase was "the best the country can afford at present, taking into account the serious financial crisis which exists in the world and which has also engulfed South Africa." There would be further negotiations next year

Van der Spuy said "It took three years to get the 6%. The system has no further time to waste"

— Own Correspondent

Prosecutors on go slow despite increase

BO 24/12/98

PRETORIA.— Hundreds of prosecutors countrywide were still engaged in a go slow in protest against poor salaries yesterday in spite of a 6% increase announced on Tuesday

National Union of Prosecutors of SA president Eduard van der Spuy said the refusal by prosecutors to work overtime was a response to the justice department's refusal to treat them as professionals

The problem of low salaries was recently compounded by a ban on overtime. "This is of the department's own doing," Van der Spuy said. "They themselves said if they

didn't pay overtime they wouldn't expect us to work overtime"

Prosecutors were demanding salaries comparable to those of magistrates, which would mean increases of between 30% and nearly 100%

Van der Spuy said the union would advise its members to resume working overtime only once they received appropriate pay rises

About 30 prosecutors at the Pretoria Magistrate's Court took part in the go slow. Senior public prosecutor Christo Roberts said labour action would continue "until they do something about our salaries" Some

prosecutors earned less than half the salaries of magistrates. Before the ban on overtime came into effect, prosecutors could earn up to a third of their monthly salaries extra by working longer hours, he said

Roberts said the go-slow was having no real impact on the court's functioning, but would definitely slow down proceedings as soon as the festive season was over

Justice Minister Dullah Omar on Tuesday announced a 6% pay rise for public prosecutors and state advocates, saying this was all the country could afford — Sapa

(252)

~~(150)~~

Omar lays down law to protesters

JOHANNESBURG. Justice Minister Dullah Omar has laid down the law to disgruntled prosecutors, warning that illegal protests against what they regard as unsatisfactory pay increases will not be tolerated.

A number of prosecutors in courts throughout the country have embarked on a work-to-rule protest and have refused to work overtime. This follows prosecutors' pay increases of 6%, over and above the 5-8% increases awarded to other public servants.

The prosecutors say the increases are "too little, too late" and do not bring their salaries up to level they deserve as legal professionals.

They are also unhappy that payment for overtime work has been stopped.

The National Director of Public Prosecutions, Bulelam Ngcuka, has expressed his disappointment with the increases.

In a statement issued yesterday, Omar said he would meet Ngcuka to discuss the creation of a forum in which salary matters affecting prosecutors can be considered.

"The minister thanks all the prosecutors who, despite calls on them (to join the protest), have continued to perform their duties with dedication, even working overtime, despite the lack of remuneration," the statement said.

But the statement said overtime payments would not be resumed as the increases should be seen as a substitute.

"The minister noted the threat on the part of certain prosecutors and a union to take further action in the next year," the statement continued.

"All forms of lawful action will be respected. However, any unlawful action will not be tolerated. Those intending to participate in unlawful actions should be aware of the consequences of such unlawful action." — Sapa



STANDING FIRM: Justice Minister Dullah Omar

Omar gets tough with prosecutors

29/12/98 (252)

STAFF REPORTER

Justice Minister Dullah Omar has laid down the law to disgruntled prosecutors, warning that illegal strike action over what they regard as unsatisfactory pay increases will not be tolerated.

A number of prosecutors in courts throughout the country have embarked on a work-to-rule and refused to work overtime, following pay increases of 6%, over and above the 5% to 8% increases awarded to all public servants.

The prosecutors say the increases are too little, too late, and do not bring their salaries up to the level they deserve as

legal professionals.

They are also unhappy that payment for overtime work has been stopped.

The National Director of Public Prosecutions, Bulelani Ngcuka, also expressed his disappointment with the increases.

Omar said he would meet Ngcuka with the view to discussing the creation of a forum to consult with prosecutors with regard to future salary matters.

Omar said in a statement a special cabinet committee had been established to "consider the position of all professionals in the public service".

"The minister thanks all the prosecutors who, despite a call

on them, have continued to perform their duties with dedication, even working overtime, despite the lack of remuneration."

However, overtime payments would not be resumed as the increases should be seen as a substitute, he said.

The statement said "the minister noted the threat on the part of certain prosecutors and a union to take further action in the next year."

"All forms of lawful action will be respected. However, any unlawful action such as a strike will not be tolerated."

"Those intending to participate in unlawful actions should be aware of the consequences of such unlawful actions."

TRC report hails 'unknown' heroes of struggle

CP 11/11/98

THE Truth & Reconciliation Commission Report which was handed to President Nelson Mandela on Friday is heavily laden with the names of ordinary folks who have been subjected to "gross human rights violations" over the past 33 years.

Volume Five is a gloomy reminder of the heavy prize paid by millions of nameless and faceless unsung heroes and heroines, including children, of the struggle against apartheid.

The second chapter of this volume

has devoted almost a 100 pages to the listings of names of those who - on the cut-off date of 30 August 1998 - the Commission found to have suffered.

"The TRC is fully aware that there are millions others who carry scars in their souls and memories who may not have made it to the list.

"If people do not find their names on this list, there is no cause for concern.

"There are thousands more names to come, because the process

of making findings and of dealing with queries, reviews and appeals has continued beyond the cut off date.

"In addition, there will be further victims of human rights violations who will be identified through applications for amnesty."

No matter what anyone says, in fact the submission of the final report to President Mandela is not a mark of a completed task although it has been hailed as a job well done by the latter.

"We should remember that it was

When South Africans of all backgrounds came together for the good of all that we contended the prophets of doom by bringing an end to this terrible period in our history.

"Though the liberation movement was the primary agent of this change, it could not have done so on its own.

"To the extent that popular resistance stirred all of South Africa into action, to that extent are we all responsible for an outcome that did not take us deeper into the horrors

of the wasteland," said Mandela.

Consequently the unending series of names of ordinary people who were indiscriminately subjected to "gross violation of human rights" quickly lends testimony to Mandela's assertion.

Until perhaps the TRC, the ruling ANC or even Big Business, for that matter, creates monuments that address the pain and suffering of these million-ordinary folks, there is little hope that the former can have completed its mission.

The anti apartheid struggle was

inevitably solidified by the willingness of ordinary South Africans either were caught in the cross fire or saw themselves as part of the "just war".

Since the 1960s when ANC's military wing Umkhonto We Sizwe emphasized the urgency to radically and violently transform the apartheid system through violent means, many black folks have suffered jack-boot tactics of the previous regime.

In fact, it was the need for ordinary folks in both the urban and rural areas to have their dignity and self-respect restored that kept the anti-apartheid struggle alive.

This resulted not only in their assassination, incarceration, infiltration and thus being subjected to "gross violation of human rights" but the need for the TRC to acknowledge their suffering through the listing of their names.

As Archbishop Tutu and his commissioners are widely recognized, praised and recognised for having finished a job well done, perhaps the country should be reminded that those who carried the brunt of the suffering are not the type that usually appear on television or newspapers for that matter.

The best of them are so-called Joe Citizen, ordinary folks who travel on foot, by bus or train and are not quiet as deserving of a "hallo" when encountered in fancy elevators or shopping malls for the privileged.

And yet it is their names that stand out as an institution, a testimony to the courage and resilience of South Africans to save themselves from what President Mandela refuses to accept as "character inherent in any group."

But Archbishop Tutu is the man who travelled the length and breadth of this land, listening to their tragic stories and observing the wounds that they carry in their

soil.

It was in acknowledgement of their unrecognized heroism that Tutu spoke with emotion about the names listed on Volume Five.

"We thank the victimised and all who came to us with such dignity despite their anguish and trauma.

"They are the heroes and heroines of our story.

"We dedicate our work to all of them, and others who did not come," said Tutu.

And yet for these people to be rewarded, the socio-economic conditions that continue to imprison them will need to be transformed to make this country their home.

They are tempted, just all of the privileged, by the promise of security, comfort and peace.

And it is a realisation of this that makes Tutu echo their sentiments not only to the ruling government but the entire earth.

"This report contains more than just accounts of findings against perpetrators.

"It seeks to give as complete a picture as possible of the human human rights violations that occurred as a result of the conflict of the past.

"It provides a setting against which to understand our past, it gives insight into the perspectives of those who supported apartheid and those who opposed it.

"It makes comprehensive recommendations about rehabilitation and reparation proposals.

"It makes specific proposals about how we can cultivate a culture of human rights and of structures to ensure that the atrocities of the past do not recur and strong suggestions about how to advance the process of hearing and reconciliation out our traumatised and wounded nation," said Tutu.

May the suffering in the consciousness be a monument in the nationness of the leadership of this nation.

It's time for South Africa to lay her terrible past to rest

All TRC stories
By Sandile Memela

FOR the last few days the integrity of the Truth and Reconciliation Commission has hung in the balance as former enemies - the National Party and the African National Congress - tried to sabotage the release of the TRC's findings.

The basis of their objections was the TRC's condemnation of past and present political leaders as being equally guilty of "gross human rights violations."

This did not anger very well, particularly for former State President FW De Klerk, who lodged an interdict to preserve his reputation by refusing to be held accountable for violent programmes pursued by his military, intelligence and police underlings.

When De Klerk's bid succeeded, the ANC took a leaf from this legal precedent and lodged a last minute bid early on Friday to stop or delay the release of the report.

The ANC did this because it felt strongly that it was "grossly inaccurate" to equate the heroes of the struggle, who were conducting a just war, to the perpetrators of violence oppression and exploitation.

However, the integrity of the TRC was saved when the Cape Supreme Court threw out the ANC's case without giving reasons.

Archbishop Desmond Tutu was ecstatic and joined President Nelson Mandela in the Madiba dance when he was finally free to hand him the final report.

"This is an auspicious day in the history of our land, for which South Africa and indeed the world has waited with eager expectation," said Tutu.

"The report we (will) hand over to you, Sir, has (our) enthusiastic and whole-hearted endorsement. We are committed to cultivating a culture of respect for human rights and including tolerance for diverse views.

"We have practised what we preached in Alroyin: the minority report," said Tutu.

A sad era in our history comes to an end

(AFA) CP 11/11/98

Some of those who stand accused by the TRC ...



LAMBASTED... Winnie Madikizela-Mandela is heavily criticised in the TRC's report for the activities of her infamous football club



DOCTOR DARKNESS... Former State President PW Botha ran the country during the darkest days of repression



SLIPPERY EEL... Former State President FW de Klerk had his "reputation" cleansed with the help of a last-minute court interdict



An imperfect account of apartheid's dark days

NO DECENT person can hold a brief for those in the ANC who, motivated by whatever ideals, saw fit to torture one other, whether enemy agents or not. Such condemnation should, however, not be construed to suggest that there was not an ever-present threat posed by the apartheid regime's security services to inflict as much harm as they could on the ANC, its leading personnel and its membership.

That the Truth and Reconciliation Commission has added its voice to those of many others, in unequivocally denouncing these actions, is

abo Mbeki's spokesman, RONNIE MAMOIPA.

Opponents of the apartheid regime, ranging from Abram Tiro, to race liberals like Donald Woods, have been the victims of poisoning through their clothes, their food and drink, letter-bombings, night-time comm. and raids, shooting's

The TRC's report omits many details, writes Thabo Mbeki's spokesman, RONNIE MAMOIPA.

Opponents of the apartheid regime, ranging from Abram Tiro, to race liberals like Donald Woods, have been the victims of poisoning through their clothes, their food and drink, letter-bombings, night-time comm. and raids, shooting's

corsement "are committed to cultivating a culture of respect for human rights and inclusion, tolerance for diverse views.

"We have practised what we preached" allowing the minority report," said Tutu. With those words South African took a giant stride on the road to self healing and reconciliation.

In any case, it is not possible for this to take place overnight and Tutu has been at pains to explain to the press and public that "this is a process".

If a pre-requisite for the country to move into the new millennium is for it to bury its past, then the TRC report has brought that past out of stagnation and set South Africa well on the road to setting new moral standards.

However, it must be realised that the report is a legal document, not a moral one.

The ANC, which has been in the forefront of the anti-apartheid struggle, wished to see the triumph of the spirit of reconciliation and a recognition of the nobility of those who may have resorted to "terrorist" activities.

But since 1990 the socio-political landscape and the analysis of what has gone on before has radically changed as the new situation has given birth to new interpretations.

This has been mirrored in the fact that PW Botha, Mangosuthu Buthelezi, Winnie-Madikizela-Mandela, Adriaan Vlok and Magnus Malan have all been wrapped in the same dark blanket of condemnation.

Simply put, no matter which side they represented, they all abused human rights and should be held accountable for their deeds.

In singling out Madikizela-Mandela, the TRC has decided that despite the insistence by the ANC that she acted in her individual capacity, she remained an important member of the organisation and thus her decisions and conduct were part of its agenda.

But it is clear this is a thorny issue. Perhaps the ANC is right in questioning this interpretation of Madikizela-Mandela's actions as the ANC was banned at the time.

Every time the issue of the TRC's findings on the Madikizela-Mandela issue is raised, it will generate controversy and heated debate. Some elements in the ANC feel that this finding does not give an authentic reflection of the situation at the time.

The TRC report does not beat about the bush. It named former police and army generals Johan van der Merwe, Constant Viljoen, Tienie Groenewald and Johan Coetzee as being culpable. It said the same of a host of IFP leaders and of AWP leader Eugene Terreblanche.

However, the TRC was not able to establish a link between rightwing organisations and the decision of former Conservative Party leader Clive Derby-Lewis and Polish immigrant Janusz Walus to assassinate SA Communist Party leader Chris Hanu.

When Ronnie Kasrils led a march in Bishopo the intention was to take the masses on a final push to the fall of a dictatorship in the then Ciskei.

But looking back at the tragedy that led to the death of 29 people when members of the Ciskei Defence Force opened fire on the marchers, the TRC has, with the wisdom of hindsight, found that Kasrils is partially accountable for the senseless murders.

Kasrils, however, may feel somewhat vindicated in that former Ciskei leader Oupa Gqozo was wholly condemned as being liable for the "grossly irregular use of force" by his army.

And Gqozo was found to have illegally interfered with the criminal prosecution into the massacre.

The TRC has declared that the violation of human rights and other State-sponsored criminal acts, especially by the police and army, reached a peak in the period between



ASSASSIN... Polish immigrant Janusz Walus killer of Chris Hanu, is currently imprisoned for his crime



HOMELAND DESPOT... Former Ciskei leader Oupa Gqozo's army used grossly excessive force when they shot protesters



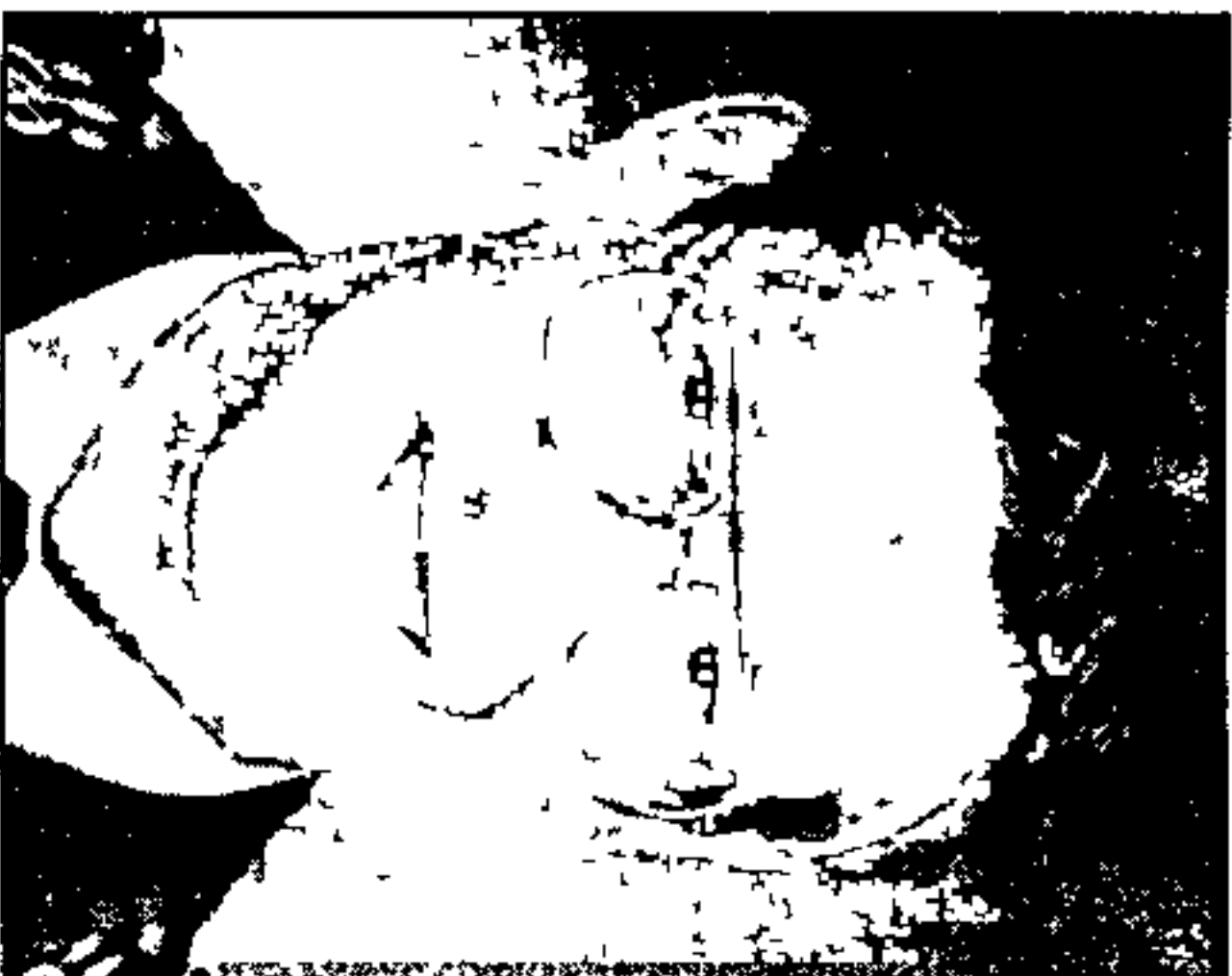
MANDELA'S PRISONER - Arch conservative Clive Derby-Lewis is serving time for his part in the assassination of Chris Hanu



BOMBING MINISTER... Former Law and Order Minister Adriaan Vlok's term of office was characterised by State-approved terrorism



MAGNUS PINOCHET - Former Defence Minister Magnus Malan whose Pinochet-style death squads terrorised KwaZulu-Natal



VAN DER MURDER - One-time police chief Johan van der Merwe, whose security police tortured and murdered apartheid's opponents

1978 and 1988 when PW Botha was in power. Thus the TRC is speaking the language of the majority when it says Botha was responsible for ordering his law and order boss Vlok and police commissioner Van der Merwe to destroy Khotso House.

"This decision greatly enhanced the prevailing culture of impunity and facilitated further gross violation of human rights by senior members of the security forces," said the TRC.

There is no hiding the fact that, as head of the State Security Council, Botha is accountable for planning and causing gross violations in the blood soaked region of KwaZulu-Natal, the commission has condemned not only Botha, Malan and Groenewald, but Buthelezi too for the mass murder and ill treatment perpetrated by death squads. To put it bluntly, they carried out genocide before the 1994 elections.

Ironically, this particular finding is a serious indictment of a Natal Supreme Court judgement that acquitted Malan, Groenewald and others when they stood trial in 1986.

The TRC also criticised the role of the IFP's sinister self-protection units whose agenda constituted a conspiracy to commit gross vi-

olations of human rights. The TRC identified IFP strongman Phillip Powell, police general SM Mathe and Captain Leonard Langeni as being accountable.

The TRC has brought the nation to consider the role and responsibility of Madikizela-Mandela in a new light, especially during the 1980s when the ANC was still banned. The commission has judged her actions and behaviour as self-directed and thus holds her personally responsible for committing gross violations.

She not only established the infamous Mandela United Football Club but was instrumental in directing the activities of its members which resulted in it turning itself into a "private vigilante unit". The TRC said Madikizela-Mandela was "aware of the criminal activity and the danger" the club had caused in the community but deliberately ignored the problem.

"The commission finds that those who opposed Madikizela-Mandela and the MUFU or dissented from them, were branded as informers and killed," said the TRC.

Also, the commission found that the army, police and rightwing political groups in many parts of the country were pulled up in a most dangerous way. Terreblanche, Viljoen

and Groenewald were held accountable for gross violations committed by members of the right wing in the run-up to the elections. The TRC found that they were uncaring in advocating the use of violence.

That PW de Klerk and the ANC believed the contents of the TRC's report had to be called into question has, ironically, boosted the TRC's credibility and integrity. It symbolises the indispensable role of the TRC in setting a new national agenda based on reconciliation and self-healing.

President Nelson Mandela expressed this eloquently when he said he was proud to receive the report and urged the people to regard it as an indication of breaking with the past.

"We are extracting ourselves from a system that insulted our common humanity by dividing us from one another on the basis of race, and setting us against each other as an oppressed and oppressor."

"The wounds of the period of repression and resistance are too deep to have been healed by the TRC alone, however well it has encouraged us along that path."

Mandela said the TRC report was a call for everyone to celebrate and to "leave our terrible past behind us forever."

personnel and its membership.

That the Truth and Reconciliation Commission has added its voice to those of many others, in unequivocally denouncing these actions, is unprecedented.

Those who would serve a cause too well often do it the greatest disservice. This seems to be the case with the TRC's report regarding human rights violations committed by the ANC.

After reading the report, I was taken aback by its rather bald attribution of blame to the ANC and the IFP for the violence that racked the province of KwaZulu-Natal during the first four years of this decade.

Since the age of Homer it has been standard practice for states engaged in war to try to penetrate the defences of their opponents by guile, deceit or any other means.

In Thomas Mofolo's novel, *Chaka*, from our own indigenous literary tradition - the character Ndlabe contrives to obtain prior intelligence about everything that impinges on the enterprise his monarch has embarked upon. Ndlabe does not only spy on his king's enemies, he also tricks them into making extremely dangerous tactical and strategic errors with disinformation and through provocations.

If the ANC leadership was not initially alert to dangers posed by the apartheid regime's security services, it were soon made aware of them. For three decades the South African public and the world were regularly edified with their boasts of their successes. In the late 1980s they published numerous books singing the praises of agents such as Gerald Luthi, Brudo Mofolo and others.

One Sunday in early 1980 the *Sunday Times* arrived on the streets with the lurid headline "War in the Shadows", describing the exploits of alleged super-spy, Captain Craig Williamson. Later that same decade the *Pretoria News* waxed lyrical about another apartheid spy, Ms Livia Forsythe, who had employed a mix of feminine wiles and her facial hair for mendacity to infiltrate first the anti-apartheid groups in South Africa before attempting to penetrate the ANC.

In its treatment of the 1980s and early 90s the TRC appears to regard the Department of Military Intelligence, National Intelligence Service and Security Branch infiltration of political organisations as an outright fabrication. Yet there is ample evidence, not least from the security services themselves, that they pursued such a mission with zeal and gusto. In the TRC's own hearings extensive evidence was led about the penetration of the IFP and deliberate instigation of violence against UDF activists and suspected ANC supporters. The South African public only became aware of the violent deeds of Eugene de Kock and his colleagues recently. But those at the receiving end of their attention have known about them for years. De Kock pulled no punches in his account of arms supplied by him and his operatives to certain IFP structures and he was unequivocal about their purpose.

Since World War II the techniques to torment and incite such conflicts among one's adversaries have been impressively improved by all intelligence agencies, including the apartheid government's.

During the 1980s a new term came into our political vocabulary - "informal repression." This describes the sort of violence instigated and controlled by the apartheid regime's security agencies against black communities. These were the days of the notorious "Widoeke" who were organised and armed by the police. The TRC's own hearings brought to light a number of examples of this. The infiltration of the ANC and the IFP was very real and quite effective. It is evident from the facts placed before the TRC that such dirty tricks continue even while its investigations proceeded. Who can forget that such tricks were even directed against one of the commissioners?

Yet the report appears to exculpate apartheid's spooks and lays all blame at the doors of the ANC and IFP.

Violence is morally reprehensible and evokes the condemnation of most people. Facilitators reject violence on principle. Whether perpetrated in the name of God, or in the name of the Volk, or in defence of the "free world", as the United States claimed in Vietnam.

But those of us who are not pacifists recognise that violence is sometimes the only recourse one has to correct a greater wrong. No one would raise objections to a law enforcement officer shooting a violent criminal who was engaged in committing a crime!

But such universally recognised distinction seems not to have concerned the TRC. The effect of such an approach is to diminish the responsibility of the apartheid regime for most of the violence that affected African communities in KwaZulu-Natal, the Reef and the Western Cape during the 1980s and early 90s.

No one denies that once violence had been injected into the situation it assumed its own momentum, which was, of course, the intent of the instigators in the DML, the NIS, and the Special Branch. But aren't those who became caught up in the cycle of attack and revenge attack also victims of the cynical manipulation by persons they do not know?

It is such errors of omission that make the report a rather imperfect account of the dark days of apartheid's repression and negatively affect its credibility among those who bore the brunt of repression, both formal and informal.

Tutu now the main target of parties' venom

BY DESMOND BLOW

WITH the pending General Elections only months away, all political parties have acted with shock and amazement at the findings of the Truth and Reconciliation Commission concerning their own organisations.

And the person to bear the brunt of their venom is TRC chairman, Archbishop Desmond Tutu. It is forgotten that he, probably more than anyone, was responsible for bringing down the apartheid government - for he fought relentlessly for economic sanctions against South Africa that forced the Nationalist Government to negotiate a democracy. He was at one time the most hated man in South Africa among whites because of economic sanctions, even

among many whites in his own church, and received death threats. Parties in opposition to the ANC government had been prepared to lambast the findings of the commission as being biased - but none was spared and it has taken the wind out of their sails. None are happy - which means that although the report is far from being altogether satisfactory, it must largely have served its purpose.

At a glittering banquet on Friday night Tutu accepted the Johannesburg Press Club's Newsmaker of the Year award on behalf of the TRC. With the clamouring of threatened court actions around him, the Archbishop called on all South Africans to use the TRC as an opportunity to turn away from the past and build a common future. "Let us turn together from the

past. Let us now look at the past and say we were all part of the problem and now we have a chance to be part of the solution," he said. Tutu said South Africans should realise they had much to celebrate and he hoped when he returned from the United States in a year's time his dream of success would be realised. He said the world looked on South Africa in wonder and amazement "but we do not celebrate the fact that we are incredible people."

He said before 1994 many people overseas expected South Africa to become an example of some of the most ghastly events in world history, but South Africa had proved them wrong and shown that reconciliation could be achieved. However, former State President FW de Klerk goes to court next year in an attempt to prevent allegations against him becoming part of the

country's history. He claims the TRC had decided beforehand that nobody from the previous government should emerge with any honour or credit for the creation of the new South Africa. It was perhaps for this reason, he told a press conference, that the TRC was trying desperately to implicate him in gross human rights violations.

Because of the pending court action the TRC agreed not to include the allegations against De Klerk in the report. De Klerk said he would establish a centre for reconciliation and democracy aimed at promoting national reconciliation and multi-party constitutional democracy. And the IFP has also threatened to sue the TRC over its findings implicating its leaders in human rights violations. □ To Page 2



IN THE FIRING LINE... Archbishop Desmond Tutu is being slammed over the TRC report

The ANC might deny there had been contact with Mandela over the court application. Man dela was not involved but had been informed as a matter of courtesy. Meanwhile, Deputy Defence Minister Ronnie Kasrils has threatened to sue *The Star* newspaper for reporting that he was among those criticised in the report for human rights violations. Kasrils is not mentioned in this connection in the report. And Chris Ham's killer, Juan Valis and Clive Derby-Lewis, linked them to the report. The ANC and the World Preservationist Movement through Derby-Lewis called for the court action. People guilty of human rights abuses who are not granted amnesty or have not been liable for prosecution and have had their property returned two years after the report means are compensated for their loss. We do not intend to comment on any of the cases which became linked down in a long process which will take time.

It said IFP president Mangosuthu Buthezi together with top security officials were accountable for human rights violations. "The report has been met with complete disgust and alarm by the IFP. "The implication of Buthezi as preposterous and lies in the face of reconciliation and nation-build ing," said IFP spokesperson Albert Mkwango. After failing in an urgent court action to prevent the TRC from publishing allegations of human rights violations, the ANC said it would search for other means to correct "what it alleged were 'the gross inaccuracies' contained in the TRC report. ANC spokesperson Thabo Masebe said although the ANC had lost its 11th hour court action it was convinced it was correct. However, the urgent court move was apparently not approved by all the ANC leaders, some of whom were only informed after the step had been taken. Many telephoned Tutu to express their regret and President Nelson Mandela when the report was handed to him on Thursday. He urged all South Africans to accept the commission's findings.

Tutu bears the brunt of venom

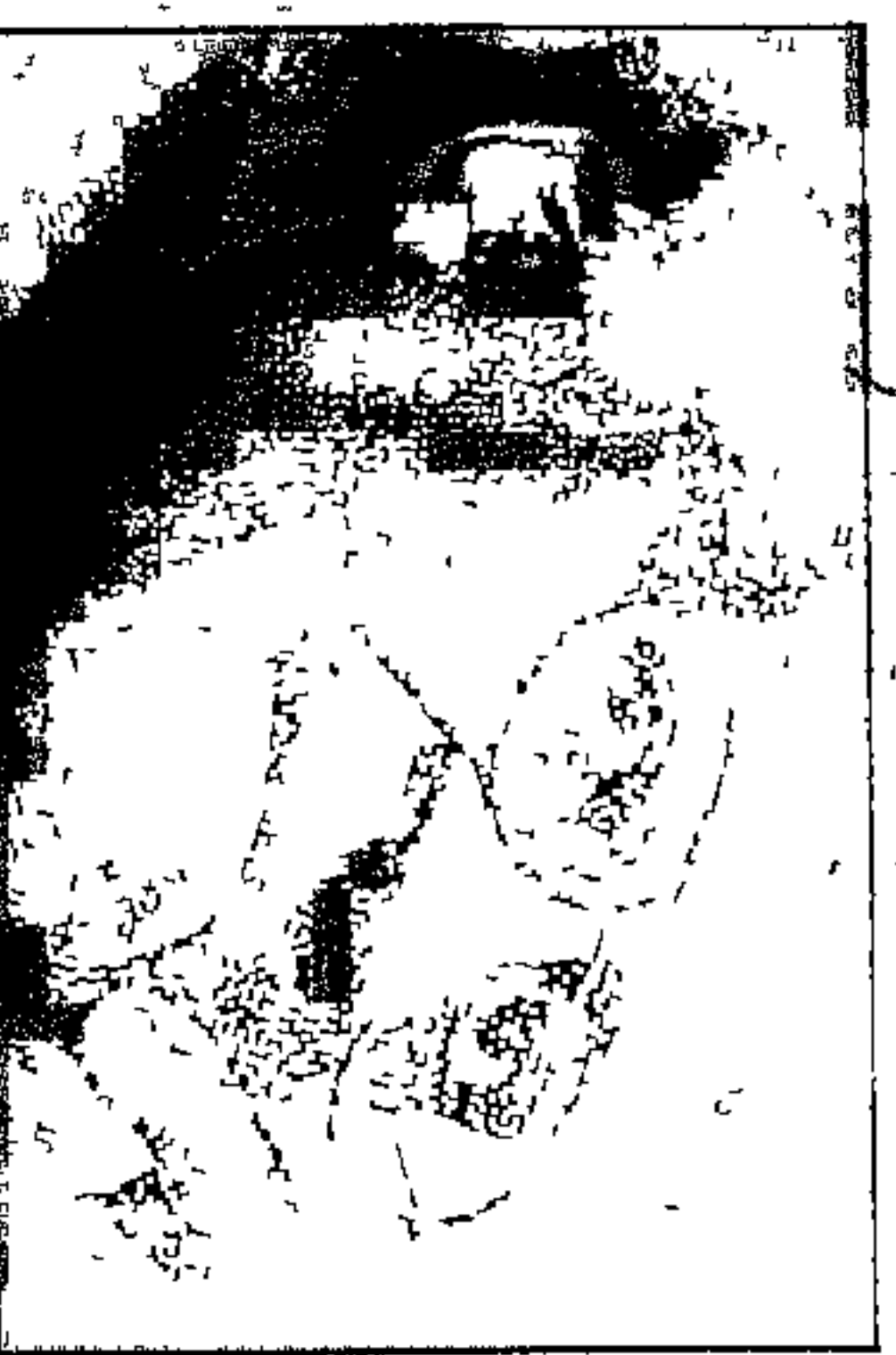
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Don't suck up to the ANC, says Tutu

'Devastated' truth commission head calls for vigilant watch that new rulers do not imitate the old

RAY HARTLEY, CRAIG DOONAN
and MICHAEL SCHMIDT



'I didn't struggle in order to remove one set of those who thought they were tin gods and replace them with others who are tempted to think they are'

ARCHBISHOP Desmond Tutu has sounded a clarion call to South Africans to stop sucking up to the ANC government. "Sycophants are the worst possible thing to have around you when you are in power. Those who forget the past are doomed to repeat it," he told the Sunday Times.

In a week in which his Truth and Reconciliation Commission reported on how the apartheid government, drunk with power, had conducted a reign of terror against its citizens, the country's moral leader sounded his strongest warning yet against the formerly oppressed imitating those they had toppled.

He said: "The price of freedom is eternal vigilance and there is no way in which you can assume that yesterday's oppressed will not become tomorrow's oppressors. We have seen it happen all over the world and we shouldn't be surprised if it happens here."

Tutu was furious on Thursday when the ANC tried to block the release of the report which found it was also guilty of abuses. He called on churches and the media to keep a watch on the ruling party.

"We so easily jettison the ideals we had when we were struggling. It is important that we retain the vigour of our civil society organs that were part of the struggle."

"In government structures there are now personal friends who were more or less on the same wavelength. That is seductive, it can so easily blunt the instincts that were sharp at the time of the struggle."

"We've got to retain the same capacity to smell out corruption, the abuse of power. If they [the government] are the true democrats which we hope they are, they will say 'Those are in fact our true friends — the ones who tell us when things are not right.'"

A "devastated" Tutu broke ranks with his former liberation movement colleagues, saying "It is very difficult to criticise your friends. You feel awful. You feel disloyal. You feel you are letting the side down because these

"We would hope that they would know that the fact that they are the majority party in government does not give them special privileges."

When he heard about the ANC's court action, he said, he had felt so low he could have "crawled under the belly of a snake" and had wondered whether it was worth "going on" with the publication of the report.

He said he had felt better after meeting President Nelson Mandela shortly before the report's release, but would not divulge their discussions.

"He came into the room and I talked. Before that I was wearing a very long face, I was really depressed. I was very, very depressed. After speaking with him I was smiling."

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See page 4

CONSIDER THE VERDICT

THE CASE AGAINST THE LIBERATION MOVEMENTS

by ANDREW DONALDSON

THE ANC contributed to the spiral of "black-on-black" violence that gripped the country from 1990 to 1994, and was responsible for killing and assaulting its political opponents in the IFP, the PAC and the Azanian Peoples' Organisation, as well as members of the South African Police.

This is one of the damning findings in the truth commission's final report that the ANC tried to suppress with its urgent court action on Thursday.

Finding that the organisation had committed gross human rights violations after its unbanning, the report notes "While the commission accepts that the violent conflict which consumed the country in the post-1990 period was neither initiated by nor in the interests of the ANC, the ANC must nonetheless account for the many hundreds of people killed or injured by its members in the conflict."

Where the ANC has argued that its members were acting in self-defence, the commission says it believes that "proactive revenge attacks" were carried out by all parties concerned.

"This situation," the report states, "was exacerbated by high levels of political intolerance among all parties, including the ANC. Further, the commission contends that the leadership should have been aware of the consequences of training and arming members of SDUs (self-defence units) in a volatile situation in which they had little control over the actions of such members."

The commission's findings

Archbishop Desmond Tutu, who handed the truth commission's report to President Nelson Mandela this week

Picture: JULIAN VAN DER WESTHUIZEN



WEB SEARCH

The complete TRC report is available at no charge on our Internet site at www.sunshine.co.za.

● We're holding an on-line poll on whether the commission has contributed to reconciliation or whether it has divided the country. Share your view in our politics discussion forum

against the ANC in this regard are nowhere near as devastating as its findings against the IFP — the latter, the commission has determined, slaughtered three times as many of its opponents during the post-1990 period.

But they could very well be enough to compromise the ruling party's hopes of an election alliance with, among others, the IFP. At stake is the two-thirds majority the ANC wants to win at the polls next year.

Other findings of gross human rights violations against the ANC concern the attacks carried out by members of its armed wing, Umkhonto we Sizwe, from 1961 to August 1990. These the ANC has accepted responsibility for.

They include the bombing in Church Street, Pretoria, the Amanzimtoti shopping centre bomb, the bombings in Durban of Magoo's Bar and the Esplanade, and the planting of landmines in the northern and eastern Transvaal — all resulting in civilian casualties.

The commission finds "Whatever the justification given by the ANC for such acts — misinterpretation of policy, poor surveillance, anger or differing interpretations of what constituted a

legitimate military target" — the people who were killed or injured are all victims of gross violations of human rights perpetrated by the ANC.

Other findings concern Winnie Madikizela-Mandela, who is "accountable, politically and morally" for gross violations committed by herself and members of the Mandela United Football Club, and members of the ANC's military structures who while running MK camps in exile, executed and tortured detainees and inmates suspected of being apartheid agents.

The commission, which endorses the view that apartheid was a crime against humanity and that those opposed to it were involved in a legitimate cause, also notes that only the ANC, of all the parties in the armed struggle, was a signatory to the Geneva Convention, and made the most conscious effort to conduct its armed struggle within the framework of international humanitarian law.

Information on any of its activities, including exile abuses, and supplied no documentation.

What little the truth commission found on the PAC concerned violations committed by its then armed unit, Pogo, in the early '60s, its "random" attacks on white people after 1990, its execution of members branded traitors, and the murder of those who opposed PAC policies.

The PAC's campaign of targeting civilians was, the truth commission states, not only a gross violation of human rights but also a violation of international humanitarian law. On this, the final report is particularly scathing.

The commission notes but rejects the PAC's explanation that its killing of white farmers constituted acts of war for which it has no regrets and apologies. To the contrary, the commission finds PAC action directed towards both civilians and whites to have been a gross violation of human rights for which the PAC and Apla leadership are held to be morally and politically responsible and accountable.

Leaders, office-bearers and members of the United Democratic Front facilitated gross human rights abuses through campaigns and speeches that contributed to a climate in which members of its affiliated organisations believed they were

THE CASE AGAINST THE APARTHEID STATE

by CHRIS BARRON

W BOTHA, Magnus Malan, Adriaan Vlok and Mangosuthu Buthelez are responsible for gross human rights violations including killing, maiming, torture, abduction and arson, according to the final report of the Truth and Reconciliation Commission.

Its specific findings on F.W. de Klerk were blacked out after he brought a court action to stop their publication, but enough remains to implicate him in gross human rights violations.

The report finds that the state committed gross violations during his presidency.

It also finds that De Klerk presided over a systematic destruction of "sensitive" records and documents.

It says that when Botha became prime minister in 1978, the state entered a realm of "criminal misconduct" which stretched into the early '90s, "including a part of the period in which his successor held office."

It finds that the Inkatha Freedom Party collaborated with the South African government to kill, maim and destroy property of opponents.

For 12 years from 1982 to 1994, says the report, the IFP committed gross human rights violations in what was then the Transvaal, Natal and KwaZulu. It holds Buthelez responsible for inciting supporters to commit violence, and blames the IFP for illegally arming them, in collusion with the SA government, for mass attacks resulting in death, injury and destruction of property.

It finds that the IFP formed a pact with the SA Defence Force aimed at killing and maiming opponents and that it established hit squads within the KwaZulu police and the SA Police, to kill opponents. It also trained its supporters to prevent elections in the province in 1994.

The report finds the IFP responsible for more than one-third of the total number of human rights violations committed from 1960 to 1994, the period of the commission's mandate.

The primary perpetrator of such violations was the SA government. From the late '70s to

our", "eradicate" and "eliminate" which they "did foresee" would result in the killing of political opponents.

It holds them responsible for "deliberate planning" which caused these deaths and other gross violations.

It holds Botha directly responsible for only one act, the bombing of Khotso House in Johannesburg. But it finds that as head of state and chairman of the security council, he "contributed to and facilitated" a climate in which people were killed, tortured, maimed and abducted, and arson and sabotage were committed by the police and defence force.

It finds that when Botha succeeded John Vorster as prime minister, he ordered the destruction of classified records of the police and defence force. From then on, sensitive state documents were destroyed "deliberately and systematically".

This destruction was sanctioned by both the Botha and De Klerk governments, "with the aim of denying a new government access to incriminating evidence and sanitising the history of the apartheid era", says the report.

It holds Botha, Malan, Buthelez, former military intelligence chief Pieter Groenewald, and Vice-Admiral Andries Putter responsible for murders and injuries committed by an IFP hit squad that was trained, funded and supplied by the SADF in the Caprivit Strip in 1986.

The report finds that in 1990, senior IFP members including Prince Gideon Zulu conspired with the KwaZulu police to set up a hit squad in Esikhawini township to eliminate ANC and Cosatu activists and members of the police thought to be unsupportive of the IFP.

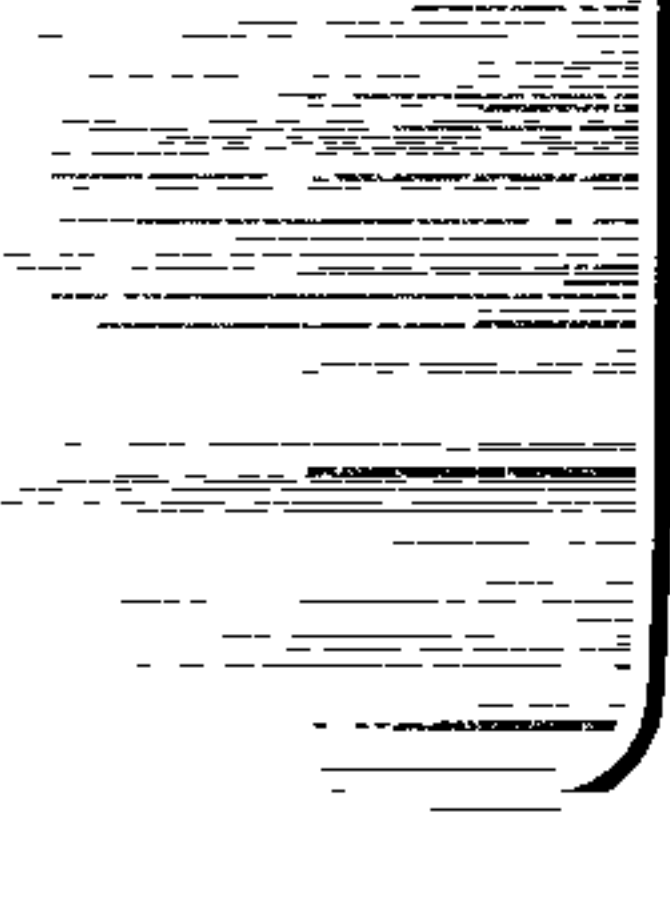
It finds Buthelez and IFP MP Philip Powell responsible for the "armed resistance" of IFP supporters to the 1994 elections. Between 5 000 and 8 000 people were trained in 1993 and 1994 as part of an IFP self-protection unit project which was "a conspiracy to commit gross violations of human rights". Also named as culprits are the former KwaZulu police deputy commissioner, and a former KwaZulu police VIP unit head.

Regarding "third-force" activities in the early '90s, the commission finds that a network of SA government security and former security force members, acting with right-wing elements and sectors of the IFP, initiated, facilitated and committed gross human rights violations.



BRUCE MITTS

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The commission, which endorses the view that apartheid was a crime against humanity and that those opposed to it were involved in a legitimate cause, also notes that only the ANC, of all the parties in the armed struggle, was a signatory to the Geneva Convention, and made the most conscious effort to conduct its armed struggle within the framework of international humanitarian law.

While the report comments more extensively on the ANC than on other parties in the liberation movement, the commission stresses that this does not mean it found the ANC "more responsible for gross violations of human rights" than its allies.

"Instead," the commission says, "what it reflects is the far greater degree of openness to the commission of the ANC than the PAC... By contrast, the PAC offered very little by way of

finds PAC action directed towards both civilians and whites to have been a gross violation of human rights for which the PAC and Apla leadership are held to be morally and politically responsible and accountable."

Leaders, office-bearers and members of the United Democratic Front facilitated gross human rights abuses through campaigns and speeches that contributed to a climate in which members of its affiliated organisations believed they were morally justified in taking unlawful action against state structures and their members, and people suspected of being sympathetic to the state.

These actions included killing such people, often by necklacing, burning and destroying their homes and the violent enforcement of boycotts.

The commission notes that the UDF's political leadership has accepted responsibility for the actions of its members.

ponents and that it established hit squads within the KwaZulu police and the SA Police, to kill opponents. It also trained its supporters to prevent elections in the province in 1994

The report finds the IFP responsible for more than one-third of the total number of human rights violations committed from 1960 to 1994, the period of the commission's mandate.

The primary perpetrator of such violations was the SA government. From the late '70s to the early '90s, it "knowingly planned, undertook, condoned and covered up" unlawful acts which included the extra-judicial killing of opponents and others, inside and outside the country.

The most influential body during most of this period was the State Security Council.

It finds that Botha, who chaired it, Defence Minister Malan, and Law and Order Minister Vlok, sanctioned the use of words such as "take out", "wipe

project which was "a conspiracy to commit gross violations of human rights". Also named as culprits are the former KwaZulu police deputy commissioner, and a former KwaZulu police VIP unit head.

Regarding "third-force" activities in the early '90s, the commission finds that a network of SA government security and former security force members, acting with right-wing elements and sectors of the IFP, initiated, facilitated and committed gross human rights violations, including killings.

It finds that the De Klerk government "either deliberately or by omission" failed to stop these activities.

It finds that right-wing movements under the umbrella of the Afrikaner Volksfront committed gross human rights violations in 1993 and 1994 in pursuit of Afrikaner self-determination, and holds Constand Viljoen, Groenewald and Eugene Terre Blanche responsible.

SUMMARY OF THE FINDINGS

THE findings concerning gross human rights violations as contained in the final report of the TRC are summarised as follows:

PRIMARY FINDING

Most violations — including the assassination of opponents — were committed by the former state through its security and law-enforcement agencies, often in collusion with certain other political groups, particularly the Inkatha Freedom Party

FINDINGS IN RESPECT OF THE FORMER STATE AND ITS ALLIES

● State Security Council members planned assassinations of opponents, while other members are guilty of "official tolerance" of such actions;

● The state tortured, abducted, and sexually assaulted, abused and harassed its opponents. It banned and banished them, withheld medical attention, food and water from them, destroyed their homes and offices through arson and sabotage, and mutilated bodies. It used deadly force in controlling demonstrations and detaining or arresting suspects. It manipulated social divisions in society. It covertly trained, armed and funded hit squads to act against its opponents;

● Former state president P W Botha "greatly" facilitated a political climate in which the above could take place and ordered the bombing of Khotso House;

● Former president FW de Klerk was "an accessory to gross human rights violations" (This section has been censored from the final report, subject to court action);

● Former homelands security forces killed and tortured large numbers of people. In KwaZulu, they falsified evidence to protect those involved in political violence and collaborated with

SADF military intelligence and the police security branch in covert activities;

● The Inkatha Freedom Party conducted a campaign of violence against its opponents. It established hit squads for this purpose, and its leader, Chief Mangosuthu Buthelezi, is accountable for atrocities committed by its members;

● Right-wing groups operating under the Afrikaner Volksfront umbrella attacked black people, illegally armed their supporters, and clandestinely colluded with security forces to commit acts of violence. Generals Constand Viljoen and Pieter Groenewald are liable for violations committed by their supporters; and

● The success of the "Third Force" in generating violence was in part a consequence of political intolerance; both the liberation movements and the IFP are accountable for this.

FINDINGS IN RESPECT OF THE LIBERATION MOVEMENTS

● The ANC was responsible for civilian deaths during the years of the armed struggle, from 1961 to 1990. After its unbanning, it contributed to the spiral of violence by killing and assaulting its political opponents. In exile, it summarily executed and tortured inmates in camps who were considered mutineers or suspected enemy agents;

● Winnie Madikizela-Mandela was responsible for the actions of the Mandela United Football Club, which killed, abducted and tortured political opponents;

● The PAC's policy of killing white people, particularly farmers, is declared a gross violation of international humanitarian law. Its leadership is liable for these and other violations, and

● The UDF's leadership is held responsible for the actions its followers took against its opponents — including necklacing

FINDINGS IN RESPECT OF CIVIL SOCIETY

● The health sector failed to provide adequate health care to blacks during the apartheid era. Statutory councils and professional bodies failed to take care of, or protest robustly the ill-treatment of detainees and other apartheid victims;

● Various Christian churches supported apartheid in a range of ways, including their teachings. They also failed to adequately contradict the ethics of apartheid;

● In denying the formation of black trade unions, the business sector violated human rights;

● The managements of English-language newspapers often adopted a policy of appeasement towards the apartheid state, thus ensuring a large measure of self-censorship. The Afrikaans media, with rare exceptions, directly supported the state; and

● Both the judiciary and the magistracy, as well as the legal profession, were locked in a "passive mindset" which characterised judgments in the face of apartheid's injustices.

OTHER FINDINGS:

● The apartheid state was, from 1960 to 1994, the prime perpetrator of violations against children. They were killed, tortured, illegally detained, banned and assaulted. The state was also responsible for the militarisation of white male youths;

● The ANC and the IFP have failed to reintegrate into society youths deployed in their armed formations. The violence between the two parties also left scores of children homeless; and

● Women were assaulted in custody. They were sexually abused, and their children and families were threatened. Women in exile were also subjected to various forms of abuse

THE TRC ON THE TRC

The commission, in its final report, has acknowledged its shortcomings. These are

● Its failure to identify, at an early stage, areas to which it should have devoted more time and energy — particularly the violence in the '90s;

● Its failure to call before it certain key figures, most notably Buthelezi. It had succumbed to fears that his appearance could lead to increased violence in KwaZulu-Natal.

● Its failure to further examine civil society's complicity in apartheid crimes.

It should have investigated those who administered black municipal and local government structures during this period. "Similarly, educational institutions (in particular universities) and state-funded research bodies... should have been subjected to the same scrutiny as the business, legal and other sectors."

● Its failure to deal in detail with events in areas like Lebowa and Bophuthatswana, and

● The constraints imposed by its own investigative capacity.

The commission could focus only on "window" cases which were representative of a larger number of similar abuses and violations involving the same groups of perpetrators.

In conclusion, the report states. "The Commission can only plead that, when it began its work, it entered uncharted waters.

"Not only was it unique in this country's experience, but there were few international role models.

"Its entire existence was a steep learning curve and, even with extensions to its life, there was insufficient time for all the things it should have done or wished to do."

Andrew Donaldson

Mandela bombshell

WHAT THE PRESIDENT SAYS

'The ANC was fighting a just war, but in the course of fighting the just war, it committed gross violations of human rights. Nobody can deny that because some people died in our camps and that's what the TRC said'

ST 1/11/98 (252)

CELEAN JACOBSON



MANDELA



MBEKI



MAMOEPA

WHAT RONNIE MAMOEPA SAYS

'No member of the ANC can ever concur with the scurrilous attempts to criminalise the liberation struggle by characterising the heroic struggles of the people of South Africa . . . as gross human rights violations'

PRESIDENT Nelson Mandela has backed the finding of the truth commission that the ANC was guilty of gross human rights violations in the fight against apartheid and admitted that he and Deputy President Thabo Mbeki had "a difference of opinion" on the matter.

In so doing, he has flatly contradicted the ANC leadership, which has denied that the two leaders differed over the ANC's failed bid to delay the publication of the truth commission's report.

And the President has exposed a huge gulf between his own view and the official party line that the ANC should not take the blame for human rights abuses as these occurred while it was involved in a just war.

The ANC's secretary-general, Kgalema Motlanthe, responding to reports that Mandela had opposed Mbeki's decision to take legal action against the commission, said yesterday "The suggestion that President Mandela and Deputy President Mbeki had a difference of opinion on this approach is devoid of all truth."

But Mandela said "We happened to respond differently, depending on the information we had when we prepared our responses. There's nothing wrong with having a difference of opinion."

Mandela also directly contradicted a statement made by Mbeki's communications director, Ronnie Mamoepa.

Mamoepa said of the commission's report "No member of the ANC can ever concur with the scurrilous attempts to criminalise the liberation struggle by characterising the heroic struggles of the people of South Africa which brought about the dawn of peace, democracy and justice as gross human rights violations."

Mandela said "The ANC came out very well because the truth commission says the primary responsibility for gross violations of human rights falls squarely on the apartheid government. The ANC was fighting a just war, but in the course of fighting the just war, it committed gross violations of human rights. Nobody can deny that because some people died in our camps and that's what the TRC said."

Addressing a meeting of community leaders in Kimberley, Mandela said he and Mbeki had differed because whereas he had seen a full copy of the report, Mbeki had only seen part of it.

"It's not easy for me to be questioned about whether there is a difference of opinion between me and Deputy President Thabo Mbeki on the publishing of the report. There's no doubt that Thabo Mbeki had good intentions, and may have seen extracts of the report. I am convinced my approach was correct and on the basis that he may have not seen the report he responded on the information he had."

In a damning indictment of the ANC's decision to take the commission to court, he added "No doubt if the report had been read, perhaps the response of the ANC would have been totally different." Mandela went on to say "As a man who read the report and set up the commission and has the highest respect, not only for Archbishop Desmond Tutu, but all the commissioners, I am satisfied they have done a good job, even if there are imperfections. There is no clash."

Mandela's spokesman, Parks Mankahlana, said yesterday "If the President is to take sides on this matter, he has to take the side of the truth commission — it's a government commission that he appointed. This does not mean that he is rebuking the ANC."

Mandela's statement is likely to severely embarrass Motlanthe, who said yesterday that reports that the ANC was divided over the truth commission were "a figment of the journalists' imagination."

Motlanthe said "I telephoned the President and informed him of our decision." He said Mandela had okayed the move and said "If it doesn't work, then we will have to wait and see." He said of the report's findings on the ANC "Most of the violations said to have been committed by us were survival techniques which should have been taken in a historical context. We will continue to ensure that the glorious part of our struggle should not be depicted in such a way that our future generations will be ashamed of it."

ANC national executive committee member S'bu Ndebele said "To equate the actions of [Eugene] De Kock or [Adriaan] Vlok with planting a landmine to liberate the country is unheard of and contrary to the Geneva Convention. Murder has never been a shame, it's recognised like that in the convention," he said, referring to the execution of spies.

Idea of victims' reparations fund finds favour with some observers

Pearl Sebolao

2/11/98

(2/11/98)

THE truth commission's recommendation that a wealth tax and a once-off levy be imposed on business to fund reparations for victims of gross human rights violations has been welcomed by some observers and the SA Communist Party (SACP)

SACP deputy general secretary Jeremy Cronin said it would make sense for big business to contribute to the compensation of those who suffered under apartheid, as the structure of SA's economy was based on the systematic abuse of human rights, especially those of black people

Stephen Mulholland, a columnist and former media executive, supported some of the commission's recommendations, but warned against the perception that the private sector "was a bottomless pit" of money

Mulholland said he was in favour of companies donating 1% of their market capitalisation for reparations. However, the contribution should be on a voluntary ba-

sis and the donation in the form of shares.

Cronin said the SACP had always supported the introduction of a wealth tax and a once-off levy for companies and had raised this during the truth commission's hearings into the complicity of business in human rights violations during apartheid

The recommendation was contained in the five-volume report handed to President Nelson Mandela by truth commission chairman Archbishop Desmond Tutu on Thursday

The commission recommended also that companies listed on the Johannesburg Stock Exchange make a donation of 1% of their market capitalisation for reparations

Other suggestions included a retrospective surcharge on corporate profits extending back to a specific date, but no date was put forward in the commission's final report, a retrospective surcharge on golden handshakes given to public servants since 1990, as well as the use of the SA Special Risk Association (Sasria) fund for reparations

Cronin said the practicality of all these measures should be investigated. However, Sasria's funds should not be used as a substitute for business's contribution, as they belonged to the government and not to business

Mulholland said that once the "reparations fund" to assist the disadvantaged had been established, it should be handled by the Johannesburg Stock Exchange and should be under the chairmanship of someone like Tutu and the private sector

Government should have nothing to do with the fund. The Congress of SA Trade Unions (Cosatu) submission to the job summit on Friday proposed a solidarity tax or a job creation levy on companies for a specified period similar to the tax introduced in West Germany in 1991 to fund unification. It suggested the tax be levied for an initial period of five years, subject to review

ANC attacks Tutu's 'outburst'

BD 2/11/98 (252)

David Greybe

CAPE TOWN — The African National Congress (ANC) hit out yesterday at truth commission chairman Archbishop Desmond Tutu and the media for "vilifying" the party over efforts to delay publication of the commission's final report.

ANC secretary-general Kgalema Motlanthe said Tutu had failed to distinguish between the ANC as a political party and the ANC in government and, as a result, "did not address himself to the issues". He said Tutu's outbursts over the ANC's court challenge were "quite extravagant".

A furious Tutu accused the ANC of tyrannical behaviour and abuse of power for trying to force the commission to consider the ANC's reservations after it missed the deadline.

The ANC argued in court that the commission had not given it sufficient opportunity to rebut the allegations that it was guilty of gross human rights violations. It said these occurred while it was involved in a just war.

Tutu called at the weekend for churches and the media to keep a careful watch on the ruling party. He said SA should not be surprised if yesterday's oppressed became tomorrow's oppressors.

Motlanthe said if the ANC had "in-

structed" government to intervene he could have understood Tutu's remarks. But that did not happen. President Nelson Mandela was kept out of the matter.

The ANC, as the "aggrieved party" had turned to the courts in a bid to force the commission to consider its late submission. Motlanthe said he had "no regrets" about the court action.

Presidential spokesman Parks Mankahlana said "The ANC took the matter to the courts, and lost. End of story."

Sections of the media had again dis-

■ **Reparations fund finds favour**

■ **Omar considers action on state records**

Page 3

played "the height of foolishness" by harping on differences of opinion between Mandela and ANC president Thabo Mbeki. "What does it matter if we have a difference of opinion?" As in any political or business organisation, once the decision had been taken collective responsibility took over and everyone was expected to support it.

Mbeki's communications director Ronnie Mamoepa said Mandela, given his position as SA president and that he was no longer an ANC official, "had no role whatsoever to play in the ANC decision

Even if Mandela had disagreed, the ANC would have gone ahead with the court action." Motlanthe had, out of courtesy to Mandela, briefed him "Mandela was not consulted and neither did he express an opinion when he was briefed."

Mandela denied there had been a clash between himself and Mbeki over the report. He reportedly said the ANC had fought a just cause against apartheid, but had committed gross violations of human rights. "Nobody can deny it because some people have died in our camps and that's what the commission report said." The ANC, however, had "come out very well in the report", and he was satisfied that the commission had done a good job.

Farouk Chothia reports that truth commission officials said the chances of a meeting with the ANC to hammer out differences were "impossible". There was likely to be "confrontation" within the ANC, they said. Justice Minister Dullah Omar, Water Affairs Minister Kader Asmal and ANC legal affairs department head Mathews Phosa had not been consulted over the party's decision to go to court.

"We made findings (in the report) based on what the ANC told us, and for which they apologised when they appeared before the commission," one source said.

Judicial body 'needs more lawyers and fewer politicians'

DD 2/11/98 (252)

Taryn Lambert

OUTGOING Transvaal Judge President Frikke Eloff has criticised the composition of the Judicial Services Commission, saying it needed "more lawyers and fewer politicians"

Addressing the annual general meeting of the Law Society of the Transvaal at the weekend, Eloff said that before 1994, judges were appointed largely by the judge president.

Eloff retires at the end of the year after a 25-year career as a judge and will be replaced by Judge Bernard Ngoepe, who is the first black to occupy the position

The commission, chaired by Chief Justice Ismail Mahomed, is composed of Constitutional Court Judge President Arthur Chaskalson, Justice Minister Dullah Omar, four practising advocates and attorneys; one academic; 10 MPs from the National Assembly and the National Council of Provinces and four people appointed by the state president. In cases where the commission is dealing with appointments to a provincial or local division of the high court, the premier of that province and the judge president of that division are both invited to serve on the commission

Eloff said while judges' appointments were at times politically motivated, this had occurred infrequently before 1994.

He said he was against the General Council of the Bar's call for the commission's debates and voting to be held in public and said an "overdose of transparency" was undesirable.

He denounced recent public interviews by the commission of candidates as "interrogations" which "led to extensive press coverage and comment"

Eloff said several senior advocates who would have made "excellent judges" had been unwilling to accept their nominations and "go through the procedures laid down by the commission" and had "expressed reluctance at being interrogated".

He said he was against the dominance of politicians on the commission and that some members had little knowledge of what was required of a judge.

The commission had a "real problem" because pressure for it to transform the bench from being predominantly white and male to one more reflective of the population was mounting, but there was a limited number of black candidates who could be considered to have the qualities of a judge.

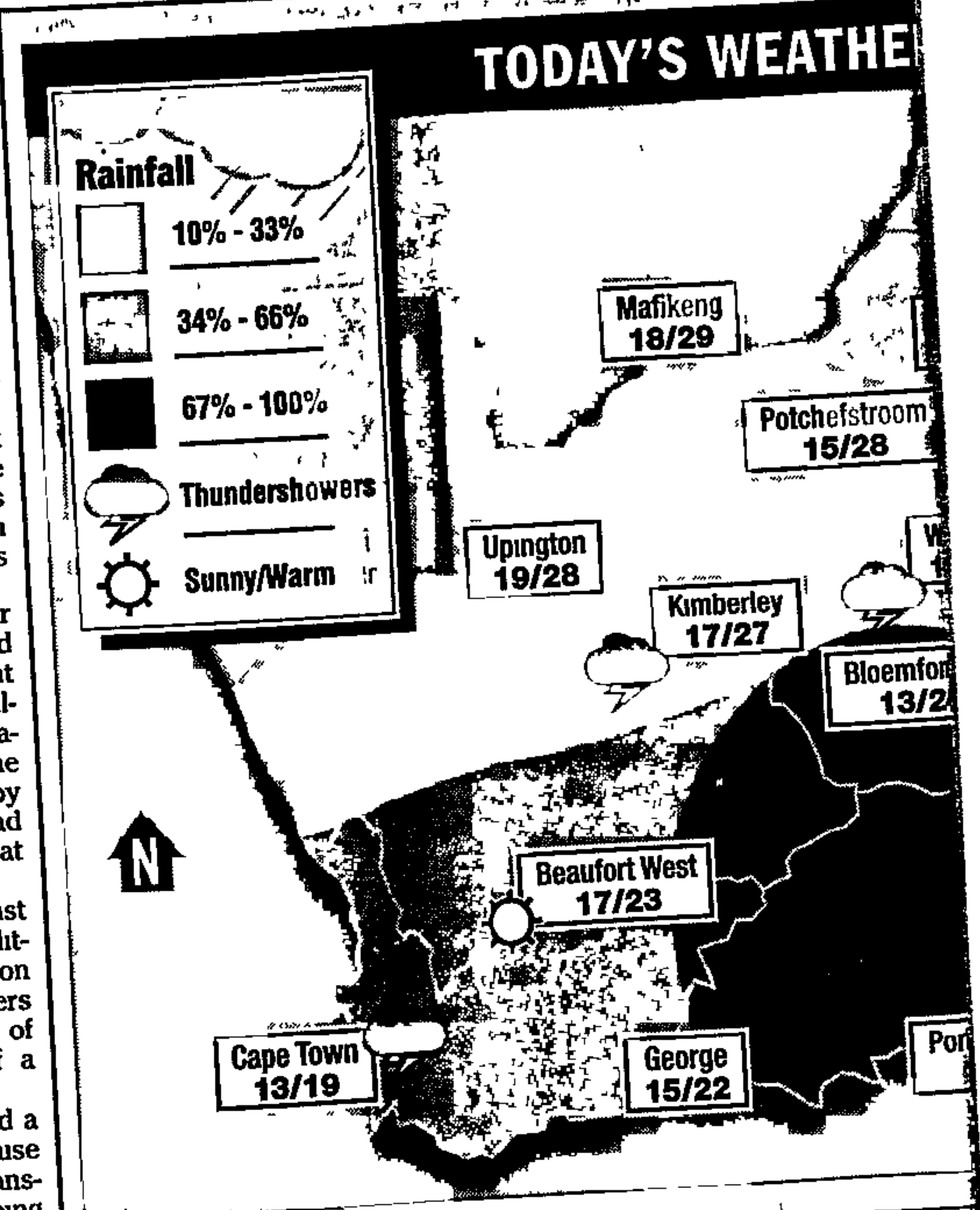
"My own view on the matter is that we should never dare to let standards fall unduly in the Transvaal High Court. We should (insist) on the appointment of the best per-

sons, even though their skins are white, until sufficiently experienced blacks are found to fill vacancies."

Eloff urged attorneys, given the right to appear in the high court in 1994, to exercise their right to appear and to endeavour to develop into suitable candidates for judicial appointment. Relatively few attorneys appeared in the high court and when they did, seemed to avoid complicated civil trials and appeared mainly in unopposed divorces or motions.

Eloff said he was against Omar's proposed introduction of lay assessors as a means of involving the public in the workings of the justice system. The idea of lay participation would bring SA close to the jury system which was abandoned in the 1950's. "As a young advocate, I experienced the jury system. I can vouch for its injustices. The danger ... is that lay persons tend to be swayed by emotions rather than logic."

He said that although he had criticised the composition of the commission, he was in favour of its continued existence as it brought about a "greater openness" in the selection of judges.



GLOBAL WEATHER

Amsterdam	09 10	rain	Geneva	11 14
Auckland	12 17	rain	Harare	16 30
Beijing	05 15	clear	Hong Kong	24 26
Berlin	04 09	rain	Kuala Lumpur	23 32
Brussels	08 12	partly cloudy	London	05 10
Buenos Aires	11 22	clear	Los Angeles	14 22
Cairo	16 26	clear	Madrid	05 19
Dhaka	22: 29	clear	Nairobi	15 26
Dubai	22: 35	clear	New York	08 15

Mandela backs probe's finding that party was guilty of violations

By ET 2/11/98

JOHANNESBURG - President Nelson Mandela backed at the weekend the finding of the Truth and Reconciliation Commission (TRC) that the ANC was guilty of gross human rights violations in the fight against apartheid, a Sunday English-language newspaper reported yesterday.

Mandela admitted that he and Deputy President Thabo Mbeki had "a difference of opinion on the matter".

The newspaper reported that he had contradicted ANC leadership denials that the two leaders differed over the ANC's failed bid to delay the publication of the commission's report.

ANC secretary-general Kgalema Motlanthe had said: "The suggestion that President Mandela and Deputy President Mbeki had a difference of opinion on this approach is devoid of all truth."

This exposed a huge gulf between Mandela's view and the official party line that the ANC should not take the blame for human rights abuses because these occurred while it was involved in a just war, the newspaper said.

Mandela said "We (Mbeki and himself) happened to respond differently depending on the information we had when we prepared our responses. There's nothing wrong with having a difference of opinion."

Mandela was reported earlier as saying there was no clash between himself and Mbeki, but that he had seen a summary of the complete report, whereas Mbeki had only seen extracts.

Speaking in Kimberley, Mandela said he had been unable to meet Mbeki to discuss the TRC's findings, but there was no doubt that Mbeki displayed the best intentions in the way he had reacted.

The ANC had fought a just cause against apartheid, Mandela said, but had committed gross violations of human rights. "Nobody can deny the cause some people died in our camp's and that's what the TRC report said."

Speaking in Kimberley, Mandela said he had been unable to meet Mbeki to discuss the TRC's findings, but there was no doubt that Mbeki displayed the best intentions in the way he had reacted.

Tutu showed he was no lackey

CT 21/11/98

(2/17)

ARCHBISHOP Desmond Tutu was the glue that held the Truth and Reconciliation Commission together. Its report to the President trumpets his integrity. **ROGER FRIEDMAN** reflects on the dramatic developments of the past week

HAD the ANC's last-minute court bid to stop immediate publication of the Truth and Reconciliation Commission Report been successful last Thursday, the commission would have literally come apart at the seams. Commissioners would have resigned and the entire process would have been instantly mired in crisis and doubt.

This is not what the ANC desired but it would have been the effect. Instead, Mr Justice Wilfred Thirring ruled against the ANC and the report was released. The result underlined the independence of the commission, represented a triumph for the rule of law and enhanced South Africa's image as a rights-based democracy.

The ANC was entitled to go to court, and is entitled to feel aggrieved at the commissioner's interpretation of some of its activities as gross violations of human rights. This should not be allowed to detract from the historical significance of both the commission process and its report.

The fact is that the Promotion of National Unity and Reconciliation Act was a political compromise and thus bound to offend — in some or other way — all parties to the compromise. This is its report duly did.

Make no mistake, the villain of the piece is the National Party government, not the liberation movements. But the report does judge the ANC harshly. Perhaps too harshly. It is entirely understandable that those who prosecuted the struggle against apartheid feel aggrieved that their actions are compared to those who fought for the evil system — even if the commission con-

textualises its findings by endorsing the view that apartheid was a crime against humanity.

The commission, however, found itself in a Catch-22 situation through no fault of its own. The compromise dictated that it scrutinise human rights violations committed on all sides of the political fence. Before it could even start its work, it was already accused of conducting a witch-hunt on behalf of the ANC. Do you remember P W Botha warning President Nelson Mandela not to awaken the tiger in the Afrikaner?

If it was a right-wing strategy to bombard the commission with criticisms of alleged ANC bias in order to force it to demonstrate impartiality, then perhaps the right wing was partially successful.

"Nobody will be able to maintain that they did not know. Our history has been documented."

If anything, the commissioner's final report can be accused of seeking too much balance, of striving too hard to demonstrate even-handedness within the framework of the law. This could sum up the ANC's problems with the report.

While other parties called against it and did their best to manage potential damage, the ANC, morally and in good faith, laid much of the marker bits in its past bare in its submissions to the commission — without appearing to consider that the commission could then use its submissions to make human rights violations findings against it.

Ironically, although it comes out clearest, the ANC could be interpreted as the biggest losers in the report. Apartheid has long been universally condemned, while the ANC has grown comfortable on the moral high ground.



SHUFFLE DIPLOMACY: Archbishop Tutu and President Mandela dance a jig at the hand-over of the TRC report. **FILE PICTURE**

There are those in the ANC who believe the report unfairly brings its morality into question.

On the whole, however, the report represents a thorough account of the South African conflict between 1960 and 1994 for the first time and is therefore an invaluable resource. Whether you believe the ANC has been judged too harshly or F W De Klerk too lightly, nobody will ever again be able to maintain that they did not know. Our histo-

ry has been documented.

The report represents a triumph for the integrity of the commission in fulfilling the treacherous mandate set by Parliament. In particular it represents a triumph for Archbishop Desmond Tutu, the chairperson of the commission, the helmsman who steered through the most difficult of waters, the glue which held the ship together.

There were many occasions over the past three years when members and

critics of the commission felt Tutu's line was too soft, that he was too liberal, too Christian, too emotional, too decent for the job. On the other hand, many white South Africans dismissed him as a lackey of the ANC.

Tutu is a soft, liberal, Christian, emotional, decent man. But above all he is a patriotic South African with integrity. He promised the commission would be impartial and he ensured that it was. He happens to support the ANC.

Buthelezi applauds ANC for taking TRC to court

PHINDILE NGUBANE
OWN CORRESPONDENT

ULUNDI Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi has applauded the ANC for taking the Truth and Reconciliation Commission to court last week.

Speaking at a media briefing here during the 21st IFP Women's Brigade conference at the weekend, Buthelezi said it had been the ANC's "every right to take the TRC to court".

He was referring to the ANC's unsuccessful attempt in the High Court on Friday to prevent the release of the TRC report which contained findings implicating the party in gross human rights violations.

Arguing that the TRC had been a "witch-hunt", Buthelezi added: "From the beginning I said it was a flawed process that would not bring about any reconciliation."

He said when it had suited them, some people had acted as though the TRC was a judicial process, when it had not been such. But he declined to confirm or deny reports that the IFP had threatened to take the commission to court following its findings that Buthelezi and other IFP leaders were also involved in gross violations of human rights.

He also refused to comment on how the report affected, if at all, the proposal that a special blanket amnesty be granted for people who committed human rights atrocities in KwaZulu-Natal.

In its peace package, which forms part of the peace negotiations between itself and the IFP in the province, the ANC had proposed that provisions be made for this special amnesty. The belief being that the



EVERY RIGHT: Mangosuthu Buthelezi

situation in KwaZulu-Natal was different from that in other provinces. The ANC-IFP violence in the province continued beyond the amnesty cut-off date of May 10, 1994.

At the conference, Buthelezi said the fact that women constituted 52% of the South African electorate meant that they were a crucial sector which needed to be strongly targeted in the run-up to the country's elections next year.

Similarly, women in the organisation needed to be empowered to help in the party's election campaign.

Buthelezi emphasised that the IFP had one of the biggest numbers of women in Parliament, saying the situation could only improve after next year's elections.

Pre-Christmas STOCK CLEARANCE SALE
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No general amnesty says Government

Sowetan 2/11/98
(252)

By Ido Lekota and Mbulelo Baloyi

THE Government has reiterated its position that there will be no general amnesty for those fingered by the Truth and Reconciliation Commission report.

But "important" people such as Mrs Winnie Madikizela-Mandela and Inkatha Freedom Party leader Chief Mangosuthu Buthelezi - who the TRC has found responsible for gross human rights violations - might escape prosecution.

The findings in the 3 500-page document are that Madikizela-Mandela must be held "politically and morally accountable" for gross human rights violations committed by members of the Mandela United Football Club who killed and tortured dissenters.

The report was handed to President Nelson Mandela by TRC chairman Archbishop Desmond Tutu last Thursday.

Buthelezi should be held accountable for the atrocities committed by his followers against their political opponents, the report said.

Both have not applied for amnesty in terms of the Promotion of National Unity and Reconciliation Act.

Yesterday Justice Minister Dullah Omar told *Sowetan* that the Government had "never considered blanket amnesty because we believe it is not in the interests of the people of South Africa."

"We are not going to be reckless because some of the people mentioned, like Mrs Madikizela-Mandela and Dr Buthelezi, are important people who have played a significant role in this country," Omar said.

He said the matter would be referred to Cab-

inet which would develop guidelines on the matter.

Madikizela-Mandela and Buthelezi are but two in a long list of high profile politicians who may be liable for prosecution. These include the two former state presidents, Mr FW de Klerk and Mr PW Botha.

Both De Klerk and Botha have not applied for amnesty.

Already, national prosecutions director Mr Bulelani Ngcuka has indicated there would be no automatic prosecutions and that some of the criminal charges might be dropped in the name of reconciliation.

The report also found the African National Congress responsible for gross human rights violations both inside the country (after its unbanning) and outside.

On Saturday Buthelezi lauded the ANC for its legal action against the TRC, saying the party was within its rights to challenge the contents of the report.

"From the beginning we in the IFP said the TRC was a flawed process and was also a witch-hunt," Buthelezi said.

● The release of the TRC's report showed that reconciliation was possible even between those who were at war against each other, Deputy Foreign Affairs Minister Aziz Pahad said yesterday.

Addressing the annual Zonderwater memorial service, held in Cullinan, north of Pretoria to commemorate 250 Italian prisoners who died in South Africa during World War 2, Pahad said the TRC was an important and uniquely South African attempt to deal with the country's dark past.

● See page 6 -



Chairman of the Truth and Reconciliation Commission Archbishop Desmond Tutu (left) and Investigator Duma Ntsebenza addressing the media on Friday. Tutu pleaded for all South Africans to accept the findings of his Truth Commission despite the pain it caused the nation as it sought to heal apartheid's deep wounds. PIC REUTERS

Mandela rebuts TRC

rift reports

HERE WAS NO clash between Deputy President Thabo Mbeki and himself over the final report of the Truth and Reconciliation Commission, President Nelson Mandela said at the weekend.

Speaking in Kimberley as part of the African National Congress's election campaign, Mandela said he and Mbeki had responded differently to the report because they had differing information on the contents of the report.

Mandela said while he had obtained a summary based on the commission's complete report, Mbeki had only seen extracts.

He said he had not been able to meet Mbeki to discuss the commission's findings but there was no doubt that Mbeki displayed the best intentions in the way he had reacted to the findings.

Mandela was asked at the meeting, attended by about 750 Northern Cape Premier Makhosi Mphahlele, why the ANC, of which Mbeki is president, had decided to seek a court order to delay the release of the report.

He said the ANC had fought a just cause against apartheid, Mandela said, but had committed gross violations of human rights.

"Nobody can deny it because some people have died in our camps and that's what the TRC report said."

The ANC, however, had "come out very well in the report."

Mandela had no doubt that if Mbeki had seen the complete report his reaction would have been different.

ANC to mount another court challenge

THE African National Congress would still pursue its court action regarding the contents of the Truth and Reconciliation Commission, national spokesman Mr. Thabo Masebe said yesterday.

He said the organisation, whose Cape High Court attempt to have the TRC's final report halted last Thursday failed, would demand re-

Mbeki's office denies media reports

DEPUTY President Thabo Mbeki has denied he snubbed President Nelson Mandela on how to handle the Truth Reconciliation Commission report.

In a statement from his office, Mbeki said it was African National Congress general secretary Mr. Kgalema Motlanthe who snubbed President Nelson Mandela in a letter of courtesy on the mention of the party to interdict the TRC.

"In this regard, President Nelson Mandela was not expected to and did not express an opinion on the intentions of the ANC to interdict the TRC."

"The suggestion therefore that President Nelson Mandela and Deputy President Mbeki had differences of opinion on this approach is devoid of all truth."

Mbeki's office said Mbeki's office, as National Council of Provinces chairperson, to express an appreciation to the TRC on the completion of its work.

"No member of the ANC can ever concur with the scurrilous attempts to criminalise the liberation struggle, by characterising the heroic struggles of the people of South Africa which brought about the dawn of peace, democracy and justice, as gross human rights violations," Mbeki said.

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Justice officials to respond to overtime ban

Taryn Lamberti

THE Society of State Advocates and the National Union of Prosecutors of SA (Nupsa) were yesterday considering their course of action following a cut in overtime payment for justice officials announced by the justice department last week.

Society of State Advocates chairman Retha Meintjies said she would gather her colleagues responses to the overtime ban before deciding on their next step. She had no indication yet of whether the advocates would adopt a work-to-rule stance.

Meintjies said the new National Director of Public Prosecutions Bulelani Ngcuka agreed to meet

union representatives, but no date had yet been set for the meeting.

The National Prosecuting Authority Act, which came into effect last month, empowered Ngcuka to negotiate better salaries for prosecutors and state advocates, the deputy director-general for justice, Vusi Pikoli said yesterday.

However, Nupsa representative for the Northern Province Vleis van Zyl said the union had not been informed of any steps to improve prosecutors' salaries.

Meintjies said the work of prosecutors and state advocates was considered an essential service, which prevented them from embarking on any formal industrial action.

Last week's announcement that the department would discontinue its payment of overtime for prosecutors and state advocates was the second overtime payment cut in less than a year. Pikoli attributed the cut to budget constraints.

Van Zyl said it would be up to each individual Nupsa member to decide whether to work overtime or not. He said prosecutors were still authorised to work overtime until the end of this month, except in the Western Cape where there was a "disconcerting situation".

Van Zyl said 41 prosecutors left the department following the initial overtime cuts a year ago, which resulted in a severe backlog of cases.

Ban adds to growing pressure on employees

With the justice department staff already overworked, Dullah Omar's latest move is not a boost for morale, writes Taryn Lamberti

(257) BO 3/11/98
A BAN, announced last week, on overtime payment for justice officials from next month could further demoralise overworked and underpaid public prosecutors and state advocates, as the justice department continues to creak under the strain of a serious backlog of cases.

The deputy director-general for justice, Vusi Pikoli said the root of the problem was that the department's funds had dried up. The clamp down on overtime pay affected all justice officials and not only prosecutors and state advocates.

The department's budget for the current financial year, for personnel expenditure was R1,3bn although the department had requested R1,6bn, Pikoli said.

"We did not get what we needed in the first place and so we started the year off with a deficit." About R20m was put aside for overtime payment and by the end of September this year the department had already spent R21m on overtime for its employees. Pikoli said the figure would still rise significantly because not all claims had been processed.

Pikoli said the department would not ask the prosecutors to work overtime, but if they did voluntarily, it would be appreciated. "We will rely on their sense of duty but we cannot force them," he said.

Society of State Advocates chairman Retha Meintjies said overtime was an intrinsic part of her work. She called the overtime cut and the poor salaries a "drastic situation" which needed urgent attention.

In 1996, when prosecutors and state advocates adopted a work-to-rule stance, Justice Minister Dullah Omar promised them overtime payment as "compensation for the poor working conditions", Meintjies said.

A senior state advocate resigned this month after requesting a transfer to the magistrates court where he would sit as a magistrate, "because they get paid so much better".

Omar cut prosecutors' overtime pay in January this year as a result of the lack of funds in the department. The cut caused prosecutors to embark on a national go-slow. They refused to work overtime and instead prepared their cases during court hours. A serious backlog in cases was the result with few cases being heard and witnesses and defence attorneys and suspects waiting for prolonged periods for their cases to be called. Omar later agreed to reinstate payment for 40 hours of overtime a month.

The war of words between Omar and the prosecutors turned sour when Omar was accused of suggesting on SA Broadcast Corporation

television that the prosecutors had been prepared to work overtime for the former government but were not prepared to do the same for the African National Congress led cabinet. He allegedly said on television that no prosecutor or state advocate had refused to work overtime during the apartheid years but instead, worked enthusiastically until late at night to put many opponents of apartheid in jail.

Omar's comments led Johannesburg prosecutor Pierre Tickner to lay charges of crimen injuria against him for the statements which Tickner claimed had "impaired" his dignity and damaged his "credibility in the eyes of the public".

Prosecutors complained that they had come to rely on their overtime pay due to a consistently heavy work load and poor salaries.

A prosecutor with five years experience earned about R59 000 a year. The same prosecutor would make less than R1 000 a month extra by claiming for overtime. Regional court prosecutors generally had to prepare for four or five trials a day.

Pikoli said the question of overtime was a problem that "hangs heavily on our necks". Overtime payment was just a temporary measure when higher salaries would be the best long term solution.

New domestic laws get green light

CLIVE SAWYER
POLITICAL CORRESPONDENT

Major interim reforms of laws on maintenance and domestic violence have been approved by the National Assembly, but even their backers admit there is a long way to go in rewriting family law

All parties in the Assembly yesterday unanimously approved changes to the Domestic Violence Act and the Maintenance Act, and only the Inkatha Freedom Party dissented about changes to the Customary Marriages Act

Significant innovations in the Maintenance Bill include a provision for the appointment of maintenance investigators to probe the financial and employment state of those liable for maintenance, and includes tough steps to ensure alleged defaulters appear in court and meet their commitments

The bill also spells out the duties of parents in supporting their children, and tightens up the effectiveness of enforcing maintenance orders by compelling employers to pay maintenance with deductions from their employees' wages

It is seen as a major step towards reforming a system plagued by inappropriate laws, race-based handling of maintenance issues and underqualified and uncommitted maintenance officers

The Domestic Violence Bill significantly widens protection against domestic abuse by broadening the definition of those involved in a family or domestic relationship

It also strengthens the obligations of police and prosecutors acting on complaints of domestic violence

The Recognition of Customary Marriages Bill provides recognition of customary marriages in a way that led to Inkatha objecting to "westernisation" of customary marriages, while other MPs expressed misgivings about the recognition of polygamy

Introducing the package of three bills, Justice Minister Dullah Omar said the maintenance and domestic violence legislation represented steps to help vulnerable people either dependent on maintenance or subject to domestic violence

He thanked employers in advance for the extra work they would have to do to ensure maintenance payments were made

On the domestic violence legislation, Mr Omar said it was often the breeding ground for the culture of violence that pervaded in society outside the home

Johny de Lange, head of the Assembly's justice committee, said many issues touched on by the package of bills would be dealt with in a new Sexual Offences Act, which it was hoped to put to Parliament early next year

In reports on the three bills tabled in Parliament yesterday, the justice committee said the Maintenance Bill had to be seen as an

interim measure

"During its deliberations, the committee came across numerous provisions that are unsatisfactory and require addressing after further research"

Some common law related to issues of maintenance could be unconstitutional, the committee said, urging the ministry of justice to ensure the South African Law Commission took this into account in its investigation into a thorough rewrite of the system

The committee urged the Department of Justice to appoint maintenance officers more suited to the job than the present incumbents, who "lack experience and knowledge or, even worse, commitment"

It urged the minister to make greater use of his powers to appoint maintenance officers

The committee also noted that procedures followed for maintenance matters in different parts of the country were not uniform

While noting that the bill criminalised the failure to pay maintenance in terms of a maintenance order, the committee said the



Reformer: Minister of Justice Dullah Omar introduces three bills

department should point out to magistrates the wide range of sentencing options available to them.

On the Domestic Violence Bill, the committee gave the Department of Justice and the police six months to submit to Parliament the steps they were taking to implement the new legislation

The committee called for further investigation into legislation on issues related to domestic violence, like stalking and harassment

It urged that all forms to be issued by the department relating to domestic violence should be drafted in plain language

On the Customary Marriages Bill, the committee welcomed recognition of the marriages, but was concerned about possible practical implications

It was worried, in particular, by the lack of accessibility of rural and poor communities to the high courts and divorce courts, which would adjudicate most issues regulated by the bill

The committee said the Ministry of Justice, judges-president of the high court and presidents of divorce courts should set up regular civil circuit courts in rural areas

More seats for divorce courts should be created, and a set of uniform rules for high courts and divorce courts in dealing with divorce provisions in the new bill should be drafted, the committee said

Communists welcome TRC report

JOHANNESBURG: The SACP welcomed yesterday the TRC's final report as an extensive and considered document and agreed that some regrettable methods had been used by liberation movements in a just struggle against apartheid.

"All of the unjust means attributed to the ANC-led alliance by the TRC report are indeed factual realities that the alliance itself has admitted and investigated," the SACP said after its central committee meeting at the weekend.

The SACP welcomed the findings that human rights violations were not accidental to the policies and strategies of the apartheid regime. Systematic, extensive and persistent violations were integral to the policies of the regime, it said.

While it was possible to question the wisdom of the ANC for launching a court action to stop the report from being published, the SACP fully supported the ANC's intentions. "The ANC was, indeed, treated shabbily in the final weeks by certain leading TRC officials."

It was sad that TRC chairperson Desmond Tutu had not helped matters "with ill-considered hyperbole in the past days", the SACP said.

Tutu at the weekend called on the nation to watch on the ruling party, saying South Africans should not be surprised if yesterday's oppressed became tomorrow's oppressors — Sapa

SPY WILLIAMSON'S VICTIMS

First, Schoon 'weren't part of military action'

PRETORIA: ANC leader Mac Maharaj, testifying in the amnesty hearing of Craig Williamson, said he suspected that Williamson was a lackey of the apartheid regime.

LETTER-BOMB victims Ruth First and Jeanette Schoon were never involved in the armed struggle against apartheid, ANC leader Mac Maharaj told the Truth and Reconciliation Commission's amnesty committee in Pretoria yesterday.

Transport Minister Maharaj said he had known First and Schoon well during his years in the ANC's underground structures.

He said First had been an ANC sympathiser but had turned away from active involvement to concentrate on her academic career at a university in Maputo, Mozambique.

Schoon, with her husband Marius, was teaching English in northern Angola and had no part in the ANC's military activities.

Maharaj was testifying at the hearing in which former apartheid spy Craig Williamson is applying for amnesty for the murder of First in Mozambique in 1982 and that of Schoon and her two-year-old daughter Katryn in Angola in 1984.

Maharaj said he had seen First in Maputo shortly before her death

and she told him that she had turned her attention away from the struggle and was concentrating on her work at the Eduardo Mondlane University.

He denied she had ever been deployed by the ANC in Mozambique. She had gone there on her own initiative.

Unlike her husband Joe Slovo, who was constantly moving around to evade apartheid police and military agents, First had lived an open life in Maputo.

Maharaj said he had also known Jeanette Schoon and had visited her and her husband at their homes in both Botswana and Angola.

He said they were involved in the political affairs of the ANC and denied they were ever involved in the ANC's military struggle. He said he had sent Marius Schoon for military training but this had been purely to prepare him for self-defence purposes and to learn to use pamphlet bombs.

Maharaj said he long suspected Williamson of working for the South African government.

CT 3/11/98 (2572)
"By 1978 I was satisfied that he was working for the apartheid regime but I could not prove it and found it prudent to continue to interact with him," Maharaj said.

The final proof came when Williamson, who worked for the International University Exchange Fund, produced a letter to the then-president of the ANC, Oliver Tambo, from Nelson Mandela on Robben Island.

Maharaj said he had been on Robben Island with Mandela and knew that the IUEF was not the conduit for communications between Mandela and Tambo that had been agreed upon.

Maharaj said Williamson appeared to be extremely eager to set up the IUEF, and himself, as the sole channel for communications between ANC leaders.

He said he confronted Williamson about the source of the letter and the spy eventually admitted that he had obtained it from a person who was not the ANC's designated courier.

Maharaj said this convinced him that Williamson was not the person he claimed to be and that he was working for the South African government.

The hearing continues today — Sapa

Tim McNally

refuses to go

By Mbongeni Hlophe

KWAZULU-NATAL attorney general Tim McNally will not move to take up a new post in Pretoria until he meets President Nelson Mandela

This was said by McNally yesterday after it became unclear whether he would heed Minister of Justice Dullah Omar's order that he should relocate to Pretoria on December 1

McNally was ordered to report to his new post in the office of the national director of prosecutions in Pretoria

He said yesterday he had not taken a decision on whether to accept or decline the Pretoria position

He said he was told there was too much criticism against him and his handling of the portfolio as Kwazulu-Natal's top man in the justice department

Political pressure

It was reported at the weekend that McNally wanted to remain as the director of public prosecutions in Kwazulu-Natal for another year, by which time he would be 60

It has since emerged that McNally is likely to consider retiring next year

McNally said he had responded to Omar's order by writing a letter requesting to speak to Mandela about his removal from his office. He said he gave Mandela two

options - either to allow him to remain the Kwazulu-Natal director of prosecutions for the next year or let him retire at the end of the month

Mandela's legal adviser, Professor Fink Haysom, said yesterday that the President was considering McNally's demand to meet him

But it was still unclear when the meeting would take place

He also said McNally's transfer was being dealt with through the Ministry of Justice

McNally's threat to go to court if he failed to meet Mandela would be attended to once that happened

"We would not want to prejudge the matter," Haysom said

Meanwhile, political parties in Kwazulu-Natal are divided over McNally's transfer

The Inkatha Freedom Party has already alleged that McNally was being removed because he refused to bow to political pressure from the African National Congress

IFP spokesman Mr Blessed Gwala said McNally's transfer was an extension of the ANC's ambitions to control all state offices by "planting" its own people who would always succumb to political pressure

"He stood for truth and honesty," Gwala said

McNally's removal from the province comes after a spate of complaints from different quarters that he had failed to trans-

form the Kwazulu-Natal justice department.

The ANC and the National Association for Democratic Lawyers (Nadel) have since 1996 forwarded several memorandums in which they accused McNally of failing to prosecute people suspected of involvement in politically-related killings in the province

ANC provincial chairman Mr S'bu Ndebele said McNally's removal from the province was a blessing to those in favour of justice and transformation

"It is helpful to McNally for his own political integrity and that of the justice department in the province," Ndebele said

Regain trust

He said there was no way the justice department could regain the trust of the public while McNally remained in charge of prosecutions in the province

Nadel spokesman Mr Krish Govender said McNally's transfer to Pretoria should be seen as a positive move by the Ministry of Justice to bring political violence in the province to an end

"We are still stuck with old order bureaucrats who say they cannot do more than they have done to end crime and violence," said Govender.

Govender said Nadel was in favour of someone from Kwazulu-Natal replacing McNally, if "a candidate from within could ensure independence and come up with fresh ideas"

(PH) Souwain 3/11/98

Maharaj tells how he evaded assassination

By Joe Mdhlela

TRANSPORT Minister Mr Mac Maharaj described yesterday how he evaded a carefully laid trap during the apartheid era in which he was to have been assassinated

Maharaj told the Truth and Reconciliation Commission amnesty committee hearing in Pretoria about the killing of Jeanette Schoon and her six-year-old daughter Kathryn at Lubango, Angola, in 1984 and Ruth First at the Eduardo Mondlane University in Mozambique in 1982

Former apartheid superspy Craig Williamson and nine other former senior special branch officers are applying for amnesty for their roles in the murder of the Schoons and First

They are also seeking amnesty

for bombing the African National Congress office in London

Testifying before Judge Andrew Wilson, Maharaj said in the late '70s, Williamson had tried to lure him to a meeting in the Seychelles, Malawi or the Kalahari - places hostile to the liberation work of the ANC

"It became clear that the meeting at the Kalahari would provide Williamson with the opportunity to set me up against apartheid police agent Paul Asmussen to kill me in cold blood"

However, Maharaj refused to meet Williamson on his terms. He suggested that the meeting should take place in Angola. But they never met because Maharaj could not agree with Williamson on the venue

He described the relationship Schoon and First had with the ANC

He said he knew the Schoons while working in ANC underground structures in Botswana after he was released from prison in 1976

Although the ANC could not operate freely as it did in Mozambique, the Botswana government maintained "a turn-a-blind-eye attitude" to its military operations

He denied Mr Marius Schoon and his wife Jeanette were involved in the ANC's operations

About First, Maharaj said although she had "drifted her way into the South African Communist Party", she still identified and supported the liberation struggle in her work as an academic

"She openly held different views from her husband Joe Slovo but remained a sympathiser of the liberation struggle," he said

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SA urged to be champion of human rights

Conference delegates call on SA to protect defenders, writes Nomavenda Mathiane

SA should use its growing weight against African leaders at government meetings to speak against those who violate human rights, said Emy Chanka yesterday, a Malawian delegate to the All Africa Human Rights Defenders conference in Johannesburg.

The meeting, organised by Amnesty International and attended by activists from 44 African countries, hails back to anti-apartheid conferences with almost all the delegates having been victims of state brutality.

The organisers said they chose to meet in SA to "network with one another, share experiences in monitoring and documenting human rights violations and to devise mechanisms for the protection of defenders".

They were also meeting in SA "to tap into the rich experience of South Africans" and they expected SA to play a role in protecting defenders of human rights whose lives were vulnerable.

The delegates, who are lawyers, nongovernment organisation workers, development field workers, trade unions and students, are critical of African governments who they claim "continue to be rhetorical about abuses and self cor-

gratulatory". International human rights bodies were also singled as organisations "who when trouble breaks out in our countries, turn around and say they cannot interfere in internal politics".

Financial constraints and the formulation of strategy were some of the issues on the conference agenda. However, what dominated the discussions was the vulnerability of those working in defence of human rights and the continued abuse of power by the state.

Swaziland Youth Congress secretary-general Manguamane Maseko said the Swazi government ruled by decree. "Our efforts are met with

brutality. We do not get charged, we are kept in jail, brutalised and released".

Editor of *Le Messager* in Cameroon, Pius Nawe, said his 14 months in jail afforded him the opportunity to experience human degradation. "We were denied food and health facilities. When our friends brought us medication, the warders sold them in the street."

The week-long conference will formulate the "Johannesburg Declaration", aimed at protecting and promoting the work of African human rights defenders. This will be presented to the first world summit of the group to be held in Paris early next month.

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Schoon plot was 'nothing personal'

ET 4/11/98 (252)

PRETORIA Former policeman Willem Schoon told the amnesty committee here yesterday that he may be related to African National Congress activist Marius Schoon — whom he conspired to kill — but denied his action was a personal vendetta

Willem Schoon is applying for amnesty from the Truth and Reconciliation Commission for his involvement in a plot to kill Marius Schoon, who was living in Botswana at the time

Willem Schoon denied a claim by Marius Schoon's lawyer, Daniel Berger, that his actions were motivated by a personal malice directed at a relative who had sided with the ANC.

He told the committee he was approached in 1981 by former hit squad commander Dirk Coetzee, who said he was in a position to arrange to have Marius Schoon killed, but needed a firearm

Willem Schoon said he had reliable information that Marius Schoon was involved in activities that endangered the Republic of South Africa

He said he handed Coetzee a 38 revolver and ammunition, and told him to go ahead with the plan

because there was no other way to stop the growing insurgency in South Africa

However, Coetzee later reported to him that the mission failed because Vlakplaas operative Joe Mamasela, who went to Botswana to kill Marius Schoon, was attacked by ANC members and the revolver was stolen

Coetzee, who is due to testify later this week, will dispute Willem Schoon's account of the murder plot

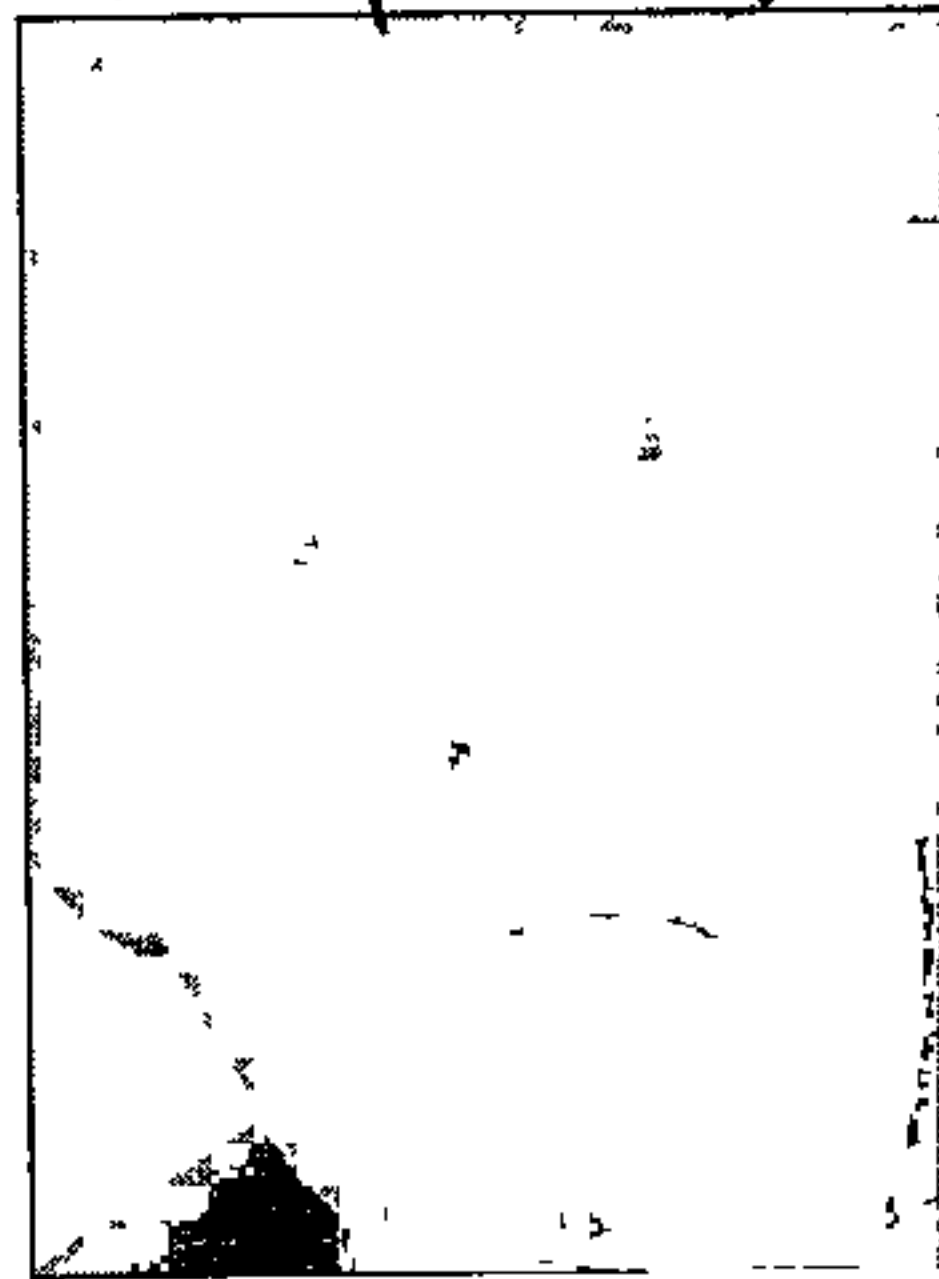
Under cross-examination by Berger, Willem Schoon said it was possible that he was related to Marius Schoon

Willem Schoon agreed their families had many common Christian names

However, he said though Marius Schoon might have been a distant relative, he did not consider him as family because he was on the "other side of the fence"

Berger suggested to Willem Schoon that Afrikaners who crossed the fence to the ANC were regarded with particular hatred by Afrikaners who supported the apartheid government

Schoon replied that hatred was too strong a word, but admitted



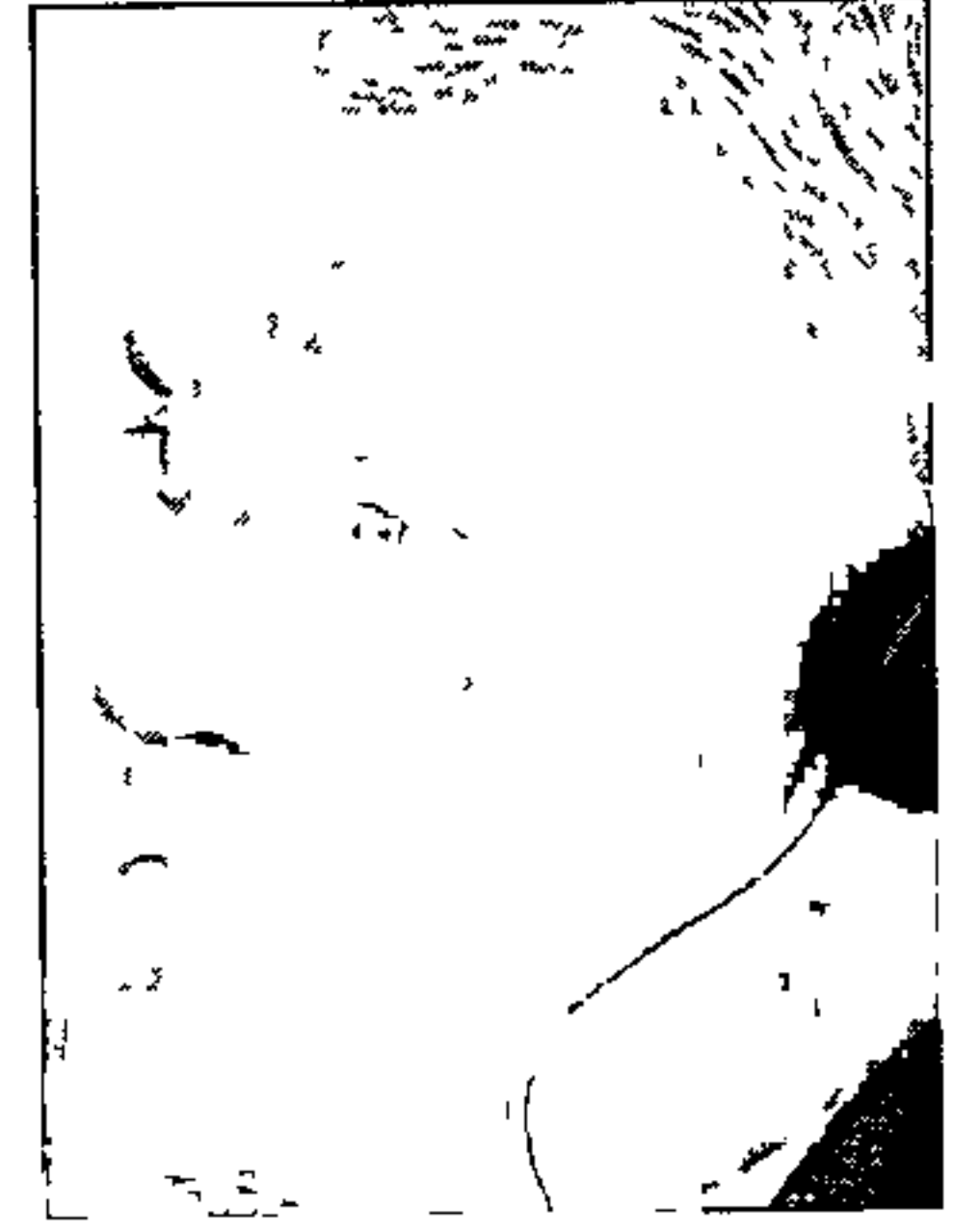
TARGETED: Marius Schoon

that there was a certain malice towards those who were considered traitors

Willem Schoon said he did not want to kill Marius Schoon but believed it was his duty to do so because it entailed defending the country against terrorism

"I am not a murderous person, although it might look that way. But we were forced to participate in these actions by the circumstances that prevailed at the time," he said

Willem Schoon still has to



A PAWN?: Willem Schoon

appear at a number of amnesty hearings for his involvement in a wide range of political murders

Marius Schoon's wife Jeanette and their two-year-old daughter were later killed in a letter bomb blast at their home in Lubango in northern Angola in 1984

Marius Schoon and his son Fritz survived the attack. Marius Schoon is due to testify at the hearing later this week

The hearing continues today — Sapa

TRC POINTS FINGERS AT HEALTH SECTOR

An image not so healthy



HEALTH PROFESSIONALS have been left with a stain on their reputation following the reports issued by the TRC earlier this week. Health Writer **JUDITH SOAL** reports.

DOCTORS who helped the security police give electric shocks; mental health professionals who gave advice on detainees' psychological weaknesses, district surgeons who left patients to die rather than displease their masters.

The Truth and Reconciliation Commission's report on the health sector contains many grim markers for a profession supposedly motivated by the desire to heal. The torture, chemical weapons and high-profile deaths are the most dramatic, but the report is careful not to allow health workers to push the blame into one corner, the corner occupied by those who co-operated directly with apartheid state organs.

It names the medical schools that churned out white doctors well-versed in First World medicine but refused to accept black students

or address the country's most pressing health needs. It names the hospitals with separate and unequal facilities, the ambulances that wouldn't carry black accident victims and the professional organisations who didn't speak out against any of this.

"Black (medical) students could not attend post mortems on white cadavers. At many medical schools black students were not allowed to examine white patients. (Later) they were allowed to examine those patients who gave consent. It is important to note that there was no legislation enforcing this discrimination, it simply became accepted practice at the medical schools," the report says.

The seeds of discrimination and obedience to the apartheid authority were sown early. The worst of their produce can be seen in the behaviour of district surgeons,

many of whom worked directly with security police.

The medical treatment given to Black Consciousness leader Steve Biko, who died in police custody, was described by a Supreme Court judge as "callous, lacking any element of compassion, care or humanity". The district surgeons responsible for Biko's care sent him to his death.

Then there was Elda Bani, a 50-year-old activist from Port Elizabeth. Bani died in detention after her diabetes medication ran out and the prison wouldn't give her any more. The district surgeon made no attempt to intervene.

Amos Dyantyi was severely tortured in detention in 1985. Torturers put a tube over his head to suffocate him. They put electrodes into his anus and punched him in the stomach with a jack hammer. When they called a district surgeon to examine him, the doctor told them to force pomidge into his nose so that it would look as though he had suffocated on his breakfast.

And then there's the misuse of medical information

Doctors and mental health professionals advised torturers on how to break down the resistance of their victims and exploit their vulnerabilities. They are said to have prescribed drugs to weaken detainees before torture.

Doctors also gave advice to police on lethal chemical formulas that were difficult to trace and on ways to disguise torture methods.

Forensic pathologists often omitted crucial information or falsified post mortems to cover up causes of death to protect the police. "These include the numerous detainees who supposedly died from slipping on a bar of soap, an epileptic seizure when no history of epilepsy existed, a heart attack without a history of heart disease, choking on food or suffocating or committing suicide," the report says.

The list of atrocities, ethical breakdowns and silences is a long one. The commission says it will refer health workers named in the submissions to the relevant professional organisations for investigation and possible punishment.



TRC proposes major changes

By Claire Keeton
Feature Writer

CLOSING the economic gap between the advantaged and disadvantaged in South Africa, transforming and monitoring state institutions and limiting state power are key recommendations in the final report of the Truth and Reconciliation Commission.

While the recommendations begin with a broad "commitment to reconciliation and unity", they swiftly direct attention to specific areas in the public and private sectors.

Developing a strong human rights culture is seen as critical to the "prevention of gross human rights violations in the future", and central to this culture is the recognition of socio-economic rights.

"The commission recommends that the Government accelerate the closing of the intolerable gap between the advantaged and disadvantaged in our society by, *inter alia*, giving even more urgent attention to the transformation of education, the provision of shelter, access to clean water and health services, and the creation of job opportunities," the report says.

"The recognition of and protection of socio-economic rights are crucial to the development and sustaining of a culture of respect for human rights."

The report recommends that the Government consider establishing a peace corps and put more emphasis on public works to boost job creation and that the private sector consider a special fund for training, empowerment and opportunities for the disadvantaged.

The TRC does not prescribe a wealth tax but recommends that the Government look at harnessing all possible resources in the war against poverty.

A ruthless stand against inefficiency, corruption and crime is among the recommendations.

"In addition the Government should never again pass legislation indemnifying police or other security forces even under a state of emergency."

The report takes this further and rec-



President Nelson Mandela receiving the Truth and Reconciliation Commission report from Archbishop Desmond Tutu last Thursday.

APC AFP

ommends "Where amnesty has not been sought or has been denied, prosecution should be considered where evidence exists that an individual has committed a gross human rights violation."

In particular, the attorneys general are urged to pay rigorous attention to prosecuting members of the South African Police Service (SAPS) "found to have assaulted, tortured and/or killed persons in their care."

"In order to avoid a culture of impunity and to entrench the rule of law, the granting of general amnesty

in whatever guise should be resisted," the report says, emphasising the need for accountability.

The recommendations also systematically look at the need for transformation in state departments like the prisons, security forces, the legal and judicial services and the health sector.

Training personnel in human rights, the rehabilitation of offenders, public monitoring and striving to meet international standards are among the recommendations for prisons.

"Solitary confinement and other forms of isolation, deprivation of food and exercise, and other cruel, inhuman and degrading treatment (should) be eliminated," the report says.

"In this regard, the commission notes with concern the establishment of the maximum security facility known as C-Max, where conditions of detention amount to almost complete sensory deprivation."

Better access to justice for the victims of crime and for accused persons are key recommendations for the judiciary. Training is high on the list of priorities, particularly in the values of the Constitution.

The appropriate treatment of juvenile offenders, efficient witness protection, representivity in the courts, respect for constitutional rights in the courts of chiefs and headmen, and community mediation to inhibit the reappearance of "people's courts" are other important recommendations.

The report has a long list of recommendations about the security forces, including a call for a judicial commission of inquiry into the chemical and biological warfare programme.

It also recommends that independent researchers undertake a comprehensive analysis of the remaining archival holdings of the intelligence services of all divisions of the security forces and the apartheid army.

They were responsible for the destruction of many records under apartheid.

The report recommends that intelligence agencies be required to deliver an annual report to Parliament and that members of the military should not be allowed to engage in covert activities unless they are specifically authorised by the Minister of Defence and another Cabinet Minister.

The TRC also suggests an investigation into the state of the security industry, with the aim of ensuring an industry-wide code of conduct.

Under the health sector, the report looks at ways to prevent abuse and to deliver appropriate, affordable health care. It recommends "Mental health care (should) be given priority as a national concern and be brought into the primary health care system."

The recommendations are not limited to the public sector, but also extend to business, faith communities and the media.

The business sector is encouraged to provide restitution "for those who have suffered from the effects of apartheid discrimination" and to establish a "business reconciliation fund."

The provision of land, transparency in banking, affirmative action, education for children and youth and the protection of the environment are identified as priorities for business.

Faith communities are seen as vital to healing and reconciliation, and the media are advised to widen its diversity of opinions.

Media to be independent

Significantly, the report emphasises the need for the media to be independent from Government, finding that in the past "state restrictions on the freedom of the media played an important role in facilitating gross violations of human rights."

The report recommends that the liberation movements apologise to their victims and investigate the fate of those who went missing in exile.

It recommends, too, that the Government apologise to neighbouring countries for past violations and ratifies international human rights instruments.

The TRC says its records are a national asset, which should be protected and made as available as possible.

The recommendations conclude "It is up to each individual to respond by committing ourselves to concrete ways of easing the burden of the oppressed and empowering the poor to play their rightful part as citizens of South Africa."

Schoon says he is not a murderous man

His 'duty' included killing, kidnap and bombing

Stephané Bothma *BD 4/11/98*

PRETORIA — Although he had applied for amnesty for at least 15 killings, two kidnappings and several bombings and attacks on the enemies of the apartheid regime, the former chief of the security police's C-section, Brig Willem Schoon, told the truth commission's amnesty committee yesterday he was not a murderous man.

Testifying in support of his amnesty application for the 1981 attempted murder of African National Congress (ANC) member Marius Schoon, the retired policeman said it was possible that he was distantly related to his intended victim.

"It did cross my mind at the time that a family member could be killed, but it did not matter, because Marius Schoon was on the other side of the fence. I did not regard him as family," Schoon said.

A suggestion by Danny Berger, that Schoon's actions were motivated by a personal malice directed at a relative who had sided with the enemy, was denied by the former security policeman who said

he had personally given the go-ahead for the attempt on Marius Schoon's life.

"I had reliable information that Marius Schoon was involved in activities that endangered the country. He was assisting trained ANC terrorists in transit and also assisted these terrorists to infiltrate SA," Schoon testified.

Although the current amnesty committee hearings, under the chairmanship of judge Andrew Wilson, dealt only with Schoon's attempt on Marius Schoon's life, the policeman admitted that he had applied for amnesty for at least 15 murders.

These included two ANC members in 1972, two Pan Africanist Congress members in 1981, the murder of Durban activist Griffiths Mxenge, the February 1982 murder of three Congress of South African Students members, the 1986 "zero hand grenade" killings on the East Rand, the death of three Umkhonto we Sizwe members in 1986 in Swaziland and the deaths of several others.

"I am not a murderous person. It was my duty, and so was the murder of Marius Schoon," Schoon said.

Toddler found mother's body

Stephané Bothma

PRETORIA — In some of the most gripping testimony heard by the amnesty committee in its almost three years of existence, African National Congress (ANC) member Marius Schoon gave graphic details yesterday of the 1983 explosion which killed his wife Jeanette and their six-year-old daughter Katryn.

Schoon said the only words uttered by his son Fritz, a toddler at the time, when he discovered his mother's body mutilated by a parcel bomb mailed to her by the security police, were "The enemy did not kill Jenny, they just broke her."

Schoon said "I walked into our flat in Lubango (Angola). There was blood from floor to ceiling — that was Jeanette. On the floor was a little heap of flesh — that was Katryn."

Schoon said he had been deployed with 35-year-old Jeanette by

the ANC to teach English at a university in Lubango. He told the amnesty committee he was in Lusaka when the explosion occurred.

"I rushed back to Lubango, where I was met by a neighbour who held three-year-old Fritzie in his arms. Fritz clung to me. He said only one thing: that the enemy did not kill Jenny, they just broke her," the 61-year-old Schoon testified.

That was all the toddler said for four days. "I thought he would never speak again."

Schoon is opposing the amnesty application by apartheid spy Craig Williamson and security police explosives expert Gerry Raven for the deaths of Jeanette and Katryn.

Schoon said he did not believe the words of regret uttered by Williamson and other policemen during their testimony before the amnesty panel, chaired by judge Andrew Wilson.

He said he could not make up his mind whether or not Raven was truthful, or if the former security policeman was merely saying what he believed the amnesty panel wanted to hear.

Schoon expressed some anger and confusion about the amnesty proceedings, saying it appeared that the only people with which the committee concerned itself were himself and Jeanette. "It seems as though Katryn has been forgotten."

Schoon denied that he had ever been involved in the armed struggle of the ANC.

He said he and his wife had been involved in trade union affairs. He said he fully identified and supported ANC-sanctioned military operations such as the Church Street bombing and other attacks. "Even the killing of innocent bystanders was justified," he said. Apartheid was a crime against humanity.

DD 5/11/98

(252)

Boesak 'wanted to put blame on Steenkamp'

LENORE OLIVER
HIGH COURT REPORTER

ARG 5/11/98

(252)

Allan Boesak wanted Freddie Steenkamp, the bookkeeper of the Foundation for Peace and Justice, to be the scapegoat when an investigation was launched into the organisation's affairs, the Cape High Court heard today.

Lucille Fester, Dr Boesak's secretary, said she was called to his home one night and asked to sign a statement which would have shown her support for him and blamed Steenkamp for any irregularities.

However, she refused to do so because she considered it unfair.

When Fester told the court of a holiday she had with Boesak's wife, Elna, in Durban at the expense of the Foundation for Peace and Justice, Dr Boesak's senior counsel, Mike Maritz, objected to the testimony. He said this was not included on the charge sheet.

Prosecutor JC Gerber replied that the purpose of the testimony was to show the court what Dr Boesak did with

foundation funds

Earlier, Swedish donors to the foundation said they believed they were dealing with "mature" people who would complete the project for which they received funds, the court heard.

Johan Brisman, programme manager of the Swedish International Development Agency, was testifying yesterday at the trial of Dr Boesak, who has pleaded not guilty to fraud and theft charges involving R1,1-million in donor funds to the foundation he headed.

The State alleges a further R8-million was misappropriated by the foundation.

The agency gave the foundation R762 000 to make 12 videos on democracy and voter education in the run-up to the 1994 election, but, according to evidence, they were never produced and the foundation asked for an extra R879 000 to complete the project.

"We trusted that the trustees would ensure that the project would be completed within the frame of our budget. Even now the funds are not accounted for," Mr Brisman said.

Schoon pours scorn on insincere' apologies

ET 5/11/98

(257)

PRETORIA. Veteran ANC activist Marius Schoon told the TRC amnesty committee he thought police superspy Craig Williamson's apology for the killing of his wife and daughter lacked sincerity.

Schoon was equally harsh regarding retired police brigadier Willem Schoon's apology, describing it as meaningless. Willem Schoon had ordered an attack on Marius Schoon.

He was less harsh regarding Jerry Raven, another former policeman who is applying for amnesty for his part in the plot to send a letter bomb to the Schoon family in Lubango, Angola.

The bomb killed Jeanette Schoon and the couple's six-year-old daughter Katryn in 1984.

Schoon said he and Jeanette had moved out of Botswana in mid-1983 after being warned by the British High Commissioner that his life was in danger.

They had been working on the recruitment of people to the ANC and had played an important role in helping to expose Williamson.

Williamson had been working as a police spy in left-wing

circles, operating out of Geneva.

"I think Mr Williamson was astute enough to know he was under suspicion and that Jeanette and I were playing a considerable role in building the case against him," Schoon said.

After leaving Botswana, the Schoon family spent almost six months working for the ANC in Lusaka before they took up English teaching posts at the University of Angola's satellite campus in Lubango.

They had been asked to teach at Lubango after a request from the Angolan government to the ANC, said Schoon.

He repeatedly denied suggestions that they had been doing anything else there apart from teaching and, for three or four days a month, flying to Angola's capital, Luanda, to help at the ANC office there.

"While we weren't teaching Cubans (to speak) English, I wouldn't have regarded teaching Cubans English as deserving of the death sentence.

"I dispute that I was sent there to do intelligence work.

"If that was the intention, the ANC would have sent someone who could speak Portuguese," Schoon said after

Raven's legal counsel, advocate Roelof du Plessis, had repeatedly returned to the suggestion that Schoon was doing intelligence work in Lubango and had expressed surprise that Schoon did not speak Portuguese.

Schoon said he was in Luanda when he was informed of the explosion which had killed his wife and daughter.

"A comrade was waiting at the airport with my son Fritz" (then 3).

"Fritz only said one thing to me on the trip into town: 'The enemy didn't kill Jenny — they just broke her.' One wall was covered in blood (and) there was a little pile of flesh and blood on the floor," said Schoon.

"One of the things that both angers and confuses me about the TRC is that it looks as though what we are involved in is just about Jeanette and me. Katryn has become almost a cypher — as though the process has forgotten her.

Advocate Alan Levine later told Schoon that Williamson had lived for 14 years with the dreadful truth that he had caused the death of a six-year-old child.

Veteran ANC activist Marius Schoon told the TRC amnesty committee he thought police superspy Craig Williamson's apology for the killing of his wife and daughter sounded like crocodile tears

Schoon was equally harsh regarding the apology of retired police brigadier Willem Schoon, who had ordered an attack on Schoon himself describing any apology as meaningless

Williamson's amnesty apology 'sounded like crocodile tears'

amnesty for his part in the plot to send a letter bomb to the Schoon family in Lubango, Angola, which killed Jeanette Schoon and the couple's 6-year-old daughter Katryn in 1984

Thus, week, Schoon said "I thought it was ingenious in the extreme. It did not have the ring of sincerity

"One of the things that both angered and confuses me about the TRC is that it looks as though what we are involved in is just about Jeanette and me. Katryn has become almost a cypher as though in the process has forgotten her

that his life was in danger. They had been working on the recruitment of people to the ANC and had played an important role in helping to flush Williamson out into open

months working for the ANC in Lusaka before they took up posts at the University of Angola's satellite campus in Lubango, teaching English

Advocate Alan Levine later told Schoon that Williamson had lived for 14 years with the dreadful truth that he had caused the death of a 6-year-old child. Schoon said he and Jeanette were moved out of Botswana in mid-1983 after being warned by the British High Commissioner

Ray S 11/1/98

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After leaving Botswana, the Schoon family spent almost six

Referring to the apology Williamson had given earlier

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Schoon said he was in Luanda when he was informed of the explosion which had killed his wife and daughter

He was less harsh regarding Jerry Raven, another former policeman who is applying for

Every pane of glass in the flat had been blown out. One wall was covered in blood - that had been Jenny. There was a little pile of flesh and blood on the floor - that had been Katryn," Schoon said

Schoon recalled what his son Fritz (then aged three) told him when he returned "The enemy didn't kill Jenny - they just broke her"

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Schoon recalled what his son Fritz (then aged three) told him when he returned "The enemy didn't kill Jenny - they just broke her"

TRC report upstaged

(2/2)

THE conflict over the release of the Truth and Reconciliation Commission's final report last week caused many South Africans the opportunity to avoid dealing with fundamental issues of the report, according to TRC commissioner Hlengiwe Mkhize

Mkhize, the TRC's reparations and rehabilitation (R&R) committee chairman, and Yasmin Sooka, the deputy chairman of the human rights violations (HRV) committee, will be working on specific issues arising from the TRC report through to next year

They are the only two commissioners apart from those involved in amnesty applications - who will still be doing TRC work. They will focus on issues such as missing people

Mkhize felt the dispute between the TRC and the African National Congress was "very unfortunate", particularly as people's first impressions have a lasting effect

"It took attention away from the real issues. The lessons for the state and the liberation movements, and those associated with them, became secondary," Mkhize said

"It undermined the integrity of our work over two years, reducing it to the background"

She said the ANC's reaction was typical of any group, whether in power or not, whose integrity and values have been threatened

"Now many people on the street see the ANC as a victim of the TRC. It was not clear to them how we contextualised the struggle in the report," she said

"People have the impression that this commission, from its comfort zone, condemned the struggles of the oppressed in a shallow and simplistic way"

But Mkhize said this was not true

"The commission found that even with good intentions, the liberation movements made mistakes, and instead of being dismissive, we need to learn from them

"In terms of our mandate, it was important that we made the finding that the liberation movements could have conducted their just struggle differently

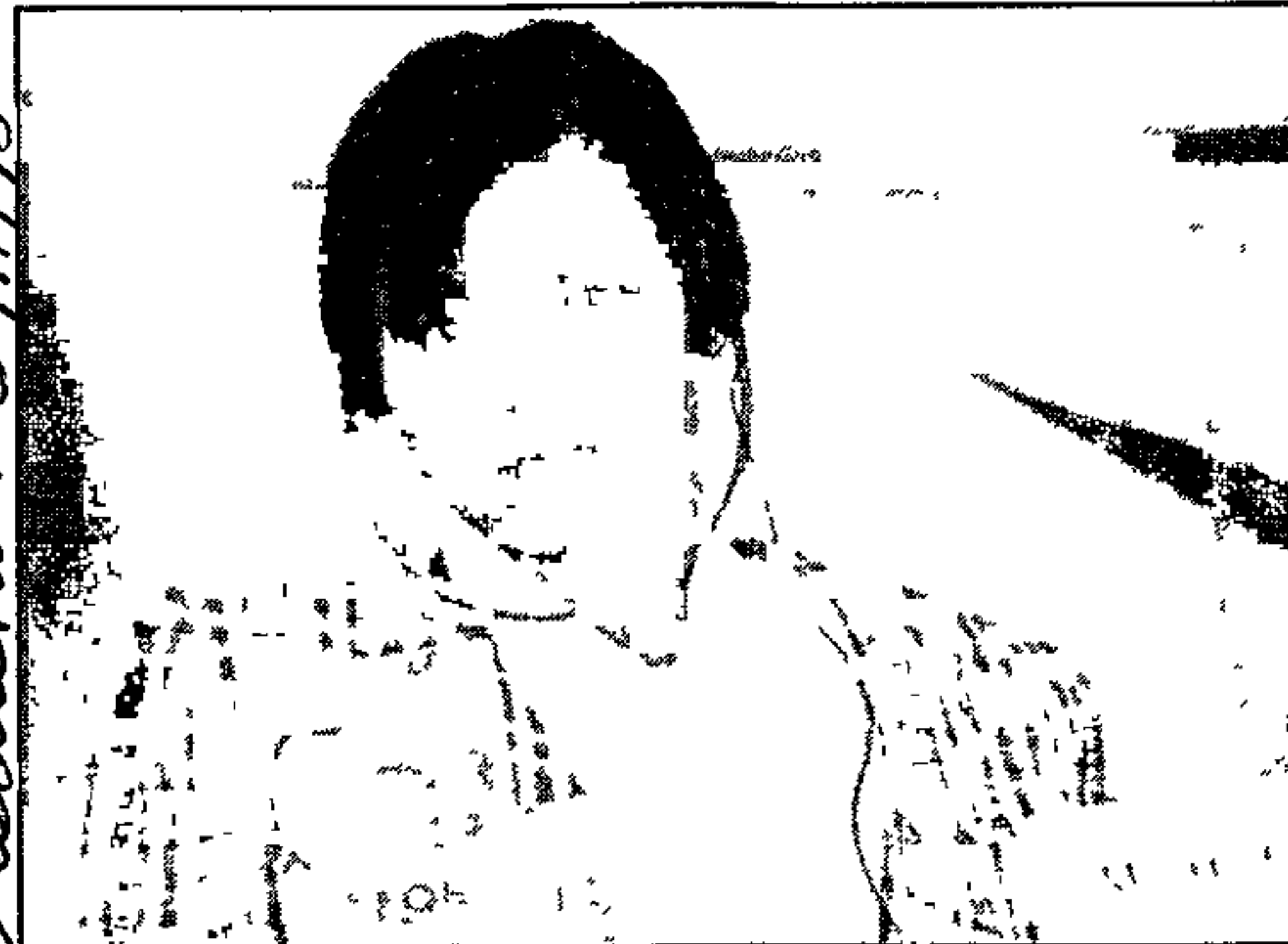
"We have a responsibility to future generations. We could not compromise that and condone all actions by them. Even in a just struggle there are limits"

Mkhize said she was disturbed that the reconciliation of people from opposing sides of the struggle that marked public hearings has been set back by the divisions over the report

"It is important that we redirect this debate so that everyone - including the liberation movements, organs of civil society, the private sector and the media - engage seriously with the report," she said

Mkhize felt that the Government would be

The ANC's last-minute challenge to the TRC's final report blurred for many people the fundamental issues contained in the report, writes **Claire Keeton**



TRC commissioner Hlengiwe Mkhize ... the dispute between the TRC and the ANC took attention away from the real issues in the commission's report.

central to taking the process forward

"When we talk about people's rights which have been taken away by the state, the state should play a leading role in restoring their dignity," she said

"All along we have been saying reconciliation is difficult. If we don't have a coherent programme in place, we will miss the opportunity to advance reconciliation"

Mkhize said reconciliation must start with "the known casualties, the victims"

As the person in charge of reparations and rehabilitation, Mkhize expressed her concern that victims have seen few tangible benefits from the TRC process, beyond acknowledgement of their suffering

She said the present policy on reparations was a useful starting point for Cabinet and the public, despite its problems

"We are conscious of the difficulties with the policy - for example, there are too many categories of victims," said Mkhize

However, the time had come for the Government to make decisions and act on final reparations

"If there is something for the victims, let them know. If there is not, it is time to spell it out. Whatever is coming their way, they need to know," said Mkhize

"I'm not sure how much pressure there is on key decision makers, but they should move forward"

Otherwise, victims would feel that reparations, rehabilitation and even reconciliation

were a "last thought" - not a priority

Mkhize identified accountability as another aspect of reconciliation

"Promoting reconciliation does not mean promoting impunity," she said, supporting the TRC's recommendation that known perpetrators who have not applied for amnesty, or who have been denied amnesty, be prosecuted

She said that the perpetrators of gross human rights violations extended far beyond the foot soldiers

"We have to look at the architects behind them, the people in positions of power. The TRC grappled with state policies and those responsible for them"

In fact, the final report clearly finds that key politicians and securocrats in the apartheid government were guilty of human rights abuses

Among them were former head of state PW Botha, former minister of defence Magnus Malan, former police minister Adriaan Vlok, former police chiefs Johan van der Merwe and Johan Coetzee, and former head of national intelligence services Niel Barnard

Mkhize said "We need to look how to structure society differently so that these abuses will never occur again

"It must not be possible for those sympathetic of today's Government to do the same thing

"What each and every South African needs to learn now is how to operate from a basis of human rights"

Star 6/11/98

'Collective amnesty' the answer, say Nats

(252)

Cape Town - The debate over whether all perpetrators of gross human rights violations should be granted amnesty, irrespective of whether they applied formally to the Truth Commission, has hotted up

Yesterday National Party leader Marthinus van Schalkwyk said his party was not in favour of a "general amnesty" whereby perpetrators would be pardoned anonymously but proposed "collective amnesty" for those acknowledging publicly that they had committed abuses during the political conflict.

But a coalition of 13 non-government organisations - including Lawyers for Human Rights and the Cape Town-based

Trauma Centre for Victims of Violence and Torture - called for the "vigorous prosecution" of those identified by the TRC as human rights abusers.

"We reject any suggestion of blanket amnesties, selective non-prosecutions or time limits on prosecution of perpetrators," it said yesterday.

At a media conference to launch the NP's "National Reconciliation and Democratic Nation-Building" proposal document - it claimed the TRC has not promoted reconciliation - Van Schalkwyk also announced that no party member convicted of gross human rights abuses would be allowed to hold senior office. Own Correspondent

Battle lines drawn in overall amnesty row

Rights groups want legal action (252)

JOHN YELD
ON THE TRUTH COMMISSION

The debate over whether all perpetrators of gross human rights violations should be granted amnesty, irrespective of whether they applied to the Truth Commission, has heated up

Yesterday, National Party leader Marthinus van Schalkwyk said his party was not in favour of a "general amnesty" whereby perpetrators would be pardoned anonymously, but was proposing a "collective amnesty" for those coming forward to admit publicly that they had committed abuses during the political conflict

Such amnesty would be automatic

and would apply across the political spectrum, he said

But a coalition of 13 non-government organisations - including Lawyers for Human Rights and the Cape Town-based Trauma Centre for Victims of Violence and Torture - called for the "vigorous prosecution" of those identified by the TRC as human rights abusers

"We reject any suggestion of blanket amnesties, selective non-prosecutions or time limits on prosecution of perpetrators," it said in a statement yesterday

It hit out at the National Director of Prosecutions, Bulelani Ngcuka, for his reported remarks that criminal charges against some perpetrators

identified by the commission could be dropped "in the name of reconciliation"

"This sends the unpalatable message that high-profile perpetrators are less accountable because of their rank or public profile," the coalition said

"The idea that some members of society are above the law belongs to the dark past of apartheid, it cannot be seen as continuing to pervade our legal culture"

At a media conference, Mr Van Schalkwyk said many perpetrators of gross human rights abuses had not applied to the TRC for amnesty because they had considered it biased against them

ARG 6/11/98

Marius Schoon rejects reconciliation with Williamson

207 6/11/98

PRETORIA - ANC activist Marius Schoon told the TRC amnesty committee yesterday that he did not feel cleansed by the truth after hearing the testimony presented at the hearing into the death of his wife Jeanette and three-year-old daughter Katryn.

"No, sir, I do not accept that," Schoon said when invited to meet and reconcile his differences with apartheid spy Craig Williamson, who was responsible for the deaths

"I have felt that we have heard the presentation of stories from the different applicants which conveniently gelled and served to gloss over the truth. I haven't come away feeling cleansed by the truth. I have no intention of speaking to

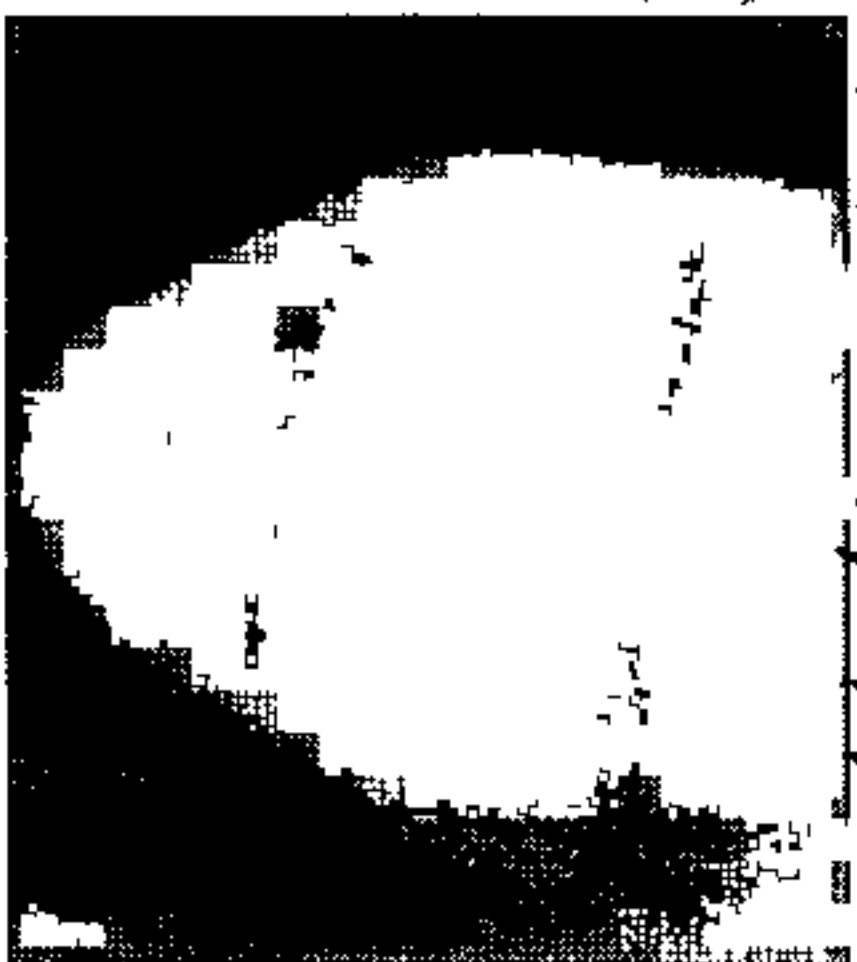
Mr Williamson ever in my life."

He did not believe he had heard the truth. "Reconciliation without truth is very, very difficult."

He was completing his evidence about the events leading to the death of his wife and daughter when a letter-bomb exploded in his wife's hands in their flat in Lubango, southern Angola, in 1984.

Williamson, police bomb expert Jerry Raven and retired security branch brigadier Willem Schoon are among those seeking amnesty for their part in the attack.

When Williamson's advocate, Alan Levine, reminded Schoon of a comment he had once made to a newspaper, Schoon repeated it to



VICTIM: Jeanette Schoon, killed by a letter-bomb

"The only time I want to see Mr Williamson is over the sights of an AK-47 (assault rifle)." After Levine had completed his

cross-examination, Schoon complained. "For a legal representative to place me in the position where I publicly have to state that I do not want to be reconciled is both embarrassing and unfair. I felt I was being badgered."

Schoon said he and his wife had been trusted members of the ANC but not particularly senior. "For instance, I never attended an ANC congress while in exile. I would have been delighted to attend but I wasn't invited."

He said the network he and Jeanette had established for the ANC while he was in Botswana had been part of the organisation's political structures and had never, while he was involved, been used for military purposes.

Most of their dead-letter boxes (for transferring information without couriers having to meet) had been post office boxes with two keys.

"It would have been very difficult to put an AK-47 into a post office box," he said when asked if the network's dead-letter boxes had ever been used for moving or hiding arms and ammunition.

Asked about comments by Raven that Williamson had said the Schoon couple used Katryn as their bomb disposal system and tossed suspicious parcels into the garden and allowed Katryn to play with them, Schoon rejected the idea.

"I regard this as one of the most insulting things ever said about

Jenny or me," he said. "I have this in mind when I say I can't forgive Mr Williamson."

Former Vlakplaas commander Dirk Coetzee, who blew the whistle on the police security branch's illegal tactics, testified yesterday that he had never approached Brig Schoon with a plan to assassinate Marius Schoon while the couple were still living in Botswana.

He said he had been ordered to carry out the attack and had decided to use a briefcase fitted with a sub-machinegun and silencer when the operation was cancelled. He denied that the brigadier had given him a 38 revolver to carry out the killing, saying "I don't shoot with revolvers." — Own Correspondent

PUBLIC SECTOR - GOVT. JUSTICE

1999

JAN. — MARCH .

Prosecutors step up work-to-rule action

By Mbongeni Hlophe

STATE prosecutors at Durban and Pretoria courts yesterday intensified their work-to-rule action in protest against a six percent salary increase announced last December.

Their action began in mid-December last year after they discovered that salary increases promised by Justice Minister Dullah Omar were not effected.

Omar had earlier promised to grant prosecutors salary increases as a substitution for the recently terminated overtime pay.

Overtime payment was terminated from December when the department said it was running out of cash.

However, the work-to-rule action

continued yesterday despite the six percent salary increase announced by Omar

From Monday this week, prosecutors at the Durban Regional and District courts started work two and half hours later than the scheduled 9am starting time.

KwaZulu-Natal spokesman for the National Union of Prosecutors in South Africa (Nupsa) Mr Michael Vehbi said it was unfortunate that members of the public were the victims of the situation.

"We do not believe that we are to blame. The public can judge who is failing to do the job between us and the department," Vehbi said.

Yesterday prosecutors started work at 11.30am after they were told that Omar was not available for

negotiations as he was on a "working holiday" in India.

"We have no one to speak to Omar can't be reached and Bulelani Ngcuka (national director of public prosecutions) is also nowhere to be found," said Vehbi.

"Why is the minister out of the country when there is such a crisis," said Vehbi.

He said prosecutors were left with two options: either to embark on an unprotected strike or to embark on a "blue flu". Blue flu refers to obtaining a false medical certificate to justify being on paid leave.

Vehbi claimed that salaries deposited into their accounts did not reflect a six percent increase, only four percent.

Sowetan 6/1/99

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Ntsebeza relishes challenges

By Sharon Chetty

FORMER Truth Commissioner Dumisa Ntsebeza is preparing for a new and more complex challenge when he takes up a position as acting judge to the Cape Bench next month.

The human rights lawyer is looking forward to working a full term on the bench — his first stint in Umtata was only for a month in 1995.

At the time he was one of the first acting judges appointed from the ranks of attorneys in the Eastern Cape as, before the law was changed in 1994, only advocates were eligible for the bench.

Ntsebeza is among seven new appointments — which includes two women and another black man — announced by the Judge President in December.

Although his first role as acting judge was short, two of his three judgments were published in the *SA Law Reports*, earning him the distinction of having his rulings widely distributed and discussed.

The first judgment dealt with the question of the right to legal representation. He had to review the conviction and sentencing of an accused who had not been properly informed of his rights by the magistrate who had tried him.

"The man had already been in prison for nine months and the whole issue of the delay in the administration of justice had to be examined."

His second reported judgment dealt with the issue of all parties being given a fair hearing before a magistrate could pronounce judgment.

At the time, the Constitution was still being negotiated and there was only the interim constitution as guide. My deputy was rather flustered."

There is always wisdom in hindsight... the TRC cannot by any stretch of the imagination claim to have got to the bottom of everything

He still remembers his first time as acting judge and describes his role there as "heavy" since black judges were new and there were no women among them.

"On my first day there were 122 matters to deal with."

As head of the TRC's investigations unit, his work centred more around probes than legal matters. The basis of the TRC was also about uncovering details of past human rights abuses rather than about prosecutions.

But Ntsebeza says there is much that the judiciary can learn from the TRC process.

Through the TRC, a concept of "restorative justice" had been developed, he says, adding that "we felt that it was important to restore to victims their dignity."

"I hope that the legacy of the TRC finds its way into the criminal justice system," he says.

He believes that such an aim is not contradictory to justice. For example, he says, the victim is the last person considered in any trial, although traditional law in the past always took that



Ntsebeza feels the judiciary can learn from the TRC process.

the end of a trial before even considering a civil claim against an accused.

"If someone was severely assaulted, the accused will be charged with grievous bodily harm and there is no thought given to the additional cost to the victim, such as medical expenses and loss of earnings."

Ntsebeza believes the challenge is to mete out appropriate punishment to the accused while trying to compensate the victim in some way.

He also argues for the notion of "restorative justice" which, he says, should be sensitive to the fact that all perpetrators are still a part of our society.

There had been many people exposed through the TRC process, he says, and the question still remained about those who did not apply for amnesty. "Does society throw those out?"

"What if someone appears before me and I know that he (his case) has

It's tougher now than ever before. Now there are sentences of 227 years in jail

(252)

been thrown out?"

"Re-integrative justice should require that I take that into consideration."

He is opposed to a blanket amnesty and says that the case of former Chilean dictator Augusto Pinochet (in which several countries, led by Spain, want to try him for atrocities committed more than a decade ago) is a reminder that perpetrators should not be given immunity from prosecution.

When asked if he is satisfied with the TRC process, Ntsebeza says, "There is always wisdom in hindsight we cannot by any stretch of the imagination claim to have got to the bottom of everything."

However, he says the objective was to break the culture of impunity in South Africa and make people aware that they could not freely walk around after their violations of the past when there was no regard for the rule of law.

Those who did not apply for amnesty should be prosecuted, but whether or not the director of prosecutions would have the will and resources to do so still had to be seen. "All I know is that I am against the prophets of doom who say it is impossible."

Despite its shortcomings the TRC had succeeded in making known certain facts that would otherwise have never been known, he says.

"When I am asked if we had discovered the truth, I say it depends on whether or not it's truth with a small or capital 't'. I also say that we will never find a universal truth in all eternity but there are perspectives."

However, Ntsebeza does maintain that after the gruelling TRC process, South Africans now have "a good dose of the truth".

Responding to criticism of the criminal justice system, he says much of the claims that inadequacies within the judiciary are adding to the proliferation of crime is "misplaced".

"The arguments for the death penalty are completely off the mark. Also, it is tougher now than ever before. Now there are sentences of 227 years in jail, which were not heard of before."

Ntsebeza maintains that there is "nothing wrong" with the Constitution and the rights and freedoms it confers on all individuals.

"It is clear that all rights are subject to various limitations. So even though an accused has rights, they are not absolute."

He is looking forward to sitting on the Cape Bench, and especially in an election year, since that province is controlled by the New National Party, which is in opposition to the ruling African National Congress and constitutional issues are likely to hold sway.

"It's a role I cherish," he says.

Ntsebeza (50) would like to eventually serve on the Constitutional Court and the International Court of Justice. But first he would like to practise at the bar, he says, just to counter those who complain about attorneys becoming

TOP PROSECUTORS RESIGN

CT 7/1/99



THE LOSS of experience in the office of the Cape Director of Public Prosecutions continues with the resignation of three advocates — with a combined experience of 50 years — because they are unsatisfied with recent pay increases. **ERIC NTABAZALILA** reports.

THREE state advocates — Chris Cilliers, Helena Booysen and Dieter Fitschen — are leaving the civil service at the end of the month because they are unhappy with their remuneration — and are unlikely to be replaced immediately because of a Department of Justice freeze on the filling of posts until the end of the tax year on March 31.

This is a serious blow to an office that recently lost three advocates — Percy Sonn, Deputy Cape Director of Public Prosecutions, Willie Viljoen, a senior advocate, and Admaan Mopp — to the newly-created Investigative Directorate Organised Crime and Public Safety.

Sources say this brings to 20 the number of experienced advocates who have left since January last year. The six percent salary increase announced by Justice Minister Dullah Omar last month was greeted with dismay by prosecutors. The increase, after

repeated delays, was in addition to a five- to eight-percent salary increase received earlier last year along with other civil servants.

A national strike by dissatisfied prosecutors over the increase led to National Director of Prosecutions Bulelani Ngcuka urging them to resume work because "substantial injustice would occur if people who are not supposed to be in custody spend their Christmas and the rest of the festive season behind bars".

Cilliers, who has worked for the state for some 14 years and has been a senior state advocate for the past nine years, said it was unfortunate that people with experience were leaving the office.

"It seems to me court cases are getting more and more serious and experienced people are leaving. What will happen now is that inexperienced people will be given serious cases."

"This is because of all the promises that were made to us and not kept. It's a very unfortunate situation to happen,

especially now that crime is increasing." My main reason for resignation is the six percent salary increase. Promises have been made for years but this is not what we expected. The salaries we are paid compared to the experience and the work we do are not enough.

"I had thought of a career move before but the inadequate increase was the last straw," he said.

He was considering joining the Cape Bar or joining the private sector.

Booyesen has worked for the state for more than 20 years and had been with the Director's office for 11 years.

"I'm driving a 10-year-old car and I

can't change it because the salary-increasing is not enough. There have been some vacancies advertised in our office but they have not been filled yet.

"This means more work for us. This is a very stressful job where most of the prosecutors work long hours and have to concentrate for hours on unending cases. We feel we need to be better paid than we are," she said.

She is hoping to join the Cape Bar or apply to become a corporate legal adviser.

"I'm not unhappy working for the state. I have worked for the state for 20 years and if I was unhappy with something else I would have left long ago. It's just that I feel I'm not appreciated. The government cannot afford to lose people with this experience."

Fitschen said part of the reason for his resignation was the handling of salary increases. He had been with the office for 3 1/2 years and was a prosecutor for five years before that.

He said the resignation of advocates of Cilliers' and Booysen's calibre was a blow to the Director's office.

"Any company which loses employees of that calibre, who can work without being supervised, should know that

□ Turn to Page 3

P.T.O.

Advocates quit over salaries

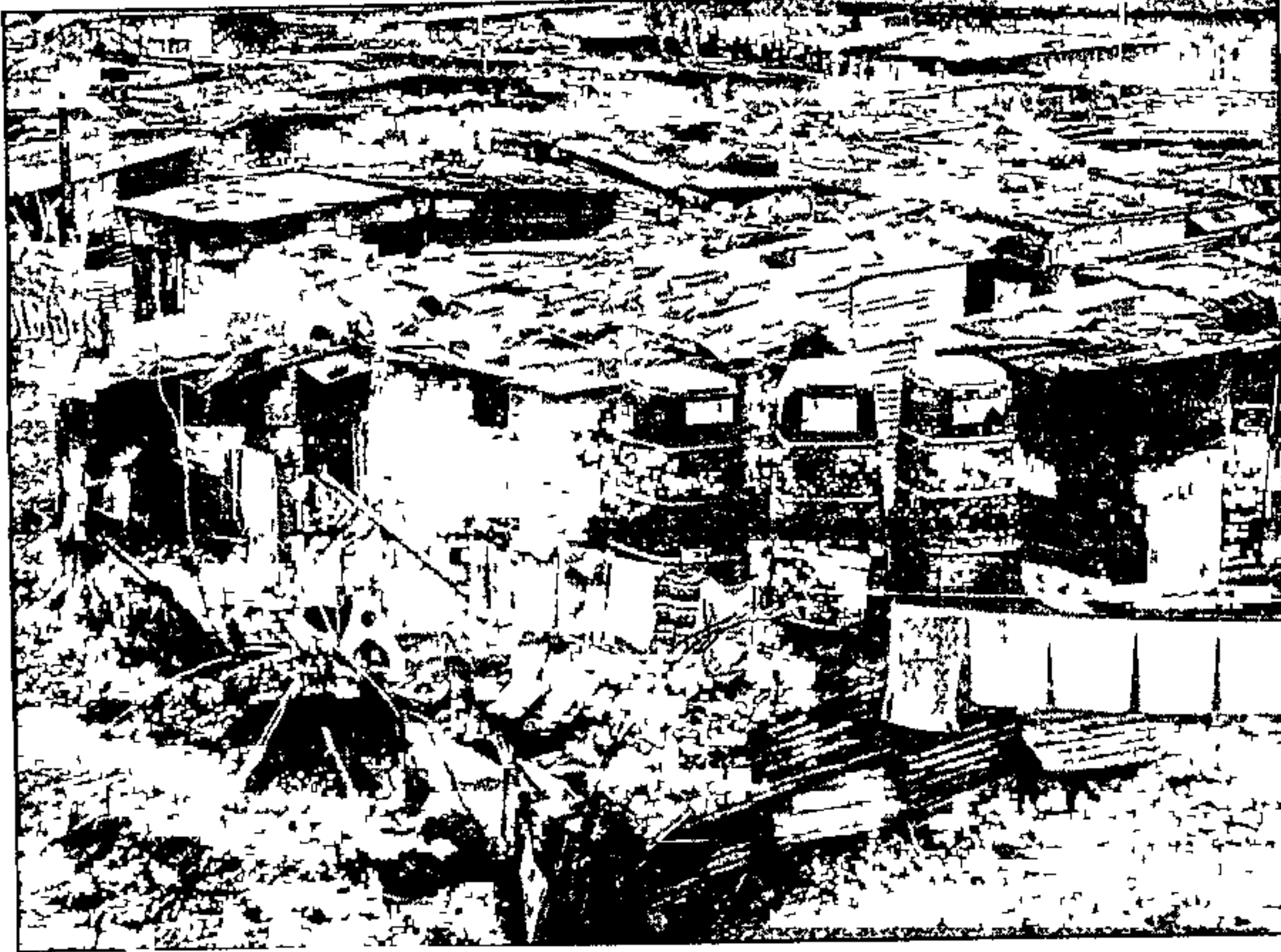
□ From Page 1
they are losing the best of their staff.
The Director of Public Prosecutions, Frank Kahn, was not available for comment yesterday.
Hishaam Mohamed, Western Cape head of the Department of Justice, said it was regrettable that people with the experience of Cilliers, Booysse and Fritschen were leaving.
"This is a brain drain and it's a

serious pity that people who gained experience through the state and at taxpayers' expense are leaving. I think the timing is wrong. But on the positive side, this allows mobility to those who have been waiting for advancement in their careers in district courts.
"I have appealed to (the three) through the Director (Frank Kahn's) office and tried to hold their resignations. I do regret their resignations," said Mohamed.
Paul Setsetse, spokesperson for Omar, said it was regrettable that people chose to resign from jobs when action was being taken to

address the issue.
"It must be noted that the present Department of Justice inherited the poor salary structure for prosecutors and advocates. As a result, when Omar took over, he advocated their pay increase. At least steps have been taken. Also, the National Prosecutions Act made provision for salary increases for prosecutors and advocates.
"The minister has actually indicated that the whole thing (negotiations for their salary increases) is not over yet."
"The minister will be discussing the issue with the Department of

Finance to see if more money can be organised for better salaries for prosecutors and advocates.
"He has taken cognisance that the salaries of prosecutors and advocates were below those of their counterparts in the private sector. It's really regrettable that these people have decided to resign," Setsetse said.
However, the resignations would not have implications in the fight against crime.
"Promotions will be made to fill the vacancies left by the three advocates. What is also interesting is that before 1994 nobody cried about poor salaries, and after the

elections — after the minister has met with prosecutors and advocates and informed them that his door was open — we now see these strikes," Setsetse said.
Ngcuka could also not be reached for comment yesterday.
But after the six percent salary increase he expressed his "bitter disappointment".
"I understand that the government operates under a very tight fiscal policy and severe financial constraints. However, the six percent increase that has been given to prosecutors is insufficient. Prosecutors are entitled to more and they deserve it," he said at the time.



Residents of Jukskel squatter camp in Alexandra live without running water despite having the right to vote
 PIC PAT SEBOKO

Human rights on a human scale

Sowetan 8/1/99 (252)

By Claire Keeton
 Feature Writer

How successful has the Government been in implementing human rights policies in South Africa since the post-apartheid election in 1994?

The official answer to this will be presented to Parliament next month, when the South African Human Rights Commission (SAHRC) evaluates the performance of Government ministries over the past four years.

Its assessment is based on reports by these ministries about what they have done to realise human rights – both civil and political – and economic social and cultural rights.

"The evaluation will look at what the Government has done until now and how it can build on this from year to year," coordinator of the National Action Plan for the Protection and Promotion of Human Rights Dr Russell Ally told *Sowetan*.

For example several ministries – including Land Affairs, Health and Education – will be assessed on what they have done to provide for the constitutional right "to sufficient food".

But Ally said the review of these achievements or failures would take into account limitations, such as available budgets.

Poverty hearings

Research and oral testimony collected during the poverty hearings, held in all the provinces early last year, will be included in the evaluation.

It will be presented together with a survey on people's feelings about how the Government is doing and whether their lives have improved since 1994.

The SAHRC commissioned the Community Agency for Social Enquiry to conduct the survey.

"The results are not very flattering," said Ally.

But he is hopeful that the National Action Plan for the Protection and Promotion of Human Rights will advance human rights in South Africa, with Government playing a key role.

"This is part of the transition," he said "moving from a culture of extreme violations to a culture where we protect and promote human rights."

A former member of the Truth and Reconciliation Commission Ally has heard vivid accounts of the atrocities

committed under apartheid.

He said civil and political rights, known as first generation rights, were negative rights about 'what the state can't do'. They are essentially to protect the individual against state encroachment.

But the development of economic, social and cultural rights during the 1990s concentrates on "what the state must do".

"These are considered important rights and are seen now as the ultimate responsibility of the state," said Ally.

"What does it mean if you have the vote if you do not have running water?" He said the view that all these rights were indivisible and interdependent had gained wide acceptance both here and abroad.

Another significant development is the way South Africa has taken its place in the international and regional human rights context, incorporating international human rights instruments into its laws.

The country has rejoined the United Nations, signed and ratified most of its human rights treaties. South Africa has also joined the African Commission and signed the African Charter of Human and People's Rights.

The Office of the President Parliament, the SAHRC, the Commission for Gender Equality and the UN Treaty Reporting Bodies are responsible for monitoring and implementing these agreements.

Ally said that in May 1997 South Africa committed itself to drafting the human rights action plan responding to an international call in 1993 for governments to adopt such plans.

The action plan steering committee was formed in October 1997 and the process was launched in December that year by President Nelson Mandela.

"The plan involved all Government ministries since the role of Government was stressed," said Ally.

He said it was necessary for ministries to work out what it meant to "respect, protect, promote and fulfil" human rights in the South African Constitution and Bill of Rights.

"At the same time, it was important to involve civil society, who are the ultimate beneficiaries and should be in a partnership with Government."

For this reason the plan coordinating committee had representatives of Government ministries non-govern-

mental organisations and state institutions. The Ministry of Justice chaired the committee.

Ally said the committee made sure to involve the provinces in this process working through the premiers' offices the regional offices of the Justice Ministry, the Office for the Status of Women and the National Council of Provinces.

"We had to make sure the Government understood and was fulfilling its obligations," said Ally, pointing out that protecting and promoting rights were different, though not separate responsibilities.

He explained that respecting rights was largely a legislative process, while protecting rights involved the repeal of apartheid laws. Promoting rights meant making communities aware of their rights and making them accessible to people. The Government has to allocate resources to fulfil these rights.

The NAP reflects all these elements, looking at what has happened up to December 10 1998, how the ministries understand their challenges, and how they intend to meet them over the next three years.

Human rights

Every right in the plan report, for example health, has a section on obligations policy, legislation administrative steps taken, further challenges in addressing these, and monitoring and implementation.

"Most ministries have a human rights section or directorate and they were delegated to be part of the plan committee," said Ally.

He said he had done a lot of training with Government ministries, for example those of Safety and Security and Justice.

"It is rewarding working concretely on human rights issues – looking at how they can make a difference in people's lives rather than being just words."

He said in 18 months the action plan committee will present a report to the UN on how it was being implemented, and NGOs will have an opportunity to present a 'shadow report' on how far the Government had moved. A full report must be submitted to the UN in 2001.

"It is far nicer to be looking at protecting rights, rather than at violations," said Ally referring to how he has moved on from the TRC.

Blacks fight for half of bar council seats

Lawyers' group argues that real transformation is possible only if governing structure changes

Pule Molebeledi

DURBAN — A group of black lawyers is set to use its muscle to force the general council of the bar to guarantee advocates from historically disadvantaged communities half the places on the council's governing structure.

The move, led by the KwaZulu-Natal branch of Advocates for Transformation, an organisation formed early last year to address the problems of the past in the legal fraternity, follows recent successful challenges to the Cape and KwaZulu-Natal bar councils on the issue

Sources in the profession in those provinces said the battle left the profession divided along racial lines.

The organisation's KwaZulu-Natal chairman, Tayob Aboobaker, said changing the council's governing structure was vital because only after this was addressed would real transformation start to take place.

His organisation believed the council was an imperfect vehicle to represent the aspirations of black advocates who did not necessarily share the views the council expressed, particularly in relation to sensitive matters of national importance.

He cited the failure of the KwaZulu-Natal council to speak out on matters that called for comment and criticism, such as the views expressed by 14 KwaZulu-Natal judges last year in their protest against the appointment of Vuka Tshabalala as deputy judge president of KwaZulu-Natal.

The council had failed to attract black advocates to the bar and had not addressed the high failure rate by black candidates writing the bar examination.

"We are demanding that the governance of the general council of the bar consist of 50% of advocates for transformation members," Aboobaker said.

The organisation's demands and the

DD 11/1/99
methods it used to achieve them in the Western Cape and KwaZulu-Natal have met fierce criticism from white advocates who hold the majority of positions on the governing structure. Figures on the exact racial breakdown of the council's members could not be obtained, but are understood to be proportionate to the number of black and white advocates. Of the approximately 15 000 advocates practising in SA, only about 300 are black. In the Western Cape there are 19 black advocates and 300 white.

Matters in the two provinces came to a head last September when the organisation's members threatened to walk out of the voluntary body en masse if its demands were not met, thereby robbing the council of its credibility. At the time the organisation was accused by white advocates of demanding equal representation in "an undemocratic manner".

Aboobaker denied this and said the organisation wanted to elect its own representatives. "The process we took was a necessary evil designed to advance the promotion of transformation and make sure that people placed there were accountable to Advocates for Transformation," he said.

The organisation believed the way in which advocates were elected to the structure was racist, sexist and ignored fundamental, historical, political and economic reasons why there were more white and male advocates at the bar than black and female advocates.

"Of course there are still some who are unhappy about the development that took place. We, however, believe that in the course of time their fears will be appeased and they will recognise the positive implications of a representative bar council," said Aboobaker.

Spokesmen for the council could not be reached for comment.

Nieuwoudt set to fight TRC ruling

Amnesty wanted for Biko case

AR 6 11/1/99 (2/1/99)

East London – Gideon Nieuwoudt, whose application for amnesty for his role in the 1977 death in detention of Black Consciousness leader Steve Biko was rejected by the Truth and Reconciliation Commission, may ask for a review of the decision.

Port Elizabeth attorney François van der Merwe said Nieuwoudt was reviewing his options.

His client was one of the most feared members of South Africa's security police in the Eastern Cape in the 1980s.

He was sentenced to 20 years in jail in 1996 for blowing up three black security policemen and a police informer near Motherwell in December 1989.

Mr Van der Merwe said "I haven't

made a decision at this stage. Calling for a review of the decision is more likely, but we are still considering our options."

He said he had not yet heard anything from the TRC's amnesty committee – which made its ruling on Nieuwoudt's application on December 14, but made a formal statement only on Sunday – about his other clients in the Biko matter.

TRC spokesman Vuyani Green said the amnesty committee was yet to rule on the applications of Lieutenant Daan Siebert, Warrant Officer Rubin Marx and

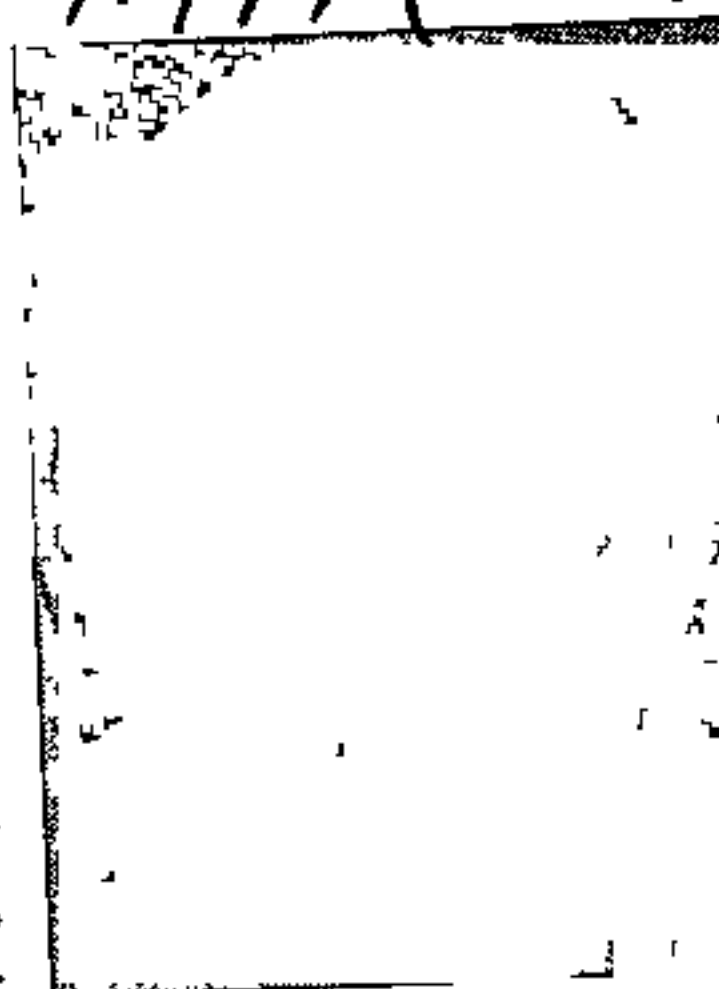
Warrant Officer Johannes Beneke, Nieuwoudt's former security police colleagues.

Eastern Cape attorney-general Les Roberts said on Monday a decision to prosecute Nieuwoudt would not be made until the amnesty committee decided on the remaining Biko applications.

Mr Roberts said he was also waiting for the results of Nieuwoudt's application for his role

in the murders of the Pebco Three in May, 1985, and of Cosas activist Siphwo Mtimkhulu and his friend, Topsy Madaka, in April 1982 – Sapa

Gideon Nieuwoudt



TRC denies amnesty to alleged Biko killer

(252)

Failure to make full confession counts against Nieuwoudt

Star 11/1/99

TIMES NEWS SERVICE

One of the alleged killers of Steve Biko, the Black Consciousness leader, has been denied amnesty by the Truth and Reconciliation Commission, and faces another murder charge

Gideon Nieuwoudt, a police sergeant at the time of Biko's death, was denied amnesty because applicants are required to make a full confession and prove political motivation

Biko family lawyer George Bizos said Nieuwoudt did not admit to any crime, which disqualified him from clemency

During the commission hearings into the death in detention 22 years ago of Biko, five policemen who applied for amnesty, including Nieuwoudt, failed to admit to killing the activist.

Some acknowledged that he had been chained to a metal grille, one confessed that his head had been rammed against

a wall, but all insisted that he had injured himself in a struggle with them

Biko died after losing consciousness and being driven more than 1 200km from Port Elizabeth to Pretoria as a result of the beatings handed out by Nieuwoudt and the others

He was denied medical attention throughout. The officers say they tackled the 30-year-old Biko and accidentally slammed his head against a wall

He was then taken in a police car, naked and bleeding, and on the marathon drive lay on a blanket in the back of a Land Rover

He died on September 12 1977, becoming one of apartheid's most famed martyrs

Mdu Lembede, commission spokesperson, confirmed that Nieuwoudt had been denied amnesty

No ruling has been made on the amnesty applications by the four other policemen

Right-wing whites have accused the commission of con-

ducting a witch-hunt against members of the National Party and the security services, instigated by the ANC

But most whites have been shocked by disclosures at the commission hearings of the extent and brutality of crimes committed by apartheid's "securocrats"

Nieuwoudt, who retired as a police colonel with a handsome severance package, is currently serving several life sentences for other murders

His apparent failure to understand that his chances of amnesty would have been greatly improved if he had admitted committing a murder in the name of apartheid is in marked contrast to the attitude of Colonel Eugene de Kock

De Kock, the white government's biggest killer and leader of a death squad, has gone out of his way to admit guilt for a host of killings, and to implicate his superiors for crimes they commissioned

NIEUWOUT AMNESTY REJECTED

'Biko's murderers may yet face prosecution'

ET 12/1/99 (253)

JOHANNESBURG: The possibility of prosecution remains open for police who perpetrated one of apartheid's most notorious crimes — the murder of Steve Biko.

THE Truth and Reconciliation Commission's amnesty committee yesterday rejected former Eastern Cape policeman Gideon Nieuwoudt's amnesty application for his role in the death of Steve Biko.

The amnesty committee said Biko's death was not politically motivated as his death had not been intentional.

The ruling was made by the committee on December 14, but a statement was not formally released until yesterday.

Nkosinathi Biko, son of the murdered anti-apartheid leader, said yesterday that he welcomed the decision as it left the way open for Nieuwoudt to face criminal charges.

"The committee made a decision consistent with the evidence at their disposal."

He said he was hopeful that the

TRC would take a similar stance with the remaining policemen implicated in his father's death.

Nieuwoudt's application for amnesty was heard separately from those of the other policemen — Daan Stebert, Rubin Marx and Johannes Beneke.

Colonel Harold Snyman, who was allegedly in charge when Biko was murdered in East London, died of cancer in November.

Nkosinathi Biko said the policemen had based their defence on the argument that they were defending themselves against a violent Biko.

"The injuries my father sustained are not consistent with that information," he said.

"He had bruises all over his body, his rib cage, his left eye and a number of lesions on the brain."

Attorney for the Biko family, George Bizos, said the Director of

Public Prosecutions was no doubt waiting for the TRC's decision on the remaining policemen before deciding whether to initiate criminal proceedings.

He said Nkosinathi Biko had laid a charge of unlawful killing of his father and defeating the ends of justice with the Eastern Cape attorney-general in 1987.

"The attorney-general could not see his way forward then to take action as there was insufficient evidence, but that was before the formal admissions by the policemen," Bizos said.

Yesterday, Les Roberts, current Eastern Cape attorney-general, said he would wait for rulings on the amnesty applications of the remaining three former officers before deciding whether to prosecute.

"I don't want to do this piecemeal — I want the whole picture," Roberts said in a telephone interview.

If all four former police are denied amnesty — as appears likely, since their testimony was virtually identical — Roberts said he might offer leniency to one or more of the men in exchange for them testifying against the others.

There is no statute of limitations on murder. A person could be charged with murder even when a killing was not the ultimate goal of an action — for example a severe beating — but was a foreseeable possible consequence, according to Roberts.

Nkosinathi Biko said the family would meet to discuss the TRC's decision. "Obviously we will have to meet to discuss the matter, as it affects more than just our family."

The amnesty committee remarked in its statement that Biko's death and the assault on fellow black consciousness activist Peter Jones — who was imprisoned with Biko in the Eastern Cape — had been the subject of many inquiries over the past 20 years.

The committee said the testimony presented at these forums generally corresponded with Nieuwoudt's testimony.

The report indicated that Nieuwoudt had admitted in his testimony that the actions that led to Biko's death in 1977 were intended to "control him (Biko) and to defend the interrogators."

The TRC said Nieuwoudt's application did not satisfy the requirements of section 20 of the Promotion of National Unity and Reconciliation Act, which provides for the granting of amnesty.

According to the act, any unlawful action committed by state employees, police or soldiers could only be considered for amnesty if the action was regarded as necessary to "achieve, or contribute to achieving, the destruction of the opposition."

The amnesty committee found that Biko's death had not been foreseen — Sapa

IFP man, election bombers pardoned

SIMON ZWANE

JOHANNESBURG An Inkatha Freedom Party (IFP) man who plotted to assassinate Mpumalanga Premier Mathews Phosa, and three Afrikaner Weerstandsbeweging (AWB) bombers who tried to derail South Africa's first democratic elections, have been granted amnesty by the Truth and Reconciliation Commission.

The amnesty committee accepted that Boy Vusumuzi Gwamanda, a convicted criminal serving 10 years at Westville Prison in Durban, did not become involved in the conspiracy to murder Phosa for personal gain.

Gwamanda was "used by the conspirators to effect their plan, and as such was an agent of the conspirators."

The committee accepted that Gwamanda was an IFP member and had acted under the direct orders and instructions of IFP MP Dingizwe Mfayela when he assaulted and attempted to murder certain people in Ndwedwe in KwaZulu Natal in 1993.

The committee said it was also satisfied that AWB members Pieter Magiel Breytenbach and De Wet Johann Strydom had believed that they were acting on behalf of the AWB when they planted bombs in the North West, which killed Kleinbuoi Ramolla and damaged an SABC tower, before the historic 1994 elections.

The committee has decided on



CHRIS HANI: His killers will have to remain in prison

the applications of 24 amnesty seekers.

But Chris Hani's murderers Clive Derby-Lewis and Janus Walusz, whose hearing was finalised in March last year, will have to remain in prison before a decision is taken on their application.

The committee has also not yet made decisions on the applications of senior police officers who murdered three Port Elizabeth civic leaders known as the Pebco Three (Qaqawuli Godolozzi, Siphon Hashe and Champion Galela).

It has also not yet finalised its position on those who sought amnesty for the murder of Mathew Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlawuli — known as the Cradock Four.

Hearings relating to these applications were finalised more than six months ago.

IFP, AWB men get amnesty

Star 12/11/99 252
By SIMON ZWANE

The Truth and Reconciliation Commission has granted amnesty to an IFP man who plotted to assassinate Mpumalanga Premier Mathews Phosa, as well as three Afrikaner Weerstandsbeweging bombers who tried to derail the first democratic election.

The amnesty committee accepted that Boy Vusimuzi Gwamanda, serving 10 years at Westville Prison in Durban, did not become involved in the conspiracy to murder Phosa for personal gain.

Gwamanda was an IFP member and had acted under the direct orders and instructions of IFP MP Dingizwe Mfayela when he assaulted and attempted to murder certain people at Ndwedwe in KwaZulu Natal in 1993, the committee found.

It was also satisfied that AWB members Pieter Magiel Breytenbach and De Wet Johann Strydom had believed they were

acting on behalf of the AWB when they planted bombs in North West province that killed Kleinbooi Ramolla and damaged an SABC tower.

The committee has decided on the applications of 24 amnesty seekers, including the denial of amnesty to notorious Eastern Cape policeman Gideon Nieuwoudt.

But Chris Hani's murderers Clive Derby-Lewis and Janusz Walus, whose hearing was finalised in March last year, will have to remain in prison while a decision is taken on their application.

The committee has also not yet made decisions on the applications of senior police officers who murdered three Port Elizabeth civic leaders known as the Pebco Three and those who sought amnesty for the murder of the Cradock Four.

Hearings relating to these applications were finalised more than six months ago.

Edwin Naidu, who spent three months at the South African Human Rights Commission, provides a view from behind the scenes on how the body is going about righting the wrongs of our past

When **Nomusa Nxumalo*** became a widow, not only did she lose her breadwinner husband, she lost her material possessions. Her in-laws took everything the couple owned, claiming they had a right to them under customary law.

At a Jewish school, **Joe Levine*** was barred from attending classes in the fourth term because his parents were in arrears with school fees.

Bheki Kumalo's* ailing mother who lived in an old-age home died after she sustained injuries, allegedly after she was assaulted by an assistant nurse

Prisoner **Thembinkosi Koza*** was beaten after complaining about dirty sheets. His legs and arms were tied and he was left after the assault in a cell without windows and toilet.

* The real names of people have been changed

These real-life incidents are just a handful of the several hundred complaints received by the South African Human Rights Commission in the past year from ordinary South Africans who feel they have no one else to turn to

The commission took up their respective complaints, representing them against the authorities who were allegedly violating their rights.

In the case of the widow, the commission wrote to the estate officer requesting investigation and a report. Parliament has also passed a bill recognising customary marriages.

The Jewish pupil was readmitted after the boy's parents made alternative financial arrangements and did not wish to pursue the matter further. The commission is still awaiting a report from the welfare officer regarding the woman who died in an old-age home. In respect of the prisoner, the commission wrote to the head of prisons last July asking him to investigate and provide a response to the commission. A further letter was sent in September repeating the request.

One of the biggest successes has been a case in which a woman attached to the SA National Defence Force sought the commission's help because she was not allowed to put her spouse on her medical aid. Following intervention from the commission, the defence force changed its policy.

The commission also recommended wide-ranging changes to combat racial discrimination at the Western Cape Ambulance Services. These included, among others, anti racism and human rights training, a code of conduct and affirmative action programmes.

The majority of the complaints accepted by the commission are investigated in a manner in which both sides of the story are first heard before the commissioners decide on the merits of the case. Attempts are made to resolve disputes and reconcile both parties.

The growing number of complaints to the commission proves that many have turned to the institution as their last resort. This indicates firmly, contrary to the loud noises by the uninformed that the institution has done nothing of note, that the commission is slowly fulfilling its mandate as one of the institutions set up to support democracy.

The commission has received over 4 000 complaints since it began operating late in 1995. Unsolicited letters and telephone calls of complaint from members of the public flood the commission on a daily basis.

But, a recent study by the European Union Foundation for Human Rights found that South Africans knew little about human rights and warned that education was absolutely necessary.

The commission's primary function is to promote respect for human rights and a culture of human rights. It also has a duty to promote and protect and to monitor and assess the observance of human rights.

The commission has had a stormy existence, thanks in part to its boisterous chairperson Dr Barney Pitso, who some are naively led to believe, runs a one-man operation. Without a doubt Pitso's strong personality impacts on the workings of the commission but he does not run the show alone.

One of Pitso's lieutenants included the now-retired politician, Helen Suzman, who upon resigning lamented the fact that the com-



Commission's mask 1

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mission spent too much time in meetings and bosberaads. She resigned simply because at 81 the rigours of the job were too demanding, citing chiefly among her reasons poor health. Suzman suffered a heart attack during the festive season.

The SAHRC has 11 commissioners and the qualifications for their selection for a maximum seven year term is that they must be fit and proper persons as well as South African citizens.

All commissioners are appointed by a parliamentary committee, the names have to be approved by 75% of a joint sitting and finally be approved by the president. New to the commission this year are former National

Party deputy minister and part of the constitution-drafting team at Codesa Leon Wessels, TRC member Tom Manthata and Cape Town academic Marlene Bossett.

The constitution requires the commission to give an account at least once a year to the National Assembly since it funds the institution via the Department of Justice. The commission's last two annual reports focussed on the complaints received, how it handled them and the projects to promote and protect human rights and various facets of research undertaken.

The commission is responsible for all internal staff appointments, which impacts on its functions. It has 35 full time staff members,

instead of a ~~commissioner~~ Nonhlanhla Mogambri training and Greg Moran. The heads chief ~~exec~~ ~~the~~ department educators ~~ing~~ The ~~sure~~ that ~~cluded~~ in C. Moran's



The commission has had a stormy existence, thanks in part to its boisterous chairperson Dr Barney Pitjana, who some are naively led to believe, runs a one-man operation.

cational booklet aimed at those in non-formal education, as well as training and workshop manuals for non-government organisations and community-based organisations. Annually, the department hosts a nationwide arts competition for schools. At least 800 entries were received last year.

But, Pitjana would be the first to admit that much more needs to be done in terms of advocacy and education, not necessarily by the commission itself but by the Government.

The majority of violations investigated by the legal department focus on equality, discrimination on grounds of race, disability, marital status and health. Among its important milestones, the department lists its investigation based on a report, which said a school gave different types of punishment for black and white pupils. It found that this was *prima facie* a violation of human rights. After initially refusing to co-operate, the principal ultimately co-operated after the commission issued the necessary subpoenas for a public hearing.

The research and documentation department has also assisted in the drafting of the National Action Framework document but perhaps, Thipanyane's biggest challenge is producing the socio-economics report currently being compiled for presentation to Parliament.

The commission in association with the NGO Coalition and Gender Commission, held nationwide poverty hearings attended by some 10 000 people last year. It heard how the poor viewed their circumstances as a violation of their human rights. The commission is expected to release recommendations in its report to Parliament next month.

The finance and administration department is in charge of financial controls and arranging an annual audit with the office of the auditor-general. It received favourable reports from the auditor-general in the past two financial years. The department plans to install and operate effective information technology between the headquarters of the commission in Houghton and provincial offices which are about to be set up.

The provincial offices - earmarked for the Eastern Cape and KwaZulu Natal this year - are the first step towards making the commission more visible than it is at present from its Houghton headquarters.

The commission is not afraid to tackle difficult issues, especially those lurking in the underbelly of South African society, for example alleged racism in the media. It has had run-ins with Health Minister Dr Nkosazana Zuma, Safety and Security Minister Sydney Mufamadi and the departments of correctional services as well as education.

It apparently has an icy relationship with Thabo Mbeki's office. Part of the reason is because the commission has a wide mandate but expends much energy on investigating symptoms instead of the bigger disease.

Three years after its birth, the commission has not managed to alert South Africans to what the key human rights issues are all about. Its interventionist stance, rather than a proactive one has meant that human rights figures rank low in the public domain. Pitjana and his team should do more to sell its works in a proactive manner so that it is not lost through defensive reactions and vague rebuttals. Greater thought must be given to advancing human wrongs in a cohesive manner.

ion's mask laid bare

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(252)

and Party deputy minister and part of the constitution-drafting team at Codesa Leon Wessels, TRC member Tom Manthata and Cape Town academic Mariene Bossett.

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The commission is responsible for all internal staff appointments, which impacts on its functions. It has 35 full time staff members,

instead of a required 80, it has a finance and administration department headed by Nonhlanhla Nsele, a legal department under Mogambri "MC" Moodliar, the education, training and information department run by Greg Moran and a research and documentation department under Tseliso Thipanyane. The heads of these departments report to chief executive officer Lindiwe Mokate.

The education, training and information department targets schools, more specifically educators, and focuses on human rights training. The department was responsible for ensuring that human rights education was included in Curriculum 2005.

Moran's department has produced an edu-

NATIONAL

Crisis warnings on prosecutors' backlog

Prisoners awaiting trial threaten to 'strike', and attorneys complain of loss of income due to work-to-rule action in courts

Taryn Lamberti

THE OFFICE of the national director of public prosecutions warned yesterday that the backlog of cases caused by the prosecutors' work-to-rule was heading for crisis proportions.

The warning came amid indications that the action, stemming from the prosecutors' unhappiness over a 6% pay increase announced by the justice department in November last year, could have serious implications for the criminal justice system.

Awaiting-trial prisoners announced yesterday that they would go on strike on Monday in

protest against the prosecutors' action, while the Transvaal Law Society said attorneys were losing money as a result of the "go-slow". Society spokesman Hester Bezuidenhout said attorneys were "up in arms" over the work-to-rule

Sipho Ngwenya, spokesman for National Director of Public Prosecutions Bulelani Ngcuka, confirmed reports that Ngcuka had sent the nine provincial directors of prosecutions urgent faxes yesterday, asking for information on how the "go-slow" was affecting the running of the courts.

Ngwenya said Ngcuka was giving the matter urgent attention and was meeting with all stakeholders, including ministers and union represen-

tatives, in an effort to "manage the crisis".

Most prosecutors have reportedly refused to work overtime and are preparing their cases during court hours. This followed an announcement by Justice Minister Dullah Omar in November that prosecutors would no longer receive overtime pay due to budget constraints. Prosecutors claim this effectively resulted in a 30% pay cut.

Sources said the prosecutors' decision not to work overtime did not amount to industrial action as they were not paid to prepare their cases after hours. However, the go-slow meant that trials were being delayed and many were being postponed to April or May.

SA Prisoners' Organisation for Human Rights deputy president Derrick Mduli condemned the prosecutors' action, saying it directly affected prisoners who were awaiting trial.

Siyavuya Jasta, spokesman for the police union Popcru, appealed to Omar to resolve the situation because the work-to-rule action was causing police to spend more time in court on "minor cases".

Meanwhile, the National Union of Prosecutors of SA said it would meet tomorrow to decide on further action while the National Education, Health and Allied Workers' Union will hold a national meeting next week.

(2/11/99)

9/11/99

Key cases at risk as court staff work to rule

STAFF REPORTER

(257) (100)
ARG 13/11/99
Western Cape prosecutors and State advocates embark on a work-to-rule action today - and warned it could mean important cases being ditched.

By preparing their cases and consult with witnesses only during their prescribed 8 1/2-hour working day, they expect to further cripple the justice system's ability to deal with crime in the province.

Court officials are expected to start their working day at 7 45am and courts will sit only after the officials have prepared their cases. Courts will rise punctually at 4 15pm.

The work-to-rule was agreed at a meeting of Western Cape prosecutors in Wynberg at the weekend.

Prosecutors in Gauteng and KwaZulu Natal started similar action after Justice Minister Dullah Omar last month announced they would get a 6% pay increase, an amount described as a joke by angry staff.

The justice department also suspended overtime pay in November after funds apparently dried up. Simon Meyer, spokesman for the 60 court officials who met at the weekend, said the work-to-rule action would mean that State witnesses could expect to sit at court all day without being called.

They would then have to be subpoenaed again, he said.

"It also could happen that magistrates refused to grant further postponements and that important cases then could be scrapped from the roll."

Prosecutors said they were sick and tired of losing experienced court officials to the private sector simply because they were not being paid enough.

Many prosecutors have said they were finding it hard to survive in the present economic climate and that the private sector appeared to be their only remaining option.

Condemnation C

THE DECISION

The Truth and Reconciliation Commission's amnesty committee has application of Gideon Johannes Nieuwoudt, which was heard i

The applicant applies for amnesty for the killing of Mr Steven Bantu Biko and for assaulting Mr Peter Jones during the general period at which time Mr Biko died. He is one of five persons who make the application for the same events but the applicant's application is a separate one.

The death of Mr Biko and the assault on Mr Jones has regularly been in focus for more than 20 years and been the subject of various inquiries. Generally, it seems whoever testified at these forums, submitted versions that are not too different from the version tendered by the applicant.

In short, he stated that Mr Biko and Mr Jones were arrested near Grahamstown in the Eastern Cape. They were taken to the local police cells where they were held for a while. It is common cause that neither of them were in any way injured at the time. Their conditions remained the same and they were both, though separately, transferred to Port Elizabeth and into the direct custody of the then Security Branch of the South African Police to which the applicant was attached.

He said that he was part of a team that interrogated the two detainees separately. The interrogation of Mr Biko continued for between 24 to 48 hours. At some stage during the interrogation Mr Biko sustained some injuries, the most important thereof being to the brain.

Among the other injuries observed during the post-mortem examinations were extensive but minor bruises and abrasions. There were two distinct scabs on the upper lip, two localised bruises on the rib cage, tramline scars to the left buttock, and bruising to the region of the left eye. There were also a number of lesions found on the brain.

While there was no direct medical evidence at this hearing, the reports of some pathologists or experts with equivalent qualifications were placed before us. The authors of the reports were persons who had examined the body of Mr Biko.

According to the applicant, at some stage during the "interrogation", Mr Biko had a violent outburst directed at his interrogators. As a result Mr Biko was taken hold of in self-defence and in the ensuing struggle, termed a "scuffle", Mr Biko's head struck one of the walls, sustaining the head injury which he suspects led to his eventual death. He said that initially, upon Mr Biko's outburst, he hit him with a hosepipe in an attempt to compel some restraint but this did not help. He then



Thumbs down ... Gideon Nieuwoudt, whose application for amnesty was rejected by the TRC.

assisted his colleagues in grabbing hold of Mr Biko after which they all fell in the direction of the wall against which Mr Biko struck his head. Mr Biko then fell onto the floor. It seems Mr Biko was rendered unconscious or almost unconscious as a result. There are variations in the versions as testified to by the applicant and the versions of the others who also made applications in respect of the same incidents. However, we do not find it necessary to have much regard for these differences.

The applicant testified that thereafter, he assisted in handcuffing, into a crucifix position, a very near unconscious (if not completely) Mr Biko to the iron grille in that room. It is common cause that Mr Biko was later transported to Pretoria for the purposes of receiving medical attention at some state institution where he was declared dead on arrival or died soon after arrival. It is not clear as to why Mr Biko could not or did not receive medical treatment at Port Elizabeth when it

seems that this was the most appropriate action to have been taken.

In the case of Mr Biko, charges, if anything, against those who caused his death would be limited to murder or any competent verdict arising therefrom.

The applicant also admits to assaulting Mr Jones. He testified to assaulting him a number of times by means of the piece of hosepipe while the two of them were alone after the rest of the interrogating team had left the room for reasons

P.T.O

ion of Biko cop

amnesty committee has released its decision on the amnesty
Judt, which was heard in Cape Town on March 30 1998.

(2/72) span 13/1/99

which are not really clear This was after about 18 hours of interrogation which did not produce any significant information. He hit him a few times after which and as a result of which a full statement was written out by the detainee.

On the other hand Mr Jones rendered a substantially different version of the events related to the assault on him. He said that from the time while he was first in custody at the Walmer police station, he suffered from assaults by his interrogators including the applicant. He says that he was not assaulted in the manner described by the applicant.

Clearly the activities of the applicant and his colleagues were not the result of orders, direct or otherwise, but occurred during interrogation completed within the course and scope of their employment. In the case of both the late Mr Biko and Mr Jones, the applicant suggests that the interrogation was necessary because not much was known of the two detainees save that they were opponents of apartheid. More information was needed from them especially about the authorship of a particular pamphlet which the applicant and his colleagues found offensive. In addition, it seems, information was also required because of a need for evidence so that contemplated prosecution of the detainees could be processed.

Essentially the material actions of the applicant and his colleagues was a defensive mechanism

The nature of Section 20 of the Promotion of National Unity and Reconciliation Act No 34 of 1995 as amended demands a direct relationship between the offence, the result of the act and the political motive for it. The death of Mr Biko was, on the applicant's version, not intentional nor could it have been foreseen. Therefore it was not a consequence that ought to have been foreseen. As a result, at least the criminal liability of the applicant must be doubted. Furthermore, the requirement of political motivation carries with it the implicit (at least) component of direct intention to commit an unlawful act in order to counter political opposition and to achieve or contribute towards achieving that kind of result.

Here again Mr Biko's death did not occur as a result of achieving or contributing towards countering political opposition. Indeed it is not clear whether the applicant knew if the two detainees were members or supported any political party involved in opposing apartheid. Nor did the applicant or his colleagues know whether Mr Biko or Mr Jones were connected to a political party which caused so much political



Icon of the struggle ... Steven Biko, who died at the hands of the police.

discomfort to the government of the time. Therefore the acts admitted by the applicant cannot be regarded as having been necessary to achieve or contribute to achieving the destruction of any opposition.

The nature of the applicant's explanation of the events does not lend itself to the finding that he and/or his colleagues had reasonable grounds to believe that their actions were related to destroying political opposition, in any way. On his own version, the actions which led to Mr Biko's death were intended to control him and to defend the interrogators. This was their only objective and the material actions related solely to police duties which were expected in the circumstances and not to any political objective. The actions which led to the death of Mr Biko are far too remote and distinct from any political motive.

While it is also peremptory that the applicant should have made full disclosure of all the relevant facts pertaining to the activities for which amnesty is sought, in view of our findings, we do not deem it

necessary to deal with the question of full disclosure.

As for the application relating to an assault on Mr Jones it is, to our mind, clear that two independent and distinct assaults are being referred to.

Mr Jones refers to an assault(s) on his person committed by the applicant and his colleagues during the course of his detention, while the applicant refers to an assault committed when Mr Jones was in the applicants' company only. Mr Jones does not refer to this and the applicant does not make application in respect of the assault referred to by Mr Jones.

In the result and for the reasons as set out above, we are not satisfied that the application in respect of the death of Mr Biko complies with the Act and consequently the application is refused. In respect of the assault on Mr Jones, and for which the applicant seeks amnesty, the application is granted.

■ This is an edited version of the TRC's decision on the amnesty application of Gideon Niewoudt

led by the TRC.

that this was the most appropriate action to have been taken.

In the case of Mr Biko, charges, if any, against those who caused his death would be limited to murder or any competent verdict arising therefrom.

The applicant also admits to assaulting Mr Jones. He testified to assaulting him a number of times by means of the piece of hosepipe and the two of them were alone at the rest of the interrogating had left the room for reasons

Case 1 When Nomusa Nxumalo* became a widow, not only did she lose her breadwinner husband, she lost her material possessions. Her in-laws took everything the couple owned, claiming they had a right to them under customary law

Case 2 Prisoner Thembinkosi Koza* was beaten after complaining about dirty sheets. His legs and arms were tied and he was left after the assault in a cell without windows and toilet

Challenge of righting human wrongs ...

(257)

ARG 13/1/99

The real-life incidents above are just a handful from the several hundred complaints received by the South African Human Rights Commission during the past year from ordinary South Africans who feel they have no one else to turn to

The commission took up their respective complaints, representing them against the authorities who were allegedly violating their rights

■ In the case of the widow, the commission wrote to the estate officer requesting investigation and a report. Parliament has also passed a bill recognising customary marriages

■ In respect of the prisoner, the commission wrote to the head of prisons last July asking him to investigate and provide a response to the commission

A further letter was sent in September repeating the request

■ The commission is still waiting for a report from the welfare officer about the woman who died in an old-age home

■ The Jewish pupil was readmitted after the boy's parents made alternative financial arrangements and did not wish to pursue the matter further

One of the biggest successes has been a case in which a woman attached to the SA National Defence Force sought the commission's help because she was not allowed to put her spouse on her medical aid. After intervention from the commission, the defence force changed its policy

INSIDE STORY

EDWIN NAIDU, who spent three months at the Human Rights Commission, provides an informed behind-the-scenes view on how the organisation is going about righting the injustices of our past

The commission also recommended wide-ranging changes to combat racial discrimination in the Western Cape Ambulance Services. These included anti-racism and human-rights training, a code of conduct and affirmative action programmes

The majority of the complaints accepted by the commission are investigated in a manner in which both sides of the story are heard first before the commissioners decide on the merits of the case

Attempts are made to resolve disputes and to reconcile both parties

The growing number of complaints to the commission indicates firmly, contrary to the loud noises by the uninformed, that the institution has done something of note, that the commission is slowly fulfilling its mandate as one of the institutions set up to support democracy

The commission has received



In the firing line: as head of the Human Rights Commission, Barney Pitso Molefe has had

more than 4 000 complaints since it began operating late in 1995

Unsolicited letters and telephone calls of complaint from members of the public flood the commission on a daily basis

A recent study by the European Union Foundation for Human Rights found that South Africans knew little about human rights and warned that education was absolutely necessary

The commission's primary function is to promote respect for human rights and a culture of human rights

It also has a duty to promote and protect and to monitor and assess the observance of human rights

The commission has had a significant existence, thanks in part to its intrepid chairperson Barney Pitso Molefe, who, some naively believe, runs one-man operation

Without a doubt Dr Pitso Molefe's strong personality impacts on the workings of the commission - but it does not run the show alone

One of Dr Pitso Molefe's lieutenants included the now-retired political



Case 3

Bheki Kumalo's*
ailing mother, who lived in an old age
home, died after she sustained
injuries, allegedly at
assaulted by an assistant nurse

Case 4

At a Jewish school,
Joe Leanie* was barred from attending
classes in the fourth term because of
parents' arrears school
fees

*All names have been changed

persons" as well as South African citizens.

All commissioners are appointed by a parliamentary committee. The names have to be approved by 75% of a joint sitting and must finally be approved by the president

New to the commission this year are former National Party deputy minister Leon Wessels, Truth and Reconciliation Commission member Tom Manthata and Cape Town academic Marlene Bossett

The constitution requires the commission to give an account at least once a year to the National Assembly since it funds the institution via the Department of Justice

The commission's past two annual reports focused on the complaints received, how it handled them, projects to promote human rights and various facets of research.

The commission is responsible for all internal staff appointments, which impacts on its functions. It has 35 full-time staff members, a finance and administration department headed by Nonhlanhla Nsele, a legal department under Mogambri "MC" Moodhar, an education, training and information department run by Greg Moran and a research and documentation department under Tseliso Thipanyane

The heads of these departments report to chief executive officer Lindiwe Mokate

The education, training and information department targets schools - more specifically educators - and focuses on human-rights training. The department was responsible for ensuring that human rights education was included in Curriculum 2005

Mr Moran's department has produced an educational booklet aimed at those in non-formal education, as well as training and workshop manuals for non-government organisations and community-based organisations

Annually the department hosts a nationwide arts competition for schools. At least 800 entries were received last year

But Dr Pityana would be the first to admit that much more needs to be done in terms of advocacy and education, not necessarily by the commission itself but by the Government

The majority of violations investigated by the legal department involve equality or discrimination on grounds of race, disability, marital status and health

Among its important milestones, the department lists its investigation based on a report which said a school gave different types of punishment for black and white pupils. It found that this was *prima facie* a violation of human rights

After initially refusing to co-operate, the principal ultimately co-operated after the commission issued the necessary subpoenas for a public hearing

The research and documentation department has also assisted in the drafting of the National Action Framework document

But perhaps Mr Thipanyane's biggest challenge is producing the socio-economics report currently being compiled for presentation to Parliament. The commission, in association with the NGO Coalition and Gender Commission, held nationwide poverty hearings attended by some 10 000 people last year. It heard how the poor viewed their circumstances as a violation of their human rights. The commission is expected to release recommendations in its report to Parliament next month.

The finance and administration department is in charge of financial controls and of arranging an annual audit with the office of the auditor-general. It received favourable reports from the auditor-general in the past two financial years. The department plans to install and operate effective information technology between the headquarters of the commission in Houghton and provincial offices which are about to be set up

The establishment of the provincial offices - earmarked for the Eastern Cape and KwaZulu Natal this year - marks a first step towards making the commission more visible than it is at present from its Houghton headquarters

The commission is not afraid to tackle difficult issues, especially those lurking in the underbelly of South African society - for example alleged racism in the media. It has had run-ins with Health Minister Dr Nkosazana Zuma, Safety and Security Minister Sydney Mufamadi and the departments of Correctional Services as well as Education

It apparently has an icy relationship with Thabo Mbeki's office. Part of the reason is because the commission has a wide mandate but expends much energy on investigating symptoms instead of the bigger disease

Three years after its birth, the commission has not managed to alert South Africans to what the key human rights issues are all about. Its interventionist stance, rather than a proactive one, has meant that human rights figures rank low in the public domain

Dr Pityana and his team should do more to sell its work in a proactive manner so that it is not lost through defensive reactions and vague rebuttals. Greater thought must be given to righting human wrongs in a cohesive manner

RIAN HORN

as had clashes with several key government figures

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ve, runs a

Helen Suzman, who upon resigning lamented the fact that the commission spent too much time in meetings and "bosberaads"

She resigned simply because at the age of 81 the rigours of the job were too demanding, citing chiefly among her reasons poor health.

Mrs Suzman suffered a heart attack during the festive season.

The SAHRC has 11 commissioners and the qualifications for their selection for a maximum seven-year term are that they must be "fit and proper

Pityana's
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politician

Fedusa threatens to go on strike

By Mzwakhe Hlangani
Labour Reporter

Source for 13/1/99

THE Federation of Unions of South Africa (Fedusa) has filed a notice of intended protest action in the National Economic Development and Labour Council to pressure the Government to address demands for pay increases by public prosecutors.

Fedusa general secretary Chez Milani warned yesterday that should the matter not receive the satisfactory attention of Nedlac, then protest action across the country would follow. "If the Government is serious about tackling the high level of crime in South Africa it must pay attention to the plight of public prosecutors and the functioning of the criminal justice system."

"Failing to do so will have a negative impact on the socio-economic interest of all workers and the country at large," Milani said.

Meanwhile, the National Union of Mineworkers general secretary Gwede Mantashe presented a cheque for R50 000 yesterday to aid the victims of the tornado that devastated Umtata in the Eastern Cape last month. The presentation was made at the Umtata mayoral office.

Prosecutors join go-slow

(252)
ASHLEY SMITH
COURT REPORTER

ARG 14/11/99

Western Cape prosecutors say they will know only next week how long their work-to-rule action will last.

Simon Meyer, spokesman for the local prosecutors, said today the office of the national Director of Public Prosecutions, the Department of Justice and prosecutor unions would meet in KwaZulu Natal today to discuss the crisis.

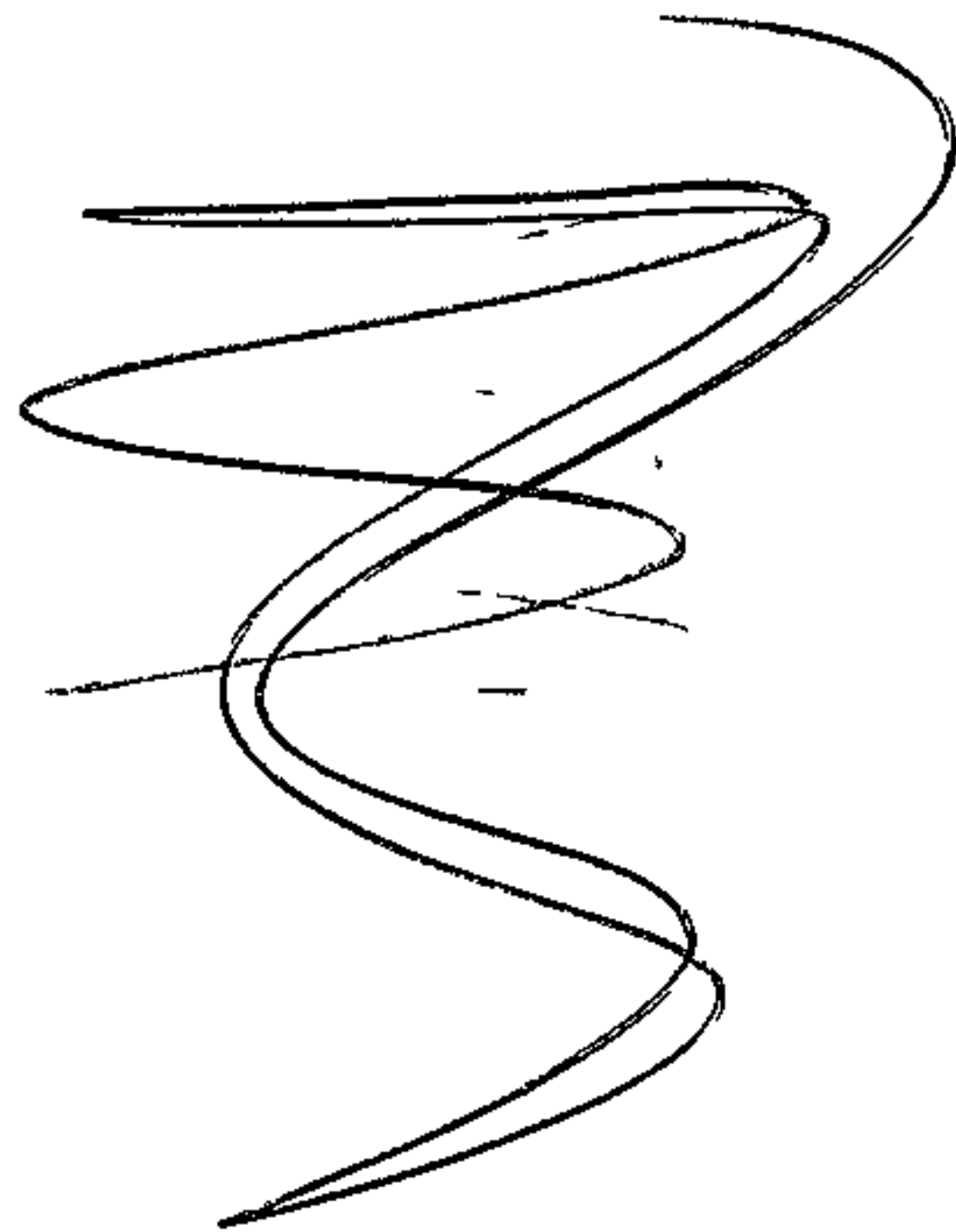
Local prosecutors will meet next week for feedback about today's crisis

talks, said Mr Meyer

Western Cape prosecutors yesterday joined colleagues in Gauteng and KwaZulu Natal in working to rule, which means they will prepare cases during office hours and work a strict 8½-hour day

Mr Meyer said prosecutors were demanding salary parity with magistrates and that the 6% increase offered by the justice department had angered many colleagues

Mr Meyer said prosecutors would work overtime without extra pay if their salaries were raised to almost the levels earned by magistrates



Prosecutors move into new phase in pay fight with Omar

Star 14/1/99
BY CATHY POWERS (252)

The National Union of State Prosecutors (Nupsa) was to meet with representatives from around the country today to decide on strategies to take their protest action against "inadequate" pay increases into a new phase.

Nupsa president Eduard van der Spuy said yesterday that the union was looking at possible legal action.

It would also consider proposals to approach the National Economic Development and Labour Council on what form of protest action to take within the Labour Relations Act.

Van der Spuy said it was too early to talk of a stalemate.

Prosecutors around the country embarked on a work-to-rule after the cash-strapped Justice Department scrapped their overtime pay last year and then awarded them a 6% pay increase last month, which, they said, was well below expectations and promises.

Many prosecutors are refusing to work overtime and cases are being delayed, ultimately clogging up the court roll and the criminal justice system.

The Justice Department cannot compel prosecutors to work overtime and their action is not illegal. Paul Setsetse, Justice Minister Dullah Omar's spokesperson, confirmed this and said the department was

66 They must put the interests of the country first 99

relying on the goodwill of prosecutors. "They must put the interests of the country first."

Setsetse said that, on Omar's return from a trip to India, the minister would set up a forum with representatives of prosecutors and advocates to take the salary discussions forward.

The National Director of Public Prosecutions, Bulelani Ngcuka, is also pursuing the re-introduction of overtime, according to his spokesperson, Siphon Ngwema.

"We are hoping to reintroduce overtime and then in the next financial year renegotiate prosecutors' salaries," he said.

Van der Spuy said that if there was no money to further increase prosecutors' salaries, the reinstatement of overtime pay was the only option.

Ngwema said that, according to reports, most Johannesburg courts were operating normally, with some prosecutors taking cases home to prepare them after hours.

"If the work-to-rule spreads, then the situation could reach crisis proportions."

He said the industrial action was occurring only in Durban, Cape Town and some parts of Gauteng.

In Pretoria and Soweto, delays of up to two and three hours had been reported, he said.

TRC grants self-confessed killer pardon

Sowetan 14/1/99

By Mbulelo Baloyi

THE Truth and Reconciliation Commission's amnesty committee yesterday announced that it had pardoned Inkatha Freedom Party member and self-confessed killer Vusumuzi "Bhoyi" Gwamanda for his role in the aborted attempt on Mpumalanga Premier Mathews Phosa's life in the 1990s.

TRC spokesman Mr Mdu Lembede said Gwamanda was one of 18 people granted amnesty recently while five others had their applications turned down.

During his amnesty hearing in Pietermaritzburg last October, Gwamanda revealed that he had conspired with several prison warders based at Barberton Prison to kill Phosa in 1993.

He had been involved in numerous shootings in the Ndwendwe area, north of Durban at the height of violent clashes between IFP and African National Congress supporters.

The committee said "Little is known of the conspiracy to assassinate Phosa, but taking into account (his) high political profile, the only reasonable inference that can be drawn is that the conspiracy had a political objective."

"Gwamanda was manipulated and used by the prison's authorities who were involved in the conspiracy."

courts

PROSECUTORS' ACTION MAY CAUSE CHAOS

UNIVERSITY OF CAPE TOWN
SALDRU LIBRARY

Work-to-rule hits Cape

WESTERN CAPE prosecutors, "fed up" with what they consider pathetic salary increases, yesterday embarked on a work-to-rule protest — and sparked off similar protests around the country **JUDY DAMON** reports.

ET 14/1/99 (272) (105)

THE decision by 95% of Western Cape prosecutors to start a work-to-rule protest and further slow down the justice system came after the Justice Department last month awarded them a 6% salary increase over and above the last general civil service increase

But this was below the 20%-30% raise they had hoped for

After a two-year "paper war" between prosecutors and the Justice Department, promises made over increases and overtime pay were never kept, according to Simon Meyer, spokesperson for the prosecutors.

He said when they first voiced their dissatisfaction over their income early last year, overtime pay was given "to tide them over" until proper salaries could be paid

"Then suddenly they stopped paying us overtime and we thought we could expect the great salaries they had promised us. But instead they gave us a 6% raise. And that is why this new discontent has started"

Prosecutors also say that the next budget excludes scope for further increases

Meyer said experienced prosecutors had been abandoning their posts for more lucrative positions on the bench, as well as defecting to the private sector. This left newer prosecutors with the burden of large case loads and difficult-to-handle cases

Yesterday, another experienced Wynberg prosecutor, who earned his maximum salary of R55 000 a year, was lured away by the R140 000 annual income of a magistrate

The protest action was agreed to at a prosecutors' meeting in Wynberg last Saturday, Meyer said

Prosecutors would work only in their normal working hours between 7.45am and 4pm. Preparation of cases, often done

outside of these hours, would only be undertaken within working hours and no work would be done at home

"The negotiation process is over. We will consider going back to work once they come up with something concrete and we are satisfied with what we see," Meyer said

The repercussions for the entire justice system could be "serious", including the pile-up of cases and awaiting-trial prisoners having to spend more time in jail

The Justice Department had threatened the striking prosecutors with misconduct charges, Meyer said. "If all the prosecutors in the Western Cape go on strike, of course courts won't start on time. These are the kind of things that they have to face"

However, the Justice Department could compel prosecutors to work overtime and their action was not illegal, he insisted

Paul Setsetse, spokesperson for Justice Minister Dullah Omar, confirmed this and said the department was relying on the goodwill of prosecutors. "They must put the interest of the country first"

He added that on Omar's return from a trip to India, the minister would set up a forum with representatives of prosecutors and advocates to discuss salaries

National Director of Public Prosecutions Bulelani Ngcuka's spokesperson, Siphon Ngwema, said his department was also pursuing the re-introduction of overtime despite Western Cape prosecutors saying they would not take work home

According to reports last night, most Johannesburg courts were operating normally, with some of the prosecutors taking cases home to prepare them after hours, while in Pretoria and Soweto delays of two to three hours to the start of each day's proceedings were becoming more common

Prosecutors also embarked on protest actions in Durban and Bloemfontein

Prosecutors' union takes a strong stance against overtime

Taryn Lamberti

THE National Union of Prosecutors of SA has "strongly discouraged" its members from working overtime for the justice department, including on after-hours bail applications

The union, which represents more than 1 000 prosecutors, held a lengthy meeting yesterday to discuss protest action against Justice Minister Dullah Omar's decision last November to stop paying them overtime be-

cause of budget constraints

Omar offered the prosecutors a 6% increase last month. Yet prosecutors say this does not compensate for what is an effective 30% cut in real income. They had declared a dispute with the department, Nupsa president Eduard van der Spuy said.

They had instructed lawyers to begin legal proceedings against the department in an effort to restore overtime payment. The prosecutors were also seeking arbitration to deal

with what Nupsa referred to as "the humiliating salary announcement made by Omar".

"Even the national director of public prosecutions, Bulelam Ngcuka, has voiced his dismay at the inadequacy of the announced increase," read Van der Spuy's statement.

"If government is serious about tackling the high level of crime in SA it must pay attention to the plight of public prosecutors and the functioning of the criminal justice system," Van der Spuy said.

BD 15/1/99(252)

Prosecutors 'weary of sacrifice'

ASHLEY SMITH
Court Reporter

Prosecutors are risking their family relationships, economic well-being and personal health by preparing cases for up to three hours a night at home and not being paid a decent wage for their efforts.

This was the message from Simon Meyer, a 25-year-old Wynberg prosecutor and spokesman for hundreds of his colleagues who started a work-to-rule action two days ago.

The go-slow action effectively means that 95% of the province's prosecutors will work a "normal" 8 1/2-hour working day and not prepare their cases the night before.

Prosecutors have acknowledged this will mean important cases may be struck from the roll and witnesses might be required to come to court on several occasions before a case is called.

Mr Meyer warned the Department

of justice that prosecutors would no longer be "dipped into accepting false promises", but that they wanted "concrete steps to be taken by the ministry" to address their grievances.

Many of his colleagues, especially those who were sole breadwinners, were sick and tired of scrapping together an existence. Many of those who had recently entered the department were still dependent on their parents for financial support, he said.

Many of his colleagues were realising now they had neglected their wives, children and friends by accepting as normal the need to work at home, Mr Meyer said.

For him the past two days had been "amazing" because he had had time to play with his twin daughters and spend time with his wife. Other colleagues told him they now had time to go out with friends and relax.

However, the main reason why the majority of prosecutors decided to join their Gauteng and KwaZulu

Natal fellows in a go slow was because they could not survive on present salaries, said Mr Meyer.

Despite promises by the Department of Justice three years ago that their remuneration would be adequately increased, many prosecutors

'We chose to resist the economic lure of the private sector to give a vital service to the community'

could hardly afford to pay the bond on their home and buying a vehicle was out of the question, said Mr Meyer.

He said he and his colleagues had chosen to resist the economic lure of the private sector to give a vital service to the community.

Law Society says go-slow is 'holding justice to ransom'

COURT REPORTER

The Law Society of South Africa has criticised Western Cape prosecutors for going on a go-slow that is "holding the justice system ransom".

Society spokeswoman Anna Mkwana said today the organisation was "very concerned" with the pre-

sent state of affairs in courts.

The society had offered to help "in whatever way we can" to reduce the present backlog of cases, she said.

According to the work-to-rule action that began on Wednesday, 95% of Western Cape prosecutors are working a normal 8 1/2-hour day and are not working at home preparing cases.

The action began after the Department of Justice announced a 6% salary increase and at the same time stopped payment for overtime.

The Law Society had "no quarrel" with prosecutors negotiating better salaries, but this should be done without "holding the justice system to ransom", said Ms Mkwana.

"The Law Society believes that the

strike by prosecutors is breaking down the maintenance of justice in the country, and is inadvertently denying it to the people who need it most," she said.

The society acknowledged the role played by prosecutors in the delivery of justice, but also noted that any breakdown of the court system affected attorneys who had court practices remaining a prosecutor, becoming a magistrate or entering the private sector would choose one of the last two. When this happens, the service loses another prosecutor with expertise," said Mr Meyer.

When prosecutors went on a go-slow in 1996 the Department of Justice had identified that salaries were inadequate and implemented overtime payment. In November last year, Justice Minister Dullah Omar announced a 6% salary increase.

Mr Meyer said overtime amounted to about R1 500 extra each month, but the new salary increase meant prosecutors lost their overtime money and were paid only R300 extra over and above their gross salary.

"We are not going to be dipped into accepting more promises. We want a mechanism in place which will be required to begin a salary negotiation process immediately. This must be done before the go-slow action ends."



Time to play prosecutor Simon Meyer with his baby daughter Emma

BRENTON GEACH

AKG 15/1/99

(258)

Fed-up prosecutors eye better prospects

Straw 15/1/99

(2/172)

As crime climbs, the number of court professionals dwindles and experienced people are lost

By CATHY POWERS

A number of disillusioned prosecutors, among them at least one senior specialist, have resigned and more are expected to follow as the pay dispute with authorities drags on.

Adding to the troubles of the beleaguered Justice Department, the National Union of Prosecutors of South Africa decided at a meeting yesterday to declare a labour dispute on the department's failure to negotiate with prosecutors on the 6% salary increase and the suspension of overtime pay.

The union's lawyers were instructed to obtain an arbitra-

tion award over the salary rise, according to a statement.

At least three Johannesburg prosecutors have resigned this month. One resigned from a position in the district court, which already had seven vacancies, a source there said.

Two prosecutors at the Durban Magistrate's Court will leave by the end of this month. There are currently more than 10 vacancies there.

"We are expecting the resignations to continue," a senior prosecutor said, citing poor salaries as the reason.

She said Durban prosecutors' workload had doubled over the past three or four years because of the increase in

crime.

Senior prosecutor at the Cape Town Magistrate's Court, Mark Wakefield, said one prosecutor had resigned. Last month and he expected further resignations in the months to come. There were already four vacancies, he said.

There are about 2,000 prosecutors in magistrate's courts, according to Justice Department spokesperson, Paul Setse. He could not give the number of vacancies.

"I think basically every body's looking for other work. You can't make a living," said a Johannesburg prosecutor who refused to be named.

Specialist fraud prosecutor

Joan van Zyl (27) handed in her resignation on January 4 in disgust at her salary. After six years of tertiary study she clears R3 500 a month. She said she was taking less money home after overtime pay was scrapped and replaced by the 6% pay rise.

Disillusioned with her chosen career, Van Zyl said she was leaving the legal field for good. She said hers was a high-stress job, and work-to-rule or not, "You can't just go home at night and go to court in the morning. You have to prepare your cases if you don't want to look like a clown in court."

The resignations are also leading to inexperienced prosecutors being pushed into spe-

cialist prosecution jobs. Normally a prosecutor would have to have two to three years of experience before becoming a specialist prosecutor.

But one specialist prosecutor said he had only 10 months of experience. He too said he was leaving the legal field.

The dissatisfaction about salaries appears to have spread to the upper echelons of the criminal justice system.

Regional justice head of the Western Cape, Hisham Mohamed, said seven Cape magistrates had handed in their resignations last month.

One had specifically mentioned his salary as the reason for his resignation.

The 'priest' from hell



Gideon Nieuwoudt has been refused amnesty for the killing of Steve Biko.

Peter Dickson describes the career of one of apartheid's most ruthless killers

He is the last non-impersonator alive with Elvis Presley sideburns. His face is lined with untold stories you don't want to know. Before the prospect of prison and the seekers of truth sucked the last vestiges of conscience from his soul, Gideon Johannes Nieuwoudt's name was enough to strike fear into the hearts of freedom fighters.

In dungeons from Port Chalmers to Port Elizabeth, the mere mention of this grim man would induce even the most defiant to talk. Perhaps it was the phrase, "I'll make you famous," to men who would never be seen again. Perhaps it was the hosepipe, the wet towel or the tyre tube. Perhaps it was the photographic memory and methodical closing of paid information gaps. But to two generations of anti-apartheid activists in the Eastern Cape, Bible-basher Nieuwoudt, who would don a dog collar to visit the families of police torture victims, was the "priest" from hell.

The first man he made famous was Black Consciousness leader Steve Biko. But Nieuwoudt's amnesty application to the Truth and Reconciliation Commission (TRC) for his role in Biko's 1977 death in detention — one hastened by being run head first into the wall of room 619 of the security police headquarters after an introduction to Nieuwoudt's hosepipe for being "arrogant and aggressive" — was rejected by Judge Ronnie Pillay this week.

Nieuwoudt's lawyer, Francois van der Merwe, says he and his client are "considering our options", one of which is a review of the decision. But his client — with amnesty applications holding back a 20-year prison sentence handed down in 1996 for blowing up three black colleagues and an askari near Motherwell in 1989 on suspicion of being African National Congress spies — feels as little for the TRC as he did for his victims. The self-proclaimed counter-revolutionary, interrogation and explosives expert said last year the commission was "clearly not objective" and showed "overt bias".

(2572) MTG 15-21/1999



Textbook sadist: Gideon Nieuwoudt told his victims he would make them famous

Not even a wheelchair-bound cripple — his hair falling out from security police rat poisoning — was free from counter-revolutionary strategy. The amnesty application says that at Post Chalmers, Congress of South African Students leader Siphiso Mthimkhulu and his companion, Topsy Madaka, were interrogated before a drug-induced sleep and shot in the head by Nieuwoudt and his sidekick, Craddock Four amnesty applicant Nic van Rensburg.

State lawyers may go to court over pay dispute

(292) ARLG 16/11/99
JACKIE CAMERON

State advocates and prosecutors are poised to take legal action to force the Department of Justice to resume payment for overtime work.

And members of the National Union of Prosecutors of SA (Nupsa) are to be balloted on whether they would be prepared to participate in illegal industrial action.

A work-to-rule spread from the Western Cape this week to courts around the country as anger mounted over 6% pay increases and the suspension of overtime pay.

Meanwhile, Bulelani Ngcuka, the national director of prosecutions, yesterday urged prosecutors to "re-evaluate their tactics".

He warned that "the only people who will adversely suffer from such tactics are the victims of crime".

A statement from Mr Ngcuka's office said while the director "understands and sympathises with the prosecutors, the prosecution service cannot afford disruptions, particularly in areas like the Western Cape".

Mr Ngcuka met union representatives in Pretoria yesterday and undertook to facilitate a meeting between the relevant government officials, including the Finance Minister, and a delegation of prosecutors.

However, Nupsa's Eduard van der Spuy said his organisation may attempt to obtain a court interdict next week to force the department to resume overtime pay.

Nupsa declared a labour dispute with the department over its failure to negotiate with prosecutors on the increases and the suspension of overtime pay.

Mr Van der Spuy said "Papers have been served in connection with

the dispute and also in connection with the Labour Relations Act

"The department has 48 hours to respond. If we have had no response by the close of business on Tuesday, we will seek an interdict."

He warned that the stoppage of overtime work by prosecutors "will lead to chaos in the courts".

Prosecutors were preparing their cases during office hours, which meant trials were starting later in the day and fewer cases were being heard, Mr Van der Spuy said.

Cases were being postponed for up to five months in Johannesburg and to the end of the year in Pretoria, he said.

Western Cape prosecutors have been promised overtime pay for after-hours bail applications.

Mr Van der Spuy said. "Nupsa strongly discourages members in other regions to perform .. after-hours bail applications."

"If the regional offices in other provinces also consent to the payment of overtime for these services, the union will reconsider its position on these issues."

Mr Van der Spuy denied that his organisation's members had embarked on a work-to-rule, because that would be "industrial action" and, as providers of an "essential" service, prosecutors could not embark on such action.

"We are just not performing overtime work," he said.

Simon Meyer, the Western Cape representative for non-unionised prosecutors, said. "The work-to-rule in this region is going very well."

"In Clanwilliam, the sole prosecutor has started his work-to-rule."

Nupsa members have been sent ballot papers to assess the preparedness of prosecutors to embark on illegal protest action.

By Wilson Ramothata

Prosecutors slammed for obstructing justice

THE work-to-rule industrial action by members of the National Union of Prosecutors of South Africa continued to disrupt courts around the country.

The union intensified its action on Friday because it felt its members were being victimised for not working overtime.

Thousands of prosecutors at Johannesburg, Durban, and Pretoria courts have been engaged in industrial action since the beginning of December due to a wage dispute.

The prosecutors are demanding wage increases to make up for lost overtime pay which was suspended by the justice ministry.

The union has rejected a six per cent wage increase announced by Jus-

Justice Minister Dullah Omar in December.

Soweto Protea Court senior prosecutor Adrian Lamprecht told *Sowetan* that the strike by Nupsa members was affecting court proceedings because they were now processing less cases a day -- resulting in longer court rolls.

"On average, prosecutors start to work between 10 and 11am instead of

at 9am," said Lamprecht.

A spokesman for the Ministry of Justice Mr Paul Setsetse said the ministry would in the next few days set up a forum consisting of prosecutors and state advocates aimed at solving the dispute.

Law Society of South Africa chairman Willie Seriti strongly condemned the strike.

He said in a statement that the

action was causing a breakdown in the maintenance of justice and inadvertently denying justice to the people who needed it most.

These sentiments were echoed by his co-chair Esmé du Plessis.

"We have no quarrel with the prosecutors in their quest for better salaries but it is of our view that they should negotiate without holding the justice system to ransom," said Seriti.

Seriti said the society noted with concern that any breakdown of the court system affected attorneys who had court practices.

He conceded that once the problem between the prosecutors and the Government was solved, attorneys could help to reduce the backlog by offering their services for the same pay.

However, national director of public prosecution spokesman Siphon Ngeema said the industrial action by Nupsa members was not as effective as reported.

He described it as isolated work-to-rule action in some parts of the country. Nupsa has rejected overtime work and after-hours bail applications except in the Western Cape which has promised to pay prosecutors for such services.

Transvaal Law Society opts to revamp council

THE Law Society of the Transvaal has decided to establish a new transformed council on which the Black Lawyers' Association and the National Association of Democratic Lawyers would each have representation of 25% — or five members.

The society said yesterday that of the other 10 members on the council, four were from Gauteng, and two each from the Northern, North West and Mpumalanga provinces.

"This development follows a milestone in the history of the organised legal profession reached on March 16 1998 when the Association of Law Societies was transformed into the Law Society of South Africa, incorporating representatives of the (two associations)," the society's news release stated.

All indications were, according to the statement, that the development had been received positively and that the Law Society of the Transvaal and the profession would benefit from the enlargement of the council.

— Sapa.

BD 18/1/99

(252)

Former officer applies for amnesty

Stephané Bothma
Sapa and AENS (2/2)

PRETORIA — Former security police captain Michael Bellingan, serving 25 years in jail for bludgeoning his wife to death, has applied for amnesty for the murder, claiming he had to silence her as she was about to disclose information that would have compromised the police.

His application will be heard in Pretoria next week.

Janine Bellingan, the mother of Bellingan's two children, was murdered in September 1991. Her body was found at the couple's home in Sandton.

She had been strangled and bludgeoned to death, and a break-in was simulated to create the impression that she had been killed by robbers.

Bellingan was arrested and sentenced to 25 years' imprisonment by the Johan-

nesburg High Court in 1995.

According to the commission, Bellingan admits to the murder in his amnesty application, saying that his wife was about to expose, among other things, an elaborate scam in which he and other senior police officers were involved.

The scam involved the interception of large sums of money intended for the National Union of Metalworkers of SA.

Meanwhile, the applications for amnesty by six former hostel dwellers who have admitted taking part in the Boipatong massacre in Vanderbijlpark in 1992 could be struck from the roll if they cannot explain their failure to appear at an amnesty hearing yesterday.

The commission has appealed to victims of a bus attack in Heidelberg on September 28 1992 to come forward before the amnesty hearings start in Nelspruit, Mpumalanga, next month.

20 19/11/99

Tayn Lamberli
and Sapa

THE justice department denied claims yesterday that a "strike" by awaiting trial prisoners protesting against the public prosecutors' work-to-rule action had affected court proceedings.

Justice spokesman Paul Setsetse said the courts were operating as normal, despite national action by the SA Prisoners' Organisation for Human Rights.

The organisation's president, Golden Miles Bhudu, claimed awaiting trial prisoners around the country were refusing to go to court and were not accepting meals yesterday.

Although, there were prisoners who were not on strike, Bhudu could not give the numbers of prisoners who were on strike.

The prisoners decided to protest against the work-to-rule action adopted by public prosecutors last month because it was causing delays in prisoners' trials.

However, the prisoners' organisation at the time recognised that prosecutors had the right to air their grievances about their salaries and working conditions, and hoped

Courts are operating despite 'strike' by prisoners, says justice department

the prisoners' strike would compel Justice Minister Dullah Omar to resolve the dispute, Bhudu said.

The prosecutors are protesting against a 6% salary increase given to them by Omar after he cut their income by an estimated 30% by suspending last year the payment of overtime work done.

Prisoner organisation deputy president Derrick Mduli said awaiting trial prisoners were directly affected by the prosecutors' action because many inmates had been in detention for a long time without a speedy trial or the option of bail.

The prosecutors' action was exacerbating an already serious situation, Mduli said.

Correctional Services spokesman Barry Eksteen said there had been no reports of violence or strikes in the prisons.

Bhudu said he had visited the Johannesburg Magistrates' Court

yesterday where the holding cells for prisoners were empty.

He said the courts had come to a standstill and the prosecutors were picketing outside the courthouse.

Setsetse said although the constitution required that prisoners be given a speedy trial, this could not happen if they refused to go to court.

"The prisoners will be kept in custody until they decide to go to court. They are denying themselves justice by striking," Setsetse said.

Mduli said the strike would continue today.

However, KwaZulu-Natal prisons were not affected, provincial correctional services spokesman Belene Graham said yesterday.

Graham said all awaiting-trial prisoners in KwaZulu-Natal had eaten yesterday morning.

"The situation is normal in our prisons in the province and some awaiting-trial prisoners have been to

courts," she said.

Prison organisation spokesman Derrick Mduli, however, said the majority of awaiting-trial prisoners at Eshowe and Westville prisons had refused to go to court yesterday.

He said it was difficult to get more details about the action because some prison officials were not willing to expose the situation in the prisons.

Mduli said no-one would be forced to join the "strike".

Meanwhile, about 120 public prosecutors carrying placards calling for salary increases held a lunchtime protest outside the Johannesburg Magistrate's Court yesterday, Network Radio News reported.

The prosecutors said the country's justice system would explode if salary problems were not resolved.

They called on President Nelson Mandela to instruct Justice Minister Dullah Omar to pay them full salaries

instead of "peanuts". We are disappointed by the fact that magistrates earn double our salaries with the same qualifications as us," a spokesman for the prosecutors said.

Many prosecutors are refusing to work overtime and cases are being delayed, clogging the court roll and the criminal justice system.

The Federation of Unions of SA, of which the Union of State Prosecutors is a member, on Thursday informed the National Economic Development and Labour Council (Nedlac) that it had planned protests over the poor state of the country's justice system.

The law requires that Nedlac attempts to resolve the problem, and that it must convene a meeting within 14 days to do so.

Nedlac spokesman Jennifer Wilson said yesterday that Justice Minister Dullah Omar had not had time to respond to the request for a meeting.

"Apparently today was his first day back at the office after the festive season, so we should be getting a response soon," Wilson said.

Justice department spokesman Paul Setsetse could not be reached for comment.

(2522)

BB 19/1/99

Towards transforming law society

By Vivian Warby

The inclusion of Black Lawyers Association (BLA) and National Association of Democratic Lawyers (Nadel) members in the new transformed council of the Law Society of the Transvaal was "the tip of the transformation iceberg", BLA president Jake Moloï said last week.

The BLA and Nadel will in future have 25% representation - five members each - on the new council.

Of the other 10 members, four are from Gauteng and two each from the Northern, North-West and Mpumalanga provinces.

Moloï said the association was happy that the society had put into effect an agreement reached early last year.

It would afford both associations the opportunity to effectively address the serious issues relating to the restructuring of the legal system and legal institutions.

Beginning of bigger things

"We have a foreign legal system yet we are an African country

"We would like to see a blend of the good things in the present system with that of an indigenous legal system which would result in a legal system relevant to this country," he said.

The Law Society itself also

had to be overhauled, he said

Moloï said the BLA had set itself the task of addressing the issues relating to restructuring and would be looking at education issues in the legal system.

The representation of the associations on the new council follows a milestone in the history of the organised legal profession reached last year when the Association of Law Societies was transformed into the Law Society of SA, incorporating representatives of the BLA and Nadel.

"All indications are that the development has been received positively and that the Law Society of the Transvaal and the profession will benefit from the enlargement of the council," said Emil Boshoff, president of the Law Society of the Transvaal.

8/11/99 (252)

Jo'burg prosecutors protest

~~252~~ (252) *seweta* 19/1/99
ABOUT 120 public prosecutors carrying placards calling for salary increases held a lunchtime protest outside the Johannesburg Magistrate's Court yesterday

The prosecutors said the country's justice system would come to a halt if salary problems were not resolved

They called on President Nelson Mandela to instruct Justice Minister Mr Dullah Omar to pay them full salaries instead of "peanuts"

"We are disheartened by the fact that magistrates with the same qual-

ifications as ours earn double our salaries," a spokesman for the prosecutors said

Prosecutors throughout the country began a work-to-rule after the justice ministry stopped overtime pay last year and awarded them a six percent salary increase in December, which they said was less than what they had been promised

Many prosecutors are refusing to work overtime and cases are being delayed, clogging the court roll and the criminal justice system

The Federation of Unions of

South Africa, of which the Union of State Prosecutors is a member, last Thursday informed the National Economic Development and Labour Council (Nedlac) that it was planning protests over the poor state of the country's justice system

The law requires that Nedlac attempts to resolve the problem and that it must convene a meeting within 14 days to do so

Nedlac spokeswoman Jennifer Wilson said yesterday Omar had not yet responded to the request for a meeting - *Sapa*

Prosecutors' unions meet to consider next move

Taryn Lamberti (252)

THE unions representing public prosecutors and state advocates will consult their lawyers on Saturday to decide on a course of action following the justice department's failure to respond to their demand for the reinstatement of overtime pay.

The unions gave the department until yesterday to reinstate the payments, which Justice Minister Dullah Omar scrapped last November.

Earlier this month the National Union of Prosecutors of SA and the Society of State Advocates declared a dispute with the department in terms of the Labour Relations Act.

The unions are likely to seek an

urgent interdict from the Labour Court next week to force Omar to reinstate the payments.

Omar has indicated through his spokesman Paul Setsetse that he would fight the prosecutors in court.

Setsetse said the prosecutors' case was not founded on sound legal grounds because payment for overtime was a "privilege not a right".

Omar's offer of a 6% pay increase to compensate for the cut in overtime pay has been referred to the Commission for Conciliation, Mediation and Arbitration by the unions who allege he never negotiated the increase with them.

Meanwhile, prosecutors around the country were refusing to work

overtime. The prosecutors have been preparing their cases during court hours, increasing the backlog of cases.

GETTING IT RIGHT

DUE to an editing error, the name of the author of the article "Euro raises critical legal questions" on yesterday's Perspectives page was omitted. It was in fact Jurgens Bezuidenhout, partner in law firm Jurgens, Nathan & Friedland.

BD 21/1/99

NATIONAL

**Pule Molebeledi
and Nomavenda Mathlane**

Buthlezi to sue the truth commission

DURBAN — Inkatha Freedom Party (IFP) president Mangosuthu Buthelezi announced yesterday that he was suing the truth commission, accusing it of going to the "desperate extreme" of "fabricating" evidence that he was involved in gross human rights violations.

Buthelezi said the commission had failed to provide evidence to support statements that he had been involved in human rights violations. The announcement came after senior IFP officials, together with high

ranking policemen, were implicated by an amnesty applicant, Andries Nosenga, in the June 1992 Boipatong massacre in the Vaal Triangle, which claimed the lives of more than 20 people.

In an affidavit handed to the commission's amnesty committee, Nosenga accused the police of supplying cassirs for the attack, which he said was ordered by senior IFP officials at the KwaMadala hostel in

the Vaal Triangle. Nosenga, who still has to appear before the committee, said the attack was planned at a meeting attended by Sgt Pedro Peens, a former member of the murder and robbery squad in the area, and IFP Gauteng leader Themba Khoza.

However, Khoza told a news conference in Johannesburg yesterday that although some IFP members had taken part in the massacre, the

attack had not been an IFP initiative. Khoza also denied allegations that he had had prior knowledge of the attack or that he had provided KwaMadala hostel inmates and IFP members with guns.

Nosenga's affidavit contradicts the version of events presented by 16 IFP members who are also applying for amnesty for the massacre. Nosenga claimed that after the attack Buthelezi gave a speech in Ulundi in which he thanked those who had taken part in it.

However, Buthelezi said yesterday he was disgusted that every time a murderer sought to ingratiate himself to the commission in order to obtain amnesty, "my name" is dragged in the mud.

Buthelezi denied ever congratulating anyone for any crime, "nor have I ordered, authorised, ratified or condoned any gross violations of

human rights".

Buthelezi said Nosenga's affidavit contradicted the evidence collected on the Boipatong case during the past five years. "The commission itself solicited (Nosenga's) affidavit rather than waiting for the applicant to come forward and, in doing so, ignored the applicant's own lawyer who was not informed or present when the affidavit was taken."

"No wonder that Nosenga stated what the biased commission has wanted to hear for so many years."

Commission spokesman Mdu Lembede said it had not yet received papers from Buthelezi's lawyers.

ET 20/11/99 (252)

Prosecutors interdict over pay

OWN CORRESPONDENT

DURBAN: Time is up for the department of justice. The National Union of Prosecutors of South Africa will apply for an urgent interdict today to compel the Justice Department to reinstate overtime pay for prosecutors.

Union president Eduard van der Spuy said yesterday the union had not received a response from the department.

The union would bring the application to the Labour Court in Pretoria, he said.

Prosecutors have refused to work overtime after pay for overtime, allowed as an interim measure to supplement "unprofessional" salaries, was scrapped at the end of November last year.

The 6% increase announced last month frustrated prosecutors and the work-to-rule spread throughout the country.

Prosecutors at the Johannesburg Magistrate's Court demonstrated this week.

Many courts have been starting late for the past month, as prosecutors restricted their preparation for

cases to their office hours.

Paul Setsetse, spokesperson for Justice Minister Dullah Omar, confirmed that the Justice Department had not responded to the dispute declared by Nupsa on Friday last week. He said it was the prosecutors' constitutional right to take legal action but that they were misguided. Overtime pay in special circumstances such as after-hours bail applications had not been scrapped, he said.

"The minister believes salaries must be improved but no promises are being made," Setsetse said.

Buthelezi vows to sue TRC over Boipatong claims

APC 20/1/99 (25A)

Durban - Inkatha Freedom Party leader and Home Affairs Minister Mangosuthu Buthelezi says he is suing the Truth and Reconciliation Commission over an affidavit by an amnesty applicant on the June 1992 Boipatong massacre.

The affidavit was made by Andries Matanzima Nosenga, 25, who handed in a application separately to 16 former hostel dwellers who have also applied for amnesty for the incident.

The amnesty hearing is being held in Vanderbulpark in the Vaal Triangle.

In a statement today, Mr Buthelezi said, "The TRC itself solicited the affidavit rather than waiting for the applicant to come forward, and in doing so ignored the applicant's own lawyer, who was not informed or pre-

sent when the affidavit was taken." The IFP said it had information that the applicant had not himself applied for amnesty, but that the TRC approached him for a statement.

Mr Nosenga's affidavit implicated the police and senior IFP officials. He claimed he attended a rally in Ulundi about a month after the massacre during which Mr Buthelezi congratulated those who carried out the attack.

But Mr Buthelezi denied this. He had never congratulated anyone for any crime, nor had he authorised or condoned any gross violations of human rights.

Mr Buthelezi said "No wonder that (Mr)

Nosenga stated what the biased TRC has wanted to hear for so many years, namely allegations against me.

"My lawyers are suing the TRC because there is no evidence to support its statements that I was in any way involved in gross violations of human rights, and it seems that the TRC is now going to the desperate extreme of fabricating such evidence itself"

Mr Buthelezi said the TRC had nothing to do with a judicial process in which evidence and allegations could be tested and contradicted.

"Anybody can say what he or she wishes with impunity, especially if it is what the

TRC wants to hear. If anyone is serious about making allegations against me, he or she should have the guts and decency to do so in a court of law or outside the immunity granted by the TRC's hearings, where I can prove that he or she is a despicable liar."

TRC spokesman Mdu Lembede said Mr Nosenga's amnesty application was received by the TRC on August 25 1996. An affidavit dated June 1996 was attached to the application.

Mr Lembede said the IFP was represented at the amnesty hearing and lawyers were free to cross-examine Mr Nosenga.

All documents related to the Boipatong massacre were made public during a public hearing in Vanderbulpark in August 1998, Mr Lembede said. - Sapa



Buthelezi: firm stand

New version of massacre narrated

VANDERBIJLPARK — A dramatic new version of the events of the Boipatong massacre in the Vaal Triangle in June 1992 was given to the truth commission's amnesty hearing yesterday

A former inmate of KwaMadala hostel, who has admitted to being part of the attack on the Boipatong community, yesterday handed in a statement to the commission's amnesty committee implicating the police and senior Inkatha Freedom Party (IFP) officials

Andries Matanzima Nosenga, 25, handed in a separate amnesty application from those of 16 former hostel dwellers who have applied for amnesty for the massacre

Nosenga has appealed to the commission for protection because he claims he has received death threats. He has also asked to be kept in a different prison from the other applicants

The other applicants have repeatedly denied police involvement in the attack, and claim it was carried out because of attacks on them by residents of Boipatong. They have al-

so denied the involvement of senior IFP officials in the planning and execution of the attack

Nosenga claims he joined the IFP and moved into KwaMadala hostel after a fallout with African National Congress (ANC) members in Evaton in the Vaal Triangle

During the two years he spent at the hostel he was taught to use a firearm and was told to attack the nearby community of Boipatong, which was largely ANC-supporting

He said IFP Gauteng leader Themba Khoza was a frequent visitor to the hostel, and played a major role in planning the Boipatong massacre

Describing a meeting at the hostel shortly before the massacre, Nosenga said Khoza and former murder and robbery police sergeant Pedro Peens were present

"During the meeting we were told to go to Boipatong and kill the dogs. Khoza said a certain insect should be killed." Hostel leaders at the meeting agreed that the residents should be killed because they were not human

Peens agreed to supply police Casspir vehicles for the attack

Nosenga said that during the night of the attack he saw about four Casspirs in a field and also saw Peens shooting at residents. He killed eight or nine people himself. Peens has been subpoenaed to testify at the hearing, and is expected to appear today

Nosenga said Khoza returned to the hostel on the following day to collect the weapons used in the attack, and praised the people who took part. About a month later he attended a rally held in Ulundi in KwaZulu-Natal to celebrate the success of the attack

"The leader of the IFP (Mangosuthu) Buthelezi held a speech in which he thanked us for the good job we carried out in Boipatong."

The massacre took place on June 17 1992 after tension between IFP-supporting hostel dwellers and the residents of the Boipatong township erupted into violence. The heavily armed party of IFP supporters entered the township and carried out random attacks on residents

The hearing resumes today — Sapa

(252)

BD 20/1/98

last night It is understood that gov- came to a halt For the first time in US dollar on Monday

Omar to oppose urgent interdict by prosecutors

Taryn Lamberti

JUSTICE Minister Dullah Omar said yesterday he would oppose a Labour Court application for an urgent interdict by prosecutors and state advocates protesting against his offer of a 6% pay increase and decision to scrap overtime pay.

Omar's spokesman Paul Setsetse said the minister accepted the move by the National Union of Prosecutors of SA (Nupsa) and the Society of State Advocates to seek the interdict in a bid to force him to restate the payment of overtime which was suspended last month.

Nupsa president Eduard van der Spuy said if Omar had not responded to the union's demand for the restatement of overtime payment by today, the union would take its case to the Labour Court.

Setsetse said the legal action sought by the unions was within their constitutional rights, even though their demands had no basis in law.

The prosecutors recently adopted work-to-rule industrial action to protest against Omar's

BD20/1/99(252)
decision to scrap their overtime payment, which they said had led to an effective 30% cut in their income.

Omar's offer earlier of a 6% pay rise this month did more to fuel prosecutors' dissatisfaction than to improve matters.

The situation was exacerbated last week when the department gave the state advocates' 6% salary increase to state attorneys' by mistake, caused by a computing error.

State attorneys defend government while state advocates prosecute in the high court.

The union's second complaint, that Omar did not negotiate the 6% increase with them, would be heard by the Commission for Conciliation, Mediation and Arbitration (CCMA), Van der Spuy said. Nupsa had requested a date for the hearing from the CCMA but had not received one by yesterday.

The prosecutors served court papers on Omar on Monday, giving him 48 hours to respond.

Setsetse said employees did not have the right to demand payment for overtime because it was "a privilege, not a right".

Taryn Lambert
and Sapa

THE justice department denied claims yesterday that a "strike" by awaiting trial prisoners protesting against the public prosecutors' work-to-rule action had affected court proceedings.

Justice spokesman Paul Setsetse said the courts were operating as normal, despite national action by the SA Prisoners' Organisation for Human Rights.

The organisation's president, Gofden Miles Bhudu, claimed awaiting trial prisoners around the country were refusing to go to court and were not accepting meals yesterday.

Although there were prisoners who were not on strike, Bhudu could not give the numbers of prisoners who were on strike.

The prisoners decided to protest against the work-to-rule action adopted by public prosecutors last month because it was causing delays in prisoners' trials.

However, the prisoners' organisation at the time recognised that prosecutors' had the right to air their grievances about their salaries and working conditions, and hoped

Courts are operating despite 'strike' by prisoners, says justice department

the prisoners' strike would compel Justice Minister Dullah Omar to resolve the dispute, Bhudu said.

The prosecutors are protesting against a 6% salary increase given to them by Omar after he cut their income by an estimated 30% by suspending last year the payment of overtime work done.

Prisoner organisation deputy president Derrick Mdululi said awaiting trial prisoners were directly affected by the prosecutors' action because many inmates had been in detention for a long time without a speedy trial or the option of bail.

The prosecutors' action was exacerbating an already serious situation, Mdululi said.

Correctional Services spokesman Barry Eksteen said there had been no reports of violence or strikes in the prisons.

Bhudu said he had visited the Johannesburg Magistrates' Court

yesterday where the holding cells for prisoners were empty.

He said the courts had come to a standstill and the prosecutors were picketing outside the courthouse.

Setsetse said although the constitution required that prisoners be given a speedy trial, this could not happen if they refused to go to court.

"The prisoners will be kept in custody until they decide to go to court. They are denying themselves justice by striking," Setsetse said.

Mdululi said the strike would continue today.

However, KwaZulu-Natal prisons were not affected, provincial correctional services spokesman Belene Graham said yesterday.

Graham said all awaiting-trial prisoners in KwaZulu-Natal had eaten yesterday morning.

"The situation is normal in our prisons in the province and some awaiting-trial prisoners have been to

courts," she said.

Prison organisation spokesman Derrick Mdululi, however, said the majority of awaiting-trial prisoners at Eshowe and Westville prisons had refused to go to court yesterday.

He said it was difficult to get more details about the action because some prison officials were not willing to expose the situation in the prisons.

Mdululi said no-one would be forced to join the "strike".

Meanwhile, about 120 public prosecutors carrying placards calling for salary increases held a lunchtime protest outside the Johannesburg Magistrate's Court yesterday, Network Radio News reported.

The prosecutors said the country's justice system would explode if salary problems were not resolved.

They called on President Nelson Mandela to instruct Justice Minister Dullah Omar to pay them full salaries

instead of "peanuts. We are disheartened by the fact that magistrates earn double our salaries with the same qualifications as us," a spokesman for the prosecutors said.

Many prosecutors are refusing to work overtime and cases are being delayed, clogging the court roll and the criminal justice system.

The Federation of Unions of SA, of which the Union of State Prosecutors is a member, on Thursday informed the National Economic, Development and Labour Council (Nedlac) that it had planned protests over the poor state of the country's justice system.

The law requires that Nedlac attempts to resolve the problem, and that it must convene a meeting within 14 days to do so.

Nedlac spokesman Jennifer Wilson said yesterday that Justice Minister Dullah Omar had not had time to respond to the request for a meeting.

"Apparently today was his first day back at the office after the festive season, so we should be getting a response soon," Wilson said.

Justice department spokesman Paul Setsetse could not be reached for comment.

(252)

Bd 19/1/99

Judge angered by absence of applicants

(252)

Sowetan 19/1/99

THE applications for amnesty by six former hostel dwellers who have admitted taking part in the Boipatong massacre in Vanderbijlpark in 1992 could be struck from the roll if they cannot explain their failure to appear at an amnesty hearing yesterday.

The six, who have applied to the Truth and Reconciliation Commission for amnesty for their part in the attack, were due to appear at the hearing in Vanderbijlpark yesterday together with 10 other applicants, but failed to arrive.

The hearing began in July last year but had to be postponed to this time when the committee ran out of time to hear the testimony of all 16 applicants.

Amnesty committee chairman Judge Sandile Ncgobo told the

hearings that their applications would be struck from the roll unless they arrived today and offered acceptable reasons for their failure to appear.

The six are Moses Mthembu, Siphon Buthelezi, Petrus Mdimiso, Sibongeleni Mkhize, Richard Dlamini and Paulus Mbatha.

Jail sentences

Four other applicants who are presently serving jail sentences for their part in the massacre also did not appear at yesterday's hearing.

They are Timothy Mazibuko, Sonny Mkwanazi, Tebogo Mazibuko and Jack Mbele.

According to TRC evidence leader Paddy Prior, prison authorities had not complied with a request to transfer them from prison to the

hearing

Ncgobo also asked that an explanation for this oversight be sought. He said if it was found that a prison official had not done his duty, this would be intolerable.

The remainder of the 16 former hostel dwellers who have applied for amnesty for the massacre were present at yesterday's hearing.

The massacre took place on June 17 1992 after tension between Inkatha Freedom Party-supporting hostel dwellers and the mostly African National Congress-supporting residents of Boipatong township erupted into violence.

A heavily-armed party of IFP supporters entered the township at night and carried out attacks on residents, resulting in 46 people being killed and 21 injured - Sapa

Buthelezi 'suing TRC over solicited affidavit'

DURBAN: Inkatha Freedom Party leader Mangosuthu Buthelezi, who is also Home Affairs Minister, says he is suing the Truth and Reconciliation Commission over an affidavit by an amnesty applicant relating to the June 1992 Boipatong massacre.

The affidavit was made by Andries Matanzima Nosenga, 25, who handed in a separate application to that of 16 former hostel dwellers who have also applied for amnesty for the massacre. The amnesty hearing is being held in Vanderbijlpark.

In a statement yesterday, Buthelezi said: "The TRC itself solicited the affidavit rather than waiting for the applicant to come forward, and in doing so ignored the applicant's own lawyer, who was not informed or present when the affidavit was taken."

The IFP said it had information that the applicant had not applied for amnesty, and the TRC approached him for a statement.

Nosenga's affidavit implicated police and senior IFP officials. He claimed he attended a

rally in Ulundi about a month after the massacre, during which Buthelezi congratulated those who carried out the attack.

Buthelezi's statement denied this. He said he had never congratulated anyone for any crime, nor had he authorised or condoned any gross violations of human rights.

"No wonder that Nosenga stated what the biased TRC has wanted to hear for so many years, namely allegations against me."

TRC spokesperson Mdu Lembede said Nosenga's amnesty application was received by the TRC on August 25, 1996. Lembede said an affidavit was attached to the application Nosenga made from Leeuwkop prison. The affidavit was dated June 1996.

Lembede said the IFP was represented at the amnesty hearing and lawyers were free to cross-examine Nosenga on his affidavit.

All documents relating to the Boipatong massacre were made public during a public hearing in Vanderbijlpark in August 1998, Lembede said. — Sapa

66/11/99

Prosecutors head for legal row with Omar

(2/17) Star 2/11/99
BY CATHY POWERS

The Justice Department said yesterday it had responded to state prosecutors' salary dispute, but the National Union of Prosecutors of SA said court action against the department was still on the cards because it had not received a response before yesterday's 1pm deadline.

The union planned to apply for an urgent interdict to compel the department to reinstate overtime pay, which was scrapped last month.

The union also planned to take the department to the Commission for Conciliation, Mediation and Arbitration (CCMA) over its "failure" to negotiate the 6% pay increase awarded to prosecutors last month.

Paul Setsetse, spokesperson for Justice Minister Dullah Omar, said the department had responded to the two issues.

He said the union was informed in October that overtime would be scrapped as the system was not financially viable and had been abused.

Setsetse also said the department had fully consulted the union about the 6% salary increase. "Representations to the Department of State Expenditure were based on input from the union," Setsetse said.

But the union's legal representative, Cecile Botha, said she had received no reply from the Justice Department by 4 20pm yesterday. The department had had until 1pm to respond.

Botha said two possible dates for a CCMA hearing had been reached - January 26 or 29. These had to be confirmed by the Justice Department.

She was unable to say when the union would apply for the interdict. "They didn't reinstate overtime pay before 1pm. The next step is to apply for the urgent interdict," she said.

Earlier, the union had said it would lodge an interdict yesterday.

Prosecutors at the country's major centres have refused to work overtime since last month, after the cash-strapped Justice Department decided to do away with overtime pay.

This has led to court delays and a backlog of cases as prosecutors prepare their cases only during office hours.

Durban prosecutors' representative Mike Vehbi said prosecutors there would take to the streets today with placards, airing their grievances.

The National Association of Democratic Lawyers said the public was the loser in the dispute.

Buthlezi suing TRC over claims

(259)

Sowetan 21/1/99

INKATHA Freedom Party leader Chief Mangosuthu Buthelezi says he is suing the Truth and Reconciliation Commission over an affidavit by an amnesty applicant on the June 1992 Boipatong massacre

The affidavit was made by Andries Matanzima Nosenga (25) who handed in a separate application to 16 former hostel dwellers also applying for amnesty for the massacre

The amnesty hearing is being held in Vanderbijlpark in the Vaal Triangle

In a statement yesterday, Buthelezi said: "The TRC itself solicited the affidavit rather than waiting for the applicant to come forward, and in doing so ignored the applicant's own lawyer, who was not informed or present when the affidavit was taken"

The IFP said it had information that the applicant had not applied for amnesty, and the TRC approached him for a statement.

Nosenga's affidavit implicated the police and senior IFP officials. He claimed he attended a rally in Ulundi a month after the massacre, during which Buthelezi congratulated those who carried out the attack.

Buthelezi denied this. He said he had never congratulated anyone for any crime, nor had he authorised or condoned any gross violations of human rights.

"No wonder that Nosenga stated what the biased TRC has wanted to hear for so many years, namely allegations against me

"My lawyers are suing the TRC because there is no evidence to support its statements that I was in any way involved in gross violations of human rights, and it seems that the TRC is now going to the desperate extreme of fabricating such evidence itself."

The TRC had nothing to do with a judicial process in which evidence and allegations could be tested

"Anybody can say what he or she wishes with impunity, especially if it is what the TRC wants to hear

"If anyone is serious about making allegations against me, he or she should have the guts and decency to do so in a court of law or outside the immunity granted by the TRC's hearings, where I can prove that he or she is a despicable liar."

TRC spokesman Mr Mdu Lembede said Nosenga's application was received on August 25, 1996

The affidavit was dated June 1996 - Sapa



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15 mg tar 1,4 mg nicotine As per Gover



38 A
Union sides
with justice
minister in
wage row

(252) (18)
Taryn Lambert

The National Education, Health and Allied Workers' Union — which represents about a quarter of the public prosecutors in SA — has sided with Justice Minister Dullah Omar in a wage dispute, saying the court action by other unions was misguided. Union president Vusi Nhlapo said the National Union of Prosecutors of SA (Nupsa) — which represents about half the prosecutors in the country — and the Society of State Advocates, were mistaken in their decision to take Omar to court to force him to reinstate overtime payments for prosecutors and state advocates.

Nhlapo said employees could not force their employers to pay them for overtime, a sentiment expressed by Omar earlier this week.

BD 22/1/99
He said his union would meet National Director of Public Prosecutions Bulelani Ngcuka this afternoon to discuss a long-term solution to the salary crisis, which has resulted in prosecutors and state advocates embarking on a work-to-rule action.

The "go-slow" action followed the minister's announcement in November last year that prosecutors and state advocates would no longer receive overtime payment. Omar said prosecutors would be compensated for the overtime cut with an increase. However, his announcement of a 6% pay rise last month was met with widespread dissatisfaction.

In December 1997, a similar cut in overtime payment resulted in work-to-rule action and Omar finally reinstating the overtime payments.

Nupsa and the Society of State Advocates are likely to seek an urgent interdict in the Labour Court next week to force Omar to reinstate the payments.

Nhlapo said prosecutors were the only public servants he knew of who did not have bargaining powers because, in terms of legislation, the justice minister determined what they should earn.

Prosecutors have complained magistrates earn far higher salaries than they do, despite the fact that they have the same qualifications. Nhlapo said in countries such as the US and Germany prosecutors were paid more than magistrates because they had heavier workloads.

"The work of prosecutors is critical because they are the ones that have to bring the criminals to book," Nhlapo said.

Prosecutors take wage dispute a step further

(252)
MOTSHIDISI MOKWENA

PROSECUTORS are on the march Today about 150 of them, all disgruntled, are determined to march to the offices of the Regional Department of Justice in the city to hand over a memorandum to the regional head, Hishaam Mohamed.

The march, which is organised by the National Union of Prosecutors of South Africa (Nupsa), follows more than a week-long work-to-rule action by about 95% of prosecutors.

They had followed their Gauteng and KwaZulu-Natal counterparts in joining the go-slow.

The work-to-rule action by the legal officers was in opposition to the 6% salary hike by the Department of Justice.

Spokesperson for Nupsa, Simon Meyer, said permission had been granted for the march.

He said the march was meant to put forward prosecutors' grievances and to impress upon the department that concrete steps need to be taken by the ministry to address their grievances.



PREPARED: Hishaam Mohamed of the regional Department of Justice



OVER TO YOU: National Director of Prosecutions Bulelani Ngcuka.

ET 22/1/99

"The Department of Justice and all the role players have not been effective at all in addressing this salary question," Meyer said.

"And we are hoping that today's march will formally make the department aware of the urgency of the matter."

Meyer argued that the Justice Department's claim that there was not enough money to give prosecutors more than a 6% salary increase or to pay them overtime was unacceptable.

"This sentiment does not go well with us because the salary issue has been going on since 1996," he said.

He said the matter could have been resolved sooner.

He added that the justice department said it was going to form consultative forums that would address the issue but that prosecutors were not consulted on this.

Meyer also added that the work-to-rule action has meant that most

cases were remanded because prosecutors had been working only 8 1/2-hour days and not outside their working hours.

He acknowledged that the action has had a negative effect on the courts.

"It has meant that awaiting trial prisoners have had to wait longer to get their cases heard, but we had to go on a go-slow because we are tired of promises," Meyer said.

The prosecutors will be marching from 1pm from the Grand Parade to the regional head's office or the steps of Parliament.

Prosecutors were requested to dress in their court cloaks and to carry placards.

Mohamed confirmed yesterday that he would be presented with the memorandum.

He said the document would be forwarded to the office of the National Director of Prosecutions, Bulelani Ngcuka.



DISILLUSIONED: Oupa Mareletse has nothing to show for the trauma he carries from the apartheid years. Photographs: CATHY PINNOCK

Apartheid victims unhappy with TRC

Now they are wary of government's plans to look into their plight

By PAUL EKSTEEN

A recent study by the Medical Research Council has highlighted post traumatic stress disorder as one of the more deadly results of apartheid. But, while the proposed plans to heal the wounds of victims are welcome, the intention could already have been dealt a body blow by what some are calling the "incompetencies" of the Truth and Reconciliation Commission.

According to Mary Robertson, co-ordinator of the trauma clinic at the Centre for the Study of Violence and Reconciliation in Johannesburg, a new practical approach relevant to Africa, and not based solely on a Western model, is what is needed to deal successfully with the psychological trauma that arose during the TRC hearings.

The centre is preparing for a conference next week involving TRC commissioners and apartheid victims. The aim of the conference is to come up with "practical strategies to deal with the issues", says Robertson.

But, in the end, it is the walking wounded, the people abused by the oppressive apartheid system, who will be the judges.

And, judging by their treatment from the TRC, it will be a while before they are convinced that the next helping hand promised is not just a lot of hot air.

Due to the victims' limited status in society, their stories will continue to go largely unnoticed, and yet the scars, both physical and mental, which so vividly haunted them through the atrocities of the apartheid era continue to do so today.

Oupa Mareletse (47) sits pensively, deep concentration etched into his face, as the creases on his brow gradually become more pronounced.

Mareletse was arrested during a riot in 1984 and charged with arson, malicious damage to property and murder. There were 13 charges in all.

He had to endure 18 months of detention before his case went to trial, and was then sentenced to three years' jail.

What made his brush with the apartheid police even more unbearable was that his body was riddled with shotgun pellets during the riot, and his captors did not allow him to receive medical assistance.

He recalled "I had bad wounds. They only gave me pain tablets, saying that the government had no money to take me to hospital."

Mareletse's anger is apparent in his hand gestures as he explains his ordeal.

He is a father of five and was released from prison a broken man. His wife had left him while he languished behind bars. To make matters worse, lack of medical attention in prison left him with a badly damaged left arm, and a future of unemployment.



FAMILY TRAGEDY Happy Sefume was beaten by the police and lost two brothers due to political violence.

"I used to work as a driver. But now, because of the pellets, my left arm doesn't work anymore," he said. It is evident that his mental trauma needs urgent attention.

Until three months ago, the pellets were still lodged in Mareletse's body, and it was only through the help of the Khulumani Support Group, a survivor support

*"I had bad wounds
They only gave me
pain tablets
saying there was no
money for hospital"*

organisation established in 1995, that Mareletse was able to have the pellets surgically removed.

"If it were not for them I wouldn't be here," he said gratefully. However, four pellets in positions too delicate to operate on still remain as physical reminders of what happened to him.

Any hopes Mareletse had of being compensated in

some way by the TRC have quickly been relegated to fantasy, he believes. After submitting his statement to the TRC, he was left high and dry. Any knowledge of the existence of the statement was denied, and as a result he was unable to testify before the commission.

"I gave a statement but nothing has taken place. I have made inquiries and affidavits, and still nothing has happened. I even phoned Cape Town but the man there said there is nothing," he said, shaking his head in disbelief.

It is therefore no wonder that Mareletse has little faith in the government's plans to treat post traumatic stress disorder. "I'm not sure (how well the government can implement the programme) because I still carry pellets around with me," he said.

According to Duma Kumalo, a national fieldworker for the Khulumani Support Group, close to 700 people have passed through the group's doors in the Vaal area alone, and many of these cases bear similarities to Mareletse's.

"I admire what the TRC has done. Today they (the people) know exactly what happened during apartheid. On the same side, it has let a lot of people down."

Miriam Mosoetsa can relate to that. Her husband, along with his brother, was killed in the Boipatong massacre in the Vaal Triangle in June 1992.

Mosoetsa brought her husband's body back to Sebokeng to be buried, and has sought reparation from the TRC, only for her situation to turn sour once more. After appearing before the TRC, Mosoetsa was classified as an eyewitness - not as a victim, as submitted in her statement.

"It was painful. To me, it was like justice will never be done. I was victimised for a second time," she said, tears streaming down her cheeks.

Classification as an eyewitness rather than as a victim makes Mosoetsa ineligible for reparation, a fact which has killed off the trust she had in the TRC, and has also forced her to relive her painful past.

"I trusted the TRC, but now I have nowhere to go. I don't know what to do. Even yesterday, one of my children wanted to know what happened to the forms for reparation. I wondered why my kids asked this question. I had never told them about the reparation forms. So I decided to tell them. I asked them to come to the TV, so that they could see what was going on on the TV. It was too difficult to say," she stated.

Behind her, a portrait of President Nelson Mandela hung proudly, although, on this occasion, his charismatic smile did little to warm the hearts of those present.

For Mosoetsa there are no words to describe the

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FEELS LET DOWN: Miriam Mosoetsa has a portrait of Nelson Mandela in her house but says she has lost her trust in the country's decision-makers

proposed treatment policy on post-traumatic stress disorder, so diminished is her trust in the country's decision-makers

For her there are more important things to take care of "I'm running short of words I don't know what to say, because I have lost trust. I want to accept what has happened to me. But the most important thing is to look after my kids."

Happy Sefume's first name could not be more ironic: life has been everything but happy for this 30-year-old Sharpeville mother of two. Her troubles started in 1992 when, after continuous harassment by the police, she was beaten and kicked in the stomach

"The police beat me on April 4 1992 They had been harassing us for some time. They came at night when we were asleep, beating us, looking for guns in the house. They kicked me in the stomach and said they wanted my brother Lucky They said he had guns," she recalled, her eyes never straying from the surface of the table.

From then on, Happy's life spiralled downwards In 1993 her brother Daniel was necklaced in Sharpeville.

He was accused of being an informer.

Two years later, her brother Lucky was stoned and shot to death by people she claims were in cahoots with the police. Both brothers were active ANC Youth League members.

To add to her troubles, Happy experienced constant bleeding after being kicked, an affliction which continues to plague her nearly seven years later

In his capacity as a field worker for Khulumani, Duma Kumalo has seen both the good and bad sides of the TRC, and the stage has been set for others trying to heal the wounds of victims In his view, it all comes down to a question of money

"We hope to see them (the government) implementing some of the things they propose. We hope the funds won't be misused.

"The TRC had a good budget, but it did not reach out to all the people. They (the victims) were victimised for a second time. They need to be reaching the really needy people who have been affected by this," Kumalo said.

It was painful. It was like justice will never be done. I was victimised for a second time

CCMA to hear prosecutors' case

BD 26/1/99

(157) (252)

Taryn Lamberti

UNIONS representing public prosecutors and state advocates are to take the justice department to the Commission for Conciliation, Mediation and Arbitration (CCMA) on Friday this week, despite yesterday's agreement between the parties

Society of State Advocates of SA chairman Retha Meintjes said the unions' case would still be heard at the CCMA, although Justice Minister Dullah Omar guaranteed cash-strapped prosecutors yesterday that he would "make every effort" to provide them with interim financial relief

Omar's guarantee follows his announcement in November last year that prosecutors would no longer be paid for overtime work

Although no figures were mentioned yesterday, Omar said he would speak to the relevant ministers in an

effort to secure more money for the prosecutors

He said their salaries would not be formally reviewed until June

In return, the prosecutors agreed to recommend that their members suspend their work to rule

Four unions agreed to recommend this to their members, but the National Union of Prosecutors of SA (Nupsa) said it could not undertake to do this without consulting its membership

The agreement was reached at a meeting called by Omar in Pretoria attended by the five unions representing prosecutors and state advocates and national director of public prosecutions Bulelani Ngcuka

At issue was the wage dispute which has resulted in almost two months of working to rule, with prosecutors refusing to prepare cases after hours because they were not being paid for overtime work

The prosecutors were dissatisfied with Omar's announcement of a 6% salary increase in December and are demanding parity with magistrates

Meintjes said the meeting was long overdue

"While everybody agreed the salary announcement of 23 December was totally inadequate, it is a pity that a month of chaos had to occur before such a meeting was called," she said

State advocates had still not received their 6% salary increases yesterday because of a computer glitch at the justice department

Meintjes said vacancies in Ngcuka's division amounted to 30% — a situation which called for "desperate measures"

The society and Nupsa were still "seriously considering" taking Omar to the Labour Court for suspending overtime payment, despite yesterday's meeting, Meintjes said



Justice Minister Dullah Omar, right, and national director of public prosecutions Bulelani Ngcuka at a meeting in which Omar announced interim relief would be sought for prosecutors

Picture TREVOR SAMSON

Banker 'laundered stolen union funds'

BD 26/11/99 (252)
Stephané Bothma

PRETORIA — Large amounts of money stolen from the National Union of Metalworkers of SA (Numsa) by security police in the 1980s were laundered through Nedbank with the help of a senior bank official, the truth commission's amnesty committee heard yesterday.

Numsa claims it lost about R2,8m in donations mailed to the union but intercepted and banked by the security police in an account specially opened for the purpose in the name of Nicolas Umsa (N Umsa).

"Nedbank was very helpful to the security branch," Michael Bellingan, a former security police captain and convicted murderer, stated in his amnesty application.

Bellingan, serving 25 years in prison for murdering his wife Janine in 1991, claimed the killing was a security police operation because his wife threatened to make public the scam and other sensitive police action.

He is applying for amnesty for the murder, the theft of an undisclosed amount from Numsa, and 16 other crimes ranging from arson, housebreaking and blackmail to obstructing justice and perjury.

"Cheques destined for leftist organisations were regularly obtained via mail interception. To my knowledge, most of the regions were involved in this practice," Bellingan said in his application.

He stated that in 1988 he was approached by Gen Gerrit Erasmus, then the head of the police's intelligence and Stratcom units, to see if any of his "contacts in the banking world" would assist with the intercepted cheques. "I approached an ex-colleague, Basjan 'Basie' Boucher, who then worked at Nedbank. This was a safe option, because Basie was an old Stratcom operator and Erasmus and Basie were on familiar terms."

A fake passport was supplied to Bellingan by a security police colleague and an account was opened in the name of Nicolas Umsa.

The theft of cheques was an initiative of the top structure of the security police and everyone in the security branch knew about it, Bellingan testified.

He claimed that during his years as a security policeman, his late wife on several occasions removed top secret documents from his locked briefcase and threatened to make information public.

"In order to neutralise the threat I decided to eliminate Janine," he stated. While supposedly out of town on police business, Bellingan staged a burglary at their home and strangled and bludgeoned his wife to death.

He said his colleagues knew about the murder and claimed he had been promised indemnity from prosecution. "My colleagues knew it was me. At no stage did anyone on the police rebuke me for the deed," he said.

ACCOUNT OPENED FOR STOLEN NUMSA CHEQUES

Bank 'laundered' security police loot

(Gaz) 27/1/1999

Exco chief tells of day he planted MK bomb

PRETORIA: Former security policeman Michael Bellingan, who claims he murdered his wife to protect his work and is seeking amnesty, has told how a former operative helped him at Nedbank.

A NEDBANK employee helped the Security Branch launder money it stole from the National Union of Metalworkers, wife-killer Michael Bellingan has told the Truth and Reconciliation Commission's amnesty committee.

Describing the bank as having been "helpful" to the Security Branch around 1988, he said yesterday that an employee who was a former Security Branch operative, Basjan "Basie" Bouwer, had helped him open a bank account in a false name — Nicholas Numsa — to launder cheques made out to Numsa.

"(Police) captain Jerry Raven gave me a passport to use with the correct stamps, etc. I opened an account at Nedbank, Pretoria. Basie removed the copies of my photograph from the file."

The Security Branch had a specific operation — which was top-secret and run on orders from the top structure — to intercept Numsa's mail and steal letters containing cheques.

The cheques were deposited into the Nedbank account. When they had been cleared, the Security Branch used the money to fund its operations, one of which was designed to destabilise the labour movement.

Other accounts were opened to facilitate the transfer and withdrawal of funds, Bellingan said.

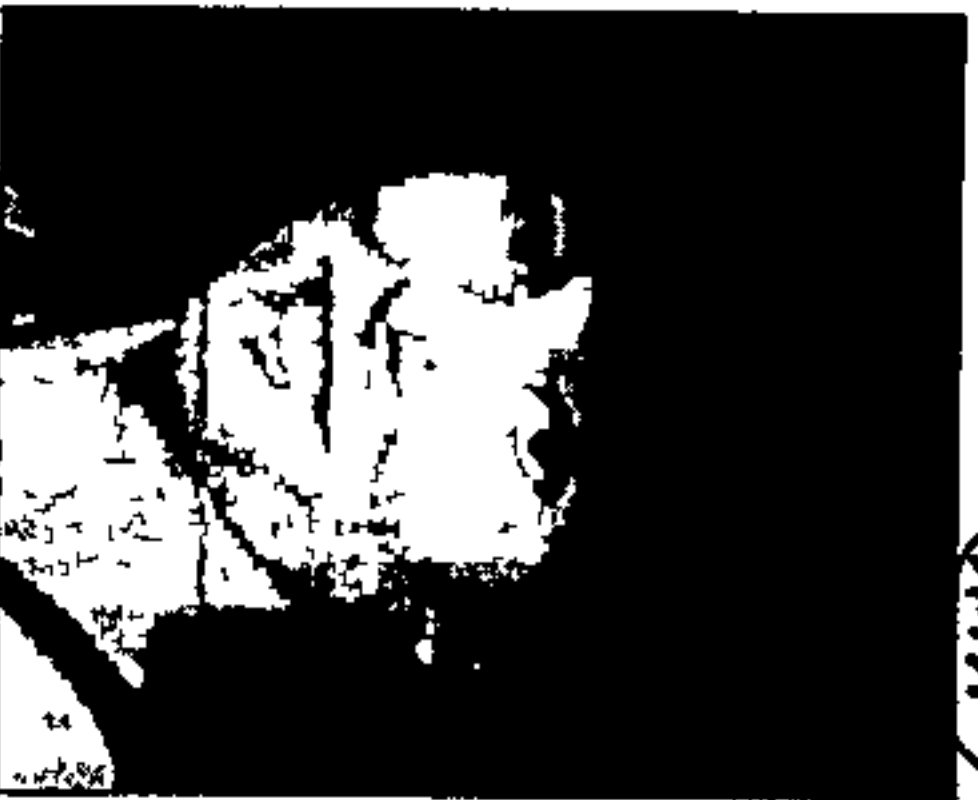
He was not sure how much money had been stolen from Numsa as he had handled only a small portion. The union had later claimed between R1,8 million and R2,8m from the police.

Bellingan is serving 25 years for the murder in 1991 of his wife, Janine, whom he bludgeoned to death with a spanner.

In applying for amnesty, he claims that she was killed for leaking Security



AMNESTY BID: Michael Bellingan is serving 25 years for killing his wife



THREATENED DIVORCE: Janine Bellingan was bludgeoned to death

Branch secrets, including the identity of police spy Olvra Forsyth.

ship with his wife — and not lofty motives — lay behind the murder. During argument about the admittance of a document which Bellingan's counsel claimed had not been produced

by him, Trengrove said Bellingan was incapable of telling the truth about his wife's murder.

"Bellingan has been shown to be an inveterate liar," Trengrove said. "He has lied about the murder on every occasion. One magistrate described him as one of the best liars he'd ever met."

His wife had leaked details about his work, Bellingan told the committee. He claimed she had stolen secret documents from his briefcase when their marriage turned sour.

When she threatened to divorce him, he discussed this with his boss, Gerrit Erasmus, who told him to keep her happy because the Security Branch had enough problems with leaks.

Bellingan arranged for his home telephone to be tapped. From the taps he realised that his wife was still considering leaking information. While he was giving a course in KwaZulu-Natal, he secretly returned and he and another man staged a break-in at his home, during which his wife was killed — Own Correspondent

FAMA PEELE

PRETORIA Eight former Umkhonto we Sizwe cadres failed to turn up yesterday for the hearing of their applications for amnesty.

The only applicant to give evidence at the Telkom Sports Centre in Montana Gardens yesterday was Peter Maluleka, 44, chairman of the Greater Pretoria Metropolitan Council's executive committee and former chairperson of the Mamelodi Civic Organisation.

Among those who had been expected to appear was Rodney Toka, who was Maluleka's accomplice in planting a limpet mine in Church Street here that damaged Lion Bridge and Van Aswegen's Store on April 15, 1988.

On the same day, Maluleka's commander, Odhile Mshack Maponyra, died when the bomb he was about to plant at the Sherland centre in Arcadia exploded in his hands.

Maluleka told the amnesty committee he had been a member of the internal wing of Umkhonto we Sizwe.

He had planted the limpet mine in Church Street as part of MK's campaign to instill fear, create insecurity and demoralise the security forces.

He had also driven the car used in the operation.

"I planted (the mine) in Church Street next to Van Aswegen's Store.

"It exploded and caused damage to property belonging to the store, Auto Renault Bicycle shop, Jaka Foam and Lion Bridge, but no one was injured."

Maluleka said he wanted the apartheid government, with which MK was at war, to "feel" his organisation's presence in the country's capital.

He did not think that his action constituted a gross human rights violation, but he wished to apply for amnesty as a precautionary measure, he said.

He told the committee he had been arrested on June 11, 1988 and tried, but had not served a prison sentence for his action.

The reason, he said, was that the judge was informed of his indemnity on the day he was to be sentenced.



IN NO GREAT RUSH: Prosecutor Siven Africa, of the Cape Town Magistrate's Court, says the work-to-rule strike was a necessary evil, a means to an end that would hopefully get the Justice Department to re-examine prosecutors' salaries

PICTURE: MUSAHD SARPOOMER

Prosecutors' work-to-rule brings languor to the courts

MOTSHIDISI MOKWENA

STATE prosecutor Siven Africa, who has been working in the Cape Town Magistrate's Court for two years, says ever since the work-to-rule action was called by National Union of Prosecutors of South Africa over the wage dispute, he is not working outside of his working hours.

However, he acknowledges that this has affected court proceedings and has meant the postponement of a lot of cases.

Africa does not jump out of the starting blocks as soon as he gets to work these days, an hour-and-a-half before court starts. Instead, he relaxes quietly with a cup of coffee. Like hundreds of other prosecutors around the country involved in the go-slow, Africa no longer works overtime.

"Before the work-to-rule action, I used to take work home to prepare cases for the following day

But since the go-slow, I haven't taken any work home because that would be working overtime and we are not being paid for this anymore," he says.

The Department of Justice has stopped paying prosecutors overtime. Instead, the latter have been given a 6% increase that resulted in some experienced but disillusioned state advocates resigning from Cape Director of Public Prosecutions Frank Kahn's office late last year.

Said Africa "I used to take home on average about R750 after deductions on my overtime pay but since it was stopped and we were given the increase, I get about R250 and it is nothing really."

The 27-year-old prosecutor studied for six years at the University of the Western Cape for his B Juris and a post-graduate Bachelor of Laws Degree (LLB). He says: "My father paid for my first degree but I managed to secure a bursary with the Attorney's Fidelity Fund for my LLB."

"I love being in court and I always wanted to be in this profession and be a litigator," he said "and I also enjoy what I do and believe that the law is one of the most admirable professions."

He passionately explains that his job is not only to send people to jail, "but also to seek the truth."

Explaining how he used to carry out his morning routine when prosecutors were still paid overtime, Africa said that he used to utilize the mornings before court to trace dockets from the police stations, to liaise with investigation officers, read through charge sheets "cover to cover to prepare adequately for on coming cases", and trace witnesses.

"But since the go slow I just come in the morning and do nothing work-related until my normal shift starts."

"During the course of the day I incorporate both court appearances and administration, but it is time-consuming and that is why there is a delay in cases."

As a result of the lack of productivity in the mornings, during tea and lunch break, Africa postponed most cases, some for technical reasons but others because he did not have enough preparation time.

Said Africa "It is normal to postpone a case because witnesses can't be traced or the investigating officer has not briefed me about the details of the investigation."

"But these are some of the things that I would normally do at home in the evening or very early in the morning at work, but since we are not paid overtime anymore, I don't do any work outside working hours hence cases get postponed."

Africa explained that the go-slow was a necessary evil. He argued that as professionals, prosecutors expect to be compensated accordingly.

"The fact of the matter is that we put in everything in our work, and not being paid accordingly sometimes leads to one being demotivated."

I am not saying I want to be paid a lot of money or that I should be given an increase that is way above my scope of work, but as a professional person I expect to be paid a professional salary and that is not the case now."

Africa acknowledges that the go-slow is affecting the justice system. He also points out that the rights of awaiting-trial prisoners might be violated as their cases get postponed, "but that does not necessarily mean that every awaiting-trial prisoner gets awarded bail, some of them remain in custody for the duration of the trial."

"And of course I would like to see this dispute resolved as soon as possible for the smooth functioning of the courts."

On Tuesday, he saw 27 cases and heard two trials. About 22 cases were postponed.

He said that were it not for the work-to-rule action not as many cases would have been postponed and the others, had they been prepared during overtime, would have been finalised.

Why they're asking for overtime pay

AFRICA'S schedule before the work-to-rule

7:30am Get to the office. Prepares dockets.

Looks for missing files. Calls the police stations to liaise with the investigating officers.

Traces witnesses and tells them what time to get to court.

Prepares through charge sheets and prepares the court roll.

9am Court starts.

10:45am Tea break — but he takes charge sheets with him and reads through them.

11am Back to court.

1pm Lunch break — usually a working lunch as he takes dockets along, signs completed cases and has more briefings with the investigating officers.

1:45pm Back to court for more cases.

4:15pm Court adjourns.

Takes dockets to his office, signs them and makes sure they are returned to the police station before he goes home.

Home for the next three hours — prepares the following day's cases, writes up charge sheets and appearances.

8:30pm Work ends.

HE'S a born-again agnostic and a born-again angler. A much loved priest who is still running a great show in the corporate world. Don't miss the WEDNESDAY INTERVIEW with DIANE CASSERE, in your Cape Times tomorrow

Promise of 'relief', but details left in the air

OWN CORRESPONDENT

JOHANNESBURG Minister of Justice Dullah Omar softened his stance on the prosecutors' salary row, promising at a grueling meeting yesterday that "interim relief" would be sought.

However, the dispute will still go to the Commission for Mediation Arbitration and Conciliation. Retha Meintjies, president of the Society of State Advocates of South Africa, says the CCMA is to deal with the dispute on Friday.

Embittered prosecutors around the country have refused to work overtime, causing a backlog of cases, since the department scrapped overtime pay last year and gave prosecutors a pay increase of 6%, which was far less than they had expected.

When prosecutors embarked on their work-to-rule, Omar said in a statement that the increase was "the best the country can afford at present, taking into account the serious financial crisis in the world and which has also engulfed South Africa."

Omar also urged prosecutors to go back to work, saying the work-to-rule was not in their or the country's interests.

According to a National Union of Prosecutors of South Africa (Nupsa) source, progress in overcoming the virtual stalemate between prosecutors and the department was made yesterday at the meeting involving Omar and the National Director of Public Prosecutions Bulelani Ngcuka.

Others at the meeting were representatives of Nupsa, the Public

Servants' Association of South Africa, the Society of State Advocates, the National Public Service and Allied Workers Union (which also represents court interpreters) and the National Health and Allied Workers' Union.

Omar promised to "make every effort to secure interim relief." It was unclear what form this relief would take.

"I didn't go to the meeting with money in my pocket," Omar said. Figures had not been discussed, he added, but prosecutors' unions were seeking parity with magistrates.

The department would report on the progress it had made in securing interim relief when an interim forum — of five members representing the unions, the department and the national Pub-

lic Prosecutions office — met on February 1, Omar said.

Meintjies said the talks had been disappointing as nothing concrete was put on the table, although the society was "apprehensive" that efforts were to be made.

"There is a feeling of been there, done that," she said.

According to union sources, there was also disappointment that Ngcuka, who had expressed "bitter disappointment" at the 6% salary increase, did not flex his muscles more.

Omar said those at the meeting had agreed that prosecutors and state advocates were professionals and should be paid accordingly. Their present pay was inadequate. Nupsa and the Society of State Advocates said they would discuss



PAY BELOW PAR: Minister of Justice Dullah Omar

the contents of the meeting with their members before deciding whether overtime work should be resumed.

Policeman killed wife over leaked security secrets, TRC told

(27/2) From 26/11/99

PRETORIA CORRESPONDENT

Wife-killer Michael Bellingan yesterday told the TRC's amnesty committee that the security branch of the police had laundered up to R2,8-million that was stolen from the National Union of Metalworkers (Numsa). The money, he said, had been stolen through Nedbank with the help of a bank employee.

Bellingan is applying for amnesty for murdering his wife Janine in 1991 by bludgeoning her with a spanner

Bellingan, who left the security branch in 1993, told the amnesty committee in Pretoria yesterday that at the time (1988) Nedbank was very helpful to the security branch.

He said a former security branch 'Stratkom' operative, Basjan Basie Bouwer, worked for 'Nedbank' and helped Bellingan to open a bank account in a false name in order to launder the funds.

"This account was used to deposit the Numsa cheques because it was opened in the name Nicholas Umsa N Umsa. Other accounts were

opened to facilitate the transfer and withdrawal of funds," Bellingan said.

He said the security branch intercepted Numsa's mail and stole letters containing cheques, which would be used to fund its own operations, including the destabilisation of the labour movement.

Bellingan is serving 25 years in prison for his wife's murder but has applied for amnesty on the grounds that she was killed for leaking security branch secrets, including police spy Olivia Forsythe's identity.

Advocate Wim Trengove, Bellingan testified that his

representing the family of Janine Bellingan, told the committee that the reason for the murder had been Bellingan's abusive relationship with his wife. He told the committee that Bellingan was incapable of telling the truth in respect of his wife's murder. He added that Bellingan has been shown to be an inveterate liar. He had lied about the murder on every occasion, and one magistrate had described Bellingan as one of the best liars he had ever met, Trengove said.

Bellingan testified that his

When telephone taps he had placed on their home phone showed his wife still considered leaking information, he returned from Natal, where he was giving a course, and staged a robbery of the house during which Mrs Bellingan was killed.

wife had leaked details of his work and had stolen secret documents from his briefcase when the marriage turned sour.

Bellingan said that when his wife threatened to divorce him, he discussed the threat with his boss, General Gerrit Erasmus, who told him to keep her happy to prevent further leaks.

When telephone taps he had placed on their home phone showed his wife still considered leaking information, he returned from Natal, where he was giving a course, and staged a robbery of the house during which Mrs Bellingan was killed.

'Interim relief' pledge in prosecutors' dispute

(2/12)

Star 26/11/99

By CATHY POWERS

Justice Minister Dullah Omar has softened his stance over the prosecutors' salary dispute and said yesterday that "interim relief" would be sought, but the dispute would still go to the Commission for Conciliation, Mediation and Arbitration.

Retha Meintjies, president of the Society of State Advocates of South Africa, said the commission would deal with the dispute on Friday.

Prosecutors refused to work overtime after the department scrapped overtime pay last year and gave prosecutors a 6% pay increase, which was way below expectations.

Last year, when prosecutors embarked on a work-to-rule, Omar said the increase was "the best the country can afford at present, taking into account the serious financial crisis which exists in the world and which has also engulfed South Africa".

Omar also urged prosecutors to go back to work because, he said, the work-to-rule was not in their or the country's interest.

A union source said the lengthy meeting between Omar,

National Director of Public Prosecutions Bulelani Ngcuka, the Public Servants' Association of South Africa, the Society of State Advocates, the National Union of Prosecutors of South Africa, the National Public Service and Allied Workers' Union (which also represents court interpreters) and the National Health and Allied Workers' Union had effectively broken the virtual stalemate between the department and the prosecutors.

Omar promised to "make every effort to secure interim relief".

The form of this interim relief remains unclear. Omar said that no figures had been discussed.

An interim forum, consisting of five representatives from the unions, the department and the national director of public prosecutions' office, would have their first meeting on February 1, at which the department would report back on progress to secure interim relief, Omar said.

Meintjies said there was some disappointment about the talks because "nothing more concrete was put on the table".

Relief sought for lawyers

INTERIM relief will be sought for the salary difficulties of prosecutors, Justice Minister Mr Dullah Omar said yesterday

After meeting prosecutors' unions in Pretoria, Omar said there was consensus that the current salary structure of prosecutors was inadequate, especially after their overtime pay was scrapped.

"It is agreed that the minister will make every effort to pursue the securing of interim relief for prosecutors," Omar told journalists.

Four of the five unions that attended the meeting undertook to ask prosecutors to suspend their work-to-rule protest.

Omar said the fifth association, the National Union of State Prosecutors of SA, stopped short of such a commitment, but indicated it would convey the outcome of the meeting to its members.

"It will then seek to secure a mandate from its membership. All the parties are committed to restoring normality in our courts," Omar said.

The meeting decided an interim forum of representatives from all the parties concerned would be set up to monitor progress in finding interim relief for prosecutors.

The forum would consider the first progress report from the Department of Justice on February 1 and should report back within three weeks.

The body would also explore the formation of a permanent forum within the framework of the Labour Relations Act, Omar said.

The general secretary of the National Union of Public Service and Allied Workers, Mr Success Matatsane, said the first meeting of the forum would deal with the details of the immediate relief that prosecutors required.

Matatsane called on all prosecutors to support the process and suspend their strike action.

The Society of State Advocates of SA, the Public Servants Association of SA, and the National Health and Allied Workers' Union also attended. — Sapa

6611199 Sowetan 26/1/99

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nesburg Stock Exchange

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Former policeman tells why he had to kill wife

Stephané Bothma

BD 27/1/99 (2/2)

PRETORIA — Covering his face with his hand, former security policeman and convicted killer Michael Bellingan yesterday confessed for the first time in a public forum he had murdered his wife by bashing her head in with a wheel spanner before strangling her with a hairdryer cord.

Her death — at their Gallo Manor home on September 20 1991 — was necessary to keep negotiations between the then ruling National Party and the African National Congress (ANC) on track, Bellingan told the truth commission's amnesty committee.

Janine Bellingan was about to release documented proof of police dirty tricks, taken from his locked briefcase to the ANC and the media, Bellingan testified. "She was an unguided missile with a hostile mission," he said.

During a 1994 inquest into her death and a lengthy Johannesburg High Court trial a year later, Bellingan denied any involvement in his wife's death. Now he claims superior officers ordered him to stay quiet about everything and in return they promised to "take care of the rest".

However, Bellingan was sentenced to 25 years' imprisonment.

He is now applying for amnesty for the murder on the grounds that it had been motivated by political considerations. He also launched an amnesty application for the theft of money from the National Union of Metalworkers of SA (Numsa).

The amnesty committee heard that during the 1980s cheques mailed to Numsa and other "revolutionary organisa-

tions" had been intercepted by the security police, banked into accounts and used for official security police operations. This was one of the operations his wife threatened to make public.

Bellingan is applying for amnesty for the murder of his wife Janine, the theft of an undisclosed amount from Numsa and 16 other crimes ranging from arson, housebreaking and blackmail to the obstruction of justice and perjury.

Meanwhile, Nedbank yesterday denied claims by Bellingan that the bank had been "very helpful" to the security forces in the 1980s.

Nedbank dismissed Bellingan's claims and said the bank had not been aware of an employee's dealings with the security forces. The employee, Basjan Boucher, allegedly helped the security forces launder cheques stolen from Numsa.

Nedcor company secretary Willem Kruger said yesterday Nedbank had not had "any special relationship with the security branch, nor did it pursue a policy of helpfulness towards the branch".

Kruger said the Numsa cheque fraud was discovered in 1990 and since then Nedbank had co-operated with the authorities and with the truth commission by providing them with all the information at the bank's disposal.

Kruger confirmed that Boucher had been employed by the bank at the time and became involved in "the particular issue in his personal capacity without Nedbank's knowledge or consent".

Boucher was dismissed from Nedbank in the early 1990s because of an unrelated incident, Kruger said.

Frustrated prosecutors near breaking point

Gareth Newham focuses on the findings in a recent study about various adverse factors which are hampering the prosecution of criminals

ED 27/1/99 (2/72)

OVERWORKED, underpaid and under-resourced while having to deal with an overwhelming tide of cases reflecting the darker side of humanity is the lot of most public prosecutors. With a significant exodus of experienced people to the better paid private sector, those left behind are becoming increasingly frustrated with the system's dwindling capacity to put criminals behind bars.

Recent police statistics show that only 20% of serious crimes prosecuted in our courts result in a conviction. These figures bear testimony to a continuing crisis in our court system in which, it seems, only the luckiest or most careless of criminals go to jail.

An alarmingly small proportion of crime that is reported actually reaches the courts in the first place. Only about 9% of the car hijackings and 12% of the armed robberies that are reported to the police result in an accused in the dock.

Furthermore, according to the recently released national victimisation survey, apart from murder, of which 83% of cases are reported, well below half of the incidents of violent crime are reported to the police. Only 41% of the victims of robbery with force and 38% of assault reported the incident to the police.

A crucial question that needs to be answered, however, is why the vast majority of serious cases that are presented before the courts fail to end in a conviction. The prosecutors will usually decide not to prosecute a case unless sufficient evidence is available.

Research recently conducted by the Centre for the Study of Violence and Reconciliation into crime investigation and prosecution around Gauteng provides an insight into some of the most serious obstacles facing prosecutors in their quest to obtain convictions. Most significantly, prosecutors at regional court level are totally overloaded with cases

This leaves them with little time to prepare cases properly, resulting in minimal, if any consultation with witnesses about the evidence to be presented. As one participant stressed "Without a witness we generally cannot secure a conviction."

It is clear from responses, however, that all prosecutors interviewed had experienced difficulties getting witnesses to co-operate. This was commonly seen as a result of three main factors. Firstly, witnesses may be intimidated by the accused, or relatives and friends of the accused, to withdraw charges or change testimony. Secondly, constant postponements interrupt the lives and work of witnesses, which leads to disobedience. Thirdly, there is a general loss of faith in the criminal justice system. One of the prosecutors was adamant that "if it can be seen that perpetrators are found guilty and put behind bars, then people will be more willing to testify."

Although prosecutors indicated that they generally had good working relationships with detectives, it was repeatedly mentioned that the problems facing the police were significantly hampering their ability to ensure successful prosecutions.

Prosecutors saw the main problem with the police being that their work load was very high and their morale very low. The result was that "detectives often cannot or won't go that extra mile with investigations."

Inadequate training and a serious lack of resources for detectives were most commonly cited as reasons for investigations failing to produce the necessary evidence for a conviction.

Respondents to the centre's study who worked for victim support services and who had working experience with prosecutors were generally impressed with the dedication and commitment they displayed under trying circumstances.

There was a general perception from these respondents, however, that case overload and inexperience

often led to prosecutors presenting evidence badly or not cross-examining sufficiently. "We have experienced an accused being let off because of the failure of a prosecutor to question what we saw as obvious discrepancies in his testimony," a victim's counsellor complained. All respondents to the study were asked

what they saw as the potential solutions to the problems facing criminal prosecutions. Unsurprisingly, the common answer was "more money spent on the justice system."

Most prosecutors said this money should be used to improve the training of police investigators, hiring of more prosecutors to reduce

case load, and payment of salaries that made being a public prosecutor a viable long-term career. It is crucial that the voices of those working within the justice system should be heard if meaningful solutions are to be identified and implemented.

The extent to which government hears these voices and acts positively on their concerns will ultimately determine whether South Africans can start believing that they have access to justice, safety and security.

□ Newham is a researcher with the Criminal Justice Policy Unit at the Centre for the Study of Violence and Reconciliation.



Prosecutors in Johannesburg protest against over working conditions earlier this year.

Former Security Branch policeman Michael Bellingan yesterday described to the TRC amnesty committee how he killed his wife – an act he has steadfastly denied for seven years despite being convicted of her murder.

Members of Janine Bellingan's family listened emotionally to her former husband's evidence yesterday of how and why he murdered her seven years ago and why he has steadfastly denied the killing in the past.

Bellingan, serving 25 years for the murder, sat with head bowed as he described how he hitchhiked from Pietermaritzburg to Durban one night in September 1991, using a false name to buy a plane ticket to Johannesburg. He was working temporarily in Natal at the time.

He waited outside the couple's Johannesburg home until all the lights were out, before climbing over the garden wall.

After taking a spare key from its hiding place, he entered the house, removed his shoes and coat so as not to make a noise, went to her room and, after ensuring she was asleep, bludgeoned her head with the wheel spanner from his official police vehicle.

Bellingan said the first blow was too soft and she woke up and started to scream, and he bludgeoned her twice more.

He then used the cord from her hairdryer, which was lying beside the bed, to strangle her.

Once he was sure she was dead, he searched the house for secret Security Branch documents which he said his wife had removed from his briefcase. He told the committee he found them under the seat of her car and took them.

He took a spanner from the garage to pry the burglar bars

free from one of the windows in an attempt to make the murder look like a burglary.

He said he burnt his blood-stained clothes that night and drove around until morning, when he returned to Jan Smuts Airport and flew back to Durban.

He again hitchhiked to Pietermaritzburg.

Bellingan told the committee he had lied about killing his wife because he was ordered to do so by his superiors in the Security Branch, even believing his colleagues would come to his aid.

He said he killed Mrs Bellingan because he believed she was about to leak secret information about the police which, if it became public know-

ledge, could destabilise the country and damage the peace process that by then was under way.

Bellingan also said large sums of money stolen from the National Union of Metalworkers of SA by police were laundered through Nedbank with the help of senior bank officials, Sapa reports.

He said that in 1988 he was approached by General Gerrit Erasmus, then head of the police's intelligence and Stratcom units, to see whether any of his contacts in the banking world would assist with the intercepted cheques.

"I approached an ex-colleague, Basjan 'Basie' Boucher, who then worked at Nedbank.

"This was a safe option because Basie was an old Stratcom operator and Erasmus and Basie were on familiar terms."

Responding, Nedcor company secretary Willem Kruger said Nedbank had co-operated fully with the authorities and the TRC, providing them with information at the bank's disposal since the National Union of Metalworkers fraud was discovered in 1990.



Killer ... Michael Bellingan

Bellingan tells TRC how he killed his wife

(2/1/99)

Ex-security policeman says murder was to stop peace process being damaged

Star 27/1/99



MILITARY CAMPAIGN Rodney Toka was second-in-command of an MK unit in Pretoria in 1987-1988

TRC hearing for MK men

FANA PEETE

PRETORIA The former commander of uMkhonto weSizwe operatives that carried out a spate of attacks on policemen and buildings in the Pretoria area in 1987-1988 yesterday accepted responsibility for the actions of his soldiers.

Rodney Moekeisi Toka, 35, of Ga-Rankuwa, told the Truth and Reconciliation Commission amnesty committee that he left the country to undergo military training in Angola after travelling through Botswana and Zambia.

Toka, who is now a policeman, said he left Bango Camp in Angola with instructions to recruit, train, arm and lead people in the battle against apartheid.

The applicant, who did not personally carry out the attacks, said after entering the country on July 2, 1987, he carried out the orders given to him and was applying for amnesty for attacks carried out by the men under his command.

Toka and his foot soldiers Francis Pitsi,

TRC hearing for MK men

George Mathe, Peter Maluleka, Johannes Maleka, Alfred Kgase, Reginald Legodi, Joseph Nkosi and Thapelo Khotsoa are applying for amnesty for the assassination of three policemen in Atteridgeville, bombing police houses in Mamelodi, planting a bomb in Vermeulen and Church Streets and another one at Sterland in Arcadia.

Toka told the committee that he was second-in-command after Meshack Odnie Mponya, who died in the Sterland bombing on April 15, 1988.

During the Atteridgeville raid, three policemen — Barney Mope, Andrew Mphahlele and Nelson Phenyane — were killed with AK-47s. Two women were injured in the crossfire.

Toka said he gave instructions that the police be attacked after he received information that they were responsible for bombing the houses of ANC supporters.

The attack was carried out by Francis Pitsi, George Mathe and Ernest Ramadite, who is not an applicant because he is reported to be unfit to stand trial.

et 27/11/99

At last, Bellingan tells of killing his wife in 1991

PRETORIA Former Security Branch policeman Michael Bellingan described to the TRC amnesty committee how he killed his wife, an act he has steadfastly denied for seven years despite being convicted of her murder.

Members of Janine Bellingan's family listened emotionally to her former husband's evidence yesterday of how and why he murdered her seven years ago and why he has steadfastly denied the killing in the past.

Bellingan, who is serving 25 years for the murder, sat with head bowed as he described how he hitchhiked from Pietermaritzburg to Durban one night in September 1991, using a false name to buy a plane ticket to Johannesburg.

Using a spare key, he entered the darkened house and bludgeoned Janine's head with the wheel spanner from his official police vehicle. He then used the cord from her hairdryer, which was lying beside the bed, to strangle her, he told the committee.

He searched the house for secret Security Branch documents which he said his

wife had removed from his briefcase. He told the committee he found them under the seat of her car and took them with him when he left.

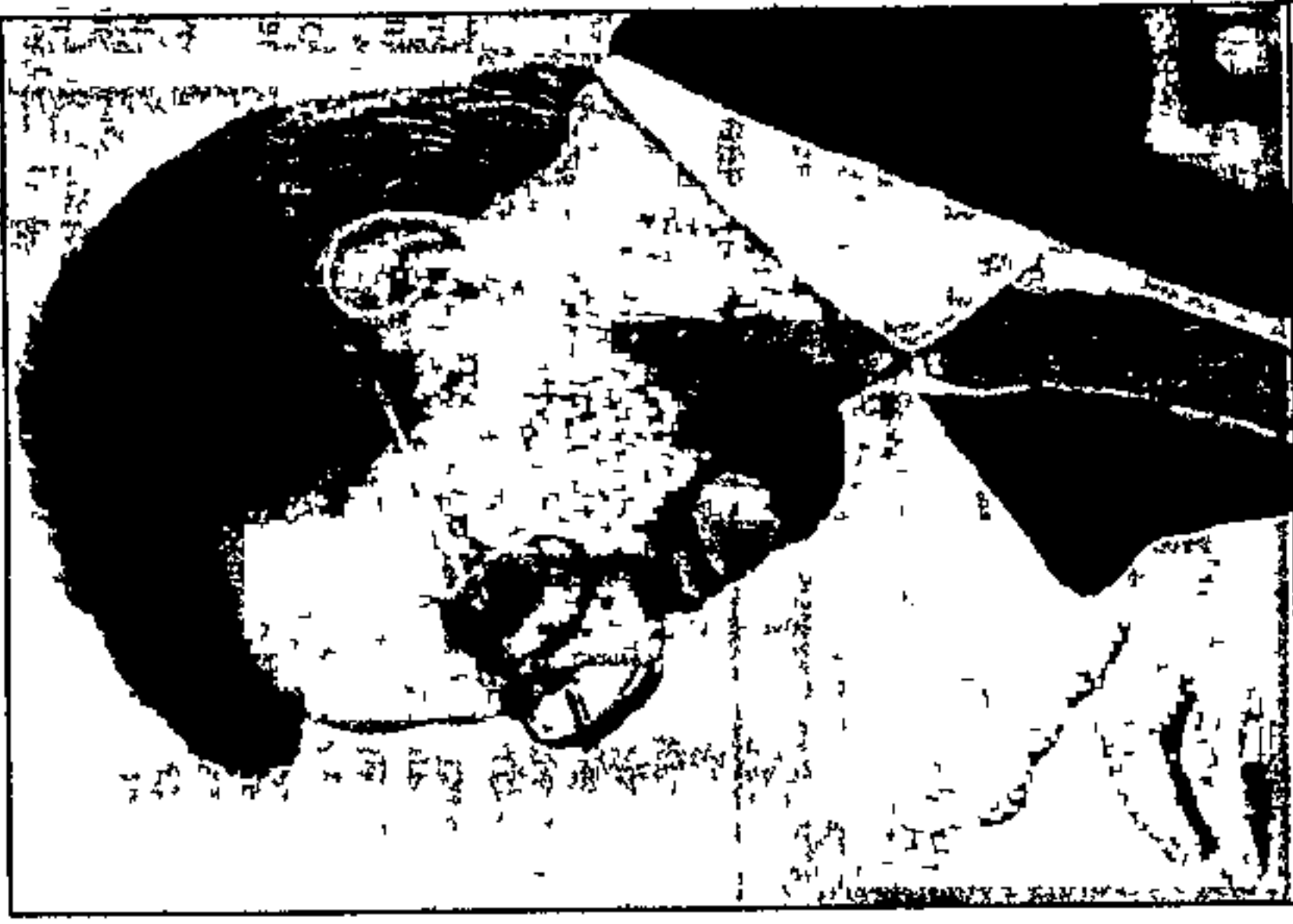
He returned to Jan Smuts Airport and flew back to Durban.

He again hitchhiked to Pietermaritzburg and later that day had tea with his sister.

Bellingan told the committee he had lied about killing his wife because he was ordered to do so by his superiors in the Security Branch, even believing at his trial that his colleagues would still come to his aid.

He said he killed Mrs Bellingan because he believed she was about to leak secret information about the police which could destabilise the country and damage the peace process, by then under way.

He said his wife had called the *Weekly Mail* shortly after their marriage in 1986 and leaked information about a Security Branch agent working in the End Conscription Campaign. — Own Correspondent



COMING CLEAN Bellingan claims that he killed his wife in 1991 to protect the peace process



Pay linked to performance

THE pay rises of senior public service managers will from next month be linked to their job performance, Public Service and Administration Minister Dr Zola Skweyiya said in Pretoria yesterday

This will hopefully also help to relieve tension between some cabinet ministers and their directors-general, Skweyiya told reporters after signing a performance agreement with his director-general, Mr Paseka Ncholo

Skweyiya said all directors-general and managers down to the rank of director would have to sign similar agreements before the end of February. Those failing to do so would

not qualify for salary increases

By signing the document public service managers would commit themselves to achieve certain objectives on issues such as productivity, remuneration and representivity

The agreement also provides for procedures to evaluate the performance of directors-general

Skweyiya said the accord would also allow managers to do their jobs without interference, while giving the political office bearer an idea where management was leading a department

"Sometimes, MECs and some ministers micro-manage their depart-

ments, not giving the director-general the right to implement policies. Their (ministers) job is mostly to determine policy, while directors-general are responsible for management"

A total of 27 directors-general have left the public service since 1994, some because of friction with the ministers they were serving under

The Public Service Coordinating Bargaining Council last year agreed to the new system

Managers from the rank of director to deputy director-general would have to sign performance agreements with their departmental heads - Sapa

(252)

Journalist 27/1/99

Former security branch killer a 'professional liar'

Stephané Bothma

PRETORIA— Evidence by security policeman and convicted wife murderer Michael Bellingan that he had loved his spouse, but "butchered" her out of patriotism and a sheer sense of duty, was described yesterday as "absurd" by advocate Wim Trengove, representing the family of the dead woman.

"You smashed her skull in several times before strangling her. The wall and ceiling were spattered with blood. Her body was severely mutilated and you did that while your two young children were sleeping next door."

"You left her body there well-knowing that the children would find the bloodied corpse of their mother the next morning - all in the line of duty. Your evidence is ridiculous," Trengove said in cross-examination of Bellingan.

The former security police captain, serving 25 years in prison, is applying for amnesty for the September 1991 murder of his wife Janine.

He claims the murder was politically motivated because his wife had threatened to make public several covert and sensitive security police operations.

His application is being opposed by the family of his late wife.

"If I did not prevent Janine from releasing the information to the media or to the African National Congress, the date for SA's first democratic election would nev-

er have been set, former president FW de Klerk would not have received his Nobel peace prize and the Pan Africanist Congress would never have suspended its armed struggle," Bellingan told judge Denzel Potgieter.

"My behaviour was not motivated by some irrelevant personal factor, I believed Janine had to be stopped for political reasons. I deeply regret having murdered my wife. I feel the burden of secrets and complicity all the time. I have lots of time on my own to deal with my guilt."

Under cross-examination by Trengove, Bellingan admitted he had initially supplied amnesty committee staff with lies about how his wife was murdered. "You are a professional liar and while in the security branch you lied for a living. You even received training in the art of lying," Trengove said.

Bellingan told the court how security branch colleagues had covered-up his involvement in the murder. "There was tampering with forensic evidence by senior police officers. For example, one of my hairs, found on the murder scene, was later said to be that of the deceased and a Negroid hair was introduced to the evidence," Bellingan said.

An inquest into Janine's death was held in 1994, three-and-a-half years after her death. Bellingan was only prosecuted in 1995. Trengove claimed Bellingan's sister, Judy White, had assisted in covering up his involvement in the murder.

(252)

DD 28/11/99

I killed my wife to save SA, says cop

Pretoria - Former security policeman Michael Bellingan has testified that he killed his wife because he believed she was about to leak secret information about the police.

If that information became public knowledge, it could have destabilised the country and damaged the peace process, he told the Truth and Reconciliation Commission's amnesty committee in Pretoria

Bellingan, who is serving a 25-year sentence for the murder of his wife Janne, told the committee he bludgeoned his sleeping wife's head with the wheel spanner from his official police vehicle

When she woke up and started to scream, he bludgeoned her twice more

Then he strangled her with the cord of her hair-dryer

When he was sure that she was dead, he searched the house for secret Security Police documents which he said his wife had taken from his briefcase.

He said he found them under the seat of her car

Bellingan, who has previously denied murdering his wife, told the committee he had lied about the killing because his superiors in the Security Police had ordered him to do so - Sapa

ARG 28/1/99

(2/2)

'IT WAS A DESPERATE SITUATION'

How a murderer 'saved' SA

ET 28/1/99

(252)

PRETORIA: In defence of his amnesty application for the brutal murder of his wife, Michael Bellingan told the TRC that he did it for his country. **ROBB NORTHEY** reports.

FORMER president F W de Klerk would not have been given the Nobel Peace Prize if former Security Branch captain Michael Bellingan had not killed his wife while she slept, the TRC amnesty committee heard yesterday.

Bellingan told the committee he believed that if he had not killed his wife, Janine, preventing the revelations about his work and other actions by the Security Branch that she threatened to expose, De Klerk would not have been honoured, the PAC would not have suspended the armed struggle and the setting of a date for the 1994 elections would have been disrupted.

"My judgment may have been slightly affected by the accumulated stress of my work and the fact

that it was a desperate situation," he claimed.

Bellingan is applying for amnesty for bludgeoning his wife and then strangling her in September 1991 as she lay sleeping in the couple's bedroom, leaving her bloodied body to be found by their six-year-old daughter the next morning.

He has also applied for amnesty for laundering cheques stolen by the police from the National Union of Mineworkers of South Africa, as well as for 16 other incidents.

"I deeply regret it. I deeply regret having murdered my wife," Bellingan told the committee after ending his initial testimony.

He is serving a 25-year sentence for the murder.

"You say that you killed her for your country, for sheer patriotism, because your wife was a threat to your unit, your country and a peaceful transition in the country," Wim Trengove, SC, for Mrs Bellingan's family, asked Bellingan, who agreed.

"You butchered her; you smashed her skull.

"After smashing her skull, you strangled her in the line of duty.

"You were just doing your job.

"You left her in that condition, knowing your children would wake up, seek out their mother for comfort and find the mutilated corpse of their mother," Trengove said.

Bellingan agreed meekly, adding that the maid normally entered the house before the children awoke.

Trengove said it was absurd that Bellingan could claim to have loved his wife but had to kill her for patriotism.

The personal relationship was strained, he contended. "She was about to betray and destroy your career and you were about to murder her," Trengove suggested, which Bellingan denied, describing the relationship at the time as "good".

Bellingan was evasive when Trengove accused him of being a professional liar.

He also claimed that he could not approach his superiors in the Security Branch about his wife's threats to leak secrets as he feared that he and his whole family would be killed. "I couldn't trust my colleagues not to kill my wife and children," he said.

Trengove put it to Bellingan that he and his sister, Judy White, had conspired and lied before every tribunal they had testified at and that White was involved in the murder. Bellingan was staying with his sister at the time of the murder.

The case continues.

Budget cuts put the squeeze on justice

David Greybe

CAPE TOWN — Justice Minister Dullah Omar said yesterday his department faced "serious financial problems" after learning its budget would be R450m less than requested for the next financial year.

Omar asked for R2,8bn, but said state expenditure had informed him the justice department would receive only R2,35bn for the 1999/2000 financial year.

Omar said this meant a 2,5% cut, or R50m, in the justice budget when compared with the so-called "baseline" figure of R2,4bn in government's latest medium-term expenditure estimates. The department received R2,3bn this year. As a result, it was forced to impose a 2,5% "filter-down" cut affecting all its structures. "This is going to create serious problems," he said.

Finance Minister Trevor Manuel said yesterday he did not want to comment on the matter until he had tabled his budget in Parliament on February 17.

DD 28/1/99
Justice deputy director-general Has-sen Ebrahim said that as a result of the smaller than requested budget there would be no money to "top up" the salaries of personnel next year. This is likely to affect discussions between Omar and unions representing magistrates and public prosecutors, who are demanding salary increases bigger than those determined nationally for public servants.

Ebrahim said annual salary increases would not be affected by the 2,5% filter-down cut as these were determined nationally between government, as employer, and the public service unions. Hardest hit would be new projects in the justice department — in particular planned computer automation within the judiciary and the implementation of new legislation.

Also affected would be the public protector, the special investigating unit headed by Judge Willem Heath, the special tribunal, the Human Rights Commission, the Commission for Gender Equality and the truth commission's amnesty committee,

which relied on justice for their budgets.

Ebrahim said letters from Omar had already been sent to the various independent bodies and commissions informing them of the cut.

Heath confirmed yesterday that his unit had received a letter in which Omar stated the unit's R17m budget for the current financial year would be cut by 2,5% next year. The unit had requested almost double — R33m — from justice for the next financial year.

Heath said the unit needed to increase its staff by about 60 to about 150 to meet its present and future workload. Travelling and personnel accounted for about 90% of the unit's budget.

He said the unit was currently investigating about 90 000 cases of maladministration and corruption in government.

Ebrahim said the Heath unit had "not suffered more" than any of the other independent bodies or commissions as all of them were subjected to the same 2,5% budgetary cut.

Janine Bellingan 'said Michael would kill her'

(252)

CT 29/1/99

PRETORIA· Shortly before her death Janine Bellingan expressed the fear that her husband, former security policeman Michael Bellingan, would kill her, the Truth and Reconciliation Commission's Amnesty Committee heard in Pretoria yesterday

Bellingan is applying for amnesty for the murder of his wife in September 1991. He is serving a 25-year prison sentence after being convicted in 1995 for killing her by beating her with a wheel spanner and then strangling her with the cord of a hairdryer.

While being cross-examined by Wim Trengove, SC, who is appearing for Janine's family, the bespectacled and bearded former "dirty tricks" policeman denied that he had assaulted his wife.

However, Trengove produced doctor's records which showed that Janine had complained of assaults by her husband. Trengove also confronted Bellingan with a report by Janine's doctor in which she said she feared her husband "was going to kill us all".

Trengove repeatedly told Bellingan he was being dishonest.

He referred to a statement made by the magistrate at a bail application at which Bellingan was referred to as the most accomplished liar he (the magistrate) had ever met.

Bellingan insisted that he had killed his wife to protect security police secrets.

However, he was not able to name a single policeman or superior officer who had sanctioned the murder.

"So you had the authority to kill people at your own discretion," Trengove said. Bellingan replied that in some circumstances he believed he did.

"You believed you were entitled to execute someone," Trengove said again. Again Bellingan replied that in some instances he was.

Trengove said it sounded like he worked for the "department of assassinations" and not the police.

Bellingan claims he had to kill his wife because she had information about the security police's interception of National Union of Metal Workers of South Africa funds as well as a "hit list" of people earmarked for assassination. Trengove suggested there was evidence that Bellingan had used the funds for his own purposes and that she had become concerned about this.

Bellingan denied this and said she had asked him to use the funds obtained from Numsa for their own private use.

The hearing continues today — Sapa.

Wife-killer Bellingan claims he became the hunted after De Klerk's reforms

PRETORIA CORRESPONDENT

Former state president F W de Klerk should have consulted the security branch before unbanning the ANC in 1990, killer Michael Bellingan told the Truth and Reconciliation Commission yesterday.

After De Klerk's speech and actions that day, "the hunters became the hunted", Bellingan - a former security branch policeman - told the TRC's amnesty committee in Pretoria.

Bellingan is applying for amnesty for murdering his wife Janne on September 20 1991, bashing her head before strangling her in her bed at the couple's Gallo Manor, Sandton, home.

He steadfastly denied murdering her, until this week, when the hearing started. He now claims he committed the murder for political reasons.

He is also seeking amnesty for laundering funds the police stole from the National Union of Metal-

workers of South Africa.

He opened an account at Nedbank in Pretoria in the name of Nicholas Umsa so that he could cash the cheques. (252)

Evidence before the committee yesterday showed Bellingan had banked, and later withdrawn, about R94 500 of Numsa's funds. The union said the police stole R2,8-million.

Bellingan, described earlier as a professional liar, denied he had lied in the past about the murder to save his own skin, he claims he was told by his bosses to say nothing.

Regarding statements made on Wednesday that De Klerk would not have received the Nobel Peace Prize, the smooth transition to democracy would have been disrupted, and the PAC would not have suspended the armed struggle if he had not killed his wife, Bellingan yesterday admitted this had been "a bit of an overstatement".

The hearing continues today.

Star 29/11/99

10

57 prosecutors appointed to ease load

(SAPA) Sapa 29/1/99

National Director of Public Prosecutions Bulelani Ngcuka yesterday announced the appointment or promotion of 57 prosecutors throughout the country.

His office had made it a priority in the past year to fill vacant posts and keep open advancement prospects for working prosecutors to boost the prosecution service, which had been beset with problems related to heavy workloads and understaffing.

His office had pursued a vigorous affirmative action policy, and it was fairly happy with the balance achieved, he said.

"The legitimacy of the service depends on ensuring that black people are fully represented at all levels of the service."

The office was looking at training for prosecutors which would lead to better performances in court, but he was proud of the work done by prosecutors in difficult circumstances, Ngcuka added.

"We are at present moulding a team of lawyers that will turn the prosecution service into a dynamic, professional and efficient machinery," he said. - Sapa

Murdered wife 'feared husband would kill her'

Stephané Bothma

PRETORIA—Less than two weeks before she was brutally murdered by her security policeman husband, Janne Bellingan told her doctor she was terrified to go home because she believed her husband wanted to kill her, the truth commission's amnesty committee heard yesterday.

Michael Bellingan, convicted in 1995 and sentenced to 25 years' imprisonment for his wife's September 1991 murder, is applying for amnesty for the killing.

He claims her murder was politically motivated because she had threatened to divulge top secret security police activities to the media or the African National Congress (ANC).

He told the committee he had loved his wife and that their marriage had been very good. "I killed her out of sheer patriotism to protect the police, the National Party government and the country."

Yesterday Wim Trengove SC, representing Janne's family — who is opposing Bellingan's application — referred to medical reports which showed that she visited doctors twice in 1991, complaining that she had been assaulted by her husband.

A letter written by Janne to a lawyer also indicated that she was about to in-

stitute divorce proceedings, he said.

Bellingan, who is also applying for amnesty for defrauding the National Union of Metalworkers of SA (Numsa) of thousands of rands, claimed the money stolen from the union had been used by the security branch for official covert operations. The security police intercepted cheques mailed to Numsa by donors and deposited them into false bank accounts.

However, Trengove accused Bellingan of using the stolen funds for personal gain. "That is why you murdered your wife, because she discovered you were stealing from the security police and Numsa." He said Bellingan, a captain in the police, had led a luxurious lifestyle in a lavish home in Gallo Manor, Sandton.

"She threatened to inform your superiors in the security branch."

Bellingan at first dismissed Trengove's argument as "ludicrous" but later admitted that Janne had "initially threatened" to inform the security branch that he was stealing the money for himself. She later threatened to expose the illegal activities of the security branch.

Under further cross-examination

BB 29/11/99 (252)

Bellingan changed his claim that his superior, Gen Gerrit Erasmus, had told him to "solve the Janne problem", meaning to eliminate her. He admitted that he had had no order to murder his wife.

Bellingan said earlier the murder had guaranteed SA's peaceful political transition, ensured that a date for the 1994 elections was set and that former president FW de Klerk received the Nobel Peace Prize. He admitted yesterday that this "might have been a slight overstatement."

He also claimed that the 1991 Harms commission of inquiry into police dirty tricks had been an attempt by De Klerk and the charman, Judge Louis Harms, to "cover up" police criminality.

Trengove quoted a magistrate who in 1994 heard a bail application by Bellingan. He described the former policeman as an "accomplished liar, one of the most accomplished I have ever seen."

"You lied to protect your own skin and your conduct in this amnesty hearing has been typical of an dishonest witness who is telling a completely fabricated story," Trengove said.

The hearing continues today.

Former cadres confess to killing activist

(272)
ZANDILE NKUTHA

ST 31/1/99

FOUR former members of the ANC's military wing have admitted to the Truth and Reconciliation Commission that they assassinated a student leader in the '80s

Sicelo Dlomo's death in 1988 caused an international outcry and was blamed on the police

Dlomo, an 18-year-old student leader, was killed shortly after he starred in a documentary *The Children of Apartheid* by US broadcaster CBS. His death was given worldwide publicity.

Four members of an Umkhonto weSizwe unit have applied for amnesty for Dlomo's murder, claiming he was a police informant. They will testify before the commission's amnesty committee on February 15.

The commission's media liaison officer, Phila Ngqumba, confirmed that former MK cadres John Dube, Siphosiso Tshabalala, Precious Wiseman Zungu and Clive Mhlauli Makhubu have applied for amnesty for killing Dlomo.

"They said they killed him because they believed he was a police spy," said Ngqumba.

Their applications dispel the myth that the police were responsible for Dlomo's death, and follow recent allegations before the commission that ANC Women's League chairwoman Winnie Madikizela-Mandela ordered his killing — a claim that was never proved.

Wife-killer 'had a mistress'

Stephané Bothma

PRETORIA — Two weeks before murdering his wife by smashing her head with a wheel spanner and strangling her, security policeman Michael Bellingan spent a weekend at a police holiday resort with a mistress, the truth commission's amnesty committee heard on Friday.

Attorney Jan Wagener, representing five of Bellingan's former colleagues, told the committee that the five would testify that it was not that big a secret that Bellingan was having an extramarital affair when he killed his wife Janine in September 1991.

Bellingan, serving 25 years in the Johannesburg maximum security prison for the murder of his wife, with whom he was having an affair when he killed her, denied the affair.

However, Bellingan denied the affair. "That is a lie, I had no affairs and I had a very good marital relationship with my late wife," he said. Bellingan seeks amnesty for the murder and for defrauding the National Union of Metalworkers of SA (Numsa) of thousands of rands.

Bellingan told the committee Janine's murder was politically motivated, because she had threatened to expose top secret and illegal activities by the security branch of the SA Police. He claimed a former superior, Gen Gerrit Erasmus, was aware of Janine's threats and had told him to "solve the Janine problem."

Bellingan also claimed that other colleagues, including Oosie Oosthuizen, Jimmy Taylor and Deon Els, had known right from the

start that he was the murderer, but had covered up for him. They have denied his claims.

He also claimed that money, stolen from Numsa, was used for official covert security police operations. He said the interception of cheques mailed to the union was an authorised security police operation. The cheques were banked in fraudulent Nedbank accounts.

However, Wagener said, Erasmus would deny this. "The theft of Numsa money was authorised. You stole money from the union as a private venture. Your wife discovered this and threatened to expose you. This would have done your bright career in the police great harm," Wagener said.

"That, coupled with the affair you were already having with another woman, resulted in you murdering your wife. There were no political motives," Wagener said.

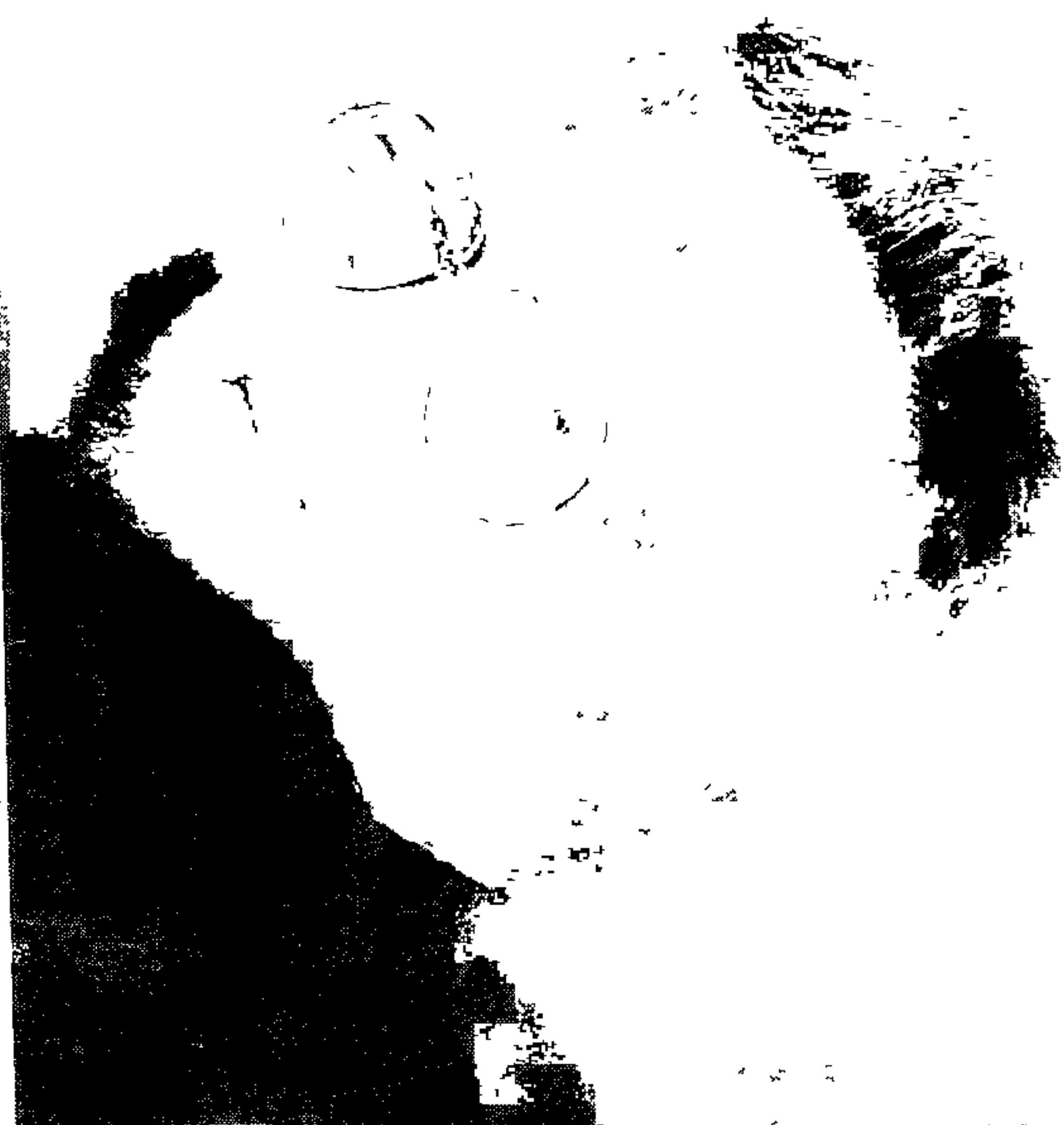
Bellingan also told the commission that in the late 1980s "very senior" Nedbank officials were once lavishly entertained by the security police at Island Rock, a very popular security police holiday spot in Northern Natal.

The resort was often frequented by operatives from the hit squad farm Vlakplaas, including their convicted chief Eugene de Kock. Bellingan insisted he could not remember the names of any of the "top" bank officials. He admitted that at one stage he had several Nedbank credit cards issued in fictitious names.

The hearing was postponed to April 12, when Bellingan's former colleagues and other witnesses will be called to testify.

Former security policeman Michael Bellingan appeared before the truth commission's amnesty committee on Friday. Bellingan, serving 25 years in prison for the murder of his wife, Janine, has applied for amnesty, claiming that the murder was politically motivated.

Picture: ROBERT BOTHA



Arbitrator to settle pay row with Omar

BY RODNEY VICTOR

span 1/2/99
An independent arbitrator from the Commission for Conciliation, Mediation and Arbitration (CCMA) will be called in to settle the dispute about overtime pay between prosecutors and state advocates, and the Department of Justice.

The parties have failed to reach an agreement at the CCMA on Friday, said National Union of State Prosecutors spokesperson Vleis van Zyl.

The prosecutors then decided to settle for arbitration, agreeing that this should take place as soon as possible.

Van Zyl said a meeting with Justice Minister Dullah Omar on "interim relief" for prosecutors and state advocates would go ahead, despite an attempt last week by officials in the Department of Justice to cancel it.

The officials sent a fax to the union saying that the meeting had been cancelled because minister Omar had not yet been in contact with his counterparts in the departments of finance and of public service and administration whose approval would be needed for overtime pay.

Van Zyl welcomed the announcement of last week which heralded 57 new appointments and promotions for prosecutors.

First township Bench will take justice to the people

MOTSHIDISI MOKWENA

IN a move towards deracialising the court districts in Cape Town and taking the justice system closer to the people, the Department of Justice has consulted the Nyanga and Crossroads communities about opening the first court in a Western Cape township.

The meeting, held last Thursday and attended by Justice Minister Dullah Omar, was also intended to obtain a mandate from the communities about how they would like the process to unfold.

The Justice Department plans to launch the court in mid-1999 as a joint venture with the Community Safety Forum, a multi-agency organisation made up of community representatives, government officials and non-government organisations.

Western Cape justice head Hishaam Mohamed said the project was a community initiative. The Nyanga community had approached the Department of Justice and the Department of Safety and Security in November and highlighted the need for a court in their area.

The initiative would deracialise magisterial districts and the court system in the Western Cape.

"Access to courts has always been a problem for our people, especially for the

historically disadvantaged," Mohamed said. "People have had to travel long distances and stand in long queues to have their matters heard."

Mohamed said opening a township court would mean people from Nyanga and Guguletu would no longer have to travel to the Mitchells Plain and Bellville courts. The Nyanga and Guguletu communities would fall under the jurisdiction of the Wynberg district and have a court in their area.

The establishment of a court was not included in the department's budget for the next three years, but the United Kingdom's Foreign Development Fund had agreed to make funds available, Mohamed said. The Danish government had also agreed to sponsor the venture.

"Existing resources will also be used. For instance, an old building that needs only minor alterations has been leased for three years."

The court would be on the corner of Portland and Cement roads and deal mainly with family court matters.

"Family violence, maintenance, interdicts and children's matters will be heard... and we hope to make the court user-friendly and to deliver the best service to the people," Mohamed said.

The Nyanga court will also sit on Saturdays to meet the needs of working people.

Prosecutors' unions want 25% salary increase

Star 2/2/99

(252)

By CATHY POWERS

Prosecutors' unions demanded a 25% salary increase yesterday from the Justice Department as "interim relief" promised by Justice Minister Dullah Omar last week.

Although Omar did not attend last week's meeting with "money in his pocket", he made a commitment to finding interim relief for prosecutors after discussions with his counterparts in the finance and public service and administration departments.

Omar was supposed to report back on his discussions at

a meeting with the interim forum, consisting of representatives of the five unions involved, the justice department and the National Director of Public Prosecutions, yesterday at which the demand was tabled.

Spokesperson for the National Union of Prosecutors of SA, Vleis van Zyl, said the 25% increase demand was over and above the 6% increase awarded prosecutors in December.

"We want 25% as interim relief until a negotiating forum is in place. We have left it open-ended. Omar got what he wanted - the other unions

stopped their labour action as a result of Omar's promises. It's up to him to come back... with counter-proposals."

Neither Omar nor the national Director of Public Prosecutions was present at yesterday's meeting.

State prosecutors refused to work overtime after overtime pay was scrapped at the end of November and they were awarded the 6% pay increase.

Meanwhile, two of the unions were drawing up papers for the arbitration hearing at the Commission for Conciliation, Mediation and Arbitration over the salary dispute.

TRC told of war on East Rand before 1994 elections (2/52)

THE war that broke out on the East Rand between supporters of the African National Congress and the Inkatha Freedom Party before the 1994 election was recalled at the Truth and Reconciliation Commission's amnesty hearings yesterday.

A former Thokoza self-defence unit member described how he shot dead a suspected IFP informer during the height of the East Rand violence in the early 1990s.

Vusi Mbatha (26) told the amnesty committee in Johannesburg he joined the ANC's SDUs after repeated attacks on residents of Thokoza by IFP supporters.

Mbatha told the committee that one night he went to the office of the SDU in Thokoza and saw a known IFP supporter who had been captured by ANC comrades.

He said he knew the man to be an informer of the IFP and decided that he should be killed.

Mbatha said he took an AK-47 rifle from one of the SDU members and fired a volley of bullets into the man's chest.

Mbatha is one of 56 SDU members who have applied for amnesty for the killings that occurred during the outbreak of violence on the East Rand in the early 1990s.

Secretan 2/2/99

Nzo stands firm on disbarred attorney's posting to India

BY EDWIN NAIDU

Cape Town attorney Ramesh Vassen wants to put the nightmare of the past week behind him and concentrate on selling South Africa when he takes up his post as consul-general in Mumbai, India, this week.

Vassen, whose appointment provoked controversy when it emerged he had been struck off the attorneys' roll nine months ago, was given a vote of confidence by Minister of Foreign Affairs Alfred Nzo yesterday.

The foreign affairs boss dismissed criticism as "opportunism" and said Vassen had been

appropriately punished and deserved another chance. President Nelson Mandela recently ratified Vassen's appointment as consul-general on the recommendation of the Department of Foreign Affairs.

Nzo said Vassen had a good track record and that parties were making a fuss to score election points.

However, rival politicians blasted Nzo's decision, saying the ANC's appointments to foreign missions amounted to no more than "jobs for pals" and that some of the diplomatic choices had been embarrassing failures.

Nzo said in Pretoria yesterday that the department was aware when it employed Vassen that he had been struck off as an attorney, and that he had developed good relations with all parties in Parliament.

Speaking from Cape Town, Vassen told *The Star* he was relieved to find that the department had stood behind him when people were trying to wreck his career. "I am glad the

department believed in and trusted me," he said.

Vassen would not comment on his being struck off, but said he wanted to put the past behind him and concentrate on being a good representative for South Africa.

However, the DP's Douglas Gibson said the Department of Foreign Affairs seemed to be a "good dumping ground for dishonest ANC pals."

"The Democratic Party is outraged at the decision not to retract Vassen's appointment as consul-general to Mumbai, and by the appointment of Ms Lyndall Shope-Mafole as minister

(second in command to the ambassador) to Paris. These appointments make a mockery of the ANC's claim to be tough on corruption," he said. Gibson labelled the "sur-reptitious" appointment of

Shope-Mafole as "another example of the appointment of well-connected people to positions in the foreign service."

Like Vassen, she had been implicated in a corruption scandal, and had been forced to resign from the Independent Broadcasting Authority after the auditor-general released a damning report into credit card abuse by IBA councillors.

Gibson added that R241 722 was still owed by former IBA councillors. "If Ms Shope-Mafole has paid back the money owed by her, then we should be told. If not, why not—and, more particularly, why should she be rewarded with a plum diplomatic post?"

New National Party spokesperson Juli Kihlan questioned the wisdom of Nzo going ahead with Vassen's appointment.

I am glad that the department trusted me

Star 3/2/99 (252) (304A)

TRC hears how hostel rivalry led to killings

ARGUS CORRESPONDENT (252)

ARG 3/2/99

Johannesburg - Details of the bitter rivalry between Inkatha Freedom Party-aligned hostel residents and African National Congress supporters in Tokoza have emerged at amnesty hearings into the conflict

Former self-defence unit commander Victor Mngomezulu, alias "Mochacho", told the Truth and Reconciliation Commission in Johannesburg yesterday that he had ordered the killing of two IFP supporters after members of his family were killed
Mr Mngomezulu, who also uses

his mothers' surname, Mabaso, said he became bitter after his mother, grandparents and young brother were murdered at the hands of IFP members in August 1993
He said his two sisters and a neighbour's son were also injured. The boy was now wheelchair-bound

Justice, union to set up joint task team (252)

Taryn Lambert

A TASK team of justice department officials and union representatives has until the end of the month to address concerns of poor working conditions in magistrate's courts

The Federation of Unions of SA (Fedusa) and department officials met at the National Economic Development and Labour Council (Nedlac) in Johannesburg yesterday to discuss the "poor state of criminal courts" and the excessive demands placed on public prosecutors

Fedusa called the meeting on behalf of its affiliate, the National Union of Prosecutors of SA, which represents most of the prosecutors in the country

Fedusa general secretary Chez Milani said the union had raised key areas which needed to be addressed by the task team. The departmental bargaining chamber would appoint the task team within two weeks

The union asked the department to conduct a survey of all courts, to take stock of staff vacancies, the lack of equipment and filthy conditions

The issue of health and safety needed to be addressed as many prosecutors were attacked. The prosecutors are seeking parity with magistrates salaries and a forum to be set up to address their grievances

Fedusa also asked the department to address the problem of "victimisation of unions" because they were not permitted to receive stop order deductions for agency fees

Nedlac acting executive director Wendy Dobson said there was agreement on the issues that needed to be tackled

"The problem was the lack of an effective mechanism for information sharing, communication and consultation. Today's meeting has established such a mechanism"

BD 4/2/99

'UNQUALIFIED' — CLAIM

Minister's man in top job dispute

(277) CT 4/2/99

A SENIOR government official has claimed that his chances of getting the top state legal job have been prejudiced by the appointment of a former associate of Justice Minister Dullah Omar — and the incumbent, it is contended, is not qualified to hold the post

THE top government legal job of chief state law adviser, which more than a year ago was given to Enver Daniels, an attorney who served his articles in the law firm of Justice Minister Dullah Omar, will be the subject of a hearing today before the Commission for Conciliation, Mediation and Arbitration

J H Bruwer, a deputy chief state law adviser who was shortlisted for the job when the post became vacant but failed in his bid, wants the commission to find that the appointment of Daniels, on contract, was unfair, because he does not have the required qualifications.

The minimum requirement for the job is an LLB law degree, and the incumbent has to be an advocate. State law advisers are required to advise the government in legal matters, give legal opinion on behalf of all central government 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 the exceeding of powers, and scrutinising extradition agreements and international agreements to ensure that they do not conflict with South African domestic law.

Daniels is one of several people now in prominent positions who worked in Omar's law firm, either as personal assistants, articled clerks or as a partner.

They include Ramesh Vassen, a former partner whose recent appointment as consul general to India has generated controversy because he had been struck off the roll of attorneys for stealing a client's money held in trust, Judge Siraj Desai, who served articles, Norman Arendse, SC, who served articles and is representing the Department of Justice in the Bruwer matter, Denzil Potgieter, SC, who served articles and until recently was a commissioner with the Truth and Reconciliation Commission and Percy Sonn, who served articles and is now head of the National Investigative Directorate of Organised Crime and Public Safety.

Others are Shanaaz Meer, articled clerk and now a Land Claims Court commissioner, Joe Ebrahim, once a professional assistant and now a judge in Bisho, Eastern Cape, and David Mias, now serving with the state attorney in Port Elizabeth.

In his legal action today, Bruwer also wants the commission to find that Daniels' appointment from outside the Public Service in a contractual capacity to a permanent post on the staff of the Department of Justice is not just and equitable.

Bruwer will also ask the commission to find that the department committed an unfair labour practice by not filling the vacant

and advertised post of chief state law adviser while suitable candidates were available.

He will further ask that the commission order the Justice Department to pay him a salary equal to that of chief state law adviser from the date of Daniels' appointment in August 1997, and that the department be ordered to fill the vacant post within three months.

The Department of Justice, however, denies that it committed an unfair labour practice.

It said the appointment process, which culminated in the selection committee recommending that no one was suitable for recommendation, had been an open and transparent one and that Bruwer was interviewed and given an opportunity to state his case. Justice Minister Dullah Omar had then acted on the committee's recommendation and declined to make a permanent appointment.

Members of the selection committee were Essa Moosa (chairperson), Jasper Noeth, director-general in the Department of Justice (now retired), Olive Shisana, former director-general in the Department of Health, Siphosiphanyane, director-general in the Department of Labour, P Fitzgerald, chairperson of the Gauteng Public Service Commission. Members of the committee secretariat were J W Bostander and P J Louw.

The department said it was apparent from Omar's reply in Parliament on August 27, 1997, and again on April 22 last year, that the appointment as chief state law adviser had been made, but on a contract basis and was not a permanent appointment.

The department contended that the non-appointment of Bruwer was not the type of dispute covered by the Labour Relations Act because it was not a promotion issue, and it would therefore apply to have the matter dismissed with costs.

In his statement of case, Bruwer said he had applied for the advertised post, had complied with all of the appointment criteria and was classified as promotable in his present rank of deputy chief state law adviser.

The department requested him to re-apply for absorption in his own post but he found this unacceptable until his grievances had been dealt with.

In spite of his misgivings, Bruwer said he had decided to follow the non-confrontational route and on September 5, 1997, made representations for protective promotion to the post of chief state law adviser.

He had not received any written reply to those representations to date nor to three reminders, he said.

He contends that the Justice Department



APPOINTED ON CONTRACT: Chief state law adviser Enver Daniels

Turn to Page 3

Job dispute

(277) CT 4/2/99
From Page 1
had created a legitimate expectation

Bruwer said although Omar indicated on numerous occasions in Parliament that Daniels' appointment was only until July last year, he was still in the post on a contract basis.

This prejudiced his career even further, he said.

The manner in which the department had relaxed the appointment criteria for the post of chief state law adviser was inconsistent with the Public Service Code, Bruwer said.

The department argued it was obvious that Bruwer had no right to be appointed to the vacant post. South African law of legitimate expectations did not provide the basis for the conferral of a substantive right, but rather a procedural right, to a fair hearing.

Bruwer was qualified for the post and was indeed promotable, but the department disputed his suitability for the post — Staff Writer

The Public Servants' Association acts for Bruwer. Norman Arendse, SC, instructed by the state attorney, will appear for the Department of Justice.

Raid on police station for weapons was 'for self-defence'

Nomavenda Mathlane

THE truth commission's amnesty committee heard yesterday how a poorly staffed police station on the East Rand was raided by members of a Thokoza self-defence unit looking for guns

Former unit member Solomon Dlamini told the committee he was part of a six-member gang which attacked the Kliprivier police station, outside Alberton, in December 1993

The gang went to the station where, after pretending that they had had a breakdown, Dlamini and one of his comrades went into the station and lured the two policemen on duty at the time outside

by asking for help

"Once they were outside, we overpowered them and took two pistols and one R-5 rifle," Dlamini said

Dlamini said after disarming the policemen, the gang then disconnected the telephone and demanded keys to the station's safe where they collected six pump guns, four pistols and three R-1 rifles

Dlamini is among 52 Thokoza self-defence unit members who have applied for amnesty for their role in the violent conflict between the African National Congress (ANC) and the Inkatha Freedom Party (IFP) which ravaged the East Rand in the early 1990s

The units were formed by the ANC in a

bid to defend communities against state-sponsored violence

Dlamini's testimony was corroborated by former unit leader, Mduduzi "Blair" Kubheka, who is also seeking amnesty

Kubheka said the guns stolen from the Kliprivier police station were needed to defend Thokoza residents from attacks by the SA Police's Internal Stability Unit and the IFP

Another applicant, Sakhile Jethro Mtshali, confessed to two murder attempts on Jeffnos Gobane Dube, a suspected IFP informer, in November 1993

Dube, who attended the hearings in Johannesburg yesterday, refused to testify. However, Dube said privately Mtshali

had not told the truth about why he had tried to kill him as he was not an IFP member. The hearings continue on Monday

Meanwhile, AENS reports that in Nelspruit, Mpumalanga, an IFP member who killed a childhood friend so the party could win the 1994 general elections, was denied amnesty yesterday

Collen Mtambo, of Kwadela in Davel, is serving a 12-year prison term for murdering ANC member Mshengu Phungwayo on May 29 1993

The amnesty committee's chairman, Judge Sisi Khampepe, said Mtambo's application had too many contradictions and he had tried to create a political context to justify his killing Phungwayo

(2572) BD 7/2/99

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TRC hears of murder bids by self-defence unit members

By THEMBA SEPOTKELE

Jiphnas Khubane Dube, who survived two murder attempts at the hands of self-defence unit members in Thokoza, counted his blessings yesterday at an amnesty hearing at the Central Methodist Church in Johannesburg.

After listening to the testimonies of Mswazi Nxumalo and Sakhile Mtshali, who are seeking amnesty for abducting and attempting to kill him, Dube declined to testify.

He said that nothing would remove the stigma of being branded an IFP informer in 1993 when he was attacked. He said he could not forget the trauma and could not forgive

After the hearing, Dube talked about how he was almost killed. He said he was walking towards a bus stop when a minibus stopped next to him. He was bundled into it.

"I was assaulted and strip-

ped naked for no apparent reason. During the interrogation I was branded an IFP informer, even though I have no allegiance to any political party.

"I was taken to Phola Park, where I was shot in the right thigh. I felt and pretended I was dead. As a police, Casspir approached, I ran in its direction and was taken to hospital.

While I was lying in hospital, I received death threats from strange people visiting the hospital.

Three days later, after being discharged, I went to my sister's house in Phenduka Section, where I was attacked again on the same night.

One of the attackers gained entry through the window and I hit him with an iron rod. We wrestled until the second one entered the fray. I was then shot in the left shoulder blade and they ran away, probably thinking I was dead," Dube said.

The hearing continues.

Vassen declines India diplomatic post

BY Sapa and TIM DU PLESSIS

RAMESH Vassen, the disgraced lawyer whose appointment to a top diplomatic post is being investigated by Public Protector Selby Bagwa, yesterday turned down the appointment.

Bagwa yesterday announced he would investigate three top-level diplomatic appointments, including that of Vassen as consul-general to Bombay in India, before Vassen announced he would not be taking up the post.

In a statement Vassen asked the Department of Foreign Affairs to release, he said "I should like to place on record that I have not been convicted by a court of law and that

I do not have a criminal record, despite persistent attempts by certain political parties to characterise me as such."

In August 1996 the Cape High Court found that Vassen misused trust money and ruled him as unfit to practise as an attorney. His appeal against the decision was turned down in May last year.

"I recognise that I have made a mistake by borrowing money from a trust fund. However, I would like to emphasise again that I marked it as a loan and repaid all the monies."

Vassen said he had been deeply hurt by distortions which had negatively affected public perceptions on the matter.

"As regards the persistent reference to the 18 incidences of underbanking, I wish to state that I was a sole practitioner with no partners or professional assistants, and due to a lack of back-up these errors occurred."

"Upon being advised of my shortfalls I immediately paid these amounts in. Not a single client suffered any loss, nor did the fidelity fund have to pay out any monies on my behalf."

Vassen said he decided against taking up the post, believing it was the honourable thing to do to protect the interest of the country.

Foreign Affairs Minister Alfred Nzo accepted Vassen's reasons for turning down the post, spokesman

Marco Boni said

"In announcing the investigation, Bagwa said "It is apparent that these appointments have caused some concern in a variety of quarters in South African society, particularly in view of the high profile of the appointments and the government's stated commitment to clean administration."

Bagwa will also probe the appointments of Lyndall Shope-Mafole to a senior post in the South African embassy in Paris and that of David Mkhwanazi, former MEC for environmental affairs in Mpumalanga, as South Africa's next ambassador to Maputo.

Vassen's appointment, sparked Turn to Page 2

Vassen declines India diplomatic post

From Page 1.
an outcry after it emerged he had been struck off the attorney's roll after the Cape Town High Court found he had stolen more than R62 000 from one of his clients.

The government has so far defended Vassen's appointment, saying he repaid the money and deserved a second chance. Opposition parties fiercely attacked the appointment, saying Vassen was unfit to represent South Africa abroad, and that his appointment made a mockery of the government's com-

mitment to a clean administration. Shope-Mafole, a former member of the Independent Broadcasting Authority (IBA), is embroiled in a legal wrangle with the IBA. This follows a finding by the Auditor-General in 1997 that she and two fellow IBA commissioners used IBA credit cards for private expenses.

Mkhwanazi lost his job as MEC for environmental affairs in Mpumalanga following the multi-million rand secret deals between the Mpumalanga Parks Board and the shady Dolphin Group.

ANC cash shock for victims of apartheid

(252) ST 7/2/99
JUSTICE MALALA and
CARMEL RICKARD

THE ANC has signalled that the government will not pay reparations to more than 20 000 people classified as victims of gross human rights violations by the Truth and Reconciliation Commission.

Instead of making payments to individuals, the government will seek to make symbolic reparations to communities and the nation as a whole as it cannot "attach monetary value to the suffering", the ANC's secretary-general, Kgalema Motlanthe, said on Friday.

The move will come as a blow to many of the officially designated apartheid victims who had pinned their hopes on receiving R26 000 each, spread over six years, in line with the commission's reparations and rehabilitation committee.

If the government were to follow these recommendations, the bill would amount to R520-million.

The head of the reparations committee, Hlengiwe Mkhize, said "It will be a double loss for them. At the time the TRC was set up the government entered into a social contract there was an agreement that the perpetrators would be granted amnesty and their victims would give up the right to pursue civil claims.

"In exchange, victims would be granted compensation by the state."

Many of the applicants are victims of police torture who cannot provide for themselves. Others are the dependants of those who died fighting apartheid.

Although many have received between R2 000 and R2 500 from the President's Fund as a way of temporarily alleviating their situation, those pay-

ments were designed to provide only limited assistance while the government and Parliament discussed reparation.

Speaking at the opening of Parliament on Friday, President Nelson Mandela said Parliament should elaborate on "concrete plans about how together we can make practical contributions".

"This applies particularly to reparations, not so much to individuals, but to communities and the nation as a whole."

Motlanthe explained "What Mandela means is there will be no point in attaching monetary value to the suffering of individuals. That does not, however, preclude some symbolic reparation through other means. For example, orphans can be assisted through bursaries.

"There will not be a uniform formula. Rather, it will be a community-based thing," he said.

The ANC had not taken a formal position on the matter, he added.

Motlanthe admitted that many of those who went before the TRC had expectations of reparation and their appearance "would translate into

material support".

"Truly, the whole nation suffered under apartheid. Degrees of suffering differ. You cannot just arrive at a figure and disburse funds. The whole nation should be repaired — we have become a sick society and we all need to be repaired."

Meanwhile a TRC spokesman, Mdu Lembede, said "the paying of reparations falls squarely on government" and if Parliament decided not to opt for individual payments then it had the right to do so.

"I do not believe the President meant he is ignoring individuals completely, but rather wants to reconcile communities," said Lembede.

He said this could, for example, be in the form of building a clinic where the Shobashobane Massacre took place, instead of monetary payments to each of the victims of that violation of human rights.

OUTRAGE

SCANDAL OVER APPOINTMENT OF ENVOY TO INDIA
Mandela probes how 'thief' got top post

How the Sunday Times reported the scandal last week

Outrage forces crooked diplomat to quit top post

DISGRACED lawyer Ramesh Vassen yesterday bailed out of his diplomatic posting to India in the face of a public outcry over his crooked past. However, the Public Protector, Selby Bagwa, will go ahead with an investigation into how a person found by the High Court to be too dishonest to act as a lawyer had been appointed to the post of Consul General. "This will not affect our investigation at all," said advocate Stoffel Fourie of the protector's office. "We have an obligation to investigate corruption in government appointments, not an individual."

He said investigations into the probable appointments of Independent Broadcasting Authority commissioner Lyndall Shope-Mafole and ousted Mpumalanga environment MEC David Mkhwanazi to senior diplomatic posts would also go ahead.



FAMILY BLUES: Vassen and wife Veena and children Pnya, Mukesh and Trivesh
 Picture: TERRY SHEAN

An unrepentant Vassen said yesterday he had advised the Minister of Foreign Affairs, Alfred Nzo, of his decision to resign the post, before he had taken it up, "in the interests of the department and South Africa". He was, however, convinced he had done nothing wrong in "borrowing" money from a trust fund. He denied he had been asked to give up the position. President Nelson Mandela and the government publicly stood by the appointment this week, but it is understood the President was involved in behind-the-scenes discussions on how to get out of what had become an embarrassing controversy. Presidential spokesman Parks Mankahana refused to comment yesterday on Mandela's role in Vassen's decision.

Vassen said he had not discussed his decision to quit with Nzo and said he was not aware of the Public Protector's investigation. The resignation, which has been accepted by the Department of Foreign Affairs, came on the day Vassen and his family were due to leave for India. Vassen said yesterday, "I took a loan from an estate I was executor of and felt I was entitled to do that. I recognise I made a mistake by borrowing money from a trust fund." He said he had repaid the money he had borrowed and "not a single client suffered any loss". However, in 1996, the Cape High Court ruled Vassen had misused clients' money on dozens of occasions over several years. In the most "serious transgression", it found he had wrongfully endorsed a R61 763,55 cheque made out to the beneficiary of the estate he was executor of and wrongfully paid the money into his trust account. The court found the fact that Vassen "persisted in what is a patently dishonest denial on oath that he was not guilty of theft" was an aggravating factor in confirming his removal from the lawyers' roll. A full bench of the Appeal Court later confirmed the ruling.

After his appointment as Consul-General, the Cape Law Society said that, in its opinion, the appointment sent out the wrong message about the government's attitude towards corruption. The society said it was "not appropriate" that, at this stage, Vassen should be appointed as a public representative of South Africa.

The society said it did not accept the argument that Vassen's honesty and integrity were not relevant to his position as the South African Consul-General to India. In a letter written to the law society in 1995, Vassen pleaded for the charges against him to be dropped. He said he had worked as a human rights lawyer and got to know people holding important and high positions, including the President. If he was found guilty, "no foreign country would accept my credentials as a diplomat in their country", he wrote.

The Democratic Party yesterday welcomed Vassen's decision to withdraw.

(572) ST 7/2/99

Mandela praises Vassen's decision to step down

Linda Ensor and Sapa

CAPE TOWN — President Nelson Mandela yesterday praised the consul-general designate to India, Richard Vassen, for his decision to step down from the posting but there appeared to be no similar plans by the other recent controversial appointee to Paris, Lyndall Shope-Mafole

Mandela said that in the light of public dissatisfaction over his appointment, Vassen's decision was a "good thing". Vassen was found guilty of theft of trust funds and was struck off the roll of attorneys in August 1996

However, as far as the posts, telecommunications and broadcasting department was concerned, Shope-Mafole had no in-

tention to stand down from her post as GM international telecommunications policy Shope-Mafole together with other disgraced former councillors of the Independent Broadcasting Corporation (IBA) still owe the IBA R241 722. They were forced to resign after a public outcry about their abuse of credit card and travel privileges

Ministerial spokesman Mandy-Jean Woods said she was not aware of any plans that Mafole had to resign. She noted that the department had no jurisdiction over her dispute with the IBA, Mafole had not been convicted of any crime, and was "eminently" qualified for her position

Director-general Andile Ngcaba has stated that the department would assist the IBA to recover all

amounts of money "deemed to be improper or unlawfully incurred by former IBA councillors".

Public Protector Selby Bagwa recently recommended that the Health special investigating unit probe the allegations

Regarding Vassen, Mandela said that his appointment followed his three-year stint as the department's most senior representative in Parliament which won him good recommendations from the New National Party and the Pan Africanist Congress

It would, Mandela said, be unfair not to consider a diplomatic posting for axed Kwazulu-Natal education MEC, Vincent Zulu, understood to be a candidate for Middle-Eastern appointment, simply because of his removal from

the position

It would also not be correct to refuse a request by Inkatha Freedom Party leader Mangosuthu Buthelezi to consider deploying a particular minister

Foreign Minister Alfred Nzo said former Mpumalanga environmental affairs MEC, David Mkhwanazi, was never considered for an overseas diplomatic posting. The minister's statement followed persistent media reports to this effect which led to Bagwa stating he would investigate the matter

The New National Party said the African National Congress government and particularly Nzo were to blame for the international embarrassment surrounding Vassen's appointment.

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Omar shrugs off Vassen fiasco

Minister rejects 'jobs-for-pals' (2/12) allegations, and says his law firm trained people who deserved success

By JUDITH SOAL
Cape Town

Star 8/12/99 law firm.

Justice Minister Dullah Omar has slammed claims that he is to blame for the foreign affairs fiasco that resulted in the resignation of his former partner Ramesh Vassen and that his department was a source of "jobs for pals".

Disbarred Cape Town attorney Vassen resigned from his diplomatic posting as consul-general to India at the weekend after a public outcry over reports that he was struck from the roll of attorneys in 1996 for taking money from clients' trust funds.

The Cape High Court found that he had misused public money on several occasions over the years. Weekend newspapers referred to Vassen as "Omar's crooked buddy".

A disappointed Vassen told *The Star* he had decided to withdraw from his posting to India because the political heat accompanying his appointment had been unbearable. "I just felt the pressure too much and decided it would be best to step down."

Vassen said he had been hurt by accusations hurled at him in the past week, but conceded it had been a mistake to borrow money from a trust fund. He said he had marked the transaction as a loan and had repaid all the money.

But Omar was angry: "Ramesh Vassen and I were partners in a law firm until 1982, when I left to join the Bar."

"He then went into partnership with other people. That was 17 years ago. The reports (linking the women) are sickening."

There have also been raised eyebrows about the number of people who occupy top jobs today who once worked at Omar's

The appointments of truth commissioner and acting judge Denzil Potgieter, Judge Siraj Desai, Judge Joe Ebrahim; Norman Arendse SC, who sometimes represents the state; and chief state law adviser Enver Daniels are among those being questioned.

"I am surprised that the press named so few people," said Omar.

"There are dozens more people who worked with me who are in prominent positions now, and I am very proud of that. I am proud that my firm produced these people."

Omar said he had started practice as an attorney in 1960 and stopped in 1982. In those 22 years, a number of young lawyers had gone through his firm. He was also involved in the leadership of the Democratic Lawyers Association and the National Association of Democratic Lawyers.

"I helped to mobilise black lawyers throughout the country because of this involvement, and I got to know hundreds of lawyers."

"Many of these people are in high positions today, and to suggest that the only reason they got those positions is because of their relationship to me is highly insulting to them."

"My practice was a practice with a difference because we took on (political) cases that very few firms were prepared to touch."

"The people who joined my firm had to show a commitment to the same ideals that I stood for."

Marco Rood, a person for the Department of Foreign Affairs, said the search for a replacement for Vassen would take place in the normal manner in which diplomatic appointments were made.

CRITICISM 'HIGHLY INSULTING'

Jobs for pals? Omar speaks

SACEDUN

IN CALMER MOMENTS Dullah Omar feels flattered by media reports of his widespread power over the appointment of top government officials. Most of the time, though, he is furious. **JUDITH SOAL** reports.

ET 8/2/99 (252)

MINISTER of Justice Dullah Omar is furious over claims that he is to blame for the Foreign Affairs fiasco that resulted in the resignation of his former law partner, Ramesh Vassen, at the weekend and has called them "ridiculous". He has also denied reports of "jobs for pals" in the Justice Department.



SICKENED: Justice Minister Dullah Omar says the criticism is unfair

Vassen resigned from his diplomatic posting as consul-general to India after a public outcry over reports that he was struck from the roll of attorneys in 1996 for taking money from clients' trust funds. The Cape High Court found that Vassen — labelled "Omar's crooked buddy" by weekend newspapers — had misused public money on several occasions.

"Ramesh Vassen and I were partners in a law firm until 1982, when I left to join the Bar. He then went into partnership with other people. That was 17 years ago. The reports (linking the two men) are sickening," Omar said.

There have also been raised eyebrows about the number of people in top jobs who once worked at Omar's law firm. Truth Commissioner and Acting Judge Denzil Potgieter, Judge Siraj Desai, Judge Joe Ebrahim, Norman Arendse, SC, who sometimes represents the state, and chief state law adviser Enver Daniels are among those cited as examples. "I am surprised the press named so few," said Omar. "There are dozens more who worked with me who are in prominent positions now and I am very proud of that."

Omar said he had begun practising as an attorney in 1960 and stopped in 1982. In those 22 years many young lawyers had gone through his firm. He was also involved in the leadership of the Democratic Lawyers' Association.

"I helped to mobilise black lawyers throughout the country because of this involvement, and I got to know hundreds of lawyers. Many of these people are in high positions today and to

suggest that the only reason they got those positions is because of their relationship to me is highly insulting to them.

"My practice was a practice with a difference because we took on (political) cases that very few firms were prepared to touch. The people who joined my firm had to show a commitment to the same ideals that I stood for."

Omar addressed some of the cases individually.

● Daniels: Daniels' post as chief state legal adviser is subject to a labour dispute with one of the people overlooked for the job, J H

Bruwer, who is claiming before the Council for Conciliation, Mediation and Arbitration (CCMA) that he was unfairly prejudiced by the appointment of Omar's former colleague.

"We formed a selection committee for that post and we interviewed all the applicants," said Omar. "There was consensus on the committee — except for (Justice Department director-general Jasper) Noeth — that Bruwer and the other applicants were unsuitable. That was the committee's finding, so we had to make an appointment from outside."

"Since Daniels has been appointed, the backlog of cases has been cleared, he has brought in black staff and set up consultation structures. There has been a dramatic change and I make no apologies for his appointment."

● Desai: "None of the appointments to the bench is made by me. They are made by the Judicial Services Commission."

● Potgieter: Appointed by President Nelson Mandela.

● Arendse: The Judge President requested his appointment.

● Ebrahim: Appointed by the Judicial Services Commission.

"The smearing is detestable, but I suppose it is a great reflection on me that the media think I have so much power to influence appointments," said Omar.

Govt denies it reneged on reparations to victims

(252)
Nomavenda Mathlane

PRESIDENTIAL spokesman Parks Mankahlana denied reports yesterday that government had reneged on its promise to pay reparations to victims of gross human rights violations, saying the matter still had to be debated in Parliament

This followed weekend reports that the African National Congress (ANC) had decided against paying individual reparations, opting instead for symbolic community projects

Truth commission reparation's commissioner Hlengiwe Mkhize said some MPs had expressed the view that it would be better and more cost-effective to finance nation-building projects, instead of making individual payments. However, the commission had already spent R1m on interim individual reparations.

Meanwhile, the Khulumani Support Group, made up of victims of gross human rights violations, has called on government to open the matter for public debate.

The group accused the commission of forcing victims to relinquish their right to individual civil claims, resulting in people thinking the new democratic state would provide individual reparations.

BD 10/2/99

Anti-terrorism laws 'may infringe on rights'

Drew Forrest
and Jonny Steinberg

CAPE TOWN — Justice Minister Dullah Omar confirmed yesterday that government was preparing anti-terrorism legislation, to be pushed through early this year, which would involve some limitation of constitutional rights

This is the first clear indication that the authorities have decided on a legislative response to urban terrorism, in particular the bombings in the Western Cape

Sources say there are still divisions in government over how tough the legislation should be. It is understood that the safety and security secretariat wants the

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mildest measures possible, while the justice department is more hawkish

Omar said he supported the idea of separate legislation to fight terrorism, a term not defined in statute. The same approach was needed for gang-related and organised crime.

He said the safety and security ministry was driving the legislation. However, a committee of ministers had been formed to discuss what the law should contain. The aim was to enable police to investigate those arrested in connection with acts of terror, one possibility being "a period of detention (longer than the 48 hours now permitted) controlled and monitored by the judiciary"

(252)
Omar said there had been no discussion in government about amending the constitution to pave the way for anti-terrorism law. "We would be most reluctant to do this," he said

The limitations clause in the constitution provided an adequate framework for the limitation of rights, if it was "reasonable and justifiable in an open and democratic society". The Constitutional Court may have to rule on whether the proposed law meets this criterion

Sapa reports that a bomb scare interrupted Omar's briefing. Police spokesman Daniel van Niekerk said a caller warned of an explosion in the parliamentary complex, but gave no details

I'll never say sorry, amnesty seeker tells TRC

BY FIKILE-NTSIKELELO MOYA

An amnesty applicant vowed yesterday that he would never apologise for his involvement in the violence in Thokoza on the East Rand because he was acting in a war situation.

Bongani Caswell Nkosi, a self-defence unit (SDU) commander in Thokoza's Mandela section in the 1990s, said he was prepared to meet with the families of his victims or with his former enemies on condition that they discussed the future and not their turbulent past

star 10/2/99 (292)
Nkosi is applying for amnesty for his involvement in the killing of an Inkatha Freedom Party supporter who was shot dead with an AK-47 in the veld in Thokoza in October 1993.

He also wants to be pardoned for being part of a mob that stoned another IFP member to death in July 1993.

Nkosi said that during the political strife in the townships, the ANC-aligned SDUs and the IFP's self-protection units (SPUs) had declared their respective territory as no-go areas.

He said it was common prac-

tice that a person who was unknown or was believed to be an IFP or ANC sympathiser would be killed if found in the wrong part of town

"I would have killed anyone wearing an IFP T-shirt. I am sure that what happened on the right could also have happened on the left," he said, implying that IFP would have done the same in its territory.

Nkosi said he was perturbed by the eventual integration of the SPU and SDU into the police force, and had to be convinced to hand in his AK-47.

New prosecutor units to 'speed up court cases'

By Malcolm Ray

PROSECUTOR units will be set up in all provinces in an attempt to deal more speedily with crime

Justice Minister Mr Dullah Omar said in his parliamentary press briefing yesterday that the new units were intended to ensure the efficient and speedy prosecution of criminals and eliminate delays in courts so as to maximise the conviction of guilty persons

He said the effectiveness of the prosecution system was more acute in the proliferating of crime syndicates, organised gangsterism and urban terrorism

"We have set up units in the Western Cape and KwaZulu-Natal where syndicated crime, terrorism and political violence have grown," Omar said

A third unit is being established in Gauteng to combat the incidence of car hijacking. The new system will be underpinned by a rationalisation of the courts

Said Omar "Judicial, administrative and prosecutorial functions are being separated, to enable judicial officers to concentrate on judicial func-

tions and the prosecuting authorities to prosecute without undue interference"

He added that the rationalisation would take account of current overlapping functions and powers in the judicial system

Also in the pipeline were steps to redemarcate the boundaries of magistrate courts

"The apartheid system left a legacy of skewed access to the courts because of racial demarcations. We expect during the course of the year to set up boundary committees in every province and a national committee to review this situation," said Omar

According to the proposal a cluster system of courts in the provinces will be put in place and each province will also have a high court

Turning to Gauteng, Omar said 50 courts would form part of a provincial cluster

"Free, fair and ready access to the judicial system is our prime objective. We will also have redesigned the structure of the justice system to square with the separation of powers in the Constitution," he said

Sowetan 10/2/99

Ex-SDU man wins amnesty

By Paul Letsoalo

FORMER Vosloorus, East Rand, self-defence unit member Gradwell Selahle was granted amnesty by the Truth and Reconciliation Commission's amnesty committee in Mayfair Johannesburg, yesterday

Selahle was sentenced to 12 years' imprisonment for the murder of Inkatha Freedom Party (IFP) member Mr Joseph Mkhabela in 1992

Twenty one other SDU members have also applied for amnesty for their involvement in the violence that plagued the East Rand townships of Vosloorus, Thokoza and Katlehong in the late 1980s and early 1990s

During his testimony on Monday Selahle told Judge Sesi Khampempe that they were

ordered by former Umkhonto we Sizwe commander Bongani Chris Khumalo to kill Mkhabela at the Mguni Hostel in Vosloorus

"During the time leading to the first democratic elections, a battle was waged against the communities to weaken the African National Congress since the security forces were conniving with the perpetrators

"My involvement with the SDU was not of self-interest but also a duty to protect the community as a whole," Selahle said

Sporadic violence erupted in the area between SDUs and hostel dwellers, who were perceived to be supporters of the rival IFP

Apparently Mkhabela, a taxi driver, was murdered by SDU members after the killing of a group of people near the hostel

Selahle told the hearing that the murder of

Mkhabela was part of an initiative brought forward by the ANC to protect the defenceless communities of the townships

Others who have applied for amnesty are Mazwi Mkukwana, Mzolis Mhlakaza, Milton Mhlongo, Sandile Garane, Puseletso Juha Skhosana, Mhlahleni Seshaba, Siphohle Mahlangu, Mokhasoane Dithage, John Radebe, Abraham Mkhwanazi, Levy Makoe, Peter Valkant, Julian Plaatjes and Vusi Mononi

Judge Khampempe said the decision to grant Selahle amnesty came after the investigating officer's failure to establish whether he was a member of the SDUs or not

She said the failure to provide sufficient evidence as to whether the motive behind the killings was politically motivated or robbery was another reason

Courts get tougher

Prisoners get longer stints for serious crimes

By Jimmy Seepe and Morgan Naldu

THERE has been, over the past two years, a marked increase in the number of criminals receiving prison sentences of 20 years and more, suggesting that the courts are getting tougher in dealing with rampant lawlessness.

That is according to the Department of Correctional Services officials, who told *Sowetan* there has been an increase of almost 1 500 inmates serving more than 20-year sentences during the period under review.

While the trend has been applauded by the Justice Ministry, it has also drawn concern from prison authorities.

Commenting on the figures released by the Department of Correctional Services, Justice Minister Dullah Oduur welcomed the trend. He also called on opposition parties to take note of the statistics and "refrain from peddling distorted information on crime."

Between December 1996 and December 1998 the number of long-term prisoners increased from 3 602 to 5 090. The total prison population increased from 125 750 to 146 278.

Omar said the increase in the conviction rate would go a long way to restoring public confidence in the courts and the police.

The figures come at a time when the Government, and Omar in particular, have come under criticism for their "soft" approach to crime.

He said "the statistics dispel perceptions created by opposition parties that the rate of convictions has gone down."

New National Party leader Martinus van Schalkwyk criticised the Government saying "For every 1 000 crimes committed in our country today, there are only 77 convictions. Only 36 people are sent to jail and only eight for longer than two years."



Prisoners at Newcastle Prison in KwaZulu-Natal.

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While the increase lessens criticism that the courts are lenient in dealing with crime, it could create problems for the Department of Correctional Services in the long-term as the number of long-term prisoners grows.

Correctional Services has expressed concern at the implications this trend will have for its finances and already overcrowded prisons.

Correctional Services spokesman Russel Mamabolo said the rise in the number of long-term prisoners was likely to create a new financial burden for the department.

Mamabolo said most prisoners enter prison as relatively young people. As they become older, they develop age-related illnesses thus resulting in higher medical costs.

Correctional Services Commissioner Dr Khulekani Sithole said his department had not yet given up on the idea of converting disused mineshafts into high security prisons as a way of dealing with overcrowding.

He was speaking during a parliamentary briefing this week by Correctional Services Minister Ben Skosana.

PIC PICTURENET/HENNER FRANKENFELD

Khulekani said his department was also close to completing two more prisons. These were in Kokstad and Empangeni in KwaZulu-Natal. According to him, the new prison in Kokstad would be a tougher version of the much-vaunted C-Max Prison in Pretoria.

Asked if he agreed with his commissioner's suggestion of converting disused mineshafts into prisons, Skosana said the idea may have appeared controversial at first, but that more people, including some Cabinet members, had seen the virtues of such a move.

11 Thokoza youths given amnesty

(2/12)
Nomavenda Mathiane

ELEVEN former members of Thokoza self-defence units in the East Rand, including a youth who hijacked a police casspir in 1993, were granted amnesty in Johannesburg yesterday, by the truth commission's amnesty committee.

Judge Ronnie Pillay pardoned the youths for crimes like murder, attempted murder, robbery and illegal possession of firearms and ammunition.

The crimes were committed from 1990 to 1993 during the Thokoza violence between African National Congress-aligned units and Inkatha Freedom Party supporters.

Among those pardoned were former unit commanders Victor "Mutshatsho" Mabaso and Aubrey Radebe, who confessed to robbing the Kliprivier police station, outside Alberton, of six pump-action guns, four pistols and three R-1 rifles.

However, two former self-defence unit members, Joseph Motshoene and Jimmy Makonde, were denied amnesty. Motshoene applied for amnesty for the attempted murder of two teachers, but he failed to convince the committee his actions were politically motivated.

Judge Pillay said Makonde had failed to prove that the policemen he killed had anything to do with politics. However, the two were given amnesty for the illegal possession of ammunition.

Pillay refused to consider an application by Mzwakhe Buthelezi because his form was lost. Buthelezi's lawyer, Lawley Shein, said he would go to the high court, it was not Buthelezi's fault that the commission had misplaced his application.

Next week, the committee will consider an application by Michael Selepe, now serving a 91-year jail sentence for murders, including the killing of a man in a hijacking incident.

BD 12/2/99

TRC pardons ex-defence unit members

(252)
17/02/99

11 granted amnesty, but two refused

BY THEMBA SEPOTHEKE

The Truth and Reconciliation Commission's amnesty committee pardoned 11 former self-defence unit members yesterday for their part in the violence in Thokoza on the East Rand.

The applicants, whose crimes included murder, arson and the unlawful possession of arms and ammunition, only needed counselling and employment to uplift their lives, according to those who were pardoned.

Among those granted amnesty for the murder of two alleged IFP supporters was SDU commander Victor Mngomezulu, alias "Mochacho".

Shortly after being granted amnesty for the killing of Bheki Khanyile and Steven Radebe, Mngomezulu dashed out of the Central Methodist Church in Johannesburg, where the hearings were being held, and disappeared.

Another commander, Bongani Nkosi, who applied for amnesty for two murders in June and October 1993, the illegal possession of arms and ammunition, 11 counts of arson, and malicious damage to property, was also pardoned. He did not attend yesterday's hearing.

Sydney Nkosi, who was pardoned for murder, attempted murder and arson, said former SDU members faced a bleak future because of unemployment.

Nkosi (29) said former SDU members were compelled to resort to petty crimes such as cellphone snatching.

"Most of us are unemployed and are forced into crime by the circumstances. There is no other way we can fend for ourselves because even those SDU members who are working as police reservists are going to be retrenched. Their contracts end in March.

"What we are also in desperate need of is counselling. The war that took place has changed our lives for the worse. Before the violence, I was working at Natalspruit Hospital since 1988," a lumping Nkosi said.

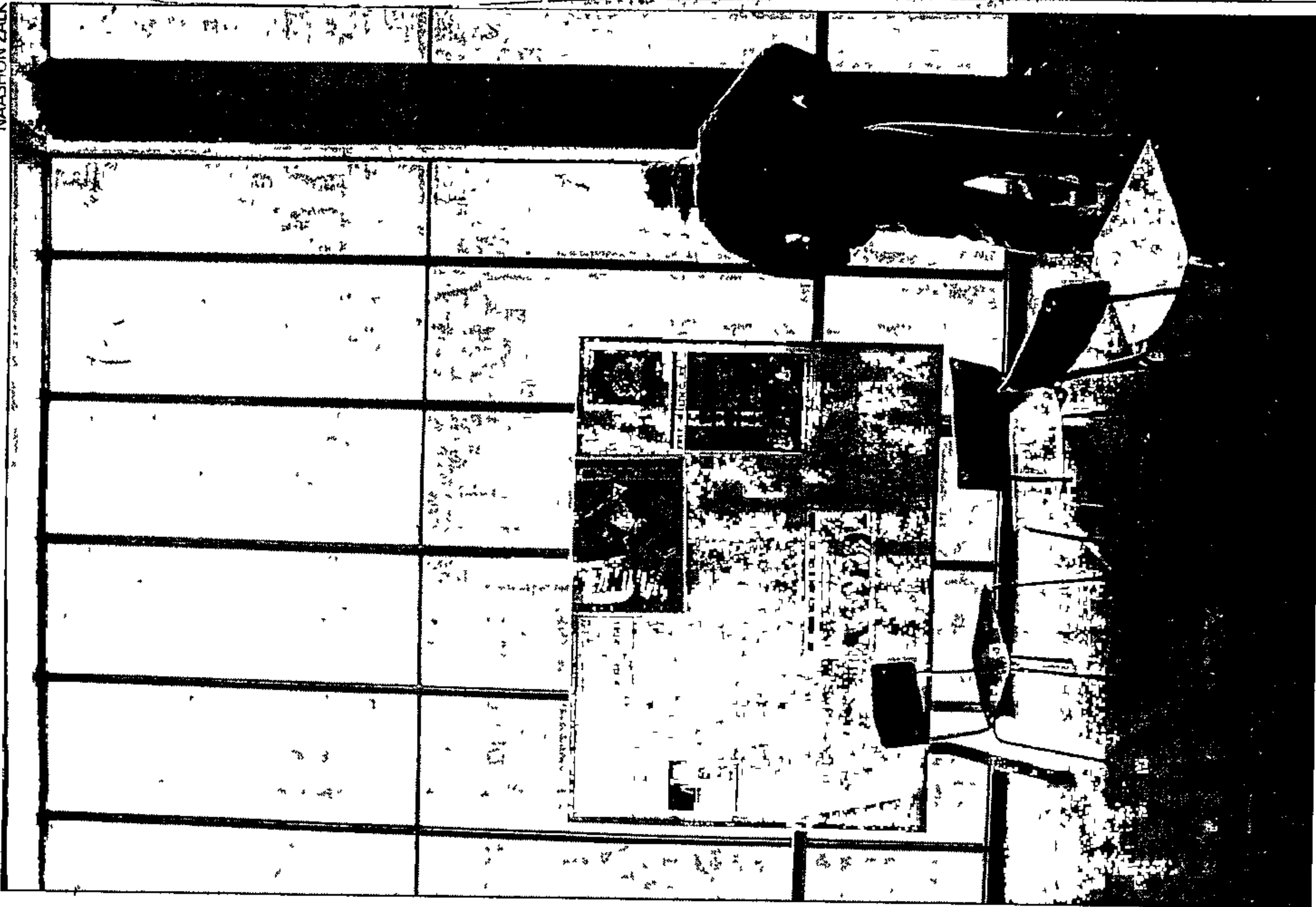
He said his life was shattered when he was injured at the height of political clashes between the ANC-aligned self-defence unit and the IFP-aligned self-protection unit.

Others pardoned are Goodman Mbuli, Solomon Dlamini, Moses Kubheka, Christopher Ngcobo, Sthembeke Radebe, Vusi Mbatha, Mbongeni Shabangu and Tankiso Koenig.

The committee refused amnesty to Nkosinathi Jimmy Makhonde for the attempted murder of two teachers, and Joseph Mtsweni for the attempted murder of an unknown number of police officers.

However, they were both pardoned for unlawful possession of arms and ammunition.

NAASHON ZALK



Waiting in hope ... Sylvester Nhllope, who is applying for amnesty for acts committed while he was a member of a Thokoza self-defence unit, awaits his chance to give evidence.

Courtrooms of fear

By Japhet Ncube

MAGISTRATES, judges and prosecutors are living in fear of the criminals they try to put behind bars.

Legal officials and their families are being threatened and intimidated by suspects and gangs who still view the justice system as a leftover from the apartheid era.

Being a competent prosecutor in South Africa is taking one's life into one's own hands," says Smilo Mposula, a Johannesburg prosecutor.

He narrowly escaped death last June when a suspect in an armed robbery, attempted robbery and rape case opened fire on him just outside the Orlando Magistrates Court in Soweto.

A bullet ripped through his knee. Even as he lay in hospital in agony, he and his family were not safe. Strangers called the hospital asking

what ward he was in.

"The more criminals you put behind bars, the more threats there are on your life," says Mposula, who adds that each time he looks across the packed courtroom, fear clutches his heart not everyone in the crowd is happy with his work.

"I think I'll just quit this job for the sake of my family," says Mposula.

Motlou Motimele, controlling prosecutor at the same court, was also victimised by brothers who were suspects in a theft case he was handling.

While on bail, the suspects hijacked Motimele at gunpoint. They freed him, but he said he withdrew charges against them out of fear.

Many prosecutors are quitting Government service to go into private practice, where they say their safety is guaranteed.

Government cannot afford to watch my back

Every time I leave the courts," says

Patrick Sepeng, a 40-year-old former Johannesburg prosecutor now in private practice.

"There is nothing to die for being a prosecutor in a system overpowered by crime. Something not worth living for is not worth dying for."

Lost respect

A spokesman says the Department of Justice is trying to teach people that the courts, like anything else in South Africa, have changed.

"People seem to have lost respect for the law," says Paul Setsetse.

"What we have to do is swiftly change the way the public feels about the legal system. The apartheid days are over, and the new legal system should not be associated with past injustices."

But still, he says, things are not going to change until the safety of prosecutors is guaranteed.

"And that's the most difficult thing in a country ravaged by crime. You just do not know where to start."

For legal officials living in townships, from where most of the suspects come, life can be hell.

They risk being attacked by thugs who regard them as sympathisers with the former apartheid regime.

Bulelani Ngcuka, director of public prosecutions in the Justice Department, says it is sad that many black South Africans view prosecutors as an extension of the police.

Says Ngcuka: "Because of the notoriety the South African police gained during apartheid rule, prosecutors are also treated with scorn."

"And now the criminals seem to have switched from intimidating witnesses and police investigators to prosecutors. That's a fatal blow to our justice system."

Amanda Dissel, of the Johannesburg-based Centre for Study for Victims Relief

lence and Reconciliation, agrees. "It is a dangerous pattern that seriously threatens to undermine the entire justice system."

"Many people here still think they have a right to make money from crime. That is why they regard prosecutors as puppets of the long-gone apartheid era."

"Something must be done urgently to change the people's attitude or the justice system in South Africa will go to the dogs."

The Justice Department says it has lined up several projects to try to change the attitude of the public towards the courts, prosecutors, magistrates and judges.

"We want to make the courts user-friendly, and for the public to have proper respect for them," says Setsetse. "Only then can prosecutors do their jobs fearlessly. And then our justice system can have a sigh of relief."

Gemini News

PERMANENT RESIDENCE FOR PARTNERS

(252)
(208)

CT 15/2/99

Gays win court ruling

FRIDAY'S court victory for gay rights could lead to a change in the law, putting gay and lesbian couples on par with heterosexuals in the eyes of the Home Affairs office. **PRISCILLA SINGH** reports.

THE Department of Home Affairs has scuttled to the Cabinet for guidance following the landmark court victory for same-sex couples to enjoy the same living and working rights as married spouses in South Africa.

Deputy Minister of Home Affairs Lindiwe Sisulu said that because of the far-reaching implications of the successful legal challenge by the National Coalition for Gay and Lesbian Equality (NCGLE), the department had sought the guidance of the Cabinet on how to deal with the issue.

"The Cabinet decided that the department should avoid taking interim remedial action and was to defend the action brought against it by the coalition

"The department will study the judgment handed down by the Cape High

Court on Friday, approach the Cabinet for its guidance and thereafter make its decision known," she said.

The NCGLE took the Department of Home Affairs to court after it failed to recognise the rights of same-sex couples, especially if one of the partners was a foreigner. They were threatened with deportation and visitation permits were not renewed in some instances.

The NCGLE argued that since same-sex couples are not allowed to marry, they were unfairly barred from the benefits of the immigration law, which gives a special deal to a would-be immigrant who is married to a South African, making the immigration process easier.

The judges ruled that this law was discriminatory to same-sex couples

The ruling must be considered by the Constitutional Court before it becomes effective, and if it agrees, Home Affairs

must change the law within a year.

Sisulu pointed out that the Department was "actively pursuing a law reform programme to bring all legislation and regulations in line with the Constitution"

As part of this programme, the Department requested the Law Commission to conduct a wide-ranging review of the Marriage Act.

A separate investigation focusing on the legal consequences of "homosexual and heterosexual domestic partnership" was also being conducted by the Commission.

"It is the policy of the department not to deal with matters of status in an ad hoc manner, but to follow an holistic approach, with clear policy guidelines.

"The department will continue working with the SA Law Commission to effect the required legislation as a matter of urgency," Sisulu said

She added that the Department had also concluded its White Paper on Migration and would be making it public this week.

Majority (2/3) want trials after TRC confessions

ART 15/2/99
People who confessed at Truth and Reconciliation Commission hearings to committing atrocities should be brought to trial, say about half the 2 000 people asked.

A Research Surveys spokesman said in the survey conducted among people in major urban centres it was found that 23% were against bringing those who confessed to trial, while 27% were unsure of how they should be dealt with. The spokesman said 58% of blacks and 26% of whites felt they should be brought to trial.

"Older people were not so eager to see them brought to trial, with only 34% of them feeling this way, compared with about half the younger people."

He said 61% of blacks and 13% of white felt the commission was fair, while 15% of the sample felt the commission was biased.

"Older respondents were less likely to regard the commission as being fair, with only 30% of respondents over 50 holding this opinion, compared with more than half the younger respondents who claimed that it was," he said.

Of the 15% who felt the commission was biased, 36% thought the commission favoured the African National Congress and 18% thought it favoured the black population.

Almost two-thirds of blacks thought the commission had been successful in uncovering atrocities, compared with only 15% of whites.

Overall, 44% of the sample thought the commission had been successful in bringing about peace and reconciliation, and 19% thought it had been unsuccessful - Sapa

Judge plans justice centres to serve indigent litigants

The legal aid board chairman envisions a new national policy, writes Taryn Lambert

(252) BD 16/2/99

JUDGE Mohammed Navsa, the leisty new chairman of the Legal Aid Board, has announced plans for the creation of justice centres around the country and to move away from paying private practitioners to defend the poor.

"Our task is not to provide the private sector with an income, but to provide an effective legal service to indigent litigants across the board," Navsa says, outlining the board's plans for the future of legal aid.

He plans to move away from the Judicare system which provides the bulk of legal aid in the country. It involves the employment of private lawyers to represent those who cannot afford to pay their own legal fees.

Of the 196 749 people who received legal aid during the 1997/1998 financial year at a cost of R210m to the state, 193 177 were represented by private lawyers.

Since Navsa took over from Judge Chris Plewman in September last year, much of his energy had "unfortunately" gone into sorting out administrative and managerial problems.

Because of huge demands placed on the board in terms of the new constitution, the cost of providing legal aid climbed drastically. In 1972, 4 500 legal aid applications were granted, in 1982 the figure rose to 9 100 and in 1992, 67 100 defences were provided. Since the African National Congress came into power in 1994, the number of legal aid applications granted had grown to 113 774.

Navsa says by moving away from the Judicare system and setting up staffed justice centres, legal aid will become far more accessible to the poor in all areas.

The centres will provide a range of services, including defence in criminal trials and representation in civil matters.

Navsa believes the centres will also cost less. He hastens to add, however, that this will only be in the short term because the accessibility of the justice centres will create more demand for legal aid.

Yet the general bar council's vice-chairman, Johann Gautschi, says he is not convinced the justice centres will cost less than the current Judicare system. He believes that if you compare "like with like", it will probably cost less to brief a junior advocate for a case than to lay out costs for premises, secretaries, pensions and other infrastructure.

Gautschi also believes the private sector has an important role to play in more complex or difficult cases. "The public is entitled to effective representation and this will often require briefing an advocate with experience commensurate with the complexity of the case."

He says the bar and the board are "looking at the cost aspect".

"We have made it clear to the board that we recognise that the public interest is paramount. The bar wants to help make the legal aid system work in the interest of justice and we will play our role by negotiating competitive rates," he says.

Navsa says it's "regrettable" that the new board's energies have been focused on resolving administrative problems instead of the necessary job of taking justice to the poor. The huge volume of administrative work has been hampered by staff shortages and red tape involved in hiring more staff.

Navsa's two main concerns at the moment are to "immediately" address the need for efficient control over unpaid accounts and to open the first few justice centres.

Navsa wants to forge co-operation agreements with legal aid clinics at universities. He is willing to involve law graduates, and "as many people as possible", but the necessary policy still has to be developed in this regard.

The new board, which includes representatives of the attorneys' and advocates' professions, held a bosozad last year attended by the Legal Aid Transformation Team, the National Association of Democratic Lawyers, the Legal Resources Centre, Lawyers for Human Rights and the Black Lawyers Association, who all made presentations and suggestions about the future of the board and how to fulfil the board's constitutional obligations.

The constitution provides for the provision of legal services to all, "the enormity of which was not always fully appreciated", Navsa says. Navsa, who worked for the Legal Resources Centre for "all of his professional life", has been involved in poverty law and understands the desperation of people. "Legal assistance is not a privilege but a right," he says.

"We must educate the public that litigation is not the exclusive domain of the wealthy. Constitutional rights must be more than just paper rights," Navsa says.

BUSINESS DAY

Carlos turns blind eye to difficulties with the EU

Judge plans justice centres to serve indigent litigants

(252) BD 16/2/99

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BUSINESS DAY

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Overhauling justice

(252)

sewelan 16/2/99

THE last of the cases of Dan Mabote, who was charged with raping, abducting and killing seven-year-old Mmamokgethi Malebane, was finalised in court recently

Justice Minister Dullah Omar wishes to express his gratitude to the prosecution service, the police and the court for the competent and professional manner in which the case was handled, despite initial problems which led to the criminal justice system being severely criticised

While the department is acutely aware that the conviction will not ease the pain of Mmamokgethi's family, it believes that justice was done and the punishment was appropriate

The lengthy periods of imprisonment to which Mabote was sentenced will ensure he does not pose a threat to society and that the community will be safer

At the time of Mmamokgethi's murder, the minister indicated that he would want to ensure that her death was not in vain

He also said he would take steps to ensure that the courts became even more effective

The ministry is pleased to announce that several initiatives in this regard were started and implemented

The law on bail has been changed fundamentally. In terms of the new provisions, it will be very difficult to get bail in cases in which persons have been charged with serious offences such as murder and rape with aggravating circumstances

After-hours bail applications have dropped dramatically because of this change. This measure addressed a major cause of concern among people all over the country that suspects are too easily released on bail

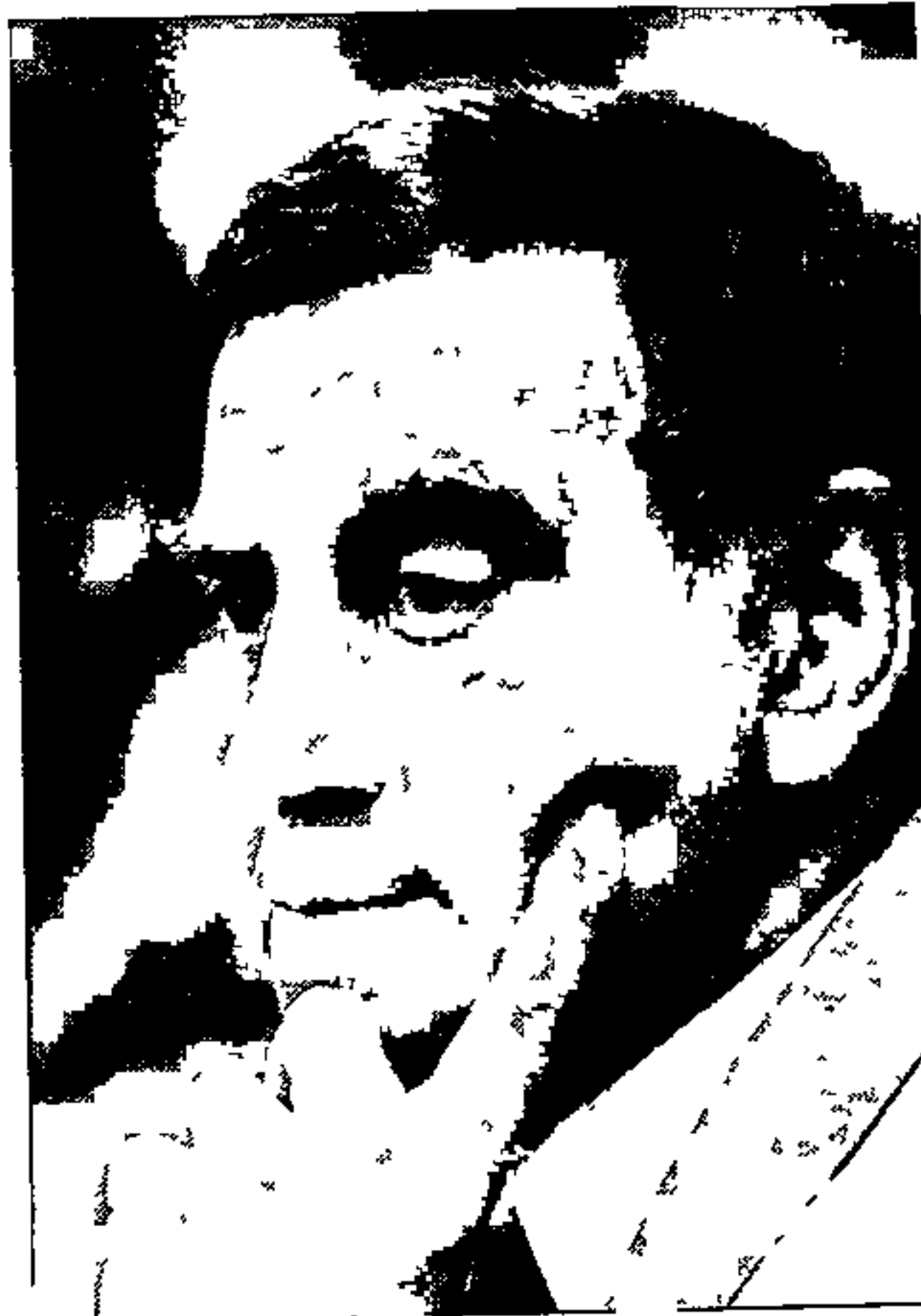
Pre-trial services have been introduced at all the major centres. In terms of this programme, persons who apply for bail are properly assessed and monitored to ensure they are fit to be released on bail, will stand trial and will not commit crimes while their cases are pending

Minimum sentences have been introduced for serious offences such as murder and rape. People who commit these crimes must be under no illusions about the seriousness with which the Government views their actions

They must understand that community fears and perceptions about crime have been fully taken into consideration in developing the law on sentencing and that they will be removed from society for a long time if convicted

The national director of public prosecutions has been appointed, new investigating teams have been set up to investigate and prosecute organised crime and serious offences and a prosecution policy has been formulated

Minister Dullah Omar's office is striving to improve the role of the courts to make our country safer and to fight crime more effectively, writes **Paul Setsetse**



Justice Minister Dullah Omar.

There will now be greater coordination of the work of the prosecutors, proper allocation of resources to complex, difficult matters and proper supervision of serious criminal prosecutions

The prosecution service is being fully overhauled and professionalised

The police and prosecutors now work much closer on serious investigations to ensure that evidence collected is adequate to convict accused persons

Regional offices of the Justice Department have been opened in all provinces to ensure that the administration of justice is easily accessible to all people

The regional offices liaise closely with all the magistrate's courts to ensure that problems which may arise can be properly addressed

Many of those offices have initiated and coordinated programmes which are designed to enhance public participation in the administration of justice. They also attend to complaints which members of the public may have

A new court management system is in place. The magistrate's courts are now managed in clusters under the supervision of a cluster head

Magistrates are assigned to courts as and

when needed, to ensure that every court always has an adequate number of magistrates to deal with the daily case load

A new case management system is also being devised. This will complement the work being done in the cluster system, ensure that resources are properly and effectively utilised, cases are prioritised, and that delays are minimised

This will ultimately result in criminal trials being finalised much quicker

Prisoners awaiting trial will, as a result, not have to be incarcerated for unnecessarily long periods before their trials are completed and the trauma suffered by victims will be considerably reduced

Many courts now have special facilities to hear trials involving minors and women

Witness protection programmes are in place and functioning well, and a special crime division has been established in the Justice Department to consider, on a regular basis, the steps the department has to take to help make society safer and more secure and to implement the measures agreed on in National Crime Prevention Strategy meetings

Special steps are being taken to provide more protection to women and children and to sensitise justice officials to the needs of women and minors

Family court pilot projects have also started. They will ensure access to justice in divorce cases and maintenance matters. They will also protect women and children against domestic violence

Task teams have been established to investigate and monitor the needs of the courts to ensure that they have sufficient facilities and other material resources to perform their crime-combating functions effectively

Despite these achievements, there are a number of very urgent matters affecting the courts and the prosecution services which are receiving the ministry's earnest attention

The department knows that there will always be objections to what some people may view as draconian steps, but it is the duty of the department to take all necessary, but constitutional, measures to improve the role of the courts as instruments designed to make our country safer and to enhance their abilities to combat crime effectively

(The writer is a Ministry of Justice spokesman)

Groups (252)
(252)
favour vote
for prisoners

Mar 16/2/99

By EDWIN NAIDU

Voting is a fundamental human right and prisoners should be given their say like all other South African citizens, say several non-governmental organisations.

National director for the Human Rights Committee, Venitia Govender, said being able to vote was a fundamental human right and should extend to prisoners as well.

She said the electoral act and the constitution stated that any citizen older than 18 was an eligible voter and prisoners were not excluded.

Earlier this month the Cabinet decided not to allow prisoners the right to vote, a decision supported by the ANC, which said criminals lose some of their rights when convicted.

Lawyers for Human Rights convener Rudolph Jansen said the organisation supported the principle of giving prisoners the vote since many behind bars were affected by decisions politicians made at a national and provincial level.

He said voting rights should be given as part of the rehabilitation of prisoners and dismissed the argument that democracy would be weakened if prisoners were given the vote.

"As far as democracy is concerned, there have to be very compelling reasons why someone's rights are taken away," he said.

Two prisoners at the Johannesburg prison have filed papers in the High Court against the Independent Electoral Commission because they want to vote in the election.

The Legal Resources Centre lodged the application on behalf of Kies August Arnold and Sibongile Pearl Mabutho, both of whom are members of the South African Prisoners Organisation for Human Rights. The case will be heard on February 22.

Slain activist worked for the security police

Former MK underground commander denies being a mole

Nomavenda Mathiane

A MAN applying for amnesty for the murder of popular Soweto student activist Sicelo Dlomo in 1988 denied yesterday that he was a police informer

John Dube, now an SA National Defence Force captain, was an MK underground commander operating in Soweto during the 1980s when Dlomo's body was found next to his home in Jabulani in Soweto.

Dube told the truth commission's amnesty committee yesterday that he had ordered the killing of Dlomo in January 1988 because Dlomo was an informer. During questioning by Tony Richards, representing the Dlomo family, Dube denied that he himself was a police informer. However, he later admitted that in 1991 he had been "deployed" by the then security police.

Dube said he had trained Dlomo and his friends, Precious Zungu, Clive Makhubu and Sipho Tshabalala

Zungu, Makhubu and Tshabalala have also applied for amnesty for the killing.

The application for amnesty by the four former MK operatives has come as a surprise to many in Soweto, as over the years Dlomo's death has been blamed on the security police.

Prior to his murder, Dlomo was detained by the police and questioned about an American television documentary entitled Children of Apartheid in which he had accused the police of torture

Dube told yesterday's hearing that he had found a small transmitter radio, normally used by intelligence agents, on Dlomo. He then went to the three other members of the cell who also had suspicions about Dlomo.

They then took the "unfortunate" decision to eliminate him.

When questioned by Richards, Dube said he had noticed a bulge in Dlomo's pockets. He checked and found a small transmitter radio the size of a walkie-talkie strapped with brown tape to Dlomo's body

Dube denied that he killed Dlomo because Dlomo was about to expose him as an informer. The hearing continues today

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Biko family laud TRC amnesty refusal

ET 17/12/99

(252)

ROBERT BRAND

FOUR former security policemen who admitted assaulting Black Consciousness leader Steve Biko before his death have been denied amnesty by the Truth and Reconciliation Commission's amnesty committee.

The ruling was immediately lauded by the Biko family, who said it would go some way towards setting the record straight about Steve Biko's death.

"We all will be very happy at this ruling," said Biko's son, Nkosinathi, when the *Star* told him of the committee's decision.

"(Biko) was a man who was arrested healthy and who died of a brain haem-

orrhage. The courts afterwards found nobody to blame, and it is hard to understand why. This is a significant step in putting the history books straight," said Nkosinathi.

In a lengthy judgment released late last night, the amnesty committee said there could be no doubt that Biko died as a result of head injuries sustained while being interrogated by the four policemen at Sanlam Square, the security police headquarters in Port Elizabeth, on September 6, 1977.

Biko died in Pretoria on September 12 after being transported, unconscious and naked, in the back of a Landrover. An inquest afterwards found nobody to blame for his death.

The four applicants — Harold Snyman, Daantje Siebert, Rubin Marx and Jacobus Beneke — admitted assaulting Biko in what they called an effort to "restrain" him during interrogation.

However, the committee ruled that they had not disclosed the full story leading up to Biko's death in Pretoria a week later and had shown no political motive. Their amnesty application were heard in September and December 1997.

A fifth former policeman involved in the interrogation, Gideon Nieuwoudt, was also refused amnesty late last year in a separate application. Nieuwoudt is facing a lengthy jail term for other political murders. Snyman, the most senior policeman

present during Biko's interrogation, died last year of cancer. The other four can now be prosecuted for the death which fixed the name of Steve Bantu Biko as a symbol of resistance against apartheid and galvanised world reaction against white minority rule in South Africa.

Legal sources said, however, that it would be almost impossible to secure a conviction. The evidence given by the men in their amnesty applications cannot be used as evidence against them. A lawyer who represented four of the applicants, Francois van der Merwe, said he was "shocked and disappointed" by the ruling.

Important that everybody is treated as equals before the law. If you take into account that the men who killed Amy Biehl were granted amnesty, then you have to ask yourself why my clients did not receive the same treatment."

Van der Merwe said he would study the ruling and consult his clients before deciding whether to take the matter further.

Nkosinathi Biko said the family would decide whether to pursue further action.

"The applicants swore before the TRC to tell the whole truth. If the committee found that they did not tell the truth, then that is something which could be taken further."

No confession, so Biko's (2572) killers lose amnesty chance

Johannesburg - The Truth Commission denied amnesty to Steve Biko's killers because they had not confessed to any crime and their version of what happened was questionable.

This emerged yesterday in a lengthy judgment on the case of four former Port Elizabeth security policemen who applied for amnesty for Biko's death in custody in 1977

One, Harold Snyman, is dead. The others are Daniel Petrus Siebert, Jacobus Beneke and Rubin Marx

The applicants claimed to have acted lawfully "either in defence against an attack by Biko, or simply in restraining him

The committee said "On that basis alone, we are not satisfied that the applicants comply with the requirements of the act, in that the killing of Biko was not an act associated with a political objective

"In any event we are not satisfied that the applicants have made a full disclosure as required by the act"

The committee said the policemen's version of Biko's death was "so improbable and contradictory that it has to be rejected as false"

"Moreover, none of the applicants

has impressed us as a credible witness. They have clearly conspired to conceal the truth of what led to the tragic death of Biko soon after the incident," they said

Biko died as a result of head injuries he received on September 6, 1977, in room 619, Sanlam Centre, Port Elizabeth, where security police had offices

The four claimed Biko had accidentally hit his head when they attempted to restrain him after he attacked Siebert

He was denied medical attention for two days and was chained, in a standing position, to a metal gate

They claimed that, in spite of the way Biko was treated, they had not intended him to die

But the committee was not satisfied that the four men had testified truthfully

It appeared more probable that Biko had been attacked after the applicants did not take kindly to what they considered his arrogant, recalcitrant and unco-operative attitude

Biko died on September 12, 1977, in Pretoria Central Prison, where he was taken in the back of a police van

- Sapa

PAR 17/12/1977

Fiscal screws tighten on the justice department (272)

David Greybe
and Taryn Lamberti

DD 18/2/99

CAPE TOWN — The justice department felt the squeeze of government's tighter fiscal policies yesterday — it will get R450m less than it sought for the 1999/2000 financial year.

According to the national revenue fund estimate of expenditure figures for the new financial year, justice will get R2,351bn. Justice Minister Dullah Omar requested R2,8bn

The R2 351bn allocation means a cut of 2,5%, or R50m, in the justice budget when compared with the "baseline" figure of R2,4bn (excluding R144,7m for capital works) in government's medium-term expenditure estimates of last November.

The justice department received R2,3bn this year

According to the medium-term expenditure estimates, justice's budget for 2000/01 will increase to R2,6532bn — with an extra R154,9m for capital works. In 2001/02, it will climb to R2,7685bn, with the addition of R183,8m for capital works

Omar yesterday accepted that "all the departments need to tighten their belts

We will do our best to manage our resources better and develop efficiency, though things will be a bit tough "

Last month Omar said his department would face "serious financial problems" if it received R2,351bn, as it predicted, due to budgetary cuts Senior justice said then that the department would be forced to impose a 2,5% "filter-down" cut affecting all of its structures

One exception was the public protector, whose budget for 1999-2000 more than doubled to R15,399m, from R7,438m

Justice officials said there would be no money to top up salaries This is expected to affect talks with unions representing

magistrates and public prosecutors, who want pay increases bigger than those set for public servants nationally

Society of State Advocates of SA chairman Retha Meintjies said that the courts needed more chief prosecutors and administrative assistants

Meintjies said the budget cut had come at a bad time because prosecutors, state advocates and justice department officials were negotiating urgently needed salary improvements.

Hardest hit will be computer projects and implementation of new legislation, according to officials.

Also affected will be the Heath special investigating unit, which will get R16,894m compared with R16,192m previously Spokesman Guy Rich described the increase as "nominal, but thankfully our budget was not cut". As one of the "most successful" anti-corruption bodies in SA, the unit had expected a "more substantial increase"

Heath requested a budget of R33m, because the unit was in "dire need" of extra resources and staff, Rich said. The unit would have to seek alternative funding. It recovered more than R800m between January and December last year, an indication of its capability, Rich said.

The budget gives the Office for the Investigation of Serious Economic Offences R11,695m, compared with R10,581m previously; the Commission on Gender Equality R10,726m (R10,244); and the truth commission R14,617m, (R21,904m).

The Constitutional Court gets R7,507m (R6,633m), the High Court R95,413m (R79,250m); the Labour Court R3,220m (R4,583m); the Land Claims Court R4,113m (R3,416m); the lower courts R1,127bn (R1,067bn), the public prosecution authority R92,783m (R89, 920m), and the special tribunal R5,194m (R5,118m)

Prosecute Biko's killers — Bizos

Jonny Steinberg

THERE was sufficient evidence to prosecute the failed amnesty applicants for the death of Steve Biko 22 years ago, human rights lawyer George Bizos said yesterday.

This week the truth commission rejected the amnesty applications of Col Harold Snyman (who has since died), Capt Daantje Siebert and warrant officers Johan Beneke and Rubin Marx for their involvement in Biko's death.

Last month another policeman, Gideon Niewoudt, was denied amnesty after it was found that he had failed to show political motive.

Eastern Cape Director of Prosecutions Les Roberts said no decision had been taken on whether to prosecute the five. Roberts was asked in 1997 to re-examine the Biko case and concluded that there was insufficient ev-

idence to prosecute.

"It is possible that new evidence has come to light as a result of the amnesty hearing," Roberts said yesterday. "I will be examining the testimony. If there is a reasonable prospect of success, we will prosecute."

Roberts said that charging the five with murder could depend on whether one of them would turn state witness and testify against the others.

Responding to Roberts, Bizos said. "Testimony from one of them would help, but the case does not turn on it. They arrested a healthy man and 20 days later he came out a vegetable. How much more evidence do you need?"

Bizos said the original testimony of the five had been conclusively contradicted by medical evidence. "Their credibility was ruined a long time ago."

Meanwhile, former policeman Jeffrey Benzien was granted amnesty yesterday for the killing of African National Congress (ANC) activist Ashley Kriel, who was shot dead in his Athlone home in 1987.

Benzien, now captain in the Airwing Division of the SA Police Service, was also granted amnesty for the severe torture and assault of Ashley Kriel in April 1986, for the torture of Peter Jacobs, on whom he used his "wet bag" torture method and electric shock torture continuously for more than five hours, for the assault and torture of Nico Pedro in August 1987 and for torturing ANC MP Tony Yengeni.

Bizos said of the amnesty committee's decision: "The amnesty law does not preclude granting amnesty because the crime perpetrated was horrific. If the applicant met with the condition of full disclosure, and if the committee is satisfied that his crimes were politically motivated, his application stands to succeed."

Benzien's "wet bag" method entailed making the victim lie on his stomach, his hands handcuffed behind his back. Benzien would sit on the small of the victim's back and pull a wet cloth bag over his head, twisting it tightly around the victim's neck, cutting off his air supply.

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Anger as police torturer Benzien gets amnesty

OWN CORRESPONDENT

Cape Town - The Western Cape's most notorious apartheid-era police torturer, Jeffrey Benzien, who used a wet bag to take his victims to the brink of suffocation, was yesterday granted amnesty by the Truth and Reconciliation Commission for his heinous deeds.

He was granted amnesty for torturing a generation of Western Cape liberation movement soldiers, including Tony Yengeni, now an MP; Gary Kruser, now head of the police National Protection Service, Western Cape police superintendent Peter Jacobs, and Ashley Forbes, now working for the Robben Island Museum.

Benzien was granted amnesty for torturing Bongani Jonas (now a colonel in the SA National Defence Force) and denying medical attention to Jonas, who was seriously wounded in a shooting, continuing to interrogate him as he lay writhing in pain on the floor instead.

He was granted amnesty for killing Ashley Kriel and for committing perjury at the Kriel inquest.

Benzien's victims reacted to the news with outrage.

"We are very shocked and upset," said Kriel's eldest sister, Michelle Assure, in a statement on behalf of the family.

"Our grief is further compounded by the manner in which we heard of the TRC's decision.

"The first time we heard about Benzien's amnesty was when the media contacted us for comment.

"We feel this flies in the face of the TRC's claim that it would

be a victim-friendly body. Our family were not even given the opportunity to meet and absorb the news before it was made public," she said.

"We will be convening a family gathering and consulting our lawyers before we respond to the merits of the case. We will leave no stone unturned, we are not just going to be leaving it at that."

Kriel was shot in the back at his Athlone home in July 1987 by Benzien, who had disguised himself as a municipal sewerage inspector. Benzien told the TRC that Kriel's shooting was "a mistake."

Forbes said he had spoken to a number of his former comrades who were tortured by Benzien, all of whom had expressed disappointment at the amnesty committee's decision.

"Our expectation, when we went to the TRC, was that he would make a full disclosure of his activities. But he did not. If he's given amnesty - and I think he is one of the worst cases that came to light at the TRC - it basically means that everyone who went to the TRC should get amnesty," Forbes said.

"Now that he has been granted amnesty, there is little we can do except express our displeasure. We will, however, be coming together for a meeting to discuss how to take up the issue of those who did not come forward to the TRC.

"While we are convinced that Benzien did not make a full disclosure, he did - at least - go to the TRC. Others did not."

The wet-bag torture method aside, evidence at his amnesty



BENNY GOOL

How I did it... Jeffrey Benzien demonstrates his trademark wet-bag torture technique during his amnesty hearing to the Truth and Reconciliation Commission's amnesty committee in July 1997.

application in 1997 was that Benzien also used electricity to extract information - shocking his captives all over their bodies, including inside their anuses - and that he was not averse to "molesting" his victims. Benzien, who is currently a captain in the police's air wing at Ysterplaat air force base, would not come to the telephone when reporters called for his reaction yesterday.

Amnesty for Ribeiro couple's killers

(252) 18/2/99 Mar

Five security branch policemen were yesterday granted amnesty by the Truth and Reconciliation Commission's amnesty committee for among other acts the death of Dr Fabian Ribeiro and his wife at their Mamelodi home outside Pretoria

The five applicants are Jan Cronje, Vlakplaas commander during 1985, Willem Mentz, Paul van Vuuren, Roelof Venter and Jacques Hechter

Offences for which the men were granted amnesty include the murder of 10 youths who were lured from their homes in Zeerust in 1987 on the pretext they were leaving the country for military training

Vlakplaas policemen allegedly ambushed the minibus transporting the youths and injected them with chemicals which left them unconscious. The minibus was then pushed over a cliff and burst into flames. No-one survived.

The policemen were also granted amnesty for the 1983 assassination of Zwelli Nyanda, the younger brother of SANDF chief General Sipiwe Nyanda, and for the murder of Kwa-Ndebele Interior Minister Piet Ntuli in July 1986.

Cronje had told the committee he was involved in the planning of the Ribeiros' death, but not in the actual killing. He said the couple was murdered by two black soldiers flown in from Angola. They were flown



Murdered . . Dr Fabian and Florence Ribeiro at their wedding.

out the same night.

The five were also granted amnesty for conspiring or attempting to kill high-profile political opponents, including Deputy Education Minister Smangaliso Mkhathshwa and former PAC deputy president Dikgang Moseneke.

Amnesty was granted for assaulting right-wing leaders Eugene TerreBlanche and Jan Groenewald, as well as Justice Minister Dullah Omar and Transport Minister Mac Maharaj.

The applicants were also granted amnesty for the deaths of youth activists from Kwa-Thema, Springs, whose cells

were infiltrated by Vlakplaas askari Joe Mamasela, who gave them booby-trapped hand-grenades.

Venter was granted amnesty for his role in the killing of another Vlakplaas askari, Brian Ngqulunga, who was part of the Vlakplaas team who killed lawyer Griffiths Mxenge.

They were also granted amnesty for the murder of policeman, Richard Motsabi, who was suspected of working for the ANC. Amnesty was refused for the death of Motsabi's wife, Irene - Sapa.

► Benzien gets amnesty

Anger at torturer's amnesty

ROGER FRIEDMAN

THE Western Cape's most notorious apartheid-era police torturer, Jeffrey Benzien, who used a wet bag to take his victims to the brink of suffocation, was granted amnesty by the Truth and Reconciliation Commission yesterday.

He was granted amnesty for torturing a generation of Western Cape liberation movement soldiers, including Tony Yengeni, now an MP, Gary Kruser, now head of the police National Protection Service, Western Cape police superintendent Peter Jacobs, and Ashley Forbes, now of the Robben Island Museum.

He was granted amnesty for denying Bongani Jonas (now a colonel in the SANDF) medical attention when he was shot and continuing to interrogate him as he lay writhing in pain on the floor.

He was granted amnesty for

killing Ashley Kriel who, had he lived, would probably have been an MP today, and he was granted amnesty for committing perjury at the Kriel inquest.

His victims reacted to the news with outrage.

"We are very shocked and upset," said Kriel's eldest sister, Michelle Assure, in a statement on behalf of the family.

"Our grief is further compounded by the manner in which we heard of the TRC's decision. The first time we heard about Benzien's amnesty was when the media contacted us for comment.

"We feel this flies in the face of the TRC's claim that it would be a victim-friendly body. Our family was not even given the opportunity to meet and absorb the news before it was made public," she said.

"We will be convening a family gathering and consulting our lawyers

before we respond to the merits of the case. We are not just going to be leaving it at that."

Kriel was shot in the back at his Athlone home in July 1987 by Benzien, who had disguised himself as a municipal sewerage inspector. Benzien told the TRC Kriel's shooting was "a mistake".

Forbes said he had spoken to a number of his former comrades who were tortured by Benzien, all of whom had expressed disappointment at the amnesty committee's decision.

"Our expectation, when we went to the TRC, was that he would make a full disclosure of his activities. But he did not. If he's given amnesty—and I think he is one of the worst cases that came to light at the TRC—it basically means that everyone who went to the TRC should get amnesty."

Now that he has been granted



HOW I DID IT: Jeffrey Benzien demonstrates his wet-bag torture technique at his hearing before the TRC amnesty committee in July 1997. **PICTURE, BENNY GOOL**

his reaction yesterday to the telephone when the Cape Times called for Benzien, at present a captain in the police's air "molesting" his victims. It was also claimed that he was not averse to ing inside their anus. Shocking his captives all over their bodies, including his amnesty application in 1997 was that Benzien — The wet-bag torture method aside, evidence at TRC. Others did not "While we are convinced that Benzien did not make a full disclosure, he did, at least, go to the TRC. "We will, however, be coming together for a meeting to discuss how we are going to take up the issue of those who did not come forward to our displeasure. "From Page 1 amnesty, there is little we can do except express

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Full disclosure in doubt (252)

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Biko's family praises

amnesty rejection

CT 18/2/99

STEVE BIKO's family yesterday welcomed the TRC amnesty committee's decision not to grant amnesty to the policemen involved in the death of the black consciousness leader in 1977.

"The decision is significant in that it is a departure from the inquest findings that nobody was to blame," the family said in a statement issued by Biko's son Nkosinathi.

The family said it was reviewing the TRC's findings and taking legal advice. "Similarly, we trust that the attorney-general of the Eastern Cape will decide appropriately," the family said in reference to possible criminal charges.

The committee on Tuesday dismissed the application by three former Port Elizabeth security policemen — one of the four has since died — for amnesty for Biko's death in custody — Sapa

Nepotism? 'I'm proud of what I've done'

I have never spoken nor advertised my work as a lawyer over three decades

However, in view of malicious reports - describing Ramesh Vassen as my "buddy", suggesting nepotism in that persons involved with me in my legal practice, my friends or associates, have been appointed to important issues, suggesting and indeed implying nepotism - it is necessary to put the record straight.

Several legal personalities have been mentioned as having been involved in my legal practice

I began practicing as an attorney in 1960. I worked for a short time in Langa, a black township near Cape Town during the state of emergency

I brought back an African lawyer (we are all African). I use the term in the sense of the old apartheid classification, except that more insulting terms were used, CM Kobus, to District 6 in Cape Town, from where he had been evicted by the National Party government under Group Areas and Urban Areas laws

I registered him as my professional assistant. In truth we practised in partnership, which fact I concealed from the authorities. I refer to this because it reflects how blacks were persecuted, discriminated against and prevented from practising their chosen profession.

A few years later, I myself was kicked out of District Six.

From the first day I consciously conducted a legal practice that was different from most others. From day one I handled political (what people later called "human rights") cases. In the 1960s and 1970s I also encouraged other blacks (African, coloured and Indian) to enter the profession.

I employed some as clerks, got them to matriculate, then got them articled to qualify as attorneys

Generally, the white legal profession did not care a damn about human rights, either condoned or spoke in a muted voice, or just kept silent on human rights violations

INSIDE STORY

DULLAH OMAR sets the record straight about his legal practice, his friends and associates, and the suggestion that some have been appointed inappropriately

The Truth and Reconciliation Commission criticised lawyers, the judiciary and media (including journalists) who helped to whitewash the apartheid system.

The lawyers who went through my firm became part of Nadal, BLA, LHR and the Mass Democratic Movement, played a noble role in exposing human rights violations and fighting for democracy and human rights from which these elements hostile to democracy are now benefiting

Persons mentioned in the media as my "buddies" or "friends", such as Mr Vassen, Yusuf Ebrahim, Enver Daniels, Draj Desai, Percy Sonn, Shehnaaz Meer, Denzil Potgieter and Norman Arndse, participated in my legal practice and fought human rights violations

There are others. For example, a middle-aged man living in Nyanga and formerly a milk delivery man living in a dark humble home joined my firm, completed his matric, was articled by me and finally qualified as a lawyer. He went to practice in the Transkei.

Another case also in the 1970s was of a man who similarly completed his matric in my firm, got articled by me and also qualified as a lawyer

During those years, stung by the humiliation heaped upon us as blacks (including lawyers), I with others participated in struggles in the Mass Democratic Movement to overthrow the apartheid regime



For the defence, Dullah Omar

As a lawyer committed to democracy and justice, I built up an association with black lawyers in many parts of the country. Committed to the struggle for dignity and equality, black lawyers (and some white lawyers) became close associates, friends and comrades or "buddies". I am proud of all of them.

By 1980 I was conducting a huge practice, regularly servicing victims of apartheid and prisoners on Robben Island, which I visited hundreds of times. Almost all the lawyers referred to in media reports also visited Robben Island prison, undertook defence work in political trials, championed the cause of the persecuted and fought for human rights (Such participation is never a justification for theft or misappropriation)

In 1982 (17 years ago) I ceased practicing as an attorney and began practice as an advocate at the Cape Bar. By then all of my associates had gone their own way. Some had opened their own practices. Others had gone to the Bar. Ms Meer joined the Legal Resources Centre

I repeat. My partnership with Vassen ended in 1982 (17 years ago) and he too went his own way. There are others, who also distinguished themselves, who passed through my legal firm, the Community Law Centre, Nadal and BLA, who now occupy important judicial and other posts

I am proud of the work and contribution made during those years of practice, and proud of the fact that so many outstanding individuals went through my firm or were closely associated with me

Throughout the 1980s - which were turbulent years - I continued to mobilise democratically minded lawyers, invariably but not exclusively black.

I was jailed without trial in 1985 (twice) and on my release was promptly elected president of the Democratic Lawyers' Organisation and later national vice-president and Western Cape president of the National Association of Democratic Lawyers (a great honour). I was also elected chairperson of the United Democratic Front in the Western Cape (another honour). In those capacities I helped to mobilise black lawyers all over the country and got to know many of them well. We helped and guided one another. We became comrades in arms. They became my "buddies", "pals", "friends" or call it what you will.

When I took over the directorship of the Community Law Centre, I again had around me a number of men and women. The CLC and these persons became well known in many parts of the world and throughout South Africa for their role and contribution to the constitution-making process in our country. The CLC had become a world famous think tank.

As a result of all this, several of my "buddies", "pals" and "friends" became well known lawyers and legal thinkers. Today, many of them - far more than those mentioned in media reports - occupy very important positions all over South Africa.

I am proud of this history and the role I was able to play. But it's an insult to the persons concerned to even suggest that these are all cases of "jobs for pals". Mind you, I am flattered by the enormous power and influence attributed to me by some journalists who have an anti-African National Congress agenda. But it is also an insult to the democratic institutions and processes our constitution created.

Leaving aside the fact that I ceased practicing as an attorney 17 years ago, the question is who and how were the persons mentioned appointed to their current positions - nearly two decades later?

Let us look at the names that have so recklessly been bandied about in the media. Judge Stry Desai left my practice about 20 years ago and joined the Cape Bar. He was unanimously appointed to the Cape Bench by the Judicial Services Commission. Where is the nepotism?

Judge Y Ebrahim practised as a lawyer with distinction on his own account, having left my legal firm about 20 years ago. He, too, was unanimously appointed as a judge by the Judicial Services Commission. Where is the nepotism?

Where is the nepotism? Judge Shehnaaz Meer left my legal firm about 20 years ago and joined the Legal Resources Centre. In her case, too, it was the Judicial Services Commission that made the appointment. Such appointment was also unanimous. Where is the nepotism?

Advocate Norman Arndse was given an acting appointment to the Cape High Court bench on a proposal by the Judge President.

Advocate Denzil Potgieter's involvement in my legal firm also ended about 20 years ago. He was granted SC status. Even though the Cape Bar did not recommend him, the Judge President did. In any event he was also appointed to the Truth and Reconciliation Commission at the specific initiative and proposal of the president himself.

The appointment was made by the president in consultation with the Cabinet. Nobody in Cabinet objected.

Ramesh Vassen has been described by the media as my "buddy". The malicious nature of the reports indicate an attempt to smear me and the ANC. What are the facts? I ceased practicing - as I said - as an attorney in 1982. That was the last time Mr Vassen was associated in any legal firm with me. He then went his own way. What he did after that I am not accountable for. Any child will understand this. I was not consulted about his employment with the Department of Foreign Affairs or his posting to India (I do not condone theft or misappropriation of funds in any way, no matter who is involved).

There is the case of David Mas, who has been appointed as State Attorney in Cape Town. The position is that a number of vacancies existed in the State Attorney's division in different parts of the country. A selection committee was set up to consider all applications and to make recommendations. Among the criteria for appointment as agreed in the departmental bargaining chamber were qualifications, experience and (very importantly) promotion of representivity.

The selection committee made recommendations for the various posts. I accepted the recommendations and made the appointments in terms of them. It was in terms thereof that Mr Mas was appointed.

Lastly, there is the case of Enver Daniels. The post of chief state law adviser was advertised. There were a number of applications. A selection committee was set up. The selection committee prepared a short list of candidates, interviewed them and ultimately came to the conclusion that it could not make any recommendations for appointment.

It was re-advertised. Nothing new emerged. One Mr Brtwer who has now taken action in terms of the Labour Relations Act was among those found by the committee to be unsuitable, and therefore he was not recommended.

In view of the retirement of the chief state law adviser, Advocate Rossouw, at the time, I decided to appoint Mr Daniels to the position on contract. He was suitable and had adequate qualifications. What is more, his appointment promoted representivity. He has been an outstanding attorney, having been in private practice for many years. As I said he left my legal practice in 1982.

Since his appointment he has done outstanding work as chief state law adviser. His contract has been extended for a further year. He has eliminated the massive backlog in his division, built up a good co operation with all government departments and Parliament, and introduced higher systems and efficiency in his division. I have nothing but admiration for the work he has performed.

The name of Nizaam Hendricks has been mentioned quite maliciously and equally wrongly. I got to know him in 1984 in Pretoria because of his outstanding work. He worked day and night and over weekends. Yes, he has been to my home, like many others in the department. His wife, Gadlija Behardien, is now deputy State Attorney - recommended for this position by the selection committee and so appointed. The State Attorney says she is rendering outstanding service.

What I have done in four years is to transform the department from top to bottom, including all the institutions my department administers. All structures administered by me are now fully representative in terms of race, and we are striving to change the gender composition.

I invite all who care - Public Protector, HRC, GEC, journalists (honest ones without sinister anti-ANC agendas) to look at all structures and institutions and see for themselves. I am proud of those achievements.

(977) RRT 18/2/199



Flashback: Jeffrey Benzien demonstrates the wet bag torture during his TRC hearing

Outrage over TRC's pardon for Benzien

Justice not done, says victim's family

ARL 18/2/99

LYNNE RIPPENAR AND BEAUREGARD TROMP
STAFF REPORTER

Jeffrey Benzien, the police's notorious wet-bag torturer, has been granted amnesty by the Truth and Reconciliation Commission for the killing of ANC activist Ashley Kriel who was gunned down in front of his home in Athlone in 1987.

Ashley Kriel's family said they felt robbed by the decision to grant amnesty to Captain Benzien whom they described as "an evil and deceitful man".

"We had the hope that justice would be done but we feel totally deceived by this," said Mr Kriel's sister Melanie Adams.

She said that Captain Benzien had blatantly lied to the TRC, claiming that the killing was a "mistake".

"When they first had the inquisition into his death we felt defenceless sitting there, unable to say anything. With the TRC we were confident that we would get justice.

"They're playing politics with our people's trauma.

"Was Ashley too small a fish to punish anybody for?" asked Mrs Adams.

Captain Benzien was granted amnesty yesterday for several acts while a member of the state's Anti-Terrorist Unit and at the TRC hearings demonstrated his infamous wet-

bag torture method.

Captain Benzien was also pardoned for the torture of Bongani Jonas who was denied medical attention after being seriously wounded by a gun shot.

Mr Jonas was instead forced to endure an interrogation process by Captain Benzien.

Among other victims who had suffered under Captain Benzien's interrogation were

■ Peter Jacobs who had to endure the "wet bag" and electric shock methods for more than five hours during his interrogation.

■ Nico Pedro who was assaulted and tortured following his arrest near Lesotho on August 15, 1987.

■ Gary Kruser who was tortured and severely assaulted.

Captain Benzien was also granted amnesty for committing perjury in Mr Kruser's trial and at the inquest proceedings on Mr Kriel's death.

■ Ashley Forbes, now a manager of the Robben Island museum, who was tortured.

■ Tony Yengeni, now ANC chief whip in Parliament, who was also tortured.

Mr Forbes said today he was disappointed and angered by the TRC amnesty committee decision.

"This makes you question if it is really the right thing to do to the TRC." Captain Benzien was granted

amnesty for making a full disclosure

However, many of the victims believed he withheld crucial evidence which would have implicated other members of the Anti-Terrorist Unit.

Shirley Gunn, who served under the Ashley Kriel detachment of the ANC's military wing, Umkhonto we Sizwe, and a friend of Mr Kriel, said the news of Captain Benzien's amnesty grant has been met "with horror".

"There was such a lot of concrete evidence (to convict him)," said Ms Gunn.

"It didn't feel like there was closure at all. We know this character (Benzien) and I think he haunts many people up to this day. The fact that he has been vindicated like this is quite horrifying."

Ms Gunn said she had known Mr Kriel personally and "he was an outstanding cadre".

"His death was a great loss to the revolution."

Captain Benzien, currently a captain in the police airwing, was known for the wet bag torture method he used to extract information from his victims.

At the Truth and Reconciliation hearing in 1997, Captain Benzien demonstrated his notorious wet-bag method and bragged to the spectators that the method was so effective that he had had victims talking in a matter of 30 minutes.

Vlakplaas death squad assassins get

They were policemen, and their crimes included murder, torture, arson, abduction, bombing, booby-trapping

Taryn Lambert

FIVE leading Vlakplaas death squad members were granted amnesty yesterday for their roles in the assassination of Mamelodi doctor Fabian Ribeiro, luring 10 youths to their deaths with promises of military training abroad, killing nine East Rand youths with booby-trapped grenades, and other crimes in the 1980s.

Jan Hatting Cronje, Willem Wouter Mentz, Paul Jacobus Jansen van Vuuren, Roelof Jacobus Venter and Jacques Hechter were also granted amnesty for other murders, attempted

murders, arson, bombing properties, torture, assault and abduction. Their victims included Zwell Nyanda and Piet Ntuli. However, Venter and Van Vuuren were refused amnesty for their role in the murder of the wife of Richard Motsabi in 1987.

Truth commission spokesman Mdu Lembede said that only Van Vuuren and Cronje were involved on the day Ribeiro and his wife Florence were killed, but the other applicants sought amnesty for "conspiracy". The 10 youths were taken from their homes in Zeerust in 1987 on the pretext that they were being helped to leave the country

for military training. The killers "ambushed" their minibus, driven by askari Joe Mamasela. The youths were injected with a chemical that made them black out. Their minibus was pushed over a cliff, caught fire, and they burned to death.

Lembede said Mamasela was "given immunity in exchange for spilling the beans on Vlakplaas" in June 1985. Mamasela infiltrated an African National Congress cell in Kwa-Thema, Springs. He supplied young activists with booby-trapped grenades that blew up as soon as the pins were removed. Venter was granted amnesty for his role

in the killing of Vlakplaas askari Brian Ngqulunga, one of the team that butchered Durban human rights lawyer Griffiths Mxenge.

Van Vuuren, Cronje and Hechter were given amnesty for murdering MK guerrillas Jackson Maake, Andrew Makupe and Harold Sefola in Bophuthatswana in 1985. The Vlakplaas men interrogated and "seriously assaulted" them in Pretoria, then killed them in Warmbaths. Mamasela struck a penknife up Sefola's nose before he died.

The five also got amnesty for conspiring or attempting in 1985 to kill Fr. Smaangaliso Mkhatsiswa, now deputy education minister,

amnesty
19/01/89
and conspiracy

and conspiracy to kill former PAC deputy president Dikgang Moseneke

Free State policemen Mphuthizeli Ngo and Mohonaetsi Motsama were given amnesty for crimes including bombing Winnie Madikizela-Mandela's home in Brandfort in 1985. ECN reports that Nkosinathi Biko, son of slain black consciousness leader Steve Biko, said the commissioner's refusal to grant amnesty to five former security policemen involved in his father's death was a "step short of coming out with who was ultimately responsible". Their adherence to their "scuffie" explanation was a cover-up.

Vlakplaas pardons could lead to more

(252)

Amnesty for Ribeiro killers suggests other hit-squad members may go free

BY SIMON ZWANE

Spaw 19/2/99

More Vlakplaas death-squad members, responsible for a number of spine-chilling atrocities against opponents of apartheid, could be granted amnesty after the pardoning of five squad members this week.

Jan Cronje, Willem Mentz, Paul van Vuuren, Roelof Venter and Jacques Hechter received amnesty for the murder of Dr Fabian Ribeiro and his wife Florence, of Mamelodi, as well as a string of other human-rights abuses committed under the National Party government.

Two former security policemen, Nelson Ngo and Stephen Motsamai, who bombed Winnie Madikizela-Mandela's house in Brandfort in the Free State, also received amnesty yesterday for a number of offences, but were refused amnesty for other offences including murder, attempted murder and robberies committed between 1985 and 1986.

Julian Knight, an attorney for former Vlakplaas commander Dirk Coetzee, described the decisions as acknowledgement that Vlakplaas was a hit-squad operation and that the authority to commit atrocities came from higher up in the former regime.

"I think, seen as a whole, for the people who committed atrocities and who were stationed at Vlakplaas, it seems to be an indication that amnesty would be forthcoming," he said.

Eugene de Kock, the unit's commander, and Joe Mamasela are among the former Vlakplaas policemen who could benefit from this decision.

De Kock is currently serving



Eugene de Kock

212 years for murder, attempted murder and fraud. He has applied for amnesty in connection with several atrocities committed while he was Vlakplaas commander.

His amnesty application has not yet been heard but he has already appeared in a number of hearings where he was called as a witness to contradict evidence by certain members of the police.

The committee also granted amnesty to seven ANC members and one IFP member, bringing the number of amnesties granted since the start of the process two years ago to 262.

The committee received 7 124 applications in all and has so far dealt with 5 313. Of these, 4 707 were refused.

It has not decided in 344 matters in which it has heard evidence.

These include Chris Hani's murderers Clive Derby-Lewis and Janusz Walus, and the killers of Port Elizabeth civic organisation leaders Champion Galela, Qaqawuli Godolozu and Siphiso Hashe.

Equality for

all in new Bill

NTG 19-25A/99

(252) (116) (733)

Eliminating unfair discrimination and making class distinctions a punishable offence is the aim of new legislation. Charlene Smith reports

Capitalism will stand in the dock if new equality legislation to be presented to Minister of Justice Dullah Omar becomes law

In terms of the Prevention and Prohibition of Unfair Discrimination Bill, the "market economy" which "discriminates all the time against those who cannot afford access to quality housing, health care services, credit and insurance" will be called to book

The equality legislation drafting unit of the Department of Justice and the Human Rights Commission has been working on the Bill for the past year

If it becomes law, those who breach it could face fines of up to R70 000 This could be a school that does not allow children to wear Muslim headgear, or a club that restricts admission to people of a certain race or gender

Typical examples would include

- Banks redlining poor areas such as Berea in Johannesburg or Pimville in Soweto

- The loading of health premiums against the poor on the grounds that they are more suscep-

tible to certain forms of disease

- Refusal to complete credit applications for the illiterate
- The exclusion of people in atypical forms of employment from credit, social insurance and other social benefits and services
- Exclusion of poor people from banking services

- Those who rent accommodation of three rooms or more will not be able to discriminate on the basis of race or gender

Advocate Sicele Mthethwa, one of the drafters, says the Bill aims to entrench the section of the Constitution which guards against unfair discrimination.

While other laws protect employment rights, gay rights and the rights of women, children and the disabled, this one takes a hard look at the class divisions It will make class distinctions a punishable offence

Says Mthethwa "We have included discrimination against those with HIV/Aids and socio-economic status — in other words, discrimination against the poor."

"We are also considering nationality as a grounds because of the rise



Keep your hat on: Schools that do not allow Muslim children to wear their headgear could face fines if a new draft Bill becomes law. PHOTO: ADIL BRADLOW

in xenophobia "The drafters are examining barriers to certain professional grades and associations, particularly in medicine and law "We have received complaints from the Black Lawyers' Association about difficulties of gaining admittance to the Johannesburg Bar "

Then there is access to health care facilities Should private hospitals be allowed to refuse treatment to those who are not on medical aid? Mthethwa envisages they will not be allowed to do this, which he says will be in line with legislation in countries such as Canada

Equality tribunals — similar to the Council for Conciliation, Mediation and Arbitration, which hears labour disputes — will be set up to allow specialists to hear disputes and ensure that complainants do not

have to go to the expense of hiring lawyers

The proposed legislation, which so far runs to 70 pages, is based on public submissions and on similar legislation in Canada, Australia, the United States and the Netherlands

An example in Canadian law involved a single mother on welfare who was refused accommodation because of fears that she would not be able to pay "The tribunal found this was based on a swift and superficial assessment that did not take into account her previous history as a reliable tenant.

Mary Tomlinson of the South African Banking Council says the Bill is similar to the Community Reinvestment Act in the US, "which is part of a package of legislation that took over a decade to be passed "There are different components

to it, one around discrimination, another involves disclosing loans and occurs around sound practices "

She says the government and the banks will have to agree on what they mean by sound lending practices "The council has adopted the position that discrimination is illegal And we would agree that disclosure on lending is a good idea to make the whole environment more transparent, rather than forcing banks into unsound lending

"In the US it is recognised that some lending can be risky, so there are incentives through tax codes, insurance on loans and other measures "

The draft Bill is expected to be handed to Omar in the first week of March

VLAKPLAAS APPLICATIONS:

Death squads smelt amnesty

FIVE FORMER VLAKPLAAS operatives were granted amnesty yesterday for killing Mamelodi doctor Fabian Ribeiro and his wife Florence. Two former security policemen who bombed Winnie Madikizela-Mandela's house in Brandfort also received amnesty. **SIMON ZWANE** reports.

CT 19/2/99
(262)

EXPECTATIONS are high that Vlakplaas death squads, responsible for a number of atrocities against freedom fighters and apartheid opponents, could be granted amnesty following the pardon of five squad members yesterday.

The five — Jan Cronje, Willem Mentz, Paul van Vuuren, Roelof Venter and Jacques Hechter — received amnesty for the murder of Mamelodi doctor Fabian Ribeiro and his wife Florence, as well as a string of other human rights abuses committed under the National Party government. They are the second group of Vlakplaas operatives granted amnesty — former commander Dirk Coetzee and his four co-accused received amnesty for the murder of human rights lawyer Griffiths Mxenge in Durban.

Two former security policemen who bombed Winnie Madikizela-Mandela's house in the Free State town of Brandfort also received amnesty yesterday. Nelson Ngo and Stephen Motsamai were granted amnesty for a number of offences, but were refused amnesty for other offences which included murder, attempted murder and robberies that they committed in 1985 and 1986.

The latest cases are the start of what could be a flood of decisions that are expected following an increase in the number of amnesty panels. Julian Knight, an attorney for Goetzee, described the decisions as a realisation that Vlakplaas was a hit-squad operation and that the authority to commit atrocities came from higher up in the former regime. "I think, seen as a whole, for the people who committed atrocities and who were stationed at Vlakplaas, it seems to be an indication that amnesty would be forthcoming," he said.

TRC spokesperson Mdu Lembede said that while Knight was being speculative, there were still a number of decisions outstanding. Vlakplaas five also received pardon for the murder of 10 youths who were

lured from their homes in Zeerust in 1987 on the pretext that they were leaving the country for military training. They were also pardoned for the assassination of Zwelli Nyanda, the younger brother of SANDF chief Siphwe Nyanda, the murder of former KwaNdebele homeland minister Piet Ntuli, and the attempted murder of Deputy Education Minister Smanqahiso Mkhatsiswa and former PAC deputy president Dikgang Mosenke.

Amnesty was granted for other atrocities, including the deaths of several youth activists from KwaThema in Springs whose cells were infiltrated by Vlakplaas askari Joe Mamasela, who supplied them with booby-trapped handgrenades. Venter was granted amnesty for his role in the killing of another Vlakplaas askari, Brian Ngqulunga, who was allegedly part of the Vlakplaas team that killed Mxenge in Durban.

Ngqulunga was allegedly killed by his colleagues who suspected he was about to spill the beans about Mxenge's death. His murder was apparently ordered by ex-Vlakplaas chief Eugene de Kock. Amnesty was refused for acts committed outside South Africa and the death of Irene Motsabi, who was killed because she recognised Mamasela when her policeman husband Richard was murdered.

Altogether 14 apartheid-era policemen have been granted amnesty so far this week. On Tuesday, Western Cape Security policeman Jeffrey Benzien and six of his colleagues also received amnesty. Benzien and his colleagues were granted amnesty for, among others, the murder of Ashley Kriel and the assault on ANC MP Tony Yengeni.

Amnesty was also granted to seven ANC and one IFP member, bringing the number of amnesties granted since the start of the process two years ago to 262. The committee has received 7 124 applications and has dealt with 5 313 so far. Amnesty was refused in 4 707 of the cases. No decision has yet been made in 344 matters already heard.

Judiciary's image under scrutiny (253)

Judges do not do enough to strengthen, enhance and promote the judiciary — they need to adopt a more public profile and develop a more accessible image, Judge Mohammed Navsa, of the Johannesburg High Court, told the Pension Lawyers Conference this week

Judge Navsa warned the conference that courts undermined by a lack of resources and public support "will struggle to fulfill the important task of not only enforcing the legitimate exercise of legislative and executive power, but also in protecting citizens against the abuse of power"

He said "There are strident calls for the judiciary to be transformed Transformation of the judiciary is an expression that conjures up differing images for different interest groups It is bedevilled by differing agendas Suspensions still abound Debates on the subject often take place in coded language or in slogans I remain unconvinced that every participant in the debate about the rate or pace of change is motivated by the will to ensure the judiciary's proper place in the constitutional order"

Navsa criticised the judiciary for not taking part in debates about its structure, its role and its future "Our history taught us that judges do not speak outside their courts and their judgments

"That tradition has paralysed us, particularly where our own interests and wellbeing are at stake Judges ought to involve themselves in strengthening the judiciary"

He questioned why the process of nominating judges, open to the public for the first time, had generated so much animated discussion and resentment "Our country still appears to be hostage to the hostilities generated by our past," he said

Weekly bulletins should be issued setting out the outcomes in all cases of public importance Information technology should be widely used in courts and by judges He called for a national judicial conference to forge a vision and institute a plan of action"

Hotelier launches pressure group on capital punishment

(252)

STAFF REPORTER

ARG 19/2/99
The Government should listen to the 85% of people who want the death penalty restored, says the founder of the new Association for the Restoration of Capital Punishment.

At the association's launch yesterday, founder Simon Grindrod said he first wrote to newspapers four years ago calling for the reintroduction of the death penalty.

"The response to the letter astonished me. Over 750 000 signatures were collected for my petition," he said.

Mr Grindrod has decided to put his career as a hotel manager on hold to "take up the cudgels on behalf of the people of South Africa who, like me, are sickened by the unchecked epidemic of violent crimes"

"Only a hard, sustained drive will make the Government take the demands of the ordinary citizens seriously."

He wanted the death penalty for pre-meditated killing or murder committed during a crime and for a second conviction for rape and kidnapping where the perpetrators threatened death to the victim if a ransom was not delivered.

Biko's killers not off hook

Star 20/2/99 (257)

They were sure they would get off scot free and didn't know the law would be changed

By DAVID MACGREGOR

When the five security policemen who tortured and savagely beat Steve Biko to death in 1977 applied for amnesty almost two years ago, they knew that even if they were turned down by the Truth and Reconciliation Commission, they would still get off scot free.

After all, their amnesty application was perfectly timed to coincide with the 21st anniversary of Biko's brutal and lonely death in Pretoria Central Prison and effectively meant that the 20-year period laid down by law had elapsed and they were now free from prosecution - no matter what. But a recent amendment to the Criminal Procedure Act - which now enables prosecutions in cases such as murder even after 20 years - means that Biko's killers could still see the inside of a courtroom. And, shot on the heels of this week's

announcement that amnesty had been refused by the TRC, Eastern Cape Director of Public Prosecutions Les Roberts confirmed that the Biko case had been reopened and that his killers could face murder charges. Even though the amendment has yet to be tested, the *Saturday Star* established this week that a special unit tasked with studying "cases from the TRC", and working in tandem with Jan D'Oliveira's Third Force Unit, would be launched by the national director of public prosecutions.

Evaluated

But, although the Biko case has been reopened, Roberts said no quick decision on whether to prosecute could be taken because thousands of pages of documents still had to be evaluated. And even if Roberts decides not to prosecute what remains of the five-man interrogation squad, his decision could be

reviewed by the national director of public prosecutions, who could decide to pursue the matter himself. If the State takes no action, the option also exists for the Biko family to launch a private prosecution against Daantjie Siebert, Jacobus Beneke, Rubin Marx and convicted killer Gideon Nieuwoudt - who was denied amnesty for the Biko killing in December.

The only person to escape possible prosecution is interrogation squad leader Harold Snyman, who died of cancer last year. Sipho Ngwema, spokesperson for the national director of public prosecutions, admitted this week that any prosecutions of applicants denied amnesty would not be easy, but he was still confident that some of the cases would make it to the courts. "It will be a very difficult task because we cannot use TRC submissions as evidence in a courtroom. We will, however, use leads from the TRC reports as the basis for

further investigations and will stick by the book. If we do decide to prosecute, the decision will be made only when we know we have a reasonable prospect of success," Ngwema said.

Roberts said new material that emerged during the TRC hearings on Biko's death dictated that the matter be investigated and reviewed by his office. He refused to speculate on the chances of a successful murder prosecution but said it was his *prima facie* view that the material from the TRC hearing could not be used in a criminal trial.

Different story

"But, if we read something in the submissions and investigate further, it is a different story," he said. "It will all be tricky as we will have to use the TRC material indirectly, keep open minds and then take our own decisions - a bit like eating the fruits of the poisoned

Steve Biko's killers could face murder charges

Action possible even after 20 years

DAVID MACGREGOR
in Port Alfred

When the five security policemen who beat Steve Biko to death in 1977 applied for amnesty almost two years ago they believed that even if they were turned down by the Truth and Reconciliation Commission they would get off scot-free

Their amnesty application coincided with the 21st anniversary of Biko's lonely death in Pretoria Central. The 20-year period laid down by law had elapsed and they were free from prosecution. Or so they thought.

A recent amendment to the Criminal Procedure Act, which enables prosecutions in cases like murder even after 20 years, means that Biko's killers could still see the inside of a courtroom.

Shortly after the truth commission announced this week that amnesty had been refused, Les Roberts, the Eastern Cape Director of Public Prosecutions, confirmed that the Biko case had been reopened and that his killers could face murder charges.

Even though the amendment has yet to be tested, Saturday Argus established this week that a special unit tasked with studying cases from the truth commission, and working in tandem with Jan de Oliveira's Third Force Unit, would be launched by the National Director of Public Prosecutions.

Although the Biko case has been reopened, Mr Roberts said no quick decision on whether to prosecute could be taken as thousands of pages had to be evaluated.

And even if Mr Roberts decides not to prosecute the remaining

members of the five-man interrogation squad, his decision may be reviewed by Bulelani Ngcuka, the National Director of Public Prosecutions, who could decide to pursue the matter himself.

If the State takes no action, the Biko family can choose to launch a private prosecution against Daantjie Siebert, Jacobus Beneke, Rubin Marx and convicted killer Gideon Nieuwoudt, who was denied amnesty for the Biko killing in December. Squad leader Harold Snyman died of cancer last year.

Attorney Francois Pienaar, who represents the applicants, said he doubted whether a criminal prosecution would arise from the amnesty committee's decision. He said the only charges the men could face were murder. "I seriously doubt whether sufficient evidence exists to justify a prosecution."

Although Siphon Ngwema, speaking for Mr Ngcuka, admitted that the prosecution of applicants who had been denied amnesty "would not be easy", he said he was still confident that some of the cases would make the courts.

"It will be a very difficult task because we cannot use TRC submissions as evidence in a courtroom. We will, however, use leads from the TRC reports as the basis for further investigations and we'll stick by the book."

"If we do decide to prosecute, the decision will be made only when we know we have a reasonable prospect of success," he said.

Mr Roberts said new material that had emerged during the commission's hearings on the Biko death dictated that the matter be investigated and reviewed by his office.

Mr Roberts refused to speculate on the chances of a successful murder

prosecution, but said he believed the material that had emerged during the commission hearing could not be used in a criminal trial against the men.

"It is my tentative view that one cannot use the evidence of the applicants against them in a subsequent court case. But, if we read something in the submissions and then decide to investigate further, it is a different story," he said.

Although the possibility of several prosecutions is likely to stir up a hornet's nest among applicants who have been refused amnesty and those who feel they were duped into making submissions, the news was welcomed by the Biko family this week.

Describing the truth commission submissions by the five interrogators as "a very disappointing attempt to clean up any mess left from the inquest", Nkosinathi Biko said he hoped the high-profile murder of his father would end up becoming a test case in South Africa.

"For us this is just the first leg of a lot more to come. Even though they timed their applications well to escape prosecution, they still did not give full disclosure."

The Biko family said later "The decision is significant in that it is a departure from the inquest findings that no one is to blame. Although it does not appropriate blame, the dismissal of the application ensures the five are denied the cloak of indemnity from possible blame."

Not satisfied that the security men had made full disclosure, the amnesty committee said the applicants' version of Mr Biko's death was so improbable and contradictory that it has to be rejected as false.

"Moreover, none of the applicants impressed us as credible witnesses."

ART 20/2/99 (252)



MARTYR .. Black consciousness leader Steve Biko, who was killed by the notorious Port Elizabeth security police

People rejoice over TRC Biko decision

The truth commission has denied amnesty for the security policemen accused of killing Steve Biko more than 20 years ago. But will these men ever go on trial or be convicted? ECN WEEK-END SERVICE reports.

FMOTIONS in villages, towns and cities across the Eastern Cape were running high this week as people rejoiced in the decision of the Truth and Reconciliation Commission's amnesty committee to refuse amnesty to the security cop killers of Steve Biko.

Many have demanded that the former policemen spend the rest of their lives behind bars. The deputy secretary of the Pan Africanist Congress in the Eastern Cape, Peter Mvusi, said "People would like justice to be done because Steve Biko belonged to the grassroots. We should be talking about people who are awaiting trial instead of walking around as if they have done nothing wrong." The Biko family cited the decision as "significant", saying it was a departure from the inquest findings that nobody was to blame.

From abroad, former Daily Dispatch editor and Steve Biko confidant Donald Woods said the TRC had revealed "some truth but not enough" about the black consciousness leader's death, but that a criminal trial would hopefully do the rest. "I always thought the TRC process was the way to go as there was not enough evidence at the time for a full prosecution," he said. Woods now hopes that more evidence will be found - enough to warrant a successful criminal prosecution. The amnesty committee reject-

ed the vague statements of one-time Port Elizabeth security police chief Harold Snyman and his henchmen, Daniel Petrus Siebert, Jacobus Johannes Benke and Rubin Marx, on the grounds that they had not made a full disclosure, nor acted with a political motive. While the decision has been welcomed by the Biko family, amongst others, it has also been noted that the full truth surrounding the killing has yet to be exposed. Although amnesty has been refused, Biko's killers are free men who will not face civil action because the TRC process pushed them through the 20-year barrier on liability for civil claims. There is also no indication the men will face criminal charges for beating and torturing Biko in Room 619 of security police headquarters in the Sanlam building in Port Elizabeth.

Their legal representative, Francois van der Merwe, has said he doubts a criminal prosecution will arise. An amendment to the Criminal Procedures Act means the applicants can only be tried or prosecuted for murder, and Van der Merwe doubts sufficient evidence exists. The office of the national director of public prosecutions, Bulelani Ngwenya, said evidence presented at the TRC hearings would have to be re-investigated before a decision could be taken on whether to prosecute the men. Interviewed this week, Biko's son Nkosinathi said the constitu-



YOUNG BIKO .. Steve Biko's son Nkosinathi says the whole truth is still not yet known

tional aspects of the right to amnesty and the right to seek redress in a court of law did not "get on well". He said confidence in the justice system would be undermined if people like the cops involved in his father's death continued to get away. Nkosinathi said the announcement was a "step short" of revealing who was ultimately responsible. He said adherence to the "scuffle theory" as an explanation for his father's death was proof of a cover-up. "It's very clear there were five different versions of my father's death and that not all five men have been telling the truth". Questioning threats by the lawyer of the failed amnesty applicants to "drop a political bombshell", he said "How can



NO AMNESTY .. Former security policeman Jacobus Benke



NO AMNESTY .. Former security policeman Daniel Siebert



THE BOSS .. One-time Port Elizabeth security police chief Harold Snyman

(257)

Amnesty for SDU member

South African 22/2/99

By Paul Letsoalo

AN ANC Youth League and self-defence unit (SDU) member was granted amnesty by the Truth and Reconciliation Commission's amnesty committee in Mayfair, Johannesburg, on Friday.

Vusi Mononi applied for amnesty for the murder of South African Police member Mafumane Bernard Mathonsi of Diepkloof, Soweto, in 1993.

He became the second SDU member to be granted amnesty since the start of the Mayfair hearings last week.

Gradwel Selahle, who was sentenced to 12 years imprisonment for the murder of Inkatha Freedom Party member Joseph Mkhabela in 1992, was granted amnesty last week.

Serving life sentence

However, one SDU member, Julian Dion Plaatjies, currently serving a life sentence for the 1993 murder of Dirandiran Makanjee in Westbury, western Johannesburg, was refused amnesty.

Mononi was sentenced to 24 years effective imprisonment for murder, attempted robbery and unlawful possession of firearms, ammunition and handgrenades.

Twenty other SDU members had also applied for amnesty for their involvement in the violence that plagued townships in the 1990s.

During his testimony on Wednesday, Mononi told the committee that he and other SDU members murdered Mathonsi to get his service pistol to give to other SDU structures.

Stop the violence

He told Judge Sisi Kampempe that the SDUs did not have enough firearms to stop the violence that plagued townships before the 1994 elections.

Sporadic violence erupted in various townships between the SDUs and hostel dwellers, who were perceived to be supporters of the rival IFP.

Mononi told the committee that they were patrolling the Mandela informal settlement in Diepkloof when they met two uniformed policemen who were on their way to a tyre repair shop behind the police station.

"A scuffle ensued between us and the policemen, and my friend shot and killed Mathonsi instantly," Mononi testified.

They took Mathonsi's firearm and ran away.

The moment of truth that will shape the fate of two divided nations

I want to ask you some questions about the Truth and Reconciliation Commission.

If you are black, are you mystified, if not deeply offended, by the sight of some of apartheid's worst brutes being given amnesty after no more sacrifice than a mere recital of their misdeeds?

Do you feel any more reconciled than you did in 1994 to the whites who actively or passively were accomplices to that evil?

If you are white, and whether you or not you believe you supported or benefited from apartheid, did you change channel when the Truth Commission broadcasts came on, wishing only to cease this weary groaning from a past best forgotten?

Do you believe, in your moments of worst frustration at being daubed the scapegoat for all past evil, that there was no moral difference between the acts of war of the security forces and those of the terrorists?

Whichever of our two nations you belong to, it is also possible you have neither faith nor interest in the Truth Commission process and will ignore this week's special debate in Parliament on the issue as just another exercise in rhetoric.

All of us and all of our children may live with the consequences of your mistake.

All of the attitudes above reflect the stereotypical way we have come to view ourselves and each other in these difficult years, as it has become apparent that reconciliation means a lot more than a carefully staged but transient feel-good moment around an international rugby trophy.

It is the very fact of South

SAWYER

POLITICAL CORRESPONDENT

Africans still being divided into two nations that lends importance to this week's debate, and it is equally true that the conduct of political parties in reaction to the commission may cause the special debate to descend into yet another round of electioneering Wrestlemania.

But a sober assessment of the process and frank and non-partisan answers about whether it has succeeded are long overdue.

President Mandela, who is expected to open the debate, gave an indication of his views during his state of the nation address at the opening of Parliament.

In tandem with his theme that there was hope for South Africans as a nation was his disturbing reflection on how citizens continued to slaughter one another. "We slaughter one another in our words and attitudes. We slaughter one

another in the stereotypes and mistrust that linger in our heads and in the words of hate we spew from our lips."

Going further to make a point on the lines that peace is not merely the absence of war, Mr Mandela emphasised that reconciliation means dismantling apartheid practices and attitudes.

Mr Mandela and other leading African National Congress speakers in the debate could choose to address the place of whites in the

new South Africa, of whom many seem to have taken the line of least resistance by going into victim mode.

From opposition benches one can be certain of hearing the term "witch-hunt" more than once, notably from the New National Party, Freedom Front and Inkatha Freedom Party.

This view was put most succinctly by P W Botha on the eve of his trial for contempt of the Truth Commission, when he acidly described it as the "wraak en vergeldigings kommittee" (revenge and retribution committee).

Not only mainstream political parties have had their clashes with the commission the apartheid-era judiciary in the main stayed away, and TRC head Desmond Tutu traded vitriol with sections of the Afrikaans media over their commission-bashing.

Critics of the commission can point, with triumph or regret, to the fact that it focused much of its effort on cases already familiar in headlines: the Trojan Horse, the Guguletu Seven, Winnie and Stompie, the Cradock Four, Biko.

More questions has consensus been reached about the truth of each of these cases, what do the perpetrators and their beneficiaries feel? Remorse, callousness, the desire to reconcile?

What of the families of victims and the survivors of abuses?

If anyone is to be alienated and frustrated by the outcome of the saga, it will be them, should it culminate in a politically expedient deal on amnesty even for those generals and leaders on both sides who did not apply.

Most frustrating of all is that too little light has been cast in the dark corners of covert structures and operations. File shredders worked too quickly and too well.

Those from the representatives of the Two Nations who step up to the podium in the National Assembly will have all these questions and more before them.

How they respond will go a long way to determining the legacy of the new South Africa of 1994 to 1999.



Traded vitriol: TRC head Archbishop Desmond Tutu

ARG 22/2/99

The Biko, Benzién amnesty poser

DAVID YUTAR AND BEAUREGARD TROMP
STAFF REPORTERS

The TRC amnesty committee's decision to deny amnesty to four ex-police men who admitted assaulting Black Consciousness leader Steve Biko has elicited the applause of many.

And the amnesty granted to self-confessed police torturer Jeffrey Benzién has raised many questions. The main questions are what is the difference between the two cases, and why should amnesty be granted in the one but denied in the other?

Captain Benzién, perhaps best known for his use of the so called "wet bag" method to bring his victims to the brink of suffocation during interrogation, claimed responsibility for the "accidental" death of popular MK activist Ashley Kriel.

He was also granted amnesty for torturing a generation of Western Cape liberation movement fighters including Tony Yengeni, now an MP, Gary Kruser, now head of the police National Protection Service, Western Cape superintendent Peter Jacobs and Ashley Forbes, now of the Robben Island Museum, all on the grounds of "belief in political objective".

Ironically Captain Benzién is still active in the police service, presently attached to the police's air wing and involved in operations to com-



Granted amnesty: Jeffrey Benzién

bat gangsterism and urban terrorism on the Cape Flats

Last Wednesday the TRC took a similar stance in Captain Benzién's case to that of an apartheid-era inquest which found he and Anthony Abels could not be held liable for Ashley Kriel's death.

When it came to convincing the amnesty committee of "belief in political objective" Captain Benzién was second to none.

Then follows the question of whether, however morally reprehensible the conduct of the security policemen who caused Mr Biko's death, their actions were not patently politically motivated.

According to the amnesty com-

mittee, they were not.

The committee based its decision on two crucial findings. First, that the applicants had not acted with a political motive, as required by the Act, and second, that they had not made a full disclosure of the events leading up to the death of Mr Biko on September 12, 1977.

After analysing the evidence, the three-man panel of judges (J Mall, AJ Potgieter and Advocate N Sandu) concluded there was no doubt that Mr Biko died from head injuries after a confrontation with his interrogators.

The committee said "There was clearly no political objective being pursued in restraining Biko. None of the applicants alleged that they were actuated by a political motive in taking part in the scuffle with Biko."

But the committee did accept for the purposes of its decision that all of the applicants were supporters of the ruling National Party and believed in its policies.

It also apparently accepted the evidence of Captain Daniel Steibert that he believed unreservedly in the need to maintain white rule in Southern Africa and to thwart the "terrorist onslaught".

Captain Steibert referred to the battle against the likes of Mr Biko as "an undeclared war", saying that the status quo had to be maintained "at all costs".

In the light of the above evidence, one might well ask if such a state of mind on Captain Steibert's part did not disclose a political motive, then what is meant by the term "political motive"?

Turning to the evidence of Harold Snyman, who led the team briefed with the ill-fated interrogation of Mr Biko - he told the committee that his commander had mandated him to extract information from Mr Biko and then charge him for his role in the unrest plaguing the Eastern Cape at the time.

Major Snyman said his team wanted to "neutralise" Mr Biko's effectiveness in the BPC (Black People's Convention). After giving his (largely exculpatory) version of the violent scuffle between the team and Mr Biko, Major Snyman admitted that after Mr Biko's death, Colonel Goosen instructed him and his colleagues to lie about the true events on the day as the truth would severely embarrass the Security Branch and the government, and lead to the loss of foreign investment.

Major Snyman said he believed such a deception was "necessary for the survival of the political system in South Africa and the interests of the security police".

In spite of the above evidence, the committee held to its view that no political objective was being pursued.

Further, it said the version of the applicants "does not disclose any offence or delict (civil wrong) as required by the Act".

With regard to the full disclosure requirement, the committee stated, "we are not satisfied that the applicants have made a full disclosure as further required by the Act".

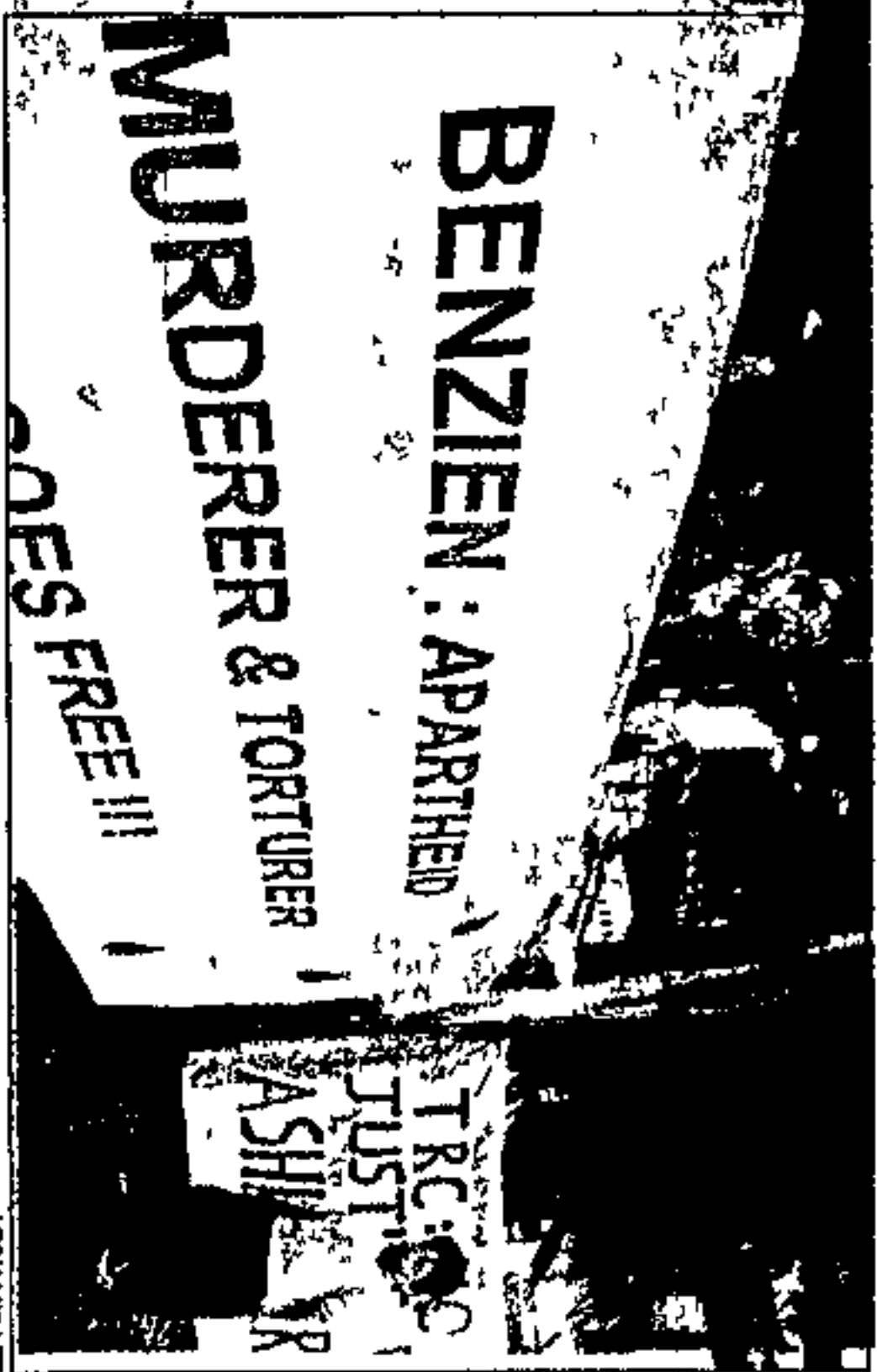
Rejecting the political motive argument, the committee found "it more probable that Mr Biko was attacked after applicants did not take kindly to his arrogant, recalcitrant and non co-operative attitude particularly exemplified by his occupying a chair without their permission to do so".

The advocate representing the four policemen, Francois van der Merwe, said he was very disappointed over the decision to deny amnesty and was considering taking the decision on review.

A decision of the TRC's amnesty committee cannot be taken on appeal.

Mr Van der Merwe said that he found the discrepancy between his clients' denial of amnesty and the Captain Benzién and Jack Crouge (of Vlakplaas) cases, where amnesty was granted, "puzzling".

In his view, his clients' actions had to be looked at in the broad context of events taking place at the time and, seen in such a light, were "political without any doubt".



LEON MULLER
No amnesty! Protesters against the pardon of Jeffrey Benzién protest outside the TRC

Torture victims in protest

FOR THE TRUTH COMMISSION

Victims of torturer Jeffrey Benzién will meet tomorrow to discuss ways of challenging the Truth Commission's decision to grant the notorious security policeman amnesty.

This was said by Ashley Forbes, a former Cape activist tortured by Captain Benzién during the 1980s, during a protest outside the TRC's Adderley Street offices today.

The TRC's amnesty committee announced last week that Captain Benzién had been granted amnesty for his part in the killing of activist Ashley Kriel in Athlone in 1987 and

for torturing cadres such as Forbes, his wife Yasmina Pandey and ANC MP and chief whip Tony Yengeni.

Mr Forbes, Ms Pandey, their mothers and the mother of a co-trialist protested outside the TRC's offices about 9.30am. He said they were demonstrating their anger over the TRC's decision to grant amnesty to Captain Benzién.

"It raises questions about the criteria which the TRC used as a basis to give amnesty, and it also raises questions for us about whether the TRC isn't more concerned about political considerations than about the truth and the victims who suffered gross human rights violations," he said.

Marcus 'lucky to survive bomb'

Witness describes Maputo blast that killed Ruth First

Stephané Bothma

(272)

PRETORIA — Deputy Finance Minister Gill Marcus told the truth commission's amnesty committee that she was very lucky not to have been killed when police bombed the African National Congress (ANC) London office in 1982.

Marcus said this shortly before the committee heard the first eyewitness account of the death of Ruth First, who was killed by a parcel bomb mailed to her in Mozambique by apartheid spy Craig Williamson in the same year.

Williamson has applied for amnesty for killing First, the wife of the late SA Communist Party leader Joe Slovo, and for masterminding the bombing of the ANC's offices.

Marcus told the committee that while in exile in London in the 1980s, she had worked every Sunday except for the day the massive bomb completely destroyed her office.

"If I had been there that morning instead of at a meeting at my house, there would have not been much left of me," Marcus said.

She said the explosion left a large crater where her desk had been.

She testified that although Williamson must have been fully aware of the location of her office, she did not believe the bomb was aimed at her.

"But it would have been the cherry on the top for them if they got me in the process," she said.

The committee heard that shortly after the explosion, she received a hand written postcard mailed from Botswana, which said "Oh, you're still around, Craig."

A former colleague of First's, Bridget O'Laughlin, told the committee she was with First in her office when the parcel bomb exploded.

Environmental Affairs Minister Pallo Jordan

was also present. Both women were working at a university in Maputo.

"Ruth received two pieces of mail, one from the US Information Services and the other a parcel which appeared to contain a book. It was not an official document because the address was written on the envelope and not printed," O'Laughlin testified.

"Ruth was being teased about always receiving so much mail and we all laughed and joked," the committee heard.

According to O'Laughlin, First moved to the corner of the office to open the parcel. "There was an explosion and I thought I was going to die. I did not know what had happened and believed at first we were being attacked from outside."

"I saw Pallo move and knew he was okay but Ruth was lying motionless, face down on the floor. I ran out of the office, shouting for an ambulance, but it was so stupid of me because there were no ambulances in Maputo," emotional O'Laughlin testified.

She said that although she cannot remember clearly, she was convinced that the parcel was addressed to Ruth First, and not to Joe Slovo. "I would have remembered if it was addressed to Joe because it would have been very unusual for Ruth to receive mail for her husband and to open his mail," she said.

For safety reasons, Slovo at the time never opened parcels, fearing an attempt on his life.

O'Laughlin said First took great care to separate her work from her activities as an ANC member and would not have allowed any ANC mail or mail for her husband to be received at work.

The hearings, in which Williamson also applied for amnesty for the 1984 killing of Jeanette Schoon and her six-year-old daughter, Katryn, continue today.



Apartheid spy Craig Williamson resumed his amnesty application at a hearing by the truth commission's amnesty committee in Pretoria yesterday. Williamson is applying for amnesty for sending a letter bomb which killed Ruth First, the wife of the late Umkhonto We Sizwe commander (and later Housing Minister) Joe Slovo, who were based in Mozambique at the time. The hearing continues.

Picture: TREVOR SAMSON

'Enormously costly' for prisoners to vote

Taryn Lambert

BD 23/2/99

JUDGMENT was reserved in the Pretoria High Court yesterday in a case brought by prisoners who want the Independent Electoral Commission (IEC) to enable them to register and vote in this year's elections

Arnold August, who is serving a long-term prison sentence, and awaiting-trial prisoner Veronica Mabutho have asked that the IEC and the departments of home affairs and correctional services make all necessary arrangements to enable them to register as voters for the elections

The prisoners based their application on the right "of every adult citizen to vote in elections", provided for in the constitution, as well as their rights to equality and human dignity

They also said there was nothing in the relevant legislation which precluded them from registering to vote

Former IEC chairman Judge Johann Kriegler said in an affidavit before court that in terms of the Electoral Act the person applying for registration as a voter had to do so in the voting district in which the person is "ordinarily resident"

He said it would be "enormously cost-

ly and time-consuming" to allow prisoners to vote within the prisons and then to transport their ballot papers to the various places from which they came

The prisoners pointed out that the IEC was empowered by the Electoral Act to make regulations it considered "necessary or expedient in order to achieve the objectives of the act"

In terms of the act, voters unable to register in their places of residence can apply for special votes in certain circumstances including physical infirmity or disability or pregnancy or if they are out of the country on government service

Kriegler said given the financial constraints imposed on the IEC the commission was experiencing tremendous difficulty in funding special votes

The prisoners said the IEC would violate their constitutional rights to vote, to equality and to human dignity, if it did not make the necessary arrangements to facilitate the voting and registration of prisoners

Kriegler said the IEC was not obliged to make special arrangements, "different from those that are made for the general body of voters", to enable prisoners to register

'Judge blast, and Ruth lay dead'

Star 22/2/99 (217)

Apartheid spy Craig Williamson avoids gaze of First's colleague as she describes to TRC how his letter bomb killed communist party chiefs' wife

BY SIMON ZWANE

Apartheid spy Craig Williamson, who plotted the parcel bomb murder of Ruth First and is seeking amnesty for it, sat with his face down as a former colleague of First yesterday graphically described the shattering explosion which claimed her life.

First, a writer, activist and wife of South African Communist Party leader Joe Slovo, was blown up by a parcel bomb in Mozambique in 1982.

Bridget O'Laughlin, who was in the same room as First when the bomb exploded, told the Truth and Reconciliation Commission's amnesty committee in Pretoria that First's body lay sprawled lifelessly on the floor after the blast.

Also in the room were ANC member Pulo Jordan, now Environment Affairs Minister, and fellow academic Aquino de Braganca.

Jordan was sprawled on the floor and De Braganca was slumped over her desk, O'Laughlin said.

"The air was full of haze," O'Laughlin recalled. She said she saw Jordan moving his head.

"Ruth was sprawled face downwards. Aquino was flopped downwards and not moving."

O'Laughlin said that shortly before the explosion, First had returned, with three mail items, to her office at Eduardo Mondlane University, where she (O'Laughlin) was engaged in an animated discussion with Jordan and De Braganca.

Two of the items looked like United States Information Service mail and the third was a parcel which looked like a book.

First put the US mail on the desk, took the parcel, walked around the room and stood at the corner.

She was opening it when a loud bang went off, and then there was total silence. "I went out and started cry-



STEVE LAWRENCE

Marcus tells of post card from the edge

PRETORIA CORRESPONDENT

Deputy Finance Minister Gill Marcus yesterday told the Truth and Reconciliation amnesty committee that after the bombing of ANC offices in London by members of the South African security police, she received a post card from Craig Williamson saying: "Oh! you are still around."

The post card was mailed from Botswana, and signed "Craig". Marcus said she knew that the card was from Williamson because he was the only Craig she knew. The card ended in a rubbish bin after it had been shown to a few people.

Emotions ran high during the cross-examination of Marcus leading to Advocate George Bizos SC referring to Advocate Roco of du Plessis's line of questioning as one used by prosecutors during the apartheid régime.

This was after Du Plessis had asked Marcus whether she was a communist or a supporter of the communist party.

Du Plessis appearing for Jerry Raven, who planted the London bomb, told the amnesty committee that Marcus was trying to create an impression that the applicants planted the bomb at the Dandon ANC office at a time when many people's lives were at risk.

Du Plessis said the bombers had done everything possible to avoid the risk of injuring or killing people, because the bomb was planted at a time when there were no people in the building.

However, Marcus pointed out that there was never a safe to plant a bomb.

describing the ordeal... Bridget O'Laughlin describes the 1982 parcel bomb blast that killed Ruth First, wife of the late South African Communist Party leader Joe Slovo.

At the ambulance, she described the scene: "The air was full of haze," she said. "Ruth was sprawled face downwards. Aquino was flopped downwards and not moving."

Williamson, who has completed his evidence before the committee - held his head down and clasped his hands firmly in front of him, and avoided looking at O'Laughlin.

Bizos asked and Slovo's hand bag was not in the seats in front of her.

Schoon died two weeks ago from cancer, the same disease that claimed his comrade and Gillian's father, Joe Slovo, about three years ago. First, Schoon did not attend yesterday's hearing.

The hearing continues today.

(257), CT 23/2/99
Marcus' postcard from bomber

PRETORIA Deputy Finance Minister Gill Marcus yesterday told the TRC amnesty committee that after the bombing of ANC offices in London by the South African security police, she received a post card from Craig Williamson saying "Oh! You are still around"

The card was posted in Botswana and was signed by "Craig"

Marcus said she knew the card was from Williamson because he was the only Craig she knew. She did not keep the card or inform the police about the matter because she took it to be another attempt to intimidate her. After showing it to a few people, she threw it away.

Williamson did not deny sending such a card during an earlier hearing.

Emotions ran high during Marcus' cross-examination by Advocate Roelof du Plessis, who appeared for Jerry Raven, the man who planted the London bomb. After

Du Plessis asked Marcus whether she was a Communist or a supporter of the Communist Party, Advocate George Bizos SC compared Du Plessis' line of questioning to that used by prosecutors during the apartheid regime.

Du Plessis told the amnesty committee that Marcus was trying to suggest that the applicants planted the bomb at a time when many people's lives were at risk. He said the bomb planters had done everything possible to avoid injuries or deaths as the bomb was planted when there were no people in the building.

Marcus indicated that there was never a safe time to plant the bomb.

Du Plessis said there was no evidence to justify what Marcus said about the timing of the bomb. Marcus said it did not matter because there was no need to plant the bomb in the first place. — Own Correspondent

Picketers blast Benzien amnesty

CT 23/2/99

ROGER FRIEDMAN

(252)

"I STILL see the scars on Ashley, invisible scars. Although he is very brave and trying to disguise it, I still see it on his face and in his demeanour. I can still see the hurt and the pain in the back of his mind and in his soul."

Andrina Forbes-Connelly, 72, is an ordinary South African mother. She knows about pain, such as the pain she endured in August 1987 when she had to apply for a court interdict to see her detained son, Ashley Forbes — and was then only allowed to look at him through a window at Caledon Square police station.

At the time, Forbes — an anti-apartheid movement soldier — had been tortured to the brink of suicide by Jeffrey Benzien, the police suffocation expert. P W Botha was president; repression was at its height.

Last week, the Truth and Reconciliation Commission granted amnesty to Benzien for torturing a number of Western Cape soldiers and activists, for perjury and for killing Ashley Kriel.

Yesterday, Forbes-Connelly joined a picket demonstration outside the commission's offices in Adderley Street to demonstrate displeasure at the commission's decision.

At her side was her son Forbes, daughter-in-law Yasmeeena Pandey, grandson Jaleel, and Pandey's mother, Begum Pandey. Also there was Fawzia Lowe, mother of Nazeem Lowe, another of Benzien's torture victims.

"When I saw Ashley at Caledon Square, my only thought was that Benzien was someone who was hurting my child and hurting other mothers' children

"I feel his being given amnesty is unfair and unjust considering all the pain and hurt that he inflicted so mercilessly, without feeling," she said.

A police van draws up alongside the demonstrators. A young policeman scribble notes in a book.

The demonstration is illegal. "It looks like the old scene. The defiance comes back to me, the sadness and the fighting spirit of our people. In the old days they would have put us in the van and taken us to jail for fingerprinting and photographs, then locked us up for hours. It happened to me occasionally, not always."

Benzien's victims do not believe that their former terrorist made a full disclosure to the commission's amnesty committee, as required by the law. They are taking legal advice on whether there are avenues of appeal that they may pursue



NO JUSTICE, NO PEACE: Torture victim Yasmeeena Pandey and her mother-in-law Andrina Forbes-Connelly vent their displeasure yesterday at the amnesty granted by the Truth and Reconciliation Commission last week to police torturer Jeffrey Benzien

PICTURE: BENNY GOOL

BLAST THREW PALLO JORDAN TO FLOOR

Colleagues saw First die

PRETORIA: The parcel-bomb that killed Ruth First had been addressed to her, not her husband Joe Slovo, says former colleague Bridget O'Laughlin. **SIMON ZWANE** reports.

PARTHEID spy Craig Williamson, seeking amnesty for the parcel-bomb murder of Ruth First, which he planned, listened with his head bowed yesterday as a former colleague of First described the shattering explosion that claimed her life.

First, a writer, activist and the wife of SA Communist Party leader Joe Slovo, died in Mozambique in 1982.

Bridget O'Laughlin was one of three people present with First in her office at the Eduardo Mondlane University in Maputo when the bomb exploded.

The others were ANC member and now Minister of Environmental Affairs Pallo Jordan and fellow academic Aquino De Braganca.

Moments before the explosion, First had entered her office, where O'Laughlin, Jordan and De Braganca were talking.

First was carrying three items of mail, two of which looked like United States Information Service mail. The third was a parcel, which seemed to contain a book.

First placed the US mail on the desk, took the parcel, walked around the room, stood near a corner and began to open the package. There was a loud bang, followed by silence.

When the blast died away, First was sprawled lifelessly on the floor, O'Laughlin told the Truth and Reconciliation Commission's amnesty committee here.

The blast had also thrown Jordan to the floor, while De Braganca was slumped over her desk.

"The air was full of haze," O'Laughlin said. She saw Jordan move his head.

"Ruth was sprawled face-down. Aquino was flopped forward and was not moving."

"I went out and started crying out 'Ambulance! Ambulance!'"

"It was a childish thing as there were no ambulances in Mozambique at the time."

O'Laughlin, now a lecturer at the Institute of Social Studies, could not recall if the package bore the address of the sender.

However, she had no doubt that the parcel bomb had been intended for First and not for Slovo as De Braganca had mentioned to First that there was a parcel addressed to her in another office.

It had been First's policy not to open any letter or parcel addressed to Slovo, O'Laughlin said.

Also, First and Slovo had not wanted the university to be seen as an ANC base, so none of Slovo's mail was sent to his wife.

As he listened, Williamson sat with his head bowed and hands clasped. He did not look at O'Laughlin.

He has completed his evidence before the committee.

First's daughter, Gillian Slovo, sat a few paces from Williamson and directly behind her family's legal representative, George Bizos.

Flanked on either side by empty chairs, she was a lonely figure.

Five chairs had been provided for relatives of the victims of Williamson's bombs, but Slovo's sisters, Shawn and Robyn — who had been present when the hearing began last year — could not attend yesterday.

The other chairs had been occupied last year by Marius Schoon, whose wife Jeanette and daughter Katryn were killed by a parcel bomb in Angola in 1984, and his son, Frits, 17.

Schoon died two weeks ago of cancer. The hearing continues today.



'TOOK PRECAUTIONS': Ruth First never opened mail addressed to her husband, Joe Slovo. **FILE PICTURE**

TRC amnesty for Kondile (2572) murderers

The Amnesty Committee of the Truth and Reconciliation Commission today granted amnesty to four former security policemen for the abduction and murder of Eastern Cape activist Sizwe Kondile near Komatipoort in 1981.

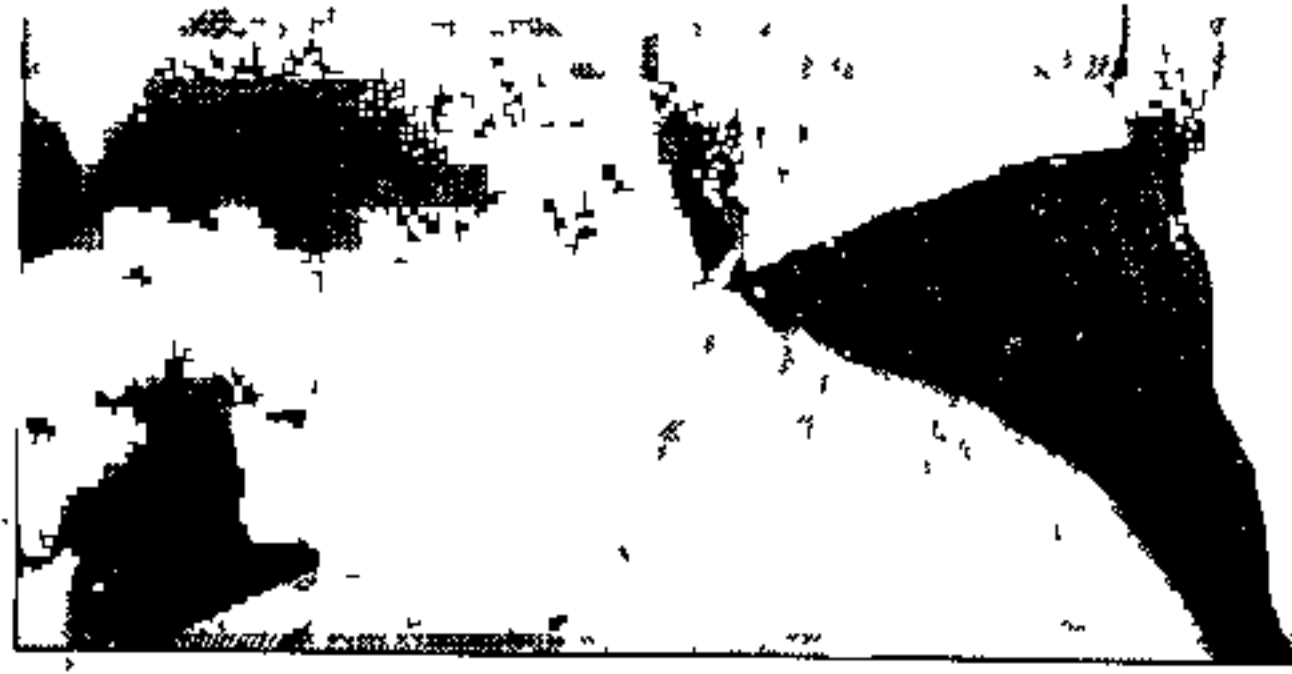
Amnesty has been granted to retired generals Nic van Rensburg and Gerrit Erasmus, Captain Hermanus du Plessis and Inspector Johannes Raath

Last week the committee pardoned Jeffrey Benzien for the murder of Cape Town activist Ashley Kriel in 1987

The committee ruled that Mr Kondile's son, Bantu, be considered the victim of gross human rights violation. The committee also granted amnesty to a member of the Inkatha Freedom Party in Katsi-hong, Jacob Simon Belle, who was serving six years in prison for illegal possession of an AK47 rifle -
Staff Reporter

How letter bomb killed Ruth First, page 6

ARG 23/2/99



THE STAR

Amnesty bid: Craig Williamson listens to testimony yesterday

How letter bomb killed Ruth First

Vivid testimony at TRC

ARL 23/2/99

Pretoria - The Truth and Reconciliation Commission's amnesty committee heard a dramatic account yesterday of the letter bomb explosion that killed Ruth First in Maputo in June 1982.

Former apartheid spy Craig Williamson is applying for amnesty for sending the letter bomb to Mrs First, wife of the late Umkhonto We Sizwe commander (and later housing minister) Joe Slovo

Bridget O'Laughlin, an academic who worked with Mrs First at the Eduardo Mundo University in Maputo at the time, told the committee she was present in the room when the bomb exploded

"I heard what sounded like three blasts and my first thought was that I was going to die," she said in an emotional voice. She said she thought the office had come under fire.

Mrs O'Laughlin, who was pregnant at the time, said she saw Mrs First lying on the floor, face down and motionless. "She was wearing her red blazer, white skirt and her favourite Italian shoes. She was not moving and lying totally still."

Mrs O'Laughlin said a fellow academic, Aquino Braganca, and South Africa's present Environmental Minister, Pallo Jordan, were also there and were stunned by the blast. "I ran outside and shouted for an ambulance. It was a childish thing to do because I knew there were no ambulances in Maputo."

She said she had known both Mrs First and Mr Slovo and that they lived separate lives as far as their careers were concerned.

"Slovo was always conscious of his security and was aware he was a possible target for South African forces, but Ruth lived a normal life."

Mrs O'Laughlin said she had naively believed South African security forces would make a distinction between the roles of Mr Slovo and his wife.

She said she was not able to say with any certainty to whom the parcel that contained the bomb was addressed, but she believed it must have been addressed to Mrs First. She found it inconceivable that Mrs First would have opened a letter or parcel addressed to her husband. For security reasons, Mr Slovo never opened his own mail, she said.

During his testimony in support of his application for amnesty earlier this year, Mr Williamson said he did not notice to whom the parcel bomb was addressed. However, he said he recalled seeing the name Slovo, but was not sure whether it was addressed to Mr Slovo or to both Mr Slovo and Mrs First.

The hearing continues today - Sapa

'Schoon murders were personal, not political'

(2/98) BD 24/2/99

Stephané Bothma

PRETORIA — African National Congress (ANC) operatives Marius and Jeanette Schoon were not legitimate targets for assassination and the letter bomb mailed to them was partly due to personal animosity by apartheid spy Craig Williamson, the truth commission heard yesterday.

Student activist Heinz Klug, who joined the Schoons in exile in Botswana in the late 1970s, said the couple was only involved in the political restructuring of the ANC and they were therefore not the usual targets selected for murder by the security police at the time.

Klug, currently a professor of law at a US university, was called to testify before the commission's amnesty committee in opposition to Williamson's amnesty application. Williamson has confessed to mailing the parcel bomb which killed Jeanette Schoon and her six-year-old daughter Katryn in Angola in 1984 and the bomb which killed Ruth First, the wife of former SA Communist Party leader Joe Slovo in Mozambique in 1982.

Klug said he played an important part in exposing Williamson as a security police spy in the latter part of 1979. "All ANC political operatives were not equal targets for the security police and therefore I came to the conclusion that there was something extra to the targeting of the Schoons," Klug said.

The only logical assumption was that Williamson had a personal grudge against the Schoons for the part they had played in exposing him as a spy, Klug told the committee under judge Andrew Wilson.

Klug, who was president of the SA Students Press Union in 1978, said he had decided to leave SA after being called up for military service in the "apartheid defence force".

He obtained a position in Gaborone, Botswana to run the Southern Africa News Agency (SANA) which was then being funded by the International University Exchange Fund, a body based in Geneva, Switzerland, of which Williamson was the deputy director.

Several incidents occurred at the time which made Klug and the Schoons very suspicious of Williamson's loyalty to the ANC and his status in the organisation. The suspicions were passed on to the ANC top structure which was then based in Lusaka, Zambia. Shortly afterwards, in 1980, Williamson was exposed as a SA police captain.

Klug said although the Schoons had played important roles in the political restructuring of the ANC during their stay in Botswana, they had been transferred by the organisation to Lubango, Angola to teach English at a local university.

"Even after moving from Botswana, they remained security police targets," Klug said. The hearing continues today.

'He hated the Schoons, so he killed them'

(252)

TRC hears of former security agent

Craig Williamson's alleged vendetta

Star 24/2/99

By FANA PEETE
Pretoria Correspondent

The amnesty committee of the Truth and Reconciliation Commission has been told that Jeanette Schoon and her daughter Katryn (6) were killed by Craig Williamson and his men because of the hatred he had for the Schoon family.

This evidence was given by Professor Heinz Klug, an expert in international law at the University of Wisconsin in the US.

Klug testified that Williamson was angry that Marius and Jeanette Schoon had a hand in blowing his cover as an agent.

The witness testified that Williamson, who is applying for amnesty, had penetrated the ANC and was held in high esteem before being uncovered by, among others, the Schoons.

"The applicant was angry that the agency (South African News Agency) he had created to advance the aims of the security forces had been taken away from him and was used against him to blow his cover," said the professor.

The witness told the committee that he could not agree with Williamson that the Schoons were a legitimate target at a time when they were teaching English at the Lubango University in 1984.

He said he could only see the attack as a result of their role in exposing Williamson.

Klug said that while he was in Botswana working for what was regarded as an ANC agency (Sana), he and Patrick Fitzgerald suspected that both Williamson and Carl Edwards were security agents.

He said they became suspicious after Edwards had asked

them for the names of people in South Africa connected to the struggle against apartheid. He also asked them to provide Williamson with information about refugees in Botswana.

Klug said their suspicions were confirmed after they arranged to send Edwards photographs of a dead letter box.

He said they did not take any pictures but sent Edwards information. When he inquired, they said the pictures could have been intercepted by the police, but Edwards ruled out this possibility. This made them conclude that he was in touch with the police.

Williamson then stopped sending them money to run their agency, and this prompted Klug, Fitzgerald and the Schoons to report their suspicions to the ANC. This led to Williamson's cover being blown, and he returned to Johannesburg.

During Klug's cross examination, advocate Roelof du Plessis, appearing for security police bomb expert Jerry Raven, wanted to know why Klug had left Botswana a few days before the Botswana raid by South African security forces.

Klug replied that he left after being advised to do so by the country's authorities, but Du Plessis said it was because he had communicated with former *Rand Daily Mail* reporter Tony Stirling, who was also a police informer. Du Plessis went on to suggest that Klug had links with the security forces, a contention which Klug vowed to challenge.

Counsel for the former ANC activist, advocate George Bizos, said Du Plessis' conduct constituted "gross unprofessional conduct." Bizos said he would lodge a formal complaint with the Bar Council.

262 (252) had a case - TRC

By Paul Letsoalo

A TOTAL of 262 South Africans have been granted amnesty by the Truth and Reconciliation Commission's amnesty committee since 1995 according to the latest statistics released by the TRC.

According to TRC spokesman Vuyani Green, 7 124 people had applied for amnesty. He said of these, 5 624 applications were received from people in custody. A total of 4 629 applicants were refused amnesty. The TRC said most of the rejections were considered to have

- no political objectives, or to have been committed for personal gain,
- not accepted guilt for the acts committed,
- made less than a full disclosure of the offences committed.

A total of 1 778 applications were still outstanding.

Those who were granted amnesty include five leading members of the notorious Vlakplaas death squad, for their involvement in atrocities against opponents of apartheid in 1987.

Jan Cronje, Willem Roelof Venter and Jacques Hechter received amnesty for human rights abuses including the murder of Dr Fabian Ribeiro and his wife Florence in Mamelodi, Pretoria.

Another offence for which the killers were granted amnesty was the murder of 10 youths who were lured from their homes in Zeerust 12 years ago with the promise of being assisted to leave the country for military training.

Two former security policemen, Nelson Ngo and Stephen Motsamai, who bombed Mrs Winnie Madikizela Mandela's house in Brandfort in the Free State, also received amnesty last week for a number of offences, but were refused amnesty for other offences including murder.

Amnesty for four police who murdered Kondile

JOHANNESBURG: Four former security branch policemen were granted amnesty yesterday for the abduction and murder of Eastern Cape activist Sizwe Kondile near Komatipoort in 1981.

Retired generals Nic van Rensburg and Gerrit Erasmus, Captain Hermanus du Plessis and Inspector Johannes Gottfried Raath applied for amnesty for Kondile's murder.

Their applications were opposed by Kondile's family on the grounds that they were not making full disclosure of the facts related to the killing.

Former Vlakplaas commander Dirk Coetzee and Ginotry Danster testified on behalf of the family.

Kondile was captured near Bloemfontein by the security branch, taken to the Eastern Cape and spirited away to Komatipoort where he was drugged and shot dead.

His body was later incinerated on a wood pyre and the remains thrown in a river.

Coetzee testified about Kondile's murder at the 1990 Harms commission of inquiry

into hit-squad activities and during his own amnesty application to the TRC in 1996.

Coetzee claimed that Van Rensburg told him Kondile had suffered severe brain damage while in security detention in police cells at Jeffreys Bay in the Eastern Cape, and that police had decided to kill him and dispose of his body to avoid another "Steve Biko affair".

**TRC amnesty
committee rules
that the killers of
Sizwe Kondile
were politically
motivated**

The amnesty committee said Kondile was clearly murdered for political reasons as he was a threat to the machinery of the security police, who by their own admission sought to protect the National Party government.

The committee also ruled that Bantu Kondile, the son of Sizwe Kondile, be considered a victim of gross human rights violation as provided by the law governing the TRC.

The committee also granted amnesty to an Inkatha Freedom Party member in Katsi-hong, Jacob Simon Belle, who was serving an effective six years' imprisonment for illegal possession of an AK-47 rifle and ammunition. — Sapa

WILLIAMSON 'HATED' SCHOONS

The spy who loved her not

PRETORIA: Apartheid spy Craig Williamson killed Jeanette Schoon and her six-year-old daughter because the activist had exposed him, the TRC heard. **FANA PETTE** reports.

THE TRC amnesty committee has been told Jeanette Schoon and her daughter Cathryn, six, were killed by Craig Williamson and his men because of his hatred for the Schoons.

This evidence was presented by Heinz Klug, an expert in international law at the University of Wisconsin in the US.

Klug testified that Williamson was angry that Marius and Jeanette Schoon had had a hand in blowing his cover as an agent.

Williamson, who is applying for amnesty, had penetrated the ANC and was held in high esteem before being uncovered by the Schoons, among others.

"The applicant was angry that the agency he had created to advance the aims of the security

forces had been taken away from him and was used against him to blow his cover," said Klug.

The witness told the committee he could not agree with Williamson that the Schoons were a "legitimate target" at a time when they were teaching English at the Lubango University in 1984.

He said he could only see the attack on them being a result of their contribution towards exposing Williamson.

Klug said while in Botswana working for what was regarded as an ANC agency, he suspected both Williamson and Carl Edwards of being members of the security forces.

He said they suspected this after Edwards asked them to provide

him with names of people in South Africa connected to the struggle against apartheid.

He said that after a meeting with Edwards in Botswana, he confirmed the suspicion by arranging that the agency send him photos of a place where it was to set up a "dead" mail box.

Klug said they did not send him any pictures — only information. When Edwards made inquiries, they told him the pictures must have been intercepted by the police, but Edwards said this was not possible.

They concluded that he was in touch with the police.

Williamson then stopped sending them money for the running of the Botswana agency, prompting him, a colleague and the Schoons to report to the ANC that they suspected both Williamson and Edwards of being security force spies.

This led Williamson to return

to Johannesburg after his reputation was called into question.

During cross-examination of Klug, advocate Koelof du Plessis, appearing for security police bomb expert Jerry Raven, wanted to know why Klug had left Botswana a few days before the Botswana raid by security forces on the Solidarity News Agency.

Klug said he left after being advised by the country's authorities that he should leave, but Du Plessis said it was because he had communicated with former *Rand Daily Mail* reporter Tony Stirling, who was also a police informer.

Du Plessis suggested that Klug could also have had some links with the security forces, a claim Klug said he will challenge.

Counsel for former ANC activists, George Bizos, SC, said he will forward a complaint to the Bar Council, saying Du Plessis's questioning had constituted "gross unprofessional conduct".



BLOOD ON HIS HANDS: One-time apartheid "super-spy" Craig Williamson (centre) attends yesterday's TRC amnesty hearing, during which it was heard he had killed Jeanette Schoon and her daughter out of revenge for exposing him as a spy. **PICTURE: THE STAR**

'Victims must be compensated'

Taking away meaningful individual reparation is a cruel betrayal, says author

SHAUN BENTON, one of the writers of *Out of the Shadows*, the popular version of the Truth and Reconciliation Commission's final report, looks at reparations for victims of human rights violations. *Out of the Shadows* will be published in late April

Tomorrow, February 25 1999, parliamentarians are to debate the Truth and Reconciliation Commission's final report to the president. Central to the debate will be the as-yet-unfinalised issue of reparations for the many identified victims of gross human rights violations during the apartheid years.

Until recently, one would have expected a parliamentary discussion on reparations to be dominated by the issue of just how much each victim is to be paid out.

However, given the utterances by ANC secretary-general Kgalema Motlanthe, as reported in a weekend newspaper on February 7, it appears the debate might descend to whether victims are to be paid out at all.

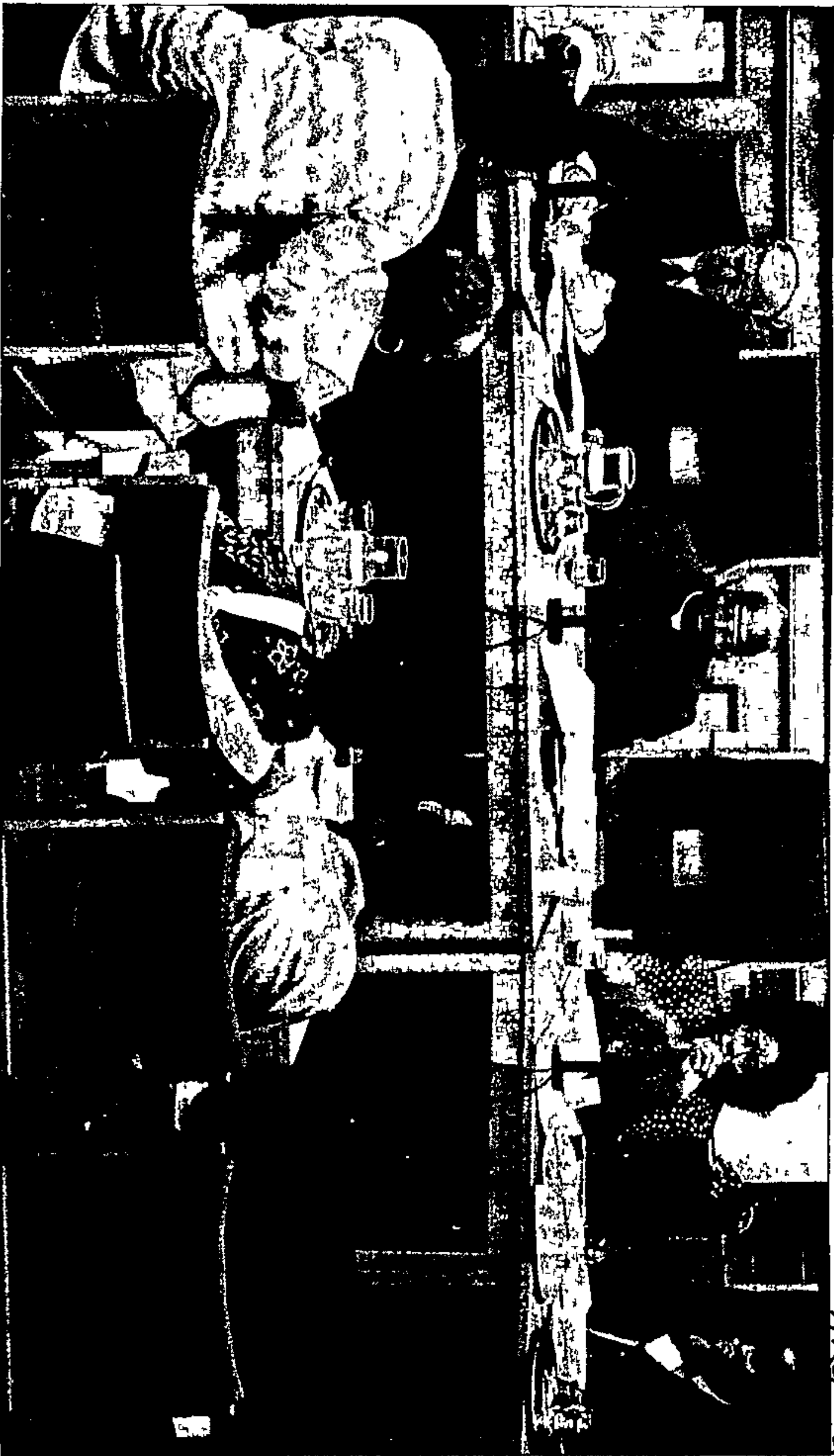
Mr Motlanthe was quoted as saying that one cannot attach monetary value to suffering, and suggested that the Government would instead opt for community and national forms of symbolic reparations.

Indeed, suffering cannot be quantified, but to award victims some compensation - in a tangible form that can make a positive impact on their lives - is not to belittle their years of pain and hardship. It is a symbolic act in itself and cannot be construed as a condescending gesture of sympathy.

Awarding reparations is part of balancing out a scale of justice that is already heavily weighted against victims, given the fact that the right of victims to civil claims against perpetrators has been removed by the amnesty clause.

Amnestied perpetrators have been allowed to simply walk away, not liable for either civil or criminal proceedings.

Three years ago, when Azapo and the families of murdered activists Griffiths



Reliving the horror: victims of human rights violations testify before the Truth and Reconciliation Commission. Parliament is to discuss reparations to victims this week.

Mixenge, Steve Biko and Fabian and Florence Ribeiro challenged the amnesty clause in the Constitutional Court, the court found that amnesty was entrenched in the preamble to the constitution, and was thus not unconstitutional.

Reparations, on the other hand, while not entrenched in the constitution as a legally-enforceable right, were nonetheless

envisaged by it, the judgment declared.

At the time it was widely accepted that the logistics of reparation would be difficult to calculate, and that South Africa still had to travel some way down the road towards officially recording what happened in the tortuous decades that preceded the democratic election.

Now that we have more facts at hand,

the denial of reparations to victims would be simply to victimise them further.

Of course, other, national symbolic acts of reparations are important and desirable, and would facilitate reconciliation not only for victims and perpetrators but also for the country as a whole.

However, would anything less than an individual reparation grant make a sub-

stantial difference to the life of a now elderly man blinded by a police bullet?

Would a monument make a substantial difference to the once-fit young woman who harboured ambitions of becoming an athlete and who is now crippled, mobile only in a wheelchair?

Most victims who came before the TRC stated that, for reparations, they wanted

financial assistance.

Tellingly, as far as the weighted question of amnesty is concerned, the second most common request to the TRC was for further investigation of the violation.

Other requests were for compensation in the form of burials, shelter, medical care and tombstones.

As crude as it may sound to some, the tangible award of monetary reparations can make a substantial difference to those who carry the lasting burden of torture, maiming, the loss of a breadwinner, along with the general hardships and deprivation that come with living on the unforgivable side of an economy of extremes.

Furthermore, several United Nations instruments on human rights require signatories to provide effective remedies for acts violating human rights.

For example, Article 8 of the Universal Declaration of Human Rights - which has been accepted as customary international law - stipulates that 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating fundamental rights granted him by law'.

And section 8(a) of the International Covenant on Civil and Political Rights - signed by South Africa on October 3 1994, reads: 'Each state party to the present Covenant undertakes to ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.'

Whatever the moral argument, the fact remains that victims identified by the TRC (which are in any event but a fraction of all apartheid's victims) have had their rights violated twofold. Firstly by the perpetrator, and then by the state as a whole, by releasing the perpetrator from any legal liability for his or her actions.

In the past few weeks we have seen a number of perpetrators walk away. Often the victims concerned have been outraged.

'To deny a victim the "effective remedy" of meaningful individual compensation is nothing less than a cruel betrayal, and would show the world that South Africa is not serious about upholding international law.'

(25X)
HRG 24/2/99

'Struggle participation not for financial reward'

Farouk Chothia

CAPE TOWN — Justice Minister Dullah Omar hinted yesterday that government was reluctant to make hefty reparations payments to individual victims of human rights violations, saying that people did not engage in the liberation struggle for financial reward.

He was speaking at an African National Congress (ANC) media briefing before a debate in Parliament today on the controversial truth commission report handed to President Nelson Mandela last year.

Omar said an interministerial committee would look into the question of reparations. Payment to individual victims had a "place", but reparations could also take the form of building homes or providing health care for communities which suffered under apartheid.

The liberation struggle was "noble". Individuals had not engaged in it for financial benefit.

Government would launch a fund-raising campaign to ensure the success of the reparation process. It did not want the issue "locked up" in some government department.

The ANC instituted legal action last year to block the release of the report, claiming that the commission had sought to "criminalise" the liberation struggle.

Omar said the ANC stood by its reservations, but the party acknowledged that there were "many good things" in the report.

ANC chief whip Tony Yengem said the ANC hoped opposition parties would not let the parliamentary debate degenerate into a point-scoring game. The focus should be on the plight of victims of apartheid repression and how they could be assisted.

Omar said it was still unclear how difficulties related to the amnesty process would be cleared. In the case of KwaZulu-Natal, a "technical and legalistic" approach could not be taken.

There was now relative peace in the province. Steps had to be taken to ensure that it did not plunge back into violence. A procedure had to be worked out so that the warring parties could come to terms with the past.

The Inkatha Freedom Party has proposed a general amnesty, while the ANC has suggested that confessions be made at in camera hearings.

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Bomb made 'in political interest'

(252) BD 25/2/99

Craig Williamson gave order to make the devices

Stephané Bothma

PRETORIA — The security police explosives expert who manufactured the parcel bombs which killed two women and a six-year-old child believed the devices were intended for high-profile enemies of the state, the truth commission's amnesty committee heard yesterday.

Gerry Raven, who applied with apartheid spy Craig Williamson for amnesty for killing Ruth First in Maputo in 1982 and Jeanette and Katryn Schoon in Angola two years later, had acted in the bona fide interest of a political motive. He also acted in his capacity as a member of the SA Police, the military wing of the National Party government, advocate Roelof du Plessis argued on Raven's behalf.

Raven had received an order from Williamson to manufacture the bombs.

After almost six weeks of testimony in the amnesty applications, closing argument started yesterday, but was delayed for more than two hours because of a verbal battle between lawyers about what was admissible evidence and what should be allowed to be presented by Du Plessis in his closing address to the committee.

A visibly angry committee chairman, Judge Andrew Wilson, adjourned the proceedings, saying "In my entire life as an advocate and a judge I have never been at a hearing with so much lack of co-operation and hostility between the legal representatives." Wilson ordered the lawyers to sort their differences out during the adjournment.

Du Plessis later told the committee to take a subjective approach to the granting of amnesty to his client. "What must be taken into consideration by the committee is what was in the mind of this person when he committed the act."

He said evidence confirmed that at the time the murders were committed, the country was in a low intensity war.

"Security force members were congratulated by their superiors for committing illegal acts and questions were never asked. A belief existed among the security forces that they could act outside the law," Du Plessis argued.

"It is very easy for us to sit here today in our armchairs and evaluate the actions taken by other people during completely different times. These were committed people, committed to their cause."

Discussing the legitimacy of the Schoons as a security police target, Du Plessis said Jeanette and her husband Marius had been deeply involved in African National Congress (ANC) politics.

About First, then the wife of Joe Slovo, the commander of the ANC military wing, Umkhonto We Sizwe, Du Plessis said she had been a brilliant revolutionary, well-known throughout the world for her involvement in the struggle.

"My client believed elimination was necessary because no other way existed to deal with terrorists," Du Plessis said.

"They believed they were acting in a state of war and therefore an order to kill was not out of the ordinary," he said.

Closing arguments continue today.

Williamson objects to Bizos' TV interview

(252)
Amnesty chairman refuses to
view 'undesirable' recording

BD 25/2/99
Stephane Bothma

PRETORIA — Former apartheid spy Craig Williamson, who on his own admission masterminded the murder of two women and a six-year old child, yesterday objected to his amnesty application being "prejudiced" by a television programme in which it is argued that he should not be granted amnesty.

The interview was with advocate George Bizos SC, who represents the families of Williamson's victims, Jeanette Schoon, her daughter Katryn, and Ruth First, at the amnesty hearings.

They were killed by parcel bombs mailed by Williamson. Bizos said in a television interview on Tuesday night that he would be "singularly unhappy" should Williamson be granted amnesty.

His comments sparked a heated debate in the hearing of Williamson's amnesty application when his lawyer, Allan Levine, insisted that a recording of the interview be screened to show the prejudice suffered by his client.

Levine said the remarks by Bizos were "improper" while the matter of Williamson's amnesty application was still sub-judice.

The amnesty committee, under the chairmanship of Judge Andrew Wilson, refused to view the interview, as the panel had not seen the interview and therefore could not be influenced by the comments, Wilson said.

He nevertheless said he found it highly undesirable that interviews were being granted on national television about amnesty applications while they were still pending or being heard.

Williamson has applied for amnesty for the 1982 murder of First — the wife of then Umkhonto we Sizwe (MK) commander Joe Slovo — in Maputo, Mozambique, and for the murder of Jeanette and Katryn Schoon in Lubango, Angola, two years later.

Williamson and seven other former policemen also applied for amnesty for the 1982 bombing of the London offices of the African National Congress.

After almost six weeks of testimony, in which the applications were strongly opposed by the Schoon and Slovo families, closing argument by the parties will begin today.

During evidence by Williamson, it was claimed that both the Schoons and First were "legitimate targets" of the former security forces.

Evidence led by Bizos, on the other hand, stated that the Schoons, although strong supporters of the anti-apartheid struggle, were mere English teachers at a university in Lubango when the bomb was mailed to them.

Witnesses called by Bizos in opposition to the amnesty applications said the Schoons were targeted by Williamson because they had played an important part in exposing him as an SA police spy in late 1979.

This resulted in personal animosity by Williamson towards the Schoon family, Bizos said.

First was allegedly targeted because the security police had been unsuccessful in trying to assassinate her husband, the hearing was told.

The matter continues today when verbal argument by the parties will start.

APARTHEID SPY BLAMES SABC

TV interview 'hurt my case'

ET 25/2/99

(2/5/8)

LAWYERS have protested against the power of television in prejudicing their clients' amnesty applications. But they were told the TRC will not "safeguard" them from the SABC.

CRAIG WILLIAMSON'S lawyers yesterday complained to the Truth and Reconciliation Commission's amnesty committee that SABC TV prejudiced the former apartheid spy's amnesty application.

Williamson is applying for amnesty for his role in the letter bomb murders of Ruth First in Mozambique in 1982, and Jeanette and Katryn Schoon in Angola in 1984, and the bombing of the London headquarters of the African National Congress in March 1982.

Williamson's lawyer, Allan Levine, told the committee in Pretoria yesterday that an SABC interview with George Bizos, who is representing the victims of the bomb blasts, prejudiced his client. Levine demanded that a record-

ing of the interview, which was broadcast at 7am on Tuesday, be played to the committee yesterday afternoon. Committee chairperson Judge Andrew Wilson said that neither he nor the other members of his committee had seen the broadcast and could not therefore be influenced by its contents.

Roelof du Plessis, who is representing former police explosives expert Jerry Raven, told the committee he was also concerned about some of the reports being broadcast on SABC television.

He referred to a TV report which said that "all hell broke loose during the amnesty hearing when Du Plessis accused a witness of being a police informer". The report related to a question to former ANC activist Heinz Klug on

whether he had been an informer while in exile in Botswana. Klug denied the suggestion and added that he was appalled at what he called an attempt to smear him. Du Plessis then accepted Klug's denial.

Wilson said it was undesirable for legal representatives to comment on the possible outcome of amnesty applications, and appealed to Bizos not to comment publicly on proceedings still under consideration. Bizos said he gave an interview on the basis that a large part of the public was perplexed at the decisions recently reached by the amnesty process.

He said that during the interview he merely wished to explain the amnesty process and to give the public a better insight into how decisions were made. He said his comments did not affect the proceedings of the committee.

"I was exercising my right of public debate and I defend my right to take part," Bizos said.

Wilson then agreed that the video tape would be shown after an adjournment. But when the hearing resumed, Wilson said the committee had decided it would serve no purpose to see a video which might influence them.

Committee member Chris de Jager also agreed that it would be futile to see a video recording which might cause prejudice to an applicant.

Levine said he found it remarkable that the committee had changed its mind and had decided not to show the tape after initially deciding to do so. He said he believed his client had suffered prejudice in the eyes of the public.

Wilson replied that it was not the amnesty committee's duty to safeguard his client from the SABC, and if he had any dispute with the organisation he could take it up through due process.

Yesterday was the final day of testimony in the hearing — Sapa



BAD PRESS: Former apartheid spy Craig Williamson feared the adverse effect of a televised interview on his amnesty application. **FILE PICTURE**

Amnesty plan sought for KwaZulu Natal (252)

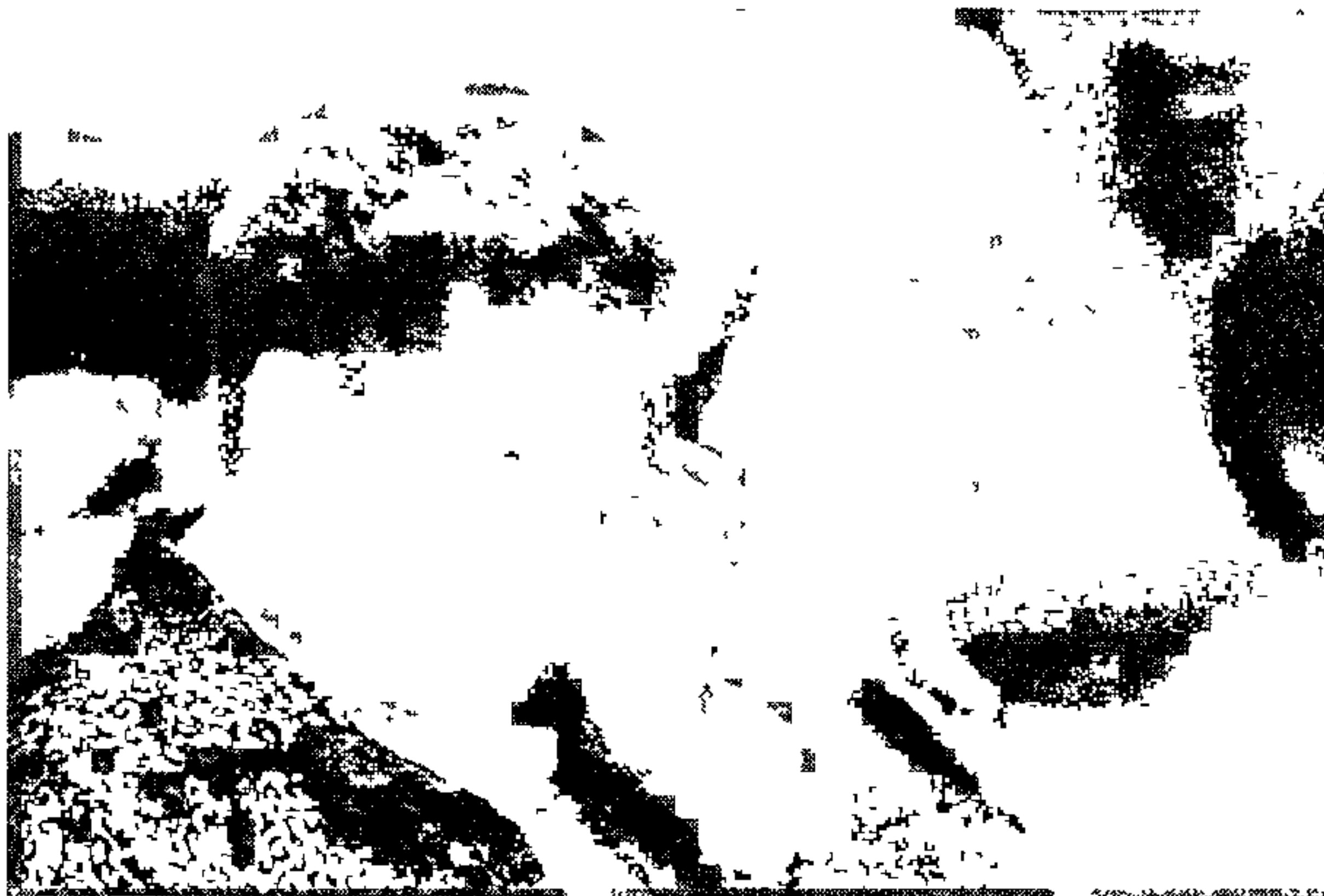
The form a special amnesty for KwaZulu Natal should take is still under discussion, but debate today on the Truth and Reconciliation Commission will give some pointers

Justice Minister Dullah Omar said he did not want to pre-empt what African National Congress Vice President Thabo Mbeki would say during the joint debate by the National Assembly and the National Council of Provinces on the TRC today.

Mr Omar said the TRC process had by-passed the province of KwaZulu Natal for lack of support, and there needed to be a response to the wounds caused by the human rights violations that took place there.

Mr Omar said there should be some process to allow the warring parties to come to terms with the past - Parliamentary Bureau

ARG 25/2/99



A woman in the public gallery weeps during the parliamentary debate on the truth commission report opened by President Nelson Mandela yesterday Picture AP

Litigation over apartheid crimes 'must be capped'

BD 26/2/99 (252)

Wyndham Hartley

CAPE TOWN — Legislation or other measures were needed to ensure government was not vulnerable to crippling litigation as a result of apartheid agents' actions, the president said yesterday

In a highly charged debate on the truth commission's report, President Nelson Mandela and Deputy President Thabo Mbeki categorically rejected the chances of a general amnesty

However, Mbeki and other senior African National Congress (ANC) speakers opened the door to revision of the rules governing amnesty, which could see the proposals of four apartheid-era military generals accepted

These include courts becoming agents for amnesty and a third plea — amnesty — being added to court procedure

Mandela, opening the debate, raised the possibility of punitive damages being sought from the state "It seems to us an omission on our part as legislators that while individuals are accommodated, the process leaves open the possibility of endless litigation against the new democratic government as well as the structures that were involved in this conflict"

He hoped the amnesty committee would address this matter before it completed its work, raising the possibility of changes which would allow organisations

and government to be given amnesty

Mbeki, after a blistering attack on the truth commission "criminalising" the struggle and finding that some of the liberation movement's actions were gross violations of human rights, said serious consideration had to be given to ensuring that the country could not be drawn into renewed conflict as a result of political crimes of the past

"Among others, we will have to discuss proposals as have been made on this matter with regard to KwaZulu-Natal and others put forward by the former generals of the SA Defence Force who have reconfirmed their loyalty to the country and its constitution, as well as their commitment to peace and stability," Mbeki said

Transport Minister Mac Maharaj said a place had to be created for those who had not applied for amnesty but wanted a place in the new SA

The acrimonious tone of the debate deepened when the Democratic Party (DP) and the Freedom Front objected to an adjournment for tea before their leaders had spoken

DP leader Tony Leon, amidst a storm of abuse from the ANC benches, challenged Justice Minister Dullah Omar for saying the DP and others were in the house as a result of the ANC's generosity

Williamson's hearing: Page 6

TRC's battle for truth continues

Sowetan 26/2/99 (252)

By Claire Keeton
Feature Writer

STEVE Biko and Gcinsizwe Kwezi Kondile are both heroes of the South African struggle. Both men fought for freedom and for this they were interrogated, assaulted and killed by security policemen from Eastern Cape.

The four former security officers from Eastern Cape who were responsible for the murder of Biko in 1977 were refused amnesty by the Truth and Reconciliation Commission last week, while the four ex-security policemen who applied for amnesty for Kondile's execution in 1981 were granted it on Tuesday.

The reason given for these contrasting decisions are clear in the judgments handed down by the two amnesty panels. Biko's killing was "not associated with a political objective" while Kondile was murdered for political reasons.

Yet the Kondile judgment raises questions about full disclosure which is a requirement for amnesty, and whether the whole truth has in fact been told.

The principal difference in the amnesty committee's conclusions are that the applicants in the Biko case maintain (his death) was an accident and it is difficult to say an accident is politically motivated, said a lecturer in international human rights law at London University Cathy Jenkins who has been researching the TRC's amnesty decisions.

"In Biko's case the policemen denied there was an offence. They said they were acting in self defence and (their application) did not get past first base.

The applicants for Biko's killing were Harold Snyman, Daniel Petrus, Siebert Jacobus Johannes Oosthuysen, Beneke and Rubin Marx.

In refusing amnesty to the applicants, the panel said the killing of Biko was not associated with a political objective as required by the Amnesty Act.

Jenkins said "In Biko's case full disclosure was not made. That is not the argument with Kondile's case where the policemen admitted to the murder.

(Around the assault of Kondile, though) there is an issue about full disclosure which is similar to Biko's case.

The applicants in Kondile's murder - General Nic van Rensburg, General Gerrit Erasmus, Captain Hermanus du Plessis and Inspector Johannes Raath - told the amnesty panel that they organised for Kondile to be drugged, shot and burnt.

Political objective

However there were contradictions during the amnesty hearings about whether Kondile was assaulted before his death or not. Only Du Plessis confessed to a minor assault on Kondile while the other applicants denied even witnessing any assault on him.

(Whether) the deceased was in fact assaulted during interrogations is not central to the considerations nor does it affect the political objective of the applicants, the amnesty panel decided in their judgment.

The application is not directed at any assault or the causes of the injuries. Clearly the deceased was



Steve Biko .. last week the TRC refused amnesty to the four former security officers who were responsible for his death in 1977.

murdered for political reasons as he was a threat to the machinery of the security police who by their own admission sought to protect the Nationalist government of the day.

It seems therefore that this is an application which complies with the Act and we have been satisfied that this is indeed so."

That was the official finding of the amnesty panel, but the testimony about the assault can be interpreted in another way - that it was not simply part of the events prior to Kondile's murder and unconnected to it but rather as the reason why he was murdered.

Former Vlakplaas hitman Dirk Coetzee and former policeman Ginotry Danster testified about this on behalf of Kondile's family at the amnesty hearings in Cape Town.

They testified that Kondile was assaulted and injured during his interrogation by Eastern Cape security policemen and that his 'elimination' was an attempt to cover up what they had done and avoid a political explosion.

Coetzee claimed Van Rensburg had told him personally that Kondile had suffered severe brain damage while in security detention in police cells at Jeffrey's Bay and that police had decided to kill him and dispose of his body to avoid another Steve Biko affair. The TRC said in its statement about the amnesty decision.

"Announcing their decision two amnesty committee judges assisted by two senior counsel said Coetzee's evidence seems to dispute the date of the death (of Kondile) and whether he was injured or not before he died. In our view this is not central to the important requirements to be

considered.

Jenkins said the amnesty panel did not know who to believe and has gone about this problem in a legalistic way concentrating on the political objective of the applicants.

"This is not satisfactory given the spirit of the Act which requires that people like Mrs Charity Kondile have the full information about what happened, she said.

The applicants are required to make full disclosure of events surrounding (the offence) and that would have included whether Kondile was beaten up.

Full disclosure

It is surprising the panel did not take a stricter view particularly after they heard evidence from Coetzee.

But Jenkins did point out that most of the amnesty applications which have been refused until now were turned down because no political objective was found.

Over 2 000 applications have been refused on these grounds while only around 200 have been rejected because of a failure to make a full disclosure.

It is very difficult to prove full disclosure unless there is supporting or conflicting evidence, she said.

The only people who would know were the people present, those who committed the deed.

Du Plessis testified that Kondile refused to act as a double agent despite pressure on him to work as an informer for the police and this was why Kondile had to be executed.

What is beyond any doubt is that Kondile like Biko was killed because he refused to compromise his principles or his comrades in the liberation movement.

IFP lashes out at the TRC process

(252)

Sowetan 26/2/99

By Malcolm Ray

THE Inkatha Freedom Party yesterday fired an unexpected salvo at the Truth and Reconciliation Commission, accusing a leading commissioner of supplying arms to fighting units in Richmond, and furthering the violence

In his speech to the National Assembly, IFP MP Albert Mncwango made shocking allegations which could potentially deal a fatal blow to, and undo the work of the commission

He alleged that a signed affidavit by slain United Democratic Movement leader Sifiso Nkabinde revealed that TRC commissioner the Rev Khosa Mgojo was personally involved in supplying arms to Richmond factionists

It is alleged that Nkabinde, fearing for his life last year, "left several affidavits with his advocate"

"Nkabinde states that he was approached by Mgojo, who pressurised him to seek amnesty for the seven-day (Richmond) war. Nkabinde asked Mgojo whether he could tell the whole truth about Mgojo's own involvement in the war. Mgojo's answer was that Nkabinde should keep silent about it," Mncwango said

"This is a major indictment on Rev-

erend Mgojo and the TRC," he said

Rejecting the TRC's finding of a "third force" as a "twisted travesty of justice", Mncwango said "The work of the commission has been completely ineffective and counter-productive in exposing the truth of the black-on-black conflict in KwaZulu-Natal

"The commission has ignored the truth and jettisoned any hope that its deliberations could provide a basis for reconciliation"

Highlighting the "partiality" of certain members of the TRC, he alleged, among other things, that

● Mgojo used the Federal Theological Seminary at Imbali as a "stock facility" for weapons and personally distributed these weapons,

● No hearings were held into the "systematic assassination" of 400 IFP members,

● No hearings were held into the ANC's alleged involvement in the seven-day war, despite evidence of ANC supporters stoning buses carrying IFP supporters, and,

● The TRC had concealed evidence exposing a Cabinet Minister who had called for IFP leader Mangosuthu Buthelezi to be gotten "rid off"

He described the TRC process as "rotten to the core"

TRC CRITICISED

Absence of remorse pierces victims' hearts

SOME victims of human rights violations have a bitter taste in their mouths at the end of the TRC process

ANDRE KOOPMAN of our Parliamentary Bureau reports

NC chief whip Tony Yengeni, a victim of infamous security police torturer Jeffrey Benzen, said yesterday he first heard that Benzen had been granted amnesty when he was contacted by the press for comment

Speaking during the special debate on the Truth and Reconciliation Commission in the National Assembly, Yengeni said "Last week my own torturer, Jeff Benzen, was granted amnesty for the killing of Ashley Kriel and the torture of many of us who spoke out against an unjust, illegitimate state

"We did not learn of this from the TRC. We did not receive counselling. No, we heard about it when a reporter called for our comments. This is not the compassion we expected"

It "pierces the hearts of victims when we see the perpetrators talk about their actions without a hint of remorse or apology," he added

Both he and Justice Minister Dullah Omar quoted the TRC report and Archbishop Desmond Tutu, who commented with the "greatest sadness" on the reluctance of white leaders to respond to the remarkable generosity of spirit showed by their victims

"This reluctance, indeed this hostility has been like spitting in the faces of victims," they said

"When victims appeared before the TRC they relived their painful experiences but the murderers boasted about their torture methods"

Yengeni said the *Cape Times*, with its One City, Many Cultures series, had shown what could be achieved with "commitment and a little imagination" towards the national effort of unity and reconciliation

ANC MP James Ngcucu said the achievements of the TRC had so far gone "beyond our expectations. Without the amnesty provisions, some of the things we know today may never have been revealed"

Ngcucu said the TRC had managed to throw light on many gross human rights violations



BIG HAND President Nelson Mandela receives a standing ovation after his speech during the special debate in the National Assembly yesterday

PICTURE: BENNY GOOL

Williamson judge raps 'hostile' lawyers

PRETORIA Amnesty committee judge Andrew Wilson yesterday berated legal representatives in former apartheid spy Craig Williamson's amnesty application for being uncooperative and hostile

Wilson is chairperson of the Truth and Reconciliation Commission amnesty committee that is hearing Williamson's application for amnesty for his role in the letter-bomb murders of Ruth First in Mozambique in 1982 and Jeanette and Katryn Schoon in Angola in 1984, and the bombing of the London headquarters of the ANC in March 1982

Wilson's outburst came during legal argument by Koelof du Plessis, the legal representative of former explosives expert Jerry Raven, who made Williamson's bombs

Du Plessis' argument was interrupted by George Bizos, who represents the families of the victims of the bombings. He objected to the inclusion of evidence by former law and order minister Adriaan Vlok and former police commissioner Johan van der Merwe given in other amnesty applications

Bizos' objection led to lengthy argument about the eligibility of the evidence. At one point Wilson called for an adjournment, during which he said the lawyers should come to an agreement

"In all my years as both an advocate and a judge I have never come across a lack of co-operation and hostility between legal representatives as in this case," he said

After the adjournment, Bizos and Du Plessis still could not agree on whether Vlok and Van der Merwe's testimony could be used in argument in this application. At one point Du Plessis said that if he could not refer to the testimony he would have to apply to re-open his client's case and recall Raven to testify

Wilson later ruled that specific paragraphs could not be lifted from the testimony but the general tenor of what they said could be referred to in legal argument

The hearing, which continues today, is due to end next week after Bizos delivers his legal argument — Sapa

EMOTIONAL TRC DEBATE

Blanket

Amnesty

ruled out

(257) CT 26/2/99
DURING the special debate in the National Assembly yesterday, President Nelson Mandela praised the work of the TRC. Deputy President Mbeki, however, criticised the commission for equating the actions of those who waged a "just war" of liberation with the deeds of those who defended apartheid. **ANDRE KOOPMAN** of our Parliamentary Bureau reports.

BOTH President Nelson Mandela and Deputy President Thabo Mbeki ruled out general amnesty for the perpetrators of gross human rights abuses during the special debate on the Truth and Reconciliation Commission in the National Assembly yesterday.

In his capacity as leader of the African National Congress, Mbeki said consideration should however be given to a special amnesty process for participants in the protracted war in Kwa-Zulu Natal. Proposals by former generals of the SADF for a blanket amnesty for members of the former South African Defence Force should also be discussed.

"Serious consideration will have to be given to ensuring that we do not allow ourselves to be drawn into a situation of conflict as a result of the political crimes of the past," he said.

The public gallery was packed with victims of apartheid abuses and Justice Minister Dullah Omar honoured those murdered by former security policemen. "I use to salute family of Ashley Kriel who are with us today and the families of the Guguletu Seven who are with us today."

Mbeki asked hard questions during his speech, prompting the ire of opposition speakers. He questioned whether those who benefited from apartheid were ready and will-

ing to really come clean about their past actions so as to trigger a "a real catharsis as their honest contribution to the victory" of the reconciliation process.

Mandela adopted a more conciliatory approach. He praised the work of the TRC and the process of reconciliation and said all South Africans should be conscious of the "historic responsibility upon us as we begin the national consultation on reconciliation. The experience of others has taught us that nations which do not deal with their past are haunted by it for generations."

For all its limitations the TRC had performed a "monumental task" in helping the nation towards understanding and he had no hesitation in accepting its final report despite "all its imperfections" Mandela said.

Firmly ruling out general amnesty, Mandela said, "Let us reiterate that we are not contemplating a general amnesty under any guise."

"Such an approach would go against the grain of the very process that we all agreed upon, it would undermine the culture of accountability that we seek to engender," he said.

However, he said the prosecutions of perpetrators of gross human rights abuse would have to occur within a fixed time frame



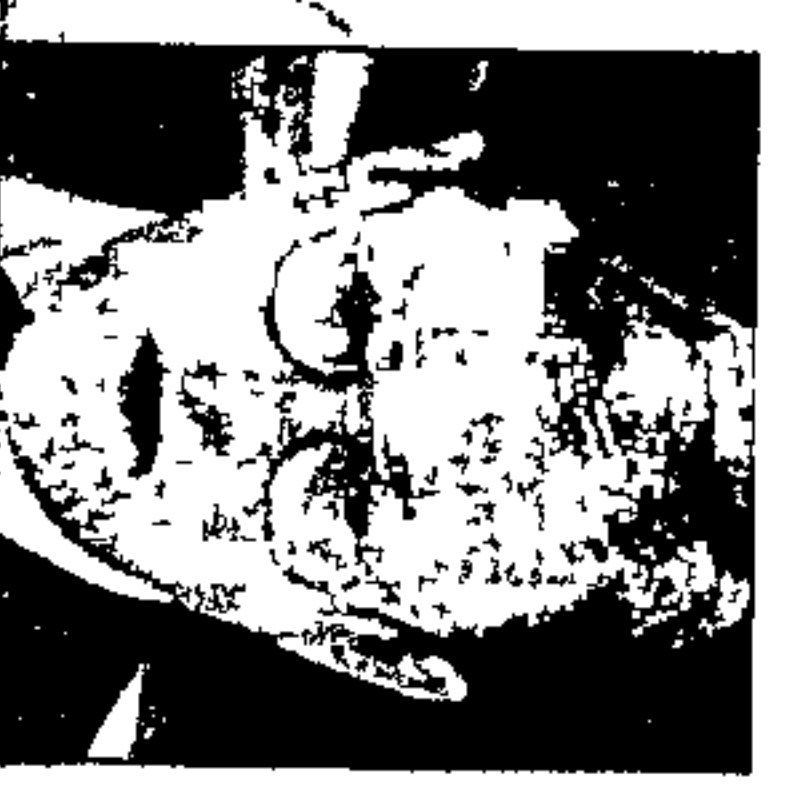
EMOTIONAL MOMENT: Melanie Adams, sister of slain activist Ashley Kriel, wipes away a tear during the parliamentary debate on the Truth and Reconciliation Commission yesterday. PICTURE: BENNY GOOL



"We must never forget the past. We must not forget one single horror that the TRC has exposed." — Tony Leon



"We must attend to individual reparations, both in the form of cash and provision of services." — Thabo Mbeki



"We need to close the book on the past and open a new book for future hope." — Martinus van Schalkwyk

Mandela said the TRC had raised the issue of accountability and prosecution where there was evidence of human rights violations, "and particularly in the case of members of the former South African Police, who were found to have assaulted and/or killed persons in their care."

Mbeki harshly criticised the TRC for equating the actions of those who waged a "just war" of liberation with the deeds of those who defended apartheid.

The TRC's "erroneous logic" was contrary even to the Geneva Convention on the conduct of war and would result in "all irregular liberation wars being characterised as a gross violation of human rights."

P.T.O

(272)
Amnesty debate

□ From Page 1
mainstream newspapers had not defied apartheid. Mbeki, Mandela and Omar sent out similar signals on the question of individual monetary reparations to the victims of abuses.
"We must also attend to the matter of individual reparations, both in the form of cash and the provision of services," Mbeki said.
Addressing the needs of those who had suffered in the past conflict must be "a central part of our question for national unity and reconciliation", he said.
"We must however also make the point that no genuine fighter for the

CT 25/2/99

liberation of our people ever engaged in struggle for personal gain," he added.
Martinus van Schalkwyk, leader of the New National Party, said it had been a mistake to appoint a TRC dominated by members of only one political party (the ANC).
He said he was also opposed to general amnesty. Full disclosure followed by automatic amnesty had to be one of the pillars of the amnesty process.
He called for a pact between political leaders which could close the book on the past and "open a new book for future hope".
Democratic Party leader Tony Leon said the central lesson of the more than 3000 page TRC report could be summed up in three words — "abuse of power".
He said South Africans should guard against such abuse and protect institu-

tions which checked it.
"We must never forget the past. We must not forget one single horror that the TRC has exposed — every outrage must be recorded and committed forever to the memory of our nation."
Leon said three reasons why South Africans should never forget were that the truth should always be told, that to forget the outrages would be to forget the victims, and that the atrocities of the past were lessons and warnings for the future.
Pan Africanist Congress leader Stanley Mōgoba, while rejecting general amnesty, appealed to Mandela to pardon freedom fighters who were still in prison.
He said the TRC was one of South Africa's "noblest" achievements and this "experiment in humanity" had

received accolades from all over the world.
Mōgoba said reconciliation would involve atonement and reparation — but it was a pity the TRC's reparations committee was restricted by lack of funds.
"We need to call on religious bodies and non-government organisations to undertake this task — of course with financial help from government," he said. He called for the erection of a monument of liberty, to remember all those who had sacrificed their lives in the struggle for freedom, peace, justice and human rights.
Dr Kenneth Meshoe, leader of the African Christian Democratic Party, called on the government to grant a general amnesty to all those implicated in past abuses.

Road to the truth hits dead end

Uplifting words - but TRC debate leaves Kriel family feeling empty

JOHN YELD
ON THE TRC COMMISSION

For sisters Melanie Adams and Michel Assure, yesterday's visit to the National Assembly was a deeply emotional affair.

As they sat in the crowded public gallery listening to MPs debate the Truth and Reconciliation Commission's final report, the painful memories of their slain brother, Ashley Kriel, came flooding back with an intensity that, for a time, had both of them weeping.

Yet they were also deeply touched and their spirits uplifted - albeit briefly - by the inspiring presence and words of that icon of personal forgiveness and reconciliation, President Mandela.

"He's a remarkable and very forgiving person," said Ms Adams later.

The long path that led the sisters to yesterday's debate started when their brother, a prominent Umkhonto weSizwe (MK) leader on the Cape Flats, was shot dead in controversial circumstances by notorious apartheid security policeman Jeffrey Benzen in Athlone in July 1987.

But Captain Benzen's version has always been rejected by the

Kriel family, who point to several inconsistencies and unexplained aspects that, they say, make it quite clear that the former security policeman's version of the death of their brother and son is a blatant lie. And it wasn't only the killing that hurt.

There was also the revelation during the official inquest in 1989 that after the shooting, Captain Benzen had struck on the wall of his office a poster featuring a photograph of Mr Kriel. Below the poster's slogan, "Freedom or Death - Victory is Certain", Captain Benzen had added the comment "Nor for you".

During his highly publicised appearance before the TRC's amnesty committee in 1997, Captain Benzen stuck rigidly to his version of Mr Kriel's death, to the deep disappointment of the family.

And last week, after the TRC's amnesty decision was confirmed, they said they felt "robbed". Ms Adams said they had hoped that justice would be done during the TRC process - "but we feel totally deceived by this".

"When they first had the inquest into his (Ashley's) death we felt defenceless sitting there, unable to say anything. With the TRC, we were confident that we would get justice. (But) they're playing politics with our people's trauma."

The question, then, was whether witnessing the political debate about the TRC and its final report would do



Painful memories: Melanie Adams, sister of slain MK member Ashley Kriel

anything to change or modify these perceptions of the family.

Standing outside the National Assembly building yesterday before the session, Ms Adams confessed to having "butterflies in my stomach". Her feelings were partly out of concern that some MPs might make points with which she and her sister disagreed strongly, and that they would react by shouting responses.

Once inside, Ms Assure took a seat in the front row of the public gallery. Her sister sat a few seats behind.

In the same row as Ms Adams was another symbol of reconciliation former SA Air Force officer

Neville Clarence, who was blinded during the Church Street car-bomb explosion in Pretoria in May 1983.

He sought out the ANC commander responsible, Aboobaker Ismail, and shook his hand during a TRC amnesty hearing last year.

Shortly after 2pm, Mr Mandela opened the debate, calling reconciliation "our nation's life-line".

As he spoke, both sisters wiped away tears.

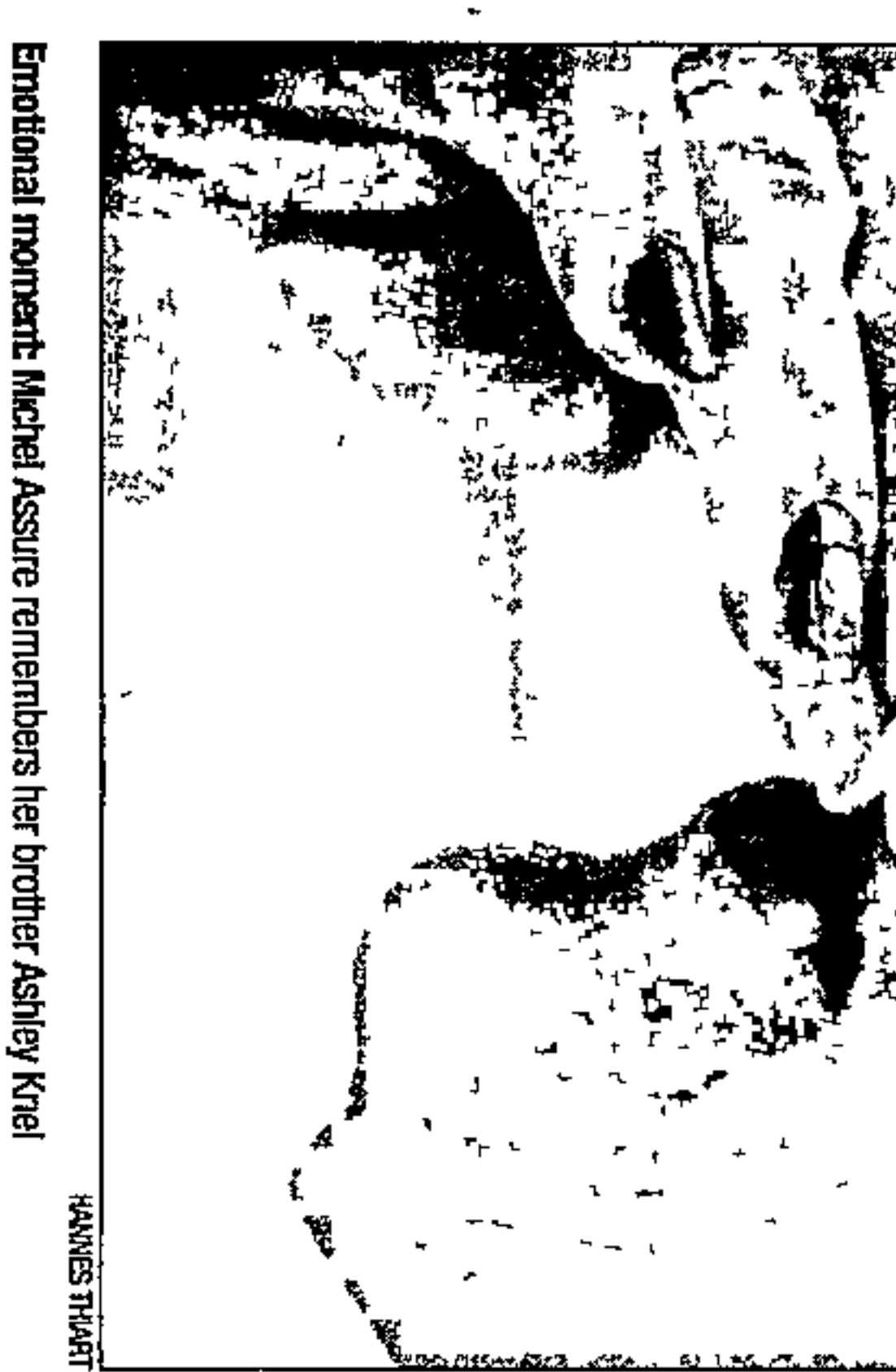
"We should forgive, but not forget," President Mandela told the house, and Ms Assure nodded her head vigorously in response.

Later, both sisters joined in the standing ovation for the President as they also did for Deputy President Thabo Mbeki during his speech.

Their own turn for applause came when Mr Omar went to the podium, and opened his speech with a salute to the families of Mr Kriel, the "Gugulethu Seven" and other activists who had laid down their lives for the struggle. The sisters stood to applause, Ms Adams raising the clenched-fist salute.

When it was eventually all over, Ms Adams admitted to having felt "very emotional" - partly because it had been their first visit to South Africa's democratic Parliament.

"So to be there was an honour, to see all the changes that have taken place," she said. "And at the beginning, I can't explain it. Mandela's words of 'forgive, but never forget', they stuck in my mind. We felt like we'd been uplifted. But, unfortunately for our family, that's easier said than done."



Emotional moment: Michel Assure remembers her brother Ashley Kriel

"We would have forgiven Benzen if we'd got the full truth. We've always supported the reconciliation process, and we're not lashing out at the TRC as a whole.

"Unfortunately, we can't deal with all the unanswered questions about our brother's death."

After leaving the House, both sisters had experienced a sense of emptiness, Ms Adams said. "Both of us had this feeling of a void, a void that only the truth can fill - only the truth can heal it."

As for the road to reconciliation, "in many cases it will require a process of years that calls on the contributions of religious leaders, poets and artists as much as those of politicians and investigators."

Saying that amnesia was no solution, Mr Mandela said "We recall our terrible past so that we can deal with it to forgive where forgiveness is necessary, without forgetting, to ensure that never again will such inhumanity tear us apart."

On reparations, Mr Mandela said that should resources allow, individual grants should be made to identified surviving families and victims.

Justice Minister Dullah Omar warned against false expectations of large sums.

Financial rewards could not be excluded, but could take various forms, including special pensions, he said.

Marthinus van Schalkwyk, leader of the New National Party, maintained a studiously conciliatory and restrained tone.

Careful to establish himself as the representative of a new generation, he described apartheid as immoral and proposed a pact among political leaders to promote reconcil-

MPs show little sign of being reconciled after long debate

CLIVE SAWYER
Parliament Correspondent

Victims of gross human rights violations were left with little to hold on to after the marathon special parliamentary debate on the Truth and Reconciliation Commission report, while perpetrators were denied the hope of blanket amnesty.

In more than 6 1/2 hours of debate, there was a scant agreement on the truth and little sign of reconciliation. But only the most naive would expect a gathering of 490 politicians from diverse parties to reach the

consensus South Africa needs to begin its healing.

For most in the chamber, reviewing the TRC report meant a reliving of pain and, as so often, anger at perpetrators was near the surface.

If the five volumes of the "Truth Commission's report represented the past - victims and the nation at large might have expected leaders to point the way ahead.

The opening address by President Nelson Mandela was crafted carefully to set a conciliatory and sober tone for the debate and went the furthest towards clarifying the way ahead. Ruling out a blanket

amnesty, Mr Mandela balanced this by saying a time limit should be set for prosecution of perpetrators.

Significantly, he hinted the Government might need to legally insulate itself from years of lawsuits against it as successor-in title to a government which left a trail of victims in its wake.

Urging all sectors of society to join in efforts toward reconciliation, he joined the TRC in chiding those who drove or were passive passengers of apartheid, noting their lack of response to the spirit of generosity and reconciliation embodied in the establishment of the commission.

As for the road to reconciliation, "in many cases it will require a process of years that calls on the contributions of religious leaders, poets and artists as much as those of politicians and investigators."

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Bearing the scars: Neville Clarence, blinded in Pretoria's Church Street car-bomb

First murder 'cannot be justified'

CP 28/2/99

(252)

Committee to hear opposing argument

By MAX MARX

THE Truth and Reconciliation Commission's (TRC) Amnesty Committee this week heard that it would be argued that evidence led in the amnesty applications for the murder of Joe Slovo's wife, Ruth First, is not in compliance with the TRC Act

George Bizos, counsel for the parties opposing the amnesty applications of former superspy Craig Williamson and security police bomb expert Roger "Jerry" Raven, said he would submit a substantive argument that it cannot be said that the act of sending a bomb to Joe Slovo can be justified ex post facto as to what First was doing

Bizos made the comments during the closing arguments of Williamson's counsel, Advocate Allan Levin on Friday

Levin and Raven's counsel, Advocate Roelof du Plessis, argued that their clients had complied with the requirements of the Act and that Williamson and Raven should therefore be granted amnesty

The two have applied for amnesty for the murders of Ruth First in Mozambique in 1982 and for that of ANC activist Jeanette Schoon and her six-year-old daughter Katryn (6) in Angola in 1984.

Raven and Williamson have also applied for amnesty for the bombing of the ANC's London offices in 1982. Former police commissioner Johan Coetzee and former Vlakplaas commander Eugene de Kock are among those that have applied for amnesty in this regard

Raven, who took orders from his immediate superior, Williamson, made the letter bombs that killed the Schoons and First and the bomb used to blow up the ANC's London offices

Du Plessis argued that Raven had testified that his actions had always been directed against the liberation movement, not at a specific person

Raven had testified that he didn't know where the bombs were going to or whom they were meant for. He had, however, accepted they were intended for high-profile people in the liberation movement and therefore legitimate targets

Du Plessis argued that Raven and Williamson had acted with a political objective in respect of the First, Schoon and London bombing inci-



ASKING FOR PARDON . . . Former security policeman and superspy Craig Williamson at his amnesty hearing in Pretoria this week

dents and in furtherance of the political struggle waged by the National Party and then South African government, which they supported.

He also argued that the acts were committed in the course of the conflicts of the past and that the evidence put before the committee clearly indicated that the South African government and the NP were engaged in a low-intensity war with the liberation movements which resulted in them having to resort to counter-insurgency strategies to combat their opponents

Levin told the committee that Williamson's actions were justified as part of a war and that the way in which orders were given contributed to the acceptance that orders were illegal but acceptable in a war-time situation

He argued that Williamson had at all times acted on the instruction of his superior officer, Brigadier Piet Goosen, and that he therefore never thought he was committing any crimes as he was merely following orders

These orders, argued Levin, to eliminate and kill political opponents could not have been regarded by him as anything more than a legal order in a war situation

Du Plessis argued that a climate had been created, as attested to by former Minister of Police Adriaan Vlok, in which security forces could act illegally with no ques-

tions asked and eliminate their opponents

He said public statements, like those made by former Prime Minister P W Botha that opponents could be eliminated, contributed to a belief in the security forces that they could eliminate people without repercussion and were often congratulated for their actions

Levin told the committee that Bizos had sought in cross-examination to identify Ruth First, and Jeanette and Marius Schoon (Jeanette's husband) as innocent civilians who should not have been targeted

He argued that evidence had shown that First was listed as a terrorist, and that she and the Schoons were members and supporters of the ANC

He said both First and Jeanette Schoon were described by members of the liberation movement as comrades in arms and women that had given their lives for the struggle. He said these factors showed that they were justifiable targets

Levin was also at pains to reiterate how Williamson had been haunted for more than 14 years by the tragic death of Katryn Schoon, but said her death was "regrettably associated with a war of this kind"

He said Williamson denied allegations by other policemen that he had said at the time of Katryn's death that it "served the Schoons right" because they had used their daughter as a bomb disposal unit by allowing her to play with delivered parcels before they were opened.

Levin and Du Plessis argued that the above facts showed their clients had complied with the Act and they should therefore be granted amnesty

The Act requires proof that the act, omission or offence for which amnesty is sought is one associated with a political objective committed in the course of conflicts of the past

An applicant has to prove that he or she was a member or supporter of a publically known political organisation or movement and that he or she acted on behalf of, or in support of that organisation or movement

Full disclosure of all relevant facts must be given

TRC refuses amnesty to AWB men who set up bogus Bop roadblock

The Truth and Reconciliation Commission's amnesty committee today refused amnesty to eight members of the Afrikaner Weerstandsbeweging (AWB) who murdered four black people and injured six others at a roadblock in Bophuthatswana in 1993

The eight men sprayed 10 black people with gunfire in a mock roadblock on the Krugersdorp-Ventersdorp road, west of Johannesburg. The men had used a blue traffic department light and were clad in reflective jackets

They cut off the ear of one of their victims to show to their commander as a "trophy", they told the amnesty committee last year

The committee pardoned one of the applicants, Marthinus Lodewicks van der Schyff, for the murder, assault and illegal possession of a firearm and ammunition, saying he had made full disclosure of the facts relating to the incident. The applicants are already serving life sentences for the incident.

Rejecting the applications, the amnesty committee said: "The appli-

cants conceded that they had been consuming liquor prior to the (incident). The committee accepted that the setting up of the road block was in line with general AWB policy and that the prime objective was to obtain weapons

"The committee does not, however, accept that it was the policy to kill people at the roadblock

"The inevitable conclusion is that this was no more than a one-off incident gone wrong. This was the gist of the evidence given by Phillipus Cornelius Kloppers (one of the appli-

cants) at the criminal trial where he testified that they were under the influence and that the incident had sadly gone wrong"

The committee argued that there was no reason to believe that the victims were legitimate targets and rejected the applicants' version that the victims had admitted to being ANC members

"It is highly improbable that they would have done so in the circumstances and there is evidence to the contrary from the victims as well as one of the applicants." - Sapa

Legal team to sniff out human rights violators

ARG 27/2/99 (252)

ESTELLE RANDALL
POLITICAL CORRESPONDENT

A team of lawyers is being assembled into a special unit that will tackle the prosecution of individuals implicated in gross human rights abuses by the Truth and Reconciliation Commission

The unit, which will also handle the extradition of suspects, is being set up by Bulelani Ngcuka, the national director of prosecutions

Sipho Ngwema, speaking for Mr Ngcuka, said the unit would liaise with the commission's amnesty committee, carry out investigations into possible prosecutions, follow up pending cases and recommend which cases should be tried.

It would be staffed by lawyers, whose names would be made known as soon as the unit was formally launched, Mr Ngwema said

As Mr Ngcuka's office finalises negotiations with the lawyers to be "drafted" into the special unit, preparations are underway to gather information for prosecutions

"Some people who went to the

amnesty committee had cases pending," said Mr Ngwema. "We have asked all provincial directors of prosecution to supply us with information about cases they're working on. This information should get to us in a week or two"

Mr Ngwema said Mr Ngcuka's office had already met the amnesty committee to pass on information. The committee still has to finalise about 1 700 remaining amnesty applications out of 7 123 received

The creation of the unit is in keeping with President Nelson Mandela's statement that perpetrators of gross human rights abuses would not escape prosecution and that the matter would be handled by Mr Ngcuka's office

Opening the special parliamentary debate on the truth commission's report this week, Mr Mandela reiterated that there would be no general amnesty under "any guise" for perpetrators of gross human rights abuses.

"Such an approach would go against the grain of the very process that we all agreed upon. It would undermine the culture of account-

ability that we seek to engender," Mr Mandela said

"Accountability does need to be established and, where evidence exists of a serious crime, prosecution should be instituted within a fixed time frame

"That time frame needs to be realistic, taking into account how long it would take for evidence to be secured and preparations made for successful prosecution

"Yet a time frame for this process would be necessary," Mr Mandela continued, "for we cannot afford to be saddled with unending judicial processes that can easily bog down our current efforts to resolve problems of the present"

Mr Mandela said he believed Mr Ngcuka would take into account the need to establish accountability and the rule of law and to advance reconciliation and the long-term interests of the country

People who have been granted amnesty may not be prosecuted for the same acts for which amnesty was granted. They may also not be prosecuted for any other acts using information they provided to the

commission implicating them in human rights crimes

No one is prepared to hazard a guess at how many possible prosecutions there will be

The truth commission's Mdu Lembede said "In most cases where people applied for amnesty they were aware there were case files on them. In some cases trials were frozen or sentences suspended, pending the outcome of amnesty applications"

But, he said, in several amnesty application cases, people who had not applied for amnesty were implicated in human rights violations

"It may also be possible to use people who got amnesty as state witnesses in the cases against those who were implicated but who missed the amnesty deadlines. There are a number of people who did not expect to be implicated in the amnesty applications of others"

Mr Lembede said the commission's in camera hearings into specific issues could also yield useful information. The Section 29 inquiries resulted from investigations by truth commission researchers and investigators

Team prepares rights abuse prosecutions

JOHANNESBURG: Marking the start of a new phase in the process of digging up apartheid crimes, a special team has been created to decide who should be put on trial for human rights abuses, officials said yesterday.

The team will decide on a case-by-case basis the fate of people, including former president P W Botha, who were either denied amnesty by the country's Truth and Reconciliation Commission or who never sought amnesty, said Siphso Ngwema, a spokesperson for the new unit.

The unit has been quietly operating since the beginning of 1999 under National Director of Prosecutions Bulelani Ngcuka.

The unit has asked prosecutors from across the country and officials from the Truth and Reconciliation Commission to turn over their files on human rights abuses committed under apartheid. These include some of the most notorious cases, such as the murder of Steve Biko, Ngwema said. Biko was beaten to death by police in 1977. Five police officers were recently denied amnesty for complicity in his death.

News of the unit's existence comes as President Nelson Mandela is ruling out a blanket amnesty and is pressing for speedy trials. Many implicated in apartheid's crimes against humanity — including Botha, apartheid's last hard-line ruler — never sought amnesty as Mandela had urged.

In deciding whether to bring a person to trial, the prosecution unit will take into account his age and health and whether a trial would be "in the public interest," Ngwema said.

"If we're convinced there's a broader need for national reconciliation, we'll take that into account," Ngwema said. "We're not seeking revenge."

Botha is 82 and infirm. That throws into doubt whether he will ever be brought to trial. — Sapa-AP

(252)

New unit to decide on apartheid crimes trials

ARGUS CORRESPONDENT

(2/12)

ARG 1/23/99

Johannesburg - Marking the start of a new phase in South Africa, a special team has been created to decide who should be put on trial for apartheid-era human rights abuses, officials said yesterday.

The team will decide on a case-by-case basis the fate of people, including former president P W Botha, who were either denied amnesty by the Truth and Reconciliation Commission or who never sought amnesty, said Siphon Ngwema, a spokesman for the new unit.

The unit had been quietly operating since the beginning of the year

under national Director of Prosecutions Bulelani Ngcuka, he said

The unit had asked prosecutors and TRC officials to turn over their files on human rights abuses during apartheid, including some of the most notorious cases, such as the death of Black Consciousness leader Steve Biko in 1977, said Mr Ngwema. Mr Biko was beaten to death by police.

News of the unit's existence comes as President Mandela is ruling out a blanket amnesty.

The TRC issued its final report in October. The deadline to apply for amnesty has expired, although the commission is still holding hearings on amnesty applications - Sapa-AP

A hard road to unity

THE African National Congress called for and pioneered the establishment of the Truth and Reconciliation Commission in a serious effort to ensure that the political conflicts of the past do not become a major obstacle to our common efforts to create a nonracial and nonsexist democracy committed to creating a better life for all, within a society guided in its development by the important concepts of national unity and reconciliation

The ANC would like to take this opportunity to salute the TRC for the work it has done in various areas. These include

- The discovery and exposure of the truth with regard to many instances of gross violations of human rights,
- The tracing of missing persons, including their graves,
- The encouragement of reconciliation between perpetrators and victims of violations of human rights,
- The cultivation of a spirit of remorse among those who had done wrong, and
- The identification of some of the people who are entitled to receive reparation

These outcomes are clearly an important contribution to the overall national task of unity and reconciliation

However, there are other elements of the TRC Report and process about which we have to enter serious reservations, without subtracting from the positive work which the TRC has done

We, like others, had sought to meet the TRC to respond to its "findings" against the ANC. As the country is aware, the TRC decided not to meet us

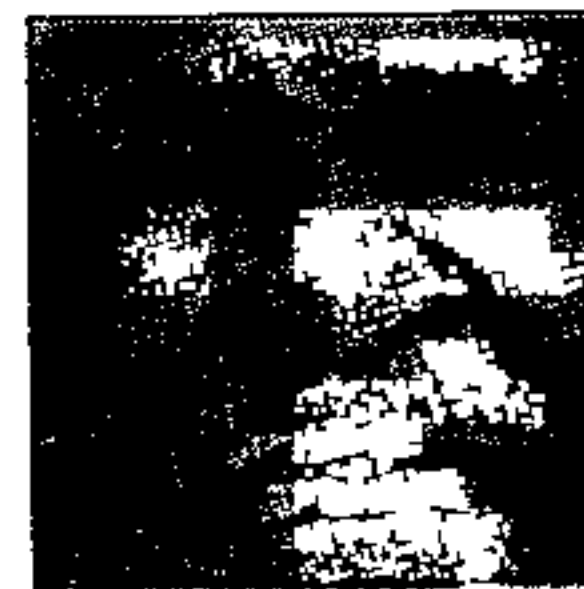
What we had sought to discuss pertained to such obviously important matters as the definition of the concept of gross violation of human rights in the context of a war situation and other issues relating to war and peace and the humane conduct of warfare

One of the central matters at issue was and remains the erroneous determination of various actions of our liberation movement as gross violations of human rights, including the general implication that any and all military activity which results in the loss of civilian lives constitutes a gross violation of human rights

The net effect of these findings is to deligitimise or criminalise a significant part of the struggle of our people for liberation and to subtract from the commitment made in our Constitution to "honour those who suffered for justice and freedom in our land"

Indeed, it could also be said that the erroneous logic followed by the TRC, which was contrary even to the Geneva Conventions and

The ANC has saluted the TRC for some of its accomplishments – but also has serious misgivings. **Thabo Mbeki** puts the matter into perspective.



Protocols governing the conduct of warfare, would result in the characterisation of all irregular wars of liberation as tantamount to a gross violation of human rights

We cannot accept such a conclusion, nor will the millions of people who joined in struggle to end apartheid

National unity and reconciliation cannot be based on the denunciation of important parts of our struggle, which were themselves firmly based on the Geneva Conventions and Protocols, as gross violations of human rights

Further, the TRC findings show a serious deficiency with regard to understanding the origins and purposes of the violence which has claimed so many lives since 1990

The TRC itself says "The Commission failed to make significant breakthroughs in relation to violence in the 1990s. Few entry points for investigation were opened up and a great deal of further investigation is required"

Yet it makes the bold assertion that "the success of 'third force' attempts to generate violence was, at least in part, a consequence of extremely high levels of political intolerance, for which both the liberation movements and other structures such as the Inkatha Freedom Party are held to be morally and politically accountable"

What remains is but a short step to arriving at a conclusion about spontaneous so-called "black-on-black" violence, which was such an important plank in the propaganda armoury of our opponents

This is in spite of the fact that the TRC itself produces evidence of how the apartheid security forces encouraged this "black-on-black" violence

Beyond this, however, is the related matter that the TRC did not deal with adequately, namely the unravelling of the national security management system, including its structures and its personnel

These are the structures and people that were used to foment the post-1990 violence. If these are not exposed, they remain available to those who have not given up the idea of destabilising our country through violent means

We hope the amnesty committee will work

to remedy this serious defect by putting together the information that is accumulating during its hearings so that we can, as an important part of ensuring the stability of the new South Africa, finally wind down structures that were established to perpetuate the apartheid system by violent means

It is sometimes said it is difficult to find anybody these days who supported apartheid. Those who were not activists within the broad liberation movement claim they did what they could to oppose this system, within the constraints imposed by the law

But the argument that there were laws which, because they were on the statute book, had to be obeyed, regardless of the fact that they were unjust and oppressive, has to be rejected

Each one of us has a right and duty to rebel against tyranny. Beyond a certain point, each one of us has the moral responsibility to refuse to obey orders and injunctions that perpetuate a crime against humanity

In their book *Reconciliation Through Truth*, Kader and Louise Asmal and Suresh Roberts make the point that "reconciliation requires an acknowledgement of wrongs committed and a re-evaluation by their perpetrators of the morality which lay behind them"

"Only then can reconciliation trigger real catharsis, a word which, in its original Greek meaning, contains the ideas of purification and spiritual renewal"

A question critical to the success of the great struggle to achieve national unity and reconciliation that must be answered is whether those who benefited from apartheid are ready and willing to trigger such a catharsis

The quest for national unity and reconciliation is fundamental to our emergence as a nation at peace with itself

It remains for us to build on the progress we have made, to build an equitable society, to banish the antagonisms of the past, to create a new national identity in which all of us will draw pride and strength from the great variety of our colours, cultures, languages and religions

(This is an edited version of ANC president Thabo Mbeki's address to the joint sitting of the Houses of Parliament on Thursday)

Source: 1/3/1999

Eight AWB men refused amnesty

(252)

Lawyer 1/3/99

EIGHT members of the Afrikaner Weerstandsbeweging have been denied amnesty for murdering four blacks and injuring six others at a bogus roadblock west of Johannesburg in December 1993.

The eight men told the Truth and Reconciliation's amnesty committee they were trying to scupper South Africa's first democratic elections.

The commander of the operation, Philippus Cornelius Kloppers, said they were given orders by their leader, General Japie Oelofse, to identify targets and bring back corpses.

Andre Franswa Visser, Deon Martin, Petrus Johannes Matthews, Kloppers, Marthinus Lodewickus van der Schyff, Gerhardus Johannes Diedericks, Carel Hendrik Meiring, Marius Etienne Visser and Frederick Jacobus Badenhorst sprayed 10 blacks with

gunfire after stopping them on the Krugersdorp-Ventersdorp road using a blue traffic department light and reflective jackets.

The applicants conceded during their hearing last year that they consumed liquor before setting up the road block. They also testified that on their way to the scene of the incident, they harassed two black people and assaulted an unknown black man.

The applicants said they stopped and searched cars before making certain occupants get out and sit on an embankment, where they were questioned about their political affiliations.

Kloppers "encouraged" the people to cooperate by "lightly tapping" their heads.

The applicants differed about who decided to shoot the victims. This pointed to the unreliability of the appli-

cants' testimony, the committee said.

Six of the applicants fired shots.

They later cut off the ear of one of the victims to give to their commander as a "trophy".

Martin said Oelofse once requested a black ear.

The committee said it was clear from the evidence that the roadblock was never planned, and that neither the roadblock nor the killing were part of an AWB "revolution".

It said there was no radio contact between the group and Oelofse that night, neither were there any other AWB attacks on December 12.

"The inevitable conclusion is that this was no more than a one-off incident gone wrong," the committee said.

The committee also rejected evidence that the people injured and killed were legitimate targets. — Sapa

Amnesty: Unit to decide on trials

MARKING the start of a new phase in South Africa, a special team has been created to decide who should be put on trial for apartheid-era human rights abuses, officials said yesterday.

The team will decide on a case-by-case basis the fate of people – including former President PW Botha – who were either denied amnesty by the Truth and Reconciliation Commission (TRC) or who never sought amnesty, said Siphon Ngwema, a spokesman for the new unit.

The unit has been quietly operating since the beginning of 1999 under National Director of Prosecutions Bulelani Ngcuka, Ngwema said.

The unit has asked prosecutors from across the country and officials from the TRC to turn over their files on human rights abuses committed during apartheid, including some of the most notorious cases such as the death of black consciousness leader Steve Biko, Ngwema said. Biko was beaten to death by police in 1977. Five police officers were recently denied amnesty in his death.

News of the unit's existence comes as President Nelson Mandela is ruling out a blanket amnesty and is pressing for speedy trials.

George Bizos, an attorney specialising in human rights cases and who represents the Biko family, applauded the creation of the unit, which doesn't have a name yet.

"It is to be welcomed," Bizos said in a telephone interview. "Bulelani Ngcuka has a unit of senior and highly trained investigative teams concentrating on these cases. It can more speedily decide what is to be done."

The creation of the unit – which was reported in *The Sunday Independent* – comes as the TRC is winding down its work. The commission, which can grant amnesty to those who fully confess to politically motivated abuses committed during apartheid, issued its final report last October. The deadline to apply for amnesty has expired, although the commission is still holding hearings on amnesty applications.

But many implicated in apartheid's crimes against humanity – including Botha, apartheid's last hard-line ruler – never sought amnesty as President Mandela had urged in order to heal wounds and move the country forward. Botha defied the commission, saying he had nothing to apologise for.

On Thursday, Mandela said there were no plans to extend a blanket amnesty to apartheid-era human rights abusers.

"Such an approach would go against the grain of the very process that we all agreed upon," Mandela told parliament.

The new unit, which is based in Pretoria, won't necessarily take a hard line. That may draw further attacks from critics who say the TRC has been too soft on the leaders of apartheid who oppressed black people.

In deciding whether to bring a person to trial, the prosecution unit will take into account his age and health and whether a trial would be "in the public interest," Ngwema said. "If we're convinced there's a broader need for national reconciliation (in a particular case), we'll take that into account. We're not seeking revenge."

Botha is 82 and infirm. That throws into doubt whether he will ever be brought to trial.

– Sapa-AP

Sowetan 13/199

POLITICS



SETTING TERMS: Bulelani Ngcuka, the National Director of Public Prosecutions, who said yesterday that prosecutors would have to agree to a performance appraisal system if they wanted more pay.

Pay hikes: Ngcuka gets tough

ANDRE KOOPMAN
PARLIAMENTARY BUREAU

et 2/3/99
OVERWORKED and underpaid prosecutors were told by their boss yesterday that they would not get more money unless they secured more prosecutions.

In get-tough statements, National Director of Public Prosecutions Bulelani Ngcuka said prosecutors would get no more than last year's 6% increase unless they agreed to increases tied to a performance appraisal system.

Briefing MPs yesterday, Ngcuka said the criminal justice system was in a serious "crisis" and decried the low rate of prosecutions and the immense backlogs in the courts.

Urgent steps had to be taken to remedy a situation in which prosecutors were "demoralised", underpaid and underskilled.

His efforts to increase prosecutors' salaries to that of magistrates had received the support of senior management, "but these upgrades are made conditional on the achievement of certain

performance targets", Ngcuka said.

He criticised the low productivity of courts and prosecutors. Courts sat for only about 2½ hours a day on average, and this had to be increased to a minimum of 4½ hours a day, Ngcuka said.

The situation at the Cape High Court, which sat for practically half a day, with long recesses, was also being addressed, he said.

In 1994 it had taken 60 days to finalise a case, but it now took 140 days. In the same period, the number of awaiting-trial prisoners had increased from 23 000 to 56 000.

Not one conviction had been secured in Richmond, where 108 people had been murdered up to December, and in connection with the 168 pipe bomb incidents in the Western Cape last year.

A major problem was that prosecutors were underskilled. It was not uncommon that a prosecutor with six months' experience had to face senior counsel in court, he said.

USAID has agreed to give R100 million to train underskilled prosecutors.

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Bulelani Ngcuka taking a tough line on productivity

Prosecutors told to increase convictions

By CLIVE SAWYER
Political Staff

(2/3/99)

Nov 2/3/99

The embattled legions of demoralised, underpaid and inexperienced prosecutors have been told don't ask for more money until you convict more criminals

That is the tough line taken by Bulelani Ngcuka, national director of public prosecutions

"If there is no improvement in performance, there will be no increase in salaries"

Delivering his annual report to a joint meeting of Parliament's justice committees, Ngcuka emphasised it was a matter of urgency that something be done about the low morale and low salaries

To this end he had held talks with Finance Minister Trevor Manuel, Justice Minister Dullah Omar and Public Service and Administration Minister Zola Skweyiya

But at the same time something had to be done about low productivity

On average, courts sat for 2½

hours a day While in 1994 cases had taken 60 days to finalise, this figure was now 140, and in the same period the number of awaiting-trial prisoners had doubled to 56 000

"There are cases being postponed today to the year 2000," Ngcuka said

He said performance agreements were being proposed so that courts would sit at least 4½ hours daily, there would be an increase in the number of cases finalised with convictions, and there would be an increase in the number of people found guilty where they had lawyers

"It can't be that all people who have lawyers are found innocent, it just can't be"

Ngcuka told MPs it was also hoped to fill all vacancies in the prosecution service by April 1

He was optimistic about progress on probes into organised crime and urban terrorism in the Western Cape, political violence in Kwazulu Natal, and hijackings in Gauteng

Ngcuka gets tough on prosecutors who don't work

CLIVE SAWYER
POLITICAL CORRESPONDENT

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with Finance Minister Trevor
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At the same time, however,
something had to be done about
low productivity.

On average, courts sat for about
2 1/2 hours a day.
In 1994, cases had taken 60 days
to finalise, but this figure had now
risen to 140.

In the same period, the number
of awaiting-trial prisoners had
doubled to 56 000.

"There are cases being post-
poned today to the year 2000," said
Mr Ngcuka.

He said, performance agree-
ments were being proposed.

These envisaged that courts
would sit at least 4 1/2 hours daily,
there be an increase in the number
of cases finalised, with convictions,

and that there be an increase in the
number of people found guilty,
where they had lawyers.

Reporting on progress, by the
three special investigations
appointed by his office, Mr Ngcuka
was optimistic about progress on
investigations into organised
crime and urban terrorism in the
Western Cape, political violence in
Kwazulu Natal, and vehicle hijack-
ings in Gauteng.

AR 2/3/99

2/3/99

NATIONAL

'Blame those who indoctrinated'

(2572) NO 2/9/99

Facts might have saved lives, commission hears

Stephané Bothma

PRETORIA — Many lives would probably have been saved in SA had its citizens not been indoctrinated and kept in the dark about what was happening during the liberation struggle, the truth commission's amnesty committee heard yesterday

Louis Visser SC, representing former police commissioner general Johan Coetzee in his amnesty application for the 1982 bombing of the African National Congress (ANC) offices in London, said in his closing argument that the majority of South Africans never knew what was really happening in the country at that time

"Those who indoctrinated the people should be blamed (for apartheid crimes)," Visser said

"Had the people known the facts — the facts that are only coming to light now during these amnesty hearings — one wonders how many lives would have been saved and if change would not have come about sooner"

Coetzee and seven other policemen, including spy Craig Williamson and convicted murderer and Vlakplaas commander Eugene de Kock, applied for amnesty for the London bombing, planned and executed to intimidate the ANC

The policy and implementation of

apartheid, based on a belief of superiority by one social structure, had caused deep divisions in SA society, with one section of the population believing it was being treated unfairly, and the other believing its unlawful actions to be justified, Visser argued

Because of utterances by National Party politicians at the time, members of the security forces were led to believe they had carte blanche to commit acts, including murder, to prevent a revolution

According to Visser, thousands of South Africans at the time lived in real fear of a revolution inspired by communist forces and, among other things, they feared for their religious freedom

"Whether or not the politicians actually meant their speeches to be taken literally or not is irrelevant. The issue is that many people thought phrases such as 'take out' and 'eliminate' meant to kill," Visser told the committee, chaired by Judge Andrew Wilson

He said that in some cases, such as the London bomb, security police operatives believed they even had the support of large financial institutions which gave policemen false credit cards for their trip to the UK to commit the crime

Visser will continue with his closing argument today

Prosecutors' unions go into wage talks 'with open mind'

BY CATHY POWERS

Prosecutors' unions begin salary negotiations with the Government today after they were told by their boss earlier this week that they would not get more money unless they delivered more convictions.

Vleis van Zyl of the National Union of Prosecutors of SA said yesterday that the union was approaching the negotiations with an open mind but there were certain proposals it

Salaries may be linked to convictions

could not accept. Although National Director of Public Prosecutions Bulelani Ngcuka mentioned in Parliament on Monday that prosecutors' salaries should be on a par with magistrates, based on performance targets, Van Zyl said the proposals fell short of that for the average prosecutor.

State negotiators had proposed that starting-level to middle-level prosecutors be given a 3% increase over and above the 6% increase given prosecutors

late last year, Van Zyl said. This would affect just over half of the country's prosecutors.

Society of State Advocates of SA chairperson Retha Meintjes said a prosecutor with about four years' experience currently earned R62 868 a year.

The society's counter-proposal to the state's was that these prosecutors should earn almost double, that, namely R124 000. Magistrates on a similar level, she said, earned R74 667 a year.

There also appeared to be divergence between the state negotiators and the five unions on the interpretation of the National Prosecuting Authority Act, Van Zyl said.

The unions had understood that the act would allow prosecutors' salaries to be negotiated in a channel separate to the public servants chamber, thus allowing them higher salaries. But state negotiators did not seem to agree, he said.

The five unions, and representatives from the justice, public service and administration, and finance departments will be locked in talks until Friday.

Van Zyl said Ngcuka's comments about prosecutors' salaries being linked to increased convictions were "not very positive".

Bail law 'blow to innocent'

Accused argue amended act is draconian, writes Jonny Steinberg

SA's bail application law, which places the onus on the accused to show why they should be released on bail, deprives innocent people of their freedom without just cause, the Constitutional Court will hear next week

According to a 1997 amendment to the Criminal Procedure Act, billed by government as a tough new step to fight violent crime, those accused of certain crimes must show that "exceptional circumstances" permit them to be released on bail

The applicants in the case, murder accused Vusi Dladla and Jan Schietekat, who is charged with raping a three-year-old girl, have argued in separate submissions that amendments to the act constitute a draconian infringement of their freedom

The term "exceptional circumstances," Dladla argued in his written

submission, to the Constitutional Court, was so vague that an accused had little idea what was necessary to convince a judge to award bail

"The term gives the court unrestricted latitude to define any circumstances as sufficient to justify pre-trial detention," Dladla argued "No amount of judicial interpretation of the term would be capable of rendering it a provision which gives any guidance for legal debate"

In a judgment delivered last year, Judge Slomowitz, acting high court judge, slammed the amendments to the act. The judge argued that "no court should permit itself to be turned into the police's instrument just because the police cannot maintain law and order"

The judge said certain amendments to the act were "no more than an expression, in statutory form, of

what amounts to lynch law"

He had in mind clauses stating bail may be denied if "the shock or outrage of the community might lead to public disorder if the accused is released" or if "the sense of peace and security among members of the public will be undermined or jeopardised by release of the accused"

In his submissions, Dladla pointed out the purpose of jail was not to punish the accused but to secure his or her presence at trial. He argued that the bail system could not be used as a means to deter offenders

Dladla argued "Pre-trial release allows a man accused of crime to (keep) the fabric of his life intact, to maintain his employment and his family ties in the event he is acquitted or given a suspended sentence"

The Constitutional Court will hear argument on 10 and 11 March

(252) BD 3/3/99

Murder left police spy 'cold'

CT 4/3/99 (252)

PRETORIA: Veteran human rights lawyer George Bizos completed his argument opposing the granting of amnesty to former apartheid spy Craig Williamson by saying that the death of six-year-old Katryn Schoon had "left him (Williamson) cold"

Bizos told the Truth and Reconciliation Commission's Amnesty Committee that Williamson should be refused amnesty for the killing of Katryn Schoon and her mother, Jeanette, by means of a letter bomb sent to their home in Angola in 1982

ANC activist Marius Schoon was not at home at the time. He died of lung cancer in January this year

Bizos said Williamson has shown a callousness and disregard for life that was abnormal and went beyond his official duties as a security policeman

He said this was clear by Williamson's remark to explosives expert Jerry Raven after he received the news of the successful detonation of the letter bomb and the death of Jeanette and Katryn Schoon, to the effect that it served the Schoons right for using their child as a bomb disposal unit

Bizos rejected the claim by Williamson that the bomb had been sent in an effort to stop the spread of communism in Southern Africa. He said that the death of Katryn and Jeanette Schoon had done nothing to assist the fight against communism or the ANC, and had in fact made the ANC even more determined to continue in its struggle, according to evidence by Transport Minister and a former ANC commander Mac Maharaj

The closing arguments to the amnesty application bring to an end a long saga that dates back to the early 1970s when Williamson and the Schoons were at Witwatersrand University

Williamson became involved in the "white left" student politics and was in 1980 exposed as a police agent

He had visited the Schoons at their home in Botswana where they lived up until shortly before his unmasking as a spy

Williamson's lawyer Allan Levine will reply to the closing arguments today when the committee will adjourn to come to a decision in the matter — Sapa

TRC'S RULING ON 37 LEADERS

ANC's amnesty bid rejected

(252)

CT 4/2/99

DEPUTY PRESIDENT Thabo Mbeki and 36 other ANC leaders are to be told today their applications to the TRC for amnesty have been rejected because they could not apply collectively, — and they can no longer apply for amnesty for acts they may have committed as individuals, **JOVIAL RANTAO** reports.

THE 37 ANC leaders, who applied to the Truth and Reconciliation Commission (TRC) for amnesty on the grounds of moral and collective responsibility for acts committed by ANC members, are to be told there was no legal basis for the application.

As the 37 could not apply for amnesty in the way they did, they are not indemnified from prosecution for acts they may have committed as individuals.

Included in the group are Defence Minister Joe Modise, Foreign Minister Alfred Nzo, Transport Minister Mac Maharaj and Justice Minister Dullah Omar.

A TRC special committee that deliberated on the ANC application, which attracted an outcry when blanket amnesty was granted without a hearing, is expected to announce in Cape Town today that their application was not within the ambit of the TRC Act.

Sources said that the committee — which comprises Judge Selwyn Miller, Johnny Motata, Judge Sisi Khamphe and Wynand Malan — has decided that the ANC or the leadership of any political organisation cannot apply for amnesty on the grounds of moral and collective responsibility.

The ANC leadership had applied for amnesty for all the acts executed by the organisation's members who were either cadres of uMkhonto weSizwe (MK) or members of self-defence units (SDUs). In its arguments, the ANC has said that in the execution of the struggle against apartheid, it became necessary to form MK and SDUs which were involved in acts that required amnesty.

But the TRC committee decided that the law does not allow for collective and moral responsibility. Also, amnesty could not be considered because the ANC's application did not specify the acts of individual members for which amnesty was being sought.

On whether the ANC application met legal requirements, the TRC committee decided that because there were no stated offences for which amnesty was sought, the application was equally unnecessary.

It is understood that in communication with the TRC, the ANC said it was not aware of individual acts for which its leadership had to apply for amnesty, but that the application had been made to encourage ANC members — who had committed acts — to apply.

The TRC committee decided that those who had committed acts that require amnesty should have lodged individual applications, with details of their acts.

INVESTIGATORS TALK OF PROSECUTION

'Shame' of SAPS top brass at TRC

THE 13th anniversary of one of the most shocking events covered by the Truth and Reconciliation Commission (TRC) was marked in Guguletu yesterday by a simple wreath-laying ceremony. **ZENZILE KHOISAN** reports.

THE Guguletu Seven matter, as it became known in TRC lea- con, exposed the lengths to which the former security forces went to stem the tide of revolution- ary activity in the country during the mid- to late 1980s.

The question now is whether or not 13 will be unlucky for the more than 20 policemen identified as perpetrators during the TRC process.

The case, one of the matters most thoroughly investigated by the TRC, involved the deaths of seven young activists from Gugule- tu, KTC and Nyanga Bush. They were recruited, armed and trained by Askaris (turned liberation move- ment cadres) from Vlaskopas. With the knowledge and con-

currentence of senior members of the Peninsula murder and robbery unit, the security police and the riot squad, Vlaskopas operatives Jimmy Mbane and Eric Mahuleke led these youths into an ambush in which they died in a hail of bullets. More than 25 members of the security forces were involved.

All the victims sustained multi- ple gunshot wounds — all were shot in the head. Their names were Christopher "Rasta" Piet, Simon Mxinwa, Themba Mlile, Zibonke John Konile, Zola Alfred Swelani, Zanisile Mjobo and Godfrey Jabu- lani Mfya.

The Guguletu Seven matter went full circle through the TRC process from the Human Rights Violations Committee, through its amnesty process. The TRC's amnesty committee has yet to deliver its decision on whether it will grant amnesty to two perpetr- ators who were both instrumental in orchestrating the ambush and directly participated in the early- morning slaughter at the intersec- tion of the NV1 and NY111.

What makes the Guguletu Seven incident so unique is that it involved several senior serving members of the SAPS. A few have recently retired.

Although several SAPS top brass were called to give testimony before the commission and con- fronted with serious, even dam- ning evidence, nobody apart from "Balletjes" Bellingan and Thapelo Mbelo, both former Vlaskopas operatives, chose to apply for amnesty.

Speaking to the *Cape Times* shortly after yesterday's event marking the anniversary of her son's violent death, Cynthia

Ngewu, mother of Piet, said, "I am still not right. I am not satisfied with what is happening. On March 3 our hearts are always sore."

Asked about her views on amnesty, Ngewu expressed con- cern that she had not heard any- thing from the TRC on this matter.

"I don't want Bellingan to get amnesty because he did not tell the truth and did not come to us to talk about what happened."

However, she said, she support- ed Mbelo in his quest for amnesty because he had disclosed what he did and came to the families to ask for forgiveness.

She was absolutely opposed to Jimmy Mbane receiving "any kind of amnesty" from the commission. "He must be prosecuted," she stat- ed. "He is the one who dug the grave for our children."

Those sentiments were echoed by Zenatah Barands, former head of TRC investigators in the West- ern Cape, currently communa-



STILL MOURNING: Cynthia Ngewu, mother of Guguletu Seven victim Christopher Piet, yesterday prays and lays a wreath to mark the 13th anniversary of their deaths, at the site where they were gunned down

PICTURE: MUSAHD SARODIEN

Little Katryn's death 'left her killer cold'

(252)

ARL 4/3/99

Pretoria - The death of six-year-old Katryn Schoon in a letter-bomb blast had left so-called superspy Craig Williamson cold, veteran human rights lawyer George Bizos has charged.

Mr Bizos was completing argument before the Truth Commission's amnesty committee opposing the granting of amnesty to Mr Williamson.

He said the former security policeman should be refused amnesty for the killing of Katryn and her mother, Jeanette Schoon, with a letter bomb that was sent to their home in Angola in 1982.

Katryn's father, African National Congress activist Marius Schoon, was not at home at the time. He died of lung cancer in January.

Mr Bizos said Mr Williamson had shown a callousness and disregard for life that was abnormal and went beyond his official duties.

This was evident from his remark to explosives expert Jerry Raven after news of the successful detonation of the letter bomb and the death of Jeanette and Katryn Schoon.

Mr Williamson is alleged to have told Mr Raven that Katryn's death served the Schoons right for using their child "as a bomb disposal unit".

In his testimony Mr Williamson said he could not remember making that remark, but it was possible someone could have said something like that.

Mr Bizos said it was an indication that Katryn Schoon's death had left Mr Williamson cold.

This was a reference to a similar remark by apartheid justice minister Jimmy Kruger about the death in detention of Steve Biko in September 1977.

Mr Bizos rejected a claim by Mr Williamson that the bomb had been sent in an effort to stop the spread of communism in southern Africa.

Mr Williamson claimed he had information that the Schoons were teaching English to Cuban soldiers who were manning air defence systems in Angola.

Mr Bizos said the death of Katryn and Jeanette Schoon had done nothing to help the fight against communism or the African National Congress. In fact, it had made the ANC even more determined to continue in its struggle, according to evidence by Mac Maharaj, a former ANC commander.

The Schoons' son, Fritz, who was two years old at the time of the fatal blast and is now 17, has been attending the Pretoria hearing.

Amnesty committee chairman Mr Justice Andrew Wilson said "It must have been a heart-breaking experience for a two-year-old boy to have to live through. Your family will always remain part of the new history of this country." - Sapa

TRC blow for ANC leaders

CLIVE SAWYER

(252)

POLITICAL CORRESPONDENT

ART 4/3/99

Any decision to prosecute African National Congress leaders, whose blanket amnesty applications were today rejected by the Truth and Reconciliation Commission, will be left to the National Directorate of Public Prosecutions

The directorate will scrutinise cases emerging from the TRC

The commission will today notify 37 people – including Deputy President Thabo Mbeki – that their amnesty applications have failed.

The applications stirred controversy when it emerged that the applicants had breached statutory rules for

amnesty by failing to make full disclosures of details of involvement in gross human rights violations

A special committee was set up to probe the applications, which were made on the basis of collective and moral responsibility for unspecified human rights violations

It is believed that the ANC told the committee it had made the blanket application to spur ANC members to apply for specific acts, but this was rejected by the committee

Failure to secure amnesty could also open the way for civil litigation

However, President Mandela indicated during last week's parliamentary debate on the TRC that the Government may set a time limit for litigation.

Threat to gay partnership rights Marais defends Cape's

POLITICAL CORRESPONDENT



ARC 4/3/99

Same-sex partners face a new court battle over access for foreign partners to permanent residence or South African citizenship.

Rulings by the Department of Home Affairs' immigrant selection committee have meant heartbreak and frustration for many couples denied the chance to live legally together in South Africa.

Last year, assisted by the Coalition for Gay and Lesbian Equality, several couples where one partner was South African and the other a foreigner gave evidence to Parliament's home affairs committee about the disruption to their relationships caused by the rulings. There was exultation earlier this year when the Cape High Court granted new rights to same-sex partners to permanent residence or citizenship.

But the Cabinet yesterday gave the go-ahead for an appeal by the Government, telling a news conference they believed the High Court judgment gave greater rights to same-sex couples than heterosexuals of differing nationality.

Western Cape health MEC Peter Marais, stung by Health Minister Nkosazana Zuma's harsh criticism of the provincial government's decision to supply anti-AIDS drug AZT to HIV-positive pregnant women, says it was not intended to turn the issue into a political football. "It was done to save lives," he said.

POLITICAL CORRESPONDENT



ARC 4/3/99

Dr Zuma told the National Council of Provinces on Tuesday that the New NP-dominated Western Cape government had supplied the drug as a cheap means of buying votes. In a statement, Mr Marais said he had always maintained that AIDS should not become a party-political issue.

The Western Cape had embarked on an AZT trial in Khayelitsha in an

effort to lower the incidence of AIDS as well as raise the standard of health in the province.

"This province has one of the lowest per capita incidences of AIDS and HIV which makes it most suitable for a trial of this nature."

The trial was part of an integrated AIDS programme which included awareness campaigns and medical inter-

vention, said Mr Marais. "By this trial we aim to prove conclusively that the treatment of pregnant HIV-positive women with AZT is the most cost-effective method."

"And we hope that in doing so, the central government will see the wisdom of our ways," said Mr Marais.

Editorial comment, page 14

AZT campaign

'Superspy' Williamson amnesty bid ⁽²⁷²⁾ opposed

VETERAN human rights lawyer George Bizos yesterday completed his argument and opposed the granting of amnesty to former apartheid spy Craig Williamson

He said the death of six-year-old Katryn Schoon had "left him (Williamson) cold"

Bizos told the Truth and Reconciliation Commission's amnesty committee that Williamson should be refused amnesty for the killing of Katryn Schoon and her mother Jeanette by a letter bomb that was sent to their home in Angola in 1982. Katryn's father, African National Congress activist Marius Schoon, was not at home at the time. He died of lung cancer in January this year.

He said Williamson had shown a callousness and disregard for life that was abnormal and went beyond his official duties as a security policeman.

This was clear by Williamson's remark to explosives expert Jerry Raven after news of the successful detonation of the letter bomb and the death of Jeanette and Katryn Schoon.

Bizos said Williamson was alleged to have said to Raven that Katryn's death served the Schoons right for using their child as a bomb disposal unit. During his testimony Williamson said he could not

remember making that remark but said it was possible that someone could have said something like that at the time.

Bizos said he regretted raising the matter but said it was an indication that Katryn Schoon's death "had left Williamson cold".

Bizos was making a reference to former Justice Minister Jimmy Kruger who made a similar remark when hearing about the death in detention of former Black Consciousness Movement leader Steve Biko in September 1977.

Bizos rejected the claim by Williamson that the bomb had been sent in an effort to stop the spread of communism in Southern Africa.

Williamson claimed in his testimony that he had received information that the Schoons were teaching English to Cuban soldiers who were manning the air defence systems in Angola.

Bizos said the death of Katryn and Jeanette Schoon had done nothing to assist the fight against communism or the ANC. In fact, it had made the ANC even more determined to continue its struggle, according to evidence by Transport Minister and a former ANC commander Mac Maharaj - Sapa

Sowetan 4/3/99

ANC AMNESTY RULING

Now they're in big trouble

OPPOSITION parties welcomed the decision yesterday by the amnesty committee not to grant amnesty to ANC leader Thabo Mbeki and his comrades. **SIMON ZWANE** reports.

THE UDM said the decision was "legally correct", while the DP saw it as an "obvious conclusion" and the NNP interpreted it as indication that the ANC was now in "big trouble".

The ANC said it would push for the amendment of the TRC, which currently left open the possibility of endless litigation against the democratic government and organisations that were involved in the apartheid-era conflict.

Mbeki, Joe Modise, Mac Maharaj and others, known as the ANC 37, were originally granted amnesty in 1997 but that decision caused an uproar as the applicants did not apply for specific incidents as required in law.

The decision was taken on review to the Cape High Court

where it was overturned last year. A new panel was constituted to re-examine the application.

In its decision yesterday, the four-member panel said the application fell outside the ambit of the TRC Act "in so far as the applicants seek to apply for amnesty for acts committed by their members on the basis of collective political and moral responsibility".

It said amnesty could not be granted because the applicants did not admit to any wrongdoing and the application did not relate to any specific act or omission.

Explaining why the decision pertained to only 27 applicants whereas the original one had affected 37, TRC spokesperson Mdu Lembe said the other applications would be dealt with individually

He said the ANC had submitted a joint application for 29 people. Two names were later withdrawn from the application.

"Some of the other names who were part of the original 37, were never submitted by the ANC," he said. "They had been submitted individually by the applicants, and were only added to the 29 by the amnesty committee simply because they had also based their applications on the same declaration that the 29 had based theirs. This is how we ended with the ANC 37."

The NNP said their decision to take the amnesty granted to the ANC leadership a year ago to court, has been fully vindicated.

"The ANC is now in big trouble. They are now vulnerable to criminal prosecution and civil claims," NNP spokesperson Jacko Maree said.

DP spokesperson Dene Smuts said any aspects of the truth remained unexplained or insufficiently explored.

"The TRC hints in its report that the ANC was following rather than leading the internal revolt. Is this what the 37 mean when they claim to have no acts or omissions to apply for individually?"

"Or are we to be left forever wondering whether South Africa's leaders caused or committed crimes in exile, and whether they continue to escape the equality before the law which they apparently tried to avoid by signing application forms for blanket indemnification from prosecution," she said.

ANC secretary-general Kgalema Motlanthe said the party agreed with the amnesty committee's view that the TRC Act did not give the right to liberation movements, political organisations, or the state, to apply for amnesty, and it therefore accepted and respected the finding of the amnesty committee in respect of its leaders' applications.

Williamson 'was acting in line of command'

(252)

ET 5/3/99

PRETORIA: Advocates for former security policemen applying for amnesty for the bombing of ANC offices in London and the murders of Ruth First and Jeanette and Kathryn Schoon, closed their arguments yesterday maintaining their clients met all conditions required for amnesty

The last day saw so-called "Super Spy" Craig Williamson playing a different role as he constantly gave references from proceedings to his legal representative, making sure his case was well presented

The "Super Spy" handled the

situation like a seasoned advocate and remained composed, correcting his representative from time to time whenever he made a mistake

His counsel told the hearing his client had made a full disclosure

He said it could not be denied that Williamson was in a line of command, where his seniors would give him instructions to give to his juniors

He said it was during the execution of his duties that he was given instructions by Brigadier Piet Goosen to have a bomb manufactured. He gave the instructions to Jerry Raven following an

order from above. Levine said in this regard that the committee should accept that Williamson did not downplay or exaggerate his involvement

"He is now applying for amnesty because he ordered that a bomb be made and not because he sent a bomb to someone who was killed by that bomb

"He assumed the bomb was sent to a high profile member of a publicly known liberation movement which was at war with a publicly known political party"

He said Williamson's actions were not aimed at particular indi-

viduals, but at members or supporters of a publicly known liberation movement

Roelof du Plessis, for Raven, said there was no evidence suggesting that his client had any other motive to kill the victims of his bombs, other than that he was involved in political battle where he took instructions he could not question

Only the applications of Williamson, Raven and Brigadier Willem Schoon, who made an attempt on the life of Marius Schoon, are being opposed —
Own Correspondent

Stereotyping bars women from top jobs in legal profession

Men dominate in advocates', attorneys' ranks

By CATHY POWERS

Women are vastly under-represented in the legal profession, making up only 19% of South Africa's practising attorneys and only 12% of the country's advocates. The dearth of women impacts on the functioning of the law within our society and how the law treats and views women, say experts.

The figures, quoted by the attorneys' journal *De Rebus*, come from a soon-to-be published study by the University of Cape Town's law, race and gender unit.

According to the study, women make up 34% of the legal practitioners in England, and 34% in New Zealand. There are more women at entry level in this country but this drops off at higher levels.

"(The scenario) is quite perturbing if we hope to restructure the judicial administrative system to reflect gender and race - keeping in mind that they are majority issues," said Lawyers for Human Rights director Vinodh Jaichand.

"When women went to parliament South Africa believed it was very progressive. We patted ourselves on the back but very

few took stock of existing society especially in relation to women as decision-makers, managers and attorneys, advocates and judges.

"We need good role models to break the stereotypical thinking," she says.

Vice-chairperson of the Johannesburg Bar Council, Roland Sutherland, admitted that women had to overcome obstacles.

"It's a fact that when two equally qualified peo-

They have to play by male rules

ple come to the bar, it is taken for granted that the young man will be serious about building a practice."

But this was not the assumption about the woman. "She would have to demonstrate that she is to be taken seriously," he said. "These are built-in cultural prejudices that are ebbing."

It is these assumptions that Lisa Vetten, of the Centre for the Study of Violence and Reconciliation's sexual harassment education programme, takes issue with. The male-dominated environment

meant that one set of norms and standards prevailed, making it hard to challenge sexist assumptions, she said.

"There is not enough critical mass to challenge the taken-for-granted assumptions, such as women who are raped ask for it."

Racial and gender representivity was also about putting more emphasis on matters that pertinently affected certain sectors, said Nona Goso, chairperson of the Cape Bar. A stronger female presence on the Bench, for example, would lead to stronger signals being sent out to society in largely female-specific cases, such as rape.

"It's a double-edged sword," said Advocate Liesl Gertholtz of the Commission for Gender Equality. "We don't want to suggest that only women can cross-examine rape survivors but we do want gender concerns to be infused in all aspects of society and the law."

"Women's under-representivity is about lack of access to child care; about women bearing the burden of child birth."

"Traditionally women lawyers who want to get into the big league have to play by male rules."

Williamson's acts 'not aimed at individuals'

Alan 5/3/99 (252)

PRETORIA CORRESPONDENT

Counsels for former security policemen applying for amnesty for the bombing of ANC offices in London and the murders of Ruth First and Jeanette and Kathryn Schoon, yesterday closed their arguments maintaining their clients met all conditions required for amnesty

The last day saw so-called "super spy" Craig Williamson playing a different role as he constantly gave references from proceedings to his attorney, Allan Levine, making sure his case was well presented to the Truth and Reconciliation amnesty committee

Williamson handled the situation like a seasoned advocate, calmly correcting his attorney from time to time whenever he made a mistake

Levine told the committee that his client had made a full disclosure. He said it was during the execution of his duties that Williamson was given instructions by Brigadier Piet Goosen to have a bomb manufactured. He gave the instruc-

tions to Jerry Raven following an order from above

Levine said the committee should accept that Williamson did not downplay or exaggerate his involvement. He said Williamson's actions were not aimed at individuals, but at members or supporters of a publicly known liberation movement

Advocate Roelof du Plessis for Raven, said there was no evidence suggesting that his client had any other motive to kill the victims of his bombs, but that he was involved in a political battle where he took instructions he could not question

He said his client knew nothing about First and the Schoons and could not have had any reason to kill them. Du Plessis said his client manufactured the bombs knowing they were going to be used against a liberation movement, and that qualified him for amnesty

The arguments closed with only the applications of Williamson, Raven and Brigadier Willem Schoon, who made an attempt on the life of Marius Schoon, being opposed

Rejection of ANC amnesty bid welcomed

New National Party believes TRC
ruling against Mbeki and 26 others
means party is in big trouble

By SIMON ZWANE

Opposition parties yesterday welcomed the decision by the amnesty committee of Truth and Reconciliation Commission not to grant amnesty to ANC president Thabo Mbeki and his 26 comrades.

The United Democratic Movement said the decision was "legalistically correct", while the Democratic Party saw it as an "obvious conclusion" and the New National Party interpreted it as indication that the ANC was now in "big trouble".

The ANC said it would push for the amendment of the TRC Act, which currently left open the possibility of endless litigation against the Government and organisations involved in apartheid-era conflict.

Mbeki, Joe Modise and Mac Maharaj and others, known as the ANC 37, were originally granted amnesty in 1997 but that decision caused an uproar as the applicants did not apply for specific incidents as required in law.

The decision was taken on review to the Cape High Court where it was overturned last year. A new four-member panel was constituted to re-examine the application.

In its decision yesterday, the panel said the application fell outside the ambit of the TRC Act "in so far as the applicants seek to apply for amnesty for acts committed by their members on the basis of collective political and moral responsibility".

It said amnesty could not be granted because the applicants did not admit to any wrongdoing and the application did not relate to any specific act or omission.

Explaining why the decision pertained to only 27 applicants whereas the original one had affected 37, TRC spokesperson Mdu Lembede said the other applications would be dealt with individually.

"The ANC is now in big trouble. They are now vulnerable to criminal prosecution and civil claims," NNP spokesperson Jacko Maree said.

DP spokesperson Dene Smuts said many aspects of the truth remained unexplained.

ANC secretary-general Kgalema Motlanthe said the party agreed with the amnesty committee's view that the TRC Act did not give the right to liberation movements, political organisations, or the state, to apply for amnesty. It therefore accepted the finding of the amnesty committee.

The 27 ANC leaders refused amnesty are Lambert Moloi, Ngoako Ramatlhodi, Snuki Zikalala, Bill Masetlha, Mathews Phosa, Zacharia Tolo, Nosiviwe Mapisa, Phehle Mdluli-Sedibe, Jacob Zuma, Jackie Selebi, John Nkadmeng, Alfred Nzo, Mac Maharaj, Joe Modise, Andrew Masondo, Stephen Tshwete, Godfrey Ngwenya, Peter Mokaba, Barry Gilder, Thabo Mbeki, Charles Ngakula, Sizakele Sigxashe, Bамbelela Manci, Ruth Mompati, Sidney Makana, Joel Netshitenzhe and Tokyo Sexwale.

Magistrates' offices are under scrutiny

Themba Hlangani
and Sapa

(252)
BD 5/3/99

THE justice department and the Health special investigating unit are probing the alleged abuse of more than R54m in state funds at 144 magistrates' offices.

The department, which has 500 offices countrywide, said substantial abuse of state funds was uncovered, involving amounts ranging from R6 700 to R4,9m an office. Investigations had been completed in Northern Province, Mpumalanga, Kwa-Zulu-Natal, North West, and Eastern Cape.

The probe relates to alleged misuse of state funds by heads of magistrates' offices, who may sanction maintenance costs of up to R3 000 a repair.

Department spokesman Casper Badenhorst said the probe was prompted by reports of irregularities brought to its attention in November 1997 and last year.

Last August all heads of centres were requested to submit assessments for services effected in terms of minor repairs between January 1997 and July last year.

"It was after the receipt of the requested information that the full extent of abuse was realised," Badenhorst said.

Preliminary investigations showed that officers had received benefits from contractors engaged to provide minor repairs. Some officials erected laps and installed remote control gates and car ports at residences and office buildings.

Meanwhile in Parliament yesterday, Justice Minister Dullah Omar said SA's court system, despite being under tremendous pressure, was in good shape.

In debate on the budget vote of the criminal justice system, he said the increased jurisdiction of the magistrate's courts, better court and case management, better representivity and the introduction of lay assessors placed the department on the threshold of significant improvements. Through the national crime prevention strategy, co-ordination between the different arms of the criminal justice system was constantly improving. The major problems in magistrates' courts related to delays in finalising cases and heavy backlogs.

Omar may block route to apartheid

Linda Ensor
and Stephané Bothma

ANC accepts that its leaders' amnesty application fell outside the ambit of the act

CAPE TOWN — Justice Minister Dullah Omar is considering an amendment to the Promotion of National Unity and Reconciliation Act to prevent the possibility of endless civil litigation against the government and structures involved in the apartheid conflict.

His comment followed the decision of the truth commission's amnesty committee that the amnesty application of 27 senior African National Congress (ANC) leaders fell outside the ambit of the act, which did not provide for collective responsibility for the acts of an organisation.

The committee found that the act did not provide liberation movements, political organisations or the state with the locus standi

to apply for amnesty and therefore that an organisation as such could not be indemnified against civil claims for damages.

Omar's spokesman Paul Setsepe said the minister agreed with President Nelson Mandela that it was an omission of the act not to address this issue and only to deal with individual amnesties.

The leaders, who led the organisation at various stages between 1960 and 1994 included Deputy President Thabo Mbeki, Transport Minister Mac Maharaj, Foreign Affairs Minister Alfred Nzo, Sports Minister Steve Tshwete, Defence Minister Joe Modise, Mpumalanga premier Mathews Phosa, ANC deputy president Jacob Zuma and govern-

ment spokesman Joel Netshitenzhe.

Judge Selwyn Miller, Judge Sisi Khamepe, Advocate Jon Motata and attorney Wynand Malan found that no amnesty could be granted to the applicants because on their own version of events they had not committed an offence in terms of the act, and their applications did not refer to a specific act. These requirements had to be met before amnesty could be granted.

In their ruling they noted that the ANC, the state and any other organisation were only indemnified against a criminal and civil liability for acts for which they could be held vicariously liable and for which amnesty had been granted to the wrongdoer.

ANC spokesman Thabo Masebe said the party accepted the amnesty committee's view that the amnesty application by its leaders fell outside the ambit of the act. There was no danger of any of them facing prosecution as a result, however, because as individuals they did not commit gross human rights violations.

They had accepted the collective, moral and political responsibility for the actions of the ANC and applied on its behalf. Masebe said the party would support a legislative amendment making it possible for institutions to apply for amnesty.

The 27 leaders were part of the "ANC-37" who were originally granted amnesty by the

amnesty committee in November 1997, a decision overturned by the Cape High Court in May 1998.

Meanwhile in Pretoria, weeks of testimony and legal argument in the amnesty application of apartheid spy Craig Williamson came to an end yesterday with the former policeman's lawyers arguing that their client complied with all the requirements to be granted amnesty.

Allan Levine, representing Williamson at the amnesty hearing, yesterday argued before amnesty committee chairman Judge Andrew Wilson that no evidence existed which showed that his client had not made full disclosure as claimed by Bizos.

At the close of proceedings yesterday, Wilson gave no indication of when a finding would be made.

litigation
(25/5/98)

Unit to study TRC move on ANC bosses

Sowetan 5/3/99

(257)

By Jimmy Seepe

A SPECIAL unit charged with investigating cases emanating from the Truth and Reconciliation Commission is to study and investigate the TRC decision relating to 29 African National Congress leaders whose amnesty applications were rejected by the commission yesterday.

The TRC announced that amnesty had been refused for senior ANC leaders who included Deputy President Thabo Mbeki, four Cabinet ministers and two provincial premiers.

The leaders had applied for amnesty claiming collective political and moral responsibility.

The commission said a four-member amnesty panel found that the applicants' actions "fall outside the ambit of the Amnesty Act and accordingly they do not require to

apply for amnesty"

The ANC said it "accepts and respects the findings of the TRC Amnesty Committee in respect of the amnesty application by the 29 leaders of the organisation"

The ANC agrees with the view of the amnesty committee that the Promotion of National Unity and Reconciliation Act does not provide *locus standi* to liberation movements, political organisations or the State to apply for amnesty.

President Nelson Mandela had already pointed out in his speech during the special debate on the TRC in Parliament on February 25 that it seems there was an omission on the part of legislatures that, while individuals are accommodated, the (amnesty) process leaves open the possibility of endless litigation against the new democratic government as well as structures that were involved in the conflict.

Last week, the office of the Director of Public Prosecutions, Mr Bulelani Ngcuka, revealed that a special unit had been created to decide who should be put on trial for apartheid-era human rights abuses.

The unit had asked prosecutors from across the country and officials from the TRC to turn over their files on human rights abuses committed during apartheid, including some of the most notorious cases such as the death of Black Consciousness leader, Steve Biko.

The unit is reported to have been quietly operating since the beginning of 1999. Ngcuka's spokesperson, Mr Siphon Ngwenya, told *Sowetan* that the unit would study the report of the 29 leaders and some of their dockets. "We will look at each case according to its merits."

Asked whether the cases would be looked at for possible prosecution, Ngwenya said "We are a prose-

Justice funds 'plundered by magistrates'

By Jimmy Seepe

THE Department of Justice announced yesterday that a special investigation unit has uncovered a multimillion rand scam involving the abuse of powers by 144 magistrates. Up to R54 million which was meant for building-maintenance purposes appears to be involved.

The department said it had received information that money earmarked for building maintenance at magistrates' courts was instead used to renovate the private properties of magistrates.

Departmental spokesman Paul Setsetse explained that the missing R54 million was meant for day-to-day maintenance services which normally do not exceed amounts of R3 000 per repair.

Some of the questionable activities by the magistrates concerned may give rise to disciplinary action, including prosecution, as the actions constituted corruption.

In a statement, the department said "isolated incidents of abuse have been brought to the attention of the department since 1997.

The appropriate action to prevent further abuse was duly taken."

But, the department said, further reports of irregularities during 1998 were received.

It then became apparent that the scope of abuse was not limited to only a few offices

"This prompted the Department of Justice to investigate the matter and take necessary action."

It said that during August 1998 the heads of all offices were asked to submit complete and accurate assessments, accompanied by motivations, for all service requirements effected in terms of the day-to-day maintenance budget for the period January 1 1996 to 31 July 1998.

"They were also asked to refrain from using the budget for anything other than its intended purpose and warned that they would be held accountable for any unauthorised expenditure," the statement said.

The department confirmed "An estimated expenditure of R54 911 745 is being investigated. One hundred and forty-four magistrates offices have allegedly abused the budget either marginally or substantially, ranging from R6 760 to R4 million per individual centre."

It added "The provision of features such as lapas, remote control gates and car ports at office buildings or official residences is evident."

It further said "Most of the services provided by the contractors do not adhere to the service standards of the Department of Public Works.

"The use of inferior and sub-standard service parts and materials is evident."

66131573199
Bouweria

(2/7/98)

Deputy President Thabo Mbeki got straight to the point in the debate on the final report of the Truth & Reconciliation Commission (TRC). "The defining parameter in our continuing struggle for national unity and reconciliation is the question of race." The use of the "r" word by our president-in-waiting helps to illuminate elements of his thinking. Mbeki's speech needs to be assessed against President Nelson Mandela's opening address. Mandela accepted the TRC report "with all its imperfections".

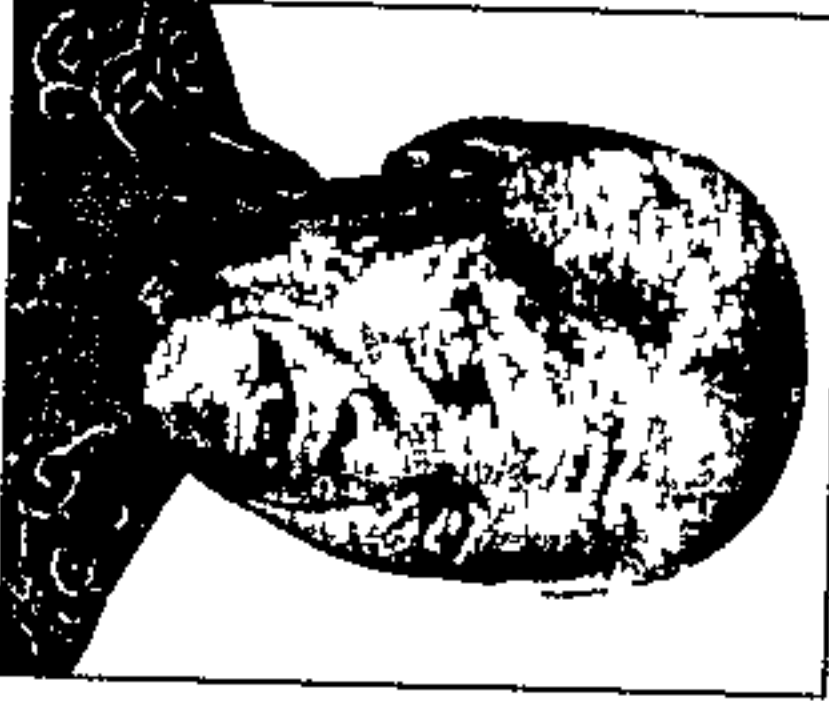
Among the commissioner's errors, he felt, was that "the amnesty applications of political prisoners did not receive priority. Others will wonder whether those who could throw light on past violations were pursued with equal vigour to yield their knowledge to the public through the TRC." Since those who did not seek amnesty are vulnerable to prosecution — like those refused amnesty — these remarks are in most part technical. He also said, "the challenge that we face in taking the TRC process further is to focus in particular on the special additional measures that

TRUTH COMMISSION REPORT

RACE ON THE LONG ROAD TO RECONCILIATION

Mbeki dismisses suggestion of rights abuses during the struggle

we need to undertake to reach the ideal of reconciliation"



The challenge is to focus on special additional measures to reach the ideal of reconciliation Nelson Mandela

For his part, Mbeki thanked the TRC for unveiling at least some gross human rights abuses — but he dismissed any suggestion of ANC human rights abuses in the general implication that any and all military activity which results in the loss of civilian lives constitutes a gross violation of human rights. The net effect of these findings is to de-legitimise a significant part of the struggle. We cannot accept such a conclusion.

The almond hedge planted 340 years ago by Jan van Riebeeck to keep the races apart was with us still, he said.

2172
19/5/99

Justice Minister Dullah Omar took the theme of the ANC's "innocence" further, citing apartheid as the greatest crime of all. The new government faced a bitter irony in that "those who were a party to the crime against humanity, but continue through the generosity of (Mandela) and the new democracy, arrogantly refuse to acknowledge that they need to cleanse their hands, which for decades have been dripping with the blood and tears of millions of victims."

An enraged Tony Leon, leader of the Democratic Party (DP), struck back at Omar's portrait of the opposition parties as being permitted to be in parliament on sufferance alone.

As for the TRC, "it failed us by choosing its targets selectively and not treating them in an even-handed manner. The TRC neglected, for example, to look at the ruthless resort to violence that occurred in the trade union movement during the course of the liberation struggle." He went on "This teaches us how a

good cause can be perverted. During the course of its fight for freedom the ANC confused the moral high ground of its struggle credentials with a morality of power." He asked for justice for the victims — a pointed contradiction of Omar's un-

gallant sons and daughters did not participate in struggle and did not sacrifice for monetary compensation. Restoring dignity and a package of reparation measures must help to proclaim before history the nobility of the struggle for freedom and that the privilege of participating in that struggle is its own reward."

So while there will be some monetary reparations, they will mostly consist of symbolic assistance to deprived communities — in any case the function of government — and "cultural" reparations such as monuments to the fallen.

A spot radio poll of apartheid victims drew some anger that special pensions appear to have been ruled out. Of course money can't buy love and reconciliation, but it is precisely the victims, particularly the disabled, who would benefit most from

reparations of this kind. In Zimbabwe, veterans of the independence war who have no such pensions have openly expressed rage and disappointment.

The debate itself swiftly became an example of how deeply disruptive racial matters can paralyse any forward movement to genuine reconciliation.



The defining parameter in our continuing struggle for national unity and reconciliation is the question of race Thabo Mbeki

Mbeki's final remarks actually indicated the impossibility of reconciliation for the current generation. "Our collective and burning desire not to repeat the past must find expression in the greatest mass movement our country has ever seen, for the removal of the almond hedges that deform the face of our country, for the defence of freedom and for the advancement of human dignity. A beginning has been made. Like ours is also a prayer to the future. By our deeds, let us grant later generations the possibility to sing of unity and reconciliation among themselves."

A knotty and strange formulation. Oddly enough, the New National Party's Marthinus van Schalkwyk touched on at least one symbolic gesture of reconciliation that could demoralise the debate. "The pain and suffering, the injustice of the apartheid era, we must never allow to happen again. Therefore it calls for a pact between the responsible leaders of today, to close the book on past conflict and despair and to open a new book for future hope."

Van Schalkwyk began his speech by drawing attention to his youthfulness (meaning he wasn't around when apartheid was being imposed) and to the difficulties of anyone seeing beyond the confines of his clan's memory of history — the cornerstone of which was the Anglo-Boer War. However, the NNP leader seemed taken aback at the animosity he drew from the ANC ranks. He was nebulous and repetitive, perhaps even uncertain.

It was Mandela who gave an important hint on what was to be done post the TRC. "The TRC issues a call, which we strongly endorse, for a recommitment in both public and private sectors, with renewed vigour, to the transformation of our structures and corporations through a combination of affirmative action and employment equity together with the strengthening of a culture of hard work efficiency and honesty."

But these measures imply further legislation against "racism" and its economic beneficiaries rather than facilitating reconciliation. Perhaps reconciliation wasn't the real point of the debate. Peter Williams

Williamson hearing tense and fractious

MTG 5-11/3/99 (252)
Cathy Jenkins

Craig Williamson's amnesty application hearing ended in Pretoria this week after a marathon seven days of legal argument — with warring lawyers and evasive witnesses making no attempt to reconcile in the spirit intended by Truth and Reconciliation Commission

George Bizos, SC, for the families of Ruth First and Jeanette and Katryn Schoon, argued strongly that Williamson's amnesty application for the letter bomb murders of the two women and a child should be refused.

Bizos also opposed the amnesty applications of Jerry Raven, who made the letter bombs, and of Brigadier William Schoon, who is seeking amnesty for a separate incident involving the attempted murder of the late Marius Schoon in Botswana in 1981 and 1982.

The tense hearing, which last week provoked truth commission amnesty committee chair Judge Andrew Wilson to remark that in his entire life he had "never been at a hearing with so much lack of co-operation and hostility between

the legal representatives"

Raven's lawyer attempted to discredit a witness by labelling her a communist and suggested to another that he might have been an informer. At one point, Bizos asked in exasperation that the applicants' lawyers stop referring to political activists as "terrorists", commenting that "we do not refer to their clients as murderers"

There was scant indication at this hearing of any progress towards reconciliation or a spirit of understanding transcending the conflicts of the past, all supposed objectives of the amnesty process, nor did the seven weeks of the hearing leave one with the comfortable feeling that the whole truth had at last been exposed.

In order for the applicants to obtain amnesty, the amnesty committee must be satisfied on two principal counts: first, that the applicants have made a full disclosure of all relevant facts, second, that the act for which amnesty is sought was an act "associated with a political objective"

In relation to the letter bomb murders, Bizos argued that the applicants Williamson and Raven failed on both counts. He contended



A different tune: Craig Williamson's testimony before the truth commission contradicts details in his amnesty application, his victims' lawyers argue. PHOTOGRAPH: ZOK SELSKY

that the discrepancies between their original written amnesty applications and their oral evidence, as well as the implausibility of their accounts of what took place, indicated clearly that they were not telling the truth and had thus failed to make full disclosure

Bizos suggested that Williamson and Raven had reached an agreement to lie to the amnesty committee and submitted that it should be sceptical of the evidence of Williamson, whom he described as "a skilled deceiver and a calculating liar"

Bizos contended that neither Williamson nor Raven met the requirements of the Promotion of National Unity and Reconciliation Act in relation to political objective. The Act lays down criteria which the committee must use in deciding

whether an act for which amnesty is sought is an act "associated with a political objective"

These criteria include the motive of the person committing the act, the gravity of the act, whether the act was directed at a political opponent and whether it was committed in execution of an order. The committee must also consider the difficult issue of the "relationship between the act and the political objective pursued, and in particular the pro

portionality of the act... to the objective pursued"

An act committed "out of personal malice, ill-will or spite, directed against the victim" is specifically excluded from the definition of acts "associated with a political objective" and does not qualify for amnesty

Describing Williamson as a "vindictive human being" who hated Joe Slovo, Bizos contended that, contrary to Williamson's own evidence, Williamson had deliberately dispatched the bomb to Slovo's wife, First, out of personal malice and had followed the murder by feeding a cover story to selected journalists that Slovo had killed his own wife

The recent decisions granting amnesty to the killers of Sizwe Kondile, and to Jeff Benzien, may give hope to Williamson and Raven that the amnesty committee is not, as some have suggested, prejudiced against the former security police

Some would doubtless argue that, since the committee was willing to grant amnesty to the gunmen in the St James' Church massacre, accepting that those shootings were proportional to the political objective pursued by the Pan Africanist Congress, it should now be willing to grant amnesty to Williamson and Raven

Others would contend that the St James decision was misguided and that the committee should have tak

en a stand in that case against the murder of ordinary citizens merely because of their skin colour, it should likewise take a stand now against amnesty for the murder of ordinary members of political parties or the liberation movements

The committee is apparently reluctant to refuse amnesty for failure to make full disclosure: statistics released by the committee last year indicated that, out of nearly 4 000 applications refused at that date, only 138 had been refused for failure to make full disclosure

Nevertheless, the recent refusal of amnesty to the security policemen involved in the death of Steve Biko indicates that, where the committee feels driven to the conclusion that it has not been given a true account of events, it will say so

At this stage, the amnesty committee has given no indication whether it accepts Williamson and Raven's contention that discrepancies are caused by the passage of time or the opposing contention that the pair have actively fabricated evidence

Cathy Jenkins is a senior lecturer in international law at the School of Oriental and African Studies at London University

Motive behind the murder of Ruth First, PAGE 34

Look out for the
Sunday paper that doesn't
take all day

SUNDAY WORLD
SUNDAY BEST

R54-m Courts

Magistrates scam

100 magistrates may be implicated in fraud probe

ARL 6/3/99

JACKIE CAMERON

(252)

edly and at how they were awarded the contracts," he added.

Paul Setsetse, speaking for Justice Minister Dullah Omar, said: "Mr Omar is angry about this matter. When our attention was drawn to it, we immediately started investigating. Our investigators are the ones who uncovered this. It appears that there has been a scam. Anyone found to be involved will face a disciplinary process and, if necessary, criminal charges will be laid against them."

"We are determined to expose all the corruption and to recover the money. If it is proved that magistrates have been part of the scam, this will give a bad impression to the public. People who are supposed to deter people from crime would themselves be doing it."

Trevor Levitt, of the Association of Regional Magistrates of South Africa, said his organisation "certainly" did not approve of the alleged crimes but "at this stage it's not impacting on the administration of justice".

"It's not judicial fraud. This concerns magistrates who have state housing. It's got nothing to do with trials. It may be similar, for example, to claiming excessively for subsistence and travel allowances."

"But we certainly don't approve of this. Steps should be taken," he said.

Douglas Gibson, the Democratic Party's justice, said: "I am outraged. Nothing is more calculated to undermine the rule of law than crooked magistrates. If the public cannot trust the judicial officers to be honest, whom can one trust? I hope the investigation will be swift and that those who have been dishonest will be charged, tried and punished."

"We must never forget that many

To Page 3

Magistrates may face criminal charges after probe

From page 1

thousands of others in the justice department are honest and serve the public well. The rotten apples aren't in the majority," Mr Gibson said.

Investigators have focused much of their attention on other provinces, but are expected to turn to the Western and Eastern Cape soon.

"We have received reports of similar incidents in the Western Cape, but have not yet visited those offices," a Department of Justice source said.

More than 100 magistrates are under investigation for their alleged implication in corruption and fraud.

In the latest blow to the country's beleaguered court system, Department of Justice investigators have uncovered cases of fraud and corruption involving more than R54-million within the ranks of magistrates, prosecutors and senior clerks.

Investigators have called on the Heath Commission, which investigates irregularities in the public service, to help them recover the money.

There are also moves to hand the documents to the Office for Serious Economic Offences with a view to bringing criminal charges against justice officials.

Some magistrates allegedly worked in cahoots with builders and Department of Public Works officials to channel taxpayers' money into improving their homes and to build recreational areas at their offices.

A well-placed Department of Justice source said one magistrate installed a jacuzzi at his home, another refurbished his kitchen and others built car ports and "lapas", all at the taxpayers' expense.

Most of the fraud has been uncovered in smaller centres, far from the eyes of officials responsible for keeping a check on financial affairs.

"At least 100 magistrates are being investigated in connection with fraud and corruption to varying degrees," the source said.

"Isolated cases were picked up in 1997. Most of the incidents happened last year.

"We are also looking at certain contractors whose names crop up repeat-

The department announced this week that more than 140 magistrates' offices in five provinces were under investigation for alleged corruption and mismanagement of R54.9-million.

Guy Rich, speaking for the Heath Commission, said: "We are investigating certain irregularities involving magistrate's courts and residences. We are working closely with the departments of Public Works and Justice. This investigation entails going to courts and residences and interviewing people."

Officials could face disciplinary steps or corruption charges in connection with the misuse of state funds meant for the maintenance of more than 500 magistrates' offices. The magistrates' offices are entitled to have maintenance done without the department's permission, if repairs are regarded as essential and do not exceed R3 000 a contract.

Amounts allegedly abused by individual magistrates' offices range from R6 760 to R4.9-million. The department said most services provided by the contractors

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did not meet Department of Public Works standards and inferior materials had been used in some cases.

In August the heads of the magistrates' offices were asked to submit lists of maintenance work done from January 1996 to July 1998, as well as the motivations for the contracts.

"It was only after receipt of the requested information that the full extent of abuse was realised," the department said. Magistrates' offices will in future have to request authorisation for all maintenance work.

Costs of no death row

Taxpayers foot the hefty bill of prisoners formerly sentenced to death

BY DERRICK LUTHANYI

GOVERNMENT opponents are crying foul that former death row prisoners are languishing in jail, enjoying free board and lodging which costs taxpayers R13 million a year. There are 454 prisoners who have been formerly on death row, each being fed at R80 a day and doing absolutely nothing.

This means that R36 320 is spent on the prisoners per day which is more than R13.25 million a year. The death sentence was abolished in 1995 and since then it has cost taxpayers more than R40 million to maintain them.

United Democratic Movement (UDM) Eastern Cape deputy provincial leader Cedric Froloek said the reinstatement of the death penalty would definitely save the government a lot of money.

"If you look at the financial implications of keeping murderers in jail for the rest of their lives, the death penalty would definitely save the government millions of rands."

But Froloek also warned of the need for an efficient judicial system in which prosecutors are properly remunerated.

"This, he said, would help ensure the death penalty was 'appropriately implemented'."

Froloek said that as soon as the UDM was voted into Parliament it would call for a referendum on the death penalty and abortion so that people could decide.

The IFP also believes there should be a referendum on the issue of the death penalty.

African Christian Democratic Party (ACDDP) spokesperson and MFL Jo-Ann Downs said the constitution should be amended to allow for the death penalty.

"It is costing taxpayers a fortune to keep these people."

Downs suggested that those formerly on death row be put to work to earn their keep.

"We believe in the death penalty. The constitution should be amended."

"However, we also believe in life because of some situation who should not be sentenced to death."

They should be hired out and not be kept at taxpayer's expense.

"Prisoners should not get free board and lodging," Downs pointed out.

But it is not only those opposed to the abolishment of the death sentence complaining.

Even former death row inmates are concerned about the slow wheels of justice.

A letter smuggled out of Sun City Prison (the Johannesburg Prison) from a group who call themselves Concerned Former Death Row Convicts says they decided to complain to City Press about their predicament in the hope that it will get a response from the Justice Ministry.

"These prisoners say that when they were transferred from Pretoria Maximum Prison on October 3, 1995, they were promised re-sentencing, but this has not happened.

Promises of social and psychological programmes have also not materialised, they said.

The group also complained that they were only allowed three visitors a month.

Justice Minister Dullah Omar's spokesperson, Paul Setsetse, said legislation provides for "Directives" through which the Legal Aid Board can provide legal aid to people who have been sentenced to death in the past.

He said these directives still have to be tabled in Parliament and published in the Government Gazette before these conversions of sentences can take place.

of 7/3/99

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to death

to table new legislation

Justice Minister Dullah Omar

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Spy's actions 'spiteful' says opposing counsel

By MAX MARX

(297) CP 7/3/99
 Claims Williamson lacked political motive

APARTHEID spy Craig Williamson hated Joe Slovo and wished him dead and so to destroy him, he dispatched a letter bomb to Ruth First and then planted a story in the press that the ruthless Slovo had killed his own wife

This was the submission George Bizos counsel for the Slovo and Schoon families who are opposing his amnesty application, made to the Truth and Reconciliation's (TRC) Amnesty Committee this week

Williamson, South African super spy and master of covert operations who infiltrated the ANC, and bomb expert Roger 'Jerry' Raven are both applying to the TRC for amnesty

The fate of Williamson and Raven is now in the hands of the Amnesty Committee after their amnesty hearing ended in Pretoria on Thursday

Bizos argued that amnesty should not be granted to Williamson or Raven for the murders of Ruth First in Mozambique in 1982 and Jeanette Schoon and her six year old daughter Katryn in Lubango, Angola in 1984

He argued that Williamson's and Raven's applications failed to meet the requirements of the TRC Act

Raven made the letter bombs that killed First and the Schoons. He and Williamson have also applied for amnesty for bombing the ANC's London offices in 1982

Bizos argued that Williamson had failed to make a full disclosure (a requirement for amnesty) of former head of security police General Johan Coetzee's role in authorising First's murder

He said Williamson's and Coetzee's assertions that he (Coetzee) did not know of the planned murder and never authorised it should be rejected

How can the head of the security police be believed when he says he did not know what his chief of intelligence, Williamson was doing and how can his chief of intelligence say the head of the security police was not consulted when they decided to



OPPOSING AMNESTY Advocate George Bizos (above left) at the amnesty hearings of former Apartheid spy Craig Williamson and bomb expert Roger "Jerry" Raven (and right) Apartheid spy and former security policeman, Williamson, faces an uncertain future. He is seen here at the TRC's amnesty hearings this week. ■ PICS MAX MARX

murder a high profile person?" he asked

He added the probability was overwhelming that both Williamson and Coetzee were involved in the decision to murder First

He further said Williamson's and Raven's evidence that they did not know of the intended recipient of the letter bombs could also not be believed

Bizos argued that the evidence "overwhelmingly" indicated that the letter bomb was addressed to Ruth First

"Williamson claims that he always believed the bomb was addressed to Joe Slovo

"As a matter of law, he cannot

now claim an *ex post facto* political objective in relation to Ruth First, a person whom he allegedly never intended to kill

"The TRC Act does not allow an applicant to seek amnesty for a person who (s)he says (s)he did not intend to kill"

The Act requires that one must prove that the act, omission or offence to which the application relates is an act associated with a political objective committed in the course of conflicts of the past

Bizos said that both Williamson's and Raven's argument that First was a legitimate target for assassination should be rejected

He said that Williamson, as head

of intelligence, knew or ought to have known that First was a lecturer at Eduardo Mondlane University in Maputo and was merely a card carrying member of the ANC

"As such, Ruth First was not a legitimate target for murder and Williamson cannot claim a political objective for initiating or participating in her killing"

He added that Raven's claim that he knew practically nothing about the life and work of First also deprived him of any basis for concluding she was a legitimate target

Bizos said Williamson had described his political objective in killing Ruth First as a means of weakening the ANC/SACP revol-

utionary alliance through the killing or injuring of personnel involved in planning and strategy against the South African state, and to weaken the ANC/SACP by causing fear and confusion within their ranks, especially through killing or injuring high ranking officials

"Ruth First was not involved in planning and strategy against the South African state

"She was not a high ranking official of either the ANC or SACP just an ordinary ANC member

"It is submitted that Williamson acted out of personal malice, ill will and spite when he dispatched the bomb to Ruth First" said Bizos

Bizos also told the amnesty committee he believed Raven had altered his written amnesty application when giving oral evidence because he had struck a deal with Williamson resulting in his (Raven's) failure to make a full disclosure

"We submit Raven submitted his written application when he was angry with Williamson for having publicly disclosed his covert activities, and after the two had buried their differences they tried to reconcile their contradictory versions," he said

Bizos also argued that no basis existed for Raven or Williamson to claim that Jeanette or Marius Schoon were legitimate targets for assassination

The fact that Marius and Jeanette Schoon were involved in political work when living in Botswana did not make them legitimate targets. They were not involved in military activity"

He said Williamson knew the Schoons had then moved to Angola and lived with their children in Lubango where they taught English

"His decision to send a bomb to Lubango shows he did not care whether the children were killed or seriously injured"

Bizos is also opposing the amnesty application of Brigadier Willem Schoon for the attempted murder of Marius Schoon in 1984

Amnesty for violence

ST 7/31/99 (252)
RANJENI MUNUSAMY

THE commission of inquiry into KwaZulu-Natal violence which was announced this week will be the first step in the introduction of a special amnesty for perpetrators of political violence in the province.

President Nelson Mandela will announce early this week details of the commission, which justice sources said would serve as KwaZulu-Natal's "special Truth and Reconciliation Commission."

Monitors say the commission could be the "first and only real opportunity" to expose the elements behind years of violence in the province, including 20 000 political murders.

But it will also be a precursor to the appointment of a special board which will grant amnesty to those who make

full disclosure about their roles in the province's 15-year political war between the IFP and ANC, sources involved in the process said.

ANC provincial chairman S'bu Ndebele — who has been deeply involved in talks with the IFP on the special amnesty — said the commission would strengthen peace talks between the ANC and IFP and also make the special amnesty compulsory. He said a special board would be appointed for perpetrators to make full disclosures about political crimes. This would lead to the introduction of an amnesty for perpetrators of political violence, he said.

Safety and Security Minister Sydney Mufamadi said "The commission will make recommendations, such as the introduction of a special amnesty, which will contribute to a solution to political violence in KwaZulu-Natal."

The IFP has declined to comment on the commission.

NATIONAL

Truth body denies report on Hami's killers

Official says report is a thumbsuck because the amnesty decisions have yet to be made, but rightwingers think it is true

Wyndham Hartley

CAPE TOWN — A truth commission official has dismissed as a "thumbsuck" a newspaper report that the convicted killers of Chris Hami will not receive amnesty. The report has triggered right-wing rage at what is claimed to be the ultimate demonstration of bias by the commission.

The report, which said that three of the four members of the amnesty committee would vote against granting Janusz Walus and Clive Derby-Lewis amnesty for the 1993 murder of the SA Communist Party leader, has also been criticised on the grounds that it has pre-empted a judicial decision.

Commission spokesman Mdu Lembede said "The story is absolutely unfounded." He also said that nobody at the newspaper concerned had attempted to corroborate the report with the commission's officials.

"It is a thumbsuck because not a single member of the amnesty panel has yet come to a decision or put anything down on paper".

Lembede said the amnesty committee would be meeting over the next two weeks to speed up amnesty announcements. It was possible that the Hami case would be among them, but he could not be sure. There would be an increase in the number of amnesty announcements in the next two weeks, he said.

Freedom Front MP Corne Mulder, who has in the past been an outspoken critic of the amnesty process, said he predicted that the report was accurate, and that Walus and Derby-Lewis would be denied amnesty. To grant them amnesty would not be "politically correct".

He said he could not understand how the panel decided that there had been incomplete disclosure because only the applicant knew that.

Mulder, who last year delivered a stinging attack on government for stringing the Afrikaners along with pretty talk about a Volksstaat, said the decision not to grant amnesty in this case was the death of reconciliation, coming as it did after the denial of amnesty to Afrikaner Weerstandsb-

weging members last week in a case in which one was only 19 years of age and clearly under the influence of the others.

"This is sowing the seeds of conflict for the future. It is creating a new generation of political prisoners and political martyrs," Mulder said.

His counterpart in the Democratic Party, Douglas Gibson, said it was improper for the leak to have been published in the first place because the decision of panel was still awaited.

He said that while he had not attended the hearing he was not surprised because the newspaper report seemed to indicate that Walus and Derby-Lewis had not complied with all the requirements for amnesty.

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Caprivi hit-squad killers seek TRC amnesty

ARGUS CORRESPONDENT

Durban - Four former Inkatha-aligned Caprivi operatives who murdered numerous African National Congress supporters in KwaZulu Natal in the 1980s were back before the Truth Commission's amnesty

committee yesterday

The "Foot Soldiers", who are serving life sentences at Westville prison, have applied for amnesty for the killings

Brian Mkhize, Israel Hlongwane, Bheki Ndlovu and Romeo Mbandzo, arrived at the hearings in Pinetown to listen to

arguments between their lawyers and the amnesty committee members

Advocate John Wills said it was clear in evidence before the committee that the four men were members of the IFP military structures, which were politically controlled by high-ranking politicians

Denial and ignorance

(252) *semetan 9/3/99*

Racial discrimination remains virulent in South Africa. Certain pre-conditions are essential for its eradication contends **Antony Levine** and **Robert Nkuna**.

THE news that a black pupil stabbed a white pupil at the Vryburg High School last month set off another round in the cycle of public criticism and blame

Noting that Vryburg is a tip of the iceberg, such developments pose a serious threat to the transformation process. Any racially motivated violence reflects explicitly that South Africans are still divided along racial lines.

Since its formation in 1996 the South African Human Rights Commission (HRC) has been inundated by various complaints about racial discrimination and the apparent resistance to transformation by certain sections of the community.

Far more worrying than this stabbing itself, however, was the litany of official denials that followed. The North West premier dismissed the events in Vryburg as isolated.

The education MEC insisted that no reason exists for immediate concern. A departmental spokesperson blamed the tension on "small pockets" of troublemakers.

The Vryburg High School principal said that the school was "playing by the rules" to promote integration.

These leaders were admittedly attempting to defuse a potentially explosive situation. Still, their statements point to the inability of public officials to understand the complex ways in which racism continues to scourge our schools and society.

Against this background of denial and ignorance, the HRC released a report last week which starkly reveals that all is not well in South Africa's public high schools.

Based on a survey of learners and administrators from 79 schools in all nine provinces, this first national investigation of racism in public schools details widespread racism in formerly minority-only schools.

Almost two-thirds of the learners who were interviewed or who responded to a written questionnaire say they have witnessed racial incidents at their school.

A similar portion of the students claims their school lacks any effective policy to alleviate the situation.

Racism in schools manifests itself in social isolation, anger, poor performance and ignorance, the very maladies that integration was supposed to cure.

One black pupil wrote that racism "made me feel like I was not wanted at this school or the neighbourhood. They treated me as if I was from another planet."

Another described feeling "like a potato that has been cooked in a pot for two weeks. I felt unhappy, sad and it's not good."

Finally, a pupil confided "I feel depressed and feel like at some stage (I want) to commit



Flashback ... pupils prepare for the first day of school after racial clashes forced Vryburg High School to close early in April last year.

PIC AP

homicide against all the Western people"

Pupils described pitched battles with stones and bottles, fights with fists and knives, the racially motivated burning of a school and the killing of a black boy by former pupils at a recently integrated all-white school in Northern Cape.

While the release of the South African Schools Act in 1996 and other policy guidelines are a welcome break from the past, the HRC's report reveals the great gap between rainbow policy and segregated reality in South African schools.

As one pupil wrote "I think that people just present (it as if) there is no problem but beneath their presentation the problem lies. It's like a cover of a book, it looks nice on the outside but beneath it is bad."

Another explained that "our school tries to stop racism by just writing it in our yearbooks that racism is a big offence and one will get punished for it, but never once have I seen a person being punished for it though it occurs all the time."

Sadly, few adults charged with administering schools are willing to accept what this child knows from personal experience - that Vryburg High School's racism is far from isolated.

On Thursday the HRC will travel to Vryburg again, though not to attempt another intervention at the school. Instead the HRC will hold a public hearing into allegations of racism in the town's police services.

That these allegations against the police have surfaced in a town whose high school has

become synonymous with racial hatred is not a coincidence.

No effort to eradicate racism in schools will succeed until we acknowledge and address the lingering racism in the homes and towns of pupils and teachers.

This reality does not let educators off the hook, however. Of all the structures of our society, schools are best positioned to jump-start a culture of tolerance and respect.

The HRC's report offers detailed recommendations for schools to promote integration that is more than the mere physical proximity of pupils from different backgrounds.

This report on schools, together with the numerous complaints to the HRC and the evidence gathered in other investigations, reveals that the events in Vryburg High School are not isolated.

If we are committed as a nation to fostering the realisation of the ideals of mutual respect and cooperation embodied in our Constitution, then we must accept that racism remains the widespread rule in South Africa, not a rare exception.

The HRC's report and conference on racism in public schools mark an important step in stopping the cycle of denial.

The HRC welcomes the heartening response from government officials and educators to the conference.

If we can muster the strength to confront this problem, together we can diagnose and cure it.

(The writers work for the South African Human Rights Commission.)

Prosecutors still on go slow

By Mbongeni Hlophe

STATE prosecutors countrywide are still on a work-to-rule labour action despite the nine percent salary increase offered by the Justice Department earlier this week

The prosecutors, who are demanding more salary increases to supplement money paid for overtime work, were granted a six percent salary increase last December.

Overtime payment was stopped by Justice Minister Dullar Omar at the beginning of December last year. He said his department had run out of cash to remunerate state prosecutors

(2/12)
However, not everyone was happy with the six percent increase.

Prosecutors affiliated to the National Union of Prosecutors in South Africa (Nupsa) embarked on another go-slow action, saying the six percent salary increase was not commensurate with the workload they are faced with daily when they prepare for court sittings

At present the department is offering a nine percent increase to prosecutors

However, the increase will be paid only to prosecutors who have signed a performance enhancement contract with the department, committing

themselves to improving their performances

The contract states that first payments will be paid after six months of the agreement

"We do not mind to doing some of the work at home as long as we get decent salaries," said Nupsa spokesman Mr Michael Vehbi

He said a team of negotiators would meet departmental representatives in Pretoria tomorrow in an attempt to resolve the deadlock.

During previous negotiations the Justice Department argued it could not afford further salary increases because of budgetary constraints

The courts of confusion

New bail laws cause chaos, say officials

ST 14/3/99

(252)

CARMEL RICKARD

JUSTICE Minister Dullah Omar's controversial new bail laws, punted as a crucial weapon in the war against serious crime, may be so seriously defective that they are often doing more harm than good, the Constitutional Court heard this week.

During a two-day hearing this week, the court heard that the bail laws are so poorly drafted that key sections make no sense. Some sections are so badly worded that prosecutors and magistrates do not understand how they are supposed to administer the law. As a result, they are still making "astounding" decisions about whom to release on bail, causing chaos in courts around the country.

Several cases contesting the laws were argued, including one in which the High Court had ruled that certain sections should be scrapped.

The national Deputy Director of Public Prosecutions and head of prosecutions in South Africa's crime capital, Gauteng, Jan D'Oliveira SC, spoke of the difficulties experienced by prosecutors and magistrates in dealing with the

enormous increase in serious violent crime. He said there was widespread concern that people accused of serious crimes were being released too easily on bail, only to commit further crimes.

He urged that the court hand down guidelines for interpreting the bail laws. Court officials were so confused that even when they had access to relevant material on suspects, bail decisions were still being made "that astound one".

Judge Yvonne Mokgoro asked whether the courts had been "overwhelmed" by the Bill of Rights and had tended to lean too much towards the rights of the accused.

D'Oliveira said it was quite understandable, given South Africa's political background, that the rights of individuals were emphasised. But faced with the Bill of Rights, the lower courts, in particular, felt helpless. "This situation has been exploited by criminals."

Judge Laurie Ackermann raised a concern shared by other judges: were the new bail laws not a form of preventive detention? D'Oliveira

agreed they were, but said that — unlike detention in the past, which served a political end — under the new laws, the process was transparent, with the judiciary able to intervene.

Johann Slabbert of the Western Cape Directorate of Public Prosecutions said police investigating serious crimes still made mistakes and acted against the law. "A lot of times the Constitution has not sunk through. where a warrant should have been obtained, they just blunder in and break down the door." As a result, evidence is often obtained illegally.

Obviously alarmed by his disclosures, court president Arthur Chaskalson said the Constitution set a standard for fair trial. If Slabbert was saying the incompetence of the police and prosecuting services meant it was impossible to maintain these standards, the remedy lay not in making provision for unfair trials, but rather in ensuring officials did their work properly.

'Where a warrant should have been obtained, they just blunder in and break down the door'

● Comment: page 18

Chinese call for return of hanging in wake of trader's killing

BY BUNTY WEST

The family of a Taiwanese businessman, who was gunned down in his Bree Street, Johannesburg, shop, is trying to come to terms with his death two weeks after the shooting.

On Sunday, a demonstration by more than 600 members of the Chinese community was held at the Wits Great Hall before they drove to the Houghton home of President Nelson Mandela to protest against the murder of Fung Tung Chuang (51) at his shop on February 28 by two robbers.

After the cremation of the body in Johannesburg, the

(257) motorcade drove to the Buddhist temple at Bronkhorstspuit, where the remains will be interred until they can be returned to Taiwan.

The family, who live in Wendywood, Sandton, were too upset to speak to the media about their loss and appointed a spokesperson, Jack Tsao, to speak on their behalf.

He said Chuang was well respected in the community because of his willingness to help people on both a personal and business level.

"This was not the first time that thieves attempted to rob him. He fought them off before and they got nothing. This time

he just wanted to protect himself and his son, and he died. It took just a few seconds to snuff out the life of a good man.

"The family came to South Africa looking for a new life, but now they have lost their breadwinner. In Taiwan, if you murder or rob someone, you are sentenced to death. It is time that South Africa applied the same rules," Tsao said.

According to police spokesperson Superintendent Chris Wilken, the men entered the shop just after 1pm and demanded cash from Chuang. He handed over about R7 000, but instead of lying on the floor as he was told, pulled out a gun

and shot at the two men.

They returned fire and Chuang was shot in the chest, stomach and jaw and died on the spot. In the exchange of fire, one robber was killed and the other escaped without the money, but he was struck by at least one bullet.

Chuang's son Willy (18), who had crawled to the back of the shop, returned to his father's body but he was already dead, said Wilken.

Traders in the area say they are under siege from robbers and murderers who are frightening away business. Another local businessman was shot dead during a robbery last year.

Star 16/3/99

Govt, TRC head for another clash

ET 16/3/99 (257)

JUDITH SOAL

THE government and the Truth and Reconciliation Commission (TRC) are heading for another clash after Deputy Defence Minister Ronnie Kasrils launched a withering attack on the TRC yesterday over its handling of sensitive documents.

Kasrils said the TRC had sullied the country's international reputation by giving top secret military information to Swiss journalist Jean-Philippe Ceppi, thus breaking an agreement with the government. The TRC insists that the document in question was not part of that agreement, and says it is being made a scapegoat for other people's mistakes.

"The Truth Commission has a lot of explaining to do," Kasrils said. "This incident has been very damaging to the country's image."

"South Africa is party to many international pacts — whether military, scientific or trade related — that have justifiable confidentiality clauses."

"Breaking these agreements by willy nilly handing out classified information creates the impression that we are a Mickey Mouse country that can't be trusted."

Last week the TRC acknowledged giving a document marked "top secret" to Ceppi, who is investigating the Swiss government's links to the former South African government's chemical and biological weapons programme (CBW).



'INCIDENT DAMAGING': Deputy Defence Minister Ronnie Kasrils

cal weapons programme (CBW)

Ceppi was arrested after police found the document in his hotel room, causing an international outcry. Charges against him were dropped when a TRC official said

he had given Ceppi the document, known as Annex J3, which "to the best of his knowledge" was public information.

Annex J3 contains the minutes of a 1994 meeting of the CBW managerial committee. Sources say it describes the assistance CBW leader Wouter Basson received from a Swiss general after being arrested in Switzerland.

"That document was given out in good faith," said TRC spokesperson Mdu Lembede.

"We asked the SANDF for 102 documents relating to the CBW. These were vetted by Military Intelligence. They said 10 of them could be used but not be distributed, and we respected that."

The confusion arose with 26 documents former surgeon-general Neil Knobel brought to a hearing.

"There was no time to put these through the vetting process, so we agreed that if Military Intelligence officials, or Norman Arendse who was acting for the government, objected to any documents during

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Govt, TRC clash (257)

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the hearing, they would be classified — it not they would not be

I have been through the transcripts and there were definitely no objections to J3," he said. "I don't want to be drawn into a quarrel with the government but it seems we are being made a scapegoat for someone else's error."

Deputy President Thabo Mbeki asked the TRC last week for an explanation regarding the distribution of the document.

Lembede said the commission had sent a detailed response to his office.

Meanwhile, neither the TRC, Mbeki, Military Intelligence nor Kasrils were willing to speculate publicly on how the police knew Ceppi had the document one day after it was given to him.

There are also questions as to why the journalist did not immediately tell police he had received it from the TRC and why this row has arisen now, on the eve of the trial of Basson on 24 charges of fraud.

ET 16/3/99

TRC (272)

grants amnesty

Source: 16/3/99

THE amnesty committee of the Truth and Reconciliation Commission granted amnesty to four people yesterday for incidents including infiltrating the country, illegal possession of AK-47s and the refusal to be trained by the apartheid government's army.

Two Inkatha Freedom Party members, Obed Mbatha and John Mbatha, were granted amnesty.

Naomi Nonhlanhla Xaba, a former Umkhonto we Sizwe operative, was pardoned for infiltrating the country from Swaziland with the aim of toppling the government between 1986 and 1987.

Tom Robbins, a former member of the National Union of South African Students, was granted amnesty for refusing to report for military training in the army in 1993.

In his application Robbins argued that by reporting for conscription he would have served to bolster the former apartheid regime - *Sapa*



Star 17/3/99

Amnesty for spy

Dieter Gerhardt

The Truth and Reconciliation Commission granted amnesty yesterday to apartheid-era spy Dieter Gerhardt (252)

Gerhardt (64), former commander of Simon's Town naval base, was sentenced in the Cape Town High Court in 1983 to life imprisonment for spying for the former Soviet Union.

According to TRC spokesperson Vuyani Green, Gerhardt was arrested by American and British intelligence operatives in a hotel room in New York.

He was interrogated by the CIA before being deported to South Africa to stand trial for espionage, Green said.

"Gerhardt was released in 1992 as a political prisoner following a trade-off between the National Party government and the ANC.

"He left for Switzerland after his release" - Sapa

Justice is failing in lower courts, say judges

MOTSHIDISI MOKWENA
COURT REPORTER

IN setting aside the conviction and sentence of a Malmesbury man on a charge of theft yesterday, two High Court judges declared that "there seemed to have been a manifest failure of justice"

Acting Justice Dumisani Ntsebeza, with Justice Roger Cleaver concurring, said Stompie Lukhandile did not get a fair trial and that the manner in which the magistrate replied to a High Court request for reasons, "filled me with

a great deal of concern for the proper administration of justice"

Lukhandile, who had no legal representation, was found guilty of theft and fined R600 or four months imprisonment, which was suspended on condition that he is not found guilty during the period of his suspension

At his trial Lukhandile professed his innocence and asked to call a witness, but the magistrate denied his request, claiming that the person was always sitting in court and therefore could not be called as a witness

Judge Ntsebeza pointed out that the magistrate's ruling seemed to be against the weight of all authority

"When magistrates deal with the rights of the accused in the way this presiding officer did, and give reasons such as he did, it becomes clear that, in the interest of justice, some safeguards need to be built into the system to ensure that some monitoring of the process in the lower courts take place," he said

He had no hesitation in holding that the conduct of the presid-

ing officer amounted to a serious irregularity, and was a gross misdirection — both as to what the law is and what his duties are when confronted with the question of whether or not he should admit evidence, Ntsebeza said

He also added that the irregularity was such that it was fatal to the proceedings in which they occurred, and held that "the ruling was unconstitutional conduct on the part of the magistrate and it was also a breach of a rule of just administrative action enshrined in the Constitution"

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CT 17/3/83

Racism still rife — HRC

(252)
ANDRE KOOPMAN

CT 17/3/99

MORE than 60% of complaints dealt with by the Human Rights Commission concerned racism, particularly discrimination in leisure activities and rented housing.

Commission chairperson Barney Pitjana said yesterday that the problem of racism in rented housing was particularly severe in Johannesburg.

The problem was that many African people "no longer speak English" the way Africans were "supposed" to speak, Pitjana said.

This meant that after securing housing on the telephone they were turned away when they arrived in person and were seen to be African.

Pityana said racism in schools had been very blatant five years ago, but was now more subtle. He spoke of "privatised racism" that was difficult to counter.

Black people were frequently discriminated against at leisure resorts and restaurants where establishments used reserved entrance rights to discriminate against people of colour.

"Discrimination is a major challenge to our democracy," Pitjana said.

Asked whether racism had decreased in the past five years, he said that while he had no baseline to evaluate this, "I have no sense that things are improving".

When asked about the commission's probe into alleged racism in the media, Pitjana said he did not believe this was a waste of time, as was reported.

The media as a "reflector of society and a shaper of opinion" were either part of the problem or part of the solution, Pitjana contended.

SA's human rights not right

THE third annual report of the South African Human Rights Commission shows up post-apartheid South Africa as a glaring paradox.

On the one hand it has carved out a historical niche this century as a "miracle". The democratic settlement in 1994, the new sense of conciliation captured in the "rainbow nation" metaphor and the overall shift to a liberal-democratic Constitution were profound.

A history of institutionalised inequalities appeared to have been thrown out by anti-discriminatory legislation entrenched in a Bill of Rights. This is bristling with features that range from the criminalisation of race and gender discrimination to the protection of gay and lesbian rights and the right to life.

On the other hand, human rights are not automatically guaranteed. The fate of such endeavours is unclear because they presume a legislation of equality and a culture of non-discrimination.

They too easily collapse the politics of non-discrimination into an economy of deeply entrenched privilege and deprivation.

By recent World Bank calculations, the poorest 40 percent of (black) citizens earn less than four percent of the income circulating in the economy. The wealthiest 10 percent (predominantly white) pocket more than 51 percent of income.

Despite such abysmal inequality at the macro-economic level, a great deal of the work of the HRC, an independent statutory body, has been taken up by merely "monitoring legislation".

This is the limited extent of power vested in the commission. In the words of the Constitution: "The Human Rights Commission must monitor and assess the observance of human rights in the Republic of South Africa".

The recent record of the HRC has proved that merely monitoring the observance of legislation has proved inadequate as a means by which to protect human rights.

As such, the challenge facing post-apartheid South Africa is far more complex than the enactment and observation of progressive legislation.

As economist Hein Marais, has argued: "There exists no example internationally where legislative adjustments (of the sort championed by the HRC) have in themselves produced a socially progressive outcome."

The reason, as one analyst put it, is that contrary to popular expectations, the end of apartheid did not signal the "passage of the black majority through portals beyond which lay equality, dignity and freedom."

The fact is that the patterns of inequality and discrimination inscribed

The conditions for social change have been put in place in South Africa after the democratic election. But, as Malcolm Ray reports, the Human Rights Commission has found marked socio-economic inequalities and racism still divide the country.



Human Rights Commission chairman Barney Pityana released the HRC's annual report this week, which indicates that racism and socio-economic inequalities are still a major problem in South Africa.

by apartheid did not end with the promulgation of new laws and institutions.

That apartheid entrenched racism and other discriminatory practices with anti-human fastidiousness is an historical fact. But it obscures the perpetuation of the brutal manifestations of the system through its legacy of economic inequality.

Early post 1994 indicators are dismal.

- The 1996 population census recorded a population figure of 40.5 million. Approximately 80 percent are black and more than 50 percent women.

- The age distribution revealed that the majority are young.

- More than 2.5 million or seven percent are disabled.

- Almost 20 percent received no education and only 16 percent reached matric.

- A startling unemployment figure of 4.6 million, analysed by gender and race, revealed that 4.2 million were African and 2.6 million (52.4 percent)

women.

- The glut of unskilled, low income workers were African and women, and their salaries ranged from R201 to R1 000 per month.

- Overall, 42 percent of black women workers and unemployed black workers in rural provinces (like the Northern Cape) earned less than R500 a month.

As South Africa edges closer to the second democratic elections, glaring inequalities continue.

Unaltered society

More recent statistics from the "Speak Out Against Poverty" campaign – a joint initiative by the HRC, the South African NGO Coalition and the Commission on Gender Equality – reveals a fundamentally unaltered society.

By early 1998 about 52 percent of the population eked out a living below the R301 per month poverty line.

Sixty five percent of the adult population were illiterate and at least 12 mil-

lion people did not have access to drinking water.

Some 2.3 million people were "nutritionally compromised" – including 87 percent of all African children under 12.

These are the "vulnerable" segments of society who, given South Africa's past, were often the victims of human rights violations.

They remain victims of a new society in which some are more equal than others. They are black, women and disabled.

It comes as no surprise, then, that racism has featured as the main issue of the commission's work in the past year.

The HRC chairman Barney Pityana noted in his presentation of the commission's annual report on Tuesday that "Roughly 60 percent of human rights violations related to racially exclusive discriminatory practices last year."

The report is a daunting litany of politically volatile racial tension and conflict in virtually every sector of society.

Sadly, the implicit message of the report is that not a great deal has changed since 1994.

The report concedes "that unfair, though now illegal discrimination, continues to infringe on the rights of millions of South Africans."

Detailing an audit of 40 violations of the Equality Clause in the Constitution, the report concluded that "inequality continues through a complex matrix of historic, social and economic factors."

Early signs in the transition pointing to a happier outcome are therefore subsumed by dynamics that reinforce the sanctity of privilege against human need.

More hidden economic contours of inequity now define discrimination in society – what Pityana aptly calls "privatised discrimination."

He is emphatic that "Although there is nothing wrong with the Constitution and laws, racism and gender discrimination will dominate the commission's work as long as socio-economic inequality continues as a defining reality."

As the report concludes: "A precondition for the success of a new approach to equality will rest on its ability to encompass the social and economic manifestations of disadvantaged."

The possibility of progressive social change does exist. Some of the conditions for such progress are certainly in place: a democratic political system, a progressive Constitution, a wrenching Truth and Reconciliation Commission process and a state that is committed to guaranteeing its constitutional obligations.

Perhaps the biggest peril in the work of the commission is that it must deal with discriminatory practices, the cause of which is beyond its political control. Its work is grafted on the reality that there is nothing inevitable about the outcome of the democratic transition.

The commission's mantra is sobering – in the absence of an ideal non-racial, non-sexist and declassed society in which all people are equal – the struggle for social justice must go on.

As Pityana put it: "Ours is an incremental struggle. It is a slow and painful battle to ensure that organs of state facilitate the progressive realisation of the dignity, desires and rights of its citizens."

It is an exacting battle, but worth fighting.

The challenge facing the HRC is perhaps best captured in the words of President Nelson Mandela, in a memorable 1996 speech: "We cannot rebuild our society at the expense of the standard of living of ordinary men, women and children."

"We cannot develop at the expense of social justice."

Sowetan 18/3/99

Boesak: who'll be n-

Prosecutor lines up more cases after downfall of stri

ASHLEY SMITH AND CLIVE SAWYER
STAFF REPORTERS

Allan Boesak may not be the last person charged in connection with fraud and theft from the now-defunct Foundation for Peace and Justice, prosecutor J C Gerber said today.

He said the State was considering charging "other people", but he would not say whether one of them was Boesak's wife, Elna, for whom donor money was misused to pay for the setting up of a video studio.

Former anti-apartheid stalwart Boesak was convicted yesterday in the Cape High Court on three charges of theft involving R1.8 million and one of fraud involving R259 000 from the foundation.

Mr Gerber said it would be unfair "at this stage" to name other people who could be prosecuted. "A decision still has to be made and I have to discuss it with the provincial Director of Prosecutions, Frank Kahn," he said.

During judgment, Mr Justice John Foxcroft mentioned State evidence that Boesak had paid his wife's debts and incurred debt himself by paying for her "lavish lifestyle".

Boesak was also found guilty of stealing R762 000 from the Swedish Development Agency, which he used to pay for the studio for Mrs Boesak.

Today city lawyers were not prepared to comment on what sort of sentence could be handed down by the court next week.

One said "Anyone who speculates will find it very difficult, because there are so many factors to be taken into account."

Boesak's former bookkeeper, Freddie Steenkamp, who stole R900 000 from the foundation, was jailed for six years.

Within hours of yesterday's verdict, opposition parties moved motions in Parliament singling out Justice Minister Dullah Omar for special criticism.

Mr Omar, while African National Congress leader in the Western Cape, outraged opposition parties by going to Cape Town airport to greet Boesak on his return from the United States to face charges.

In the face of further vitriol after the judgment, Mr Omar cited the sub-judice rule in refraining from commenting - but lashed out at opposition parties for making election capital out of the findings.

The New National Party said: "Hopefully Mr Dullah Omar will be more careful in future about whom he embraces in public."

It added "There is a clear message in this judgment, namely that crime and corruption, even if it is of the 'struggle book-keeping' variety, does not pay."

Freedom Front spokesman Rosier de Ville said he hoped "the justice minister and the ANC government will accept the outcome and not attempt to interfere".

The Democratic Party's Douglas Gibson said "If one lesson can be learnt from this it is that Dullah Omar should not have compromised his integrity with his public support of Allan Boesak."

President Mandela, on a state visit to Sweden, declined comment on the verdict but the office of Deputy President Thabo Mbeki, also likely to be the target of opposition criticism - for the brief report compiled by office lawyer Mojanku Gumbi, which exonerated Boesak at the time the allegations first surfaced - said the



That was then: Allan and Elna Boesak with Paul Simon at their Constantia home in 1992. Boesak defrauded the Children's Trust, to which Simon donated cash.

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judgment would be studied so that the office could make an informed response.

Ronnie Mamoepa, spokesman for Mr Mbeki, said Ms Gumbi's statement two years ago was made on the basis of evidence presented to the office at the time.

A spokesman for the Police and Prisons Civil Rights Union (Popcru), which had its roots in the anti-apartheid struggle, said it was "deeply disturbed and disappointed" with the Boesak verdict.

Superintendent Greg Goss said Popcru still believed in Dr Boesak's innocence.

"We hope this man does not go to jail, because of his contribution to the struggle. Yesterday I became emotional. We love this man," he said.



This is now: Allan and Elna Boesak run the press-gauntlet outside court after his conviction yesterday.

LEON MULLER

Who'll be next?

(AFA) APR 18/9/99

cases after downfall of struggle hero



- their Constantia home in 1992. Boesak defrauded the Children's Trust, to which Simon donated cash



LEON MULLER

now: Allan and Elna Boesak run the press-gauntlet outside court after his conviction yesterday

THE
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MOTOR ACCIDENT CASES

Net closes on 'vulture lawyers'

ET 19/3/99

IT'S HEATH to the rescue once again, this time to recover money withheld by some unscrupulous lawyers from Road Accident Fund payouts to clients. **JOVIAL RANTAO** reports.

SOUTH AFRICAN super corruption-buster Judge Willem Heath has been requested by the government to recover millions of rands stolen by unscrupulous lawyers from road accident victims from as far back as 1990.

President Nelson Mandela has issued a special proclamation asking the Heath Commission's special investigation unit to investigate the defrauding of road crash victims by members of the legal profession.

The establishment of the investigation follows a memorandum from the Minister of Transport, Mac Maharaj — who has vowed to recoup the funds due to victims, — to the Minister of Justice, Dullah Omar.

Maharaj said yesterday that the Road Accident Fund, of which he is the shareholding minister, had been aware of unethical and illegal behaviour by some members of the legal fraternity for a while after numerous complaints to his office and the fund.

Of 143 cases investigated by the fund and the Department of Transport, on average 56% of what was supposed to be paid to victims was kept by their lawyers and in six instances it appears that 100% of the amount awarded was kept by lawyers.

These practices occurred after payment and settlement, and were therefore outside the jurisdiction of the fund. However, the fund had referred many of the complaints

it had received to the Law Society for action.

Maharaj said that the fund covered party-to-party costs (the cost arising between lawyers from both parties in settling the claim) and these were lodged with the Master of the High Court and open to public inspection.

He said that because the abuse of attorney-client relations involved the use of public money, he had decided to recommend that the President refer the alleged failure of attorneys to pay over to claimants the net amount received from the fund after deduction of a reasonable amount and/or taxed amount in respect of costs.

Maharaj said that the vulnerability of road accident victims to unscrupulous attorneys arose at various points in the procedures, according to which claims were handled.

The work of the Heath Special Unit is separate from the commission of inquiry into the Road Accident Fund set up to investigate problems facing the fund.

Parliament last year passed the Road Accident Fund Commission Act to set up a three-member commission, chaired by a judge of the Constitutional Court or of a High Court. The commission will be required to complete its work and report back to the President within one year of its appointment.

TRC staff, chief trade insults over packages

BY EDWIN NAIKU

Just two weeks before taking up a R1-million-a-year job at the University of the North (Turfloop), the Truth and Reconciliation Commission's chief executive officer Biki Minyuku has become embroiled in a dispute with TRC staff over their severance packages

Minyuku, who has proposed that he stays on as CEO of the TRC while vice-chancellor at Turfloop, this week traded insults with staff in a six-page memorandum

Staff members, who were employed on contract, have threatened to take the dispute to the Commission for Conciliation Mediation and Arbitration, or the Public Bargaining Council.

Staff claimed that TRC commissioners' severance packages included three months' salary, while they would be given only their final salary cheque

Minyuku has also

Memo 'an affront and an insult'

been accused of neglecting his TRC duties while involved in a commission restructuring the National Intelligence Agency

Minyuku told Western Cape staff members that a dispute would not be in the interests of the TRC "We have been through and continue to operate with exhaustion, suspicion and mistrust of one another and with manifested elements of incipient racism among us," his memo said.

Minyuku said the memo to him was an "affront and an insult" and warned staff to note Section 36 of the constitution, which "limits the rights" of all individuals who interfere with projects of national interest, such as the TRC.

"His arrogance makes us wonder whether we have been appreciated all along," said a staff member, who asked not to be named

Minyuku said any industrial action would hit the pockets of taxpayers "Should this be your intentions, please note there is no telling how the politicians and the public will react, and if I were you, I would at all costs avoid ending with bad eggs on my face"

This was rich coming from Minyuku, responded a staff member: "Nobody complained when Minyuku fought for and received the same package as commissioners"

Both Minyuku and media director Mdu Lembede refused to comment

19/3/99

TRC chief, staff in dispute

(252) CT 19/3/99

EDWIN NAIDU

DURBAN: Just two weeks before taking up a R1 million-a-year job at the University of the North (Turfloop), TRC chief executive officer Biki Minyuku has become embroiled in a dispute with TRC staff over their severance packages when the amnesty process is completed.

Minyuku, who has proposed to stay on as chief executive of the TRC while vice-chancellor at Turfloop to ensure continuity at the commission, traded insults with the commission's staff in a six-page memorandum earlier this week.

Staff members, who were employed on contract, have threatened to take the dispute to the Commission for Conciliation, Mediation and Arbitration or the Public Bargaining Council unless their requests were considered.

"Our reasons for bringing this

up again is that we have worked at the commission with no benefits, small yearly increases and no 13th cheque," said a memo from the staff.

They claimed that TRC commissioners' severance packages included three months' salary while ordinary staff members would be given just their final month's salary.

Minyuku was also accused of neglecting his TRC duties as he was involved in another commission investigating restructuring of the National Intelligence Agency.

Minyuku told TRC staff members in the Western Cape that a dispute would not be in the interests of the TRC. "We continue to operate with suspicion and mistrust of one another," his memo said.

Minyuku said the memo to him was an "affront and an insult" and warned staff members to note sec-

tion 36 of the Constitution, which "limits the rights" of individuals who interfere with projects of national interest, such as the TRC.

But staff members said Minyuku should deal with staff in terms of the Labour Relations Act, and not as if they were "dirt".

"His arrogance makes us wonder whether we have been appreciated all along," said a staff member.

Another said it was rich coming from Minyuku that their demands for a better deal would affect taxpayers. "Nobody complained when Minyuku fought for and received the same package as that of commissioners," she said.

"Many people used to refer to Minyuku as the 18th commissioner," said a Johannesburg staffer.

Minyuku's office said yesterday "he does not speak to the press." Media director Mdu Lembede refused to comment.

Heath to probe lawyers

Investigation expected to cover some of the most reputable law firms handling road accidents

David Greybe
and Linda Ensor

CAPE TOWN — Dozens of lawyers who have defrauded road accident victims of millions of rands since 1990 are to be probed by the Heath anti-corruption unit.

The probe would cover some of SA's most reputable law firms, Transport Minister Mac Maharaj said yesterday after Acting President Thabo Mbeki signed a proclamation authorising the unit to investigate all lawyers who had acted on behalf of accident victims since January 1990.

This followed an investigation by the transport department and the Road Accident Fund of 143 cases, and, more recently, allegations of lawyers' widescale abuse of fund payments. Maharaj said: "The investigation found, on average, 56% of what was supposed to be paid to victims was kept by their lawyers — in six instances it appears that 100% of the amount the claimants were awarded was kept by their lawyers."

Heath will look into the "alleged failure of attorneys to pay over to claimants the total net amount received in... compensation from the fund after deduction of a reasonable amount and/or taxed amount in respect of attorney-client costs".

Maharaj wants monies recovered by the unit paid to victims who were defrauded. Lawyers involved "could be criminally charged, struck off the roll and be open to civil action", he said. "We don't know how far the defrauding goes, but my office and the fund receive complaints from road accident victims every week. Some victims do not even know what the settlement awarded by the fund was."

According to legal sources, news of the inquiry has sent "jitters" through part of the legal fraternity. Cape Law Society president Adrian Watermeyer said all four provincial law societies welcomed the probe. "We want to eliminate people from our ranks who are dishonest and steal from trust funds," Watermeyer said. The Transvaal Law Society was investigating 50 third-party complaints involving five legal firms, one of which

had been taken to court, he said.

The Heath probe, according to observers, must inevitably lead to a major restructuring of the way the fund's claims are settled, as well as a change in attorney-client relations — currently shrouded in secrecy.

The fund spends 20% of its payouts on settlement costs, including legal and medical charges. The main problem, said Maharaj, was attorney-client fees: 56% of awards investigated were found to be withheld from victims. Watermeyer said excessive over-charging of clients constituted the problem. Sometimes attorneys had to keep back a large portion of the settlement amount to cover trial costs such as advocate fees and expert medical witnesses. These could occasionally consume the entire payment.

Watermeyer and Transvaal Law Society president Emile Boshoff said it was unfair to conclude from the "small" sample (government's investigation of 0.2% of all claims paid out) that third-party lawyers were often fraudulent. The investigation — Heath's first

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focusing solely on the private sector — was made possible by invoking two subclauses of the Special Investigating Units and Special Tribunals Act, allowing for an investigation on the grounds of alleged "unlawful appropriation or expenditure of public money" or "unlawful or improper conduct... which has caused or may cause serious harm" to the public's interests.

As attorney-client costs were outside the ambit of the fund, it had had to refer complaints to the law society for action, Maharaj said. However, government sources said the law society had not done enough to stop members' abuse of the system.

Boshoff conceded that it was necessary "to address the serious problem of public mistrust of the legal profession". Maharaj stressed the probe was separate from the judicial commission of inquiry into the future of the fund, due to be appointed soon.

A year to devise strategy: Page 2
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Arbitrators' work



Varsity rector in bid to keep TRC post

The head of the TRC hopes to hold on to his post, despite his recent appointment as rector of the University of the North, writes Ann Eveleth

Truth and Reconciliation Commission CEO Biki Minyuku is bidding to keep his current post after he takes on new responsibilities — and a R1-million salary package — as head of one of South Africa's most troubled universities next month.

But Minyuku launched an angry tirade last week — in a memo leaked to the *Mail & Guardian* — against truth commission staffers lobbying for severance pay when the commission winds down, accusing them of “purporting to dig deep into the taxpayers’ pockets.”

Minyuku handed in his resignation on February 1, after agreeing to take the hot seat as rector of the University of the North, but backtracked at a February 19 amnesty committee meeting when, according to the minutes of that meeting, he asked the committee to “seriously consider whether it has to or must replace its outgoing CEO or not.” Minyuku suggested that he could

shuttle between Pietersburg and Cape Town to wrap up the truth commission's financial affairs until the end of 1999. Amnesty committee chair Judge Hassan Mall said the committee would consider this proposal, but added “there are no other proposals of other people taking up the post.”

It is unclear whether Minyuku will retain his current salary if his proposal is accepted. He earned the staff nickname as “the 18th commissioner” when he successfully lobbied for the same salary package as the 17 commissioners.

Like the commissioners, Minyuku stands to receive four months’ severance pay — at a rate equivalent to that of a high court judge — and the option to purchase the truth commission car he has used for the past three years at 40% of the purchase price, say commission insiders.

In stark contrast, ordinary TRC staffers stand to leave their jobs with nothing more than their final pay cheque. When 80 staff members



In the hot seat: Biki Minyuku

wrote to Minyuku last month demanding talks about severance pay, he accused them of using “outmoded clandestine techniques and/or illegal actions”, and urged their representatives “to dismount their pseudo expert old white horses.”

The staff memo pleaded with Minyuku to re-open the severance issue — rejected by the Commission on

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Conciliation, Mediation and Arbitration last year because staff leaving the TRC at the time had approached the issue too late — on the grounds that remaining staff had served the commission for three years with “no benefits, small yearly increases and no 13th cheque.”

“Staff have executed their duties with a spirit of pride and joy and have many times neglected their personal lives and responsibilities. We now insist that the TRC consult with staff in terms of Section 189 and 196 of the Labour Relations Act. Please let us have your response within seven days hereof, failure whereof we will have no option but to declare a dispute with the TRC,” the staff memo said.

“Truth commission insiders point out that staff who did much of the commission's footwork received an average salary of around R70 000 a year, and unlike many senior commission members would not be walking into well-paid positions quickly in the current job market.”

They add that it is an “open secret” that Minyuku has spent considerable time over the past year away from his post, serving on the ministerial commission of inquiry into the transformation of defence in-

telligence appointed last April. Department of Intelligence representative Helmut Schletter confirmed that Minyuku serves on the commission, but could not say how much time he spends on the project or what remuneration he receives for it.

Minyuku told staff that their memo was “an affront and an insult against my person, the entire principled leadership and every privileged TRC member who ever graced our humble staff.”

“Dubbing the signatories “self-pro-fessed TRC veterans”, he told them that “long service should never be confused with commitment. Com-mitted staff are not schemers, they will never think-let alone plan, to disrupt the smooth functioning of a pro-ject of national significance.”

Minyuku warned commission staff that if they “dare” to down tools, “the universal principal of no work no pay will apply and above all, you will by the way, constructively and effectively be dismissing yourselves.”

Minyuku did not respond to repeated requests for an interview this week. Truth commission representative Mdu Lembede said Minyuku was the only person who could comment on the matter.



Heath team to probe accident fund scam

Howard Barrell

The Heath special investigating unit has been empowered to recover millions of rands stolen from road accident victims by unscrupulous lawyers

Judge Willem Heath's team will investigate a fraudulent scheme which targets unsophisticated road accident victims. Rogue attorneys have been cheating semi-literate and often indigent clients of large parts of the insurance pay-outs they have received from the state-backed Road Accident Fund which compensates traffic victims.

According to the Department of Transport, of 143 cases investigated, on average 56% of what was to be paid to victims was kept by their lawyers and, in six instances, it appeared as if 100% of the amount the claimants were awarded was kept by their lawyers.

Deputy President Thabo Mbeki signed a proclamation on March 18 empowering Heath to conduct the investigation.

The provincial law societies have welcomed the investigation. President of the Cape Law Society Adrian Watermeyer said: "We are delighted to have Heath and his powers on our side in the battle to get rid of the bad apples among us."

But some legal circles queried how Heath could be given powers to investigate funds passing between people in the client-attorney relationship. Heath's powers are generally understood to cover investigations into matters regarding funds owed to or owned by the state.

The transport department said in a statement, however, that the special investigating units and Special Tribunals Act empowered Heath to carry out the investigation. This was because "the abuse of attorney-client relations involved the use of public money".

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66/11/19-2/19/99
MAG 19-2/19/99

The rotten face of human rights in SA

If you're too dark, you could be arrested *But for R50, you could buy your freedom* (2572) CP 2/13/99

By MAX MARX

THE findings of the Human Rights Commission's (HRC) report on the arrest and detention of people in terms of the Aliens Control Act represent the shameful face of the new South Africa and show a blatant violation of the constitution and the laws of the country.

These were the sentiments expressed by HRC chairperson Barney Pitsoa when the report was released on Friday.

The report, based on interviews with 150 detainees at Lindela Repatriation Centre near Krugersdorp, follows an HRC investigation into the treatment of people in the immigration system.

It focuses on the arrest process of people believed to be living illegally in South Africa and the conditions under which they are detained.

It also recommends ways to deal with deficiencies in the immigration control system. Pitsoa said it was of major concern that in their "zeal" to force so called illegal immigrants out of the country, the authorities had gone to extraordinary lengths.

"Agents of the State are committing serious human rights violations.

"We find South Africans arrested and detained because their skins are darker than the arresting officer's perception of the skin colour of an average South African.

"Many legitimate asylum seekers and immigrants are also victims of arbitrary arrest and detention and are forced to share cells with hardened criminals."

Pitsoa said another serious problem was ordinary South Africans who take it upon themselves to "deal" with foreigners because they perceive them to be responsible for crime, prostitution and unemployment among South Africans.

"All these perceptions are products of xenophobia or prejudice against people who come from other countries," Human Rights Commissioner



CONCERNED. Human Rights Commission chairperson Barney Pitsoa.

Jody Kollapen said the report found consistent and ongoing violations of the State's international and national human rights obligations.

The report found that

- Arbitrary criteria seems to be guiding the way immigration officers approach their work. People interviewed were arrested because of their skin colour, surname, accent, imprecation or inability to speak a particular language.
- Fifteen percent of the people arrested had identity documents with them which were either destroyed or ignored by arresting officers.
- Others were prevented from fetching their documents from home.
- Thirty percent of those arrested were given no reasons for their arrest.
- Extortion and bribery are widespread practices among arresting officers and repatriation centre staff.
- Twenty-five percent of those interviewed were asked to pay a bribe on arrest, which in most cases amounted to R50.
- Nearly 20 percent reported being assaulted either during the arrest process or in detention.
- Some people were detained for periods longer than allowed by law.



CALLING FOR ACTION... Human Rights Commissioner Jody Kollapen

and were detained alongside criminal suspects.

Common complaints about the conditions at Lindela included lack

of adequate nutrition, inadequate medical care, interrupted sleep, and degrading treatment and inhumane conditions.

Some 75 percent of people held at Lindela were not informed of their right to a phone call or allowed to make one.

Kollapen said the fact that bribes cost only R50 begged the question of how many people who were not arrested were successful in actually paying a bribe. "This illustrates how management of the immigration control system has collapsed and that there is no effective enforcement of the system."

The HRC's recommendations include

- Home Affairs should provide guidelines to assist arresting officers in determining reasonable grounds for the detention of a person suspected of being an illegal immigrant.
- Arresting officers should document the date, place and reason for the arrest and explanations by the detainee.

Those detained under the Aliens Control Act should be held separately from criminal suspects while in police custody.

An independent inspectorate should be set up to visit people detained in terms of the Aliens Control Act in order to monitor compliance with arresting guidelines.

Complaints of assault, corruption or degrading treatment should be treated as a priority.

People facing deportation should be allowed to retrieve their belongings before being deported.

Danny Mansell, director of Dynamu Operations, the company that manages Lindela, said he supported the recommendations and had implemented many of them.

"We have for a long time been calling for an ombudsman who can deal with detainees' complaints."

He said complainants of assault, inhumane and bribery at Lindela were always investigated. "If staff are found to be involved, disciplinary action is taken against them."

Winnie cries foul

(PHN) 21/3/99 CP

'TRC had lost direction, was a waste of money'

BY ELIAS MALIJEKE

WINNIE Madikizela Mandela says the Truth and Reconciliation Commission let apartheid's killers off the hook while criminalising the liberation movements, and was a huge waste of taxpayers' money.

Though the TRC was created by the African National Congress government, it lost direction and squandered more than R67 million without delivering on its mandate, she said in an interview with City Press yesterday.

Madikizela-Mandela, former wife of President Nelson Mandela and president of the ANC Women's League, accused the TRC of having a secret agenda against her and the ANC.

"They let the real killers walk out scot free and criminalised the liberation movements," she said.

Madikizela-Mandela has made a dramatic comeback into the ANC fold and was elected the organisation's 10th most popular leader on the ANC nomination list last month.

Madikizela-Mandela was accused by the TRC of the murder of youth activist Stelco Dloomo.

"At the time I was being taken through a harrowing, grueling seven day inquisition by the TRC on the murder of the Dloomo boy

The TRC had received amnesty applications from the MK cadres who had nothing whatsoever to do with the Mandela Football Club, which had been accused of carrying out Dloomo's murder," she said.

Dloomo's body was found dumped in the veld in Soweto in January 1988.

The four MK cadres who are applying for amnesty in connection with his murder have claimed they killed him because they believed he was a spy.

"I have been exonerated by what is happening now before the TRC and, like the murder of Stompie Seipei, I had nothing to do with both murders for which the TRC forced me to stand up and apologise," Madikizela Mandela said.

She said the harsh treatment she got from the TRC was malicious in the extreme.

Yet those who committed countless murders, crossed borders to kill more people, and blasted lifeless bodies with landmines and hand grenades had been spared by the TRC.

"The Bothas, Malans and De Klerks of this world



POLITICAL PHOENIX... A relaxed Winnie Madikizela-Mandela at Gallagher Estate during the interview with City Press yesterday. ■ Pic: MPHOMPHOTO.

have been spared by the TRC and their foot soldiers in the army and police are smiling in the streets. They should have been hauled before the TRC instead of members of the liberation forces."

She also questioned the use of her former friend Xoliswa Falati, Katiza Cephekhulu and Jerry Richardson to testify against her.

"The fact of the matter is that all three are known to have worked with the police and were suspected police informers planted on me by the security forces."

"To use them after they were exposed for what they are was merely a ploy by the TRC to humiliate me in public. I also know for a fact that during the hearing, a member of the TRC was giving out information about the proceedings to someone else not

connected to the TRC, in what was called a daily report of the proceedings," Madikizela-Mandela said.

Revered by many as "The Mother of the Nation," she said she wanted to make the fight against poverty, homelessness and unemployment her major priorities.

"As long as there is poverty, the struggle continues. As long as there is unemployment, the struggle continues. And as long as there are people without homes, the struggle continues," she said.

It was possible to eradicate poverty, create jobs and provide housing under the leadership of Mpeke.

"Comrade Mpeke is his own man who does not need to apologise to anyone. He is going to nip crime in the bud to create an environment conduc-

ive to investment and the creation of jobs.

"The crime syndicates that operate in this country are warned that Christmas is over. Mpeke is going to take them head-on," she said.

TRC spokesman Mdu Lembede said it was not possible to reply to what Madikizela-Mandela had said, but the TRC was compelled to make inquiries about Dloomo and other cases, which had been brought to its attention.

In the case of the application by the MK cadres in connection with Dloomo's murder, Lembede said it was possible that at the time Mandela was grilled, the application had been made.

Lembede said it was Madikizela-Mandela's right to criticise the TRC, but he felt most of her criticisms were unjustified.

Winnie's TRC claims spark reaction

By EDDIE JAVIYA

(252)

Star 22/3/99

ANC Women's League president, Winnie Madikizela-Mandela's, claims at the weekend that the TRC had let apartheid killers off the hook while criminalising liberation movements, drew a mixed response.

She was quoted in *City Press* as having said the TRC let the "real killers walk scot-free and criminalised the liberation movements".

PAC secretary-general Ngila Muendane said she should not blame the TRC because the commission had simply "ap-

plied the law as it stood".

Dene Smuts, Democratic Party spokesperson on the TRC, said "Madikizela-Mandela seems to be following the approach taken by Deputy President Thabo Mbeki during the TRC debate in Parliament a few weeks ago, which struck us as an attempt to airbrush history into a version that glorifies the deeds of liberation movements".

New National Party spokesperson Juli Kihán said her party rejected claims that the TRC let apartheid leaders off the hook while criminalising the liberation movements.

POLITICS

TRC to ask Govt for more money

By Jimmy Seepe
Political Reporter

THE Ministry of Justice confirmed yesterday that it has been approached by the Truth and Reconciliation Commission for more money for its amnesty committee to process hundreds of remaining applications

Ministry spokesman Mr Paul Setsitse said TRC chief executive officer Dr Biki Minyuku said the committee may need further funding to continue its work beyond June

Sources on the commission said earlier that there was concern that hundreds of amnesty applications might be thrown into disarray if the Government did not provide more funds

The committee's money is expected to run out at the end of June

The amnesty committee still has to process hundreds of applications, an exercise expected

to be completed by the end of the year

Setsitse said commission CEO Minyuku had raised their need for more money with the ministry's director-general at a recent meeting

He said the ministry was now waiting for a financial proposal from the TRC

"At this stage the ministry has not received a written request and until such time it will be unable to do anything"

Amnesty committee

President Nelson Mandela may also be asked to amend the TRC Act to allow the amnesty committee to run its programmes until later this year

The ministry will also be expected to write to the Cabinet to ask for money on behalf of the TRC

The commission was expected to wrap up its activities by the end of June and hand its final report in to Mandela

Last year the commission published five volumes of its final report

A small staff complement was left to process the remaining amnesty applications

A number of amnesty applications have had to be rescheduled for the end of November. Those delayed include the amnesty application of suspended Foreign Affairs director-general for Asian Affairs Mr Robert McBride, which was expected to be heard next week

McBride was suspended after his arrest by the Mozambican authorities on charges of gun-running

He will now have to wait until the end of June before his application can be heard by the committee

Former Vlakplaas commander and convicted murderer Eugene de Kock is also waiting for a decision on his application for amnesty

New rules for SA prosecutors

swelam 23/3/99
By Muzi Mkhwanazi

(252)

THE Department of Public Prosecutions has drawn up an interim code of conduct aimed at curbing incidents of corruption and fraud among prosecutors in South Africa

The figures, released by the Department of Justice and covering January 1996 to March 1999, indicate that 27 prosecutors were being investigated

According to the statistics, 13 of these prosecutors were being investigated for corruption. Two prosecutors were found guilty and dismissed from the department's employ. A further 12 prosecutors are being investigated for fraud

Efforts at curbing such a disturbing feature resulted in the drafting of an interim code of conduct for prosecutors. The document, which has been referred to a number of prosecutors for their input, entails among other issues that prosecutors adhere to the following guidelines:

- They should be individuals of integrity whose professional conduct will always be honest and sincere,
- Always serve and protect the public interest;
- Not demand or receive gifts, donations or favours in their professional capacity,
- Be sensitive to the needs of victims and do justice between the community, the victim and the accused according to law and the dictates of fairness, and
- Preserve professional confidentiality

National Public Prosecutions spokesman Mr Sipho Ngwema said the code of conduct would go a long way in making sure that prosecutors adhere to strict professional ethics

The code of conduct would also help curb corruption among certain prosecutors, some of whom were being investigated for fraud

'Openness bill should cover SA's judiciary'

Interested parties offered divergent views on the new right-to-information law, writes David Greybe

BD 24/3/99

CAPE TOWN — The courts, judges and magistrates should not be exempted under new right-to-information legislation as proposed by government, according to the National Association of Democratic Lawyers (Nadel)

"The contributing role these bodies played in the apartheid system cannot be ignored with regards to the Open Democracy Bill's aim to develop an open, accountable and democratic culture," Nadel's Rikky Minyuku told Parliament's justice committee yesterday

The courts, judges and magistrates had a role to play in the new SA and, thus, had to "demonstrate their commitment to this culture", Minyuku said

Eskom, on the other hand, argued for the exemption clause to be broadened to

include public enterprises. This was, it argued, because public enterprises such as Telkom and Eskom "are required to be internationally competitive and operate in a competitive environment"

The bill states that "the information officer of a governmental body must refuse access to a record of the body if its disclosure would constitute an invasion of privacy of an identifiable person"

A government information officer may also refuse a request for access to a record if it contained "information supplied in confidence to any government body by a third party"

Members of the nine-member Open Democracy NGO Campaign Group argued yesterday that although the bill's drafters had dealt extensively with the right of ac-

cess to government records, they had virtually ignored the crucial issue of privately held information. The group criticised as expensive, inaccessible and cumbersome the provision for "external review" only in the high court. It proposed instead a tribunal system.

Richard Calland, of the Institute for Democracy in SA, said a tribunal system would be cheaper for both users and government, which could make use of "current infrastructure such as magistrates court rooms and administration"

Costs could also be linked to government departments. "Each department is subject to appeal, pays or contributes to overall running costs (rather than the justice department)", Calland said

Government has only until February to

give legislative effect to the constitutional guarantee of the right of individuals and organisations to information from the private sector and the state

Acting committee chairman Priscilla Jana indicated yesterday that another round of public hearings would have to be held after the June 2 elections because the membership of the portfolio committee would change. She said "We still hope the bill will be passed in the next session"

The Congress of SA Trade Unions (Cosatu) said it was necessary to extend the whistle-blower provisions to the private sector. Whistle-blowers should also be assisted

The bill, Cosatu said, should also define trade secrets and commercially confidential information

High Court ruling may be set aside

Jonny Steinberg

THE Constitutional Court may nullify a High Court ruling on the grounds that one of the presiding judges had a commercial interest in the case

In December last year three Cape high court judges — John Hlophe, Jeanette Traverso and acting judge Dines Gihwala — ruled that military courts martial were neither independent nor qualified to hand down prison sentences, and thus violated the constitution. The Constitutional Court was due to hear the defence force's appeal against the judgment yesterday.

On Friday, assistant state attorney Ritha Hall lodged an affidavit claiming that Gihwala may have been biased.

Gihwala is still a partner at the law firm Hofmeyer, Herbstein, Gih-

wala and Cluver, which acted as correspondent attorney for the two soldiers — Herman Pheiffer and Desmond Booysen — who brought the defence force to court.

"Although we do not contend that Gihwala was biased," the affidavit said, "it is sufficient that there is an appearance or suspicion of bias."

When asked to comment yesterday, Gihwala responded with indignation.

"If you say my firm acted as correspondent attorney then it must be true," Gihwala said, "but I have no recollection. Our firm has offices in Cape Town and Johannesburg. The office I work from certainly had nothing to do with it."

"A correspondent attorney is no more than a post office," Gihwala said. "It just serves and files papers."

Counsel for Pheiffer and Booy-

sen, Derek Spitz, told the Constitutional Court yesterday that as correspondent attorney, Gihwala's firm's fees did not depend on the outcome of the case.

"It would be difficult to sustain that any commercial interest was at stake," Spitz argued.

Defence force counsel Eric Dunn yesterday attempted to retract his claim that Gihwala created the impression of bias, but the court refused him permission to do so.

"You have raised issues that go to the heart of the legality of the High Court proceedings," Judge Johann Kreigler told Dunn. "Now you want to abandon your claim. You cannot do that. We cannot turn a blind eye to what could turn out to be a fatal defect in the court below."

The court postponed the case and will hear argument on 25 May.

Ex-chief of biological warfare faces 64 charges

ET 27/3/99
PRETORIA: The former head of South Africa's former chemical and biological warfare programme, Wouter Basson, faces 64 charges, including 16 of murder and 24 of fraud, when his trial starts in the Pretoria High Court on October 4

Basson was indicted during a brief appearance in the Pretoria Regional Court yesterday.

The charge sheet is 274 pages long and is bound in two volumes, one dedicated exclusively to the fraud charges involving local and foreign transactions worth more than R74 million

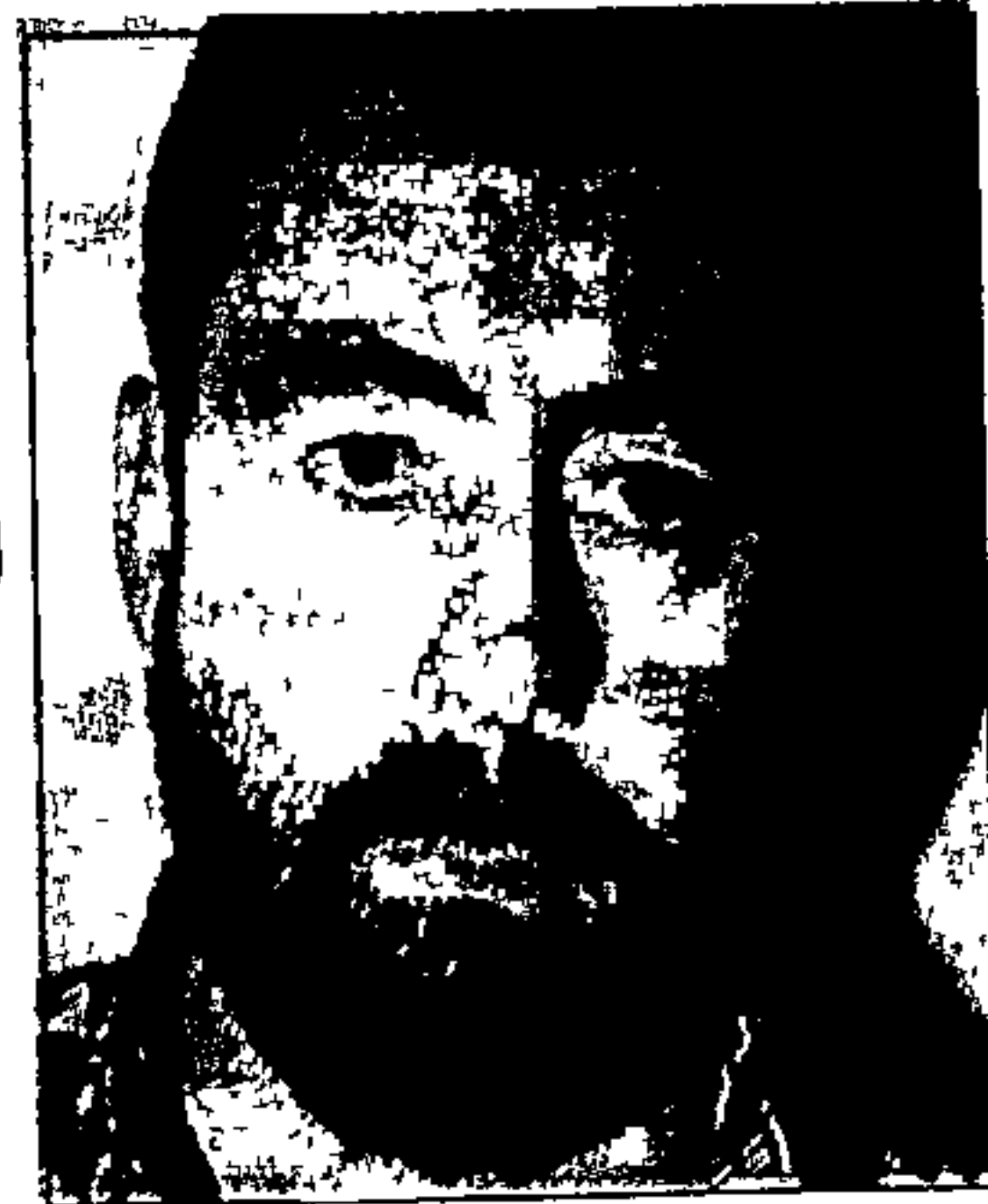
The second volume details an array of charges ranging from the murder of Swapo members and even Basson's colleagues who became "security risks", to 11 charges of conspiracy to commit murder, one of incitement to murder, two of defeating the ends of justice, one

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of assault, one of attempted murder, one of attempted intimidation, six charges relating to the illegal possession and trade in the drugs Ecstasy, Mandrax and cocaine, and a charge of contravening South Africa's Protection of Information Act.

Basson was allegedly responsible for supplying toxic substances called Tubarine and Scoline — muscle relaxants which caused victims to suffocate by paralysing their lung muscles — to Special Forces members as well as members of the clandestine Civil Co-Operation Bureau. Both organisations were set up to eliminate South Africa's "enemies".

In most cases, the bodies of the victims were loaded into airplanes and thrown into the sea.

According to the charge sheet, Basson was involved in conspiracies with,



ON TRIAL: Wouter Basson will be back in court on October 4.

among others, CCB members, to murder senior ANC officials including Pallo Jordan, Ronnie Kasrils, Frank Chikane and Dullah Omar

Basson did not utter a word during his appearance in the Pretoria Regional Court, and hastily left the courtroom after his trial was postponed. — Sapa

Transformation at Cape Bar 'slow'

MOTSHIDISI MOKWENA

UNLIKE its Natal, Pretoria and Johannesburg counterparts, the bar in Cape Town still has no clear representation of black and women advocates, but its members believe the immediate future is not too bleak

In an article in the March issue of *Consultus*, a publication for advocates, Peter Hodes, SC, chairman of the General Council of the Bar of South Africa, the umbrella body of the various bar councils, says satisfactory transformation arrangements had been reached by bar councils in other provinces. But at the Cape Bar accord had not yet been achieved

Hodes says the first steps towards transformation of the General Council of the Bar's constituents were taken in April 1998, resulting in a meeting with Advocates for Transformation at the national level

At this meeting an agreement was reached on a need to constitute a bar transformation forum which would deal with all matters pertaining to transformation

But by November 30, no consensus had been reached at the national level on issues directly relevant to transformation, such as the status, composition, functions, powers, funding, time frames and the way forward for the transformation process

The only time the transformation process could take root was when black advocates were accepted as professionals and were completely comfortable at the Cape Bar, Hodes says

In his article, Hodes also touches on the issue of the fusion of attorneys' and advocates' professions and said the call for fusion was made at a meeting by the Black Lawyers Association in October last year

The bar could therefore not relax as its very existence was once again under threat

"Compelling reasons exist for the continued flourish-

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ing existence of the bar as a bastion of excellence in the form of a referral profession.

"We must not leave any stones unturned in our efforts to convince all those concerned with the practice of law and the administration of justice, including the powers that be, that a separate bar is vital for the continued existence of an independent judiciary and most important of all, in the best interest of the public," continues Hodes

National Deputy chairperson of the Advocates For Transformation, (Aft) Justice Poswa SC, says that the whole issue of transformation should start with the governance of the bar councils, which should have equal representation of black and white advocates

He adds that it is not the fault of the black advocates that they were in the minority but a consequence of deliberate acts of past regimes, hence Aft's resolve that no issues of importance should be voted upon as this would put black advocates at a disadvantage

Poswa added that he did not accept the formation of a secondary forum, because he believed there was a stronger need for an immediate transformation of the bars

Doctor Basson, who led apartheid warfarfare programme, was charged yesterday with murdering and helping to kill more than 200 people with poisons concocted in state laboratories.

Wouter Basson, who led apartheid South Africa's biochemical warfarfare programme, was charged yesterday with murdering and helping to kill more than 200 people with poisons concocted in state laboratories.

Basson's victims included about 200 Swapo operatives, according to a 300-page charge sheet handed to the Pretoria Magistrate's Court.

The State alleges that after Pretoria decided to kill captured Swapo rebels, Basson, who still practises as a doctor, supplied state security operatives with muscle relaxants that were given to the men in huge doses, causing them to suffocate when their lungs collapsed.

In one instance, the scientist is said to have travelled to Namibia, where he persuaded

five Swapo prisoners to swallow sedatives and then supervised their injection with the deadly muscle relaxants.

The State is charging Basson - whose sinister work earned him the nickname "Doctor Death" - with 16 counts of murder, 13 of conspiracy to murder and two counts of attempted murder.

In most cases a single charge refers to several people who succumbed to poisons supplied by him.

Victor Ronseca, then a South African secret agent, who developed brain cancer and apparently became a security risk, was allegedly fed poisoned orange juice until he died in a Pretoria military hospital.

In late 1983 Basson apparently supplied a security agent



Wouter Basson ... allegedly concocted deadly poisons.

with a poisoned gel, and ordered him to rub it onto the bodies of five black prisoners and report back on its effects.

The prisoners survived the experiment and were eventually finished off with muscle relaxants.

The State alleges that Basson also ordered the execution of suspected renegade members of Mozambique's Renamo movement after fingering them for the murder of Orlando secretary-general Orlando Christina.

Five of them were shot dead in Namibia and their bodies dumped in the Atlantic Ocean.

The State also alleges Basson plotted to kill senior ANC members Ronnie Kasrils, Pallo Jordan and Dullah Omar, and supplied the poison that was smeared onto Frank Chikane's clothes, nearly killing him.

Chikane, former head of the South African Council of

Churches, is a top aide to Deputy President Thabo Mbeki. According to the State, which has brought a total of 24 fraud and theft charges against him, Basson pocketed some R57-million in funds given to him by the apartheid government to buy chemical and biological weapons agents.

So far, it is unclear why Basson retained secret documents he was told to destroy, raising fears that he may have sold them to foreign states.

Basson also faces six charges of drug possession, stemming from his arrest in 1997 with cocaine and large quantities of Ecstasy and Mandrax.

His trial, which will start on October 4, is expected to take up to two years. - Sapa-ARF

Mar 25/3/99

(252)



Boesak beat the calendar to avoid possibly much harsher punishment

BY CATHY POWERS

Allan Boesak, who was sentenced to an effective six years for theft of R1,3-million and fraud of R259 000, escaped with a sentence far lighter than the minimum sentences prescribed for fraud in recent legislation

The new law does not apply to him because the offences were committed before it came into force in May last year.

Tightening up on sentences for offenders like these, the Criminal Law Amendment Act provides for a minimum sentence of 15 years for a first offender convicted of fraud, exchange control corruption, extortion, forgery or theft involving amounts of R500 000 or more.

A second offender is sentenced to a minimum of 20 years and a third offender 25 years.

"This is a clear indication of the feelings of the legislature," said Grant Buchler, deputy director of public prosecutions at the Investigating Directorate of Serious Economic Offences

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But there is a clause that gives the court discretionary powers in handing down lesser sentences where there are "compelling" circumstances.

The act also prohibits suspended sentences, he said, and applies only to offences committed after May 1998. Boesak, who committed fraud and theft before 1994, thus escapes the harsher sentences

The tightening-up of legislation comes as fraud is increasing. Between January and June last year compared with the same period the previous year, the number of reported fraud cases increased by 628 from 28 928 in 1997, according to Hans Meiring, commander of the SAPS's commercial crime unit.

It will take time to see how the courts interpret the new legislation. In past cases, sentences have not been directly proportional to the amounts involved:

■ On February 3, Willem van Vuuren (53) was sentenced to 10 years by the Pretoria Magistrate's Court after plead-

ing guilty to the theft of R1,8-million from the Northern Transvaal Chamber of Commerce. He said he forged signatures and financial statements between 1994 and 1996. He used the money to buy property and vehicles.

■ Afro-Jamaican businessman Norman Escofferey (58) was convicted of 65 counts of fraud, theft and other charges. He was sentenced in February to 44 years after defrauding the North West's Agri-Bank of R15,5-million.

■ In September last year, three people were given suspended sentences after embezzling R1,1-million from Inledon Engineering. They generated invoices that falsely reflected debts incurred by the company.

After pleading guilty, Egbert Myburgh (and former managing director of the company, Walter Britz, received suspended 10-year terms so that they could pay back a portion of what was stolen. The third person, Leslie Ashkettle, was convicted of fraud and received a six-year suspended jail term.

Basson faces 27 counts of murder

Stephané Bothma

PRETORIA — SA's germ warfare mastermind Wouter Basson was yesterday served with an indictment containing 27 charges of murder and conspiracy to murder.

It detailed the death by poison of at least 130 people whose bodies were dumped at sea from military aircraft.

Basson, who from 1982 to 1992 ran SA's secret chemical and biological warfare programme, Project Coast, allegedly also stole millions of rands from his military masters while entering covert deals worth R74m to run his project.

Basson, currently chief cardiologist at 1 Military Hospital, appeared briefly in the Pretoria Regional Court where the 274-page indictment was handed to his lawyers by Pretoria's deputy director of public prosecutions, Anton Ackermann.

A tense-looking Basson, currently on bail of R40 000 and under the protection of the National Intelligence Agency, will stand trial in the Pretoria High Court on October 4 on 64 charges. They include 11 of murder, 16 of conspiracy to murder, 24 of fraud and theft, four of drug possession, two of dealing in Mandrax or cocaine, two of defeating the ends of justice, two of attempted murder, one of incitement to murder and one of contravening the Protection of Information Act. The indictment names 34 people — most of them special forces and former Civil Cooperation Bureau members — with whom Basson allegedly conspired to murder, assault, intimidate and commit murder. The list includes generals FW Loots, Kat Liebenberg, AJM Joubert and E Webb.

The prosecution alleges that Basson, while stationed at special forces headquarters between 1981 and 1988, conspired with at least 10 colleagues to murder about 205 Swapo members detained by SA's army in former South West Africa.

They were injected with a substance that made them suffocate.

In 1984, the state claims, Basson also murdered four unknown black men near Warmbaths. Between April 18 and May 8 1983 he allegedly incited the top structure of the defence force and Renamo to murder five men it was claimed were responsible for assassinating Renamo leader Orlando Christina. The state also alleges that in November 1983, Basson and three army colleagues murdered five unknown black men. Of the 229 murders mentioned in the indictment, only four were by means other than poisoning.

Charges of defeating the ends of justice relate to the alleged cover-up of some of the murders.

Basson faces charges of conspiring to murder state "enemies" such as Justice Minister Dullah Omar, the Rev Frank Chikane, Environment and Tourism Minister Pallo Jordan and Deputy Defence Minister Ronnie Kasrils.

The 24 fraud and theft charges in the indictment detail complicated foreign and local deals Basson entered as leader of Project Coast. Because of the sensitivity of Project Coast, the military had to rely heavily on Basson's bona fides, the indictment said. "The accused was fully aware of this fact and abused his position to enrich himself at the cost of the state."

Fraud involving millions of rands was allegedly committed by Basson when the former government decided in 1991 to privatise front companies Delta G and Roodeplaat Research Laboratories.

Deputy national director of public prosecutions Jan D'Olivera said yesterday it was likely that more people would be prosecuted. It could not be proved "that senior politicians knew exactly what was going on at the time, but it is likely that senior defence force staff knew."

Deadly gadgets Page 2

24 law firms in fraud probe

JOVIAL RANTAO
PARLIAMENTARY BUREAU

(2/17) CT 26/3/99

AT least 24 law firms are being investigated for defrauding road accident victims of millions awarded to them by the Road Accident Fund, and a further 66 law firms could be added to the list, it emerged in Parliament yesterday

Police are in the process of finalising charge sheets against three firms in 34 cases.

The Heath Special Investigation Unit has been mandated by President Nelson Mandela to investigate the defrauding of road crash victims since January 1990 and to recover money stolen from the injured, the disabled and the families of those who died

A separate commission is to be instituted to investigate the long-term restructuring of the cash-strapped fund.

In the National Assembly yesterday Transport Minister Mac Maharaj issued a stern warning to members of the legal fraternity who seem to be set for a collision with government. "The time of feigning ignorance about unscrupulous legal practices is over," he said.

Maharaj said the status quo cannot continue to exist as this was a scam that involved lawyers as well as some medical practitioners and assessors in a R500 million a year business bankrolled by taxpayers.

He tabled a list from the fund that showed inactivity by the South African Law Society in dealing with complaints.

● In Gauteng, eight firms, involving 69 claims, were brought to their attention. To date they have taken action against one lawyer.

● In the Western Cape, 12 claimants implicated three firms.

● In the Free State, nine claimants implicated one firm.

● There are a further 369 cases involving 21 law firms being investigated by the fund complaints. The fund claims that at least 66 law firms should be investigated.

Maharaj said since 1988, 84 individual cases have been referred by the fund to the police for criminal investigation. Charge sheets are being drawn up against three firms.

Prosecutors' unions weigh up government's offer on pay

(212) 20 26 12/99
Taryn Lamberti

AN END could be in sight to the pay dispute between prosecutors and the departments of justice, finance and public service if unions accept government's latest offer

Government representatives met the unions earlier this month and offered an average increase of 15%, including the 6% prosecutors received in January, which was not given to other public servants

The unions said that they were considering the offer before meeting government negotiators again next week. The offer contains conditions, including the introduction of performance assessments

The breakdown of the 15% increase includes the 6% rise prosecutors received in January, a 5% increase they will receive on acceptance of the offer and a further 4% they will receive in September if they meet certain targets. All the payments will be backdated to January this year

National Union of Prosecutors of SA (Nupsa) spokesman Vleis van Zyl said although the offer did not differ substantially from previous offers, the union was giving it consideration

He said the "principles and details still needed to be sorted out", and was reluctant to discuss the offer in detail as the negotiations were "at a sensitive stage"

The Society of State Advocates of SA declined to comment on the offer until the negotiations were finalised

Sources said the two mainly white unions were maintaining their position that they wanted parity with magistrates, which would entail further substantial increases

The National Education, Health and Allied Workers' Union and the National Union of Public Service and Allied Workers were closer to accepting the government's offer, sources said

The long-term dispute began in November last year when it was announced prosecutors would no longer receive payment for overtime work.

The overtime cut and promises of increases which did not materialise, prompted some prosecutors to work to rule, which resulted in them preparing cases during court hours and a major backlog of cases. The crisis exacerbated the high staff turnover in the justice department. Many prosecutors and state advocates opted for the better-paid private sector after about two years service

Sources said the public service could not afford to pay prosecutors more than what they had put on the negotiating table. It did not want to increase salaries haphazardly, but rather to give upgrades when justified by job evaluation.

Maharaj lashes out at rotten, rip-off lawyers

BD 26/3/99
Linda Ensor

CAPE TOWN — Transport Minister Mac Maharaj delivered a scathing attack on the legal profession in the National Assembly yesterday, charging it with failing to take action against the widespread fraud perpetrated on accident victims.

He also accused lawyers of conniving in violence against victims who complained about the fraud. Their lives were often threatened and they had to be given protection.

At least 99 legal firms around the country required investigation for their alleged complicity in this fraud, Maharaj said. "In the face of this, the legal fraternity has been remarkably silent", and had failed to act to stop the rot.

Last week, the Heath special investigating unit was instructed to investigate law firms alleged to be defrauding crash victims of rightful payments from the Road Accident Fund. Maharaj said there had been an "ominous silence" from the law fraternity about the investigation.

"Defrauding of road crash victims has been an open secret in legal circles for years. To date the fraternity has refused to acknowledge or do anything to stop it, bar action against a handful of lawyers. The time of feigning ignorance about unscrupulous legal practices is over."

"If the legal profession is to have credibility in this country, it must enter this debate with the clear understanding of the imperative of placing the victim of a road crash at the centre of discussion, to make sure that the victims' interests are paramount and are dealt with first and foremost."

Maharaj said the legal profession had tried to block any change when he had tried to engage it in the restructuring of the cash-strapped fund and to clean up dubious legal practices like touting. Indeed, the profession had put up R250 000

to defeat changes to the system. "The status quo cannot continue to exist as it is a scam that involves lawyers as well as some medical practitioners and assessors in a R500m-a-year business bankrolled by taxpayers."

The Road Accident Fund had sent a host of complaints to the provincial law societies, but little had been done. Eight Gauteng firms allegedly involved in 69 claims were reported last year to the society, but action had so far only been taken against one lawyer.

The Cape law society had been told about three firms involving 12 claimants, and the Free State of one firm involving nine claimants. "There are a further 369 cases from 21 law firms being investigated by the fund following complaints, and the fund is of the view that at least 66 law firms require investigation."

"Since 1998, 84 individual cases have been referred by the fund to the police for criminal investigation, and charge sheets are currently being drawn up against three firms on 34 counts."

A limited departmental study of 143 cases, involving 18 law firms, found that the fund had paid R15,7m in settlements but the 143 victims claimed they received only R7m. This meant that on average 56% of the award was kept by the lawyers. In six cases, lawyers kept 100%, and in 42% they kept more than 65% of the awards.

Maharaj said he had recently met all four provincial presidents of the law societies to determine what was regarded as acceptable practice by the fraternity, but no response had been forthcoming.

He said that he was also in discussion with Justice Minister Dullah Omar on how government could regulate compensation to road crash victims. Maharaj called on law societies to make proposals on what would be a reasonable and fair tariff for attorneys to charge their road accident clients.

Here is the country's most ghastly

By MAX MARX

DR WOUTER Basson is being charged with 64 alleged crimes committed as head of the apartheid government's chemical and biological warfare programme. His alleged crimes include

Conspiracy to murder:

1979/1980 - 200 Swapo members injected with muscle relaxants that paralysed their lungs resulting in suffocation. Their bodies were dumped in the sea.

1982/1983 - Basson is accused of conspiring to murder Roland Hunter, a former MK cadre and the recently appointed financial chief of the Greater Johannesburg Metropolitan Council. At the time Hunter was doing his national service. He was suspected of spying for and passing on information to the ANC. Basson allegedly told Hunter's boss C J Van Niekerk that Hunter could be injected with Mamba snake poison and make it look like he had been bitten by a snake. Their plans were foiled when Hunter was arrested by the security police on December 8, 1983 and sentenced for spying.

1983 - Basson gave defence force members a toxic substance to kill a Swapo member. They put it in a cooldrink and gave it to him. The man later died.

1985 - General A J Liebenberg, the then director general of the Special Forces, decided that an official in the Ovamboland Administration must die. He was to be murdered with a toxic substance that was to be put on the handle of his car door. The toxin, if absorbed by the body, would kill but not show up in forensic tests.

1987 - General Liebenberg ordered the development of an umbrella with micro-balls that would be used to shoot poison.

Basson also formed a front company, System Research Development, to develop specialist weapons that could administer poison. These included the development of umbrellas, walking sticks, rings with hidden compartments for poison, and syringes that were designed to look like screwdrivers.

One such umbrella was to be used to poison deputy Defence Minister Ronnie Kasrils and Environmental Affairs and Tourism Minister Pallo Jordan in London, UK in 1988 or 1989. However, the Portuguese team which was to carry out the operation failed.



LUCKY TO BE ALIVE... Reverend Frank Chikane



Deputy Defence Minister Ronnie Kasrils



Environmental Affairs Minister Pallo Jordan

Justice Omar

The life and time ignominious 'Dr

Heinous list of 64 charges against W

By MAX MARX and Sapa

MORE than 228 people allegedly died at the hands of Dr Wouter Basson, or Dr Death as he is known, while he was the head of the Apartheid government's chemical and biological warfare programme.

He stands accused of conspiring to murder 200 South West African People's Organisation members (Swapo) in the former South West Africa (Namibia) in 1979 and 1980.

He apparently provided Special Investigations Unit member Johan Theron with muscle relaxants that paralysed their lungs and caused suffocation.

Their bodies were allegedly dumped in the sea.

He also stands accused of the attempted murder of the Reverend Frank Chikane in 1989 and conspiring to murder Justice Minister Dullah Omar, Environmental Affairs and Tourism Minister Pallo Jordan and deputy Defence Minister Ronnie Kasrils.

These alleged crimes were among the 64 charges contained in the 274-page charge sheet that

was served on Basson (48) in the Pretoria Regional Court on Wednesday.

The court heard that Basson had no qualms about developing toxic substances capable of killing hundreds of people and that he amassed a personal fortune using state funds.

Outlining its case against Basson, the State said he would face 16 murder and eleven conspiracy to murder charges, two attempted murder charges, assault, defeating the ends of justice, incitement to murder, contravening the Protection of Information Act, six charges relating to the illegal possession and trade in drugs such as Ecstasy, Cocaine, Mandrax and Methaqualone - a constituent of Mandrax, and 24 fraud charges.

Basson was allegedly the driving force behind the development of a large range of toxic substances and various "secret weapons" designed to administer the poisons such as umbrellas, walking sticks, rings and injections disguised as screwdrivers.

Organisations such as the Civil Co-operation Bureau allegedly used these items to "eliminate"

those they had identified as enemies of the state".

These enemies were leaders in the African Congress, the SA C Party, the Pan African Congress and Swapo.

Toxic substances placed in a wide range of items from cooldrinks and beer to olate, vitamin pills, cigarettes, even deodorant.

Chilling plans to poison drivers in the Eastern Cape, poisoned beer, to release germs into the water of a refugee camp in Namibia, poison ANC members in Mozambique were also included in the charge sheet.

An attack was made on Rev Frank Chikane who became ill while on Namibia and America. The clothing on which a substance had been smeared.

According to the State security force members, access to Chikane's bag at then Jan Smuts Airport in Durban International and put the poison on his

The State also might

April 1987 - ANC activist Gibson Mondlane died in a Maputo hospital after being given poison which the special forces allegedly obtained from Basson.

1989 - ANC operative Enoch Dlamini was poisoned. He was given beer contaminated with poison.

September 1989 - Numerous mechanisms to poison Justice Min-

ister Dullah Omar were discussed, from the manufacture of poisonous pills that resembled his heart pills to sprinkling poison over his food.

1989 - Basson allegedly gave members of the Civil Cooperation Bureau Cholera bacteria which was to be put into the water supply of a refugee camp in Namibia.

1992 - Poisoned beer was to be distributed at taxi ranks in the

Eastern Cape and Transkei. Basson allegedly gave a Dr M Odendaal blood from an HIV positive patient to freeze for later use.

Murder:

Early 1980s - A member of the SADF and former Zimbabwean was murdered by giving him contaminated beer. While asleep he was injected with muscle relaxants. Tu-

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ghastly list of apartheid crimes

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Environmental Affairs Minister Wouter Basson.

Justice Minister Dullah Omar.

Archbishop Desmond Tutu.

11 times of SA's is 'Dr Death'

charges against Wouter Basson

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those they had identified as "enemies of the state". These enemies were mainly leaders in the African National Congress, the SA Communist Party, the Pan Africanist Congress and Swapo. Toxic substances were also placed in a wide range of products from cooldrinks and beer, to chocolate, vitamin pills, cigarettes and even deodorant. Chilling plans to kill taxi drivers in the Eastern Cape with poisoned beer, to release cholera germs into the water supply of a refugee camp in Namibia and to poison ANC members in exile in Mozambique were revealed in the charge sheet. An attack was made on the life of Rev Frank Chikane in 1989, who became ill while on visits to Namibia and America after wearing clothes on which a toxic substance had been smeared. According to the charge sheet, security force members gained access to Chikane's baggage at the then Jan Smuts Airport (Johannesburg International Airport) and put the poison on his clothes. The State also highlighted a

long list of fraudulent transactions - involving more than R74 million - linked to Basson between 1988 and 1998. As head of "Project Coast", the name given to the chemical and biological warfare programme, Basson was mandated to buy equipment and services for the research project. The equipment and services were, according to the charge sheet, either never delivered or were bought at a much lower price than the price paid by the South African Defence Force. It is alleged that Basson had business interests in America, Luxembourg, Switzerland, England, Belgium and South Africa. In South Africa, the group of companies in which he had an interest allegedly built a R10 million luxury house in Arcadia, Pretoria, and had various farms and other properties. The South Africa group was used to channel funds to an overseas group of companies, the state said. Basson's trial is due to commence in the Pretoria High Court on October 4.



1984 - Four Swapo members were murdered at Lanseria after being injected with Tuberine and Scoline.
April 1986 - Special forces member Victor M De Fonseca, was given poisoned tea and orange juice which is believed to have killed him. He was suffering from brain cancer and had started speaking out about the special forces clandestine operations.
August 1986 - An unknown black man who had been in detention was injected with chemicals after being put to sleep by means of a contaminated cooldrink. His body was thrown into the sea.
Incitement to murder:
April/May 1987 - Basson allegedly incited the SADF and the command structure of the Directorate of Special Tasks (SDT) to murder five Renamo members, among them Lieutenant Bonaventura Bomba, a former Frelimo pilot who defected to South Africa in the early 1980s.
Obstruction of Justice:
April/May 1983 - The death of Renamo member Orlando Christina was concealed.
1986 - The body of an unknown black man was cremated in a blast furnace at the Special Forces head office near Speskop in the Pretoria district. Basson allegedly said he wanted to test the furnace. The existence of the body was not reported to the authorities.
1987 - A special forces soldier, D Drew of the 5th Parachute Battalion was murdered by being injected with Scoline and Tuberine.

Attempted murder:
April, 1989 - An attack on the life of Rev Frank Chikane who became ill while on visits to Namibia and America after wearing clothes on which a toxic substance had been smeared. According to the charge sheet, security force members gained access to Chikane's baggage at the then Jan Smuts Airport (Johannesburg International Airport) and put the poison on his clothes.
Attempted intimidation:
August 1989 - A monkey foetus was hung on the branch of a tree at the Cape Town residence of Archbishop Desmond Tutu. Those involved allegedly included Ferdie Barnard of the Civic Co operation Bureau and Cape Town gangster "Peaches" Edward Gordon.

Cape and Transkei allegedly gave a Dr M blood from an HIV patient to freeze for later use.
1980s - A member of the former Zimbabwean was sed by giving him contaminated beer. While asleep he was injected with muscle relaxants Tu

berine and Scoline which resulted in his death. His body was taken to Zeerust where his murderers DJ Phaal and T Floyd met with another defence force member, C Pretorius, who had three blacks with him. The two men and woman were also injected with the muscle relaxants and died. Their bodies were loaded onto an aircraft and thrown

into the sea. November, 1983 - Basson ordered that a jelly-like ointment, designed to kill, be tested on five black men in Dukuduku in Kwa-Zulu Natal. The men were tied to a tree and the ointment rubbed on them. The ointment failed to kill them. They were then injected with the muscle relaxants Tuberine and Scoline which killed them.

Indictment sheet traces doctor's 'web of fraud'

State claims millions of rands were channelled into front companies

Stephané Bothma

THE web of companies and bank accounts set up to accommodate money for SA's chemical and biological warfare programme in the 1980s, created the perfect breeding ground for the massive fraud allegedly committed by Wouter Basson

Hundreds of millions of rands provided by the top secret Special Defence Account for the chemical warfare programme were channelled into front companies, foreign holding companies and local and off-shore bank accounts

With literally millions being spent each month by the South African government on a project considered by the United Nations and most foreign countries as illegal and in complete breach of a UN security council resolution, the National Party cabinet and top military generals did not want to know what their germ warfare golden boy was doing

"They did not want to know that Basson was buying substances for the manufacture of Mandrax or Ecstasy or did not understand the significance of the equipment or substances of the goods he 'bought' overseas," a source close to Basson, involved in his investigation since 1993, said. He said the cardiologist and father of the programme known as Project Coast had the complete intellectual upper hand over those who held a superior rank over him

People such as then Finance Minister Barend du Plessis, Defence Minister Magnus Malan, auditor-general Peter Wronsley, his deputy, JE van Heerden, defence chief of staff finances Adm MA Bekker and Surgeon-General Neil Knobel were allegedly fooled by a complicated proposal made to them by Basson in April 1990 about the privatisation of front companies Delta G and Roodeplaat Research Laboratories

Basson's proposals for the privatisation were accepted and the state lost at least R180m, which turned himself and several "shareholders" (mainly government employees involved in Project Coast) of the two front companies, set up and run on state costs, into millionaires

Despite the two front companies being worth at least more than R140m in shares and fixed property,

Basson's proposal resulted in the state paying to the newly registered shareholders an additional amount of about R32m

Apart from the alleged fraud committed locally involving Delta G and Roodeplaat Research Laboratories, Basson completely pulled the wool over the eyes of his military masters while having complete control over Project Coast, later renamed Project Jota, the state, which will prosecute him on 24 charges of fraud in October this year, claims

From 1986 to 1992 Basson allegedly established, without the knowledge of his superiors, at least 13 international front companies or bank accounts and about 15 local companies and accounts through which he laundered South African government money for his own gain.

From the 174-page indictment, dealing only with his alleged fraudulent dealings during the period 1986 to 1992, it appears that Basson falsely represented to the former military authorities that secret funds were being used to obtain research equipment, substances and services for Project Coast. Instead, millions of rands were channelled back to SA into his own secret companies and bank accounts for his own benefit

Deception was easy because, as Basson's indictment states, complete secrecy was required for many years. "The financial control of state funds used in the acquisition process was problematic because of the sensitivity of Project Coast. Therefore Basson's bona fides were heavily relied on as he led the project. Basson was aware of this state of affairs and therefore abused it to enrich himself at the cost of the state," the indictment claims

As early as 1986, Basson obtained a 100% interest in three companies registered in the Cayman Islands — WPW Investments, Medchem and PCM International, the state alleges. From there he gradually proceeded to obtain interests in several other companies, locally and off-shore, being held mainly by the parent company WPW. At all relevant times he was the owner of this group of companies

The group had several bank accounts in the US, England, Switzerland, Belgium, Luxembourg and the

Cayman Islands

Without the knowledge of his masters, the WPW group had assets overseas, bought with South African state funds, ranging from a house in Warfield, England, a flat in Lake Ivanhoe, Florida, US, two flats in Brussels, Belgium, interests in a golf course in Belgium known as the Five Nations County Club, a King Air and Jet Star II aircraft, a majority share in a US company called Tub-Master, a majority share in a UK company called CSD and a majority share in a Swiss company, Medchem-Forschungs

Locally a company called Medchem Sports International, started with funds allegedly fraudulently obtained from the defence force, obtained a R1,37m share in a "corporate lodge" at Fancourt in George

The indictment against Basson details complicated deals in which large sums of money were sent overseas, allegedly for the purchase of highly sensitive "chemical agent monitors." Although only a few of these monitors found their way to SA, money "paid" by Basson for several of these devices made its way back to SA, straight into Basson's personal bank accounts

More than 3-million Belgian francs were also fraudulently paid into foreign bank accounts with Basson claiming that the money had been for travelling to Iran to obtain missile parts and for establishing information channels in that country.

The other charges are that Basson pretended that he had bought chemical and explosive alarm systems from a UK company for R363 811, that he had fraudulently claimed that 3,2million Belgium francs had been paid for research on chemical agent monitors and that he had claimed that he had paid millions of state funds to agents who assisted him in his fraudulent deals

Basson allegedly even used his family to hide his ill-gained riches. On April 25 1991 a trust fund, Aries Trust, was established. The beneficiaries of the fund were his wife, two children and former wife. During September 1993 Basson falsely told the Reserve Bank that the amount of \$250 000 paid into the trust had been the proceeds of the selling of technology, the state alleges

BD 31/3/99

Widening the chasm

THE justice portfolio committee met in Cape Town last week to receive submissions and deliberations on the proposed Open Democracy Act

This Bill was introduced in Parliament by Justice Minister Dullah Omar. The National Institute for Public Interest Law and Research would like to take a closer look at the context of the Bill

The preamble of the Constitution states "We adopt this Constitution as the supreme law of the Republic so as to lay foundations for a new democratic and open society in which government is based on the will of the people and every citizen is equally protected by the law"

This forms the crux of the Open Democracy Bill. It is indeed a commendable piece of legislation and basically provides for

- The right to access by any person to information held by the state, subject to some exceptions,
- The right to privacy in relation to information held by governmental and private bodies,
- The right to information of meetings, held by two or more persons, of important governmental bodies, subject to exceptions, and
- Protection for "whistleblowers" in government who expose corruption and maladministration

To ensure the enforcement of these rights, there is a further provision for information officers to be part of every governmental department, specialised information courts to be part of the Supreme Court and a special Open Democracy Commission to oversee the realisation of the provisions in the Bill

The Bill further embodies the spirit of Section 32 of the Constitution, which provides for the fundamental right of access to information. This section requires national legislation to be drawn up to give effect to this right

Open democracy is the key to good governance, for open democracy to exist, the citizens of a country need to be equal and free

However, much as the Bill is a laudable piece of legislation, it fails to effectively address the issues of equality and freedom

The apartheid legacy in South Africa produced an invariably imbalanced society in terms of accessibility to material and services. A majority of the formerly disadvantaged communities still live in abject poverty as the gap between the very poor and the very rich widens

This inequality in South Africa's populace has adverse effects on the Bill. The aim of this Bill is to make information easily accessible to the public

However, this begs the question: How accessible is this accessibility? What percentage of the populace will be able to have access to this information?

Rather than help the poor, the proposed Open Democracy Act could benefit only the upper classes.

Lawrence Muzame, Richard Moloko and Sobantu Mulonzi reveal its possible flaws.



Justice Minister Dullah Omar introduced the Open Democracy Bill in Parliament last week.

Inadvertently, this Bill will only benefit the upper classes. This is because it is this class that already has the means and resources to control and receive the information that will be made accessible by the Bill

These resources do not only include economic resources in terms of finance and jobs, but also extend to socio-economic resources, including the ability to read and write

A vast majority of the previously disadvantaged communities are illiterate and live in areas which are inaccessible by road or telecommunication. Of what importance will this Bill be to them?

Inadvertently what the Bill will achieve is widening the gap between the socially uplifted and the socially disadvantaged communities

The socially advantaged, who have easy access to the information, will be able to utilise information made privy to them by the Bill and use it to enhance themselves further in society, whilst the socially disadvantaged are left to lag

behind

At the end of the day, the Bill is a helium-filled balloon, which creates liberal legislation but undermines the efforts of the struggle to achieve equality and freedom

In its section on "Interpretation of Bill of Rights", the Constitution says that they must be interpreted to "promote the values that underlie an open and democratic society based on human dignity, equality and freedom"

This sequence was made deliberately by the framers of the Constitution. Hence freedom should not be emphasised over equality. This is one of the shortcomings of the Bill

Much as it attempts to promote the spirit of the Constitution, it gets caught up in its emphasis on freedom as opposed to equality. These two rights need to be balanced

The Bill is an important milestone towards the attainment of a liberal democracy. However, this liberal democracy will only be employed by those with the resources to do so

The underlying question is: How does the Government hope to achieve access to information when there is no equal access to the very information being disseminated?

The achievement of democracy, as history may tell, is very complex. More complex are the issues of good governance and policy implementation

South Africa has one of the most remarkable policy frameworks, however, it tends to lose focus and priority. The consequences undermine the good principles of these policies and lead to the establishment of the hegemony of liberals

The Government must go back to the drawing board and ask itself what its core areas of focus will be. Should it be on the liberals, or should it strive to strike a balance between the economically stable, while uplifting the status of those whose status has not been uplifted?

Taking the current path, the Bill will only exacerbate the unfair balance in access of information

Nevertheless, despite the reservations raised in this article, it should not be lost that the Bill makes an important contribution to the attainment of an open democracy

(Mr Muzame, Advocate Moloko and Advocate Mulonzi wrote this article on behalf of the Pretoria-based National Institute for Public Interest Law and Research)