

# Room No. 619

Steve Biko became the 46th person known to have died in security police detention in South Africa.

## Why was he detained?

Lieutenant Alfred Oosthuizen of the Grahamstown Police who ordered Biko's detention claimed that on 18 August 1977 he received information that inflammatory pamphlets were being distributed inciting Blacks to riot. He further claimed that he had learnt that Biko was on his way between King William's Town and Cape Town and had reason to suspect that Biko was involved in such distribution. At 8 pm, therefore, he put up a roadblock and at about 10.20 pm Steve Biko and Peter Cyril Jones were arrested and taken to prison in Port Elizabeth.

## 18 August — 6 September

For the next twenty days Biko was held in a cell at Walmer Police Station (Port Elizabeth) incommunicado and in solitary confinement, naked, without books or materials of any kind. He was not allowed the fundamental privileges accorded to detainees i.e. the right to wash and to exercise for an hour a day. At night he was handcuffed and his feet were shackled by leg irons which were in turn locked onto the walls.

On 2 September Biko asked for water and soap to wash himself, and a washcloth and comb. He said to the visiting magistrate: "I want to be allowed to buy food. I live on bread only here. Is it compulsory that I have to be naked? I have been naked since I came here." Nothing was done to ameliorate his condition in any way.

Under cross-examination at the inquest, Colonel Goosen enlarged on the care taken to see that detainees were not injured and made the following Freudian slip: "We have no reason to assault a detainee. No assault charges have been brought against my assaulting team." Laughter followed and he changed the phrase to 'the interrogation team.'

On 6 September Biko was taken to Room 619 in Sanlam Building in Port Elizabeth. According to the security police, the interrogation began at 10.30 am and lasted till 6 pm. Major Harold Snyman testified that Biko first adopted an aggressive attitude but admitted by 6 pm that he and Patrick Titi, another detainee, were

**The information about Biko's death in this article is culled from that gigantic conspiracy to defeat the ends of justice known as the Biko inquest. Included is a piece entitled "On Death" which was an interview given by Steve a few months before his final detention. The gaping holes in the official version of Steve's death are ample testimony that Steve was brutally murdered.**

responsible for compiling the inflammatory pamphlets. Biko had to sleep in Sanlam Building that night, because the security police were afraid that he would communicate with Black cleaners or warders. Biko was "guarded" by a night squad of three led by Lieutenant Wilken although Snyman accepted that they were 'night interrogators' during cross-examination.

## 7 September

Wilken admitted that he saw "a darkening of the skin similar to a birthmark, dark brown, above (Biko's) left eye" but he "placed no value on it." Medical evidence suggested that Biko suffered head injuries either during the night of 6 September or before 7.30 am on 7 September.



(from left to right): Goosen, Siebert, Snyman, and Wilken

At 7 am on 7 September the day interrogation team came on duty: it consisted of Major Snyman, Captain Siebert, Warrant Officer Beneke, Detective Sergeant Nieuwoudt and Warrant Officer Marx.

Biko's leg-irons and handcuffs were removed, said Snyman, and he was offered a chair to sit on: he got a wild expression in his eyes suddenly, and jumped off the chair and threw the chair at Snyman. Biko then lashed at Beneke and pinned him against a steel cabinet. It took the entire team to overpower Biko and

put handcuffs and leg irons on him. Biko continued to struggle against his confinement.

Snyman gave the reason for Biko's behaviour as the "revelations" he made to Biko. When asked to produce these sworn statements, Snyman produced statements ranging from 15 to 30 September. Counsel for the Biko family, Sydney Kentridge, remarked: "These could not have been put to him during his lifetime. What we have got here is a smear prepared after Biko's death and I think it is a disgrace."

According to Siebert and Marx, Biko repeated the words "You are intimidating me, you are harassing me" during the interrogation and during the struggle.

About 7.30 am Snyman reported to Goosen that Biko had become very aggressive. Goosen immediately went to Room 619. Biko was sitting on the mat handcuffed and with leg-irons shackled to an iron bar grille. Goosen immediately tried to telephone the District Surgeon, Dr Ivor Lang.

In one affidavit, Lang fixed the time of the examination as 12 noon and in another affidavit, he claimed that it was at 9.20 am. Colonel Goosen had expressed concern that Biko might have suffered a stroke since he was not eating 'nor was he able to speak and was not using his limbs'. Lang found that Biko had a small laceration on his lip, two swollen hands, a bruise near his second rib, swollen feet and ankles and that Biko's speech was "thick". Colonel Goosen informed Lang that Biko had studied medicine for four years. Lang did not ask Biko how he got the cut on his lip and the bruises on his chest because Goosen had told him that "Biko had gone into a rage and had attempted to assault an officer with a chair and had to be restrained." Lang did not think of ordering that the leg irons be removed. Lang was of the opinion that Biko was shamming, an impression derived entirely from Goosen. Although he examined Biko's head very carefully he failed to see the injury, an injury which was clearly visible on photographs taken after Biko's death.



Lang signed the following statement:

"This is to certify that I have examined Steve Biko as a result of a request from Colonel Goosen of the Security Police who complained that the abovementioned would not speak.

"I have found no evidence of any abnormality or pathology on detainee."

Goosen said that he requested a certificate because he knew that "there would be tremendous propaganda if anything would happen to" Biko. Goosen said that he thought of it "as a possibility" that Biko might have bumped his head during the struggle.

### 8 September

Snyman made the following entry in the Occurrence Book: "The detainee was very aggressive, then became beserk, threw a chair at me, and rushed with clenched fists at other members of the staff. After a tremendous struggle he fell with his head against a wall and sustained an injury to his body." This was irregular because standing orders provide that entries in the Occurrence Book about prisoners who are kept under restraint should be made immediately. Snyman's reason for the late entry was that he felt that Biko was shamming. Goosen felt that the Security Police use standing orders only "as guidelines", Biko's condition must have caused some anxiety because Goosen ordered Dr Lang to conduct another examination. Lang was accompanied by the Chief District Surgeon, Dr Benjamin Tucker. Goosen said: "I told Dr Tucker and Dr Lang of my suspicions because Biko had not taken food or liquid. We had here a man who would not eat, react or talk and who used no toilet facilities. I still thought he was shamming."

The doctors found Biko still manacled and they were told by Goosen that Biko had not passed urine for 24 hours. They found on examination that Biko's blankets were wet with urine and that they were smelling. They did not ask Biko why he wet his bed.

Biko, according to Lang's evidence, complained of vague pains in his head and back. Tucker said he found a doubtful 'possible extensor plantar reflex': this meant that when he stroked the side of Biko's foot, instead of his toes curling inwards, there was a sign that his big toe might be turning upwards.

Tucker's affidavit stated that there were abrasions around both wrists. He did not think it necessary to note any possible reasons for these

# ON DEATH

You are either alive and proud or you are dead, and when you are dead, you can't care anyway. And your method of death can itself be a politicizing thing. So you die in the riots. For a hell of a lot of them, in fact, there's really nothing to lose — almost literally, given the kind of situations that they come from. So if you can overcome the personal fear for death, which is a highly irrational thing, you know, then you're on the way.

And in interrogation the same sort of thing applies. I was talking to this policeman, and I told him, "If you want us to make any progress, the best thing is for us to talk. Don't try any form of rough stuff, because it just won't work." And this is absolutely true also. For I just couldn't see what they could do to me which would make me all of a sudden soften to them. If they talk to me, well I'm bound to be affected by them as human beings. But the moment they adopt rough stuff, they are imprinting in my mind that they are police. And I only understand one form of dealing with police, and that's to be as unhelpful as possible. So I button up. And I told them this: "It's up to you."

We had a boxing match the first day I was arrested. Some guy tried to clout me with a club. I went into him like a bull. I think he was under instructions to take it so far and no further, and using open hands so that he doesn't leave any marks on the face. And of course he said exactly what you were saying just now: "I will kill you." He meant to intimidate. And my answer was: "How long is it going to take you?" Now of course they were observing my reaction. And they could see that I was completely unbothered. If they beat me up, it's to my advantage. I can use it.

They just killed somebody in jail — a friend of mine — about ten days before I was arrested. Now it would have been bloody useful evidence for them to assault me. At least it would indicate what kind of possibilities were there, leading to this guy's death. So, I wanted them to go ahead and do what they could do, so that I could use it. I wasn't really afraid that their violence might lead me to make revelations I didn't want to make, because I had nothing to reveal on this particular issue. I was operating from a very good position, and they were in a very weak position. My attitude is, I'm not going to allow them to carry out their programme faithfully. If they want to beat me five times, they can only do so on condition that I allow them to beat me five times. If I react sharply, equally and oppositely, to the first clap, they are not going to be able to systematically count the next four claps, you see. It's a fight. So if they had meant to give me so much of a beating, and not more, my idea is to make them go beyond what they wanted to give me and to give back as much as I can give so that it becomes an uncontrollable thing.

You see the one problem this guy had with me: he couldn't really fight with me because it meant he must hit back, like a man. But he was given instructions, you see, on how to hit, and now these instructions were no longer applying because it was a fight. So he had to withdraw and get more instructions. So I said to them, "Listen, if you guys want to do this your way, you have got to handcuff me and bind my feet together, so that I can't respond. And I'm afraid you may have to kill me in the process even if it's not your intention".



*Biko in his coffin*



abrasions. He also thought that the lip injury was evidence of a head injury but asked no questions relating to this.

Tucker recommended that Biko be taken to hospital in order that a specialist could examine him. He was convinced that he did not have a sick man on his hands, but simply wanted another opinion. A hospital and a specialist were needed to make them "feel happier".

During the afternoon, Dr Hersch, consultant physician at Sydenham Hospital was contacted and agreed to examine Biko together with Dr Lang. The transfer took place after dark. Goosen gave instructions that only white members of the police force should guard Biko.

Hersch got the impression from Goosen that Biko was feigning and that Biko was dangerous. He claimed that he never noticed the bruise on Biko's head or the scab that was apparent in the post-mortem photograph, "but in retrospect I have quite a clear picture of him standing with a whitish area over his left eye that I thought was dry saliva or sputum."

Hersch examined Biko about 9.45 pm. It was agreed that a lumbar puncture be performed the next morning to exclude the possibility of cerebral haemorrhage or other cerebral disease.

### **9 September**

At 3 am, Biko was found sitting in a bath of water with his clothes on. A few hours later he was again found in the bath, but this time the bath was empty.

A lumbar puncture was performed by Hersch in the morning. About 9.45 am Lang visited Biko. Warder Shehab reported to him that Biko had eaten half a plate of food and that all his clothes were soaking wet during the early hours of the morning.

Hersch informed Lang that the cerebro-spinal fluid, although not under pressure, was bloodstained. Biko remained at Sydenham hospital during the night. There is no evidence of his condition.

On the form sent with Biko's spinal fluid to the Institute for Medical Research for testing the name of the patient was made out as "Stephen Njelo". Hersch claimed that an orderly at the hospital must have filled in this name, despite the fact that it is clearly the doctor's duty to label the specimen bottle.

### **10 September**

Hersch and Lang agreed that a neuro-surgeon should be consulted and if necessary an X-ray of the skull be obtained. Mr R Keeley, a neuro-surgeon was of the opinion that there was no evidence of cerebral haemorrhage or any other brain damage and that an X-ray was unnecessary. He agreed that Biko should be returned to the custody of the security police provided that he was examined daily by a doctor.

Lang visited Biko at 3.30 pm and found him "comfortable" with "no complaints". He received a report that Biko had "flung a plate of food off the bed onto the floor" with his hands at midday.

A bed letter by Lang and Hersch said that there was no pathology, that the lumbar puncture was normal and that there was no sign of brain injury (they did not consider the upgoing toe serious).

### **11 September**

On the morning of the 11th, Biko was taken back to a mat at the Walmer Police Station. There he was in the charge of Sergeant van Vuuren. He found Biko on the cement floor with his head toward the cell bars and his feet near the mats. There was froth on Biko's mouth and his eyes were glazed. He tried to give Biko water but there was no reaction. He took hold of Biko from behind, dragged him onto the mats, covered him with blankets and called the security police. He saw no injuries on Biko. At 6.20 pm he booked Biko out of the Walmer Police Station.

Goosen visited Biko at Walmer at 2 pm. He noticed that Biko's breathing was irregular and that there was foam on his lips. He telephoned Tucker. At 3.20 Tucker examined Biko. He found Biko in an apathetic condition. The head injury, now between 4 and 8 days old, was still not visible to Tucker, even though he examined Biko's left eye with a torch. Tucker's examination took 5 minutes: it ignored the level of consciousness, the plantar reflex and the slight weakness of the left limb.

Tucker felt that Biko should be transferred to a prison with all possible facilities. Goosen phoned Brigadier Zietsman of the Security Police headquarters in Pretoria. He received orders to transfer Biko to the Central Prison in Pretoria. If no military plane was available, road transport was to be used if Tucker had no objections. Tucker had no objections as long as Biko was provided with a mattress or something soft to lie on.

Goosen did not want to transfer him to a Port Elizabeth hospital because "I still thought he was feigning. I thought it was possible that he could be assisted to escape and leave the country."

Biko was transferred in a landrover with the seats removed. The only facility given to him was a container of water. Tucker agreed to this arrangement because he did "not consider Biko's condition to be so serious". He also did not know "that in this particular situation one could override the decisions made by a responsible police officer." Neither did Dr Lang, who also approved of the 700 kilometre ride. Both Hersch and Lang admitted that the interest of their patient was subordinated to the interests of security.

The men who accompanied Biko were Siebert, Wilken and Nieuwoudt. Biko was naked to place a damper on any escape attempt. They left Port Elizabeth at 6.30 pm. Siebert claimed that when lights were shone onto the vehicle he saw that Biko was awake. When they approached the vehicle to unload Biko he started breathing deeply.

### **12 September**

A Sergeant Pretorius, a medical orderly at Pretoria, said that Biko looked seriously ill and he feared for his life. The security police informed him that Biko studied medicine for four years, that he practised yoga and that he could mislead people.

According to Wilken, Biko was normal upon arrival in Pretoria. Biko refused food and water and did not relieve himself during the entire 14 hour journey.

Dr Andries van Zyl examined Biko at 3 pm on 12 September. He saw that Biko had refused to "partake of anything" for a week and that doctors could find "no fault" with him. He diagnosed general weakness and dehydration as a result of his having had "no food or liquid" for 7 days. He prescribed a drip, and gave Biko a vitamin injection. Biko lay on a mat on the floor and not on a bed when van Zyl examined him.

### **13 September**

Jimmy Kruger, the Minister of Justice, issued the following statement: "Since 5 September Mr Biko refused his meals and threatened to go on a hunger strike . . ."

### **14 September**

Kruger addressed a Nationalist Party Congress as follows:

"I am not glad and I am not sorry about Mr Biko. It leaves me cold. I can say nothing to you. Any person who dies . . . I shall also be sorry if I die." (Laughter).



"But now, there are a lot of scandal stories and all sorts of positions are now taken against the South African Police. And even if I am their Minister, Mr Chairman, if they had done something wrong I shall be the first man to take them before the courts. They know it."

"And indeed he began to push his food and water away — that were continually given to him so that he would freely eat or drink. It is very true what Mr Venter (a congress delegate) said about prisoners in South Africa having the 'democratic right' to starve themselves to death. It is a democratic land."

"Incidentally, I can just tell congress, the day before yesterday one of my own lieutenants in the prison service also committed suicide and we have not yet accused a single prisoner." (Laughter)

### 16 September

Goosen sent a telex message to Security Police Headquarters in Pretoria. In evidence he denied the existence of the message but it was revealed by Zietsman. The telex stated that Biko was in a semi-coma and the telex refers to injuries which were "inflicted" on 7 September.

### The magistrate's finding

Mr Marthinus Prins found: "The cause or likely cause of Mr Biko's death was a head injury, followed by extensive brain injury and other complications causing a renal failure.

"The head injury was probably sustained on the morning of 7 September during the scuffle with Security Police in Port Elizabeth. The available evidence does not prove that death was brought about by an act or omission involving an offence by any person."

Pretoria's Chief Magistrate closed the fourteen day inquest in 80 seconds.

### Medical Ethics

The profession of medicine is based fundamentally on the premise: do not harm. Participation in official torture is not expected from members of the medical profession. The South African Medical and Dental Council (SAMDC) and the Medical Association of South Africa have failed to deal with Lang, Hersch and Tucker in any way and have both found that there is no evidence of improper or disgraceful conduct on the part of the doctors.

The Declaration of Tokyo is a guideline for doctors attending to prisoners or detainees. It says, *inter alia*, that:

- A. The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offences of which the victim of such procedures is suspected, accused or guilty and whatever the victim's belief or motives . . .
- B. A doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor's fundamental role is to alleviate distress of his or her fellowman and no motive whether personal, collective or political shall prevail against this higher purpose.

The Declaration of Geneva was adopted by the World Medical Association in September 1948 and it states:

- A. The health of my patients will be my first consideration.
- B. I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patients.
- C. I will maintain the utmost respect for human life from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity.

The Hippocratic Oath includes the following: "Into whatsoever houses I shall enter, I will go for the benefit of the sick, abstaining from all voluntary wrong and corruption."

### And the law

Sir David Napley of the British Law Society was invited as an independent observer to the inquest by the Association of Law Societies of South Africa: his observation was that it was the clear duty of the Deputy Attorney-General to present to, and test, on behalf of the magistrate, all the relevant available evidence. Napley went on: ". . . I came away with the clear impression that, on such occasions as he intervened, his questions were directed to preserve the position previously taken up. To this end on occasions he intervened to support the police and doctors although they were already represented by other Counsel." Of course, the very Deputy Attorney-General decided that no criminal proceedings would be taken against the police.

Napley continued: "If, even at this stage, proper and vigorous police enquiries are pursued, in the knowledge and to the end that those who frustrated justice in this case performed no service to their country or to the establishment of better international relations" then "the sense of outrage which appears to have been generated by this enquiry can still perhaps be assuaged."

In the hearing in an American Court of Appeal relating to the torture and death of Joelito Filartigas by the Inspector General of Police of Asuncion, Paraguay, an American High Court Judge ruled that official torture by a national police agency of its own citizens is a violation of international law. The torturer, like the pirate and the slave holder, is '**hostis humani generis**' — an enemy of all mankind.

 ONE PEOPLE ONE AZANIA

