

PUBLIC SECTOR - CONT. - JUSTICE

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JANUARY — MARCH

# Killers could walk free in special deal for Mandela backs

(252) ST 5/1/99

By CRAIG DOONAN

## 'lasting peace' amnesty

PRESIDENT Nelson Mandela has given his tentative backing to a special amnesty deal for Kwazulu Natal to help secure lasting peace in the province.

Senior ANC sources said Mandela had approved the proposal at a breakfast meeting with ANC leaders from Kwazulu Natal at his holiday home in Qunu in the Transkei last Saturday.

The delegation was led by the ANC's national chairman, Jacob Zuma, and included the deputy provincial chairman, S'bu Ndebele, the provincial secretary, Siphso Gcabashe, his deputy, Bheki Cele, and the provincial treasurer, Zweli Mkhize.

Zuma confirmed the meeting yesterday. He said "I believe the kind of package we have in mind has the elements to bring about lasting peace in the province."

Asked how the President had reacted to the proposal, he said Mandela was "a man of peace. I am sure he will support any peace efforts."

The Sunday Times reported last month that ANC leaders in Kwazulu Natal were pushing for a special amnesty for those involved in political violence in the province in an attempt to "wipe the slate clean" between the ANC and the IFP and end the 13-year war which has claimed the lives of 14 000 people.

Mandela was briefed in Qunu on the "peace package" agreed to at the ANC's Kwazulu Natal congress in December.

Although details of the special amnesty deal have yet to be worked out, ANC members said they wanted the cut-off date extended from May 10 1994 to cover acts of political violence that took place in the province after South Africa's first democratic elections.

Zuma said "I went to consult the President with some of my colleagues. What we discussed is internal to the ANC."

"We discussed broadly the peace process in the province and our resolution at the conference. How far we went is, at the moment, internal."

A member of the delegation told the Sunday Times that Mandela had been "positive, more positive than we thought", about the plan.

And a source close to the President said that Mandela "listens very carefully to Zuma. Zuma has a very reputable record for dealing with the situation in Kwazulu Natal, so his suggestions for peace would influence the President."

Zuma said the ANC's national executive committee fully supported the peace initiative in Kwazulu Natal, and was aware of the resolution by the provincial structures on a peace package.

The proposal had not yet been formally discussed with the IFP leadership, although there had been "some contact" over the holiday period, he said.

"I am sure there will be further contact and, although we have not discussed details of our peace package, they (the IFP) are generally aware of what we are thinking," he said.

The Rev Celam Mtetwa, a senior IFP official who, with Zuma, has been spearheading the peace process in Kwazulu Natal, was seen deep in conversation with the ANC chairman at a traditional Zulu ceremony in Nongoma yesterday.

Mtetwa said no formal discussions on the amnesty deal had taken place between the two sides.

"It is too early to predict what will happen and only once we start discussions will we be able to say what the outcome will be."

"But the peace process is going ahead, except for problems here and there," Mtetwa said, in reference to the spate of killings in parts of Kwazulu Natal over the past week.

"I do not think our peace initiative will be stopped by that."

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**CORRECTING IMBALANCES**

*fm 7/2/97*  
 The arrest of former SA Defence Force Brigadier Wouter Basson has raised the prospect of correcting an imbalance in applications for amnesty to the Truth & Reconciliation Commission. They are hopelessly skewed. TRC investigative chief Dumisa Ntsebeza says at least 135 come from former policemen, but virtually none from the Defence Force (or the former underground armies of the ANC and PAC).

Basson, who was arrested on allegations of drug dealing, is alleged to have masterminded the SADF's chemical and biological warfare programme. He has been subpoenaed to appear before the TRC to answer questions about his role in Seventh Medical Battalion.

Basson, a heart surgeon by training, is named in the 1992 report submitted to former President F W de Klerk by Pierre Steyn, then Chief of Staff of the SADF. An extract of the once secret report reads

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" a CBW (chemical and biological weapons) programme is operating under Brig/Dr Basson "

The questioning of Basson by TRC investigators will intensify pressure on him to seek amnesty and detail his suspected involvement in chemical and biological warfare — assuming there is substance to Steyn's allegations against him. Basson's arrest marks a critical juncture in the TRC's quest to fill "glaring gaps" in its information about atrocities committed by former security force personnel.

TRC deputy chairman Alex Boraine, referring to amnesty applications in which eight former security policemen acknowledge culpability for a series of crimes, including the murder of nine United Democratic Front activists between April 1982 and June 1985, has spoken of "yawning gaps" in the information provided, particularly on the role of the military in those killings.

As Boraine has noted, the eight policemen will have to provide "full disclosure" of the events leading to the crimes if their applications are to succeed. It will have to include information on the role of their military colleagues in these killings.

The centrality of the military in the clandestine war against anti-apartheid activists is foreshadowed in the 1990 Harms Report. Whatever its shortcomings, this report is scathing about the Civil Co-operation Bureau (CCB), a secret military unit created to harass and even assassinate "enemies of the State."

The report says the unit "contaminated the whole security arm of the State."

Two more findings focused on covert and murderous military actions, both referred to in the 1994 judicial inquest into the murder of UDF leader Matthew Goniwe and his three confrères. A military signal message from the SADF's Eastern Cape Command called for the "permanent removal" from society of Goniwe weeks before his murder, and Goniwe and his comrades were murdered by the "security forces," which embraces the military and police.

Why, then, have former soldiers, especially those who served in special and clandestine units, not sought amnesty for their part in political crimes?

One reason is that no high-ranking military commander has applied for amnesty or encouraged his men to do so. In contrast, former police commissioner Johan van der Merwe gave evidence to the TRC last October in support of amnesty applications by five policemen.

The implied message to their men from former military commanders, from General Magnus Malan down, is to sit tight and take their chances on prosecution which might never materialise or might result in acquittal (as in the Malan trial).

Another reason may be that policemen are more likely to be prosecuted for political crimes than soldiers, and therefore feel greater compulsion to protect themselves by applying for amnesty.

Gauteng Attorney-General Jan d'Oliveira — who has been investigating suspected "Third Force" crimes for more than two years and whose team helped secure the conviction of police assassin Eugene de Kock — declines to comment, except to remark enigmatically "It is a common-sense inference that investigations have focused on the police. The same has not happened with the SADF."

Ntsebeza, recognising the imbalance, has pledged to put pressure on the ANC and PAC, as well as members of the SADF, in the hope that it will "lead to an extension in the scope of amnesty applications we receive." Patrick Laurence

# TRC to resist 'special amnesty'

(252) MHG 10-16/1/97

The proposed special deal for KwaZulu-Natal is a serious threat to the rule of law, says deputy chair Alex Boraine  
**Ann Eveleth reports**

**K**WAZULU-NATAL'S "special amnesty" proposal would undermine the Truth and Reconciliation Commission's current amnesty process, promote a culture of impunity and pose a serious threat to the rule of law, the commission's deputy chair, Alex Boraine, said this week.

Under the proposal, Kwazulu-Natal's warlords, foot soldiers and "third force" operatives would not be required to disclose past crimes but would only have to turn in their weapons, reveal and dismantle their hit squads and participate in the peace process.

Speaking in his personal capacity as the proposal mooted by African National Congress chair Jacob Zuma last month had not yet been discussed with the commission, Boraine said he told President Nelson Mandela prior to the recent amnesty cut-off extension that "we as the commission would fiercely resist any further extension because it would promote impunity and undermine the rule of law".

He added "I also think this kind of discussion undermines the work of the amnesty committee".

ANC insiders, however, confirmed Mandela had given his tentative support to Zuma's "peace package" aimed at ending the province's 14-year civil war at a holiday meeting with the party's provincial leadership at his Qunu home.

Zuma announced plans to push for a further extension of the amnesty cut-off date last month, just

after Mandela approved the latest extension. The party's provincial deputy chair, S'bu Ndebele, said the proposal would form part of a broader "peace package" notionally approved by the party's November provincial conference. "The delegates mandated the leadership to work out the details," he said.

Ndebele said the package would aim to "lock" all provincial role-players into the peace process initiated in the run-up to the province's June 1996 local government elections.

This would include political parties, traditional leaders and "people whose leadership has depended on violence. It is in the context of asking what to do with the warlords that the question of a special amnesty has arisen. We have to make peace compulsory and irreversible".

Ndebele said the proposal would see the disclosure function of the truth body's amnesty process "altered slightly to mean disclosure of military structures, the handing over of weapons and a commitment to peace".

This commitment would be monitored and further violence would face "the rule of law with the appointment of a super attorney-general".

KwaZulu-Natal truth commissioner Richard Lyster said such a proposal would send "a completely wrong message about what happens when you kill people. It sends a fundamentally bad message about the notion of justice in this province when you have police, magistrates

and judges who are pushed aside, and politicians essentially decide whom to prosecute and whom to give amnesty to".

While Zuma's proposal is understood to have gained the support of most provincial ANC leaders who have come to believe the province can "no longer afford to worry about the past", other sectors say they will oppose anything resembling a general amnesty.

ANC national MP and South African Communist Party deputy chairman Blade Nzimande said he would strongly oppose the measure being imposed in areas like the war-torn KwaZulu-Natal Midlands region.

"People who have suffered and who have lost children, wives and husbands to the violence would not be happy to be the only people in the country who don't know who their murderers are. The widow of [slain Midlands leader] Reggie Hadebe and others in the Midlands would not rest until the truth is known," he said.

The Congress of South African Trade

Unions's KwaZulu-Natal chair, John Zikhali, said Cosatu was prepared to accept some special arrangements to promote the peace process, but he added "We are not going to support it at all costs. Our understanding is we are talking about extending the amnesty deadline for the province and perhaps widening the amnesty conditions to reassure the warlords that the truth will set them free, but this must still entail full public dis-

closure of their crimes".

There are also signs the proposal will face opposition from the ANC's grassroots structures with some members expressing concern this week that Zuma might hope to pre-empt them with a *fait accompli* as Mandela had done in 1990.

"It is being discussed internally, yet no one is saying openly they are talking about a blanket amnesty. The leadership says they have not discussed it with the Inkatha Freedom Party yet, but IFP public works MEC Celani Mtetwa is always close to Zuma. It was he and Zuma who were talking about a merger last year," said an ANC activist.

Gauteng Attorney General Jan d'Oliveira told the *Mail & Guardian* this week the amnesty proposal would require "a lot of careful thinking. It can't be confined to the ANC and IFP, it would have to apply evenly. Obviously the truth commission already interferes with our work, so any extension would have far-reaching implications".

Network of Independent Monitors director Jenni Irish said the proposal was rooted in "a false sense of success for the current peace process. Violence is continuing, and now they seem to want to rescue it with a special amnesty that is extremely short-sighted. When does it end? Do we now include the Worcester bombing? It misses the key question of whether it will really end violence which revolves around issues of power".

● IFP leader Mangosuthu Buthelezi rejected the terms of the ANC proposal this week. "How can we talk of amnesty while the war is going on full swing. We cannot accept that those who blindly killed or orchestrated the violence from high-ranking political positions may elude their responsibilities".



Jacob Zuma 'Peace package'

Ruckus over media probe, PAGE B5

## Death penalty protests planned

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Durban — The Natal Agricultural Union (NAU) is planning a series of demonstrations next month in support of the reinstatement of the death penalty following a spate of killings and attacks on white farmers and their property.

The areas worst affected are the KwaZulu Natal Midlands and the northern areas of Vryheid-Paulpietersburg.

Vryheid-based IFP MP Henry Combrink has called on the Government to bring back the noose to end the senseless killing.

NAU president Graham McIntosh said: "We believe the death penalty can be a deterrent. In February we are organising a public demonstration to call for the reinstatement of the death penalty."

— Own Correspondent

Mar 13 1997

# 'Readable, accessible' TRC report on cards

By **DAISY JONES**

If the flood of statements, testimonies, submissions and confessions to the Truth and Reconciliation Commission has left you baffled and despairing of ever piecing together all the disparate elements of the apartheid era puzzle, here is a spot of good news the commission is going to do it for you

The TRC's research unit has been collating information received by the commission into a report that will be "readable, popular, accessible" and will reach "as broad a section of the population as possible", says Professor Charles Villa Vicencio, the unit's leader

Villa Vicencio says the full report could be "very extensive", running to two or three volumes detailing the history and context of violations, as well as giving a synopsis of all the evidence heard by the commission.

If "very extensive" seems to be at odds with "readable, popular and accessible", there is a possibility the TRC will make it even easier for readers to brush up on their knowledge of recent South African history.

The research unit may produce a authorised summary of the official report

But first the unit must fulfil its task, in terms of the Promotion of National Unity and Reconciliation Act, of compiling "as complete a picture as possible" of gross human rights violations between 1960 and 1994

Villa Vicencio says the report will be written as a history book, in a narrative style, and will constitute "undoubtedly the most extensive field survey on gross human rights violations, ever in this country"

The unit will have to "digest, analyse and reproduce" the "overwhelming" amount of information it has received and is yet to receive, including evidence brought before the commission, and the research findings of 15 full-time truth commission researchers, academics, journalists and others who were facilitating research on a contract basis

But although the members of the team behind the official report are highly qualified and well-educated people who will have to cross-check evidence and interpret it critically, Villa Vicencio says their concern to ensure the acces-

sibility of the document will rule out a style of history writing that would be "academic in the pedantic sense"

The format of the document had not yet been finalised, but will probably include photographs, maps and graphs

"Our credibility will stand or fall on whether we applied a thorough methodology," says Villa Vicencio, referring to the difficulties of balancing the document's need to contain factual information, and the perceptions, motives and views of victims and perpetrators, against the unit's policy decision to present the report in a simple and understandable manner

He says the nature of history is such that no-one could compile a "master narrative"

Unwilling to label the report the "quintessential" record of human rights violations between 1960 and 1994, Villa Vicencio says "I would hope the report will make a significant contribution to the ongoing debate about South African history during the apartheid era"

The full report will be handed to President Nelson Mandela once the commission has fulfilled its mandate

(252) STAN 14/1/97

# Big business will be asked to set aside jobs for witness protection

Stephane Bothma

PRETORIA — Big business will be asked to allocate a percentage of its vacant jobs to accommodate state witnesses each year as part of an integrated and effective witness protection programme.

At the same time, the office of the Transvaal attorney-general will also seek an agreement with organised labour that state witnesses — many of them former members of the security forces — involved in so-called third force

activities and high-level government corruption — be accepted as employees at private companies without their appointments sparking labour unrest.

“Only a comprehensive protection programme, which includes the rehabilitation and reintegration into economic life of witnesses, will brake the vicious circle of crime and corruption in this country, which in some cases reach into high levels of government and the policy,” a spokesman for the attorney-general’s office said yesterday. Representatives of the office would

have talks with Business Against Crime and other role players on Friday about establishing structures to provide “after care” to state witnesses unable to find employment as a result of their testimony. “It is important to reintegrate a witness into society after he or she has given evidence. It is not possible to accommodate them all in the public sector,” he said.

From the testimony delivered by former Vlakplaas commander Eugene Kock alone, about 150 serious crimes were being investigated by the

attorney-general’s special investigation team. Recent disclosures by Amor Badenhorst, the former girlfriend of Civil Co-operation Bureau operative Ferdi Barnard, which implicated Barnard in alleged crimes ranging from the murder of Witwatersrand university lecturer David Webster to being involved in drug and other crime syndicates, resulted in the investigation of more than 100 serious crimes.

He said, existing witness programmes made no provision for the rehabilitation of witnesses after comple-

## Witnesses

Continued from Page 1

“Unless a more integrated and multifaceted witness protection programme can be structured, very few witnesses will be willing to come forward to stamp out corruption and crime,” he said, adding that a direct link existed between the sophistication of a witness protection programme and

the type of crimes being solved.

Big business would be asked to set aside a “very small proportion of their vacancies, about 0,08%” to assist with the rehabilitation of witnesses. About 20 people would have to be accommodated in the private sector each year.

“We do find that because of our extraordinary history most of the witnesses were caught up in the struggle, one way or the other, and if given an opportunity could again be useful citizens and employees,” he said.

“Many of their court testimony. Many witnesses testifying for the state in “third force” or corruption cases were policemen who could no longer be employed by the SA Police Service after they had implicated themselves in crimes — leaving them unemployed and disillusioned.

“We cannot prostitute our witnesses by using their testimony to obtain convictions and then just throw them to the wolves,” he said.

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# Social justice role for judges stressed

Linda Ensor (252)  
BD 15/11/97  
CAPE TOWN — SA  
judges were best equipped of all those in southern African to use their

judicial power to give the poor and socially disadvantaged social justice, former Zimbabwean chief justice Enoch Dumbutshena said yesterday.

In a speech on judicial activism at the World Jurist Association seminar — attended by more than 200 chief justices from all over the world — Dumbutshena said this was because SA's Bill of Rights contained social and economic rights.

He said SA's Constitutional Court judges had done "wonderful work" in putting right the injustices of the past in their interpretations of the constitution.

"In interpreting those provisions which protect social and economic rights, judges should remember that they cannot remain aloof from the social and economic needs of the disadvantaged. Through their activism, judges can nudge their governments so that they move forward and improve the social and economic conditions of the poor.

"In SA the Bill of Rights is, without inter-

pretation, activist in its own right. However, it requires activist judges to make its provisions living realities."

Dumbutshena said that the SA Constitutional Court was building a human rights jurisprudence comparable to those in India, Canada and the European Union. He was confident that judicial activism in Southern Africa would transform peoples' lives.

Dumbutshena did not think judges should be bound by the original intention of the fathers of a constitution, which was a living document which had to keep in step with the changing times.

"The meaning of its provisions must not be left behind in a society whose changing standards of life and ethos are continuously on the move. If the constitution is each time interpreted with reference to the meaning the fathers of the constitution gave to its provisions, the people will lose faith in their constitution and they will not obey it because it will not be just."

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# Minister to spearhead setting up of special courts to handle rape cases

Star 16/11/97

(252)

By PRISCILLA SINGH

Justice Minister Dullah Omar is to spearhead the setting up of special courts, as well as intensive training of magistrates and prosecutors, to deal more efficiently with rape cases

The minister's initiative coincides with the release of figures yesterday showing that more than half a million women were raped in the first half of last year

Police received 31 085 reports of rape during that period, the Human Rights Commission (HRC) said. But the National Institute for the Prevention of Crime and Rehabilitation of Offenders (Nicro) has calculated that only one in 20 rape cases are reported - bringing the real figure to 620 000, the commission said

In addition to rape, People Opposing Women Abuse (Powa) estimates that one in six women are being regularly abused by their male partners. The police child protection unit handled nearly 26 000 cases of child abuse from January to September last year.

Omar has been spurred on to have the courts established as

soon as possible by the attacks on Malvern and Observatory families in which two young women and two teenagers were raped

The new courts will do much to alleviate the pressure on magistrates' courts and act as a gateway for victims to prosecute without delay or feeling intimidated, Omar told The Star last night

He said the ministry would create the courts within the framework of existing courts, and prosecutors were being trained to deal with rape cases

"At the moment, rape victims are treated very shabbily and it is up to the courts to treat them with compassion," Omar said

He added that, in the special courts, magistrates would be required to protect the victim in ensuring that no unfair cross-examination took place

Counsellors said specialised rape courts were welcomed because this would also step up the rate of convictions

Rape courts are top of the agenda for organisations that counsel women and children who have been raped. They also got the nod from Gauteng MEC for

safety and security Jessie Duarte

Duarte said yesterday it was a good idea to set up rape courts throughout the country as it would be a mechanism which would be dealing with rape effectively, similar to the Wynberg Sexual Offences Court in Cape Town

"If research and consultation prove that it is the way to go, then I totally support the idea of a rape court in Gauteng and in other provinces," Duarte said

John Mojapelo, HRC media director, said today the commission was also consulting the Department of Justice on new legislative measures to punish rapists and other offenders with sentences that reflect the seriousness of their crimes

■ Troye Lund reports that the Observatory family has embarked on a crusade to ensure that legislation protecting women is passed. "The justice system has to change. Gone are the days when men can make laws and treat women like objects," said the mother, who was tied up while her daughters, aged 21 and 24, were raped

# Nats attack TRC over FW cover-up claim

JOSEPH ARAMES

ON THE TRUTH COMMISSION

The National Party has accused members of the Truth Commission of trying to harm former state president F W de Klerk by alleging he covered up dirty tricks allegations in the last years of apartheid rule.

Commissioners said in Cape Town yesterday that several top-ranking military officials, including General Georg Meiring, head of the SA Defence Force, had been involved in unlawful and unauthorised activities under the apartheid government, according to an intelligence report in the possession of the TRC.

The report was compiled by the former defence force chief-of-staff, General Pierre

Steyn, in 1992 on the instructions of Mr De Klerk, after the raid by the Goldstone Commission on the offices of the army's Directorate of Covert Collection.

General Steyn had reported his findings verbally to Mr De Klerk and senior members of his cabinet and handed Mr De Klerk written notes and a diagram to substantiate his work, the TRC said.

Although generals Meiring, Kat Liebenberg and Joffel van der Westhuizen were implicated in the report, Mr De Klerk had handed them the document and told them to provide him with a list of people who should be dismissed or retired.

A day later Mr De Klerk announced that 23 top-ranking officials were taking compulsory early retirement or compulsory leave pending further investigations.

When the African National Congress came to power, President Mandela immediately ordered a search for the report. Although Mr De Klerk admitted he had received a verbal report from General Steyn, he denied he had been given any information in writing.

Truth Commission deputy chairman Alex Boraine said yesterday the TRC had been given a file containing information from General Steyn, who is now secretary for defence, which included a copy of a written report.

Dr Boraine said the commission had met General Steyn in October and subsequent sessions had been held between the general and the TRC research department. The head of the department, Charles Villa-Vicencio, said although the allega-

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tions in the Steyn report were made on the basis of intelligence-gathering and needed to be investigated, they were very serious.

He said several units, such as Army Operations, reconnaissance units, the 7th Medical Battalion and the Civil Co-Operation Bureau, had taken part in a range of unauthorised activities.

"The allegations include orchestrating train violence, assassinations, drug- and gun-running, smuggling ivory and rhino horn, and coups in the former homeland states," Dr Villa-Vicencio said.

The NP said Mr De Klerk was "astounded and disappointed" that Dr Boraine should have launched a public attack on him without first providing him or the NP with an opportunity to discuss the serious insinuations in the statement.

# New extradition laws beef up SA's fight against crime

(252)

ET 17/12/97

NEW legislation to streamline extradition procedures would come into effect today, a Justice Department spokesman said here yesterday.

He said President Nelson Mandela had accepted a recommendation by Justice Minister Mr Dullah Omar in this regard.

A proclamation to put the Extradition Amendment Act into operation would appear in the Government Gazette today.

Omar said earlier this was another step towards curtailing money-laundering, drug-trafficking and corruption.

"It will enable South Africa to play a meaningful role in the fight against these social evils," he said.

The act provides for the designation of states to which extradi-

tion may be affected in the absence of formal agreements.

It also makes the surrender of individuals to other countries possible without the consent of the President, and provides for the issuing of warrants of arrest of suspects and their further detention.

The act furthermore regulates the procedures for an appeal by an individual against whom an order for extradition has been issued. It also grants the justice minister the authority to refuse extradition under certain circumstances.

Omar said the act emanated from the Law Commission's report on international co-operation in criminal prosecutions.

It brought South Africa's extradition procedures in line with that of the Commonwealth Scheme for

the Rendition of Fugitive Offenders, which regulated extradition relations between members of the Commonwealth.

Omar said a copy of the act would be sent to the Commonwealth secretariat in London for certification that it conformed with the body's extradition guidelines.

If the secretariat was satisfied with the legislation, SA would be included on the list of countries complying with the Commonwealth's extradition scheme.

"This act, together with the International Co-operation in Criminal Matters Act and the Proceeds of Crime Act, strengthens the government's hand in dealing with organised crime," Omar said — Sapa

# FW COVERED UP ARMYS

ET 17/1/97 (25)

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**THE EXISTENCE** or otherwise of a written report on dirty tricks, said to have been given to former president Mr F W de Klerk by former chief of defence force staff, Lieutenant-General Pierre Steyn, is at the heart of a growing dispute between the Truth Commission and the National Party. **ROGER FRIEDMAN** reports.

**T**HE Truth and Reconciliation Commission and the National Party seem to be heading for a major showdown following statements made yesterday by senior commission staff to the effect that former president Mr F W de Klerk was involved in covering up allegations of dirty tricks

The NP responded with a statement issued by Mr Fanus Schoeman saying De Klerk was "astounded and disappointed" that the commission had seen fit to attack him without giving him the opportunity to discuss the matter, and that the party "must reluctantly conclude that this is a calculated attempt by the commission to harm Mr De Klerk" Schoeman accused the commission of deviating from its mandate and taking on an "adversarial role"

The existence or otherwise of a written report on apartheid-era dirty tricks allegedly conducted by military intelligence agencies lies at the heart of the dispute

Although De Klerk has consistently denied ever receiving such a report, the commission yesterday revealed the existence of a report written by then-chief of defence force staff, Lieutenant-General Pierre Steyn, containing the names of more than 60 senior military and intelligence officials alleged to have been involved in a range of unauthorised and unlawful activities — from poisonings to drug, ivory and arms smuggling

Steyn's list included chief of the South African National Defence Force General Georg Meiring

Steyn was appointed by De Klerk in 1992 to investigate unlawful intelligence activity in the defence force following a Goldstone Commission raid on the Directorate of Covert Collection Within about a month of his appointment, Steyn apparently furnished the list of more than 60 names to De Klerk, with the rider that allegations against the officials were based on intelligence reports only

"On the basis of this report," the commission said yesterday, "Generals Kat Liebenberg, Georg Meiring and Joffel van der Westhuizen were summonsed to Tuynhuys, con-

fronted with the report and asked to draw up a list of people against whom action would be taken This was despite the fact that the report specifically recommended that action must start against the three generals themselves"

Days later, De Klerk issued a statement on Steyn's findings and announced that 23 top-ranking officials had been placed on compulsory early retirement or compulsory leave

"The investigation recommended by General Steyn did not take place before this happened These names were extracted from a wide-ranging list of names, which included those with line responsibility as well as some possibly more directly involved in irregularities, in the documentation which General Steyn made available to the former president

"This documentation included no recommendation either to dismiss or retire any military personnel without further investigation — making the drastic action by the former president most unusual," the commission's research department chief Professor Charles Villa-Vicencio said

Villa-Vicencio alluded to several further alleged reports made by Steyn in 1993 to De Klerk and the then-minister of defence Mr Kobie Coetzee — verbal and written

"In all these reports he reiterated the need for further criminal investigation and expressed his concern about the lack of progress General Steyn's view was that more effort was being expended by the SAP and the SADF on covering-up and

identifying leaks than on gathering evidence," he said, adding that the commission had enjoyed "the fullest co-operation" from Steyn

Responding to a question, Villa-Vicencio said "To the extent that (De Klerk) did not engage in or initiate a full investigation as recommended by Steyn it could be construed as a cover-up"

But De Klerk has consistently maintained he never received a written report from Steyn, only verbal reports

Boraine said Steyn had provided the commission with a file containing information gathered during his investigation Included in the file was a "staff report" comprising notes and a detailed matrix (diagram), a copy of which was given to De Klerk

Boraine called on De Klerk and Meiring to provide explanations on these events in future military and political party submissions to the commission

The NP said De Klerk had thus far given the commission his full support and co-operation

"In the statement Dr Boraine creates the impression Lt-Gen Steyn presented then-president De Klerk with a written report on his investigation into the activities of the Directorate of Covert Collection This is a serious allegation, since Mr De Klerk has consistently denied he was ever presented.

□ Turn to page 3



**REPORT WRITER:** Lieutenant-General Pierre Steyn

# 'Dirty tricks

# Cover-up allegations against De Klerk

(292)

Truth Commission claims that former president neglected to investigate alleged unlawful activities by three generals

BY JUSTICE MALALA AND SAPA

A showdown seems to be on the cards between the Truth and Reconciliation Commission and the National Party following statements yesterday by commission staff that FW de Klerk was involved in covering up allegations of dirty tricks while he was state president

The NP has responded with a statement by Fanus Schoeman saying De Klerk was "astounded and disappointed" that the commission had seen fit to attack him without giving him the opportunity to discuss the matter

The existence or otherwise of a written report on apartheid-era dirty tricks, allegedly conducted by military intelligence agencies, lies at the heart of the dispute

Although De Klerk has consistently denied receiving such a report, the commission has now revealed the existence of a report written by Lieutenant-General Pierre Steyn, who was then chief of defence force staff, containing the names of more than 60 senior

military and intelligence officials alleged to have been involved in a range of unauthorised and unlawful activities

Steyn's list included the name of the present chief of the defence force General Georg Meiring Steyn was appointed by De Klerk in 1992 to investigate unlawful intelligence activity in the defence force following a Goldstone Commission raid on the Directorate of Covert Collection

Within about a month after his appointment, Steyn apparently furnished the list of more than 60 names to De Klerk, with the rider that allegations against the officials were based on intelligence reports only and required thorough investigation

"On the basis of this report," the commission said yesterday, "Generals Kat Liebenberg, Georg Meiring and Joffel van der Westhuizen were summoned to Tynhuis, confronted with the report and asked to draw up a list of people against whom action would be taken

"This was despite the fact that

the report specifically recommended that action must start against the three generals themselves"

Days later, De Klerk issued a statement on Steyn's findings and announced that 23 top-ranking officials had been placed on compulsory early retirement, or on compulsory leave pending further investigation.

"The investigation recommended by Steyn did not take place before this happened. These names were extracted from a list of names, which included those with line responsibility as well as some possibly more directly involved in irregularities, in the documentation which General Steyn made available to the former president

"This documentation included no recommendation either to dismiss or retire any military personnel without further investigation - making the drastic action by the former president most unusual," said the commission's research department chief, Professor Charles Villa-Vicencio

Nov 17/1/97

# Only 15 amnesty requests approved by TRC

Jan 17/1/97 (252)

By DAISY JONES

The amnesty committee of the Truth and Reconciliation Commission has received about 4 500 applications for amnesty – and has approved only 15 of them.

Some 47 cases have been publicly heard and of the 26 cases which have already been decided, amnesty has been refused in 11. The amnesty committee has yet to decide on 21 cases, which constituted 10 hearings.

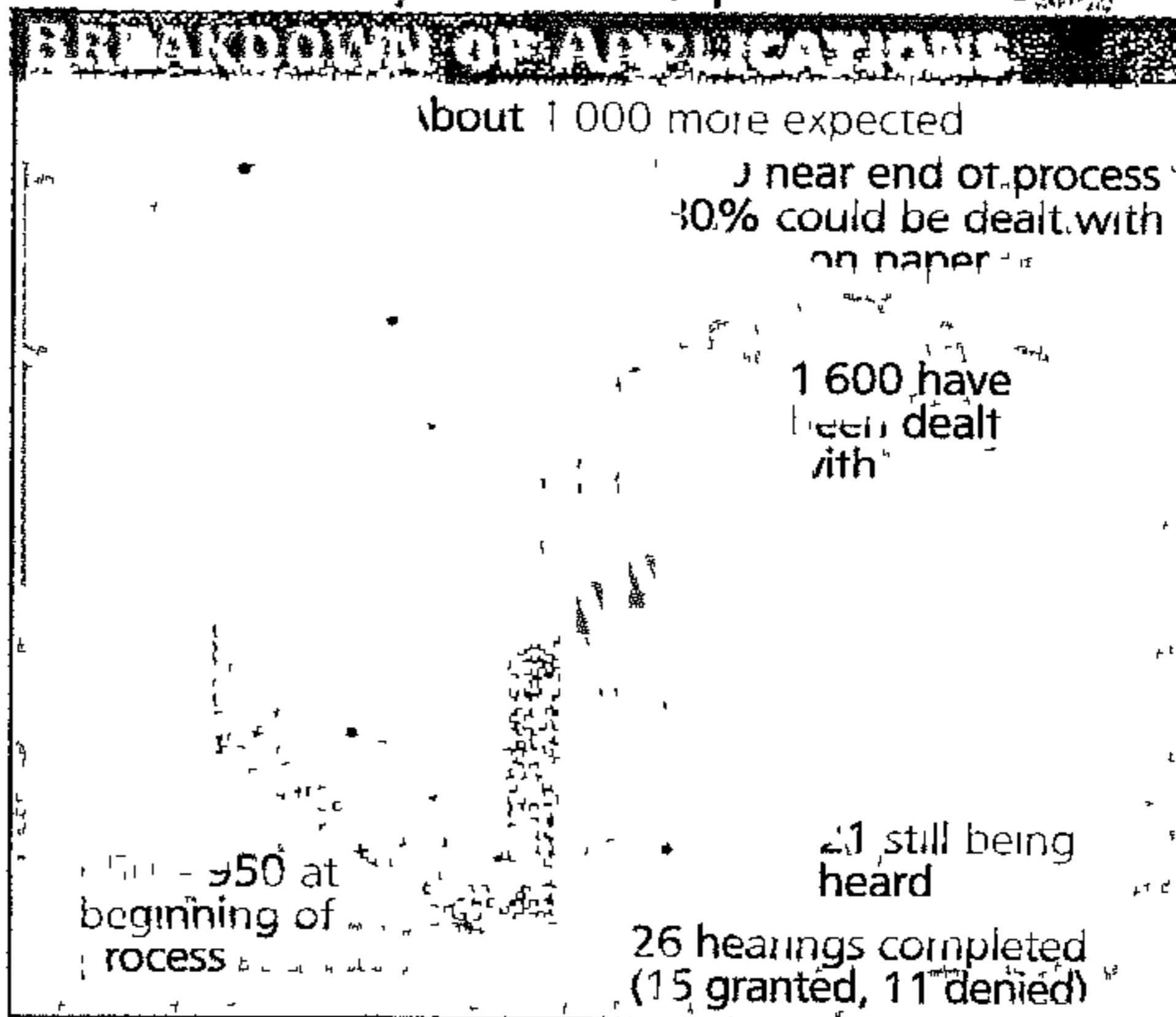
Four of the hearings are still incomplete.

Almost 1 500 applications have already been rejected in terms of the National Promotion of Unity and Reconciliation Act.

The basis on which application forms have been returned include: the non-disclosure of a political objective for a human rights violation committed, a lack of particulars related to the violation, or the fact of an application falling outside the ambit of the TRC – for instance, if the applicant fails to admit guilt for the violation.

Between 150 and 160 applications, which were originally rejected by the commission because the date of the violation fell outside the original cut-off date of December 6 1993, are to be reconsidered for amnesty as a matter of priority.

About 2 000 of the remaining



cases are "near the end of the process", TRC spokesman Christelle Terreblanche told The Star. These cases may go to a public hearing, or may be decided on paper.

She estimated that 80% of cases could be handled on paper, since the TRC was obliged in terms of the act to publicly hear only cases about gross human rights violations. Until now only about 20% of cases have involved "killing, abduction, torture or severe ill treatment".

Based on these figures provided by the TRC, between 650 and 950 cases are left unaccounted for. Terreblanche said these applications had been received by the TRC, but figures were not yet available on the categories into which the applications fell.

Terreblanche said the commission expected about 500 more applications from political parties, and about 500 more from individuals.

# De Klerk knew of dirty tricks — report

Tim Cohen and Stephen Laufer

CAPE TOWN — Former president FW De Klerk knew that the Steyn report on defence force dirty tricks — which he denied existed in writing — had implicated current SA National Defence Force chief Georg Meiring and 60 top military officers in crimes, the truth commission alleged yesterday.

De Klerk told parliament previously that he only received a verbal briefing on the military's involvement in dirty tricks, including murder, homeland coups and drug running. But the commission said yesterday it had obtained a written version of the report from Pierre Steyn, who was a lieutenant-general at the time he presented it to De Klerk.

The National Party (NP) rejected the truth commission's version of events last night, saying De Klerk was "astounded and disappointed" that it should have launched a public attack on him without giving him an opportunity in advance to discuss the allegations with the commission.

Commission research director Charles Villa-Vicenzio said Meiring had been implicated in the report on

secret military activities against anti-apartheid activists by the defence force's directorate of covert collections, army intelligence, special forces, and the 7th medical battalion.

Along with the chief of the defence force at the time, Gen Kat Laebenberg, and military intelligence head Joffel van der Westhuizen, Meiring had been ordered by De Klerk to purge fellow officers on the list.

The commission said yesterday it was particularly curious why De Klerk had asked the three generals to provide him with a list of people who should be dismissed or retired, when all three appeared on the list.

Asked whether they had been listed simply as a result of their functional responsibilities or because of direct involvement, Villa-Vicenzio said the allegations extended beyond their departmental line functions.

Truth commission deputy chairman Alex Boraine said the commission would question De Klerk on the Steyn report, which the commission had obtained despite the former president's claims that no written report existed. Steyn is currently defence secretary.

Shortly after the briefing by Steyn

(252) B017/12/96  
in 1992, De Klerk announced at a press conference that 23 defence force officers would be retired and dismissed. In a statement to Parliament in August 1994, De Klerk did not admit that a written report existed, suggesting that Steyn's verbal report had been all the information he received.

An SANDF spokesman said he could not respond to the allegations against Meiring until the defence force had been given a chance to study the truth commission report. He could not say when Meiring would respond.

The NP said Boraine's statement created the impression that Steyn had handed De Klerk a written report. This was a serious allegation as De Klerk had denied receiving a such a report.

Boraine's claim that a staff report consisting of notes and diagrams was made available to De Klerk was "seriously misleading," the NP said, because although De Klerk had been handed certain papers and shown a diagram during Steyn's oral briefing, he had not retained the documents or had an opportunity to study them in depth.

The allegations made by Steyn had

Continued on Page 2.

## De Klerk

Continued from Page 1

been so serious that they required immediate action, the NP said. De Klerk took action before the outcome of the full investigation into the allegations against the SANDF because it might have taken months and immediate action was required.

Explaining the retention of Meiring, Laebenberg and Van der Westhuizen while other officers were fired, the NP said De Klerk was satisfied that although Steyn had recommended action against officers at the highest levels, there was insufficient evidence to take so drastic a step at such a delicate stage of the transition process.

The commission declined to publish the entire Steyn report, saying the allegations against many of the 60 SADF members had not been substantiated. It said the allegations included train violence, assassinations, gun running, drug and ivory smuggling, cross-border raids, attempted and actual coups, the development and use of poisons, and widespread fraud.

In its summary of the work done so far on the Steyn dossier, the commission's research department noted that De Klerk's "drastic action" in dismissing or retiring a range of military personnel in December 1992 was taken without the full investigation which Steyn recommended in his report. It

noted Steyn's concern at the lack of progress in investigations carried out after the dismissals and compulsory retirements and his view that the SAP and SADF were "spending more time on cover-ups and identifying leaks" than gathering evidence.

The commission said documents were destroyed during Steyn's investigation in defiance of his orders. Intelligence gathered by Steyn indicated significant unauthorised and unlawful actions, involving the directorate of covert collection and several other components of the force.

Included in the file handed to the commission by Steyn last October was a "staff report" consisting of notes and a "matrix" containing activities and names of SADF individuals suspected of engaging in unauthorised and or unlawful actions. The notes were used in the verbal briefing to De Klerk on December 19 1992.

Boraine said he had written to Meiring and Defence Minister Joe Modise about the report, saying it was ultimately his responsibility to ensure that the commission was truthfully informed of what had taken place.

Modise and his deputy, Ronnie Kasrils, could not be contacted last night.

DP defence spokesman Douglas Gibson said the SADF submission to the truth commission had been a whitewash. By not telling the whole truth when it had an opportunity to do so, it had created the impression that it was evading the truth.

# I advised criminal inquiry - Steyn

ARG 18/11/97  
Pretoria - Defence Secretary Pierre Steyn has said he advised former state president F W de Klerk to order a criminal investigation after a number of senior military staff alleged to have been involved in illegal activities had been suspended or compelled to take early retirement.

In a statement yesterday, Mr Steyn denied he had made any recommendations about the 23 officers before Mr De Klerk decided to suspend them.

The Truth and Reconciliation Commission earlier this week said Mr De Klerk had ignored recommendations by Mr Steyn to investigate claims implicating generals Joffel van der Westhuizen, Kat Liebenberg and Georg Meiring - now chief of the SA National Defence Force - and more than 60 other military personnel, in illegal activities.

Commission vice-chairman Alex Boraine said on Thursday that when Mr Steyn gave the report to Mr De Klerk, Generals Meiring, Liebenberg and Van der Westhuizen were asked to tell Mr De Klerk which of the names on the list should be retired early or dismissed.

Mr Steyn, then military Chief of Staff, said he was instructed by Mr De Klerk, in November 1992, to investigate covert activities conducted

To page 2

## Steyn advised criminal inquiry

From page 1

outside the normal mandate of the former SADF. "In December 1992, I gave a situation report to Mr de Klerk and selected members of his cabinet, based on my investigations thus far," said Mr Steyn.

"At this stage I made no specific recommendations, other than to urge Mr De Klerk to act expeditiously," he said.

Mr De Klerk, in consultation with Generals

ARG 18/11/97  
Meiring, Liebenberg and Van der Westhuizen, decided to act against 23 SADF members, Mr Steyn said, adding that his notes had been available for this purpose.

"Given the decision to act against individuals, I then recommended that a criminal investigation be conducted," he said.

De Klerk has denied a written report from Mr Steyn existed. He denied he had ignored recommendations by Steyn to investigate claims implicating senior army generals. - Sapa



said

Appeal: Cecily Blumberg, Joy Giovanni and Barbara Vollmer of Day, from left, with homeless dogs

# Amnesty bid: Coetzee tells TRC of bungled Vlakplaas death plots

ARG 21/1/97

## ARGUS CORRESPONDENT

If Dirk Coetzee's testimony to the Truth and Reconciliation Commission's amnesty committee is anything to go by, the self-proclaimed police hit squad leader was not only an extraordinarily ruthless killer, but also an inept bungler.

Coetzee, sporting a fresh crew cut and looking relaxed after a three-week vacation, resumed his testimony in Johannesburg yesterday, telling the committee about two attempted hits on suspected African National Congress operatives in Lesotho and Botswana.

Neither succeeded, because Coetzee and his subordinates failed to follow carefully-laid plans.

But the toll was still considerable. Joyce Dipale, victim of an attack by Coetzee and his henchmen on her home in Gabarone in 1981, attended yesterday's hearing but could not give testimony because she still suffers the after-effects of her wounds.

Coetzee and former colleagues Almond Nofemela and David Tshikalange are asking for amnesty for crimes, including murder, committed while they were attached to the secret police unit at Vlakplaas, near Pretoria.

In testimony last year in Durban, Coet-

zee described several other failed attempts to kill or kidnap suspected ANC members, including one kidnap attempt which led to an international incident, forcing police to return their captive to Swaziland.

Joyce Dipale was wounded three times in the attack on her house. Coetzee said yesterday the attack was aimed at killing Mrs Dipale and her husband Rolfer, both ANC members who offered refuge to exiles in Botswana. Mr Dipale was not in the house. Mrs Dipale and a friend, Lilian Keagle bumped into their assailants when they left the house about midnight to pick up Joyce's cousin at the train station.

Coetzee, Sergeant Joe Mamasela and Nofemela were lurking on the stoep. Mamasela grabbed one of the women - he thought it was Dipale, but it was Keagle - and shot at her at point-blank range. Coetzee testified.

Keagle dropped to the ground "like a bag of potatoes" and they left her for dead. She was later found to have survived the attack, Coetzee said.

Mrs Dipale, meanwhile, had run back into the house. After firing several rounds into the house with silenced submachine guns, Coetzee and his colleagues fled.

Captain Koos Vermeulen, who was supposed to throw a hand grenade into the house, forgot to do it before running away.

The attack left Joyce Dipale with permanent injuries. She suffered a stroke, resulting in memory loss, TRC attorney Coki Mpshe said.

In another cross-border raid, Coetzee sent Nofemela and a security policeman known as "Janjies" to kill an ANC cadre known as Comrade A in Maseru.

Comrade A, alias Christopher Moloi, now a general in the South African National Defence Force, survived the attack because the two operatives did not follow orders. Instead of knocking on the door and killing General Moloi when he opened it, they fired blindly through a kitchen window and their target escaped. Coetzee said they also failed to lob a hand grenade into the house, as they had been ordered to do.

Both cross-border attacks were sanctioned by higher authorities, including then commander of the security police's C-Section, Brigadier Willem Schoon.

Brigadier Schoon is one of Coetzee's co-accused in the trial for the murder of Durban attorney Griffiths Mkenge in 1981. The trial has been postponed pending the outcome of Coetzee's amnesty bid.

Convicted killer policeman Eugene de Kock, a former commander of the Vlakplaas unit, has been subpoenaed to testify at the amnesty hearing, scheduled to conclude this week.

DATE: 21/1/97

# Racial tensions threaten work of TRC,

OWN CORRESPONDENT

JOHANNESBURG. The Truth and Reconciliation Commission has been rocked by racial tensions, with senior black officials saying it was being run by "a clique of liberals" led by commission deputy chairman Dr Alex Boraine. Black senior officials have expressed concern that, if left unattended, the situation could hamper the success of the TRC. They have threatened to resign if the situation does not change and said they would write a letter to the President.

Allegations levelled at the TRC "clique of liberals" include that

● Senior black officials were undermined, marginalised and under-utilised when important policy issues were discussed

● Most senior black officials have been excluded from crucial policy-making positions. When appointed, they are offered "token" positions

● Black people suffered from human rights violations while white liberals enjoyed the benefits of apartheid, a system they never challenged. Now they are the ones controlling the process,

one official said. Repeated attempts to obtain comment from Boraine were unsuccessful at the time of going to press.

Other senior black officials said the procedure followed to select a TRC delegation that visited Rwanda last October to exchange ideas with the Rwandan government on reparations to victims of human rights violations was a good example of the problems.

Senior black commissioners and chairpersons of various committees have argued that senior black officials were marginalised

and white "office workers" taken in their place.

The sources said the chairperson of the TRC's Reparation and Rehabilitation's (R&R) Committee, Ms Hlengwe Mkhize, who was asked to lead the delegation, had not been consulted when the delegation was formed by TRC executive secretary Mr Paul van Zyl.

She was also allegedly not given documents which would outline the delegation's terms of reference and their mission in Kigali.

In a letter in possession of the Cape Times sister newspaper The Star, Durban-based member of the

R&R Committee Professor Smangele Magwaza wrote to Mkhize and raised concern about the delegation that went to Rwanda.

Magwaza said the delegation was "Eurocentric and unrepresentative", as only five people in the nine-member delegation were black.

Magwaza said the delegation to Rwanda was further skewed due to the complete exclusion of R&R committee members. She said the delegation was dominated by the Western Cape region of the TRC and a region such as Kwazulu-Natal, which has the largest popu-

# say officials

lation and number of human rights violations, was not represented.

Mkhize, a former psychology lecturer at the University of Zululand and the University of the Witwatersrand, said "I think in the TRC we're dealing with the legacy of the past where we have a machinery set up in order that for certain people to survive and develop, other groups that emerge as a threat are marginalised. People who interfere with the liberal power base are always made to pay the price.

"Liberals think they can deal

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with the poor by doing things for them, but they cannot deal with you as an equal. They can't reason with you."

Senior black officials also expressed unhappiness with the commissioner's alleged tendency to shun community-based organisations in favour of city-based organisations run by liberal whites.

"The situation impacts on the work of the commission and impacts on the accessibility of the TRC to the victims. We put up with this in 1996, but it has to come to an end or the work of the commission will suffer," one official said.

Black commissioners and officials were apparently opposed to the appointment of the Freedom of Expression Institute to conduct investigations into the role of the media during the apartheid era.

TRC head of investigations Mr Dumisa Ntsebeza admitted there were tensions, but said he would not characterise them as racial.

"Yes, it's possible there are tensions, but I don't think we can characterise them as racial. They are more on a gender basis as women feel that more should be done to accommodate their interests," Ntsebeza said.

# Killers tell of raid

## Coetzee says he had instructions to eliminate top ANC cadre

By Mongadi Mafata

**F**ORMER Vlakplaas commander Dirk Coetzee revealed details of cross-border raids he led into Botswana and Lesotho at this year's first Truth and Reconciliation Commission amnesty hearings in Johannesburg yesterday.

Coetzee and two other operatives, Almond Nofemela and David Tshikalanga, are seeking amnesty for apartheid atrocities.

Coetzee (52) told amnesty committee chairman Judge Hassan Mall and four committee members that he had received instructions to eliminate a Lesotho-based African National Congress cadre code-named Comrade A in October 1991.

He said former deathrow prisoner Nofemela and a black Free State-based security branch policeman carried out the mission in Maseru, Lesotho.

### Open fire

Nofemela and the other policeman were told to knock at Comrade A's door and open fire as soon as it was opened and before throwing a handgrenade.

Coetzee said the two did not follow instructions and instead fired shots at Comrade A in the house through the bedroom window.

Nofemela, who is also seeking amnesty, corroborated his former commander's story. He said Coetzee had handed him a 9mm pistol to carry out the mission.

Comrade A is Christopher Moloi, now a general in the South African National Defence Force. Coetzee said that he learned that Moloi survived the attack when he was in exile.



David Tshikalanga, Dirk Coetzee and Almond Nofemela in discussion at the TRC hearings at the Gauteng Legislature yesterday. The trio of former Vlakplaas operatives are seeking amnesty. PIC: LEN KUMALO

He extended his apologies to Moloi and said he was glad the mission was not successful.

"Had it been successful, I could not look you in the face and say I'm really sorry," Coetzee said.

He also testified about a mission

to kill an ANC couple in Gaborone, Botswana, on November 26 1981.

Miss Joyce Dipale, who attended the hearing, and her husband Roller were the intended targets in what Coetzee said was an ANC transit house.

Dipale sustained thigh and leg injuries, while her husband escaped unscathed as he was not in the house during the attack.

Asked by committee member Judge Bennet Ngoepe if he had not foreseen that innocent lives might be

**“If you don't forgive me, I can understand because I would not have forgiven you if you had done what I did to your people”**

lost during the attack, Coetzee replied that his mission was to hit and run.

"We were told to shoot first and ask questions later," Coetzee said.

Coetzee again apologised to Dipale for causing her pain and mental stress as a result of the raid on her house.

"If you don't forgive me, I can understand because I would not have forgiven you if you had done what I did to your people," he said.

Another amnesty seeker, David Tshikalanga, also testified that he was present during the Botswana raid.

"I, together with Warrant-Officer Paul van Dyk, remained in the car parked about 200 metres from Dipale's house.

"I heard some shooting, which lasted about 10 minutes, before Coetzee and the others ran back to the car," Tshikalanga said.

The hearing, which is being held at the Gauteng Legislature, continues today.

# Concern over Steyn denial

(252) Sawden 21/1/93

**By Rafiq Rohan**  
Political Correspondent

WHILE the contents of the controversial General Pierre Steyn report, which could blow the lid off apartheid political assassinations and covert activities of the former government, still remain a mystery, clues to its contents are slowly emerging.

Yesterday Truth and Reconciliation Commission deputy chairman Dr Alex Boraine said he was concerned at reports that Steyn had denied certain facts contained in last week's TRC Press release.

Steyn has denied that he singled out three generals - Joffel van der Westhuizen, Kat Liebenberg and George Meiring - as being linked to apartheid's dirty tricks activities or that he made any "specific recommendations" to then president FW de Klerk.

He said his advice was only for De Klerk

to "act expeditiously".  
De Klerk himself has denied the existence of the controversial Steyn report.

However, Boraine pointed out that the TRC received a written document from Steyn who is the current Secretary for Defence.

## Written report

Boraine said: "We have in our possession, inter alia, a letter addressed by General Steyn to former president de Klerk, written subsequent to his initial report in which General Steyn again draws to the former president's attention the substance of the information given to him earlier.

"This intensifies our concern that the former president appeared not to have taken sufficient steps either to investigate or counter allegations of third force activities within the SADF and SAP."

Boraine said the TRC Press statement last

week was released to the media with Steyn's full knowledge and support.

He said: "We reiterate that the commission received from General Steyn a written document, which includes a staff report of the matter under investigation, and a matrix containing the names of a number of people under suspicion, which was handed to our former president."

He pointed out that the documentation was at the level of intelligence reports and, as such, is not conclusive.

"The file handed to us by General Steyn is an invaluable source of information," Boraine said.

He emphasised the existence of the written report which was seen by De Klerk and he pointed to the failure over a nine-month period to investigate charges against those mentioned in the report who were allegedly involved in third force activities.

# Commission

(292) Star 21/1/97

## Racial tension splits Truth

Senior black officials threaten to resign, complaining they are marginalised by a 'clique of liberals' running the TRC

BY JOVIAL RANTAO  
Political Correspondent

The Truth and Reconciliation Commission, set up to heal South Africa's racially polarised society, is battling its own racial tensions, with senior black staff claiming the commission is run by "a clique of liberals" led by deputy chairman Dr Alex Boraine.

The staff say the racial divisions could hamper the commission's chances of success and they have threatened to resign if the situation does not improve. They are expected to write a letter to President Mandela.

The staff say they are being undermined, marginalised and under-utilised, with senior officials excluded from crucial policy-making posts. They are offered only "token" positions, they say.

Attempts to obtain comment from Boraine have so far been unsuccessful.

Commission spokesman John Allen said the complaints were linked to discussions about the composition of a delegation to Rwanda last October to exchange ideas on reparations to victims of human-rights violations, as well as the programme for a second visit.

Other black officials said the selection procedure for last year's delegation showed how senior blacks were being systematically marginalised.

Senior black commissioners and various committee chairmen said white "office workers" were chosen in black officials' places.

The sources said the chairman

of the commission's reparation and rehabilitation committee Hlengiwe Mkhize, who was asked to lead the delegation, was not consulted when the delegation was formed by executive secretary Paul van Zyl.

They said she was not given documents outlining the delegation's terms of reference and its mission in Kigali.

In a letter in The Star's possession, Professor Smangele Magwaza, a Durban-based member of the reparation and rehabilitation committee, wrote to Mkhize and raised her concerns about the delegation.

Magwaza said the nine-member delegation was "Eurocentric

### Offered only 'token positions'

and unrepresentative" because only five people, four of them Africans, were black.

Magwaza said the exclusion of reparation and rehabilitation committee members had further skewed the delegation. She said the delegation was biased as it was dominated by the Western Cape region of the commission, while KwaZulu Natal was not represented.

The Star is also in possession of a letter in which Dr Wendy Orr, another member of the committee, objects to the way in which Mkhize refused to allow any discussion of a return visit by the Rwandan delegation at a meeting on January 15.

Orr complained that she was humiliated and undermined by the way Mkhize had handled the issue.

The Star has another letter in which Mkhize expresses her concern to commission chief executive Dr Biki Minyuku about the Rwandan delegation.

Mkhize was also not consulted about the programme of a Rwandan delegation that arrived in South Africa on Sunday for further exchanges on reparations.

The Star's sources also questioned why reparation and rehabilitation committee member Dr Mapule Ramashala, who played a crucial role in the visit to Rwanda in October, was not included in the South African leg of the consultations.

Ramashala declined to comment yesterday.

Mkhize, a former psychology lecturer at the University of Zululand and the University of the Witwatersrand, said: "Liberals think they can deal with the poor by doing things for them, but they cannot deal with you as an equal. They can't reason with you."

Senior black officials, whose identity The Star cannot reveal, also expressed unhappiness with what they said was the commission's tendency to work with certain non-governmental organisations and marginalise others.

Dumisa Ntsebeza, the commission's head of investigations, admitted there were tensions, but would not characterise them as racial.

► More reports

# Racial tensions dog truth panel

ARKG 22/1/99

(252)

## ARGUS CORRESPONDENT

Johannesburg - Racial tensions within the Truth and Reconciliation Commission, revealed for the first time this week, started only months after the body was established and might have led to the resignation of at least five people at the TRC's Johannesburg office, according to reliable sources.

A number of TRC employees yesterday confirmed that there was general unhappiness and racial tension in the commission and praised those who spoke out about it. TRC vice-chairman Alex Boraine has conceded that there were tensions in the commission and said the allegations would

be discussed at the highest level during a TRC meeting scheduled for January 30.

"It would be surprising if there were no tensions in the TRC. The commission is a microcosm of South Africa, which itself is experiencing enormous tensions as it recovers from a period of desperate conflict," Dr Boraine said.

"Secondly, the commission's work is extraordinarily demanding, both in terms of time and emotions. To work at the rate at which the commission is working can only serve to intensify any tensions which may be there.

"There are a number of factual discrepancies in the Press report (in the Star yesterday) and in particular it is nonsense to suggest that top positions are held by

whites," Dr Boraine said.

In another development, at least five staff members at the TRC's Johannesburg office have resigned, some of them because of dissatisfaction with working conditions, the commission's Johannesburg manager, Patrick Kelly, has confirmed.

He ascribed the flurry of resignations to "a certain degree of instability" in the process of establishing the TRC and setting up its offices and personnel structures.

However, a staff member said yesterday that personnel in Johannesburg were so unhappy they had formed a staff association and, at one stage, considered a strike.

The source said seven staff members had already resigned and several others would do so soon.

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# De Klerk 'ignored' hit-squad letter

3 of 4

**ROGER FRIEDMAN**

**JOHANNESBURG:** After his allegations of police hit-squad activities were rejected as "crap" by the Harms Commission in 1990, former hit-squad commander Mr Dirk Coetzee wrote to then-president Mr F W de Klerk asking him to institute an investigation. He never received a reply.

Coetzee said he wrote to De Klerk on February 21, 1991 "asking him to see a different perspective to that being told by the security police bosses"

Coetzee wrote from London, where he had fled in 1989 after his attempt to blow the lid on hit-squad activities, in an Afrikaans newspaper. But the revelations failed to close the farm down. Nor did his evidence to the Harms Commission or his letter to De Klerk.

Instead, said Coetzee, "illegal operations of the kind I am asking amnesty for escalated dramatically"

Vlakplaas was eventually closed down

on May 30, 1993.

The subject of cover-ups was raised in relation to two incidents Coetzee has included in his amnesty application: the killing of a Lesotho diamond dealer and a shooting incident at Lindley in which "Joe Mamasela started shooting wildly" at a car driven by an apparently drunk man.

Coetzee took elaborate measures to prevent the incidents causing embarrassment to the security police or government.

In the case of the diamond dealer, Coetzee said he had borrowed R5 000 from his mother-in-law to buy stones in Lesotho. When his operatives returned with a few diamonds of poor quality, he sent them back to Lesotho to get his money back.

He was informed on their return that Butana Almond Nofomela (a fellow amnesty applicant) and Mamasela had killed the dealer and stolen his car.

A cover-up operation followed in which the diamond dealer's body was burned to ashes and his car sold for R5 000 so that

Coetzee could repay his mother-in-law.

Coetzee said the dealer's car radio was later mounted in the official police vehicle of his superior, Colonel Willem Schoon.

In the Lindley matter Nofomela was told to take the rap so as not to expose Mamasela, who was not yet an official member of the police.

Mamasela's use of his illegal Tokarev pistol had to be disguised, so several shots were discharged from Coetzee's official 9mm pistol and a story concocted of attempting to arrest suspected terrorists.

A few months later Nofomela was told he was to be charged. Contact was made with Welkom police CID chief Brigadier J M H van der Merwe, who allegedly had a good relationship with the office of then-Free State attorney-general Mr Tim McNally. The case never made it to court.

"The cover-up was done with the approval of Colonel Schoon," Coetzee said in his application document.

(252) CT 22/1/97



# How we burnt man - Coetzee



The hitmen ... former Vlakplaas hit-squad commander Dirk Coetzee and his henchman and former death row prisoner Almond Nofemela enjoy a break during their amnesty application hearings at the Johannesburg City Hall yesterday.

PIC LEN KUMALO

(252) *Sowetan* 22/11/97

By Mongadi Mafata

**W**ITHOUT showing any emotion, former Vlakplaas security police hit-squad commander Dirk Coetzee told the Truth and Reconciliation Commission's amnesty hearings yesterday how he got rid of the body of a Lesotho citizen by burning it on a pyre of wood and tyres

Wearing a dark suit and sporting a slightly greying crew cut, Coetzee described how an illegal diamond deal in Lesotho resulted in the cold-blooded murder of the diamond seller

Coetzee and former Vlakplaas operatives Almond Nofemela and David Tshikalanga are collectively seeking amnesty for more than 30 hit-squad murders in South Africa and in neighbouring states in defence of

apartheid

The former captain told the hearing at the Johannesburg City Hall that he borrowed R5 000 from his mother-in-law. This was to be used by Nofemela and Tshikalanga, another Vlakplaas operative Joe Mamasela and a Lesotho askari (who had earlier tried to kill former South African Communist Party leader Chris Hanu in October 1981) to buy diamonds in Lesotho

"The men returned from Lesotho with five matchstick-head-sized diamonds and even as a layman I could see they had been cheated," said Coetzee. "I sent them back to get my money back." He said the four lured the dealer into South Africa where he was shot dead in a bluegum tree plantation near Lindley in the Free State

When the men reported back,

Coetzee said he immediately drove to the scene of the shooting to recover the body and hide any incriminating evidence

"We bundled the body into a plastic bag used by mortuaries," he said

After reporting to his senior, a Brigadier van der Hoven, in Durban the following day, he was instructed to get rid of the body near the Swaziland border

## Pyre of wood

"I arranged with an old Swazi contact for tyres and we made a pyre of wood and tyres and put the body on top before setting it alight

"We watched all night as the body burned," said Coetzee

Asked by his counsel, Advocate CR Jansen, whether diamond dealing was part of his duties at Vlakplaas,

Coetzee said the motive was personal and profit-driven. It had nothing to do with security police activities

About the lengths he had gone to to dispose of the body, Coetzee said there had been an "extreme danger" that a person like Mamasela, who had managed to infiltrate African National Congress underground structures in Botswana, would be exposed if arrested

He also said the incident would have embarrassed the security police

"Criminal activities were condoned to prevent operatives from talking about illegal activities taking place at Vlakplaas," said Coetzee

Nofemela, a former death-row prisoner, testified that he took part in the abduction of Mr Glory Sedibe, the brother-in-law of Defence Minister Joe Modise, in a cross-border opera-

tion involving Swaziland authorities

Sedibe allegedly died of a heart attack later

Nofemela said Sedibe was abducted with the approval of the Swaziland police commissioner, who allowed South African security branch officers, led by Coetzee's successor at Vlakplaas, Eugene de Kock, to release Sedibe from the police cells to a house

De Kock got a multiple life term in jail for mass murder last year

Coetzee also detailed other atrocities involving members and cadres of other liberation movements such as the Pan Africanist Congress

However, his testimony was not independent as he was led by his legal counsel Advocate D Marais

The hearing continues

● See Page 4

# TRC racially split from the start

(252) Star 22/1/97

By Jovial Rantao  
and Robert Brand

Racial tensions within the Truth and Reconciliation Commission, revealed for the first time by The Star yesterday, started only months after the body was established and might have led to the resignation of at least five people at the TRC's Johannesburg office, according to reliable sources.

A number of TRC employees called The Star yesterday confirming that there was general unhappiness and racial tensions in the commission, and praising those who spoke out.

TRC vice-chairman, Dr Alex Boraine has conceded that there were tensions and said the allegations would be discussed at the highest level during a TRC meet-

ing scheduled for January 30.

"It would be surprising if there were no tensions. Firstly, the commission is a microcosm of South Africa, which itself is experiencing enormous tensions as it recovers from a period of desperate conflict.

"Secondly, the commission's work is extraordinarily demanding, both in terms of time and emotions."

In another development, at least five staff members at the TRC's Johannesburg office have resigned, some of them because of dissatisfaction with working conditions, the commission's Johannesburg manager Patrick Kelly has confirmed.

A staff member told The Star yesterday that personnel at the Johannesburg office were so unhappy that they had formed a staff as-

sociation and, at one stage, considered going on strike.

The source, who did not want to be named, denied that the resignations were because of racial tensions at the office, saying although "small racial incidents" had occurred from time to time, the major cause of unhappiness was the day-to-day management of the office.

Senior staff members told The Star that the racial tensions peaked last year, when black commissioners who conducted hearings in Bisho, where former Ciskei dictator Brigadier Oupa Gqozo testified, were publicly warned for the manner in which they conducted the hearing.

It was thought that the clique of liberals felt that if they were not involved (in a hearing) then mistakes would be made.

# Buthelezi rejects ANC deal on amnesty, but IFP is desperate

(252) 90 22/1/97

WHEN Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi rejected a special amnesty deal for KwaZulu-Natal last week, he did not mean it.

Buthelezi was merely asserting his authority over IFP chief negotiator Celani Mfetswa, and sending a signal to African National Congress (ANC) chairman Jacob Zuma that he will require all his negotiating skills to achieve a deal.

Says an IFP source: "There has to be an amnesty deal. Our members and leaders cannot have the threat of prosecutions hanging over their heads when members of other parties are walking free because of the truth commission's amnesty process."

Buthelezi has attempted to mask the desperation in some IFP quarters for a deal by publicly rejecting the ANC's proposal.

"He has made Zuma — not the IFP — desperate. Zuma has been seen as the architect of the proposal, and a deal will help him secure the deputy presidency of the ANC. He has to make sure that the initiative is not stillborn, and he will try harder to satisfy Buthelezi, the IFP source says.

But Buthelezi has in some ways weakened Mfetswa's hand in negotiations. "He has reminded Mfetswa that he is the boss, and no deal that steals the thunder from him should be made.

When Inkatha Freedom Party leader Mangosuthu Buthelezi rejected a special amnesty deal for KwaZulu-Natal, he was sending a signal to ANC chairman Jacob Zuma that he will require all his negotiating skills to achieve a deal, writes Farouk Chothia in Durban

"Mfetswa will now have to tread more carefully, and ensure that he has Buthelezi's approval at every stage. These are lessons that all IFP negotiators learnt since the days of Codasa," another source says.

However, Buthelezi's rejection helps Mfetswa when he wants Zuma to give ground. "He can argue that Buthelezi is already sceptical about the initiative, and Zuma should walk the extra mile."

Zuma has not publicly spelt out the ANC's proposal, but it seems that one of its main objectives is to destroy the capacity of violence in KwaZulu-Natal.

The ANC apparently wants the surrender of all weapons, the dismantling of hit squad networks, and the closure of military camps as among the preconditions for amnesty. Such issues repeatedly featured in the negotiations that took place between the ANC and National Party before they struck a constitutional deal which culminated in the historic 1994 general elections.

The ANC, for example, had demanded the disbandment of the Civil Co-operation Bureau, while the NP demanded that Umkhonto weSizwe (MK) surrender its arms caches to the state.

It will be difficult to persuade Buthelezi, and other hard-line elements within the IFP, to accept such preconditions.

Says another IFP source: "It is easier for the ANC to give up their weapons because they control the police and army. If we do so, our people will be sitting ducks. We will need guarantees that this will not be the case. Previously, we at least had control over the KwaZulu Police."

ANC sources say the party is considering seeing the task of amnesty in KwaZulu-Natal taken away from the truth commission, and placed in the hands of a new body made up of personalities who have legitimacy in the eyes of both the IFP and ANC.

The ANC was also considering the inclusion of senior members of the two parties on the body, or the establishment of a subcommittee made up of representatives of the two parties to facilitate the amnesty process. "We made most progress with the NP when our delegations sat down to address the issues at stake. Joint committees were an important aspect from the time when talks started on the return of exiles, including the granting of indemnity."

"It is better for us to tell IFP leaders what we know and to ask them to come clean, rather than to relay the message via people like (truth commission deputy chairman) Alex Boraine," an ANC source says.

Some ANC sources had previously suggested that a general amnesty, which will not require individuals to make full disclosure on specific acts of violence committed, is in the offing.

But Buthelezi rejected the idea on the grounds that it "obfuscates the issues of personal culpability and political responsibility for the targeted assassination of about 430 IFP leaders and office bearers and the killing of about 14 000 people who died in the low-intensity war waged by the ANC and the then UDF."

This implies that Buthelezi wants the ANC to take all political responsibility for the violence, something the party could never agree to.

"We genuinely believe that the ANC started the violence. It labelled Buthelezi the enemy for participating in the homeland system, and for refusing to support its armed struggle. The IFP can take responsibility for reaching to the ANC's aggression," an IFP source says.

Another IFP leader says that Buthelezi has placed emphasis on "personal culpability" because he believes the IFP is in a

strong negotiating position.

"We can insist that before a deal is made, there must be prosecutions against ANC leaders. It is significant that Zuma raised the idea of a special amnesty only after the Malan trial. Our people were acquitted. Now he is looking for another way to hold us responsible," the IFP leader says.

Another IFP leader says that Buthelezi does not fear a process which carries the risk of forcing him to apply for amnesty. "No one from the IFP will implicate Buthelezi. If the ANC tries to push him, there will be a push from our side to have President Nelson Mandela become an amnesty applicant. The matter will be dropped."

A process which sees other individuals take responsibility will vindicate Buthelezi's view that he is a man of peace, and violence took place without his sanction.

The source says that before Buthelezi gives the go-ahead for an amnesty process, he is likely to insist on a meeting with Mandela. This will help make the point that the truth commission without Buthelezi's approval — ultimately had to negotiate with him. The IFP source says that at the conclusion of the amnesty process, Buthelezi

was likely to insist that the ANC-controlled central government "pay" the IFP-controlled KwaZulu-Natal government a large sum of money — say R1bn — as "reparations" so that it could raise the province from the ashes of war.

ANC leaders say that amnesty will be one element of a peace package. It will table other proposals, and the IFP will do likewise, as they try to bring about a permanent peace. Tough questions which will have to be answered include:

- Should there be international mediation, or bilateral talks to satisfy Buthelezi's demand for greater provincial powers?
- Should Buthelezi be reinstalled as king Goodwill Zwelithini's prime minister, or offered the chairmanship of the national council of traditional leaders, in exchange for the ANC gaining access to chiefs?
- As some believe peace in Zimbabwe was dependent on Joshua Nkomo obtaining the deputy presidency (and a similar discussion is underway in Angola), should a similar offer be made to Buthelezi post-1999?

One IFP leader says it is essential that an understanding over power-sharing develops in KwaZulu-Natal.

"The ANC agreed (in the World Trade Centre talks) to the drafting of provincial boundaries in such a manner that it basically guaranteed the NP control in the Western Cape. Some understanding must emerge that the IFP will continue to be the majority party in KwaZulu-Natal, and the ANC could be accommodated in that government. In some ways, such an understanding developed for the local elections. Both of us pulled back from making a big push on the ground for new support. The result was that the status quo remained (the ANC won its urban strongholds and the IFP its rural strongholds), and there were no problems," the IFP leader says.

But ANC leaders say they accepted leaving KwaZulu-Natal to the IFP in 1994, and are determined to take power in 1999.

"Peace must be based on democratic principles, and it is our democratic right to win an election," an ANC source says.

The ANC and IFP agreed last year to the drafting of a code of conduct, which will lay the rules for free political activity.

However, the agreed deadline for its completion has passed. Negotiators apparently require more time to persuade their constituencies to accept the idea because a code of conduct — and more so its enforcement — will be the key to breaking the culture of winning territory through the barrel of the gun, and ruling communities with an iron fist.



ZUMA



BUTHELEZI

Amid the changes in the judiciary, an old-style attitude still exists among some judges

# The view from the (troubled) Bench

(252) M+G 17-23/1/97

Three months as an acting judge was a learning experience for academic and commentator

**Dennis Davis**

**T**HE demand for the transformation of the South African judiciary has become almost as plastic a concept as that of the rainbow nation. That the judicial system that was inherited from the apartheid system is ill-suited to the demands of a democratic society based on freedom, equality and human dignity is surely apparent to all but the most recalcitrant, some of whom re-emerged into the public limelight during the unfortunate controversy which preceded the appointment of the chief justice.

The war cry, unfortunately, has not been accompanied by sufficient analysis as to the kind of judicial system which will be suited to the demands of the egalitarian society envisaged by our Constitution. Perhaps the reason for the striking lack of substance in the debate lies in the truly problematic issues relating to the transformation of the institution. Recently, I was privileged to serve as an acting judge on the Cape Provincial Division of the Supreme Court.

Although a couple of months on the bench is hardly sufficient to gain adequate insight into the range of problems relating to judicial change, the experience was rather salutary for an academic who has been critical of the judicial system in revealing the complexity of the problems of transformation.

The first issue relates to the composition of the judiciary. It is trite that the judiciary is predominantly staffed by white males.

That this legacy of apartheid must change is equally obvious, but the means to be adopted are not quite as simple.

There had been some debate prior to 1994 that all judges

should be interviewed by the Judicial Services Commission prior to re-appointment.

Doubtless this development would have led to a number of retirements. The politics of transition dictated otherwise. Accordingly, the only viable alternative which would give rise to more vacancies on the bench would be to adopt the so-called "Howard amendment", in terms of which judges who have attained the age of 65 years would be able to retire with the same rights as presently apply at the retirement age of 70 years.

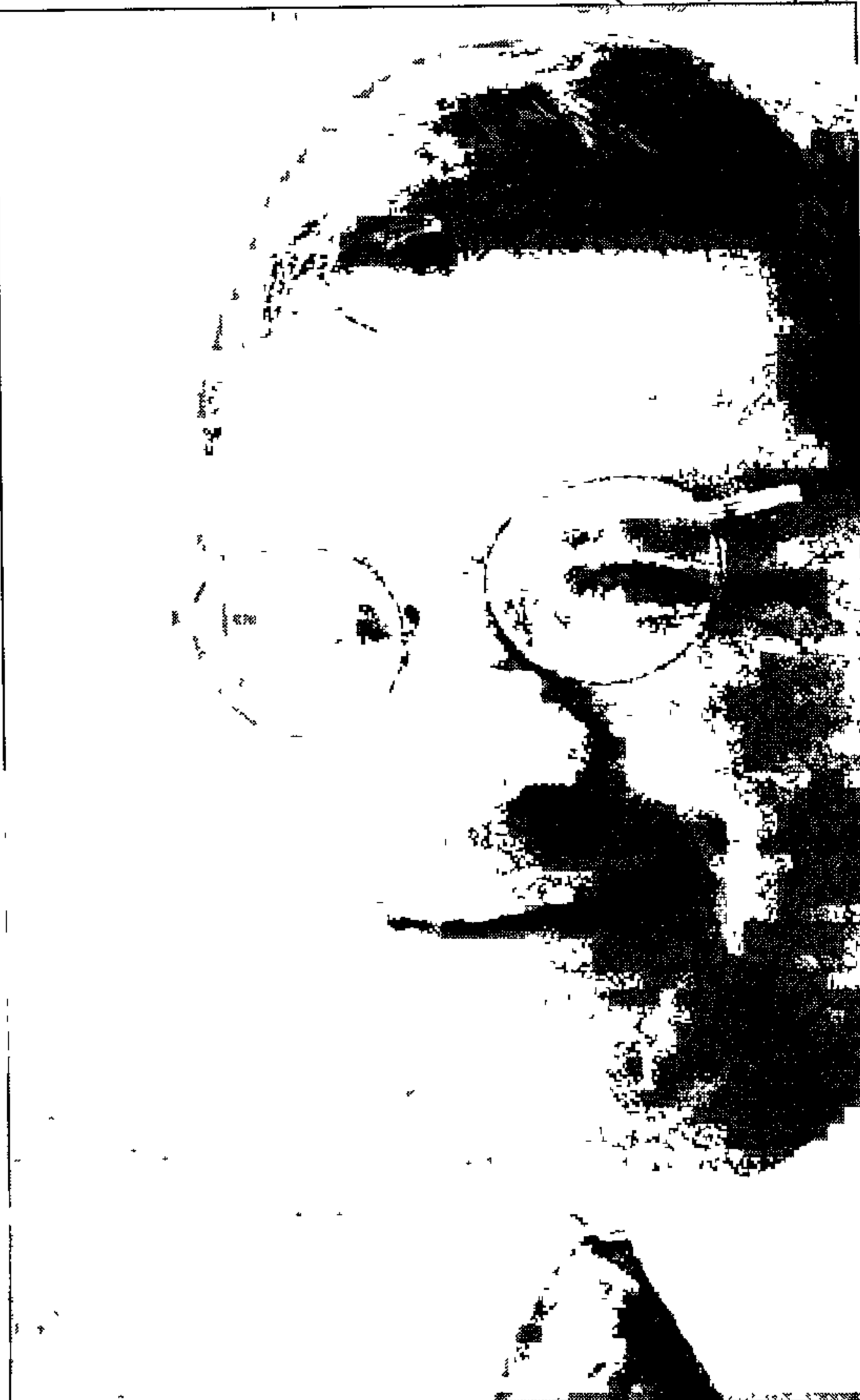
It appears unlikely that the "Howard amendment" will be approved, in which case fewer vacancies will arise and hence judges clearly uncomfortable with our new society will continue in office until they attain the age of 70.

For this reason, it is likely that the composition of the judiciary will change rather more slowly than some might expect. Even if the "Howard amendment" is adopted, considerable care should be taken to ensure that the core of experienced, competent judges who have shown remarkable adaptation to the constitutional state should continue in office.

Were these judges to resign immediately, it is unlikely that sufficient experienced judicial officers would be found to maintain a judicial system in which ordinary South Africans will obtain full benefit of their constitutional rights.

The brutal reality of apartheid was that its racism, together with the connivance — whether by omission or commission — of the legal profession, prevented women and black lawyers from being exposed to the full range of the complexity of law.

While the Nationalist government appointed many mediocrities (without much complaint from the legal profession), South Africans now deserve far better and, with some official imagination in looking for candidates outside the tradition pool, this can be attained, although



Complex challenges: Dennis Davis concludes that real changes in the judicial system will take time

PHOTOGRAPH SIDDIQUE DAVIDS

probably over a somewhat longer period than was previously hoped.

While many of the recent appointments have been extremely successful, the existing pool of candi-

dates is too small to effect wholesale change immediately. While I accept that my own experience as an academic lawyer is far inferior to many prospective candidates for

judicial office, the assistance given to me by experienced judges in regard to a range of issues in which I have had no previous experience, was not only critical to my survival on the Bench, but indicated to me that experienced judges committed to change of the system are much needed to pass on assistance and guidance to those who assume judicial office. In short, these judges are crucial to the development of a Bench which adequately reflects the demography of this country.

Transformation also requires a change in support given to the judicial institution. At present, the judiciary is treated like a 19th-century institution in which a group of gentlemen use quill pens to produce their judgments. Judges do not obtain computers as of right. There is no research assistance available to members of the Bench who thus compete against practitioners equipped with the latest information technology and a team of juniors and attorneys.

It is quite unacceptable for the judiciary to operate in this parlous situation with poor libraries, an absence of research capacity and no access to information technology. I found it difficult to obtain a dictaphone in order to ensure that my judgments could be typed. These developments began many years before, when the old government reduced the judiciary in status and in resources.

Transformation is also about changing the nature of our legal thinking. The Constitution brought about a revolution to our legal system and this now requires that the judiciary be provided with research to enable our common law to reflect the values of our new society.

To a significant extent, the institution has been let down by the academic community. One example must suffice. In the area of crime, there is an extraordinary absence of decent research on sentencing options, concepts of punishment and general guidance to deal with the escalating crime wave.

It is unacceptable that, in a society faced with our crime rate, none of the criminology institutes has been able to produce the kind of rigorous research which would ensure that the principles of sentence, bail and punishment become coherent. The bench must be confronted with new thinking to ensure that it develops the law in accordance with the spirit of the underlying values of the Constitution.

A definite start has been made on the transformation road, with the appointment of Ismail Mahomed as chief justice, but the chief justice cannot do it alone. To me, it is clear that the judge presidents have a vital role in assisting the chief justice to change the system.

If one looks at the areas in which the judiciary has changed for the better, much of the credit for that should be given to the judge president of the division, a conclusion clearly borne out by my experience on the bench.

South Africa needs to concretise the debate around judicial transformation. Mere slogans and easy solutions will not suffice.

Professor Dennis Davis is the director of the Centre for Applied Legal Studies at Wits University and was a Cape Division acting judge from October to mid-December last year.

## 'Sexist' judge in name wrangle

**Mungo Soggot**

**A** SUPREME Court judge has been reported to the chief justice after ordering a leading campaigner for gender equality to adopt her husband's name before he would grant her a divorce.

Loretta Jacobus, the African National Congress MPL who chairs Gauteng province's committee on gender equality, says she was stunned and "disgusted" when Judge Geoff Leveson told her to change the name on her divorce application papers to that of her husband — Antonio Bastardo Ibanez.

Jacobus's lawyers sent a letter of complaint to Transvaal Judge President Frikkie Eloff, who replied that he was powerless to interfere. "Judge Leveson is master in his court, and I have no say in the rulings made by him," Eloff said.

"The difficulty raised by Judge Leveson, as I understand the position, is that anyone who might be interested in having sight of the record of the divorce proceedings



Name change Loretta Jacobus, a victim of a court ruling

PHOTOGRAPH RUTH MOTAU

would look for the record in *Ibanez v Ibanez*... Whether that is sound is not for me to say."

The lawyers then approached the then chief justice Michael Cor-

bett. He passed the matter to his successor, Ismail Mahomed, who takes over in Bloemfontein this month.

Jacobus says several women in the divorce court had a hard time the day she was there, last August. She told the *Mail & Guardian* that when one woman was asked why she wanted a divorce she said: "It is not working." She says Leveson responded: "What's not working — the fridge, the stove, the microwave?"

In the letter to the chief justice, Jacobus's lawyer says her client believed she had been a "victim of sexism at the hands of Judge Leveson which, in the circumstances, amounted to an abuse of judicial power."

"I do not suggest that Judge Leveson's petty abuse of his judicial powers should lead to his removal from office."

"I do, however, request that you consider whether his conduct amounts to misconduct in terms of the constitution..."

"Should Judge Leveson be allowed to continue with impunity to act out his chauvinist prejudices on any woman who has exercised

her entitlement never to adopt her husband's name?"

In the initial letter to Eloff the lawyer said that Leveson had sent Jacobus to the back of the queue when she refused to switch her name. Divorce proceedings at the Rand Supreme Court take place on a "conveyor belt" roll on Fridays, with judges taking turns to preside.

Jacobus's advocate told Leveson there was no legal reason for Jacobus to change her name, citing the Births, Deaths and Registries Act of 1992.

"Notwithstanding the above, Mr Justice Leveson was adamant that should the plaintiff want a divorce, an amendment would have to be effected to reflect the plaintiff's name as Ibanez," says the letter of complaint.

"The plaintiff finally consented to the amendment, despite her misgivings, as she had been waiting the entire morning and it had become apparent that she would not get divorced if she refused to do so."

Leveson told the *M&G* that only Eloff was in a position to comment.

# Go-betweens keep the truth body working

M+G 17-23/1/97

Eddie Koch

(252)

**M**AGGIE FRIEDMAN, partner of assassinated academic David Webster and founder member of Khulumani, says her organisation has constantly stated that the full involvement of victims in the work of the Truth and Reconciliation Commission is vital for its success.

Sylvia Dlomo-Jele, co-founder of Khulumani whose son, Dlomo, went missing in the 1980s, echoes these sentiments. "Most of the time we are the people who introduce the truth commission to the victims," she says. "By itself I doubt it would cope. It cannot go down to the victims. We are the ones who know how to go to them because the victims are among us."

Khulumani was initially started as a support group for victims. It has been built into a nationwide body. But there has been no process of building a strong and powerful working relationship between victim groups and the truth commission.

Friedman says victims have experienced problems working with all three truth commission committees. "For instance, when amnesty hearings started for the five security policemen who have applied to be indemnified for their role in a number of murders, including the Duduza hand-grenade operation, many of their victims' families were not informed.



Maggie Friedman: Says victims have had problems with all three committees

"Although victims have indicated the need for reparations is desperate, it is ridiculous that the reparations committee will only be able to start with urgent payments 15 months into the process."

The Human Rights Violations Committee has done quite well with public hearings, she says, but there has been a lack of information and outreach programmes both before and after hearings. This leaves community members frequently confused about the role of the truth commission.

Dlomo-Jele believes the lack of active participation by victims in the truth commission, and a bureaucratic response to requests for help from their families, is reinforcing perceptions that perpetrators stand to gain most from the process.

# De Klerk 'knew of third force activities'

The truth commission has released details of the Steyn Report, concealed since 1992 — and it contains startling disclosures. **Stefaans Brümmer** reports

**F**ORMER state president FW de Klerk entrusted action on the elusive Steyn Report, which linked the apartheid military to "third force" activities, to three top military officials who were themselves implicated — including the present South African National Defence Force chief, General George Meiring

The Truth and Reconciliation Commission this week released details of the Steyn Report, made to De Klerk in December 1992 by then defence force chief of staff Pierre Steyn. This disclosure settles once and for all that the report in fact contained a written element. De Klerk, who never released details, has told Parliament the report was "verbal"

The release may have serious implications for De Klerk, who is now shown to have had knowledge of third force activities — including train violence — almost a year and a half before he relinquished power and arguably handled the information in such a way that a cover-up was facilitated. Train violence continued until the day before the 1994 elections

It may also have implications for Meiring, whom the truth commission is eager to question

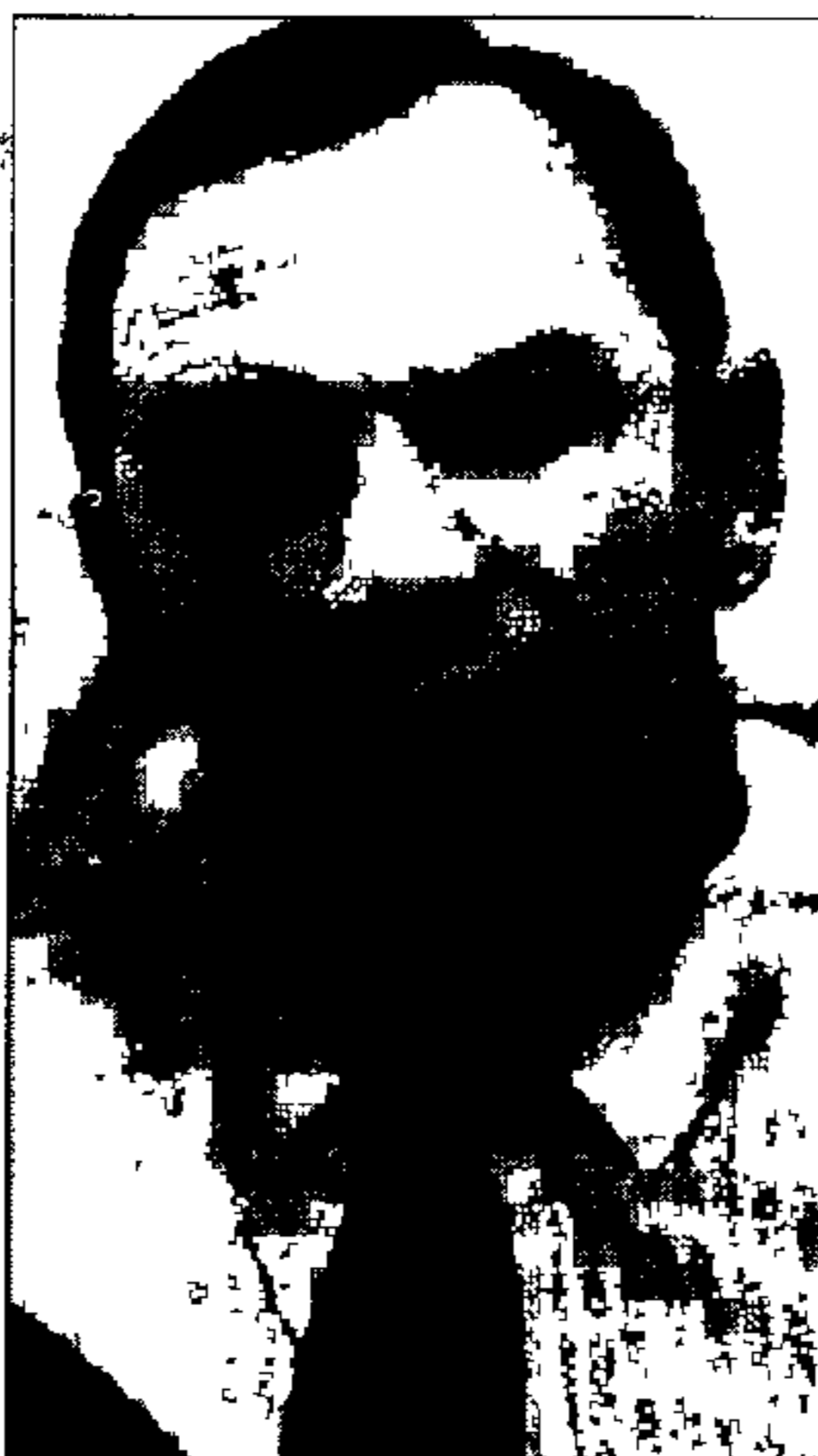
The truth commission announced on Thursday that Steyn, now secretary of defence, briefed commission members on October 10 last year, providing them with a file containing information gathered in his inquiry

Included was a "staff report" detailing military components and staff and the unlawful or unauthorised activities Steyn suspected they were involved in. The commission said Steyn had handed this to De Klerk when he briefed De Klerk.

Commission research director Charles Villa-Vicencio confirmed Steyn's report contained information on train violence by elite reconnaissance unit members of the old South

## Tutu has operation

**T**RUTH commission chair Desmond Tutu this week had his prostate gland removed, and will be absent from his official duties for about three weeks.



Steyn: Briefed commission members

African Defence Force, the involvement of the SADF's 7 Medical Battalion in chemical-biological warfare operations which included the alleged poisoning of state enemies, interference in the political affairs of neighbouring states and homeland coups

Also included was information about "a range of suggested criminal activities in relation to drugs, ivory and rhino horn, cycads, fish from Mozambique and the smuggling of arms through the Kruger National Park".

De Klerk appointed Steyn to take charge of the SADF's intelligence functions and investigate the Directorate of Covert Collection (DCC), a component of Military Intelligence, after the Goldstone Commission raided DCC's headquarters in November 1992

When Steyn reported back to De Klerk and senior National Party cabinet members a month later, he gave them information on alleged illegal activities by DCC, army intelligence, army operations, some reconnaissance units and 7 Medical Battalion

Villa-Vicencio said Steyn's briefing to De Klerk included information that "a number of individuals within these

structures had clear influence on the top management of the SADF, thus by implication the SADF itself could be construed to be involved in the creation of violence and intimidation".

Importantly Steyn recommended to De Klerk that General Kat Liebenberg, then chief of the SADF, General Meiring, then chief of the Army, and General Joffel van der Westhuizen, then chief of Military Intelligence, be "asked to take early retirements or forcibly retired if necessary".

Steyn, whose findings were based mostly on intelligence gathered by the then-National Intelligence Service and other agencies, recommended that De Klerk institute a thorough inquiry to substantiate his information. In stead, the three generals Steyn said should go were summoned to Tuynhuis, where De Klerk asked them to draw up a list of military personnel against whom action should be taken

As a result, De Klerk issued a statement a day later, saying that 23 top SADF officials had been placed on compulsory early retirement or leave. The three generals were not on the list. Nine days later, 15 were reinstated.

Villa-Vicencio said that between January 1993 and August 25 that year Steyn repeatedly made submissions to De Klerk and then-defence minister Kobie Coetzee, expressing concern that further investigations were woefully inadequate. In fact, there were indications that the SADF had embarked on a major cover-up and was destroying documentation.

Truth commission deputy chair Alex Boraine this week said it was "extraordinary" that the three generals Steyn wanted investigated had been asked by De Klerk to identify culprits. "It will be very interesting to hear what Mr De Klerk says when he appears again before the commission later this year"

He said the implication concerning Meiring was "the most disturbing factor of them all"

"There are a number of really tough probing questions we would like to put to General Meiring concerning the Steyn report, and obviously we will be raising it with the minister of defence"

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# When should society

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# fire of the voices of the

Brandon Hamber

**T**HE kitchen of a small house in downtown São Paulo, Brazil, is the meeting place of the Comissão de Familiares de Mortos e Desaparecidos Politicas (Commission of the Families of Political Murder Victims and the Disappeared), an organisation of family members whose loved ones were killed during the military dictatorship in Brazil.

The kitchen is lined with filing cabinets that contain information collected by the families on some 400 cases of murder and "disappearances".

Unlike in South Africa, there was no official investigation in Brazil following the military regime. Without any governmental support, it has been these families and human rights activists who have had to try to find information on the "missing" and the dead.

Some 20 years since the "disappearances" the relatives are still trying to establish the truth about what happened to their loved ones.

During the period of military rule in Brazil (1964 to 1985) thousands of citizens were persecuted, forced into exile, murdered and tortured. The official lists compiled by human rights organisations report thousands of cases of torture, 240 people murdered and 144 missing. Relative to other countries in South America, these numbers are negligible.

Comparisons to the 30 000 "disappeared" in Argentina are of little comfort to the relatives who feel that the atrocities committed are determined to offer constant reminders that, in reality, there is nothing that can ever be done to replace their "missing" loved ones. As bizarre as this extreme position sounds, if we are to truly sympathise with victims we are required to understand it.

In Brazil, the government has recently agreed to compensate the families for the murdered and "disappeared", but the relatives say compensation was never their goal. They see this as the government's final attempt to buy their silence and close the book on the past, but without disclosing the facts of what happened.

by the Brazilian government have received little attention since the passing of a general amnesty in 1979.

Although a civilian government was instated in 1985, the families of the "disappeared" have continued to seek the truth and draw attention to the numerous atrocities carried out by the past government.

Groups of this nature are not uncommon around the world, and such organisations have emerged in at least 16 countries. Most of these organisations have developed spontaneously.

Their roots lie often with relatives who have met as a result of their common experiences. Stories of meeting one another at government offices and police stations while seeking information about their loved ones are common.

**G**roups exist in almost all Latin American countries and have also been established in African countries such as Chad, Ethiopia and Morocco. Similar groups also operate in Sri Lanka, the Philippines, Turkey, Croatia and in China.

These groups are diverse in membership and objectives, but generally share three common aims: a demand for information about what happened to their loved ones; a need for official acknowledgment; and a quest for justice in respect of those responsible.

In Latin America truth, social and psychological rehabilitation, and acknowledgment are generally placed before the need for compensation. As most of the groups have developed in the context of blanket amnesties,

**A**s a result, the families of the "disappeared" in Brazil are referred to by both those from the left and the right as "dinosaurs". They are seen as harping on the past. The society is tired of these mothers who will not be appeased or who cannot forget.

The real question is at what point does a society become tired of hearing the voices of the past? In South Africa, despite even the most valiant efforts of the Truth and Reconciliation Committee, we can expect to hear the voices of victims long into the future.

there is an ongoing demand for justice.

Impunity for crimes committed under military regimes is the issue that sits hardest with relatives of the murdered and "disappeared" throughout the world.

The South African Truth and Reconciliation Commission is one of the boldest international efforts to try to meet some of these needs. Unlike a "blanket amnesty", the commission trades full disclosure or "truth recovery" for amnesty — thus potentially meeting victims' needs for truth and public acknowledgment.

In South Africa, amnesty is justified as being necessary to ensure peace. It is considered that prosecutions could not have been guaranteed due to inefficiencies in the criminal justice system and a lack of access to information necessary to sustain successful prosecutions.

Most victims would probably agree that an investigation like the truth commission is a necessary first step to uncovering the truth. However, the onus is not on victims to accept any amnesty agreements. Rather, the commission has the responsibility to explain amnesties and has to be prepared for the angry responses.

It is critical that it is not demanded, either implicitly or explicitly, that victims are expected to forgive the perpetrators. Families' anger or other emotional responses to the granting of amnesty to perpetrators has to be legitimised and space provided for people to express their feelings.

The lessons from other countries are that amnesties are always unpopular. Ironically,

if the truth is uncovered, this may stimulate rather than eliminate families' demands for justice.

Even with the efforts of the truth commission, the varied nature of the cases and the impossible search for the truth means that the issues of the past can be expected to remain on the agenda for many years.

Despite the Chilean Commission of 1991 being reported as the most successful truth commission to date, today people still seek to report past cases and many are unaware that the commission even took place.

In South Africa we need to guard against the attitude that once the Truth and Reconciliation Commission is over, the chapter on the past is closed. For the victims of past

**Ironically, if the truth is uncovered, this may stimulate rather than eliminate families' demands for justice**

abuses, the chapter only closes when they are personally ready.

This can be more challenging than it sounds. Take one faction of the victims' group the Mothers of the Plaza de Mayo in Argentina, for example, who refuse any form of reparaton and compensation. They will not even participate in any official investigations or bodies, and insist: "You took them away alive, we want them back alive."

Perhaps they only want others to experience the frustration they have felt and are

The challenge to all South Africans is to learn to cope with, and accept as legitimate, the ongoing anger and even impossible demands of victims who will continue their struggle for an ever-elusive truth.

Brandon Hamber is a clinical psychologist and co-ordinator of the Transition and Reconciliation Unit at the Centre for the Study of Violence and Reconciliation.

Past?

# MPs demand action on rape bail



**CONCERNED:** Members of a delegation led by Deputy Speaker Ms Baleka Kgositsile (right) to Robben Island yesterday arrived at the guest house where the rape occurred. Nomboniso Gasa, a worker from UWC's Maybuye Centre and wife of ANC MP Mr Raymond Suttner, walk away from the guest house where the rape occurred

PICTURE: GARTH STEAD

## Police take fingerprints of 45 men

WILLEM STEENKAMP

A TEAM of seven detectives yesterday began taking statements from and the fingerprints of the 45 men that were on Robben Island on Monday night, when Ms Nomboniso Gasa was brutally raped there. They expected to complete this task today.

Professor André Odendaal, the administrator of the island, told a visiting group of MPs and others yesterday that police first arrived on the island early on Tuesday, when they made a list of the men on the island and took fingerprints at the rape scene. Odendaal said the establishment of a police sub station on

Robben Island was expected to "happen quite soon".

Police spokeswoman Superintendent Ciska du Plessis last night denied criticism that the police were not doing enough to catch the rapist.

"The police have so far done everything to the best of their ability," she said.

**WOMEN MPs have demanded strong and immediate government action after the rape on the wife of Robben Island MP WILLEM STEENKAMP and LARRY STEEK REPORT.**

**F**URIOUS ANC women MPs yesterday called for urgent government action, including the refusal of bail in rape cases and the imposition of minimum sentences for rapists, after the violent rape of the wife of an ANC MP, on Robben Island on Monday night.

Later, a group of about 30 people, including the MPs, parliamentary staff members and former political prisoners visited the island to highlight their outrage.

The woman was named yesterday as Ms Nomboniso Gasa, the 29-year-old wife of MP Mr Raymond Suttner. Gasa works at the University of Western Cape's Maybuye Centre, which is establishing a museum on Robben Island, and has been nominated as a member of the National Gender Commission.

Deputy Speaker Ms Baleka Kgositsile said at a press conference yesterday it was "horrifying" that although the incident had happened on Monday and there had only been 21 men on the island at the time — the figure was last night amended to 45 — police had not yet identified a suspect.

Kgositsile said Gasa had decided she wanted to be identified, although her husband was initially reluctant. She said she did not want to carry an added burden of silence.

Later, on Robben Island, Kgositsile said "We are saddened that such a crime could happen in this place."

She reiterated that the lack of arrests so far was "not acceptable to us", and warned: "They (police) had better do a thorough investigation — and we mean it."

Kgositsile also read a number of times on the trip that "if the wife of any of the former MPs (before April 1994) was raped, someone would have been arrested by now."

At the press conference, the MPs, who represent a core of influential women politicians, said they were demanding the refusal of bail for rape suspects, as well as minimum prison sentences for convicted rapists.

ANC MP and member of the party's national executive committee Ms Thelma Mkhonto also said Gasa had agreed that her identity be made known, but would make her own statement when she was ready. She was still suffering from the trauma of her ordeal, however.

Kgositsile said the rapist, who has been identified in reports as a white man, had entered the guesthouse on the island on Monday while Suttner was on the mainland. Suttner, who had been with his wife at the guesthouse last week, had raised concerns about security.

"While she was being raped, the man said that he resented the fact that she had tried to bring big change to Robben Island.

He also resented her being in the house that used to be occupied by senior people in power in the old regime. He then showed her his gun before he perpetrated his act."

Ms Gwen Mahlangu, chairperson of the parliamentary committee on tourism and environmental affairs, said during the trip to Robben Island that rape was "serious wherever it happens. It must be condemned".

She said the fact that Gasa had been raped on Robben Island, by a man with a racist motive, undermined efforts to turn "one of our most historical places" into a monument for the "millions" of oppressed South Africans.

"This will undermine Parliament and the state — and the country," she said.

Mahlangu said the MPs were demanding a tightening-up of anti-rape legislation. "We are calling for the strictest laws against rape, and we ask all magistrates to be sensitive to rape," she said.

ANC MP Ms Peggy Governder, chairperson of the parliamentary committee on the quality of life and status of women, said the police's first investigating officer had been taken off the case because of his insensitive and racist attitude, and the lack of progress in the case. His attitude "smacks of incompetence and a cover-up", she said.

The rape was symbolic of what was happening in the country and they were calling on all women to take action.

The Deputy Minister of Home Affairs, Ms Lindwe Sautu-Guma, said the symbolism of the rape happening on Robben Island did not escape her. She called on women to join a campaign for minimum sentences for rape, denial of bail to rape accused, and a women's court similar to the family courts due to come into operation soon.

Investigating officers and the justice system itself should be made more sensitive to women's needs.

She also called on the Minister for Safety and Security, Mr Sydney Mufsonadi, and the Western Cape police to take urgent action. She confirmed that Gasa had been examined by a district surgeon, but did not know whether semen samples had been taken from the scene.

Police spokeswoman Superintendent Ciska du Plessis last night denied that investigators were dragging their feet, or that the investigating officer had been replaced because of his attitude.

Captain Kevin Jones, the detective branch commander in Table Bay Harbour, had personally taken over the case because he was a more experienced detective than the initial investigator, she said.



**The difference is YOU WON'T FIND THE SUSPECTS AT A LOWER PRICE!**

**Still suffering from the trauma of her ordeal on Monday, Ms Gasa said she had chosen to be identified because she did not want to carry an added burden of silence.**

**252 OF 231/47**



# Tutu objects to TRC report

Star 23/1/97 (252)

Strong statement from sickbed dispels claims regarding 'liberal white clique'

By Jovial Rantao  
and Robert Brand

Truth and Reconciliation Commission chairman Archbishop Desmond Tutu yesterday denied that black members of the commission were being marginalised and said he felt personally insulted by the suggestion.

In a strongly worded statement issued from his sickbed - he is recuperating after an operation for prostate cancer - Tutu said he took "very strong umbrage" at accusations that the commission was being run by a "liberal white clique" led by his deputy, Dr Alex Boraine.

The Star reported on Tuesday that senior black officials were concerned they were being undermined, marginalised and underutilised when important policy issues were discussed.

Commission sources said Tutu was not surprised that racial tensions existed in the commission, but was "hurt and upset" that the officials quoted in the reports had not raised the matter internally before going to the media.

"Newspaper reports on the alleged marginalisation of black members of the TRC have forced me into doing something which I should not be doing,

which is issuing a statement from my sick-bed," Tutu said.

"Firstly, all major decisions are taken by the full commission. Most commissioners are black. Most members of each of the three constituent committees of the TRC are black. The chairpersons of each of the committees, as well as the chief executive officer, are black.

"Secondly, the suggestion from anonymous sources in the commission, that it is run by a clique of liberals, is insulting to me and I take very strong umbrage.

"The implication is that I am almost a token chairperson who is not in control. Anyone who knows me is aware that I am not a person to be manipulated.

"Dr Alex Boraine consults closely with me on what he is doing. He does not take decisions, other than those delegated to him, without discussing them with me.

"What is more, when we were appointing a chief executive officer last year, Dr Boraine was quite insistent that a suitably qualified black person should be appointed."

Other senior TRC members and officials also moved yesterday to defuse the row. Dr Khoza Mgojo, a commissioner in the TRC's Durban office, denied a

Sapa report that he had been sidelined in the running of the office.

In a joint statement with regional manager Wendy Watson, Mgojo rejected claims by an anonymous "senior official" that fellow commissioner Richard Lyster and human rights violations committee member Ian Lax tended to take decisions without consulting him.

Mgojo said the suggestion that he had been sidelined was harmful to the work of the commission and to him personally.

"We have no racial tensions in this office, especially considering that we emanate from such an incredibly socially destructive recent history."

The management team in the office met weekly to plan and facilitate the commission's activities in the KwaZulu Natal/Free State region.

"Although it is of little consequence, we wish to state that, of the 12 participants in this meeting, only three are white," Mgojo said.

At the TRC's Johannesburg office, at least five staff members have resigned, some of them because of dissatisfaction with working conditions, the commission's Johannesburg manager, Patrick Kelly, has confirmed.

He ascribed the flurry of res-

ignations to "a certain degree of instability" in the process of establishing the TRC and setting up its offices and personnel structures.

A staff member told The Star yesterday that staff at the Johannesburg office were so unhappy that they had formed a staff association and, at one stage, considered going on strike.

The source, who did not want to be named, denied that the resignations were because of racial tensions at the office.

Senior TRC officials contacted by The Star have expressed disappointment with Tutu's statement, in which he denied they were being marginalised.

"This is typical of how the TRC deals with issues. He should be sitting down to hear what the problems are and then make his decision," a senior staff member said.

The Inkatha Freedom Party yesterday called on Tutu to resume control of the TRC.

"His leadership, compassion and balance is urgently needed, and the party hopes that he will recover quickly from his recent operation," the IFP said.

The party said personal vendettas and narrow party political interests should not be allowed to dictate the activities of the TRC.

# SACP also opposes special amnesty deal for KwaZulu-Natal

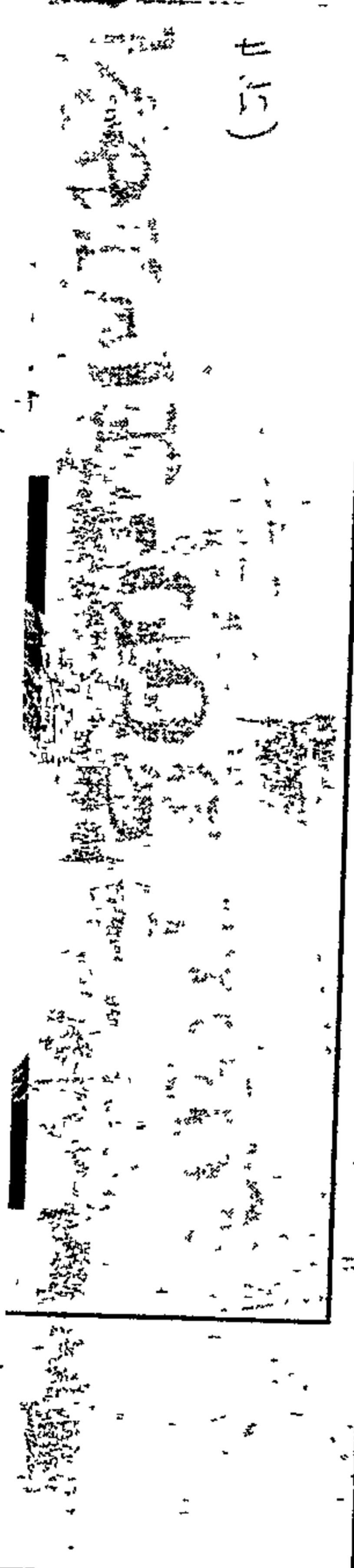
Farouk Chothia (272) 23/1/97

DURBAN — The SA Communist Party (SACP) has added its voice to growing opposition to a special amnesty deal in KwaZulu-Natal, suggesting the African National Congress (ANC) leadership faces a difficult task in selling the proposal to its constituency. SACP KwaZulu-Natal secretary Magwaza Maphalala said the

truth commission had been established to deal with politically motivated crimes and it would be a "political mistake to isolate KwaZulu-Natal from the rest of the country". Maphalala said the ANC KwaZulu-Natal region might have "good reason to believe that special treatment to perpetrators of violence in KwaZulu-Natal will change the situation", but it had

not yet made the reasons known to the SACP, Cosatu and Sanco. He said the justice and safety and security departments should "reinforce" the truth commission by ensuring that perpetrators of violence who refused to appear before the body were prosecuted. The government-appointed investigation task unit, which was being disbanded, should be "revisited", Maphalala said.

Truth commission deputy chairman Alex Boraine, Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi, the Democratic Party (DP) and KwaZulu-Natal violence monitors also rejected a special amnesty deal earlier. DP KwaZulu-Natal MP Wessel Nel reiterated the party's opposition, saying the "more one hears about it, the more it appears not only shady but perhaps evil".



**Optimism in SA drops 6% but still beats pessimism**  
Kevin O'Grady

# Truth body tensions 'reflect SA reality'

Stephen Laufer

THERE was no evidence that racial tensions within the truth commission had reached crisis point, the body's head of investigations, Dumisa Ntsebeza, said yesterday

Ntsebeza was echoing a response by commission deputy chairman Alex Boraine to accusations that the organisation was run by a clique of white liberals who marginalised black colleagues. Boraine said "it would be surprising if there were no tensions" in the commission, which was a microcosm of SA

It was "nonsense to suggest that top positions are held by whites", Boraine said. The chairman of the commission and its amnesty, rehabilitation and repa-

BO 22/1/97 (252)  
rations committees were black, as was the head of investigations

The commission's work was demanding and the intense pressures the commission was subject to served only to intensified tensions already there

Ntsebeza said relations within the commission reflected SA's complex realities "This country has not suddenly become paradise island. It has a long history of tension, not just racial, but gender related too" It was to the credit of commission leaders that there had been no crisis, given the sensitivities at the root of the tension.

The absence of commission chairman Desmond Tutu, who was ill, was coincidental. He had been away previously without any flare-up of tension

At the heart of many of the al-

legations appears to be reparations and rehabilitation committee chairman Hlengiwe Mkhize, who has been criticised for doing too little too late to relieve the plight of victims who have testified to the commission

She had attempted to cover herself by diverting attention towards alleged tensions, one observer of the commission claimed.

Meanwhile, Boraine's meeting with President Nelson Mandela yesterday to discuss proposals for a further extension of the amnesty cut-off date in KwaZulu-Natal was postponed as it was felt that initially this could better be discussed between Boraine and Jacob Zuma, who had been involved with the proposal in his capacity as African National Congress KwaZulu-Natal chairman

'I AM NOT A PERSON TO BE MANIPULATED'

# Tutu slams TRC 'racism' claims

**ANONYMOUS** claims of white domination of the Truth and Reconciliation Commission were angrily denied yesterday, as the commission reviewed its inquiry into the media.

**ARCHBISHOP** Desmond Tutu, recovering from a cancer operation, hit back angrily yesterday at critics who claimed the Truth and Reconciliation Commission was controlled by white liberals.

"The suggestion from anonymous sources in the commission that it is run by a clique of liberals is insulting to me and I take very strong exception," he said in a statement dictated to his aide, Mr John Allen

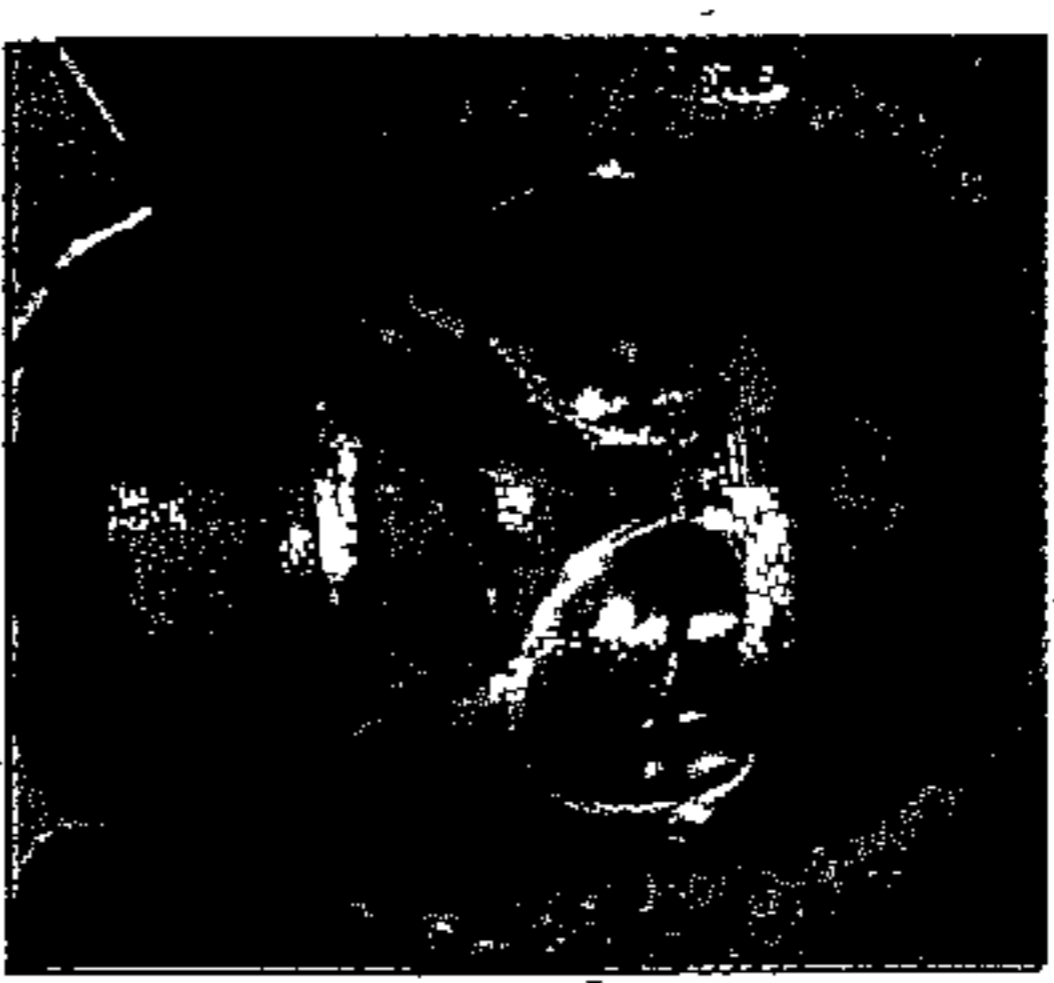
"The implication is that I am almost a token chairperson who is not in control. Anyone who knows me is aware that I am not a person to be manipulated by cliques," he

said in the unusually angry statement

Tutu's reaction followed newspaper reports quoting unidentified black members of the commission who alleged that the top jobs were all being given to the minority of white members

"All major decisions are taken by the full commission," Tutu said

"Most commissioners are black. Most members of each of the three constituent committees of the TRC are black. The chairpersons of each of the committees, as well as the chief executive officer, are black." Meanwhile, the TRC has said it will review its inquiry into the



**ANGRY AT CRITICS:** Archbishop Desmond Tutu

white-run media under apartheid. This followed a two-hour meeting on Tuesday with members of the Black Editors' Forum and the Forum of Black Journalists "We have to rethink our

approach if important stakeholders find it impossible to participate," said deputy chairman Dr Alex Boraine, indicating an apparent boycott threat

Last year the commission asked the Freedom of Expression Institute (FXI) to prepare a report on media coverage during the apartheid years "The commission is to review the mandate it has given to the FXI," yesterday's statement said

The FXI research is directed by former Rand Daily Mail editor Mr Raymond Louw. The paper took a vociferous anti-government stance during the apartheid years, before it was closed by its owners on financial grounds

But Mr Thami Mazwai, head of the Black Editors' Forum, said Louw had been part of a system that discriminated against black journalists. Mazwai said the Argus Group (now Independent Newspaper Holdings) and SA Associated Newspapers (now Times Media Ltd), which dominated press ownership over four decades of apartheid, "hardly raised a sweat in opposition to the then government's stranglehold on the media"



He charged that papers like the Rand Daily Mail, despite their anti-apartheid image, imposed unnecessary self-censorship at the behest of their owners

Louw said the objections were misplaced because the FXI report would be only one submission among many.—Reuter

(2092) CT 23/1/97

# Vlakplaas used 'heart attack poison'

BO 23/11/97

(252)

Stephen Laufer

FORMER police forensics chief Gen Lothar Neethling had supplied "knock-out drops and a poison powder to induce heart attacks" for the use of the Vlakplaas killer unit, its former commander Dirk Coetzee told the truth commission yesterday.

Coetzee said he had obtained the poisons directly from Neethling while under orders from Brig Willem Schoon. Poisons had been used in an attempt to kill African National Congress (ANC) activist Selby Mavusu and Vlakplaas askari Peter Dlamini.

Neethling would supply only a few drops at a time and on request from his superiors, Coetzee said. Besides

Schoon, his commanders had been special branch second in command Brig Jan du Preez and the unit's chief, Gen Jan Coetzee.

When the attempts to kill Mavusu and Dlamini with the poisons had been unsuccessful over three days, Coetzee's fellow Vlakplaas officer Koos Vermeulen had been sent to get more from Neethling. He had returned with a double dose and reported that Neethling had been concerned that the original mixture had not worked properly.

When the heavier dosage had also failed, Vermeulen had shot Mavusu and Dlamini near Komatipoort on the Mozambique border.

Neethling has in the past taken legal action against newspapers report-

ing Coetzee's allegations.

Asked by the amnesty committee why the two had been poisoned and allowed to suffer the ill effects over days rather than being shot immediately, Coetzee said it had been hard to look someone in the eye who was stone cold sober knowing one was about to kill them. There had been no particular reason to choose poison over shooting.

Mavusu was an ANC guerrilla who had been abducted during a raid on Matola, Mozambique, in 1981. Dlamini, a guerrilla who had worked for the Vlakplaas police, was "not all there", Coetzee said. He had complained to the police commissioner about conditions at the unit and it had been feared that he could expose their activities.

# Cops tell how Cradock Four were eliminated

*ARG 24/1/97 (252)*  
*TRC gets key to mystery*

ARGUS CORRESPONDENT

Twelve years after the murder of the "Cradock Four" - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli - two Eastern Cape policemen may have provided the key to one of apartheid's most enduring mysteries.

In a leaked amnesty application before the Truth and Reconciliation Commission, Lieutenant Eric Taylor and Major Gerhard Lotz describe in grisly detail how the activists were killed and mutilated because police believed they were a threat to state security.

The application was leaked to an Afrikaans morning daily in Port Elizabeth. The elimination of the four had been authorised by senior officers in the military and security police, the paper said.

Mokotedi Mpshe, counsel for the TRC's amnesty committee, confirmed that an amnesty application for the Goniwe killings had been received from two policemen. He declined to give details.

Port Elizabeth attorney François van der Merwe confirmed that he had prepared amnesty applications for Major Lotz and Lieutenant Taylor. He also refused to give details, saying the applications were

privileged until made public by the TRC.

The burnt and mutilated bodies of the Cradock Four were found near Port Elizabeth on July 28, 1985, after they had failed to return to Cradock from a meeting in Port Elizabeth. Mr Goniwe, a teacher, was a leading United Democratic Front activist in Cradock.

After the discovery of a military signal proposing that Mr Goniwe and his three comrades be "permanently removed from society", an inquest found that the State had, in all probability, been responsible for the murders.

The inquest could not, however, determine whether Mr Goniwe had been murdered by the police or the military, or identify the individuals responsible.

According to the amnesty application by Major Lotz and Lieutenant Taylor, the Cradock Four were kidnapped on July 27, 1985, by security police.

Major Lotz, Lieutenant Taylor and a third officer, Captain Sakkie van Zyl, took them to an area near St Georges beach in Port Elizabeth.

The men were knocked unconscious, the application states. They were then killed and "their bodies were mutilated to make it look like a vigilante attack". The bodies were also burnt.

# IFP wants probe into 'liberal clique'

(252) ET 24/1/97

## OWN CORRESPONDENT

**DURBAN:** The Inkatha Freedom Party has urged the Truth and Reconciliation Commission to investigate its Durban office after allegations that senior black officials are being marginalised by their white colleagues.

IFP spokesman Mr Ed Tillet said KwaZulu-Natal and Free State commissioner Mr Richard Lyster and Human Rights Committee member Mr Ilan Lax had been implicated by other senior colleagues in a "liberal clique" sidelining senior black officials.

"The accusations against Lyster and Lax suggest the two men have a condescending attitude towards their black colleagues and are more concerned with using their sensitive positions on the TRC as a platform to advance their political ambitions," Tillet said.

The National Party said TRC deputy chairman Dr Alex Boraine's recent actions had compromised the impartiality of the organisation and its ability to carry out its mandate.

In a statement, the NP said that, unlike TRC chairman Archbishop Desmond Tutu who had started gaining wide trust for his balanced handling of issues, Boraine appeared to want to settle

old political grievances under the banner and protection of the TRC.

"Dr Boraine's actions make the TRC a player in the party-political scene, instead of allowing it to rise above the confrontational and a divisive nature of this arena."

Boraine's behaviour towards NP leader Mr F W de Klerk had considerably harmed the NP's confidence in the TRC, the statement said.

Tutu this week denied that black members of the commission were being marginalised and said he felt personally insulted by the suggestion. The TRC leadership is expected to discuss the allegation at a meeting scheduled for January 30.

Senior black officials were reportedly concerned they were being undermined, marginalised and underutilised when important policy issues were discussed.

At the TRC Johannesburg office, at least five staff members have resigned, some of them because of dissatisfaction with working conditions, the commission's Johannesburg manager, Mr Patrick Kelly, has confirmed.

He said the flurry of resignations was due to "a degree of instability" in the process of establishing the TRC and setting up its offices and personnel structures.

# Steyn 'bows to pressure'

(252) MTG 24-30/1/97

**Stefaans Brummer**

**D**EFENCE Secretary Pierre Steyn came under intense pressure from the defence establishment after the Truth and Reconciliation Commission's public release of details from the "third force" report which Steyn made in 1992.

After the truth commission bombshell last week, vultures gathered to pick De Klerk's political bones — how else could it be when the commission's deputy chair, Alex Boraine, accused De Klerk of entrusting action on Steyn's report to three generals who had been implicated themselves?

But this week a National Party official remarked that the saga had turned out "quite well for us". De Klerk and the NP had a flurry of denials and counter denials — including statements by Steyn appearing to contradict the commission's — to thank.

Some speculate that Steyn's statements — in which he claimed his report had not contained allegations against current South African National Defence Force chief George Meiring and two former generals — could have come due to pressure.

One Defence Secretariat official this week confirmed there had been "a lot of unpleasantness in the department". Everyone in the department thought he [Steyn] was against the chief of the defence force. But the official claimed it was "not true at all" that Steyn had anything against Meiring.

Steyn, as civilian counterpart to Meiring, is theoretically the SANDF chief's equal. But as head of the relatively recently established Defence Secretariat, Steyn will find it hard to perform his duties without the co-



**FW de Klerk: Vultures gather**

PHOTO HENNER FRANKENFELD

operation of Meiring and the senior officer corps of the SANDF, still dominated by personnel from the old dispensation.

Another official said Steyn had been treated "like an outcast" in the military establishment after the truth commission release. While he said Steyn had been right to point out that the evidence contained in his report had been based on untested intelligence, he felt Steyn had overreacted and denied too much.

In the end, Boraine released a statement saying the commission stood by the basics of its original release, and that it saw no "fundamental conflicts" between that basic position and that of a written statement Steyn had released on Friday last week. In fact, there were differences between what Steyn was reported to have said in media interviews, and Boraine's position.

Boraine maintained in his later statement "the fact was that three generals whose names appeared in the report were asked by De Klerk to recommend the names of those against whom action should

take place". Steyn reportedly said at the weekend that his report had not recommended action against Meiring, then still army chief, General Kat Liebenberg, then defence force chief and General Joffel van der Westhuizen, then chief of military intelligence.

But the *Mail & Guardian* has it on good authority that Steyn's report did, in fact, urge that the generals be investigated for their alleged neglect to take action where earlier investigations had implicated defence force members. Steyn's report also raised specific allegations against all three generals.

Meiring said in a statement. "It would appear that to date no substantiation for the allegations in the [Steyn] report could be found."

Steyn was not available for further comment this week.

Meanwhile, NP secretary general Roelf Meyer this week confirmed as "reasonable" an interpretation that De Klerk's action on the Steyn report had been tempered by fears that excessive action could have led to a military revolt.

Meyer said: "At that stage there had been no agreement yet over the constitutional way ahead. Codesa II had collapsed by then, and there were no official negotiations. There was probably the potential that people in military circles would have said, 'There is no certainty, let's take matters into our own hands.' I am not saying that they had that in mind, but there was the potential."

President Nelson Mandela has also been in possession of Steyn's report since some time after the elections.



# A 'culture of impunity'

Successive amnesties may send out wrong signals: encouraging rather than alarming criminals

By GRAEME SIMPSON

Much has already been said about the media's handling of the recent high profile rape cases in the Johannesburg suburbs of Malvern and Observatory. In particular, it was suggested it was almost as if the press had only just "discovered" the magnitude and seriousness of the rape problem in South Africa.

To its credit, the same cannot really be said about Government. Indeed, at least as early as May 1996 – when the Cabinet approved the National Crime Prevention Strategy (NCPS) – violence against women and children was specifically identified as one of several crime priorities within the strategy.

The NCPS acknowledged that the solutions lay not only in re-engineering South Africa's criminal justice system, but also in civic education which would make such criminal behaviour more difficult to engage in. The NCPS also recognised the grave danger that crimes such as rape and child abuse indirectly pose to South Africa's embryonic human rights culture.

If popular confidence in the rule of law and in the effectiveness of our criminal justice system cannot be restored – if we continue to fail to catch and prosecute rapists and other criminals – then our hard-won Bill of Rights will be discredited as serving only the interests of the criminals, rather than potential victims.

The NCPS is emphatic that we cannot allow any growing sense of criminal impunity to undermine Government's commitment to these fundamental human rights.

However, this is the context which makes Justice Minister Dullah Omar's response to the Observatory and Malvern rape cases so disturbing. Of course his outrage is well-placed. So too is his concern – in general – with poorly applied bail laws. Yet his suggestion that, if need be, he would seek to amend the constitution so as to further restrict the rights of an accused to seek bail, implies a willingness to encroach upon the fundamental right of an accused to be presumed innocent until proven guilty.

In the face of legitimate outrage about the burgeoning problem of rape – as well as the somewhat less legit-

imate "trial by media" of an innocent accused – this rather dangerously suggests that the problem lies with our constitutionally enshrined Bill of Rights, rather than with the functioning (or the non-functioning) of both our policing and justice institutions.

Yet it should be precisely from such high popular emotion that our new constitution ought to protect individual rights. Instead, our collective human rights are potentially to be sacrificed through being misconstrued as the source of criminal impunity.

Our bail law is already appropriately restrictive in respect of people accused of violent crimes. In order to protect society, our law states that it is the onus of the accused in such cases to prove why they should get bail, rather than the obligation of the prosecuting authority to show why they should not. This gives our courts considerable discretion to refuse bail, as long as the investigating officer and the prosecutors are gathering evidence and doing their jobs effectively.

Minister Omar's comments are not only worrying, but also ironic. The irony lies in the "culture of impunity" which, although rooted in the apartheid era, appears to be gaining momentum. It is arguably compounded by Government's apparent propensity to extend "amnesties" in respect of criminal behaviour – albeit politically motivated in some instances.

Recently, in response to a request from the Truth and Reconciliation Commission (TRC), we have witnessed the president approve an extension of the amnesty date for politically motivated human rights violations. We have also seen Government approve a short-term amnesty for "tax dodgers". Finally, it has also been mooted that a special amnesty arrangement be negotiated as a vehicle for "resolving" KwaZulu Natal conflicts.

We simply cannot, at one and the same time, recognise that the roots of violent criminality in South Africa reside within the historical politics and dehumanisation of the apartheid era, but simultaneously simply ignore the impact which politically motivated amnesties may have on the credibility of our criminal justice system. The criminalisation of

politics and the politicisation of crime are two sides of the same coin.

I do not raise this point in order to take issue with the politically negotiated amnesty arrangements, which are entrenched in our constitution and which lie at the heart of much of the work of the TRC.

When confronting the legitimate frustration of victims of human rights abuse who are angry that full justice cannot be done, the point is well taken that without such an amnesty agreement, we may never have secured our democracy.

Furthermore, because of the lack of access to the sort of information necessary to secure prosecutions, only a very few of apartheid's victims stood much chance of succeeding with criminal charges or civil claims against the perpetrators. It is also arguable that our overburdened criminal justice system – the police, the courts and the prisons – could never have handled all these claims.

Nonetheless, until recently, the TRC could happily deflect these legitimate frustrations of victims and survivors, by arguing the amnesty was a political agreement reached between the ANC and the National Party during the negotiation process.

However, they can offer no such explanations to the victims of the right-wing pipe-bombings which occurred during the run-up to the 1994 elections, as it is the TRC itself which has sought to extend the amnesty to cover these incidents.

There are a number of rationalisations proffered by the TRC to explain this extension of the amnesty cut-off period from December 6 1993 (the date on which the interim constitution was finalised) to May 10 1994 (the date of President Mandela's inauguration).

Some of these explanations relate to why the latter date is more appropriate than the former, some to the legal niceties of why it is impossible to draw workable distinctions between offences committed on either side of the original date – as if it is any easier to do so in respect of the latter date.

The bottom line, however, is that this is a political intervention by the TRC in order to trade impunity of the election bombers for the co-operation of certain right-wing elements with the TRC.

It is precisely this sort of political intervention, however it is explained or justified, which attracts a certain moral responsibility for the "culture of impunity" which it inadvertently services. In my view, the Worcester and Rustenburg bombings are as clear a manifestation as any of this sense of impunity.

In this context, the mooted amnesty for KwaZulu Natal is even more of a concern. Although to his credit, it is ironic that TRC vice-chairperson Dr Alex Boraine has spoken out in the media opposing this proposal, because, in his view, it will compromise the integrity of the TRC and the TRC amnesty process. Yet it would cumulatively be even more devastating to the integrity of the South African criminal justice system.

Whatever its shortcomings at the level of implementation, the NCPS has at least one striking analytical strength: it seeks to remove violent crime from the realm of political legitimisation and insists we rescue our criminal justice system from the historical association between politics and crime. As regards KwaZulu Natal, the implied imperative is that we begin to treat violence – however it is rationalised – as criminal.

If Government even contemplates the KwaZulu Natal special amnesty, it will not only damage its own credibility in respect of fighting crime, but it will further contribute to the growing "politics of impunity" from which our criminal justice system and the rule of law in South Africa may struggle to recover.

There are undoubtedly times when we may have to sacrifice principles in the name of pragmatism in order to achieve peace. However, as long as we do this with scant regard for its impact on the credibility of our criminal justice processes, we breathe life into the culture of impunity which is the foundation stone of criminal behaviour in our society.

At some point, we will have to bear the moral responsibility – not only for the bombs in Worcester and Rustenburg, but also for the rapes in Malvern, Observatory and in suburbs and townships across the country.

■ Graeme Simpson is the director of the Centre for the Study of Violence and Reconciliation (CSVR), based at Wits University.

(252) Star 24/1/97

# Probe racism charges at TRC office, urges IFP

(252) Star 24/1/97

By JOVIAL RANTAO  
Political Correspondent

The Inkatha Freedom Party has urged the Truth and Reconciliation Commission to investigate its Durban office following allegations that senior black officials were being marginalised by their white colleagues.

IFP spokesman Ed Tillet said KwaZulu Natal and Free State commissioner Richard Lyster and human rights committee member Ilan Lax had been implicated in a liberal clique sidelining senior black officials.

"The accusations against Lyster and Lax suggest the two men have a condescending attitude towards their black colleagues and are more concerned with using their sensitive positions on the TRC as a platform to advance their political ambitions," Tillet said.

The National Party said TRC deputy chairman Dr Alex Boraine's recent actions had compromised the organisation and its ability to carry out its mandate.

The NP said that, unlike TRC chairman Archbishop Desmond Tutu who had started gaining

wide trust for his balanced handling of issues, Boraine appeared to want to settle old political grievances under the protection of the TRC.

Boraine's behaviour towards NP leader FW de Klerk had harmed the NP's confidence in the TRC, the party said.

Tutu this week denied that black members of the commission were being marginalised and said he felt personally insulted by the suggestion. The TRC leadership is expected to discuss the issue at a meeting scheduled for Thursday.

The Star has reported that senior black officials felt they were being undermined and marginalised when important policy issues were discussed.

At the TRC Johannesburg office, at least five staff members have resigned, some of them because of dissatisfaction with working conditions, the commission's Johannesburg manager Patrick Kelly has confirmed.

He ascribed the flurry of resignations to "a certain degree of instability" in the process of establishing the TRC and setting up its offices and personnel structures.

# TRC application throws light on Cradock Four murders

STAFF REPORTER

Twelve years after the murder of the "Cradock Four" - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlau - two Eastern Cape policemen have provided the key to one of apartheid's most enduring mysteries.

In an amnesty application before the Truth and Reconciliation Commission, Lieutenant Eric Taylor and Major Gerhard Lotz describe in grisly detail how the activists were killed and mutilated

because the police believed they were a threat to state security.

The Afrikaners' newspaper Beeld gives the details in a report today. The elimination of the four had been authorised by senior officers in the military and the security police, the newspaper reports. Mokotedi Mpshe, counsel for the TRC's amnesty committee, confirmed that an amnesty application for the Goniwe killings had been received from two policemen. He declined to give details. The burnt and mutilated bodies of the Cradock Four were

found near Port Elizabeth in July 1985 after they had failed to return to Cradock from a meeting in Port Elizabeth.

An inquest later found that the state had, in all probability, been responsible for the murders, but could not identify any individuals involved.

According to Lotz and Taylor's amnesty application, the four were kidnapped on July 27 1985 by the security police. Captain Taylor and a third officer, Captain Sakke van Zyl, took them to an area near St Georges beach in Port

Elizabeth. The men were hit until they lost consciousness in order to immobilise them, the application states. They were then killed and their bodies were "manned" to make it look like a vigilante attack. The bodies were also burnt.

Lotz and Taylor also name two policemen who were killed in the Motherwell bombing in 1989 as having been involved in the murders. Another Eastern Cape policeman, Gideon Nieuwoudt, was convicted of murdering the two. According to Lotz and Taylor's amnesty application, the

"possible elimination of the Cradock Four was discussed in June 1985 with Major Lourens du Plessis of SADF's Eastern Province Command. Du Plessis agreed in principle, subject to approval from his superior officer, the application states. The murder plan was also approved by Colonel Harold Snyman, then head of the Port Elizabeth security police, the application also states.

► Goniwe a gifted teacher

(252) Star 24/1/97

# Amnesty evidence on hit squads is denied by former security brigadier

(252) Nov 24/1/97

## Vlakplaas commander admits to complicity in only one incident

By ROBERT BRAND

A former commander of a security-police secret unit, Brigadier Willem Schoon, has issued a stream of denials of the testimony by Dirk Coetzee which implicated him in at least 10 police hit-squad operations.

But another former top security policeman, convicted assassin Eugene de Kock, confirmed the substance of the testimony given before the Truth and Reconciliation Commission's amnesty committee this week by Coetzee's former colleague, Almond Nofemela.

Schoon, addressing the committee yesterday through his attorney Jan Wagener, admitted complicity in one of the incidents - the kidnapping of an ANC activist from Swaziland - but branded the rest of Coetzee's testimony as a "blatant lie". Wagener said Schoon had applied for amnesty for the 1986 kidnapping of suspected ANC activist Joe Pillay and other incidents that he was not prepared to divulge at this stage.

He said Schoon denied complicity in nine instances in which he had been implicated by Coetzee, including several cross-

border raids, murders and kidnappings. Schoon was Coetzee's direct superior during the 13 months that he (Coetzee) served as commander of the Section C1 unit at Vlakplaas.

Coetzee, who is applying for amnesty for hit-squad operations carried out under his command, said Schoon had ordered or approved most of his operations.

Nofemela, who started his Vlakplaas career under Coetzee and stayed with the unit when De Kock took over, is also applying for amnesty.

He implicated De Kock in at

least seven hit-squad operations.

De Kock's lawyer, Schalk Hugo, handed an affidavit to the committee in which De Kock admitted complicity in most of these operations, even providing added details or correcting Nofemela's version in some cases.

During his trial for murder and other crimes last year, De Kock admitted his involvement in all these incidents, including the 1985 Maseru raid in which about 12 people died. He was convicted and sentenced to more than 200 years in jail. He intends applying for amnesty.

# Lawyer lashes out over amnesty committee's 'tax organisation'

(292)

Stephen Laufer

THE lawyer representing former Vlaxplaas commander Dirk Coetzee's one-time superior, security branch Brig Willem Schoon, complained yesterday that the truth commission amnesty committee's organisation was lax.

Attorney Jan Wagener said his client had not been informed sufficiently in advance that he was being named as a co-perpetrator of gross human rights violations, as required by the act governing the

commission's work. He said the amnesty committee had known for months that Coetzee's deposition implicated Schoon, but a fax from the amnesty committee's evidence leader, advocate Cocky Mpshe, had reached his offices only on Tuesday.

It had identified Schoon as a potential victim. There had been no serious endeavour to contact Schoon or others named in affidavits, including former security branch officers JJ Victor and JC Coetzee. The committee's failure to comply with the law would affect its work,

and raised serious questions.

Calling Dirk Coetzee an "utterly unreliable" witness, Wagener said he would not cross-examine him, although Schoon denied involvement in or knowledge of seven out of 10 incidents in which Coetzee had implicated him. He did not remember an eighth incident, but recalled a ninth in which he thought alleged-misappropriated money had been for a private debt.

Schoon had applied for amnesty in a 10th instance, the kidnapping of African National Congress acti-

vist Joe Pillay

Cross-examination of Coetzee would make sense only if it could be in great detail, and that would take weeks, Wagener said. He had been advised by amnesty committee chairman Hassan Mall that his client had only limited right of rebuttal, and had chosen not to cross-examine at all rather than be involved in half-measures.

Mall admitted that they had been made, but denied that they had any effect on the committee's work. Lawyers later said Schoon was

likely to make his deposition in the form of a sworn affidavit, obviating the need for further hearings on the applications by Coetzee and former Vlaxplaas policemen Almond Nofomela and David Tshkalanga. Meanwhile, former Vlaxplaas commander Eugene de Kock's lawyer said his client had been told only four days earlier that he was being implicated by Nofomela.

□ Sapa reports that the Freedom of Expression Institute will no longer research the media under apartheid on behalf of the truth commission

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TRUTH COMMISSION (202)  
FM 24/1/97

## STAINED INTERPRETATIONS

**NP leader** F W de Klerk wants a meeting with Truth & Reconciliation chairman Archbishop Desmond Tutu over the commission's bungled handling of the Steyn report

The commission has refused to retract its allegation that the former State President may have connived to cover up Third Force activities in the former SADF. On Monday, Boraine boldly reiterated three key points given to the commission by Defence Secretary and former SADF general Pierre Steyn, the report's author:

- That despite De Klerk's denials, the Steyn report exists in writing,
- That De Klerk asked three top-ranking generals named in the report to recommend which of their colleagues should face censure, and
- His failure over a nine-month period to adequately investigate the alleged involvement in Third Force activities of those mentioned in the report

Boraine says that there are "no fundamental conflicts" between the commission's interpretation of the report and a

subsequent statement by Steyn

However, Steyn's spokesman Anton de Klerk has insisted that Steyn did not implicate the three generals — Georg Meiring (now SANDF chief), Joffel van der Westhuizen and Kat Liebenberg — in unlawful activities

The commission has a dossier compiled by Steyn between November 1992-July 1993 which implicates the Directorate of Covert Collection, Army Intelligence, Special Forces, the 7th Medical Battalion and other army units in train violence, drug- and gun-running, ivory smuggling, assassination, poisoning and cross-border excursions

It includes the so-called Steyn report, presented orally to De Klerk and senior Cabinet members in December 1992, which the commission claims implicates 60 SADF members, including the three generals, in unlawful activities

The information was based on intelligence reports, and Steyn therefore urged De Klerk not to take specific action without further investigation, says Boraine. That De Klerk, in consultation with the three generals, then retired 23 SADF members is seen by the commission as a possible indication of a cover-up

Though De Klerk then instituted the criminal investigation recommended by Steyn, it's reported that Col Roelf Venter (whose amnesty application reveals his involvement in State-initiated criminal activities) and Brig Suiker Brits (who handled the Goniwe investigation) were assigned the task

Says Boraine "If true, this emphasises our concern that the allegations of dirty tricks by SADF personnel may not have been adequately investigated"

Steyn submitted several subsequent reports, and even wrote a letter to De Klerk expressing concern about the investigation's lack of progress. He felt that "more effort was being expended by the SAP and SADF covering up and identifying leaks than on gathering evidence". He was later informed by the former National Intelligence Service (NIS) that unauthorised destruction of documents had occurred throughout his investigation

In denying the commission's allegations, Meiring said all available information was supplied to the investigators, but "the allegations could not be substantiated"

De Klerk denies that he orchestrated a cover-up. He believed there was insuffi-

cient evidence to take drastic steps against SADF top brass at such a delicate stage in the transformation process

"It was essential, on the one hand, to maintain the integrity of the SADF and, on the other, to root out any possibility for the continuation of abuses"

This may be so, but the overhasty purge was a political bungle which is still costing De Klerk dearly

Military analysts say that the purge failed to net the real culprits and included seemingly innocent scapegoats, such as the progressive Gen Chris Thirion

Steyn relied for his information on military intelligence and NIS, which were then at loggerheads. Military consultant Helmoed Heitman claims that he was told at the time by NIS sources that the ANC had infiltrated the process in order to eliminate those SADF members who were effective intelligence operators, though not necessarily criminals

Several of the 23 accused had threatened legal action to clear their names and were reinstated. But Steyn was held responsible by his peers for the hatchet job and his career was ruined. He retired the following year

Interestingly, Steyn was the first

apartheid general prepared to make contact with the ANC — he held talks with MK at a Sandton safehouse in 1993 — and owes his current appointment to the present government

President Nelson Mandela's spokesman refuses to confirm or deny reports that Mandela saw the Steyn report soon after the 1994 elections, but remained silent in the interests of a smooth transition. Nor has De Klerk acknowledged the extent of the military rot uncovered by Steyn

It is the commission's job to substantiate the allegations in the Steyn report ■

# Cash-strapped TRC forced to limit hearings

*R16-m from EU tied up*

(252)

ARG 25/1/97

## OWN CORRESPONDENT

Durban – Ordinary South Africans will no longer be privy to many of the dramatic revelations spilled out before the Truth and Reconciliation Commission following a drastic cut in its budget this year.

And while commissioners count their pennies, over R12-million donated by the European Union last year to assist the commission's work remains wrapped in government red tape

KwaZulu Natal commissioner Richard Lyster confirmed this week that the number of hearings in the province for 1997 had been halved

Only five are planned in KwaZulu Natal and the Free State combined, and of these, only one is expected to be a five-day hearing. The rest have been cut to a day or two

However, Mr Lyster has denied that this means thousands of victims will not be able to tell their stories and that the cathartic effect of the commission's work in getting the nation to face its ugly past will be diminished

"Maybe from a public point of view it will be because we won't be having as much dramatic coverage as we did last year

But most victims in fact choose not to have a public hearing," he said

Mr Lyster said the commission's budget had been cut by 20 percent, to the shock of commissioners who had been expecting an inflationary increase in their budget

"This year we are concentrating our efforts on employing statement takers from non governmental organisations and churches to go out and take statements from victims, instead of holding hearings which are damn expensive," he said

Meanwhile, the national head of information for the TRC, Fazel Randera, said R12-million donated by the EU was still being held up by the government finance committee

"The money is not quite in our pocket yet," he said

Dr Randera confirmed that statement-takers from the community could not be appointed until the funds were released, which he hoped would be within the next week

The commission hopes to take 50 000 statements by the end of the year – 10 000 in each of the five regions

Of the five hearings in KwaZulu Natal and the Free State, one will focus on the training of IFP cadres in the Caprivi Strip and one will deal with atrocities committed by ANC members against the IFP

This is an attempt to "balance it out and present as full a picture as possible", according to Mr Lyster

They are planned for March and April in Pietermaritzburg or Durban. The other three will be in Estcourt, Ladybrand and Kroonstad

A video of some of the hearings will be released when the commission winds up. It will be made available to schools, universities and libraries and will also be on sale to the public

# Details of a death squad

By CHIARA CARTER

**THE METICULOUS planning which went into the murder by security police of the Cradock Four — Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlauli — is detailed in an addendum to the amnesty application by two of the security policemen who killed the four.**

The application by Eric Taylor and Gerhardus Lotz is the first account of what happened in one of the country's most sensational political murders.

Taylor and Lotz describe how they — together with Captain Sakie van Zyl, Sergeant Amos Tembha Faku, Warrant-Officer Mhabala Glen Mgoduka and askari Xolile Sakati (aka Shepherd Masemole) — murdered the four activists in Port Elizabeth on June 27 1985.

Their account implicates three senior officers in planning the murder and says the "elimination" of the Cradock Four had been widely discussed in "security circles" because of concern at the political climate in the Eastern Cape.

The two policemen say in the addendum to their application that they do not have details of who

took part in these discussions. However, according to sources, the murder of Goniwe had previously been mooted by officers based at Vlakplaas.

A second inquest into the murders heard that a message saying Goniwe should be "permanently removed from society" was sent from the Eastern Cape military headquarters before the murders.

The addendum says, "On an unknown date before 27 June, Major du Plessis and Captain van Zyl approached Colonel van Rensburg

"The possible elimination of the Cradock Four was discussed. Van Rensburg agreed on condition that the commanding officer approved and then these members went to their commanding officer, Colonel (Harry) Snyman. After this visit Colonel Snyman and these members returned to Van Rensburg's office and informed him that the operation to eliminate the Cradock Four had been approved.

"Van Rensburg subsequently held discussions with Du Plessis as well as Van Zyl to plan how the operation would be carried out. Van Rensburg suggested that efforts be made to make the operation look like a robbery or vigilante attack.

"Information was obtained from Port Elizabeth sources that the

four identified activists were meeting in Port Elizabeth and would be at the house of Derek Swarts (UDF leader).

"At about 23h00 on 27 June 1985 these four identified activists were intercepted in the vicinity of the Olifantshoek pass.

"(They) were transported together with van Zyl, Taylor and Lotz to an area near St George Beach near Port Elizabeth where Mgoduka, Faku and askari Sakati later joined us.

"The four activists were rendered helpless by van Zyl, Taylor, Mgoduka, Lotz and Faku who beat them unconscious after which they died and their bodies were then mutilated in order to make this resemble a vigilante attack. The bodies of the four were then (covered) with fuel and set alight to correspond with the modus operandi which was the order of the day at the time in Port Elizabeth and surrounding areas."

□ Mgoduka and Faku died in the Motherwell car bombing in December 1989.

Last year, Lotz was acquitted of the bombing.

■ Eena reports that Advocate George Bizos, who represented widow Nyameka Goniwe in the 1993 inquest, said it was surprising that more people had not applied for amnesty for the deaths

**'It'll take a while to absorb this'**

THE WIDOW of slain Cradock activist Matthew Goniwe spent Friday shopping, having her hair done, and fetching her son from school — oblivious to newspaper reports that her husband's killers had finally confessed.

Die Burger reported on Friday that two former Eastern Cape security policemen had applied for amnesty for the 1985 murders of Goniwe and fellow activists Sicele Mhlauli, Sparrow Mkhonto and Fort Calata.

**'I'm a little shocked' — widow**

"I'M READING it now. I'm a little shocked. Please call back."

Those were the only words Nyameka Goniwe could muster, when asked to comment on the news that her husband's killers had been identified.

Port Elizabeth lawyer Francois van der Merwe, who was security liceman Gerhardus Lotz's attorney in the Motherwell car-bombing trial, declined to confirm any Friday newspaper report

(202) 29 26 11 199

said she was browsing in a Cape Town bookshop on Friday afternoon when the paper's headline caught her eye.

"I was shocked to see the headlines and I was also not shocked. I had imagined what had happened and who was involved.

"But this has come unexpectedly and it's going to take a while to absorb it."

She intended telephoning the widows of Calata, Mkhonto and Mhlauli to discuss the revelations.

of Lotz's involvement in the death of the Cradock Four.

"I have various clients that are applying for amnesty on matters unknown as well as well-known matters," he said.

ANC provincial spokesman Mcebisi Buta said it would be a great relief for the families to know who the killer was.

"It is now up to the Amnesty Committee of the TRC to take a decision, but we hope justice will be done."



# Report points to 'cover-up'

By WALLY MBHELE

**AS THE National Party mounted a blistering attack this week against the TRC over their handling of the controversial 1992 Steyn report on violence, it emerged from the report that among many reported acts of violence, the former defence force was also allegedly involved in train massacres.**

And in reaction to the report, the commission's investigative and research units will this week meet to look at ways its contents should be dealt with, according to the TRC's head of investigations, Dumisa Ntsebeza, speaking to City

Press, also expressed dismay that the current SANDF chief, General George Meiring, did not mention anything in his submission to the TRC last year of any possible link between the SADF and political violence.

Although Ntsebeza could not be drawn into the contents of the report, he told City Press that it claimed the SADF "had been linked to various acts of massacres". Ntsebeza was speaking to City Press in the wake of a row over former state president FW de Klerk's admitted knowledge of the report.

Last week, the TRC's deputy chairman, Alex Boraine, accused De Klerk of lying and misleading parliament by stating he had never received a written version of the Steyn report, which was compiled in 1992. Boraine said De Klerk was involved in a cover-up because he ig-

nored General Steyn's recommendation that criminal prosecutions be instituted against 60 alleged perpetrators named in the report.

In an angry response, the NP accused Boraine of trying to settle old political scores at the expense of the TRC.

However, Ntsebeza this week stood firmly behind Boraine, saying he had been present at a meeting when former SADF chief of staff General Pierre Steyn briefed the TRC about his findings.

Ntsebeza said Steyn told the commission that De Klerk was personally given the report - which De Klerk refused to keep in his office as he considered it "too hot to handle".

De Klerk has repeatedly insisted that he never saw the written version of the report, claiming he had received only a "verbal report" from Steyn.

Ntsebeza said Steyn named key

former SADF generals as possible agents of the ongoing violence in the early 1990s, and recommended criminal prosecutions because he believed there was sufficient evidence to convict them.

The report, according to impeccable sources, accuses current SA National Defence Force chief Gen George Meiring, former SADF chief Kat Liebenberg and former military intelligence chief Joffel van der Westhuizen of being behind third force activities.

□ Steyn was commissioned by De Klerk to investigate Judge Richard Goldstone's reported suspicion in 1992 that military personnel were actively involved in third force violence.

□ Soon after a meeting between Steyn and De Klerk, a number of SADF senior officers were forced to retire from the military - but De Klerk never revealed the reasons behind the shock resignations

26/1/92

(212)

# Magistrate Hein Combrinck presides over a noisy court each day. And each day he is the innocent victim of

# The South African Way of Justice

By ELIAS MALLULEKE

ALL that was out of the ordinary in Court A on Thursday was that the magistrate was wearing tracksuit pants and only one shoe. He had a blister and his doctor had told him to dress that way to avoid irritating it.

For the rest, life was pretty ordinary. Of the nine cases heard in the Mamelodi magistrate's court before the lunch-time recess, only one accused was found guilty.

Raising his voice above a cacophony of traffic, construction workers and spectators in the public gallery, the magistrate, Hen Combrinck, a well-built man with large spectacles, courteously

reminded her that she was in the house of justice.

During the two days which the Sunday Times spent in the courtroom, case dockets were left unguarded next to prosecutor Connie Prus's desk over breaks.

In addition the interpreter, S M Thambane, was less than exacting at his job — his summaries failed to accurately reflect what the accused, the magistrate and the prosecutor were saying.

Cases heard over the two-day period were characterized by:

- Insufficient police investigations Combrinck dropped charges of assault against three 18-year-old men who had stabbed a man in Mamelodi East on January 7



CONSIDER YOUR VERDICT . . . officials at the Mamelodi magistrate's court, where chaos appears to be all in a day's work

(2522) ST 26/1/97

Picture: RAYMOND PRESTON

out of court a free man after Prus could not find the case docket.

- Lack of evidence Prus said the attorney general had declined to prosecute a minor for theft because there was no evidence.
- Confusion Prus told Combrinck that an accused charged with theft was 18 years old and did not need his father to be in court, but the suspect insisted he would turn 18 only in April. He was released on his own recognisance until his next appearance.
- Dramatic twists Combrinck fined a woman R127 for breaking another woman's arm during a fight over the victim's husband. He also sentenced Linah Ntshang to three months' imprisonment, suspended for five years, for the same offence.
- Insufficient warnings Combrinck was visibly annoyed when he found that a man who was to have appeared with two other men in connection with their had not been warned to appear in court.
- Missing witnesses Ben Matlala had an assault case against him withdrawn *in absentia* because Prus said no witnesses could be traced.
- Blunders police had released David Khoza, 41, following his arrest for a second assault, without realising that a warrant for his arrest relating to his first assault had been issued. He had failed to pay the instalments on his fine. He was back in court to face the music, and the 90 days of his previous 180-day sentence which had been suspended for five years were reimposed.
- Missing bail slips a case of assault with intent to do grievous bodily harm was delayed for three hours after it was found that a bail slip had not been attached to the docket. The problem cropped up a second time, but the two women in the dock had their receipts with them, and
- Lack of progress in police investigations the case against Constantine Modisakeng, charged with assault, was postponed. Three other cases were also postponed for further investigation

# TRC threatens action on leaks

**Port Elizabeth – The Truth and Reconciliation Commission and some newspapers could be heading for a legal showdown after leaked details of amnesty applications for some of the Eastern Cape's most sensational political murders were published.**

The publication today by the Eastern Province Herald of the names of amnesty applicants in connection with the death of Black Consciousness leader Steve Biko followed Friday's revelations by Die Burger's Eastern Cape edition of the names of the self-confessed Goniwe killers (252)

But furious TRC investigations unit chief Dumisa Ntsebeza, who slammed the reports as "adventurous" and "sensational", said he was strongly considering legal action for the alleged contravention of the TRC Act, which protects the confidentiality of the applicants

Today, the Eastern Province Herald published the leaked names of five former security policemen it said were seeking

amnesty for the 1977 murder of Biko, who died in police custody

They are Colonel Harold Snyman, retired former head of the Port Elizabeth security police who headed the interrogation team, who has also been named as an applicant in the Goniwe murders, Colonel Gideon Nieuwoudt, sentenced to 20 years for his role in the 1989 Motherwell bomb blast that killed three colleagues, two of whom were named in the Goniwe killings, and an alleged police informer, and Ruben Marx, Daantjie Siebert and Johan Beneke, formerly of the Port Elizabeth security police, were named as the other applicants

Reacting to the media reports, Mr Ntsebeza said the TRC "would have to be tough" about the publication of "sensitive" details of amnesty applications

"We are very disturbed by the reports because it causes a great deal of tension. The whole process is being sabotaged and is hampering the work of the commission," he said - Ecna

ARG 27/1/97

TRUTH MAY FINALLY BE KNOWN

# Biko's death: 5 cops seek

# amnesty

(252) ET 27/1/97

**PORT ELIZABETH:** The facts about the death in detention of Steve Biko should finally become known when five former policemen appear before the TRC to apply for amnesty

**F**ive former security policemen who interrogated Steve Biko are to seek amnesty in connection with his death in detention in 1977, a reliable source said yesterday

This dramatic disclosure means that the truth about what happened to Biko in police custody in Port Elizabeth will finally be known

Applications for amnesty are being finalised and will soon be filed with the Truth Commission, a source close to one of the applicants said.

This applicant, said the source, was deeply remorseful about actions he had taken as a security policeman "under orders", and wanted to clear his conscience

An inquest a few months after Biko's death found that he had died from brain injuries as a result of banging his head during a struggle with security police, who claimed he "went berserk" and attacked them. No one was held responsible

There was widespread astonishment at the finding, which ruled out suggestions that the struggle was a cover-up and that Biko's injuries had been a result of torture, or ruthless beating, by his interrogators

Biko died in Pretoria on September 12, 1977, after being driven overnight, naked in the back of a police Land Rover from Port Elizabeth, where he had been held at security police headquarters

The five who have applied for



**TRUTH AT LAST?:** Steve Biko

amnesty all took part in the physical struggle with Biko

According to the source, the five are

- Retired Colonel Harold Snyman, who led the interrogation team

- Retired Lieutenant-Colonel Gideon Nieuwoudt, who was a detective-sergeant in the security branch at the time

- Mr Ruben Marx, a Warrant-Officer in the security branch at the time

- Mr Johan Beneke, also a Warrant-Officer in the security branch at the time, now apparently living in Gauteng

- Daantje Siebert, a captain in the security branch at the time

Port Elizabeth lawyer Mr Francois van der Merwe who is known to be preparing amnesty applications for a number of clients would not confirm or deny yesterday that

he was finalising amnesty documents for any of the above former security policemen

Mr Van der Merwe said he was not prepared to discuss any amnesty applications as these matters would be dealt with at a news conference to be held by the TRC in Port Elizabeth this week

It was disclosed on Saturday that Colonel Snyman had also applied for amnesty for the death in 1985 of Cradock United Democratic Front activists Mr Matthew Goniwe, Mr Sparrow Mkhonto, Mr Siculo Mhlauli and Mr Fort Calata.

Nieuwoudt, on R50 000 bail pending appeal for conviction in the sensational Motherwell car bomb trial, is also applying for amnesty for the Motherwell bombing, the disappearance and death of the Pebco Three and the 1982 death of Mr Siphiso Mtshkulu

The death of Steve Biko, leader of the Black Consciousness movement, sent shockwaves around the world and plunged South Africa's apartheid government further into disrepute

Adding to the disgust was the reaction of the then Minister of Justice, Mr Jimmy Kruger, who said Mr Biko's death "leaves me cold"

The inquest, in November 1977, grabbed international headlines. Evidence at the inquest of how Biko was chained and abused shocked the nation.

Biko was arrested in August 1977 and held at Walmer police station. On September 6 he was taken to the security police headquarters for interrogation

The family of Biko joined other families of slain activists in an attempt to challenge the constitutionality of the TRC in April last year — Own Correspondent

□ See Page Two

# Former security police chief dismisses hit-squad claims

Star 27/1/97 (252)

By Robert Brand

The former commander of the security police's secret C-Section, Brigadier Willem Schoon, has issued a stream of denials in response to testimony by Dirk Coetzee implicating him in at least 10 police hit-squad operations.

But another former top security policeman, convicted assassin Eugene de Kock, confirmed the substance of the testimony given before the Truth and Reconciliation Commission's amnesty committee last week by Coetzee's former colleague, Almond Nofemela.

Schoon, addressing the committee through his attorney Jan Wagener, admitted complicity in one of the incidents – the kidnapping of an ANC activist from Swaziland – but branded the rest of Coetzee's testimony before the amnesty committee last week as a "blatant lie".

Wagener said Schoon had applied for amnesty for the 1986 kidnapping of suspected ANC activist Joe Pillay and other incidents which

he was not prepared to divulge at this stage. But he said Schoon denied complicity in nine instances in which he had been implicated by Coetzee, including cross-border raids, murders and kidnappings.

Schoon was Coetzee's direct superior during the 13 months that Coetzee served as commander of Section C1, based at Vlakteplaas, during 1980 and 1981. Coetzee, who is applying for amnesty for hit-squad operations carried out under his command, said Schoon had ordered or approved most of his operations.

Nofemela, who started his Vlakteplaas career under Coetzee and stayed with the unit when De Kock took over, is also applying for amnesty. He implicated De Kock in at least seven hit-squad operations.

De Kock's lawyer, Schalk Hugo, handed an affidavit to the committee in which De Kock admitted complicity in most of these operations, even providing added details or correcting Nofemela's version in some cases.

# Business to help protect witnesses

Stephané Bothma (252) BD 27/1/97

SA BUSINESS would not only provide jobs for people in witness protection programmes, but would also fund the training of those not suitable for employment in the private sector, Business Against Crime MD Eric Tocknell said this weekend.

His announcement followed a meeting with representatives of Transvaal attorney-general Jan D'Oliveira's office last week during which the establishment of an integrated witness protection programme was discussed.

D'Oliveira's special investigation team is involved in the investigation of several hundred cases of crime relating to massive corruption involving high-ranking government officials and policemen, syndicates and so-called third force crimes committed by the former security forces. This will result in relatively large numbers of state witnesses who will be affected by their testimony and will require protection.

Continued on Page 2

## Witnesses (252)

Continued from Page 1

BD 27/1/97  
"Only a comprehensive protection programme, which includes the rehabilitation and reintroduction into economic life of witnesses, will bring witnesses forward," a spokesman for the attorney-general's office said.

Tocknell said business supported the efforts by D'Oliveira's team and in partnership with all role players would assist with "aftercare" of witnesses.

Because of the wide-ranging profiles of these witnesses, Tocknell said it would not be practical in some cases to merely supply a job. Witnesses ranged from top executives and managers,

high-ranking security force officers and managers to workers.

"Some of these witnesses will be very high-profile people and there will always be a little shadow hanging over them — hampering their prospects of promotion and advancement," he said.

"Therefore business will provide the funds to train these people and then utilise them to train others in entrepreneurial skills."

He said business was keen to provide assistance and believed this involvement would free investigators to do the job of "catching the criminals" and restore the dignity of citizens prepared to testify for the state.

Tocknell could not say what amount of money would be required for the training programmes.

# Police say activists beaten, shot, burnt

JOSEPH ARANES  
ON THE TRUTH COMMISSION

**Anti-apartheid activists were beaten, shot and their bodies burnt on funeral pyres, security force members have revealed in amnesty applications to the Truth Commission.**

The applications include details of the fate of Sipho Hashe, Qaqawuli Godolozu and Champion Galela, known as the Pebco Three, who vanished in 1985, and activists Sphiwe Mtimkulu and Topsy Madaka. Details about the 1985 killings of Matthew Goniwe, Sicelo Mhlawuli, Fort

Calata and Sparrow Mkhonto, known as the Cradock Four, are also revealed

The TRC said today in Port Elizabeth that the applications told how police abducted activists, beat them, shot them and burnt their bodies on funeral pyres

The Pebco Three, members of the Port Elizabeth Black Civic Organisation, were abducted from the Port Elizabeth airport and taken to Post Chalmers police station outside Cradock

There they were apparently given coffee containing sleeping tablets and taken outside, where each was shot by a different policeman. Their bodies were put on a pyre

and burnt and their remains dumped in the Fish River

Sphiwe Mtimkulu, who was earlier poisoned by the police, and Topsy Madaka were arrested by security policemen and killed in the same way. Their bodies had been thrown into the river, the TRC said

Details of how the Cradock Four were killed by security police were also revealed. The TRC said the men had been abducted, beaten and stabbed to make it appear they were killed by vigilantes.

TRC deputy chairman Alex Boraine

To page 2

ARG 28/1/97

2

## Police tell TRC of activists' deaths

From page 1

said several former security policemen who had indicated they were applying for amnesty from prosecution in connection with the death in detention of Steve Biko in 1977 had not provided details of their precise involvement in his death

The killings of all the activists caused international outrage at the time and in spite of inquests and other court actions, the security forces refused to divulge their role in any of the deaths

Dr Boraine said the work of the TRC's investigative unit, backed by the prospect of amnesty, had led to amnesty applications in which members of the former security branch of the police acknowledged responsibility for the activists' deaths

But he said the TRC would not make available the names of the applicants at this stage as they were not convinced all those who bore responsibility for the acts and omissions which led to the deaths had come forward

He said the disclosures had their origins in TRC hearings held in the Eastern Cape in 1996

(252)

ARG 28/1/97

# Hunt for source of amnesty leak

28/1/97

(252)

THE Truth and Reconciliation Commission's investigative unit has begun a hunt for the person who leaked details last week on amnesty applications for the murders of the Cradock Four, unit head Mr Dumisa Ntsebeza said yesterday

Investigators were "on to a very good lead", he said

Ntsebeza said he would recommend that legal steps be taken against the Afrikaans daily Die Burger if it could be shown that the newspaper had contravened the Promotion of National Unity and Reconciliation Act by publishing extracts of the applications

"The act makes it clear that the contents of amnesty applications are confidential until they have been released or (made public) during a hearing

"My prima facie opinion is that this is a contravention of the act"

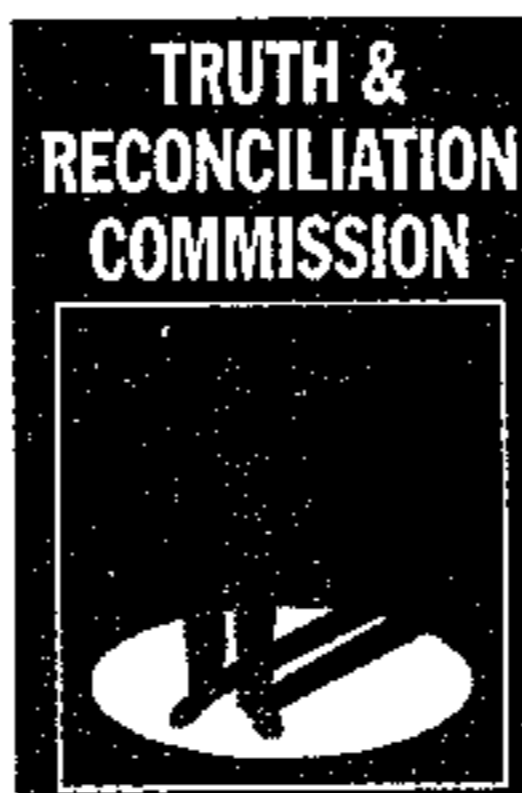
Die Burger last week published

a background document which forms part of the amnesty applications by four former security policemen and includes details of the last hours of the Cradock Four — Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicele Mhlauhi

Ntsebeza described the newspaper report as irresponsible and said it had hampered the commission's work

Before its publication, a reporter from the newspaper had telephoned the commission's national head of investigations to establish the legal position on releasing details of the amnesty applications

This suggested that the newspaper had known there was a legal question mark over the publication of the information, he said



"I am going to recommend that our legal department look into the act and into the circumstances of the publication, and to advise me whether there has been any contravention of the act

"If there has been then I will personally recommend to the commission that (the case) be taken up"

Die Burger is already facing a R300 000 defamation suit filed by Port Elizabeth attorney Mr Francois van der Merwe and his partner Mr Johan Bester

Van der Merwe, who represents the four security policemen, is denying he confirmed the authenticity of the leaked document in an interview with the newspaper

He said the newspaper report suggested he was untrustworthy and unethical, and had breached

his attorney/client privilege

Summonses were served on Mr Piet van Niekerk, who wrote the report, and the editor of Die Burger's Eastern Cape edition, Mr Leon van der Vyfer, on Friday

The victims' families have blamed the commission for the publication of the details contained in the amnesty applications, according to Eastern Cape commissioner Mr Bongani Finca

"This matter has been badly handled," Finca said

"The families think the commission released the information but our understanding is that it comes from outside the commission. My primary concern is the victims are not traumatised again.

"There are people still hurting. I have a responsibility to ensure that the families are prepared for these disclosures, particularly when they reflect such ghastly savagery," Finca said. — Sapa



R6,4M BUDGET 'FAR TOO SMALL'

# Rights commission seeks commitment from govt

(252) Oct 28/1/97

**JOHANNESBURG:** The R6,4 million allocated by the government to the Human Rights Commission is too little for taking human rights to the majority, says the commission's chairman.

**T**HE Human Rights Commission is seeking a meeting with Deputy President Thabo Mbeki in an attempt to secure adequate funding for the commission's activities, chairman Dr Barney Pityana told a news conference in Johannesburg yesterday.

Releasing the HRC's business plan to the media, Pityana said the commission was concerned about the procedure used to determine its budget.

He said the commission's budget for the current financial year was R6,4 million, which was allocated before the commission was constituted.

The commission handed its business plan to Justice Minister Dullah Omar after a meeting with the commission attended by the minister and deputy minister of finance and department of state expenditure officials in November last year.

Pityana said the commission then proposed a R14,2m budget for its projects in the 1996/97 financial year. The commission also envisaged needing R32m for its 1997/98 financial year to provide staff, infrastructure, resources and other responsibilities.

The commission had received a letter from the director-general of state expenditure saying the government could not provide the commission with more than R6,4m for its next financial year.

The meeting with Mbeki on Janu-

ary 30 was also aimed at securing a political decision regarding the commission's operations. Pityana said South Africa's commitment to a culture of human rights needed a political decision.

The commission now had an overspending of R1,8m. "We can hardly avoid overspending. It puts us in an embarrassing situation," Pityana said. If the budget was not increased, the commission would have to freeze projects and disapprove staff comple-

ments. This was equal to denying the service of human rights to the majority of people in the country. Pityana said there was a vast difference in allocations to the various commissions. The Human Rights Commission was among those that received least

He added "The R6m tells a story of neglect or lack of commitment. We believe it cannot just be lack of commitment. This sort of situation should not be allowed to continue."

He further said the commission had been told by the government

that it could not raise donor funding because it was a statutory body. Some of the commission's projects needed donor funding, said Pityana. "We feel there is a major crisis at the commission which needs urgent attention."

Civil servants in the justice and state expenditure departments were apparently intent on undermining and sabotaging the commission, Pityana said, adding that agreements were made but not adhered to.

In a memorandum to Omar, Pityana said "We are concerned that there are not enough safeguards against political interference and the independence of the commission."

"We note that the Human Rights Commission Act 1994 is silent on the manner of determining the budget of the commission."

Pityana said the justice department had apparently made provision for the commission from its own budget during its first year of operation. "We do

not believe that that is what was intended by the act. This arrangement is in danger of compromising the independence of the commission."

The activities of the commission's business plan include providing information, education and training on human rights, the Bill of Rights and the commission's role. — Sapa

*"The R6 million tells a story of neglect or lack of commitment. We believe it cannot just be lack of commitment. This sort of situation should not be allowed to continue."*

# TRC probing source of leak

(252)

*Sowetan 28/1/97*  
THE Truth and Reconciliation Commission's investigative unit had begun a hunt for the person who last week leaked details about amnesty applications for the murders of the Cradock Four, unit head Dumisa Ntsebeza said yesterday.

Ntsebeza told *Sapa* the investigators, from the commission's Eastern Cape regional office, were "on to a very good lead".

He also said that he would recommend legal steps be taken against the Afrikaans daily *Die Burger* if it could be shown the newspaper had contravened the Promotion of National Unity and Reconciliation Act by publishing extracts of the applications.

"The Act makes it clear that the contents of amnesty applications are confidential until they have been released or (made public) during a hearing. My prima facie opinion is that this (report) is a contravention of the Act."

*Die Burger* last week published a background document which forms part of the amnesty applications by four former security policemen and includes details of the last hours of the Cradock Four - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli.

Ntsebeza described the newspaper report as irresponsible and said it had hampered the work of the commission.

He said prior to its publication, a

reporter from the newspaper had telephoned the commission's national head of investigations to establish the legal position on releasing details of the amnesty applications.

This suggested that the newspaper had known there was a legal question mark over the publication of the information, he said.

"I am going to recommend to our legal department to look into the Act and into the circumstances of the publication, and to advise me whether there has been any contravention of the Act."

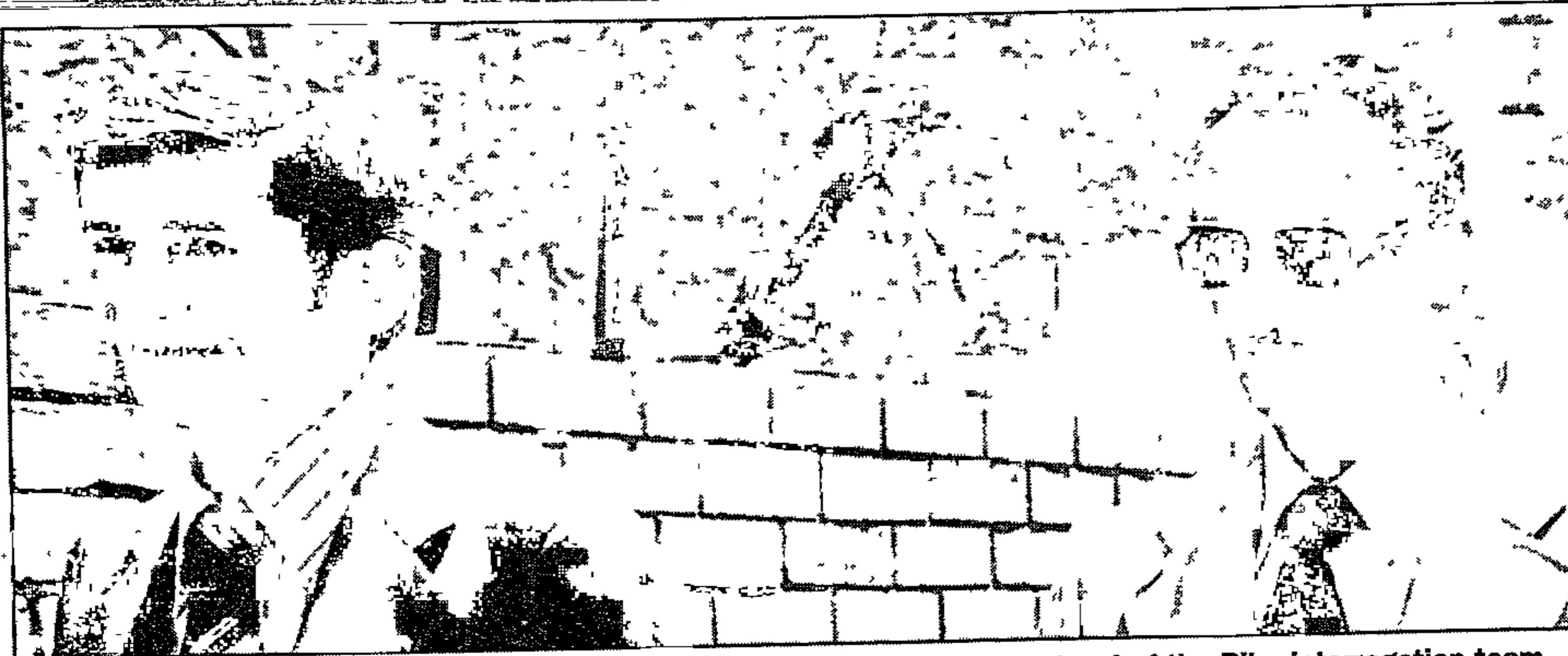
"If there has been then I will personally recommend to the commission that (the case) must be taken up."

Victims' families have blamed the commission for the publication of the details contained in the amnesty applications, according to Eastern Cape commissioner Bongani Finca.

"This matter has been badly handled," Finca told *Sapa*.

"The families think the commission released the information but our understanding is that it comes from outside the commission."

"My primary concern is the victims are not traumatised again. There are people still hurting. I have a responsibility to ensure that the families are prepared for these disclosures, particularly when they reflect such ghastly savagery" - *Sapa*.



A 1977 picture of Captain Daantjie Siebert (left) and Major Harold Snyman, head of the Biko interrogation team, leaving the Old Pretoria Synagogue after the inquest. Right: Steve Biko.



# Nail Biko's killers

## Azapo calls for prosecution of former cops implicated in his death

By Pamela Dube  
Political Reporter

**T**HE Azanian People's Organisation has called for the prosecution of five former security policemen allegedly involved in the murder of Black Consciousness Movement founder Steve Bantu Biko.

While outraged by the fact that there may be a chance for the murderers of Biko to get amnesty, Azapo has welcomed the decision by former security officers to testify before the Truth and Reconciliation Commission.

Azapo president Mr Mosibudi Mangena said yesterday that while "we are happy that at last" Biko's alleged murderers "are finally coming forward", the party would rather have them prosecuted.

Yesterday Eastern Cape newspapers reported that five former policemen - Colonel Harold Snyman, alleged Motherwell bomber Lieutenant-Colonel Gideon Niewoudt, Warrant Officer Ruben Marx, Captain Daantjie Siebert and Warrant Officer Johan Beneke, had applied for amnesty before the TRC.

Snyman was alleged to have led the team that interrogated Biko. Niewoudt was also reported to have applied for amnesty for the Motherwell bombing, the disappearance and death of the Pebco Three and the 1982 killing of student activist Mr Siphiso Mthimkhulu.

Biko died in a Pretoria cell on September 12 1977 after being driven in the back of a police van from Port Elizabeth where he had been held at security police headquarters.

*Sowetan 28/1/97*

**6 We are happy that Biko's alleged murderers are finally coming forward but we want them prosecuted**

(252)

A Port Elizabeth newspaper, quoting a "reliable source" close to one of the applicants, reported that applications for amnesty were being finalised and would soon be filed with the TRC. TRC media liaison officer Ms Christelle Terreblanche refused to comment, saying it was not their policy to confirm or deny amnesty appli-

cations before the culprits and victims were informed of the proceedings.

Mangena said. "The way in which they carried out the torture and murder of our people, they don't deserve amnesty. They should be prosecuted to set an example."

Pan Africanist Congress deputy president Dr Motsoko Pheko said it was "indeed a sad day that murderers would even be considered for amnesty, while many of our cadres are still languishing in jail for defending our people against the apartheid regime".

African National Congress national spokesman Mr Ronnie Mamoepa said his party was never in "doubt that most deaths in detention - including that of Ahmed Timol, Looksmart Ngudle and Neil Aggett - had been caused by the then security police".

In that context the ANC welcomed steps being taken by Port Elizabeth police "to come forward to tell the truth about Biko's death".

"We would hope that those in similar positions will follow their lead and break ranks with the past and the conspiracy of silence and expose the real masterminds behind these activities".

Biko's widow Ntsiki told *Sowetan* her family wished to reserve comment on these developments.

Meanwhile *Sowetan* has learnt that the TRC will release details today of three "important" cases in the Eastern Cape. These will include the much-publicised murders of the Cradock Four.

● The TRC earlier warned that publication of the names of amnesty applicants before their making their submissions was illegal.

NS

# Rights body needs budget of five times sum allocated

Star 28/1/97

(252)

Chairman warns of crisis as he releases cabinet memo containing commission's business plan

By Daisy Jones

The Human Rights Commission told a news conference yesterday it required a budget of five times the amount it has been allocated.

In an unusual move, chairman the Rev Barney Pityana released to the media a cabinet memo containing the commission's business plan. He said the HRC was facing a major crisis, and urgent action was required to avert bankruptcy.

The HRC, which has already exceeded its budget by R1,8-million last year, wants R32-million for this year. It has been told to expect R6,4-million.

"We can hardly avoid overspending. If this is the final word, the HRC will go bankrupt and liquidate," Pityana said.

He said the HRC was currently negotiating with the Public Service Commission, and seeking an

urgent meeting with Deputy President Thabo Mbeki.

The struggle for funds had become "a matter of political will", Pityana added.

He said the commission should be funded by Parliament, but the HRC had been made accountable to the Department of Justice, which had facilitated the establishment of the commission and made budgetary provision for it.

The HRC's budget had not been discussed or debated with the commission.

At a meeting with Justice and Finance Ministry representatives, the HRC was requested to present a business plan, which would then be presented to Parliament for a decision, according to Pityana.

But the plan, which took a comprehensive view of all the responsibilities placed on the commission, did not elicit a response

from the minister of justice, and no reason had been given why the document would not go to the Cabinet as planned, said Pityana.

Since then the HRC had held "innumerable" meetings with the Department of State Expenditure and the Department of Justice.

"The minister of justice told us the Department of State Expenditure had only so much money available, and there was nothing he could do about it."

In addition to the funding crisis, Pityana said the HRC's independence was being "undermined to a large measure by civil officers in the State Expenditure Department."

Another problem was that the Department of State Expenditure would not allow the HRC to raise donor funds. He said other commissions, which were "bound to" other departments, were receiving substantial budgets.

# Govt accused of sabotaging human rights

(252) 80

Kevin O'Grady

**HUMAN Rights Commission** chairman Barney Pitjana accused government officials yesterday of "undermining and sabotaging" the commission's work by failing to consider a business plan and a request for increased funding it had submitted last year.

He also said the commission's integrity and independence were in danger of being compromised by its reliance on the justice department for funding and "questioned government's commitment to the commissioner's job of monitoring human rights and abuses".

Pitjana hinted that the commission, a statutory body, could collapse if it did not receive an increase in its 1996/97 "thumb-suck" budget of R6,4m. The commission was told to expect the same amount for 1997/98 when it would need R32m to function effectively.

"We've already overspent by R1,8m (since the commission came into existence in October last year) If things go as they do we shall overspend year by year (and) the commission will eventually be bankrupt," Pitjana said. He said he was seeking an urgent meeting with Deputy President Thabo Mbeki to try to resolve the "major crisis" facing the organisation after Justice Minister Dullah Omar and the state expenditure and justice departments failed to come up with solutions.

The meeting would be aimed primarily at finding a way for the commission to open its planned provincial offices as the funding shortage had made it necessary to put them on hold.

The situation arose after a series of meetings with government, including one with Deputy Finance Minister Gill Marcus last year at which the commission was told to draw up a business plan to be submitted to cabinet.

"This business plan has not and will not, as we understand, be placed before cabinet," Pitjana said, citing this as one example of government "consistently and persistently" renegeing on agreements with the commission.

Thus, together with the fact that the body's communications with government "seldom drew a response, meant 'you can't draw any other conclusion than that it's not just innocent inefficiency'".

In a memorandum sent to Omar after the commission's business plan was submitted to government in December last year, Pitjana wrote that the funding of the commission by the justice department was "in danger of compromising the independence of the commission and we strongly suggest it should be changed".

The memorandum suggested that the Human Rights Commission Act be amended to allow the commissioner's funding to be determined by Parliament, as was the case with certain other commissions. Pitjana said he had not yet received a response from Omar.

In a policy document also submitted to government, the commission said "It may not be far-fetched to believe there may be some retreat at certain levels of government about the wisdom of having an independent institution for the promotion of fundamental rights and freedoms."

The commission's business plan, which was made public yesterday, sets out its goals and expected expenditure up to 2000 and asks for a budget of R14,3m for 1996/97, R32,4m for 1997/98, R31,9m for 1998/99 and R35,3m for 1999/2000.

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## Senate to meet for last time on Friday

Wyndham Hartley

CAPE TOWN — The final meeting of the Senate this Friday will raise the curtain on the new National Council of Provinces but will also herald the end of National Party (NP) veteran Kobie Coetsee's career

Once the Senate has dissolved, its members will return to their provinces, where they will be sworn in as members of the regional legislatures. Once the legislatures have decided which senators will return to the council as full-time members, they will return to Cape Town for the first meeting of the new council.

Coetsee, currently president of the Senate, is guaranteed a place in the council if he wants one, as he is the only NP senator for the Free State. However, he will not chair the council. This position is certain to be taken by an African National Congress (ANC) member.

Deposed Free State premier Patrick Lekota was expected to get the job, while the deputy's position would also go to an ANC member, ANC sources said.

NP sources, who declined to be named, said Coetsee would leave politics once the Senate had been scrapped.

Coetsee, a minister of justice and of defence in FW De Klerk's administration, is widely credited with being responsible for getting negotiations going with Nelson Mandela while he was still in prison. He was elected president of the Senate in May 1994.

# Amnesty committee faces huge workload

(252) 60 28/11/97

Stephen Laufer

THE truth commission is to discuss the workload its amnesty committee faces at a meeting in Cape Town on Thursday, amid growing concern that hundreds of applications may still be outstanding when the commission shuts down at the end of the year.

A failure by the committee to complete its work on time would force government to choose between extending its life beyond that of the full commission, required by law to end its work in December, or declaring a general amnesty, observers said.

Applicants are required to disclose fully the crimes for which they want amnesty. Unless government indemnifies applicants whose cases have not been adjudicated when the commission ends its work, documents could be used in prosecutions.

The five-member committee had not yet ruled on at least 2 900 applications, spokesman Christophe Terreblanche said.

Applications were still being received following the extension of the cut-off dates, and the African National Congress and Pan Africanist Congress were expected to submit at least 200 more each, with the Freedom Front and the Inkatha Freedom Party expected to hand in "a sprinkling".

About 20% of applications in-

volve gross human rights violations. The committee is required to rule on these — at least 580 cases — following public hearings. More than 500 applications had been received from former security force members and many could involve human rights violations.

The committee is planning public hearings every second week and will deal with other applications in chambers in the weeks in between.

The amnesty committee has so far ruled in only 22 cases. Five applications have been granted in chambers, six after hearings and 11 have been rejected.

Acting commission chairman Alex Boraine said yesterday that the committee faced an enormous task and was in need of a realistic appraisal of whether it could cope.

The quorum required for a public hearing had been reduced from five to three commissioners, allowing two to prepare hearings and review evidence. Committee members were assessing whether they had sufficient resources to cope with the workload.

Terreblanche said the committee staff had been strengthened significantly in recent weeks. It was now in a position to deal with 10 to 15 applications a week in public hearings.

Notwithstanding, hundreds of applications would be left undecided by December.

## Withholding of council funds probed

Linda Ensor

CAPE TOWN — Central government is investigating the Western Cape government's withholding of intergovernmental grants to six ANC-controlled local authorities in the province, an official has confirmed.

The official, who asked not to be named, said the constitutional development department was probing reasons why funds had been withheld from the Worcester, Riversdal, Ceres, Saron, Paarl and Tulbagh councils.

The provincial local government department informed one of the councils that the funds would be withheld until arrangements were made for the payment of legal costs which the courts had ordered the local authorities to pay. The costs arose from an unsuccessful application last year aimed at overturning the compo-

sition of the district councils, as stipulated by Western Cape local government MEC Peter Marais.

A member of the parliamentary standing committee on constitutional affairs, Melanie Verwoerd, said the withholding of funds meant for reconstruction and development programme projects and payment for legal costs was "completely out of order". Provincial governments were supposed to simply redistribute grants allocated to them by central government.

Verwoerd doubted whether the action was constitutional and said it raised an issue of principle — the right of one tier of government to take legal action against another without being penalised. It was especially unfair, she said, as the final cost of the legal action would take months to finalise.

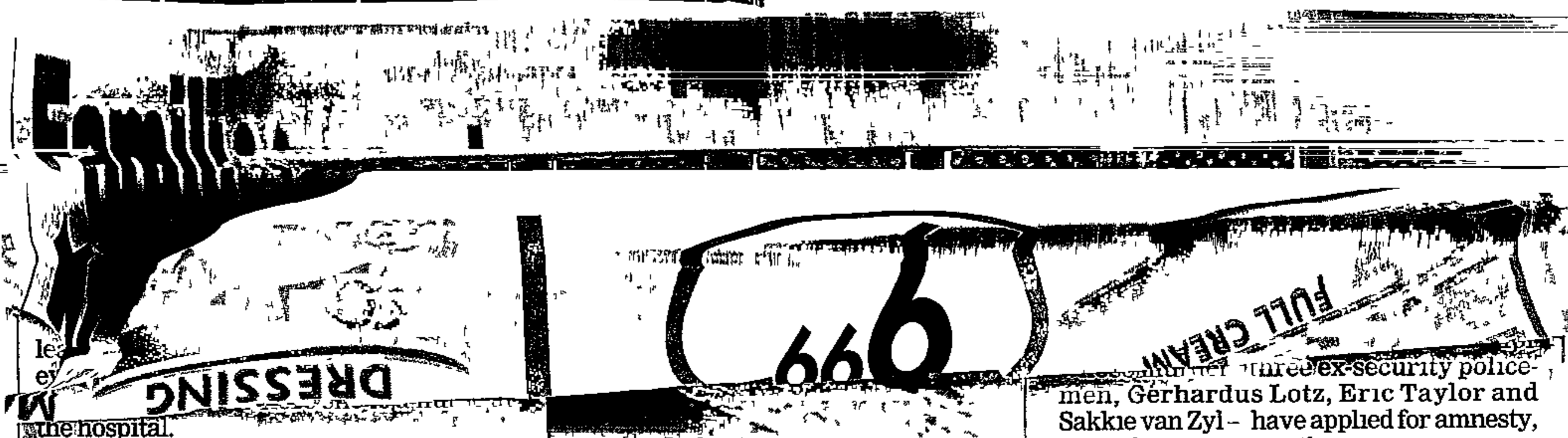
Meanwhile, the ANC's Western Cape information and publicity head, Cameron Dugmore, said

the ANC would demand that the Western Cape constitution incorporate a general provision requiring the provincial legislature to pass legislation on matters crucial to the transformation process. The proposal was endorsed by the ANC's provincial executive committee at a meeting last week.

If the ANC proposal is adopted by the other parties, the provincial legislature will be obliged to pass legislation on land distribution, the abolition of the tot system, affirmative action, the appointment of an ombudsman on racism and the promotion of nonracialism.

Dugmore noted that such constitutionally enshrined mandates were necessary in the Western Cape, as the National Party-controlled regional government had been reluctant to threaten vested interests. It had been particularly tardy in implementing affirmative action in the administration.

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the hospital.  
 "I will tell you what I told everyone else - I have no comment," she said today.  
 Biko's son Nkosinathi, who works in the advertising department of a leading Johannesburg newspaper, also declined to comment.  
 Five former Eastern Cape security policemen have applied for amnesty for their role in the interrogation and "culpa-

**Lying in state: Steve Biko after his death**  
 "able homicide" of Steve Biko who died in 1977 after being interrogated by security police.  
 For Joyce Mthimkulu, whose son Siphwo was drugged, shot and then burnt to

three ex-security policemen, Gerhardus Lotz, Eric Taylor and Sakkie van Zyl - have applied for amnesty, were also cautious in their response.  
 Mrs Nomonde Calata, wife of slain activist Fort Calata, who was killed alongside his UDF colleagues Matthew Goniwe, Sparrow Mkhonto and Sicelo Mhlauli, said from Cradock she was still "shocked".  
 Alex Goniwe, brother of the slain activist, said the families now wanted to know who gave the orders - Ecna

(252) ARG 29/1/97



Still grieving: Monica Godolozzi, left, and Elizabeth Hashe, widows of two of the activists known as the Pebco Three, leave the TRC press conference

(252) ARG 29/1/97  
**Five ex-security policemen in Biko amnesty bid**

Port Elizabeth - Retired police general Nic Van Rensburg and the former head of the Port Elizabeth security police, Colonel Harold Snyman, are among a group of former Eastern Cape policemen applying for amnesty for several political murders.  
 The names of the amnesty applicants were revealed today by their lawyer, Francois van der Merwe.  
 His clients are seeking amnesty in connection with the deaths of Black Consciousness leader Steve Biko in 1977, the Cradock Four, the Pebco Three, student activist Siphwo Mthimkulu, Topsy Madaka and Sizwe Kondile.  
 "The amnesty applications should not create the expectation of major revela-

tions. There were a lot of roleplayers in these incidents," Mr Van der Merwe said.  
 He said the five ex-policemen applying for amnesty for the death of Biko were:  
 ■ Colonel Snyman, head of the team that interrogated Biko  
 ■ Colonel Gideon Nieuwoudt (a detective-sergeant at the time)  
 ■ Security Branch warrant officer Reuben Marx  
 ■ Ex-brigadier Daantjie Siebert,  
 ■ Ex-warrant officer Johan J Beneke  
 He said General Van Rensburg was applying for amnesty for his role in the murders of Siphwo Mthimkulu and Topsy Madaka in 1985, the abduction and murder of Port Elizabeth civic leaders Siphwo Hashe, Champion Galela and Qaqawuli

Godolozzi, and the murder of Sizwe Kondile.  
 Kondile's murder is also the subject of an amnesty application by former Vlakplaas commander Dirk Coetzee.  
 Mr Van der Merwe said Colonel Nieuwoudt was also seeking amnesty for his role in the disappearance and murder of the Pebco Three, the deaths of Mthimkulu and Madaka and the Motherwell bombing.  
 He said Gerhardus Lotz, seeking amnesty for the murders of the Cradock Four, was also applying for amnesty for his role in the murder of the Pebco Three.  
 Other incidents in the amnesty applications include the killing of an unnamed Askari (guerrilla turncoat) at the Vlakplaas canteen and cross-border operations into Botswana and Swaziland - Ecna

REUTERS



Seeking amnesty: former security policeman Harold Snyman, left, and colleague Daantjie Siebert

## TRC details horror of police murder method

(252) ARG 29/1/97  
 Port Elizabeth – The Eastern Cape security police had a penchant for drugging political activists, torturing them, shooting them in the head and burning their bodies on pyres.

Then they would dump them in the Fish River.

This emerged from Truth and Reconciliation Commission investigations into the deaths of Steve Biko, Sphiwe Mthimkulu, Topsy Madaka, the Pebco Three and the Cradock Four

A number of former senior Eastern Cape security policemen have now applied for amnesty in connection with these political murders in the mid-1980s

The police station at Post Chalmers, about 25 km from Cradock, provided the security police with a torture chamber where political activists were interrogated, tortured and murdered

Mr Mthimkulu and Mr Madaka as well as the Pebco Three were killed there

In a statement, the TRC said information received on the murder of student activists Mr Mthimkulu and Mr Madaka, the Pebco Three and the Cradock Four showed they were all shot, mutilated and their bodies burnt before their remains were dumped in the Fish River

"They (Mr Mthimkulu and Mr Madaka) were apparently interrogated, given drinks spiked with sedatives, carried outside and each was shot in the head by a different applicant

"Their bodies were placed on a pyre of

wood and burnt for about six hours. The remaining fragments of bone were thrown into the Fish River, according to the application, and their vehicle was left at Tele Bridge near the Lesotho border," the TRC statement said

A similar fate awaited Port Elizabeth civic leaders Siphiso Hashe, Champion Galela and Qaqaqwuli Godolosi after they were abducted from the Port Elizabeth airport and taken to Post Chalmers.

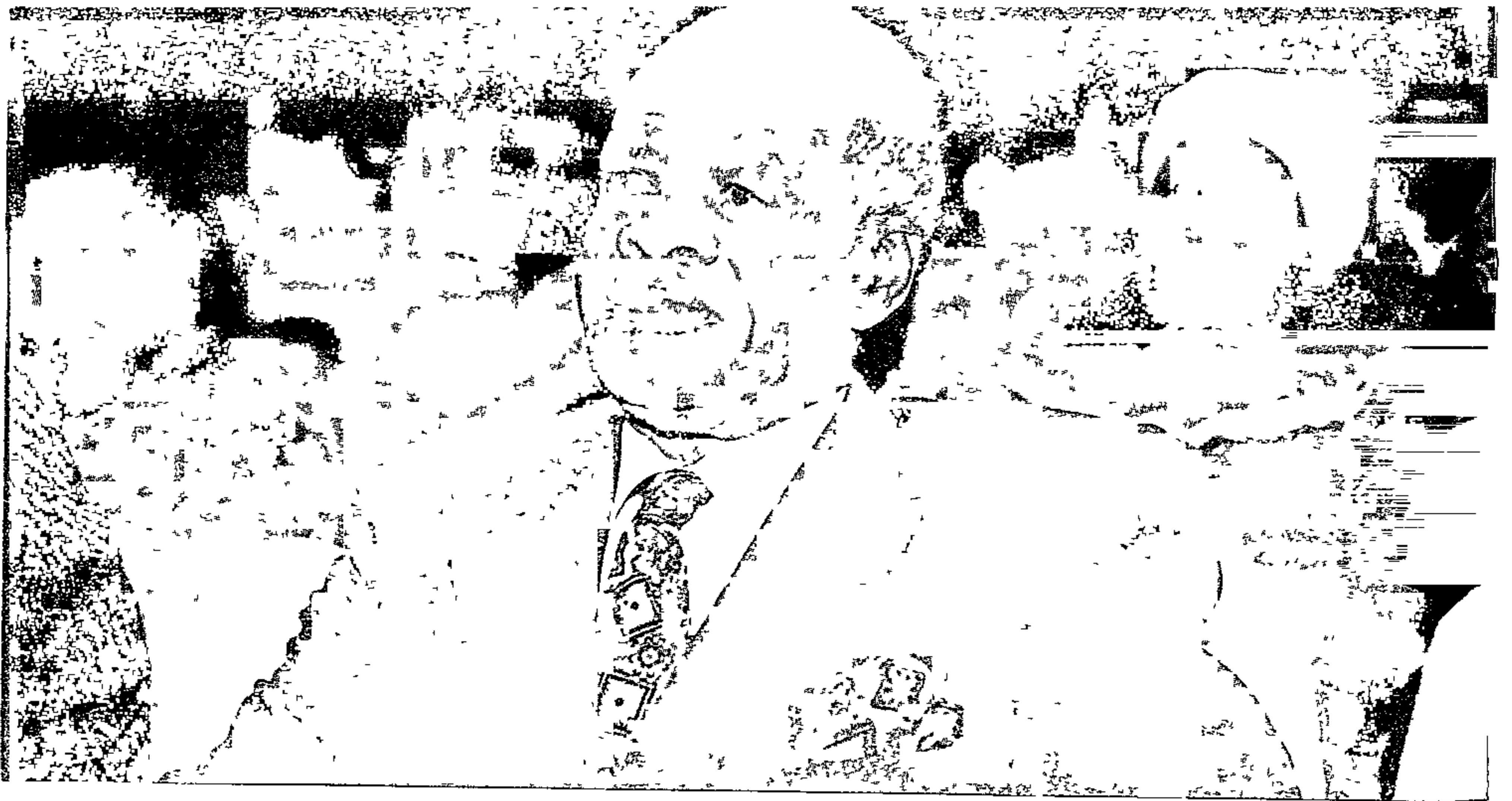
"The three were given coffee with sleeping tablets in it. Each one was allegedly shot by a different applicant, then the bodies were placed on a pyre and burnt. This took four to six hours. The remains were placed in plastic bags and disposed of in the Fish River," the statement said.

The TRC said the amnesty applicants had not yet provided details of their "precise involvement" in the death of Steve Biko

Biko was dumped naked into the back of a police vehicle and driven to Pretoria after being interrogated by the security police at their headquarters in Port Elizabeth.

The TRC said information it had obtained on the murder of Cradock activists Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauuli indicated that the four had been beaten unconscious with a heavy iron implement and stabbed to make their deaths look like vigilante killings. – Ecna





## KILLERS CONFESS

# Remains of activists tossed from bridge (252) ET 29/1/97

**PORT ELIZABETH:** Amnesty applications received last month will shed light on the Biko, Pebco Three, Mtimkhulu/Madaka and Cradock Four cases. **ROGER FRIEDMAN** reports

ONE of the Eastern Cape's most notorious former security policemen, Gideon Niewoudt, who last year instituted contempt of court proceedings against the Truth and Reconciliation Commission for allowing witnesses to sully his reputation without giving him prior notice, is ready to admit to his role in a string of grisly crimes including the murder of Steve Biko — in exchange for amnesty.

Lawyer Mr Francois van der Merwe confirmed yesterday that he had prepared an amnesty application on Niewoudt's behalf in respect of cases including Biko's death in detention, the abduction and killing of student activists Siphiso Mtimkhulu and Topsy Madaka, and the abduction and killing of the Pebco Three Siphos Charles Hashe, Qaqawuli Godolozu and Champion Galela.

Niewoudt's application also covered the so-called Motherwell Bombing — in which three black policemen and an informer were blown up — for which he was sentenced to 20 years' imprisonment last year.

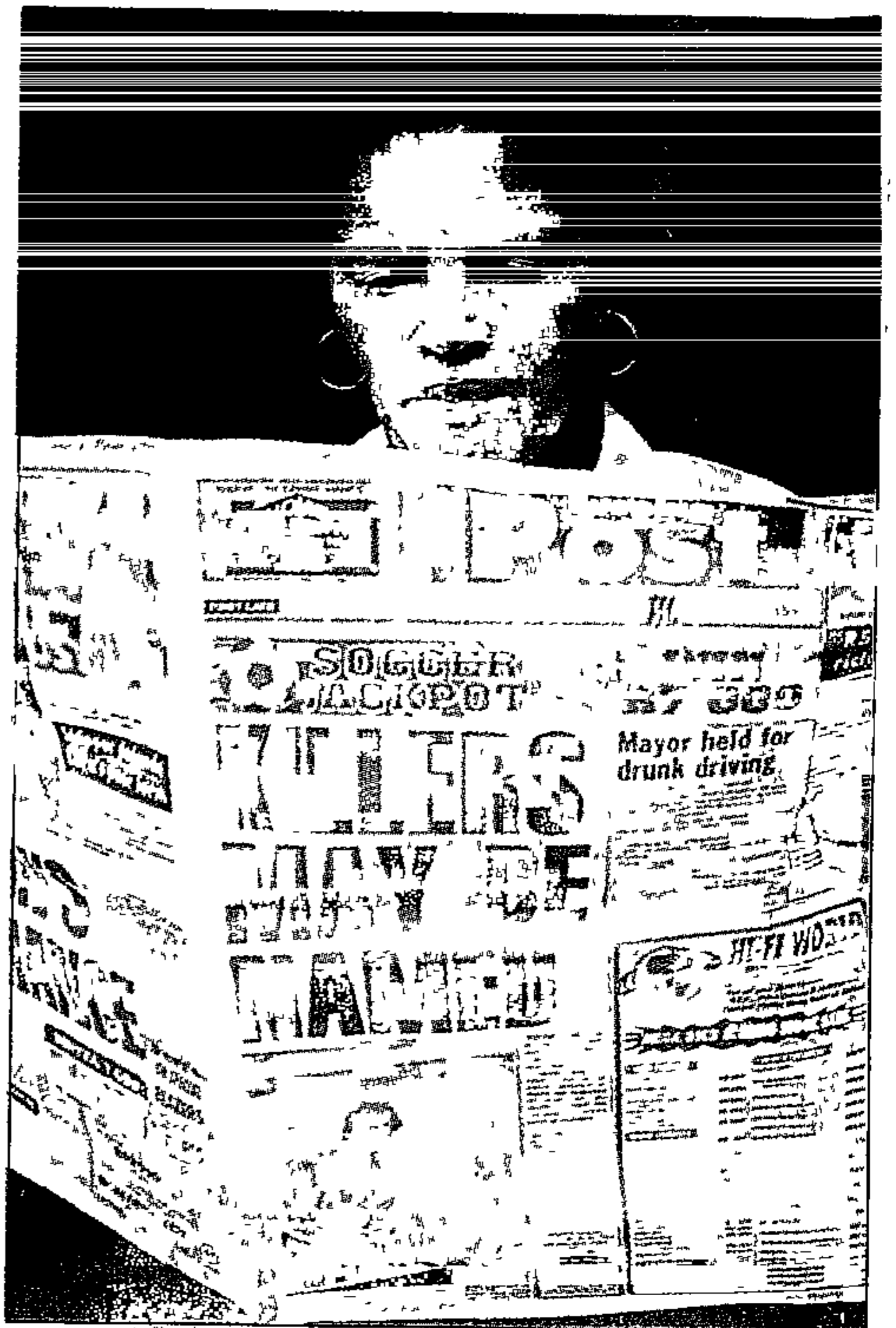
Last June he was granted bail of R5 000 pending an appeal against

conviction, which was due to be heard by the Appeal Court next month. Van der Merwe said the appeal would now probably be postponed until the outcome of the amnesty application. He represented Niewoudt in the Motherwell matter, too.

Van der Merwe disclosed that he had prepared amnesty applications for several former security policemen, including Colonel Harold Snyman, Brigadier D P Siebert, Warrant-Officer Ruben Marx and Niewoudt (relating to Biko's death), Major-General Nic van Rensburg and Niewoudt (in the Mtimkhulu/Madaka-matter), Van Rensburg, Niewoudt and Mr Gerhard Lotz (with regard to the Pebco Three); Van Rensburg (relating to the death of activist Mr Sizwe Kondile, and Niewoudt and Wahl du Toit (Motherwell).

The lawyer's confirmation followed a press conference called by the commission in the City Hall here, at which deputy-chairperson Dr Alex Boraine and Investigative Unit head Mr Dumisa Ntsebeza announced a series of "major breakthroughs" in the commission's information gathering process.

Boraine announced that a series



of amnesty applications received by the commission in December would finally shed some light on the Biko, Pebco Three and Mtimkhulu/Madaka cases, as well as the abduction and killing of the Cradock Four Matthew Goniwe, Fort Calata, Sparrow Mkonto and Sicelo Mhlauhi.

He declined to name the amnesty applicants, saying this was not commission procedure.

The widows and parents of most of the victims sat in the audience as Ntsebeza revealed that the charred remains of Mtimkhulu and Madaka (in April 1982) and the Pebco Three (in May 1985) were

tossed off a bridge into the Fish River after being thoroughly burnt.

Ntsebeza said he wished to stress that the commission's investigation into the veracity of the details contained in the amnesty applications was still in its infancy, and that the commission had been "almost stampeded" into releasing the information it did yesterday due to the media leaks. A preliminary investigation had revealed "a number of inconsistencies" and some "yawning gaps".

After the commission's press conference, the families remained seated to listen to Van Der Merwe address the media.



**ABOVE:** Mrs Elizabeth Hashe, widow of Pebco Three member Mr Siphon Hashe, hears how her husband's remains were thrown into the Fish River **TOP LEFT:** Mr Sipo Mtimkhulu, father of slain activist Mr Siphwo Mtimkhulu, at the TRC press conference **LEFT:** Mrs Nomonde Calata, widow of Cradock Four activist Mr Fort Calata, reads newspaper articles relating to her husband's killing

PICTURES: BENNY GOOL

## Information

### on killings ET 29/1/97 released

(252)

**PORT ELIZABETH** The following "brief sketch of new information" was supplied by the Truth and Reconciliation Commission yesterday

- The death of Steve Biko Applications have been filed by a number of former security policemen in respect of charges of assault and culpable homicide. They have not yet provided details of their precise involvement in these crimes

- The abduction and murder of Siphwo Mtimkhulu and Topsy Madaka Information indicates that the two student activists were stopped by security policemen near the Port Elizabeth Holiday Inn and taken to the disused police station at Post Chalmers in the Cradock district. They were apparently interrogated, given drinks spiked with sedatives, taken outside and shot. The bodies were burned on a wood pyre for about six hours. "The remaining fragments of bone were thrown into the Fish River and their vehicle was left at Tele Bridge on the Lesotho border to create the impression that they had left the country"

- The abduction and killing of the Pebco Three They were abducted at Port Elizabeth Airport and taken to Post Chalmers. After interrogation they were apparently fed spiked coffee, shot, burned and disposed of in the Fish River

- The abduction and killing of the Cradock Four They were abducted by police at Olifantshoek Pass between Cradock and Port Elizabeth, and taken to the beach near St George's Strand. One was apparently shot trying to escape, two were bludgeoned with a heavy iron implement to resemble vigilante killings and no information was available relating to the fourth. The bodies were then burned

# Victims' relatives hear of the horror

(252) ET 29/1/97

**PORT ELIZABETH** Relatives and friends of the 10 anti-apartheid activists murdered by former policemen in the Eastern Cape sat in shocked silence yesterday as they were reminded once again of the deaths of their loved ones and heard how the police threw the charred bones of activists over the Fish River bridge

In the harsh glare of camera lights, wives and parents waited patiently in the packed City Hall for proceedings to begin

A minute's silence was observed in honour of those who died at the hands of South African security forces during the apartheid era

Many political parties, including the ANC, DP, SACP and the PAC were represented at the news conference which was held

TRC investigating unit head Mr

Dumisa Ntsebeza said applications have been filed by a number of former security policemen who have indicated they were applying for amnesty for the killing of Steve Biko and the assault on Peter Jones

Regarding activists Siphwo Mtimkhulu and Topsy Madaka, Ntsebeza said information available to the commission at this stage indicates that the two were stopped by security policemen near the (old) Holiday Inn, Summerstrand, and taken to the disused police station at Post Chalmers in the Cradock area

They were interrogated, given drinks spiked with sedatives and each was shot in the head by a different applicant. Their bodies were

placed on a wood pyre and burnt for six hours

The remaining fragments of bone were thrown into the Fish River, according to the application, and their vehicle was left at Tele Bridge on the Lesotho side of the border with South Africa to create the impression that they had left the country

Yesterday's proceedings were attended by Ms Judy Chalmers, the sister of the late Molly Blackburn, Mrs Nomonde Calata, widow of Cradock activist Fort Calata, and family members of Cradock UDF activist Matthew Goniwe

A small group of relatives also visited the PE Airport where the Pebco Three (Siphon Hashe, Qaqa-



wuli Godolozu and Champion Galela) were abducted in May 1985 after being lured there by security police on the pretext of meeting a foreign diplomat

Galela's wife, Mrs Rita Galela, said "I am glad these men will come to tell the truth at last. I have suffered for many years. The death of my husband has affected my life, I had two children who never knew their father"

Mtimkhulu's mother, Mrs Joyce Mtimkhulu, said she blamed former president FW de Klerk

"He must have known about it. He must have known what was going on. I have always said it was the system

"I still feel very sad. I have suffered for a long time and I want to see these men who killed Siphwo," she said — Own Correspondent

# Killer police

# must confess all, says TRC

(252)

Former officers must reveal their masters over the deaths of Biko, Cradock Four and Pebco Three for amnesty to succeed

SAPA AND REUTERS

Former security policemen who came forward yesterday to confess their role in a string of apartheid-era murders – including that of Black Consciousness founder Steve Biko – have been warned that only full disclosure of their role in the killings will secure them amnesty from prosecution

TRC investigations chief Dumisa Ntsebeza and deputy chairman Dr Alex Boraine have warned that their applications contained “yawning gaps” and further investigation was needed, especially into the role played by the military.

They say full disclosure was a requirement that had to be satisfied before an application for amnesty could succeed

Ntsebeza said there were still “inconsistencies, outright contradictions and yawning gaps” in the applications by the group of security policemen, but stressed that the commission’s investigations were still in their infancy

Boraine said the applications made no reference to the involvement of top-ranking defence force officials or politicians and that “probing questions” had been put to Defence Force chief General Georg Meiring and Defence Minister Joe Modise in this regard

Boraine said the applications received so far revealed only that “orders were received to deal with situations and they (the applicants) dealt with it”

“Full disclosure includes revealing the chain of command and we are anxious to establish what that was,” he said.

The policemen’s lawyer, Francois van der Merwe, confirmed that the applicants included five men who would seek amnesty for killing Biko whose death galvanised world opinion against apartheid

He identified the group as retired Major-General Nic van Rensburg, convicted Motherwell

bomber Gideon Nieuwoudt; Colonel Harold Snyman; Superintendent Gerhardus Lotz, Brigadier Daantjie Siebert; Warrant-Officer Ruben Marx, and Colonel Eric Taylor.

Biko, possibly the only black leader who could have rivalled the stature of President Nelson Mandela, died in a police cell from multiple injuries, including

66  
**We are  
anxious to  
establish full  
chain of  
command**

brain damage

Police photographs of his body showed his face battered and bruised, apparently by beatings

An official inquest failed to apportion blame for his death, but determined that he died alone in a cell after being driven naked, injured and chained in the back of a truck from Port Elizabeth, where he was arrested and interrogated, to Pretoria 1 200km away

“The information we have gathered constitutes a major breakthrough,” Boraine told a news conference in Port Elizabeth. But he said the information on Biko’s death and the deliberate execution of nine others, including the Cradock Four and the Pebco Three, some of whose bodies were burned on open fires, had not yet been tested

“We are also not convinced that all those who bear responsibility for the acts and omissions which led to the deaths of people have come forward,” he said

Responding to questions, Bo-

raane said none of the state doctors who examined Biko during his month-long detention and torture and had pronounced him fit had sought pardon.

He said that in terms of South Africa’s post-apartheid National Unity and Reconciliation Act, amnesty could be granted only to offenders who made a full confession.

Van der Merwe said his clients wanted to contribute to the work of the Truth Commission and to reconciliation, but he cautioned that their evidence might not lead investigators far

“At this stage there seems to be a misconception... as to the fact that all these incidents can be and should be fed right through to the prime minister or president of the day.

“All incidents were dealt with at lower levels, but within the culture of the government of the day. There is a line of command – how high it goes is something we will reserve for the evidence,” he said

BJ Vorster, who was prime minister at the time, and police minister Jimmy Kruger, who said Biko’s death “leaves me cold”, are both dead

PW Botha, who succeeded Vorster in 1978, and FW de Klerk, who became president in 1989, have said they have nothing to confess to the Truth and Reconciliation Commission headed by Archbishop Desmond Tutu

The commission is authorised to pardon human rights offenders on either side in the struggle over apartheid and to award limited compensation

Families of the victims whose killers have now come forward declined to comment on Tuesday about the latest revelations, but Joyce Mtshkulu, whose son Siphwe was tortured, killed and burned in 1982, said “I will never forgive them”

► Activists tortured, shot

Mar 29/1997

# Major breakthrough on activists' killings

BD 29/1/97 (252)

Own Correspondent

PORT ELIZABETH — Details of how security police burned the bodies of anti-apartheid activists were released by the truth commission at a news conference in Port Elizabeth yesterday

Relatives heard how the bodies of victims were burnt on wood pyres for up to six hours after they were killed

Claiming a major breakthrough in a search for the truth about the deaths of 10 activists in Eastern Cape, commission vice-chairman Alex Boraine said that in applying for amnesty a number of members of the police security branch admitted responsibility for

□ Assaults on Steve Biko and Peter Cyril Jones in September 1977, and the killing of Biko;

□ The abduction and killing of activists Siphwe Mtinkulu and Topsy Madaka in 1982,

□ The abduction and killing of the three Port Elizabeth Boycott Committee (Pebco) men Siphso Hashe, Qaqawuh Godolozu and Champion Galela, in May 1985, and

□ The abduction and killing of the Cradock Four — United Democratic Front members Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlawu — in June 1985.

"Our investigative work, combined with the prospect of amnesty, has persuaded those who say they were involved in perpetrating the acts to come forward for the first time," Boraine said "We are, however, not convinced that all those who bear responsibility for the acts and which led to the deaths of people have come forward"

Commission investigating unit head Dumisa Ntsebeza said applications had been filed by a number of former security policemen who had indicated they were applying for amnesty for the killing of Steve Biko and the assault on Peter Jones

"They have not yet provided details of their precise involvement in these crimes The commission is expecting to receive these documents soon," he said

Ntsebeza said information available to the commission indicated activists Siphwe Mtinkulu and Topsy Madaka were stopped by security policemen near the old Holiday Inn at Summerstrand and taken to the disused police station at Post Chalmers in the Cradock district They were apparently interrogated, given drinks spiked with sedatives, carried outside, and each shot in the head by a different applicant Their bodies were placed on a wood pyre and burnt for six hours

The remaining fragments of bone were thrown into the Fish River and their vehicle was left at Tele Bridge on the Lesotho side of the border with SA to create the impression that they had left the country, according to the application. "One of the applicants pointed out the scenes of the killing and the disposal of the remains to myself and witness protector Chris McAdam," Ntsebeza said

In broad outline the information supplied on the abduction of the Pebco Three was similar to what had been said previously, he said

The three men were snatched at Port Elizabeth airport and driven to the Post Chalmers police station where, after interrogation, they were apparently given coffee containing sleeping tablets Each one was allegedly shot by a different applicant, and the bodies placed on a pyre and burnt This took between four and six hours.

The remains were placed in plastic bags and disposed of in the Fish River in the same vicinity as the remains of Mtinkulu and Madaka

Ntsebeza said it was claimed that the Cradock Four were abducted by security policemen at Olfantskop Pass

Continued on Page 2

## Biko

BD 29/1/97 (252)  
Continued from Page 1

while they were travelling from Port Elizabeth to Cradock and taken to bush near St George's Strand

One — not named by the commission — was allegedly shot for trying to escape. Two were beaten unconscious with a heavy iron implement They were then stabbed to make it appear as if their deaths were vigilante killings. Their bodies were then burnt. No information in respect of the fourth man's death was available.

Ntsebeza said the applications also referred to the killing of Sizwe Kondile (also the subject of Dirk Coetzee's amnesty application), the Motherwell car-bomb killing, the killing of an askari in Vlaskopse's canteen and operations in Botswana and Swaziland

Boraine said that as investigations to verify the information given by the applicants were not yet complete and the information had yet to be placed before the amnesty and human rights violations committees, full details would not be disclosed.

Meanwhile, the lawyer for former security policemen who committed murder and atrocities in the name of apartheid said they had been spurned by their apartheid masters and were now remorseful and repentant

In a plea for understanding and sympathy, attorney Francois van der Merwe said the former policemen and their families were "being treated like outcasts"

Many had never told their families about their work during the apartheid years and now had to explain to their wives and children why they killed men who had since become heroes and martyrs of SA's first democracy

Van der Merwe said there seemed to be a misconception that all the incidents had happened on the instructions of the "president or prime minister of the day"

"Many of these incidents were dealt with at a lower level but within the culture of the government of the day," he said. However, he conceded that there had to have been a line of command

He said the applicants could "do with more support" from members of the former government

"The police are assisting with their legal representation but otherwise they have been left to themselves." He refused to release details of the applications but confirmed that most of his clients were making use of the witness protection programme. He said he was representing:

- May-Gen Nic van Rensburg (for the abduction and killing of the Pebco Three, as well as Kondile, Mtinkulu and Madaka);
- Lt-Col Gideon Nieuwoudt (Pebco Three, Mtinkulu, Motherwell car bomb and Biko);
- Col Harold Shyman (Cradock Four and Biko);
- Supt Gerhardus Lotz (Cradock Four and Pebco Three);
- Brig Daantjie Siebert (Biko);
- W/O Ruben Marx (Biko);
- Col Eric Taylor (Cradock Four); and
- WO Johan Bencke (Biko)

The commission said five former security policemen seeking amnesty for Biko's death would claim they had not intended to kill him The commission divulged no details other than that the five admitted to "assault" and "culpable homicide" in connection with Biko's death "They will say that they never intended to kill him it was an accident," a source said

Boraine said no doctors had applied for amnesty over Biko's death

After a Medical and Dental Council hearing on the treatment of Biko, Port Elizabeth district surgeon Dr Benjamin Tucker, who treated Biko in detention, was struck off the medical roll for disgraceful conduct Another district surgeon, Dr Ivor Lang, was cautioned and reprimanded

Picture: Page 4

# Human rights body 'is not allowed to accept donations'

(252)  
Kevin O'Grady

BD 29/1/97

THE Human Rights Commission, which this week accused certain government officials of undermining its work by failing to heed requests for additional funding, has also had no positive response to requests for it to be allowed to accept donations

Commission Chairman Barney Pitjana said: "Donors are ready and interested but we've been told by (the) state expenditure (department) that we're not allowed to raise private funding .. because we're a statutory body"

This refusal and the failure of the justice department to increase the commission's budget from 1996/97's R6,4m to the R32,4m it wants for 1997/98, had presented the commission with a "major crisis" that demanded "urgent action", Pitjana said.

Details of the commission's planned activities and spending up to 2000 were included in a business plan submitted to government along with a request for additional funding last year. Pitjana's allegations this week were the result of the plan not being submitted to cabinet for consideration, as was agreed with the relevant government departments.

The prime motivation behind the commission's request for increased funding is that, in terms of the new constitution, the commission's role has been expanded to include educating people about and monitoring the protection of socioeconomic rights

In the plan, the commission identifies five strategic goals, the time frames in which they are to be achieved and the funding that will be necessary.

The first goal, "to provide information, education and training on human rights, the Bill of Rights and the role of the (commission)", includes plans to run a human rights public awareness campaign through the use of posters, newspaper and radio advertisements at a cost of R8,24m up to 2000.

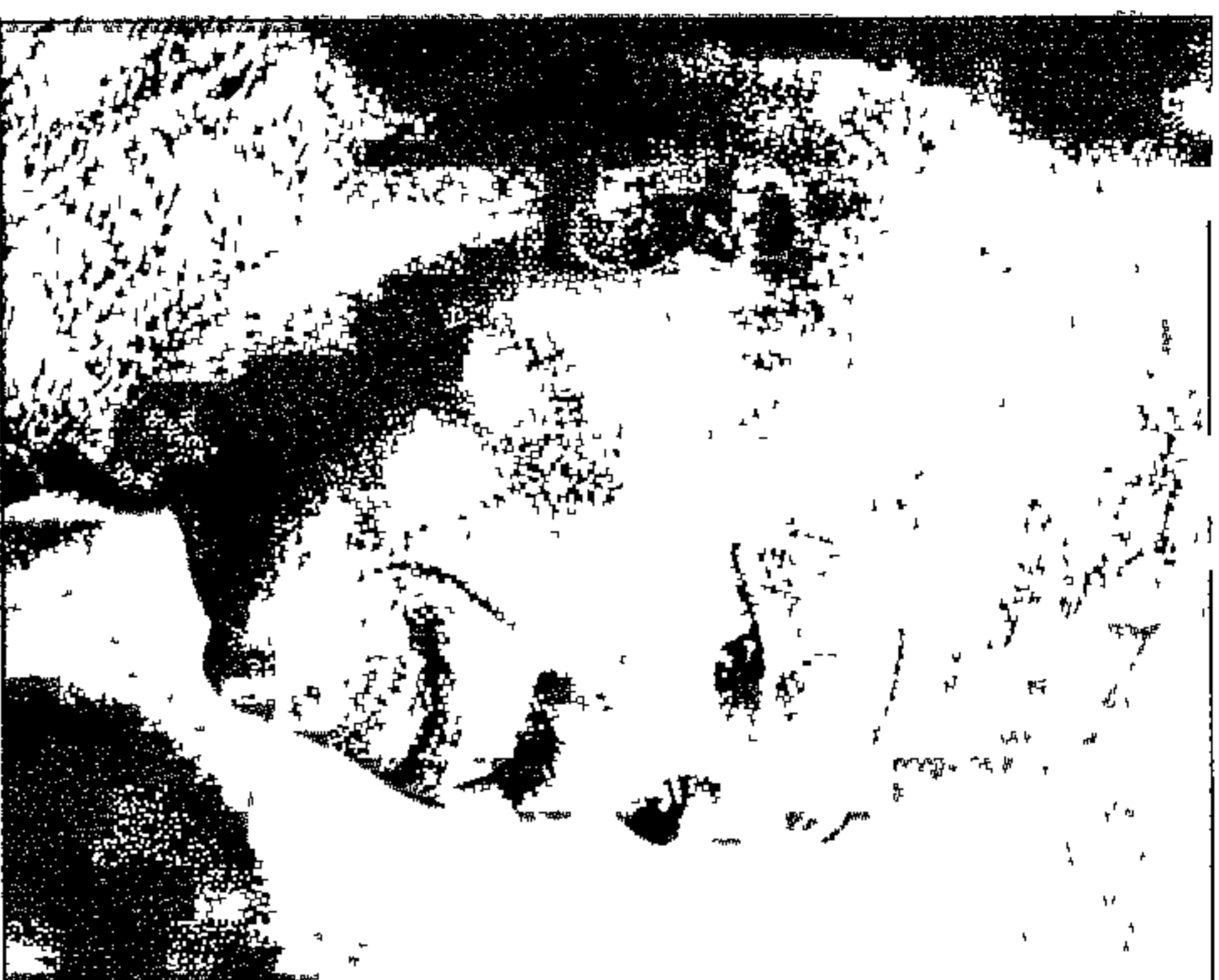
Plans also include developing curriculum requirements for human rights education in schools and assisting in the development of textbooks; publishing a human rights newsletter (cost R1,74m up to 2000) and producing an annual review of human rights (R331 000 up to 2000)

The second goal is to address human rights violations by, among other things, having the commission's complaints procedures published in all official languages (R300 000), developing a computerised complaints handling mechanism (donor funds) and giving Parliament a quarterly report of all complaints processed, (R662 000)

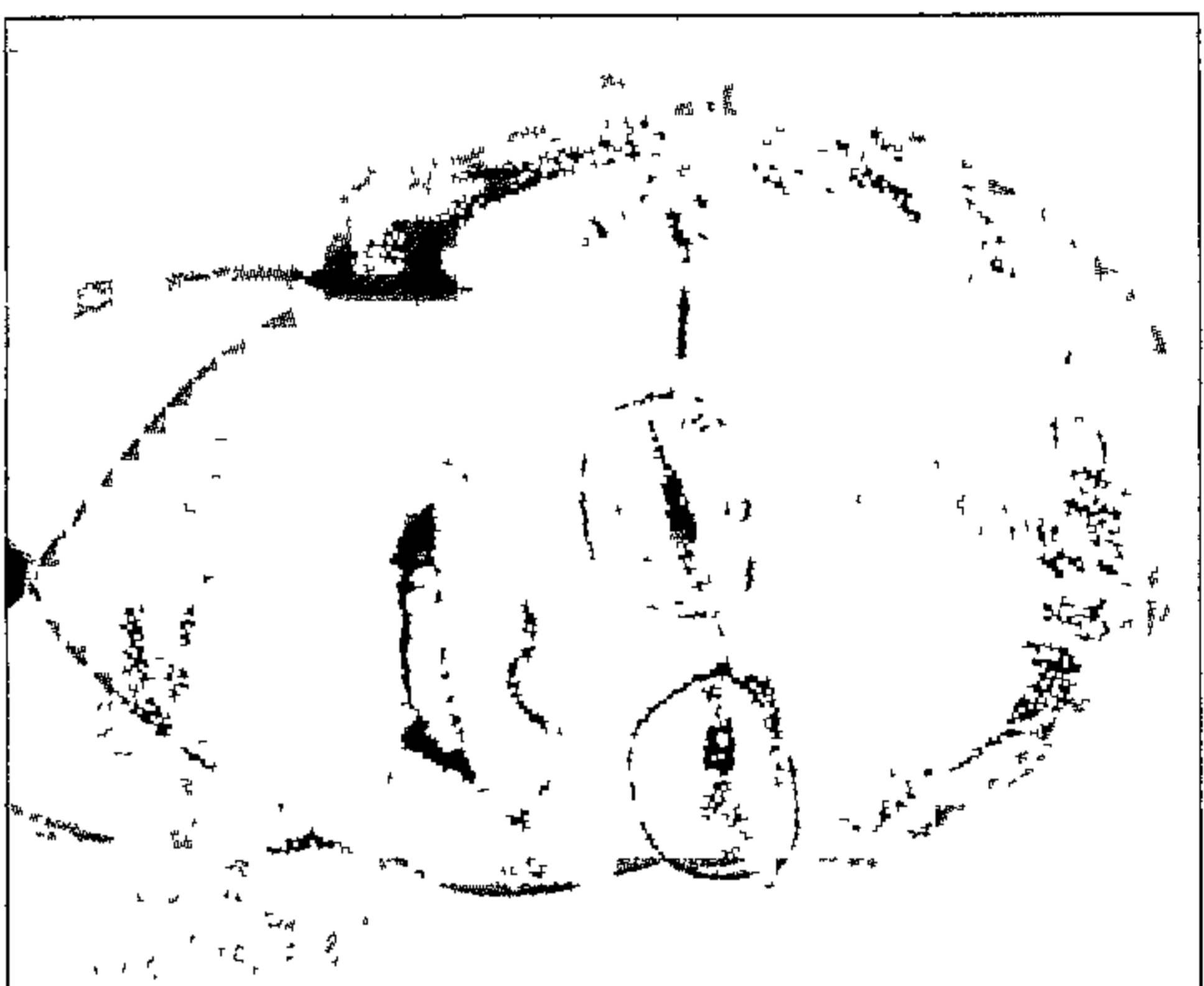
Goal three, to establish a comprehensive research and documentation facility designed to enhance human rights, has a potential bill of R3,13m up to 2000

The fourth item, to establish the (commission) as a national resource for human rights advocacy in SA, includes publishing its annual reports and summaries of these (R255 255) and organising national campaigns on racism, crime, children's rights, the rights of the disabled and refugees (R1,25m)

The fifth goal is to establish an effective administration by establishing a trust to raise funds for human rights programmes and activities.



President Mandela: meeting the TRC soon



Alex Boraine: making allegations



Pierre Steyn: implicated military officials



FW de Klerk: accused of a cover-up



Desmond Tutu: FW de Klerk wants urgent talks

# 'Dirty tricks' report row: TRC to meet Mandela

## Boraine stands by criticism as accused De Klerk seeks talks with Tutu

JOSEPH ARAJES  
AND POLINA SWAF

Truth and Reconciliation Commission deputy chairman Alex Boraine is to meet President Mandela to discuss the row over claims that former president F W de Klerk failed to take proper action on dirty tricks by the military.

At the same time, Mr De Klerk is to seek an urgent meeting with commission chairman Desmond Tutu - now recovering from prostate surgery - to discuss the allegations, and his complaints about the way the TRC has handled them.

But the TRC has reiterated its allegations against Mr De Klerk, insisting the information it released about the inquiry by General Pierre Steyn into allegations of dirty tricks by SA Defence Force members

was factually correct. Dr Boraine confirmed today that he would discuss the Steyn report with Mr Mandela.

Weekend reports said Mr Mandela had been briefed by General Steyn shortly after taking office in 1994, but chose to stay silent in the interests of reconciliation and a smooth transition to democracy. "I am certainly going to raise the question of the Steyn report and will ask him whether he was aware of it," Dr Boraine said.

A meeting which was scheduled for today was postponed at the last minute and is now likely to take place later this week.

The commission last week accused Mr De Klerk of covering up the details contained in the report and of failing to acknowledge that General Steyn had given him a written report accusing senior officers of complicity in illegal operations

Mr De Klerk has denied the allegations.

General Steyn reported his findings verbally to Mr De Klerk and senior members of his cabinet and handed Mr De Klerk written notes and a diagram to substantiate his work, the TRC reported.

### Commission grapples with claims of racial tension

The Truth and Reconciliation Commission will hold discussions at the highest level about allegations of racial tension within the body.

Deputy chairman Alex Boraine said the discussions would take place at its next meeting on January 30.

Yesterday some black commission officials threatened to resign, claiming they were being undermined, marginalised and excluded from crucial policy-making positions by a "clique of white liberals" running the commission.

Dr Boraine said today it would have been surprising if there had been no tensions in the commission because it was a microcosm of South Africa. He said the allegation that the top TRC positions were held by white people was "nonsense". Some of the most powerful and responsible positions were held by black persons, he added - Staff Reporter

Last week Dr Boraine said the commission was in possession of General Steyn's staff document. The report implicated 60 military officials, including the present head of the SA National Defence Force, General Georg Murring, and recommended

that Mr De Klerk institute further investigations, which the TRC said he had failed to do.

Instead, said Dr Boraine, Mr De Klerk gave the report to generals Murring, Kat Liebenberg and Joffel van der Westhuizen - who were implicated in it - and asked them to provide a list of people who should be dismissed or retired. A day later Mr De Klerk said 28 top-ranking officers had taken compulsory early retirement or leave pending further investigations.

At the weekend General Steyn, now secretary for defence, denied making any specific recommendations to Mr De Klerk other than to advise him to order a criminal investigation.

Dr Boraine said at a press conference that the TRC statement making allegations against Mr De Klerk had been issued after

careful consultation with General Steyn.

"We reiterate that the commission received from General Steyn a written document, which includes a staff report of the matter under investigation and a matrix containing the names of a number of people under suspicion, which was handed to the former president," Dr Boraine said.

"We have in our possession, inter alia, a letter addressed by General Steyn to former president De Klerk, written subsequent to his initial report, in which General Steyn again draws to the former president's attention the substance of the information given to him earlier.

"This intensifies our concern that the former president appeared not to have taken sufficient steps either to investigate or counter allegations of third force activities within the SADF and SAP."

(2/12)

AAG 21/1/97

# Biko doctor 'shocked' by planned TRC health probe

ARC 30/1/97 (252)

Port Elizabeth - District surgeon Ivor Lang, who was reprimanded for failure to treat Steve Biko, said today he was shocked to learn the Truth and Reconciliation Commission was planning a hearing into the treatment of apartheid victims.

It was announced in Cape Town yesterday that state doctors who failed to treat the black consciousness leader after he was tortured and beaten by security police will be examined by the TRC

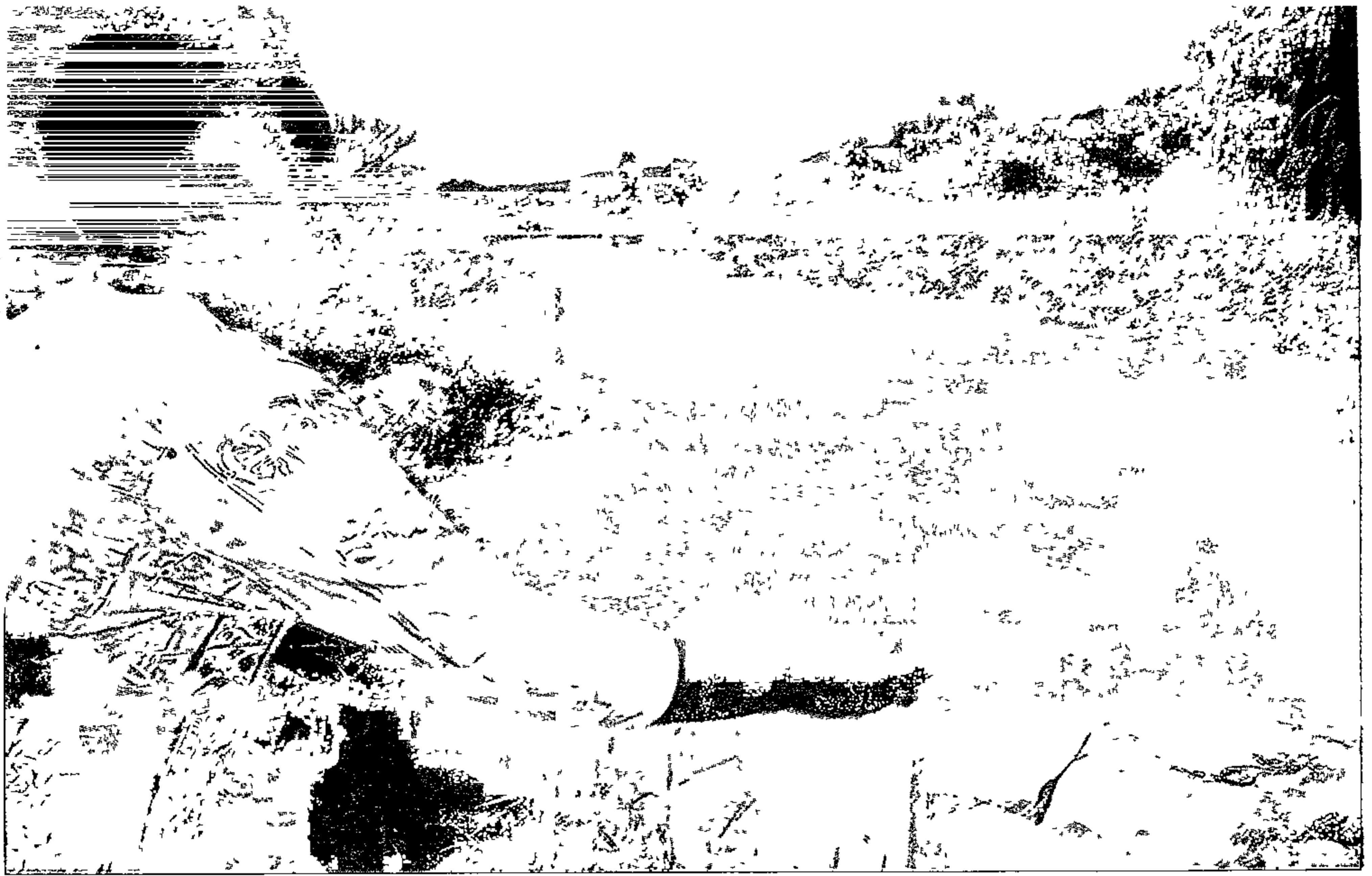
Dr Lang was quoted in a Port Elizabeth newspaper as saying nothing would be gained by calling him before the commission "We have appeared before the Medical Council - there is

nothing more to add," he said "Nothing was withheld at the time if they say we should have acted differently, they must just look at my track record as district surgeon," said Dr Lang

"I now know with hindsight there are certain things I should not have done, but I genuinely believed what the police told me at the time Only later did I discover what a bunch of liars they were How many of us doctors could at the time have stood up and challenged the police?"

The TRC is to hold a special hearing in June on the role of doctors and other healthcare professionals in human rights violations, commissioner Wendy Orr said yesterday - Sapa

## Urgent talks after Mozambique



**MEMORIAL CEREMONY:** Mrs Elizabeth Hashe, widow of Siphos Charles Hashe, one of the Pebco Three, throws flowers into the Fish River in memory of her husband. She said she was prepared to forgive her husband's killers if they told the whole truth about his death.

'I JUST FEEL LONELY'

# Tears flow in death river

CT 30/1/97 (252)

**CRADOCK:** Families of Eastern Cape activists killed by security policemen held a memorial at the site where their ashes were disposed of. Cape Times Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report.

**I**N THE baking sun outside Cradock, on the southern bank of the sluggish Fish River, a small knot of people gathered yesterday at the site where the charred last remains of abducted loved ones were apparently strewn by members of the security police.

The pilgrimage to the Fish River by the families of Mr Siphiso Mtinkulu and the Pebco Three — Mr Champion Galela, Mr Qaqawuli Godolozzi and Mr Siphos Hashe — followed revelations on Tuesday by the Truth and Reconciliation Commission that former security policemen had admitted disposing of their ashes there.

The family of a sixth Eastern Cape activist who also evidently ended in ashes in the river, Mtinkulu's friend Mr Topsy Madaka, was not represented.

The commission announced that it had received a number of amnesty applications late last year, in which former security policemen acknowledged intimate knowledge of the abduction and killing of the Pebco Three, the Cradock Four, Mtinkulu and Madaka — and the death in detention of Mr Steve Biko.

According to Port Elizabeth lawyer Mr Francois van der Merwe,

he has prepared amnesty applications for a number of former policemen, including Maj-Gen Nic van Rensburg, Lieut-Col Gideon Niewoudt, Col Harold Snyman, Supt Gerhardus Lotz, Brig Daantjie Siebert, Warrant-Officer Ruben Marx, Col Eric Taylor and Warrant-Officer Johan Beneke.

For the families of their victims, the revelations seemed to come as both a relief and a burden.

Mtinkulu's mother, Mrs Joyce Mtinkulu, and the Pebco Three widows — Mrs Nosiseko Galela, Mrs Monica Godolozzi and Mrs Elizabeth Hashe — all appeared as witnesses before the commission last year, and begged to be told what had become of their relatives' bodies.

At the riverside yesterday, old Mrs Joyce Mtinkulu led her husband Mr Siphos Mtinkulu and the group of women — which included her daughter Valencia, and Hashe's daughters Pinda and Mandisa — in prayer. She told God that she now knew that Niewoudt and Van Rensburg were responsible for her son's and Madaka's deaths, and

the eventual throwing of their ashes and unburnt bits of bone into the river.

A few dignified tears were shed, then the Pebco Three widows each said a few words and flowers were left on the river bank and in the brown water. As her husband spoke, the matronly Mrs Mtinkulu dried the moisture welling in his eyes.

The family members agreed that there were many outstanding questions they still wanted answered.

Said Mrs Hashe: "Today I feel a little better because I finally know where my husband's remains are. But I don't believe that they killed them on the same day they were abducted. Too many witnesses

claimed to have seen my husband in the following days. I believe they kept them for a month and then killed them. I don't care what they did, as long as they tell me the truth. Then I can forgive."

"We love this country. We want peace in this country. That is very important for us because our husbands were fighting for peace for everyone, black and white."

Her daughter, Ms Mandisa Hashe, said: "This is one of the most important days of our lives, the day we learnt where my father and his comrades lie buried. They

died as heroes. We salute them. We don't regret their deaths, we take it as our contribution to the liberation struggle. Whoever did this to them, I'd like them to know that we are not mourning. They are heroes of our country."

Mrs Galela said: "This place means so much to me, but I feel lonely and upset because they are talking lies. They did not take our husbands to kill them. They tortured them a lot. When they killed them I am sure that it was because they were tired of torturing them. I feel very lonely. In December I buried my son who was stabbed to death. I cannot say I am cross with God, I just feel lonely."

Said Mrs Godolozzi: "I'm happy to hear about my husband, because for many years I never heard a word from Niewoudt and the others. But I want more information. Can I forgive them? Not today. I want to know everything first."

Mrs Mtinkulu agreed that it was too early to contemplate forgiveness. "The truth is that Niewoudt and Van Rensburg must tell us the story from the beginning, where it all started. It did not begin here, with the throwing of the bones in the river. It started far back, from when they tortured my son, to when they poisoned him, then stole him and killed him," she said.

"I really need to understand why. Why did they do this to my son?"







**TEARFUL GOODBYE:** Mrs Joyce Mtimkulu — mother of slain student activist Siphwo Mtimkulu — gazes into the Fish River where the burnt remains of her son were thrown. Behind her Siphwo's father Sipo and sister Valencia dry their eyes

(252) C.T. 30/1/97  
**Widow undecided on amnesty**

THE widow of slain Cradock activist Mr Matthew Goniwe says she has not yet decided whether to oppose the amnesty applications by former security policemen who confessed to involvement in the 1985 murders of Goniwe and three colleagues

"There is still a lot which needs to come out. I am adopting a wait-and-see attitude," Mrs Nyameka Goniwe said yesterday

"I am interested to know who the other people were who were involved in my husband's killing"

Three of the policemen seeking amnesty are Col Eric Taylor, Supt Gerhardus Lotz and Col Harold Snyman

Goniwe said she had not yet managed to speak to the widows of Mr Fort Calata, Mr Sparrow Mkhonto and Mr Sicelo Mhlauhi — Sapa

# Great cop cover-up comes unstuck

## ALLISTER SPARKS

THE fact that a number of security policemen have applied to the Truth and Reconciliation Commission to be indemnified for the killing of 10 Eastern Cape activists, including Steve Biko and Matthew Goniwe, is a spectacular vindication of that much-criticised body's value

At last, after 20 years, the truth about some of South Africa's most shocking and rigorously covered-up state crimes is about to be revealed

The importance of that is self-evident. Anger at the official cover-up of the murder of these heroes of the black struggle has been festering for years. Now those boils are being lanced

It is important for white South Africans, too, if we are ever to come to terms with the moral corruption for which we must bear collective responsibility for sanctioning such activities decade after decade with our votes. It is not good enough to say, like the Germans, that we didn't know what was happening. I knew. So did you. And if you didn't, you should have

The Biko murder alone was probably the single most atrocious crime committed by the apartheid regime, a demonstration not only of the ruthlessness and cruelty of the security forces but also of the determined cover-up by the political leadership and the connivance of the judicial system

The truth about what happened to Biko in the interrogation cells where he was beaten to death will command international attention.

But for me personally, the confessions in the Goniwe case have a special importance that bring home at least some small awareness of what the TRC disclosures mean to victims' families and close associates

Matthew Goniwe was a friend of mine. I visited him frequently while he led the young activists of Cradock's black township, Ilungehle, and became a symbol of resistance throughout the Eastern Cape in the mid-1980s

He was one of the brightest and most charming young people I have known. His leadership qualities were exceptional

Despite his youth he commanded great respect from older folk in a rural community where that does not come easily. Had he lived he would have occupied a leading position in government today

Above all he was courageous. He lived in the eye of the revolutionary storm, confronting the most notorious unit of the South African security forces, yet he was always relaxed and smiling

I remember the last time I saw him. My wife and I had given him a lift from Cradock to Port Elizabeth. We stopped along the way to buy a model windmill from a roadside wright, and Goniwe spoke with passion of how he tried to stop small children joining the demonstrations but

how hard this was because they were caught up in the excitement and the police did not hesitate to shoot at them

When we dropped him off at his destination, we shook hands and I bade him take care

"Remember," I said, "here in the Eastern Cape you're up against the same ruthless people who killed Steve Biko"

"Don't worry," he replied with a grin, "I'll be OK"

Three weeks later he was dead, abducted from his car with his three friends — Port Calata, Sparrow Mkhonto and Siculo Mhlauli — as they returned to Cradock along that same road, dragged into the bushes on a lonely beach, beaten unconscious, stabbed to death and their bodies and faces mutilated and burnt to make it all look like a vigilante attack

One of Goniwe's hands was cut off. Some say the security police kept it in a bottle of formalin to terrify black political prisoners during interrogation

The horrible death of this marvellous young man has haunted me ever since. I attended two inconclusive inquests, listened to security force men lie, watched them huddle and whisper in the corridors, and smouldered at the thought that they were getting away with it, that one would

never know the truth but be left only with a poisonous brew of suspicion, grief and unrequited anger

As in the Biko case, the state apparatus went to extraordinary lengths to conceal the truth. When in 1989 there were fears that four black policemen who were involved in the killing had become disaffected and might talk, fellow security force men dynamited their car and blew them to smithereens

In 1992 a Port Elizabeth man named Andre de Villiers was on the point of making a sworn statement to his lawyer brother disclosing information about hit-squad activities in the Eastern Cape, including the Cradock Four murders, but he was gunned down outside his home the night before his brother arrived

Two askars (turned ANC activists) were convicted and jailed for De Villiers' murder in what may yet turn out to have been a grossly incomplete case

The first breakthrough came four years ago when New Nation newspaper published a signal message — dated just three weeks before the Cradock Four were murdered — sent on the orders of Brigadier Joff van der Westhuizen, head of Port Elizabeth's underground "Hammer Unit" to General Johannes van Rensburg, of the Sec-

retariat of the State Security Council, requesting permission for their "permanent removal from society"

This led to the second Goniwe inquest, but again critical evidence linking the message to the actual murders was missing

Nobody could remember what had happened to the message. Van Rensburg testified implausibly that he had never given it to the State Security Council. He said he had left it on his desk and it had got lost, and he didn't know whether there had ever been a reply

In the end the judge President of the Eastern Cape, Mr Justice Neville Zietsman, returned a verdict that the security forces had clearly murdered the Cradock Four, but he couldn't identify the individuals responsible

Now we have some names. Colonel Harold Snyman, Colonel Eric Taylor and Superintendent Gerhardus Lotz

These disclosures are only a beginning. The hearings that will flow from them will unearth much more as the applicants testify and are cross-examined, as they name others who were implicated and as a whole chain of superior officers and politicians, reaching right into the old State Security Council, have to decide in a hurry whether they, too, should seek amnesty and tell all — or risk prosecution for murder

(252) CT 30/1/97

**Matthew Goniwe was courageous, always relaxed and smiling, despite the danger he was in. Had he lived he would have occupied a leading position in government today.**

**Superior officers and politicians, reaching into the old State Security Council, must now decide in a hurry whether they, too, should seek amnesty and tell all — or risk prosecution for murder.**

# TRC now eyeing the medical field

(252) (43) *Sowetan 30/1/97*

**By Rafiq Rohan**  
Political Correspondent

IN a dramatic new move the Truth and Reconciliation Commission will be calling up certain doctors and medical professionals to explain their role during the apartheid years

Yesterday Dr Wendy Orr, the Western and Northern Cape convenor of the TRC, announced that a special hearing will be held in June to explore the role of medics in participating in human rights violations of the past

"Significant progress has been made in terms of the Health Care Sector's commitment to making submissions about its role during the apartheid years"

Orr pointed out that there will be a special submission on the role of medics in the highly publicised death of black consciousness leader Steve Biko in 1977

"Both the Medical Association of South Africa (MASA) and the South African Interim Medical and Dental Council have employed researchers to go through their archives and assist in the drawing up of submissions," she said

A submission will be made by the Department of Health, the Democratic Nursing Organisation of South Africa will submit a paper on the role of nurses at the time, while the Psychiatric Association will make its own submission to the TRC

Orr said the hearing would be held on June 17 and 18 but submissions from people wanting to do so should be made a month before the hearing

Submissions will be accepted from individuals and institutions

# Role of medical professionals during abuses under scrutiny

STAFF REPORTER

The role of doctors and other health-care professionals in human rights violations during the apartheid era will fall under the spotlight of the Truth and Reconciliation Commission in June

At a special hearing to be held in Cape Town, the commission will listen to submissions from various sectors of the profession. One of the special submissions planned for the hearing is on the death in detention in 1977 of Black

*Star 30/1/97*  
Consciousness leader Steve Biko TRC commissioner Wendy Orr said yesterday the Medical Association of South Africa (Masa) and the South African Interim Medical and Dental Council had employed researchers to go through their archives and assist in the drawing up of submissions

Dr Melvyn Freeman, the director-general of mental health, had been appointed to co-ordinate the submission from the Department of Health.

The Democratic Nursing Or-

ganisation of South Africa and the Psychiatric Association (a subgroup of Masa) would make their own submissions

The Trauma Centre in Cape Town announced this week it would prepare a submission based on its research project, Human Rights and Medical Accountability in South Africa

Submissions made to the commission by individuals and institutions would be used for a chapter in the final report of the commission, Orr said

■ Orr yesterday thanked Masa for recruiting doctors who were willing to provide free medical care and advice to victims who approached the TRC

She said referrals had been made from the Cape Town office, which had led to "more and more" doctors in the Western Cape and Northern Cape offering their services

► **Relatives shocked after confessions**



# Rapists: California chooses castration

(252) Star 30/1/97

New Californian law could be copied and implemented in SA, writes Rich Mkhondo

**A**s rape reaches epidemic proportions in South Africa, California's solution for rapists, particularly child molesters, seems simple surgical castration or injections with a chemical that drastically reduces the sex drive

Chemical and surgical castration effectively became law in California on January 1 after the state assembly passed the bill by 51-8 votes last year

The bill requires any paedophile convicted of a second offence to undergo a mandatory surgical castration or be injected with Depo-Provera, a drug that reduces testosterone levels to pre-pubertal levels. The same fate awaits any rapist whose first crime is deemed sufficiently violent to warrant this punishment

Similar legislation is now being considered in the states of Florida, Michigan, Massachusetts, Texas and Washington.

Now Californians are going for another form of legislation against rapists wearing handcuffs for life. For those who ask how people can live while permanently wearing handcuffs, it seems the idea is for the criminal to wear one handcuff, as a sort of shameful identification.

"A handcuff is not something they can easily cover up by a jacket," said Women's Coalition official Susan Carpenter-MacMillan in an interview. Carpenter-MacMillan, who conceived, campaigned and drafted the castration law, is seeking a legislative sponsor for the handcuff proposal. She is confident she will get the necessary support to make this into law next year.

The handcuff will be welded shut and monitored through regular checks with a probation officer or by a micro-chip that would be activated if the offender tried to tamper with it. Offenders who removed the handcuff would be sent to prison for life.

Unfortunately South Africans have not yet taken any major drastic steps to deter molesters.

"We have a choice. Do we want to live with barbarians or deal with the barbarians?" cried a Johannesburg mother of two sisters, raped by four men on January 2.

**H**er words resonated widely in Californian newspapers during the first week of this month.

Reports of unrelenting rapes in South Africa, particularly of children and that of Nombonso Gasa, wife of ANC parliamentarian Raymond Suttner, have confirmed South Africa as the child-sexual-abuse and rape capital of the world.

Figures published in American newspapers and aired on television tell a story too. In 1996 a woman or child was reported raped every 14 minutes in South Africa. Some say one rape occurs every 83 seconds, assuming that very few rapes are actually reported. Others go as far as saying someone is raped every 35 seconds.

Now that violence against women will be high on the agenda of the bills Justice Minister Dullah Omar will put before Parliament this year, South Africans can grab the Californian example and legislate surgical or chemical castration of repeat child molesters. They could even go further and target rapists.

**E**veryone understands that South Africa still has to address the causes of crime, such as poverty and unemployment. But like Californians, South Africans must give a clear signal that no kind of crime will be tolerated.

Californians are trend-setters in America's successful fight against crime. Chemical castration is just the latest development in the state's get-tough approach to criminal justice. With 63 000 registered sex offenders, 37 000 of whom are child molesters, the "Golden State" has expanded its arsenal of laws aimed at preventing child molesters and other violent sexual predators from striking again or even thinking of doing so.

Detractors are decrying these laws, particularly chemical castration, as simplistic, overly invasive and shortsighted. They say by focusing on embarrassing types of punishment, the law ignores the need for long-term counselling, particularly because a rapist's actions are rooted in psychological disorder rather than elevated levels of testosterone.

But Canadian and European experience suggests that chemical castration, when accompanied by other forms of psychological treatment, can substantially reduce repeat offences among some sex offenders.

# TRC tension not just an issue of race

(252) Star 30/1/97

It has become an all-too-easy explanation for more complex problems



By ROBERT BRAND

In May last year, shortly after the Truth and Reconciliation Commission held its first public hearings, an incident occurred suggesting that all was not well with the body.

Dr Wendy Orr, a commissioner and member of the reparations and rehabilitation committee, was accused by anonymous TRC sources of nepotism for allegedly helping to arrange the appointment of her husband, Paul Haupt, as a briefer in the commission's Cape Town office.

The charges against Orr were discussed by the commission's executive committee. The committee eventually condoned Haupt's appointment, but expressed disappointment that Orr had participated in the appointment process.

Non-executive members of the commission, dissatisfied with the way the issue was handled, requested that it be put to the vote at a full commission meeting. At the meeting, nine of the 17 commissioners abstained from voting, and the rest endorsed the executive's decision by majority vote.

TRC chairman Archbishop Desmond Tutu, typically, did not deny a problem existed. However, he was angered by the decision of the disaffected staff to raise the issue in the media before trying to resolve it internally.

According to sources who spoke to The Star, opinion on the issue was divided squarely along racial lines. The issue was not presented, in the media or otherwise, as a racial clash. But the way in which it was brought to the public's attention, and Tutu's subse-

quent reaction, were to become symptomatic of the problems that erupted again this month, when staff accused the commission of being hijacked by a "clique of white liberals".

At first glance, the composition of the commission and its administrative structures belies that assertion. Only six of the 17 commissioners are white; indeed, President Mandela appointed two black commissioners - Denzil Potgieter and Dr Khoza Mgojo - who were not on the original list of candidates to ensure that the commission was representative.

One of the white commissioners, former Conservative Party MP Chris de Jager, would not be classified as a liberal even by his worst enemies. The other five could be said to be liberal, but do they actually run the commission? Only one of them is in a position of power - the commission's deputy chairman and de facto manager, Dr Alex Boraine.

Boraine, now also accused of being the leader of the "liberal clique", was tasked - by the full commission - with the day-to-day running of the commission to relieve Tutu of onerous administrative duties.

The other positions of power are all filled by blacks. The chairmen of the three committees are black, the head of the investigative unit is black, the chief executive officer is black, the head of human resources is black, and the publicity and media director is black.

So why the charge that blacks are being sidelined?

From the start, ideological differences existed about the way the commission should approach its task. Some advocated a "softly, softly" approach, others main-

tained that the commission should act forcefully against recalcitrant agents of the old government.

Inevitably, because of the political background of individuals appointed to the commission, and because of the history of South Africa, these differences divided the commission along racial lines. But they were not, at the TRC's birth, characterised as racial differences by commissioners who spoke to The Star.

Then the Orr incident occurred, leading to a lot of resentment among some members of the commission and staff.

That was followed soon after by two other incidents - disagreement about the composition of a TRC delegation to Rwanda, and Tutu's public admonition of commissioners who had taken it upon themselves to be both prosecutor and judge during hearings in the Northern and Eastern Cape.

At about the same time, a hint of unhappiness surfaced in the commission's Johannesburg office, and five staff members resigned, all of them black.

The Rwanda incident was described by senior officials as "petty", a pretext for disaffected staff to air their grievances in public. Tutu's public criticism of the conduct of some commissioners, however, was apparently deeply resented. Although he did not name individuals, the commissioners who bore the brunt of his criticism were, as it happened, black - with one exception.

Ironically, the exception, Richard Lyster of the commission's Durban office, is one of the white commissioners said to be part of the "liberal clique".

The problems in the Johannesburg office seem to have more to do with working conditions than racial tensions. Two of the resignations were because of unhappiness with the way the office was being run and the three others accepted job offers promising more financial reward.

So why, then, were the internecine tensions typified as racial when the issue burst into the media last week?

Even on this, opinion is divided. Some staffers who spoke to The Star are convinced the problems have their origin in the "patronising" style of white liberals involved in decision-making. Others say that personality clashes between individuals are being wilfully presented as a racial clash.

One senior official suggested political jockeying was behind the charges: some commissioners are apparently eyeing ambassadorial positions and cushy jobs in Government after their terms expire at the end of this year.

Observers also allege that the one commissioner who went on record condemning the "liberal clique" - reparations and rehabilitation committee chairperson Hlengiwe Mkhize - may have raised the racism alarm to deflect attention away from her committee which has been accused of not adequately attending to the needs of victims.

One observation sticks in the mind in this country, organisational problems are almost automatically assumed to be the result of underlying racial tensions. More often than not, however, other underlying problems are expressed in terms of racism. It has become an all-too-easy explanation for complex problems.

## Who constitutes the 'white liberal clique'?

Just who constitutes the "clique of white liberals" said to be running the Truth and Reconciliation Commission?

Of the six whites on the 17-member commission, one is clearly not liberal. Chris de Jager is a former Conservative Party member of parliament who switched his allegiance to Constand Viljoen's Freedom Front before the 1994 elections. De Jager was selected to represent conservative Afrikaners on the TRC, and as a member of the amnesty committee has little to do with the day-to-day running of the commission.

Wynand Malan could be said to represent the conscience of more enlightened whites in general and *verligte* Afrikaners in particular. He is a former National Party MP who resigned from the party under PW Botha and formed the progressive but short-lived National Democratic Movement together with Dennis

Worrall. He later served as a Democratic Party member of parliament. He retired from politics in 1990 and is deputy chairman of the human rights violations committee.

The four other whites could be said to be liberal, although they may protest about this label.

Dr Alex Boraine, deputy chairman of the commission, is a former Methodist minister who represented the Progressive Party and the Progressive Federal Party in parliament for 12 years before resigning to join the Institute for a Democratic Alternative in Southern Africa. During his time in parliament - before the word "liberal" had become a pejorative - Boraine was seen as being on the left of the PFP.

The commission last year endorsed a decision to leave the day-to-day running of the TRC in Boraine's hands to free Archbishop

Desmond Tutu from administrative burdens.

Richard Lyster is a lawyer and a former director of the Legal Resources Centre in Durban. He has also served on various panels of the Independent Mediation Service of South Africa. He won wide respect as a human rights lawyer for his investigations of the role of the KwaZulu Police in the KwaZulu Natal conflict during the early 1990s. Lyster heads the TRC's Durban office and is a member of the human rights violations committee.

Mary Burton, a member of the human rights violations committee, was Black Sash president from 1986 to 1990 and is still a member of the organisation. Burton led the Black Sash during successive states of emergencies, choosing to speak out when, in her

own words, "it was too dangerous for others to do so". When President Mandela was released from prison, he said "I salute the women of the Black Sash". Burton was the only commissioner to refuse a R200 000 car allowance.

Dr Wendy Orr, a member of the reparations and rehabilitation committee, leaped to prominence at the age of 24 in the mid-1980s when, as a district surgeon in Port Elizabeth, she filed for an urgent interdict against the minister of law and order to prevent police from further assaulting detainees.

She put her career on the line by contradicting government colleagues and showing up the ineffectual roles played by many magistrates and district surgeons who were supposed to see to the physical welfare of detainees. She received death threats, was removed from her regular medical duties and eventually felt forced to leave.

# NGOs give support to psychiatric facilities

Kathryn Strachan

IN A cramped Zozo hut adjoining Soweto's Orlando health care clinic, nurse Florence Makobanyane treats almost 900 schizophrenic patients each month. The facility never sees a doctor, and she is the only nurse available to support the overwhelming number of severely disturbed patients.

Orlando is one of the six Soweto clinics with a psychiatric service. Under very similar conditions, the psychiatric facilities treat more than 5 000 schizophrenic patients in the township.

Without adequate staff and facilities, there is no one to follow up and check that patients are taking their medication — which means they very often relapse into psychotic episodes.

As the health department's scarce resources allow for very little in the way of community-based psychiatric services, the task has fallen on the nongovernmental sec-

tor to fill the gap. In Soweto clinics, the state has provided the facilities and the medicines, and nongovernmental organisations such as the Talisman Foundation, raise funds to pay nurses' salaries.

Clinical psychologist Alison Newton, who runs the Talisman Foundation's outreach into Soweto, said the focus was moving towards rehabilitation and integrating patients into the community, rather than the situation where patients were locked up and given medication.

She said attempts were now being made to establish daycare workshops to give patients sheltered employment and allow them to become self-sufficient.

Foundation psychiatrist Frans Korb said that while business had accepted physically disabled people, it was still closed to the mentally disabled world, and it was only through raising awareness in the business sector that the stigma attached to mental illness would go

# Truth body to probe medical profession

Stephen Laufer

THE role of doctors, nurses and other medical staff in perpetrating, colluding with or preventing human rights violations under apartheid would be the subject of a special truth commission hearing in mid-June, commissioner Wendy Orr said yesterday.

One of the special submissions planned was on the death in detention of black consciousness activist Steve Biko in 1977. Two doctors called in to examine him were found guilty by the SA Medical and Dental Council of professional misconduct.

The council and the Medical Association of SA (Masa) had employed researchers to go through their archives and help draw up submissions.

The Democratic Nursing Organisation of SA and the Psychiatric Association would make submissions, as would the national department of health. Individuals were also invited to make submissions, Orr said.

The willingness of a wide range of medical organisations to co-ordinate submissions to the truth commission stood in marked contrast to the failure of journalists to agree on how to examine the role of the media under apartheid.

Orr praised Masa for recruiting doctors willing to provide free treatment to victims of violations. Referrals were made by the commission's Cape Town office.

Comment: Page 11

# Rush for amnesty as police admit to murder, bombings *TRC told of 200 killings*

ASHLEY SMITH  
STAFF REPORTER

The Truth and Reconciliation Commission has had a flood of amnesty applications relating to about 300 incidents, including the bombing of church and union headquarters.

This was disclosed yesterday by Dumise Ntsebeza, head of the investigative unit of the TRC

An analysis of applications by members of the former SAP showed 135 applicants had claimed responsibility for killing about 200 people, 30 bombings, 20 abductions and 15 thefts and burglaries and other miscellaneous offences, he said

The commission has received

- Eight applications relating to the bombing of Khanya House in Pretoria, headquarters of the Southern African Catholic Bishops' Conference

- Ten relating to the bombing of Khotso House in Johannesburg, head office of the South African Council of Churches, and

- Eleven relating to the bombing of Cosatu House in Johannesburg

- There are seven applications relating to threats and bombings of cinemas where

the film *Cry Freedom*, about Steve Biko and Donald Woods, was shown

Mr Ntsebeza said: "It is clear from the applications that we have made serious inroads into the SAP's illegal activities. However, we have not as yet been so successful with the involvement of the military or with the official structures of the liberation movements

"We intend embarking on a programme to place pressure on these institutions, which will hopefully lead to an extension in the scope of the amnesty applications we receive"

In reaction to recent media speculation about TRC divisions between a white liberal clique and black members, the meeting began with a discussion on the question of anonymous leaks

TRC deputy chairman Alex Boraine said the commission was "appointed by the president to reflect a wide cross-section of South African society" and therefore it should not come as news to anyone that there were differences in approach, opinion and mindset

But the commissioners were in agreement that any differences should be handled internally, Dr Boraine said



## TRC lauded in human rights survey by US

CT 3/1/97 (252)

WASHINGTON: The human rights records of many African countries, including Nigeria, Sudan, Rwanda and Burundi, remained dismal last year, the US State Department said yesterday.

In an annual survey of individual liberties in 193 countries, the department cited South Africa, on the other hand, as having made progress. It hailed the Truth and Reconciliation Commission, created a year ago to investigate apartheid-era human rights abuses.

"South Africa's governing institutions and society continued to consolidate the democratic transformation initiated by the historic 1994 national elections," it said.

The report branded the performance of Nigeria's ruling military council headed by Gen Sani Abacha as "dismal."

In Sudan, where a 13-year civil war has killed more than 1.5 million people, the human rights situation remained "extremely poor" as both the military government and insurgents committed serious human rights abuses, the report said. — Reuter

## TRC 'thrilled' at chance to lift lid on certain units in SADF

By Chris Steyn  
Investigative Unit

One of the founders of the SA Defence Force's covert chemical and biological warfare programme, Dr Wouter Basson, has been arrested on charges related to the drug Ecstasy shortly before he was about to be subpoenaed by the Truth and Reconciliation Commission.

Basson, one of former state president P.W. Botha's doctors, also worked as a co-ordinator for the Civil Co-operation Bureau (CCB)

News of the arrest elated TRC officials last night. The TRC believes Basson could help the commission to lift the lid on certain units of the former SADF.

TRC investigative unit head Dumisa Ntsebeza yesterday said 135 policemen had already applied for amnesty for about 200 human rights violations, but the commission had failed to make serious inroads into the military's part in apartheid repression.

The arrest of Basson - whom Ntsebeza did not name - could be the key to exposing military involvement, Ntsebeza said. He said the commission had been about to subpoena an unnamed former senior military man to attend an in-camera inquiry. A reliable source close to the commission told The Star last night Basson was the person the TRC planned to subpoena.

Ntsebeza described the arrest as "sensational", Sapa reports.

"We are interested in him because of the role we think he has played in the military establishment. We are convinced that he possesses information that is relevant to our investigation into aspects of the military," he told a media briefing in Cape Town.

Star 31/1/97  
Police sources confirmed last night that Basson, who served as a brigadier with the Seventh Medical Battalion of the South African Medical Services, was arrested after he was allegedly caught in possession of 1 000 tablets of the designer drug Ecstasy.

The arrest of the former Special Forces officer took place in a parking area opposite his home in Brooklyn, Pretoria, on Wednesday morning. He was refused bail after a brief court appearance yesterday.

According to the sources, the 46-year-old Basson's arrest followed a controlled operation by SAPS narcotics detectives. It also followed another recent arrest.

When Basson was involved in the military's chemical weapons project, he frequently visited Libya, where a massive chemical weapons facility was being assembled. It is believed that Iran and possibly Iraq received chemical shipments from South Africa.

A network of companies involved in the development of chemical warfare equipment also conducted secret experiments on animals to test hi-tech "dum dum" bullets and heat-resistant clothing in the 1980s.

It was Basson who went before the Harms Commission disguised as a clown to give evidence about notes in his diary on the day Swapo advocate Anton Lubowski was killed. He admitted that the notes sounded like instructions to an assassin.

And during the David Webster inquest it emerged during the cross-examination of Basson, alias Christo Brits, that the CCB had planned to spread disease in Swapo camps, disrupt rallies and use violence to delay Namibia's first non-racial election.

(252)  
Ntsebeza said the 135 former policemen, many senior officers, were also seeking amnesty for 30 bombings, 20 abductions and 15 thefts and burglaries "as well as various miscellaneous offences".

Eight applications had been received relating to the bombing of Khanya House (headquarters of the SA Catholic Bishops' Conference), 10 for the bombing of Khotso House (former head office of the SA Council of Churches) and 11 for the bombing of Cosatu House, Ntsebeza said.

It appears likely that at least two of the applications may be from former police commissioner General Johan van der Merwe and former law and order minister Adriaan Vlok.

Both filed amnesty applications after Van der Merwe told the commission's amnesty committee in Johannesburg last year that the instructions for the 1988 bombing of Khotso House had come from Vlok. He said Vlok had told him that he was relaying the instructions on behalf of former state president P.W. Botha.

Ntsebeza told the media briefing in Cape Town on Thursday that seven amnesty applications had also been received relating to threats and bombings of cinemas where the film *Cry Freedom* had been shown.

Most of the applications were from members of the former security branch "spread from Messina to Cape Town and Zeerust to Durban".

But there were also applications from people who had worked for counter-insurgency, intelligence, explosives, murder and robbery and technical units of the SAP, as well as members of the detective and uniformed branches.

# CCB chemical warfare doctor

# arrested

# Police apply for amnesty over bombing of church headquarters

Stephen Lauffer

CAPE TOWN — The truth commission had received amnesty applications from 29 former police officers and well-known politicians in connection with the bombings of church and trade union headquarters in the House, Khotso House and Khanya House, investigations head Dumisa Ntsebeza said yesterday.

The government claimed at the time that the bombings were the result of internal differences within the organisations.

Ntsebeza also said that although progress had been slow in investigating the defence force, this was now changing as "certain personalities" would come to the public's attention in the next few days whose "apprehension will make it clear we are making inroads into military units".

A "fairly sensational arrest" on Wednesday in Gauteng was of interest to the truth commission as it had prepared a subpoena against the man in question, believing he was "relevant to our investigation into the military".

The arrested man is understood to be Wouter Basson. He appeared in court yesterday charged with dealing in the drug ecstasy.

Basson, who is believed to be a cardiologist with the military rank of brigadier, is understood to have been the head of a secret chemical weapons project called "Operation Coast" initiated by the defence force in 1980 and run through a number of front companies.

Justice Minister Dullah Omar said after the project was made public last year, an Office for Serious

Economic Offences investigation had shown a possible misappropriation of project funds.

This might be the result of the workings of a group of companies known as the Wisdom Group, which had property, farming, financial, air charter and travel interests. Those involved in Operation Coast were also involved in the Wisdom Group.

Spokesmen for the office of Transport attorney-general Jan D'Ohave's office said last night they preferred not to comment on possible links between Basson and investiga-

tions into security force dirty tricks.

Ntsebeza said he could not divulge the applicants' names, exact ranks or political positions, but it was clear from the applications already received that "we have made inroads into SA Police illegal activities".

The commission was concerned that it had not yet been as successful with the involvement of the military or the official structures of the liberation movements. It intended to embark on "on a programme to place pressure" on the movements.

The investigations unit also believed many actions by applicants had ministerial authorisation and had been the result of an integrated approach by the police, army and intelligence services.

A preliminary analysis of amnesty applications from former police members showed that about 135 officers had claimed responsibility for over 300 incidents, including the killing of about 200 people, 30 bombings, 20 abductions and 15 burglaries. The majority were from former security branch members.

□ Sapa reports that Port Elizabeth district surgeon Ivor Lang, who was reprimanded for the failure to treat Steve Biko, said he was shocked to learn that the truth commission was planning a hearing into the treatment of apartheid victims.

It was announced in Cape Town on Wednesday that state doctors who failed to treat Biko after he was tortured by security police would be examined by the commission. Lang was quoted in a Port Elizabeth newspaper as saying nothing would be gained by questioning him.

(252) B0 311 1197

# 'Frightened' Basson is offered NIA protection

MAN 6/2/97

(2/2)

Chemical warfare expert facing drug charges is granted bail of R40 000 and ordered to hand in his passport

By NORMAN CHANDLER

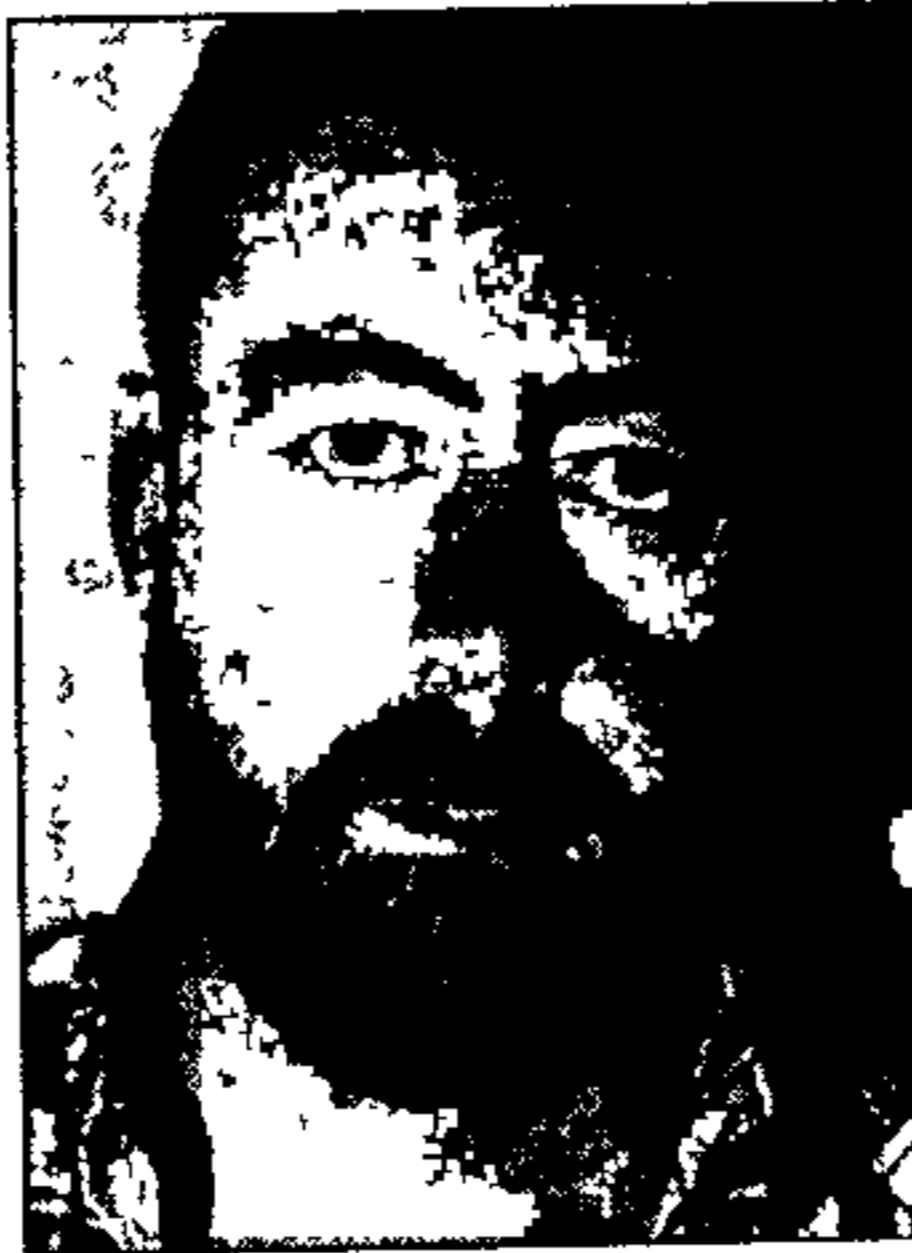
The National Intelligence Agency offered to protect Dr Wouter Basson last night after he was granted bail of R40 000 in the Pretoria Regional Court, where he is facing charges of being in possession of 1 000 Ecstasy tablets.

Basson, a chemical warfare expert, had been "living in fear of his life" since his arrest last week, the NIA said. Basson has declined the NIA's protection offer.

He was given bail, ordered to surrender his passport, not to go to any international departure point, not to contact State witnesses, and not to enter the premises of the Delta G Scientific company, of which he is a director. The case was postponed to April 4.

The NIA's interest in the case stems from its discovery that Basson allegedly misused information he obtained from his involvement in the government's aborted chemical and biological warfare programme. This had resulted in "foreign espionage activities in South Africa", said Mike Kennedy, NIA chief director (counter-espionage).

Kennedy added that "threats (to Basson's life) could only be dealt with if he was handed over to the NIA". Basson has been



Wouter Basson ... living in fear since his arrest last week.

working as a heart specialist since 1993 at 1 Military Hospital Kennedy contended that even if Basson resumed this job, his life would be in danger.

Earlier, lawyers acting for two journalists and others appealed against the original in-camera ruling given by the magistrate.

Two reporters, acting in their personal capacities, and Times Media Ltd and the Freedom of Expression Institute, based their application on interference with the rights of journalists to report proceedings, and on interference with the freedom of the press.

Transvaal Deputy Attorney-General Torie Pretorius said the

original application for confidentiality had been in the interests of State security and of witnesses, and that it had not been the intention of the State to gag newspapers.

But as soon as magistrate Rynhardt de Vos lifted the order, Pretorius brought a new in-camera application, which was granted. The court ordered that submissions made in support of the application could not be published, and De Vos then ordered that the court be cleared of journalists and the public.

Pretorius said there was "great public interest" in the Basson case, but that there was a danger to State security and to witnesses. He would submit information to the court so that this was clearly understood by all parties, he said.

Cedric Puckrin, representing the journalists, told the magistrate. "You have no facts before you which should appear to you that this is in the interests of State security and should be heard in camera"

A ruling that the State's submission and the remainder of the proceedings be held in camera was lifted after certain documents were withdrawn by the State. Tuesday's in-camera ruling still stands, and this will be challenged in the Supreme Court by The Star and other newspapers next week.

# Spiritual resistance to amnesty pleas

(252) ET 6/2/97

ANTHONY HOLIDAY

THERE may be no life after death, but there are surely fates worse than death. And memories of those unjustly done to death may return to assure us that a communal life, lived outside the requirements of justice, constitutes one such fate. Is not this what is happening as, at the Truth Commission seances and at the bidding of the media mediums, the images of the dead — Biko, Hani, Goniwe, Calata and who knows how many others — return to haunt us and those who slew them?

To those who think this way of putting matters, I can only reply, that it is considerably less far-fetched than the expectations of those politicians, journalists and academics who held that the supposed endless capacity of the victims of apartheid to forgive (a myth on a par with that about black people's inborn sense of rhythm) would outweigh any impulse to risk disorder by demanding just retribution.

What is happening now was inevitable from the time political compromises, which ended in the establishment of the commission, were reached in the febrile conclaves of negotiators and their advisers that preceded the election of 1994. It was inevitable that, at some stage, the pressures on the commissioners to afford protection from normal legal processes to politically inspired kidnappers, torturers and assassins would be matched by demands that — in

some of the most appalling cases, at least — the law be allowed to take its course. It was inevitable that, as stories of what had happened to figures such as Biko and Hani were told, retold and amended, the question as to how far the requirements of political motivation ought to impinge on the imperatives of justice.

This contest between the defence of political ends and the demands of justice is crucial to an understanding of the spectacle the commission's proceedings now presents. Legislation stipulates that it may grant amnesty to those who would otherwise have been tried in court, if and only if they have fully confessed their crimes and shown that those crimes were not only guided by the pursuit of political ends but could reasonably be thought of as proportional to the realisation of those ends.

What political gain, we are compelled to ask, would free the nation's conscience of the spectacle of Steve Biko dying on the floor of a prison cell in Pretoria? What political advantage — especially an advantage to a racist system,

criminalised by the civilised world — could outweigh the grief of Chris Hani's family after he had been shot down as one of his daughters looked on?

These ghosts that have returned to plague us also serve to remind us that political goals such as "reconciliation", "national healing" and "stability" are of the very same stamp as that which, nearly 2 000 years ago, the Jewish high priest Caiaphas had in view when he sent the founder of Christianity to his death so that "the nation should not perish". Stories of how they met their ends are recorded in the Bible, telling us — as Archbishop Tutu and his fellow commissioners must know in their hearts, if they are still remotely Christian or, indeed, religiously informed at all — that the killing of innocents is paradigmatic of injustice, even if sanctioned by the counsels of political expediency, that there are distinct limits that justice sets on what transgressions even the most legitimate of state-created institutions may allow and that there is an equal limit on what violations of their sense of natural justice the most illiterate and unlearned of a nation's citizenry are likely to tolerate.

In my view, ordinary, decent South Africans are likely to resist spiritually, if not by way of public protest, the granting of amnesty to the killers of Biko, Hani, Goniwe and many others. Such resistance of the spirit is likely to be discounted by those politicians whose desire for compromise at any cost provoked it in the first place. But they are fool-

ish to write it off, as it will grow into an affliction of the communal soul, far more dire than the dangers that might attend the prosecution of murderers.

That affliction will increasingly undermine our respect for the rule of law, subvert our still fragile sense of having a common national purpose and corrode the social contract that our newly agreed Constitution commits us to establishing.

"Pragmatists" in government and out will ask what alternative I propose. But they already know the answer. Let those whose applications for amnesty already proclaim their fear of the law submit to the tests due legal process provides. Those tests are guided by the presumption that an accused is innocent until a court of law finds him guilty beyond any reasonable doubt.

That's a better deal than Biko or Hani ever got.

□ Dr Anthony Holiday teaches philosophy at the School of Government, the University of the Western Cape.

# Basson granted bail: Intelligence agency offers to protect him

ET 6/2/97 (2/2)

PRETORIA The National Intelligence Agency (NIA) yesterday offered to protect heart surgeon Dr Wouter Basson after he was granted bail of R40 000 in the Regional Court here, where he is facing charges of being in possession of 1 000 Ecstasy tablets

It is understood Basson has decided not to accept NIA protection

Basson was arrested last week. Yesterday the NIA claimed he was "living in fear of his life"

In his application for bail Basson, formerly head of the SA Defence Force's chemical and biological warfare programme, told the court that Mandrax and Ecstasy tablets could be used in a chemical and biological warfare programme

He said any chemical substance that could influence the effective working of the brain would be ideal for warfare.

Basson was arrested last week after allegedly trying to sell 1 000 Ecstasy tablets for R60 000 in a police trap. His arrest followed the arrest of a suspect in Rustenburg who gave police information.

Yesterday Basson said during cross-

examination at his bail hearing that chemical and biological warfare was not aimed at killing people, but to cause fear and decrease the fighting capabilities of the enemy

He also said he felt almost constantly that his life was under threat. He had received death threats from foreign agencies who were looking for him because of the technology he had "obtained" from those countries to develop South Africa's own chemical and biological warfare programme

He said this fear had given him the initial impression that his arrest was an assassination attempt and he had been extremely relieved when he heard it was a police official who was arresting him for possession of illegal chemical substances

National intelligence officials pitched up at his home shortly after his arrest because they heard he had been kidnapped

Basson apparently told investigating officer Superintendent Giel Ehlers he was tired "and a while in safe-keeping" could be good for him

Ehlers testified that Basson was

arrested after the suspect arrested in Rustenburg for possessing Ecstasy tablets said he was willing to name his source

He said some of the capsules allegedly found on Dr Johan Koekemoer, 55, who was arrested on Tuesday at the Delta G chemical company premises in Midrand, showed similarities to the Ecstasy capsules allegedly found in Basson's possession

Delta G was a former front company for the SADF but is now a private company. Koekemoer was allegedly found in possession of 56 Ecstasy tablets and some documents about the drug

Ehlers told the court Basson and a Dr Philip Myburgh, who is apparently related to General Magnus Malan, had been directors of Delta G before it was privatised

Koekemoer had worked at Delta G since the mid-1980s. When Sentrachem (the current owners of Delta G) took over they retained the services of some of the highly trained personnel

Basson's legal representative denied his client had been the director of Delta G, saying the director had been a Dr Willie Basson — Sapa, Own Correspondent

# Basson released on R40 000 bail, whisked into protection

Stephané Bothma

**PRETORIA** — The cardiologist who was the driving force behind the development of SA's chemical warfare capabilities, Wouter Basson, was granted bail late yesterday, but was expected to be taken into a National Intelligence Agency (NIA) protection programme for his own safety.

Basson was arrested last week for allegedly dealing in the drug Ecstasy. NIA counter-intelligence chief directorate GM Mike Kennedy told the

Pretoria Regional Court Basson's knowledge of chemical and biological warfare made him a prime target.

"Due to his knowledge, his life is at stake and we have an interest in his personal safety. There are real threats to his life and he needs protection," Kennedy said.

Basson's bail application proceedings were opened to the public after Stephané Bothma of Business Day and Marlene Burger of the Sunday Times, their newspapers and the Freedom of Expression Institute (FXI) challenged

magistrate Rynhardt de Vos's ruling that it was in the "interest of state security" that evidence be heard in camera.

The ruling was made at the request of Transvaal deputy attorney-general Torre Pretorius, who argued that documents seized after Basson's arrest contained state secrets and sensitive information which could not be disclosed.

The newspapers and the FXI intervened and Pretorius withdrew his application. However, he immediately launched a new application to bar the

public from proceedings, going a step further by asking that the argument motivating his request be heard behind closed doors. De Vos granted the requests.

The in-camera ruling was lifted after Basson's counsel, Piet de Jager, argued that the "secret and sensitive" documents were irrelevant to Basson's bail application on drug charges, removing the need to deliver testimony in a closed court.

De Vos's decision not to release transcripts of Tuesday's in-camera proceedings will be challenged by the newspapers in the Pretoria Supreme Court next week.

## Basson (252)

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abuse of the programme. The threat to Basson was so real that when the cardiologist was arrested by the drug squad on Wednesday, the NIA initially feared that he had been kidnapped, Kennedy said.

"The NIA should have complete control over him to guarantee his safety." No details about the threats against Basson were supplied in open court.

Basson, whose legal counsel said in court that the Ecstasy tablets "could have been planted on him by foreign agents wishing to frame him," told the court that any mind-altering drug such as Ecstasy could be used as an effective weapon of war. "Manipulation of the enemy's brain function could be very effective."

De Vos granted Basson bail of R40 000, rejecting Pretorius's argument that Basson would flee and not stand trial. "In developing a chemical warfare programme, Basson had for years fooled the authorities of some

major countries," Pretorius said, adding that he could easily leave the country. Because of his knowledge, he would be welcomed with open arms by some countries.

The magistrate ordered Basson to surrender all travel documents, and barred him from entering international departure points, contacting state witnesses and entering the premises of Midrand drug company Delta G.

Police on Tuesday arrested another doctor, Johan Koekemoer, at Delta G and claimed that Ecstasy capsules were being manufactured on the premises of the company, a former military intelligence front.

Koekemoer was granted bail of R12 000 in the Randburg Magistrate's court yesterday. Basson will appear in court again on April 4. He has also been subpoenaed to testify before the truth commission next week.

The newspapers and journalists were represented by Cedric Puckrin and David Unterhalter, instructed by Bell, Dewar & Hall.

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Programme

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# Truth body to probe IFP hit squads

Stephen Laufer

THE hit squads created and trained by the SA Defence Force (SADF) and the Inkatha Freedom Party (IFP) in the Caprivi Strip and their use in KwaZulu Natal's political conflicts are to be the subject of an eight-day truth commission hearing in late March.

The creation of the 200-strong force, many of whose members later joined the KwaZulu police, had changed the nature of violence in the province, commissioner Richard Lyster said. Many of the trainees were still involved in political violence, and it was crucial to understand the origins, training, role and activities of the force if a full picture of events in KwaZulu-Natal during the 1980s and 1990s was to be given.

The commission was not looking for a rerun of the trial of former defence minister Magnus Malan who was charged last year in connection with a massacre at

KwaMakhutha believed to have been carried out by Caprivi trainees. Instead, the truth commission was keen to give as full and balanced a picture as possible.

Victims of attacks by Caprivi trainees, participants and experts would be asked to testify at the hearings in Durban, Lyster said. Separate hearings in the KwaZulu-Natal midlands would look at gross human rights violations in which IFP members or sympathisers had been the victims.

Lyster said the hearings with IFP victims were scheduled for five days in April, but the commission was still unsure whether they would come forward in sufficient numbers. With no official support from their political party for the commission, many were reluctant to take part in the hearings.

Separately, commission investigations head Dumisa Ntsebeza confirmed yesterday that his staff was following up a statement claiming that black consciousness

activist Steve Biko had been poisoned and not beaten to death as widely believed, Sapa reports.

The commission said last week five former security branch policemen had admitted killing Biko while interrogating him in 1977.

Cape Town newspapers quoted unnamed commission sources yesterday saying they had security documents showing army scientists had experimented with poisons that produce brain bleeding which could make it look as though the victim had sustained blows to the head.

The truth commission said yesterday that eight prisoners serving long sentences for murders they claim were committed in the context of the political conflict in the province would ask for amnesty at public hearings in Maritzburg next week.

They included two policemen, three alleged African National Congress supporters and three alleged IFP supporters.



# Kahn to challenge 20-year court ruling

(252) M+C 7/2-13/2/97

**Rehana Rossouw and  
Ann Eveleth**

**A**n obscure law dating back 169 years could cripple the Truth and Reconciliation Commission's (TRC) amnesty process, Cape Attorney General Frank Khan said this week, announcing that he will challenge a landmark ruling based on the law which was made this week in the Cape High Court.

In what could be a precedent-setting judgment, Judge S. Selikowitz ruled that a person could not be prosecuted for an offence that occurred more than 20 years in the past.

He was ruling in the case of a Mail-land man charged with two counts of rape and six counts of indecent assault. The man, whose name was not immediately available, had been charged in 1995 for offences allegedly committed between 1970 and 1974.

John Abel and Franciscus van Zyl, counsel for the accused, argued that the court had no jurisdiction over him. Acting with legal advice from the Legal Aid Board, they referred to an 1828 provision in the criminal code of what was then the Cape Colony, that held that crimes dating back more than 20 years could no longer be prosecuted. The exception was the crime of murder. The TRC's amnesty committee

provision was also included in the criminal codes of 1917 and 1955. Khan said he had been "disturbed" when he had seen the judgment. He theorised that it meant that people who had committed crimes before 1977 could be protected from prosecution and as a result would not have to seek amnesty. This could include several incidents relating to the 1976 student uprising and torture in detention more than 20 years ago.

"I will see if I can take this matter to the Constitutional Court," Khan said. "It will be devastating if this judgment is used as an argument before the TRC's amnesty committee."

TRC spokesman John Allen said until the commission's legal advisers had studied the entire judgment, they could not comment on its implications. In the meantime, KwaZulu-Natal Attorney General Tim McNally said the old code was not unique, and it was not, in fact, necessary for the judge to base his judgment on it. He pointed out that the current Criminal Procedure Act of 1977 also calls for a 20-year time limit for noncapital crimes.

According to the code, "the right to institute a prosecution for any offence, other than an offence in respect of which the sentence of death may be imposed, shall, unless some other period is expressly provided by law, lapse after the expiration of a period of 20 years from the time when the offence was committed."

McNally said he could not speak for the TRC, but his opinion as attorney general was that several things resulting from the abolition of the death penalty "need to be tidied up". He said this was an issue not for the Constitutional Court, but for Parliament, which would also have to look at other legal gaps resulting from the abolition of the death penalty.

He suggested that a number of serious crimes should be excluded from the 20-year limitation. It was clear, he said, that the legislators who drafted the 1977 act had intended that the most serious crimes should not have an expiry date.

# Mandela briefed on chemical warfare progress in 1994 — FW

Wyndham Hartley  
and Stephanie Bottoms

CAPE TOWN — President Nelson Mandela had been fully briefed on the state of SA's chemical warfare programme more than two years ago, National Party leader FW de Klerk said yesterday.

Addressing a news briefing in Parliament, De Klerk said transparency was vital in dealing with the whole chemical warfare programme. For this reason, it was important for the country to know that Mandela and others in the ANC had been "fully informed" in 1994.

De Klerk, who has been under fire for allowing chemical warfare programmes to continue during his term as president, also noted that heart specialist Brig Wouter Basson was one of 23 military officials he had suspended or else put on early retirement for their involvement in unauthorised activities in 1992.

This was after he had received a report from Pierre Steyn on dirty tricks campaigns in the SA Defence Force. Basson, who is out on bail after being arrested on drugs charges, has been subpoenaed by the truth commission to answer questions from the investigative unit on the involvement of the SADF's 7th medical battalion in human rights abuses.

The commission yesterday granted a postponement to Basson, who was due to testify behind closed doors on Monday. He needed time to prepare for his testimony and would now appear on February 27, commission investigators unit head Dumisa Ntsebeza said yesterday.

De Klerk described the attack on him over the Steyn report from truth commission deputy chairman Alex Boraine as "one-sided". At a commission news conference held about two weeks ago, it was suggested that he had covered up involvement of some senior military officials, including present defence chief Georg Meiring.

De Klerk confirmed that he was waiting for commission chairman Desmond Tutu to respond to his formal request for a meeting to discuss the allegations made against him. Ntsebeza said yesterday Basson would be asked to give the commission information about several former Military Intelligence front companies and possible military involvement in covert chemical and biological warfare activities.

Basson had been the victim of mistaken identity several times since his arrest became public. A former Civil Co-operation Bureau (CCB) co-ordinator was also named

Wouter Basson, alias Christo Britz. The medical doctor and founder of SA's chemical and biological warfare programme had been wrongly linked in some media reports to the assassinations of Anton Lubowski and David Webster, and to the planned murders of Justice Minister Dullah Omar and journalist Gavin Byans.

Investigations by the police and intelligence organisations had also shown that at least 17 passports, some covert, had been issued to the doctor. However, it was stated in

Basson's bail application that some of the passports had been issued to the other Wouter Bassons.

In the latest confusion about the doctor, investigating officer Supt Giel Ehlers believed that Wouter Basson was "Dr WD Basson", a director of a company Delta G. The regional court heard this week the doctor was actually a Willie Basson.

Meanwhile, Ntsebeza said the commission was not trying to locate the former CCB operative Basson. "To us, he remains only a name."

(252) 80 312197

# Apartheid's shame could remain secret

## Landmark ruling a blow to TRC

JOSEPH ARAJES  
STAFF REPORTER

Some of the darkest deeds of the apartheid era could remain secret forever because of a landmark Cape High Court judgment this week that culpability for capital crime lapses after 20 years.

The ruling could seriously affect the workings of the Truth and Reconciliation Commission, whose brief is to get to the bottom of gross human rights violations going back nearly 40 years to March 1, 1960. The judgment effectively wipes out culpability for capital crimes committed before 1974 - 20 years before the interim constitution came into effect.

This could have a dramatic effect on the number of people seeking amnesty and, consequently, disclosure of their roles in apartheid crimes.

Without the threat of prosecution hanging over their heads, they are unlikely to seek amnesty and may even withdraw applications already made.

This means the truth about many human rights abuses - including the deaths in security-police detention of many anti-apartheid activists - may never be known.

Among those who died in detention before 1974 were Ahmed Timol, an Indian teacher who police said died after jumping from the 10th floor of security police headquarters in Johannesburg, and Cape Town Muslim leader Abdullah Haron. Police said Imam Haron died when he slipped and fell down a flight of stairs in Caledon Square police station.

An inquest found his body was covered with multiple bruises and he had several broken ribs.

Justice Minister Dullah Omar said today his department would have a "serious look" at the judgment and its possible consequences.

On Wednesday, Mr Justice Selkowitz ruled that the State's right to prosecute a man who was charged with raping his foster sisters had lapsed because the alleged crimes had taken place more than 20 years ago.

Counsel who argued the case for the State said that historically, in common law, the right to prosecute lapsed 20 years after commission of the offence.

This changed in 1828 when the Cape Colony's criminal code provided for the prescription of all offences after 20 years, except the capital crime of murder. The category of offences was amended a

number of times and, in terms of the 1977 Criminal Procedure Act, several offences were added and the list of capital offences increased to include rape, kidnapping and child stealing, robbery or attempted robbery with aggravating circumstances and treason.

In 1982, terrorism and assisting terrorism were added to the list. This meant the State retained the right to prosecute in all cases carrying the death penalty, irrespective of when the offence was committed.

The Constitutional Court abolished the death penalty in June 1995, except in cases of treason and terrorism committed in times of war.

This Constitutional Court ruling was backdated to when the interim constitution came into force, effectively reverting to the old common law position.

Truth Commission chief legal officer Hanref Valli said that while the commission did not have the power to prosecute and could not use the evidence and statements gathered at its hearings against people seeking amnesty, the judgment could have an effect on their work.

"But we will have to study the findings before we can make any comment on the matter," said Mr Valli.

APR 7 12/197

(252)

# BASSON 'used human

His elite unit 'did what they wanted to, when they wanted to' experimenting on soldiers and prisoners - and also made

# guinea pigs'

millions from Mandrax factories

(252) / Star 7/2/97

LIJL AART

By CHRIS STEYN  
Investigative Unit

Wouter Basson, the medical doctor and chemical warfare expert arrested in a drug bust last week, has been linked to medical experiments on human beings

During one of Basson's successful bail hearings this week he was asked by the prosecution about a "murder photo album" that was allegedly found at his home

According to sources, Basson was an expert at using chemicals during interrogations

One source said "Basson was part of an elite unit. They did what they wanted to, when they wanted to"

Sources have claimed to the Investigative Unit that while he was a brigadier with the Seventh Medical Battalion, Basson ran a mobile test laboratory where chemical and sound tests were conducted on political prisoners and activists

In some of the cases, psychic disturbances were caused by electronic frequency experiments

Military sources told the Investigative Unit that many of Basson's cover operations were funded with drug money generated by Mandrax factories set up for that purpose in Botswana, Zambia and Mozambique

At the factory in Mozambique, a million tablets were manufactured every 48 hours

## 'Medical solutions to problems'

In addition, it is alleged that R44,5-million accrued from trafficking in drugs was flown out to Switzerland and America in 1986 for the benefit of Basson and his associates

The Investigative Unit has their names and those of the pilots as well as the registration of the plane

Basson's alleged "medical solutions" to "political problems" even involved him tasking Special Forces doctors to "take out people selectively" in Pollsmoor Prison. The doctors are said to have refused to eliminate them

There were also plans to contaminate medication used by President Mandela with the poison Thallium, which is hard to trace, while he was a prisoner at Pollsmoor. The sources also claim that the effects of Thallium were tested on SADF troops fighting in Angola, and also on former Swapo captives

Drugs supplied by Basson, a heart specialist, were also tested on Bushman soldiers who are genetically not prone to heart problems, to establish what would bring on such attacks. Subsequent tests done after blood was taken from an estimated 200 subjects are said to have picked up "strange ECG patterns"

The unit's sources say that all the plans for the operations conducted by Basson and his associates were made at an annual winter bosberaad on a farm near Messina.

The bosberaad were usually attended by top apartheid politicians and security chiefs

# Two convicts get amnesty for murders

*Three others denied*

JOHN YELD  
ON THE TRUTH COMMISSION

The Truth Commission has granted amnesty to two men convicted for the murders of a vigilante in Carletonville and a political activist in Stilfontein, both in 1990.

It refused amnesty to three other applicants in these killings, but granted amnesty to two of them for attempted murder committed at the same time

In another decision announced today, the commission granted amnesty to a 41-year-old man for an arson attempt on the Port Elizabeth Technikon's art studio in 1986

Johnson Themba Ncube, 25, a member of the Self-Defence Unit in Khutsong, Carletonville, and of the African National Congress Youth League, was granted amnesty for murdering David Mayeko and attempting to murder David Maseko and a Mr Sgotlo, all members of a vigilante group in the township, in December, 1990. He was serving a 12-year jail sentence

His co-applicant, 23-year-old Mpayipheli William Faltein, was refused amnesty because he repeatedly told the commission's amnesty committee at its hearing in Potchefstroom last year that he had had nothing to do with either the murder or the two attempted murders

The second successful amnesty

ARG 7/2/97  
application for murder was from Mosiwa Meshack Popane, 29, a member of the South African Youth Congress and the ANC

He was serving a long jail sentence for stoning to death Nzimeni Abednego Mazwi and attempting to murder Charles Mhlabiso at the Khuma taxi rank, Stilfontein, in October, 1990. The amnesty committee noted that the two victims had originally been members of the Youth Congress, but ideological differences had emerged after the unbanning of political organisations in 1990

"The deceased's group later became known as Khutsong Youth Congress. The perception grew that Khuyoco had been infiltrated by the security police, which used it against other groups"

Dlanjiwa Gcinisizwe, 26, and Thamsanqa Patrick Mkontwana, 25, were denied amnesty for killing Mr Mazwi, but were given it for the attempted murder of Mr Mhlabiso

Richard Joseph John Crowe was granted amnesty for trying to ignite a 44-gallon drum of diesel fuel at Port Elizabeth Technikon's studio of art and design in 1986, and of trying to cause malicious damage to property at the studio during the same period

"The offences did not involve a gross human rights violation, as defined in the Act, so no public hearing was necessary before the amnesty was granted," a committee spokesman said

# Apartheid's shame could remain secret

## *Landmark ruling a blow to TRC*

JOSEPH ARANES  
STAFF REPORTER

Some of the darkest deeds of the apartheid era could remain secret forever because of a landmark Cape High Court judgment this week that culpability for capital crime lapses after 20 years.

The ruling could seriously affect the workings of the Truth and Reconciliation Commission, whose brief is to get to the bottom of gross human rights violations going back nearly 40 years to March 1, 1960.

The judgment effectively wipes out culpability for capital crimes committed before 1974 – 20 years before the interim constitution came into effect.

This could have a dramatic effect on the number of people seeking amnesty and, consequently, disclosure of their roles in apartheid crimes.

Without the threat of prosecution hanging over their heads, they are unlikely to seek amnesty and may even withdraw applications already made.

This means the truth about many human rights abuses – including the deaths in security police detention of many anti-apartheid activists – may never be known.

Among those who died in detention before 1974 were Ahmed Timol, an Indian teacher who police said died after jumping from the 10th floor of security police headquarters in Johannesburg, and Cape Town Muslim leader Abdullah Haron.

Police said Imam Haron died when he slipped and fell down a flight of stairs in Caledon Square police station.

An inquest found his body was covered with multiple bruises and he had several broken ribs.

Justice Minister Dullah Omar said today his department would have a "serious look" at the judgment and its possible consequences.

On Wednesday, Mr Justice Selikowitz ruled that the State's right to prosecute a man who was charged with raping his foster sisters had lapsed because the alleged crimes had taken place more than 20 years ago.

Counsel who argued the case for the State said that historically, in common law, the right to prosecute lapsed 20 years after commission of the offence.

This changed in 1828 when the Cape Colony's criminal code provided for the prescription of all offences after 20 years, except the capital crime of murder.

The category of offences was amended a

number of times and, in terms of the 1977 Criminal Procedure Act, several offences were added and the list of capital offences increased to include rape, kidnapping and child stealing, robbery or attempted robbery with aggravating circumstances and treason.

In 1982, terrorism and assisting terrorism were added to the list.

This meant the State retained the right to prosecute in all cases carrying the death penalty, irrespective of when the offence was committed.

The Constitutional Court abolished the death penalty in June 1995, except in cases of treason and terrorism committed in times of war.

This Constitutional Court ruling was backdated to when the interim constitution came into force, effectively reverting to the old common law position.

Truth Commission chief legal officer Hanief Valli said that while the commission did not have the power to prosecute and could not use the evidence and statements gathered at its hearings against people seeking amnesty, the judgment could have an affect on their work.

"But we will have to study the findings before we can make any comment on the matter," said Mr Valli.

ARG 7/2/97

(2/2)

## Two jailed killers (252) granted amnesty

8/2/97

The Truth and Reconciliation Commission has granted amnesty to two convicted prisoners for the murders of a prominent vigilante in Carletonville and a political activist in Stilfontein, both in 1990.

It refused amnesty to three other applicants for these killings, but granted amnesty to two of them for attempted murder.

The commission also granted amnesty to a 41-year-old man for an arson attempt on the Port Elizabeth Technikon's art studio in 1986.

Johnson Themba Ncube (25), a member of the self-defence unit in Khutsong, Carletonville, and of the ANC Youth League, was granted amnesty for murdering David Mayeko and attempting to murder David Maseko and a man called Sgotlo, all members of a vigilante group, in December 1990. He was serving a 12-year sentence.

His co-applicant, Mpayipheli William Faltem (23), was refused amnesty because he repeatedly told the commission's amnesty committee in Potchefstroom last year he had had nothing to do with the murder or the two attempted murders.

The second successful amnesty application for murder was from Mosiwa Meshack Popane (29), a member of the SA Youth Congress and the ANC Youth League. He was serving a long jail sentence for stoning to death Nzimeni Abednego Mazwi and attempting to murder Charles Mhlabiso at the Khuma taxi rank in Stilfontein in 1990.

**S**ET in Pretoria's leafy eastern suburbs, Magnolia Dell is something of a landmark, a tranquil park where toddlers go to feed the ducks

So, understandably, when at 9am on the last Wednesday of January, a fully clothed man leapt into the gentle stream that meanders through the park, regular visitors to the dell were a little taken aback

What neither they nor the drug squad detectives who jumped into the water after him realised at the time was that the slightly built, balding man was allegedly one of South Africa's most successful spies who was fleeing what he thought were foreign agents bent on abduction — or worse

The relief expressed by Dr Wouter Basson when his pursuers identified themselves as members of the police narcotics squad, is ironic. He had just been arrested on suspicion of trafficking in the drug ecstasy, but his first words to his captors were "Thank goodness — I thought this was the end of my life"

In the 10 days since being apprehended in the parking lot opposite his R700 000 home in Queen Wilhelmina Drive, Basson has attained a level of notoriety generally reserved for mass murderers

While the public persona of the man granted R40 000 bail by a Pretoria magistrate on Wednesday is that of eminent heart surgeon, high-ranking military officer and brilliant scientist, a far darker portrait of Wouter Basson is emerging — that of a man whose intimate knowledge of South Africa's formidable chemical and biological warfare capacity has endangered his life, and placed him on the hit lists of governments worldwide

**S**O GRAVE is the threat to Basson's safety that one of the National Intelligence Agency's most senior operatives, Mike Kennedy, told the Pretoria regional court that only the most stringent precautions available to the state could possibly ensure that Basson stayed alive long enough to be tried for drug smuggling

Precisely who is the greatest threat to the man who led the top-secret defence force's Project B — and its offshoots, Project Coast, Project Iota, Project Alpha and Project Red Crimson — is not clear

It is significant, however, that the government is prepared to go to any lengths to protect a man accused of serving the apartheid regime in diabolical ways ranging from the use of lethal substances against political activists, to full-scale chemical attacks on Frelimo troops in Mozambique

Basson does not deny his involvement in the secret chemical warfare programme conducted throughout the 80s. But

**Over the past week, a mild-mannered heart specialist at the centre of a drugs case has emerged as the kingpin of South Africa's secret chemical warfare research project, reports MARLENE BURGER**

# Getting to the heart of the military's shadowy surgeon

(292)

ST 9/2/97

he claims it was never intended for offensive use his task was confined to developing a defensive capacity — "masks, suits, decontamination and detection apparatus"

The Truth and Reconciliation Commission, the Office for Serious Economic Offences and Transvaal Attorney General Dr Jan D'Oliveira's third-force investigators do not believe him, and the Steyn Report into clandestine Military Intelligence operations implicates Basson in a startling range of dirty tricks

Notwithstanding the dire accusations that are now being levelled at him, however, the government is obliged, in terms of the international chemical warfare convention, to protect Basson, and thus prevent the transfer of his knowledge and expertise to a foreign power

The son of Boesman Basson, a police colonel and erstwhile Northern Transvaal Rugby Union vice-president, and an opera-singing mother, Bron-

wyn, Basson, 46, joined the permanent force shortly after qualifying as a medical doctor 22 years ago

He rose rapidly through the ranks and by the age of 30 was a brigadier. It was Basson who founded the now-notorious 7 Medical Battalion which gave operational support to the special forces throughout the wars in Angola, Mozambique and Namibia. A qualified paratrooper, Basson and members of the battalion rendered medical services behind enemy lines to members of the reconnaissance regiments that bore the brunt of clandestine operations in the 80s

His career in the SA Medical Services also saw him serve for a time as former State President P W Botha's physician, and as adviser to two successive surgeons general

But it was as the project officer and technology director of the chemical warfare programme that he made his mark. Travelling the world on official false passports — for a while, his cover story was that



## FULLY PREPARED

he was a draft dodger — Basson used stealth to acquire all the technology needed for the defence force's myriad front companies and laboratories to establish a chemical and biological capacity that was the envy of the Western world by the early 90s

Simultaneously, however, Basson is alleged to have run a second, unofficial, chemical warfare programme — for personal gain and/or nefarious purposes

In addition to the ecstasy dealing charges he now faces,



# The invisible hand at his throat

The Truth Commission is a mirror of our soul, but at times it

fails to convey the suffering and horror of some of apartheid's

victims: Dr Kantilal Naik, an Indian schoolteacher, was one

By Robert  
Braam

The shadow of our past, as revealed before the Truth and Reconciliation Commission,

weighs so heavily on our national consciousness that one sometimes forgets it was people – individuals – who bore the burden of suffering.

One such individual was Ahmed Timol; another was Dr Kantilal Naik Timol, a teacher at the Rodepoort Indian High School, fell to his death from the 10th floor of John Vorster Square while being interrogated by the security police in 1971. Naik, his colleague and a fellow detainee, survived. The politics of the day inexorably drove them together, and the shadow of Timol follows Dr Naik to this day.

Timol (30) and a friend, Mohamed Salim Essop (21), were detained at a police roadblock near the Newclare Cemetery (now Westpark) in Coronationville at around 11pm on Friday, October 22 1971. They were returning from mosque after ritually breaking the fast of Ramadan. In the boot of their car police found South African Communist Party literature and a list of names and addresses.

One of those names was Naik's, and police needed no further reason to swoop. He was arrested the next day and taken to John Vorster Square, where he was detained under the Terrorism Act. About 160 other people were also detained in the days that followed.

In the next four-and-a-half months Naik was held in solitary confinement and systematically

of detention. When he threatened to lay a charge against the police, he was taken to a "neutral" police station where it was made clear through "subtle pressure" that it would not be in his best interests to pursue his complaint.

On his release – he was never charged with any crime, political or otherwise – Naik was warned that he should tell no-one, especially not the newspapers, about his treatment. They had "unimpaired" his arms, they warned; if he told anyone, they would do the same to his legs.

He went back to his teaching job at Rodepoort Indian High School. For years he received no promotion although he continued to improve his qualifications. Later he found out why. In a departmental assessment by a school inspector, a glowing appraisal of his abilities ended with the words "His loyalty is questionable."

To make matters worse, his own community suspected him of collaboration with the police; the result, he believes, of disinformation spread by security police agents. He was kept under constant surveillance. When he accepted a job as an applied maths lecturer at Wits in 1981 police dropped in for a visit, just to let him know they knew he was now working for the "communist university".

Why? Naik's name was on the list found in Timol's car, and Timol was a known SACP agent. That made Naik an immediate suspect. But the list, Timol told police – and this was later confirmed by other SACP operatives – was nothing more than a wish list of potential recruits, people they thought could be sympathetic-

ness to the substance. But hydro-quinone, for all its revolutionary potential, is an oxidising agent with many innocent uses, among them the processing of photographic film. That is what he thought Timol needed the hydro-quinone for, Naik says.

He had committed no crime, and police learnt nothing from him. So they let him go, but their invisible hand continued clutching his throat for years after.

Naik had reservations about going before the Truth Commission to tell his story. "I thought well, maybe. But I was not enthusiastic."

When he finally did, in November last year, he found the experience immensely rewarding. "After my release from detention, I couldn't talk. You had this fear built into you.

"But at the TRC, you could tell your story. It was cathartic. It had a therapeutic effect after so many years."

Naik says his testimony before the TRC helped dispel any lingering doubts in his own community about his relationship with the police. He also hopes his interrogations will come forward and tell the TRC about the methods they used on him and other detainees. But he is less interested in what the TRC could do for him than in what it could do for the family and the memory of Ahmed Timol.

Who was responsible for Timol's death? Who informed on Timol and other activists? Who was the mysterious Mr X, a police informer who played a prominent role at the inquest into Timol's death?

The recent confessions by the killers of Steve Biko have raised

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(250) Show 7/2/97

THEMBA HADEBE



REPORT

All the latest

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## Timol death still haunts his family and friends

By Robert Braam

Ahmed Timol was not the first to die in detention, nor was he the last. But his death, still unexplained, continues to haunt his friends, his family and others who knew about his fate.

On Wednesday, October 27 1971 Timol plunged to his death from a window on the 10th floor of the security police headquarters at John Vorster Square, Johannesburg. The 30-year-old school teacher had been arrested five days before, and had admitted to his interrogators that he was a leading member of the local structures of the SA Communist Party.

Membership of the party, which was banned, was a serious offence in terms of the security legislation. Nevertheless, Timol was not charged because police suspected that with some persuasion he could tell them much about his organisation's revolutionary plans. Instead, they interrogated him for five days until the day he died.

An inquest was held, and found nobody was to be blamed for Timol's death. Inquest magistrate J L de Villiers accepted the police version of the incident despite a mass of evidence pointing to serious assaults and injuries sustained before the fatal plunge. According to the police, Timol was being questioned by two

# Drug arrest leads to germ-war shock

ST 9/2/99

(252)

By MARLENE BURGER  
and PETER De IONNO

DOCUMENTS, so secret that no copies were known to exist were seized in two Pretoria homes after the arrest for alleged drug dealing of Dr Wouter Basson, 46, former kingpin of South Africa's chemical warfare programme.

The documents contain details of a programme so sophisticated it invoked "the envy of the world" and "shocked" inspectors from the US and Britain shortly before South Africa's 1994 elections.

Testifying behind closed doors in the bail application of the cardiologist and former military officer this week, one of South Africa's most senior intelligence agents revealed he obtained a court order to confiscate trunks of documents from the home of one of Basson's friends, businessman Sam Bosch.

Mike Kennedy, general manager of the counter-intelligence directorate of the National Intelligence Agency, said the papers were seized to safeguard contents relating "to the chemical and biological warfare programme in South Africa" in the 80s.

Contrary to official denials that the programme was intended to be anything but defensive, he told the court the documents refer to the offensive chemical programme.

Kennedy said the documents were "highly clas-

sified, not supposed to be available anywhere" but on CD-ROM in the surgeon general's office.

So stringent are the security measures surrounding details of the controversial chemical warfare programme developed by the former South African Defence Force, that SANDF chief General Georg Meiring indicated last August that "on instruction of the President the arrangements make it impossible for the SANDF to access this information without explicit instruction and co-operation of the President".

An SANDF spokesman confirmed at the time that the information was captured on a computer optical or CD-ROM disc. This arrangement had been implemented while F W de Klerk was still president, and endorsed by President Nelson Mandela.

"If this expertise fell into the wrong hands, say a terrorist group, it would be a disaster. Chemical and biological agents could be used against the public at large, killing private citi-

zens," said Kennedy.

He had information that some former Eastern Bloc countries "have the ability to wipe out half to three-quarters of the world with diseases". His evidence, originally given in camera on the basis of state security, can be reported following a successful challenge by the Sunday Times, its sister newspaper Business Day and the Freedom of Expression Institute to a ruling by magistrate Rynhardt de Vos.

However, evidence given by Basson on Tuesday is still being withheld. On Friday the Sunday Times filed an application, due to be heard in the Transvaal Supreme Court this week, seeking access.

The newspaper claims the secrecy surrounding Basson's testimony violates constitutional rights.

Basson is on bail of R40 000. His ex-colleague, Dr Johan Koekemoer, 55, arrested on Tuesday for alleged possession of 56 ecstasy pills, is on R12 000 bail.

● See Page 19

# Bikos oppose amnesty bid

*Sowetan 10/12/97 (262)*

**By Pamela Dube**  
Political Reporter

BLACK Consciousness leader Bantu Steve Biko's family intends opposing the amnesty application by the five former security policemen who have admitted to involvement in his murder

Last month, Colonel Harold Snyman - who led the team that interrogated Biko, "Motherwell bomber" Lieutenant-Colonel Gideon Nieuwoudt, Warrant Officer Ruben Marx, Captain Daantjie Siebert, and Warrant Officer Johan Beneke were reportedly seeking amnesty before the Truth and Reconciliation Commission

for the 1977 death in detention of Biko

He died in Pretoria on 12 September 1977 after being driven over 1 200 kilometres naked in the back of a police Land Rover from Port Elizabeth where he had been held at the security police regional headquarters

Yesterday, Biko's son, Nkosinathi told *Sowetan* that after consulting their lawyers, the family had decided to challenge the amnesty application expected to be heard before the Port Elizabeth sitting next month

Last year, the Biko family and the Azanian Peoples Organisation, took the TRC to the Constitutional Court to

declare the Truth and Reconciliation Act unconstitutional, saying in their application that cases like Biko's should be declared criminal acts and be brought before the courts of law. But the court ruled against the two parties

Azapo stated last month that the five did not deserve amnesty for their "hideous" act and should be tried in a court of law

Nieuwoudt was also reported to have applied for amnesty for the Motherwell bombing, the disappearance and death of the Pebco Three and the 1982 death of student-activist Siphwo Mthumkhulu

# 'Chemical warfare was discussed by cabinet'

(252)  
Stephané Bothma

BD 10/2/97

PRETORIA — Details of SA's chemical warfare secrets had been discussed at cabinet meetings at which he had been present, says Mike Kennedy, GM of the counter-intelligence directorate of the National Intelligence Agency (NIA)

He said that he had attended cabinet meetings where these secrets had been discussed with "either the president, deputy presidents, the justice minister or other ministers"

"I have been informed that these (discussions) are obviously of a top secret nature and cannot be divulged because it is against the national interest"

Kennedy was testifying behind closed doors in the bail application of cardiologist Wouter Basson, arrested on drug charges last month. A transcript of his evidence was released after Business Day, its sister paper The Sunday Times and the Freedom of Expression Institute intervened.

However, the testimony delivered by Basson in camera was not released to the public by Regional Magistrate Rhynardt de Vos. The matter will be taken to the Transvaal Supreme Court this week.

Lawyers fighting the decision by De Vos will argue that the magistrate's actions constituted a gross irregularity in the proceedings as no proper legal or factual basis for such a decision existed. The decision also constituted an infraction on the entrenched constitutional rights of the newspapers and its journalists relating to freedom of expression, access to information and the right to conduct a profession.

Basson was released on R40 000 bail, but immediately volunteered to enter an NIA protection programme. Top secret documents containing details of SA's offensive chemical and biological warfare programme were seized by the NIA from Basson's home and the home of a friend, businessman Sam Bosch.

# Biko family will oppose ex-cops' amnesty bids

(252)

*No further lies, says son*  
AUG 10/2/97

**JOHN YELD**  
ON THE TRUTH COMMISSION

**The family of Black Consciousness leader Steve Biko has instructed the Legal Resources Centre to oppose the applications of five former security policemen for amnesty for their role in his death.**

The Truth and Reconciliation Commission announced last month that the former policemen were seeking amnesty from possible charges of culpable homicide and assault for their role in Mr Biko's death in detention in 1977, although it had not yet been provided with precise details of their involvement.

The policemen were named by their lawyer as retired colonel Harold Snyman, who led the security police interrogation team, retired lieutenant-colonel Gideon Nieuwoudt who was a detective sergeant at the time, Ruben Marx, then a warrant officer, Johan Beneke, also a warrant offi-

cer at the time, and former captain Daantjie Siebert.

In a statement by Mr Biko's son Nkosi-nathi and his Black Consciousness colleague Peter Jones, the family said they had met friends and advisers yesterday to agree on a response to the amnesty applications.

The family said they were not opposed to the reconciliation process and would "contribute positively" in this regard. However, they had been, and remained, opposed to any amnesty application from those responsible for Mr Biko's death, "individually or in conspiracy".

"The family has experienced the horrendous lies of the police and the state 20 years ago. It will fully co-operate with everyone to ensure that further lies are not submitted."

The family had therefore instructed the Legal Resources Centre, represented by its national director Bongani Majola, to act on their behalf.

## TRC asks court for copy of judgment on culpability

**JOSEPH ARANES**  
STAFF REPORTER

**The Truth and Reconciliation Commission has called for a written copy of the Cape High Court judgment that effectively wiped out culpability for capital crimes committed before 1974, 20 years before the interim constitution came into effect.**

Last week Mr Justice Selwyn Selikowitz ruled that the State's right to prosecute a man charged with raping his foster sisters had lapsed because the alleged crimes took place more than 20 years ago.

The ruling could seriously affect the workings of the TRC, whose brief is to get to the bottom of gross human rights violations going back to March 1960.

Without the threat of prosecution hanging over their heads, people guilty of abuses may opt not to apply for amnesty and those who have already applied may even withdraw their applications.

This would mean that some of the darkest deeds of the apartheid era could remain secret.

Truth commission chief legal officer Hanief Valli said they had applied to the court for a copy of the judgment, but were told it would be available only in a week.

Mr Valli said that while the TRC did not have the power to prosecute and could not use in court evidence and statements made by individuals during the course of the commission's investigations and hearings, the ruling could have a serious effect on its work.

# HRC fears for its independence

Star 11/2/97 (252)

BY HELEN GRANGE

The Human Rights Commission's independence is "drastically compromised" by the present practice of its being funded through the Justice Department's vote, says the HRC's annual report presented in Parliament yesterday.

In the 40-page report, the HRC has recommended that this practice, as well as its funding, be reviewed.

"We are in danger of having political control exercised over us through funding, and we have found that at R6,1-million, the budgetary provision for a commission of this magnitude is sorely inadequate," the report says.

"We are charged with a mandate to promote and protect human rights in a climate where they have been steadily eroded over some 300 years. The allo-

cated budget betrays an inadequate understanding of the magnitude of the task ahead," it adds.

The HRC's financial statement for the period between April and November last year shows that the commission spent a total of just over R6-million. The biggest expense, R1,2-million, went into remuneration for the commissioners and an amount of R1,1-million was paid to staff.

Administrative expenses came to R969 187, office equipment cost R897 855 and furniture and fittings cost R891 624.

Referring to the widespread observation that the HRC tends to be overshadowed by the Truth and Reconciliation Commission, the report says the TRC's work is critical but that once it has run its course, the HRC "will be there to carry on human rights work, and

to build on its achievements".

The HRC has also recommended that an intergovernmental forum on human rights be established to co-ordinate human rights programmes, and that amendments to the HRC Act be considered to provide for specific portfolios for commissioners which would reflect priorities such as children, disability and equal opportunities.

■ East Rand attorney Jerry Nkeli started as a full-time commissioner with the HRC yesterday.

Nkeli, who is disabled, becomes the seventh full-time commissioner in the 11-person commission.

He is a graduate of the University of the North and served his articles with one of the leading law firms in Johannesburg before practising in a partnership in Germiston.

# TRC forced to tighten belt after budget cut

The Government has slashed the Truth and Reconciliation Commission's 1997/98 budget by nearly a third, but a "belt-tightening" exercise and foreign donations should help see it through until next March, the commission has said.

While the Government had allocated R70-million to the commission last year, this would drop to R50-million in the new fiscal year beginning on April 1, said the commission's chief executive officer, Biki Minyuku.

"For the last three months of the year (January to March), the commission remains open only for writing its report."

That meant only the 17 commissioners and a small number of staff would stay on to write the final report and to close down the commission.

"Nevertheless, R50-million is not enough for our established needs, and there's going to be belt-tightening."

Mr Minyuku said the TRC could

(252) AR 6 11/2/97  
not do without foreign funding to "fill glaring gaps" and it expected to receive about R19-m from the international community over its two-year life-span.

Deputy TRC chairman Alex Boraine stressed the budget cuts would not throw the commission into a financial crisis.

"We are going to make darn sure that through our own tightening of belts and assistance from the international community, none of the work of the commission will suffer."

When the commission had first been told of the Government's intention to cut its budget it had protested against the move. "But when we realised cuts were going to be made in every (Government) department we really felt we did not have a convincing argument to be excluded," he said.

Strict instructions had been issued to curtail unnecessary travel and encourage telephone conferences between the TRC's offices - Sapa

BIKO'S SON TAKES A STAND

# Families oppose amnesty applications

**LAWYERS** for the families of activists murdered by the former security establishment want to examine the documents on amnesty applications **ROGER FRIEDMAN** reports

**FAMILY** and friends of some of the most prominent victims of the apartheid security forces — including Steve Biko and Chris Ham — are lining up to oppose the amnesty applications of their killers

Yesterday Biko's son, Mr Nkosinathi Biko, announced that his family had instructed the Legal Resources Centre to oppose the applications by five former security policemen over his father's death in detention in 1977.

And Eastern Cape lawyer Mr Mpumelelo Nyoka said he planned to ask the Truth and Reconciliation Commission urgently for documents on the amnesty applications over the killings of student leader Siphiwo Mzimkulu and the trio of civic leaders known as the Pecco Three — with a view to opposing the applications

The ANC said last November that it intended to oppose the applications by the convicted killers of former South African Communist Party leader Ham

The opposed applications of former Vlakplaas leader Mr Dirk Coetzee and five Pretoria-based former security policemen have already been heard, but the amnesty committee is yet to release decisions

The only two opposed applications that have so far been decided were turned down by the committee, although spokesman for the commission Mr John Allen said yesterday it would be wrong to think that opposed applications would necessarily fail

The Biko family's decision to oppose the amnesty applications of Mr Harold Snyman, Gideon Niewoudt, Mr Ruben Marx, Mr Daantjie Siebert and Mr Johan

Beneke was taken at a meeting in the city on Sunday called by Nkosinathi Biko

Among those present were Biko's widow, Mrs Ntsiki Biko, his sister, Ms Nobandile Mvovo, and lawyers Mr George Bizos and Mr Bongani Majola

They decided that the Legal Resources Centre would be instructed to oppose amnesty applications, and that contemporaries of Biko's would ask the commission to make a public submission on the role of the Black Consciousness Movement in opposing apartheid

Since the concept of a truth commission was raised in South Africa several years ago, the Biko family has held firmly to its call for the killers to face justice

Biko's widow was one of the applicants to the Constitutional Court last year to have the commission's amnesty provisions declared unconstitutional

The application failed

After a recent High Court judgment, the Biko killers need only evade the criminal justice process until September, when, 20 years after the event,



**POISONED?** Steve Biko

they can no longer be prosecuted for it

Nkosinathi Biko said yesterday "Our primary position is still very consistent. We do not want these people to get amnesty"

He said the new theory raised last week that his father's brain haemorrhage may have been caused by poisoning, not assault, was "just one of about five different stories raised"

It would be investigated together with the others

Nyoka said he wanted the commission to furnish him with whatever documents it had about the applications by the killers of Mzimkulu and the Pecco Three — Qagawuli Godolozzi, Champion Galela and Sipho Hashe — before any decisions would be reached on opposing them

Godolozzi's widow, Mrs Monica Godolozzi, had instructed him not only to oppose the applications, but also said she intended suing the government for lack of support

He had been instructed by Mr Sipo and Mrs Joyce Mzimkulu only yesterday and would not be in a position to advise his clients until he knew the full contents of the amnesty applicants' documentation

ET 11/2/97 (252)

TRU RECORDING COMM



# 'Belt-tightening' budget for TRC

ET 11/2/97 (252)

THE government had slashed the Truth Commission's 1997/98 budget by nearly a third, but a "belt-tightening" exercise and foreign donations would help see it through until March 1998, the commission said yesterday.

The government had allocated R70 million to the commission last year, but this would drop to R50m in the commission's new fiscal year, beginning on April 1, said the commission's chief executive officer, Dr Biki Minyuku.

"A simple comparison of the amounts allocated between the two fiscal years is misleading because for the last three months the commission remains open only for writing its report," he said.

That meant only the 17 commissioners and a small number of staff would stay on to write the final report and to close down the commission.

"Nevertheless, R50m is not enough for our established needs, and there's going to be belt-tightening," he said.

Minyuku said the commission could not do without foreign funding and it expected to receive about R19m from the international community over its two-year life span.

Deputy commission chairman Dr Alex Boraine stressed that the budget cuts would not throw the commission into a financial crisis — Sapa

# Bizos may aid Bikos in plea against amnesty

Cape Town - Human rights lawyer George Bizos SC may appear for Steve Biko's family when the Truth Commission's amnesty committee hears applications from five former policemen in connection with his death.

The Biko family is to oppose amnesty

Meanwhile, the commission's investigators are questioning the source who sent a fax claiming that Biko was poisoned by police, implying that it was not a blow to the head which caused the massive brain haemorrhage that resulted in the Black Consciousness leader's death in detention on September 12 1977

Commission deputy chairman Alex Boraine said yesterday their investigation had started the day after the fax arrived

Five former security policemen are applying for amnesty from prosecution for the culpable homicide of Biko and the assault of his colleague, Peter Jones, who was arrested with him

Bizos was part of the three-

person legal team which represented Biko's family at the inquest in Pretoria

Yesterday Bizos said he expected to appear at the amnesty hearing, but this had not yet been confirmed

No date has been set for the amnesty hearing, but Jones said the family were anxious for it to start "If we have our way, it will be as soon as possible," he said

However, the amnesty committee is still dealing with the backlog of applications from serving prisoners. In terms of the commission's founding act, it is obliged to give these priority

Last year the Biko family were part of a group who unsuccessfully challenged in the Constitutional Court the right of the Truth Commission to grant amnesty to perpetrators of human rights abuses. Their decision to get involved in the amnesty process, announced this week, has been welcomed by the commission

Boraine said the act gave victims or families of victims the

right to attend hearings and testify or produce evidence before its amnesty committee. There was also provision for legal assistance for victims or families who qualified

"We welcome it when victims or their families use the rights they are given in the law, just as we welcome it when perpetrators come forward with the intention of disclosing the truth about the past

"Full participation in the procedures laid down in the law can only improve the quality of our decisions and of the commission's processes," he said

In another development, President Nelson Mandela said claims by defence force scientists that they had sold chemical weapons technology to Libya after the 1994 elections had to be investigated thoroughly by the Truth Commission and criminal justice system.

Mandela said the Government was concerned that such revelations might "just be the tip of the iceberg" Own Correspondent

(252) Stan 12/2/97

# Bikos want Bizos at amnesty hearings

JOHN YELD  
ON THE TRUTH COMMISSION

Senior human rights lawyer George Bizos SC may appear for Steve Biko's family when the Truth Commission's amnesty committee hears applications from five former policemen in connection with his death.

The Biko family is to oppose amnesty. Meanwhile, the commission's investigators are questioning the source who sent the commission a fax claiming Mr. Biko had been poisoned by police.

The implication of the fax was that it was this poison, rather than a blow to the head, which caused the brain haemorrhage which resulted in the Black Consciousness leader's death in detention on September 12 1977.

Commission deputy chairman Alex Boraine said yesterday their investigation had started the day after the fax arrived.

The five former security policemen are applying for amnesty from prosecution for culpable homicide relating to Mr. Biko's death, and for assault in connection with the beating of Peter Jones, his colleague who was arrested with him a month previously.

Mr Bizos, one of the most respected names in South African human rights circles, was part of the three-person legal team who represented Mr Biko's family at the inquest in Pretoria. The team was led by Sydney Kentridge QC and the other member was Ernest Wentzel. Mr Bizos said he expected to appear at the amnesty hearing, but that this had not been confirmed.

"The family indicated that because I appeared at the inquest in 1977, they wanted me to be involved, but the legal team has not yet been finally decided. I expect to appear, yes," he said.

No date has been set for the amnesty hearing yet, but Mr. Jones said the family was anxious for it to start. "If we have our way, it will be as soon as possible," he said.

However, the amnesty committee is still dealing with the backlog of applications from serving prisoners. In terms of the commission's founding Act, it is obliged to give these priority attention.

Last year, the Biko family was part of a group who unsuccessfully challenged in the Constitutional Court the right of the Truth Commission to grant amnesty to perpetrators of human rights abuses.

Dr Boraine said the act gave victims or families of victims the right to attend hearings and testify, or produce evidence before its amnesty committee. There was also provision for legal assistance for victims or families who qualified. "We welcome it when victims or their families use the rights they are given in the law, just as we welcome it when perpetrators come forward with the intention of disclosing the

truth about the past"

In another development, President Mandela said claims by defence force scientists that they had sold chemical weapons technology to Libya after the 1994 elections had to be investigated thoroughly by the Truth Commission and the criminal justice system.

"The Government was concerned that such revelations might 'just be the tip of the iceberg', Mr Mandela said. After accepting Malaysia's high commissioner's credentials at Tuynhuys yesterday, he said the ANC had been briefed before the general elections about the SA Defence Force's covert chemical programme.

"We were given the assurance that the project had been discontinued after representation from the United States and Britain." At the time there had been no evidence to disbelieve this "but these new revelations will be investigated thoroughly".

AR 12/12/94

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# Security force members alienated by truth commission, says Viljoen

CAPE TOWN — Security force members were becoming visibly alienated by the way the truth commission was doing its work, Freedom Front leader Gen Constand Viljoen said yesterday

In debate on the president's address, he asked whether it was fair to tar the majority of honest and devoted men in uniform with the same brush as the small minority with gross human rights violations on their account, and to brand them all war criminals

"I have no reason to doubt the sincerity of this commission," he said, "but maybe they have gone for the overkill"

Pan Africanist Congress leader Stanley Mogoba, in his maiden speech, said government had promised to deal with crime, but criminals were developing contempt for society and government. Sentimental discussion of rights for criminals surprised him

"There is only one language that they will understand — this is the language not of feather dusters and kid gloves, but total crushing of crime" SA was tired of crime and should rise to support government in restoring peace, order, stability and sanity.

Job creation should be an immediate and

(272) BD 12/12/97  
urgent priority since unemployment increased the crime rate, he said

National Party (NP) leader FW de Klerk, speaking as leader of the opposition for the first time, said SA had become the most murderous country in the world under the African National Congress (ANC) government. The promises and threats Mandela made on crime on Friday needed to be translated into deeds

On reconciliation, he said the ANC, despite "lip service" to this and nonracialism, played a hard game of racist politics and incited racist emotions

African Christian Democratic Party leader Kenneth Meshoe said the parole system should be scrapped. Prisoners had to serve their sentences

Health Minister Nkosazana Zuma said SA was gaining more doctors than it was losing. A total of 550 foreign doctors would be deployed in rural areas by year-end

Wyndham Hartley reports that the ANC condemned the NP for complaining about lack of consultation in shortening the debate, claiming all parties approved the programme in November — Sapa, Reuter

# Truth body diverted media focus, says Human Rights Commission

Vuyo Mvoko

THE Human Rights Commission (HRC) was deprived of media coverage in the past year, mainly because of the extensive coverage of the truth commission, the commission's 1995/96 annual report said.

The report recently submitted to the president and now made public, says that the sheer news value of the truth commission has resulted in widespread and sizeable coverage, especially during the confessions of apartheid, hit squads and police generals. But apart from the truth commission,

the report says, there were numerous other newsworthy items such as "the Holomisa affair, the Sarafina 2 scandal and the falling rand".

It also "needs to be remembered that bad news is generally more saleable than good news, hence the most significant news coverage which the Human Rights Commission received" was from a televised debate between the commission's head, Barney Pitsoana and law expert Dennis Davis which received "fairly wide media attention".

The report said that although "it does not necessarily indicate a conspiracy within the media, we did find that the majority of

negative items on Dr Pitsoana, were from white-managed and edited newspapers and written by white columnists".

However, the report noted that analyses of the debate by black journalists was not necessarily positive.

The HRC also called for more funding, saying it was "in danger of having political control exercised over us through funding".

The R6,1m budget was "sorely inadequate" since July last year, 114 of them have yet to be processed, and only eight have been finalised. The rest are still being processed and investigated the report says.

BD 12/2/97

Among the commission's completed investigations are interventions in cases of non-admission of pupils on racial grounds, and prison violence.

Pending investigations, include complaints on alleged victimisation of homeless children by police, and foreign qualified SA doctors who argue that the "limited registration" they are allowed in this country is a violation of their rights to equality.

The commission is conducting a nationwide investigation into conditions inside prisons and the treatment of prisoners, and a report is due for submission to the president in July.

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# Army gas to neutralise blacks

Star 13/2/97

Ex-general says he told Wouter Basson to produce a harmless chemical that would douse 'offensive spirit' in black rioters

**POLITICAL STAFF**  
Cape Town

Freedom Front leader Constand Viljoen said yesterday that while he was the country's military chief he ordered chemical warfare expert Dr Wouter Basson to produce a gas that would "neutralise the offensive spirit" of black anti-apartheid activists.

Basson was arrested last week with, police allege, a large quantity of Ecstasy tablets. It emerged later that he was used by the apartheid government to develop its chemical warfare capacity.

Viljoen said he was personally aware of the chemical research done by Basson, whom he said he knew well. He said he did not believe Basson was involved in drug smuggling.

He said he had asked Basson to produce something to "prevent a tragedy like Sharpeville" from occurring again.

"We were at that stage entering an era when the ANC and the revolutionaries were staging big protests, and I was trying to avoid some great bloodshed and I said to him: 'Please develop for me some type of teargas that will be able to put people not out of action, not kill them but will neutralise (their) offensive spirit.'"

Viljoen said it was a purely "defensive measure (and I) can



**Constand Viljoen ... trying to prevent great bloodshed.**

promise you there was no intention at all of producing new kinds of mustard gas for offensive purposes".

He said that if Basson was involved in drug smuggling his "belief in people would be shocked".

Sapa reports that an urgent Pretoria High Court application by media groups and two reporters to set aside a decision prohibiting access to some of the proceedings in the bail hearing of Basson was postponed yesterday to February 18.

Times Media Limited has asked for the release of the testimony given *in camera* at Basson's bail hearing last Tuesday. Its court action has now been joined by Gauteng Newspapers, publishers of The Star. The Nasionale Pers newspaper, Beeld, has also joined

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in the urgent application and the Freedom of Expression Institute is cited as an applicant.

Basson was granted bail of R40 000 last week on drug charges on condition he did not interfere with State witnesses or visit the offices of Midrand company Delta G, where the Ecstasy tablets were allegedly seized.

Prosecutor Dr Torie Pretorius said secrecy was in the interests of state security.

Magistrate Rhynardt de Vos later ruled that further proceedings should take place openly, but said Basson's cross-examination record, in which he was apparently questioned on sensitive documents, would remain closed.

The applicants claim that the public has a right to know about the chemical and biological warfare programme of the previous government.

In addition, the ruling violated their constitutional rights.

■ Former state president P W Botha is considering laying complaints to both the press and broadcasting complaints councils against the SABC and several newspapers for alleging Basson served as his personal physician.

Botha said he had never been Basson's patient. Attempts to link him to the alleged illegal activities of Basson were malicious and libellous, Botha's attorney, Carl Trigaardt, said yesterday.

also come into play, such as parking aircraft too far away from the gates, not providing stairs on time, not opening air bridges on time, etc

**Women's Day: payment of travel costs by Portnet**

\*31 Mr J T ALBERTYNN asked the Minister for Public Enterprises †

Whether Portnet paid the costs of any women who travelled to Pretoria for a Women's Day gathering, if so, (a) for what reasons and (b) what did the costs amount to in this regard?  
N74E

**The MINISTER FOR PUBLIC ENTERPRISES**

Transnet Limited furnished the following reply to the hon member's question

Not for individuals, but for the National Women's Coalition

(a) To assist with transport arrangements of the National event organised by the National Women's Coalition

(b) R252 000 was paid directly to seven bus companies for 23 buses

**Murder of Rashaad Staggie: arrests**

\*32 Mr A J LEON asked the Minister for Safety and Security

(1) Whether charges have been laid against any persons in connection with the murder of Rashaad Staggie, if so, what are the relevant details, if not,

(2) whether any suspects were detained in October 1996, if so,

(3) whether these suspects have been released, if not, what is the position in this regard, if so, what are the relevant details?  
N87E

**The MINISTER FOR SAFETY AND SECURITY**

(1) Yes, two persons have been arrested and charged. They have appeared several times before the Lower Court in Cape Town and are due to appear again today. The case docket has already been referred to the Attorney-General. A trial date in the Supreme Court is awaited.

(2) Not applicable

(3) Not applicable

**Post Office/Telkom: fraud and corruption**

\*33 Mr J A JORDAAN asked the Minister for Posts, Telecommunications and Broadcasting

Whether any losses were incurred by his Department, the Post Office and/or Telkom in the 1995-96 financial year as a result of fraud and corruption, if so what was the total loss incurred by his Department, the Post Office and/or Telkom?  
N88E

**The MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING**

As far as the Department of Communications is concerned the reply is no

The Managing Director of the South African Post Office has informed me as follows

Yes, losses resulting from 85 cases of fraud and corruption amounting to R1,2 million were incurred in the 1995-96 financial year

The cases mostly involved fraudulent post office counter transactions with savings bank deposits and withdrawals, pension payments, cheque payments, money orders, receipt issues and fictitious cash book vouchers. Court and criminal proceedings have been instituted in those cases where the culprits could be traced. They have all been dismissed from the service.

The Post Office is continually reviewing counter procedures to minimise the possibility of theft and fraud. However, this type of crime will always be present where money is involved.

The Managing Director of Telkom has informed me as follows

Telkom has had direct losses of R200 million in the 1995-96 financial year as a result of fraud and corruption

This was mainly due to an international telephone fraud scam where 15 Telkom employees were involved. Criminal and disciplinary proceedings against the Telkom employees are in different stages of completion.

Telkom has since introduced extensive measures to improve internal checking procedures. These include

- The monitoring of international telecommunication traffic to ensure the early detection of fraudulent call patterns

- The monitoring of call patterns from electro-mechanical exchanges through implementation of electronic metering. This will counter inherent risks associated with old exchange technology.

- The establishment of a highly skilled investigations unit similar to best in class functions at other telecommunications operators in the world. The work of this unit has, for the nine months ending November 1996, resulted in the arrest of 439 people in connection with a variety of irregularities. In addition to this it also resulted in 165 Telkom employees being disciplined for their role in irregular activities perpetrated against Telkom.

**Packages for teachers: funding**

\*34 Mr M J ELLIS asked the Minister of Education

(1) Whether any person and/or body is to fund the amount of R600 million for the payment of early retirement and resignation packages to teachers, if so who, if not,

(2) whether an alternative source for this money has been found, if not, what is the position in this regard, if so, what are the relevant details?  
N89E

**The MINISTER OF EDUCATION**

Right-sizing in education follows on the measures to phase in equity in the funding of provincial education departments. Shifts in the budgets from the higher than average funded departments to the lower than average funded departments have been effected from 1 April 1995 and 1 April 1996. Consequently the higher than average funded departments (Western Cape, Northern Cape, Gauteng and Free State) did not have funds for all the staff in their employ and had to down-size. These departments would also not have funds available for the payment of the employer costs relating to the voluntary severance packages, except if some savings could be utilised in this regard.

A joint task team of the Departments of Education and State Expenditure visited the relevant provincial education departments late last year to obtain an estimate of expected over-expenditure as result of the voluntary severance packages. This could only be an estimate because final figures will become available after the closure of the financial year on 31 March 1997.

After the joint task team submitted its report, the Department of State Expenditure took the matter over. The ordinary procedure in cases where over-expenditure occurs is to utilise savings elsewhere. The matter will be dealt with in the adjustment budget.

**Truth and Reconciliation Commission: reparations**

\*35 Mr D H M GIBSON asked the Minister of Justice

(1) Whether the Truth and Reconciliation Commission has paid reparations to any persons to date, if so, what are the relevant details, if not why not,

(2) whether the Commission intends paying reparations to any persons if not, what is the position in this regard, if so, from what date,

(3) whether it has been determined what resources are available to the Commission

(252)

for the payment of such reparations to persons, if not, when will such determination be done, if so, what resources have been identified N90E

#### THE MINISTER OF JUSTICE

(1) No The Committee on Reparation and Rehabilitation may only make recommendations to the President and is not authorised by the Act to pay reparations to persons

(2) No In terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No 34 of 1995), the President is required to consider the recommendations of the Committee on Reparation and Rehabilitation and to make recommendations to Parliament

The view has been expressed that some provision should have been made and should still be made for interim relief in appropriate cases identified by the Commission I support this view and am discussing it with role-players

#### Section 27 of the Act provides

"27 (1) The recommendations referred to in section 4(f)(i) shall be considered by the President with a view to making recommendations to Parliament and making regulations

(2) The recommendations referred to in subsection (1) shall be considered by the joint committee and the decisions of the said joint committee shall, when approved by Parliament, be implemented by the President by making regulations

(3) The regulations referred to in subsection (2)

(a) shall -

(i) determine the basis and conditions upon which reparation shall be granted,

(ii) determine the authority responsible for the application of the regulations, and

(b) may-

(i) provide for the revision and, in appropriate cases, the discontinuance or reduction of any reparation,

(ii) prohibit the cession, assignment or attachment of any reparation in terms of the regulations, or the right to any such reparation,

(iii) determine that any reparation received in terms of the regulations shall not form part of the estate of the recipient should such estate be sequestrated, and

(iv) provide for any other matter which the President may deem fit to prescribe in order to ensure an efficient application of the regulations

(4) The joint committee may also advise the President in respect of measures that should be taken to grant urgent interim reparation to victims "

(3) In terms of section 42(1)(a) and (b) of the Act, the reparatory payments must be made from a fund to be established by the President in consultation with the Minister of Finance (President's fund) which will be financed by monies appropriated by Parliament for the purposes of the Fund as well as donations received from whatever source The Department has made available an initial amount of R1 million to establish the fund and several donors have shown an interest to make donations to the Fund

I am seeking to obtain clarity on the views of the Commission with regard to both interim relief and on reparation generally

#### Transfer of SANDF members to SAPS

\*36 Mr D H M GIBSON asked the Minister for Safety and Security

(1) Whether, with reference to his reply to Question No 18 on 6 March 1996, the investigation into the possibility of transferring members of the South African National Defence Force to the South African Police Service has been concluded, if so, (a) what were the findings and (b) what action has been taken as a result, if not, why not,

(2) whether any progress has been made in this regard, if not, why not, if so, what progress,

(3) whether he will make a statement on the matter? N91E

#### THE MINISTER FOR SAFETY AND SECURITY

(1) Yes

(a) and (b) The investigation was intended to run concurrently with an exercise which is aimed at developing a

Human Resources Utilisation Plan by the management of the South African Police Service

Decisions, therefore, as to how many members of the SANDF should be transferred to the SAPS, the nature of the re-orientation they have to undergo and where in the SAPS they are to be deployed, are contingent upon the police management achieving sufficient clarity as to what the actual, rather than the perceived needs of the SAPS are

I have instructed the National Commissioner to furnish me with a solid progress report on the Human Resources Utilisation Plan by not later than 31 March 1997

(2) Not applicable

(3) No

\*37 Ms M E TUROK - Public Works [Question standing over]

\*38 Ms M E TUROK - Public Works [Question standing over]





# The agony tha

The repercussions of that fateful day in 1985 still experienced daily by their fami

By DAISY JONES  
Cradock



**N**omonde Calata takes an empty Kentucky Fried Chicken chip packet off the coffee table, and picks up a cream recorder from the couch "My little girl is learning to play this," she smiles

Moments later, 11-year-old Thamaru - the spitting image of her mother - wanders shyly through the lounge in her Cradock Primary School uniform. The youngest of Nomonde's three children, Thamaru was born in Cradock two months after the 1985 funeral of the Cradock Four. Fort Calata was her father.

Sindiswa Mkhonto stands in the doorway of her Cradock home recalling memories of her dead husband, Sparrow. He was a good soccer player and president of a local club, loved listening to reggae music, was intelligent and reserved.

"Do you miss him?"

"Too much," she replies.

Sindiswa is a pre-school teacher. One of her colleagues at the local creche is Lindelwa Mhlauli, Sicelo Mhlauli's younger sister. Seated at a table in her aunt and uncle's home in Cradock, Lindelwa breaks down.

Catherine Barayi's voice has been rising in pitch and she is making slashing motions at her wrist. She is recalling how her nephew, Sicelo's, hand was cut off. Catherine first heard of Sicelo's death when she saw television images of his charred and mutilated body where it was found at the side of the road outside Port Elizabeth.

It has been 11-and-a-half years since the deaths of Matthew Goniwe and his friends and comrades, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli. The Cradock Four were buried in Lingelihle township, Cradock, in July 1985. But far from having been ab-



Cradock today ... clockwise, from top left: building on the legacy of Matthew Goniwe, Goniwe, memorial for the four slain activists; Sindiswa Mkhonto; Lindelwa Mhlauli; Nyameka Goniwe;

chairman of the Cradock Youth Association (Cradoya), Fort was dismissed from his teaching post. He was the youngest of the Cradock Four. Fort and Goniwe taught together at Sam Xhalie High School.

Says Nomonde "Fort was much younger, but you wouldn't say that when they were working. Matthew and Fort knew how to work with people. They knew how to lead."

by *verkrampste* farmers, sadly recalls the losses that were added to her loss of Fort. Nomonde, who was born and grew up in Cradock, was not given the full support of the community.

Except for her own family and her mother-in-law, Nomonde says "the rest were angry. They sort of put the blame on me. Why did I allow him to be so deep in politics?"

But "I was forced to support

graph of Lukhanyo, Nomonde says "Fort looked just like that." Father and son were very close, and used to call each other *kedwini* (buddy).

Dorothy (21) is currently in her second year at Stellenbosch University. She is studying for a BA in Psychology. Nomonde says of Dorothy's response to her father's death "She is going over it now."

Her mother expects that Dorothy will become involved in

changes certain perceptions about our past. Cradock Four they should expect amnesty for the killing of the



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amnesty for the killing of the Cradock Four they should expect

Were June 16 pupils

pupils on a high?

# MANDRAX

CP 16/2/97

FOR KIDS

## CP CORRESPONDENT

**MANDRAX tablets were secretly distributed to unsuspecting black students during the 1976 uprisings in Soweto to break their resistance.**

(252)

This chilling evidence was heard in the Pretoria magistrate's court this week during the bail application of the alleged mastermind behind a secret apartheid chemical programme, Dr Wouter Basson.

Basson, a cardiologist, faces a charge of dealing in the drug Ecstasy

The Truth and Reconciliation Committee also wants him to answer questions about the testing of biological and chemical weapons on humans in three secret projects - Coast, Alpha and Pastoor/Phantom - assassination by poisoning and involvement in a shadowy group of SADF members called "Die Organisasie/Die Binnekring".

Basson has previously been linked by sources in security circles to Civil Co-operation Bureau operations - including the murders of Swapo lawyer Anton Lubowski and Wits lecturer David Webster, a plot to murder Justice Minister Dullah Omar and journalist Gavin Evans, and the poisonings of Reverend Frank Chikane and Deputy President Thabo Mbeki

City Press has learnt that the distribution of Mandrax among Soweto pupils was a project of the former defence force's Military Intelligence

It was also alleged to City Press this week that the former security police had a similar project in the late 1980s in which Mandrax - among other drugs - was used against political opponents Ecstasy tablets and also seized documents from his Pretoria home

TO PAGE 2



## Mandrax for pupils

CP 16/2/97

FROM PAGE 1

Basson was arrested last month when police confiscated 1 000 Ecstasy tablets and also seized documents from his Pretoria home

Documents not related to the Ecstasy tablets case were handed over to the Office for Serious Economic Offences

Basson, who allegedly directed South Africa's chemical and biological warfare programme, was a former head of the Seventh Battalion of the SA Medical Services

In another development, Defence Minister Joe Modise last week allegedly summoned General Georg Meiring, head of the SANDF, and General Niel Knobel, the surgeon-general

It was said to be in connection with the State's argument during Basson's bail application last week that the chemical and biological pro-

gramme was not only defensive but also offensive

Basson, who since 1980 was the project leader of the defence force's chemical and biological wing, testified that he had only developed a defensive programme

Colonel John Rolt, spokesman of the SANDF, this week said he did not know whether Modise had indeed met with Meiring or Knobel, or whether a meeting had been planned

Two former Vlakplaas members, Captain Jacques Hechter and Warrant-Officer Paul van Vuuren, told the truth body in their amnesty applications last year that they had been ordered in 1988 to give an overdose of Mandrax to Father Smangaliso Mkhathsha, a Catholic priest who is now deputy minister of education.

The plan was not carried out

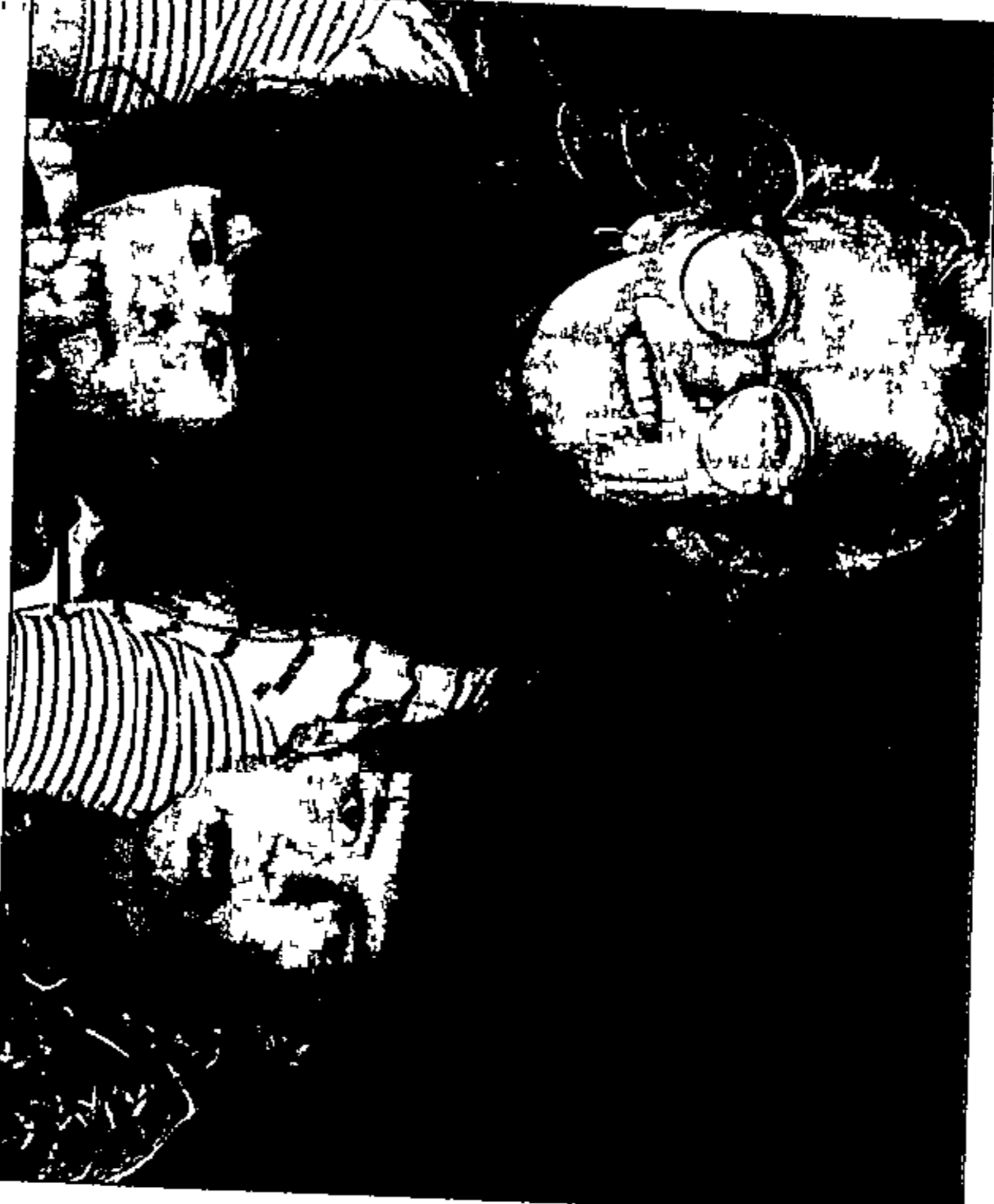
Sam But, c  
hanksgiving

# THE STORY

# True national reconciliation is imperilled

## TRC highlights the plights of the few, but the masses go begging

By Alan 17/12/97 (252)



Victimised: Activist Shirley Gunn with children Heanee and Harmon, right

THE ATTENTION BEING FOCUSED ON HEROES OF THE LIBERATION STRUGGLE IS DANGEROUSLY OBSCURING THE SUFFERING OF MILLIONS OF OTHER VICTIMS OF APARTHEID, WARNS DR STEVEN ROBINS OF THE DEPARTMENT OF ANTHROPOLOGY AND SOCIOLOGY AT THE UNIVERSITY OF THE WESTERN CAPE

In recent months, the Truth and Reconciliation Commission has uncovered crucial information about the activities of a violent, shadowy state security establishment responsible for the gruesome murders of Steve Biko, the Cradock Four, the Febco Three and numerous others

But in concentrating on issues of murder, kidnapping, detention and torture, the TRC and the media have unwittingly privileged the experiences of a relatively small number of activists

This has marginalised the experiences of millions of black South Africans who endured the more mundane hardships of influx control, the pass laws, forced removals and everyday experiences of racism and discrimination

We also have seen relatively empowered activists receiving "reparations" (Nkpenisens) while millions of impoverished South Africans continue to live in apartheid's rural and urban shanty towns

As the Government moves into a home-grown structural adjustment programme, it is becoming increasingly clear the state is unable to dramatically transform the plight of millions of poverty-stricken South Africans. This is not to say the state is doing nothing or is indifferent.

However, what is worrying is that the very real suffering of former activists is receiving wide media attention at the expense of the everyday experiences of ordinary South Africans who continue to suffer the deprivations produced by apartheid policies

South Africans are beginning to believe that the truth will liberate everyone. However, how can the truth liberate shack-dwellers who continue to live in places of poverty such as Khayelitsha?

It may be easier for educated, employed former activists to forgive and get on with their lives. But what does the message of reconciliation really mean to the unemployed and the poor? This point was recently made by Shirley Gunn at a University of Cape Town panel discussion on the TRC

Ms Gunn, a former political detainee, was once framed by Adrian Vlok, former minister of law and order, for the Cosatu House bombing, an act we now know was perpetrated by agents of the state

I had previously heard her give fiery and eloquent testimony before the TRC at the University of the Western Cape when she spoke about how she and her young child had been detained in the 1980s

Her testimony contained an emotional, by-changed and unifying account of how security police interrogators had accused her of being an irresponsible mother by getting involved in radical politics that had landed her child in prison with her

Ms Gunn also spoke of her bouts of depression that began in detention and her feelings of being left behind while many of her more ambitious and career-oriented

**'Reconciliation is unlikely to take root unless much more is done for millions of poverty-stricken South Africans'**

comrades had moved on to high positions in Parliament and in the Government. She left a powerful impression on those present at this TRC hearing

The next time I heard Ms Gunn speak was a year later in January 1997 at a TRC panel discussion at the University of Cape Town. She challenged the religious

ANC's new technocrats who espouse the virtues of neo liberal structural adjustment programmes

In the words of Sheena Duncan, chairperson of the Black Sash Trust, in a letter to the Mail & Guardian (January 24 - 30, 1997) "Our Government has discarded the Freedom Charter, buried the Reconstruction and Development Programme under mountains of paper in bureaucratic in-trays, adopted a macro-economic strategy which will mean jobless growth and the increasing impoverishment of the already poor. Human rights for the dictators of the global economy do not include the rights of people to social security, health care, education or shelter."

Sheena Duncan is not a militant Maoist revolutionary, but someone who remembers the ideals that fuelled the anti-apartheid struggle. She is also someone who is aware that without economic justice there can be little chance of reconciliation or, for that matter, political stability

While Marx may have been wrong in many of his predictions, the new state cannot afford to ignore his analysis of class inequalities under capitalism

A commitment to revealing the truth about state terror unleashed by Eugene "Prime Evil" de Kock and his Vlakplaas assassins should not be at the expense of paying close attention to how the legacy of apartheid continues to function

My father received reparations from the German government as a result of the murder of his parents and siblings in Auschwitz. While I am all too aware that money alone cannot heal the pain of the loss, I am also aware that my university education was made possible by reparations money from Germany

Let us not forget or underestimate the dire material circumstances of millions of South Africans for whom improvement in the quality of their lives is critical. Reconciliation is unlikely to take root unless much more is done for them

Will the poor ever receive reparations for the suffering they endured as a result of the systematic denial of political, economic and educational opportunities?

# CONSTITUTIONAL QUIZ

Until Human Rights Day on March 21, the Cape Argus is publishing a daily episode in a cut-out form from a comic produced by the Constitutional Assembly to promote understanding of the new constitution. The comic was created by the Rapid Phrase Group, with script by Harry Dugmore and Stephen Francis, drawing and colouring by Theo Schachtel and graphic design by Dominic Lee

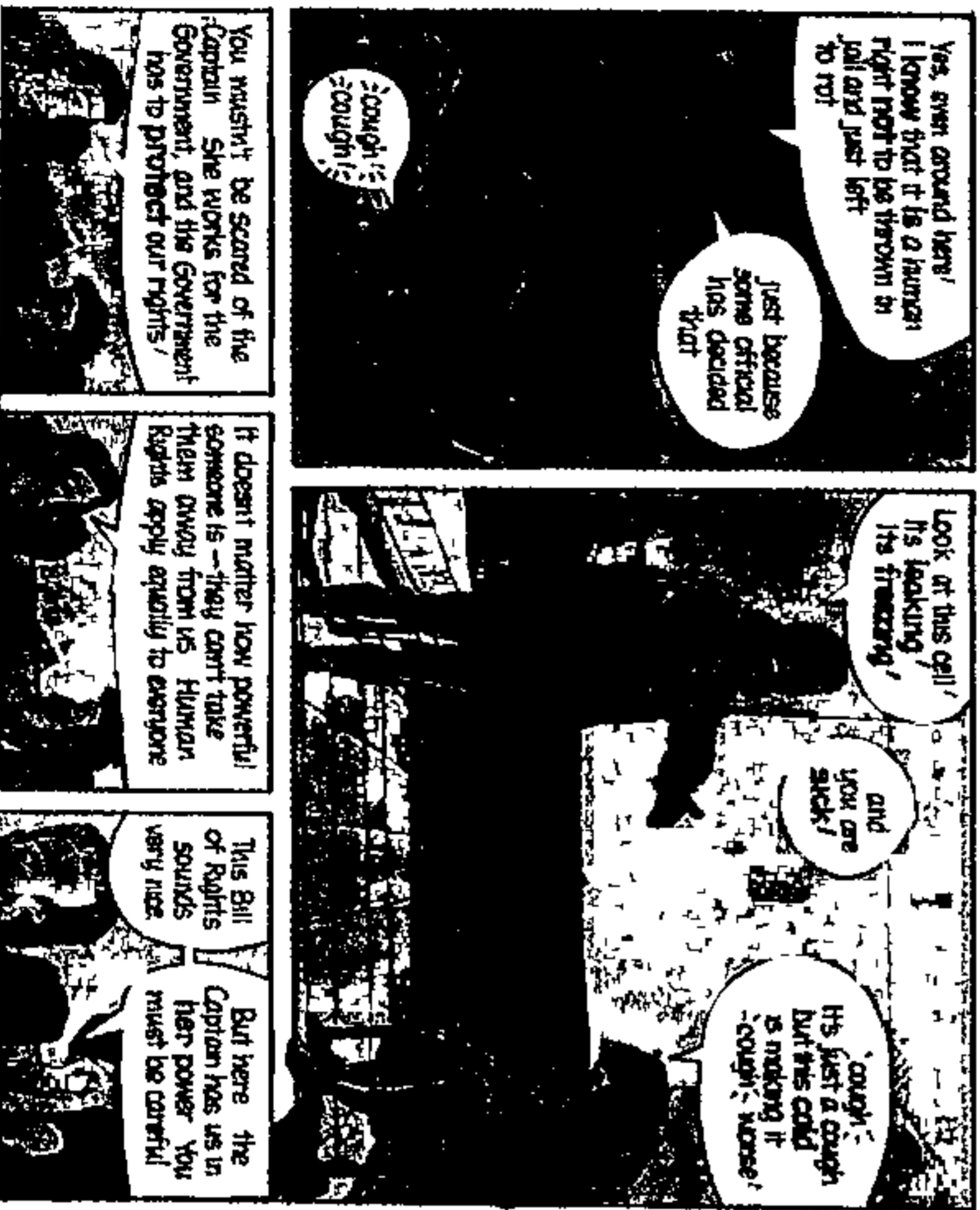




Victimised' Activist Shirley Gunn with children Heanea and Haroon, right

# CONSTITUTIONAL QUESTIONS

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In recent months, the Truth and Reconciliation Commission has uncovered crucial information about the activities of a violent, shadowy state security establishment responsible for the gruesome murders of Steve Biko, the Cradock Four, the Febco Three and numerous others.

But in concentrating on issues of murder, kidnapping, detention and torture, the TRC and the media have unwittingly privileged the experiences of a relatively small number of activists.

This has marginalised the experiences of millions of black South Africans who endured the more mundane hardships of influx control, the pass laws, forced removals and everyday experiences of racism and discrimination.

We also have seen relatively empowered activists receiving "reparations" (MK pensions) while millions of impoverished South Africans continue to live in apartheid's rural and urban shanty towns. As the Government moves into a home-grown structural adjustment programme, it is becoming increasingly clear the state is unable to dramatically transform the plight of millions of poverty-stricken South Africans. This is not to say the state is doing nothing or is indifferent.

However, what is worrying is that the very real suffering of former activists is receiving wide media attention at the expense of the everyday experiences of ordinary South Africans who continue to suffer the deprivations produced by apartheid policies.

Robben Island and the political prisoners who were incarcerated there have assumed almost mythical status in a heroic narrative of nationalist struggle that marginalises the everyday experiences of millions of black South Africans.

By uncritically celebrating a nationalist narrative of African National Congress resistance and nation building, it is possible that the dire situation of the lives of ordinary people will be marginalised.

This also could lead to a situation whereby the socio-economic legacies of apartheid come to be seen as apolitical, neutral and technical problems of development and delivery.

Instead of seeing poverty as a direct product of apartheid laws such as influx control, the bantustan system and the Group Areas Act, planners and policy makers already are turning these political legacies into technical planning problems.

252

South Africans are beginning to believe that the truth will liberate everyone. However, how can the truth liberate shack-dwellers who continue to live in places of poverty such as Khayelitsha?

It may be easier for educated, employed former activists to forgive and get on with their lives. But what does the message of reconciliation really mean to the unemployed and the poor? This point was recently made by Shirley Gunn at a University of Cape Town panel discussion on the TRC.

Ms Gunn, a former political detainee, was once framed by Adrian Vlok, former minister of law and order, for the Cosatu House bombing, an act we now know was perpetrated by agents of the state.

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## 'Reconciliation is unlikely to take root unless much more is done for millions of poverty-stricken South Africans'

comrades had moved on to high positions in Parliament and in the Government. She left a powerful impression on those present at this TRC hearing.

The next time I heard Ms Gunn speak was a year later in January 1997 at a TRC panel discussion at the University of Cape Town. She challenged the religious rhetoric of reconciliation of the TRC, and questioned whether the poor were in the same position as President Mandela in terms of their ability to forgive. "Thank God, we have Mandela as president, but we must recognise that it is easier for Mandela to forgive. What about the millions of unemployed black South Africans living in shacks who are unemployed? Must they also forgive and forget when nothing has changed for them?"

The TRC seems to be trapped within a theologically-grounded vision where the revelation of "truth" is seen to be capable of delivering reconciliation and peace without redistributive justice.

Since 1994, we have seen the erosion of the basic tenets of social democracy. We have witnessed the rise to power of the

ANC's new technocrats who espouse the virtues of neo-liberal structural adjustment programmes.

In the words of Sheena Duncan, chairperson of the Black Sash Trust, in a letter to the Mail & Guardian (January 24 - 30, 1997): "Our Government has discarded the Freedom Charter, buried the Reconstruction and Development Programme under mountains of paper in bureaucratic in trays, adopted a macro-economic strategy which will mean jobless growth and the increasing impoverishment of the already poor. Human rights for the dictators of the global economy do not include the rights of people to social security, health care, education or shelter."

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My father received reparations from the German government as a result of the murder of his parents and siblings in Auschwitz. While I am all too aware that money alone cannot heal the pain of the loss, I am also aware that my university education was made possible by reparations money from Germany.

Let us not forget or underestimate the dire material circumstances of millions of South Africans for whom improvement in the quality of their lives is critical. Reconciliation is unlikely to take root unless much more is done for them.

Will the poor ever receive reparations for the suffering they endured as a result of the systematic denial of political, economic and educational opportunities to blacks? Will liberal whites who praise Mandela and the birth of the rainbow nation dig into their pockets to help pay for reparations?

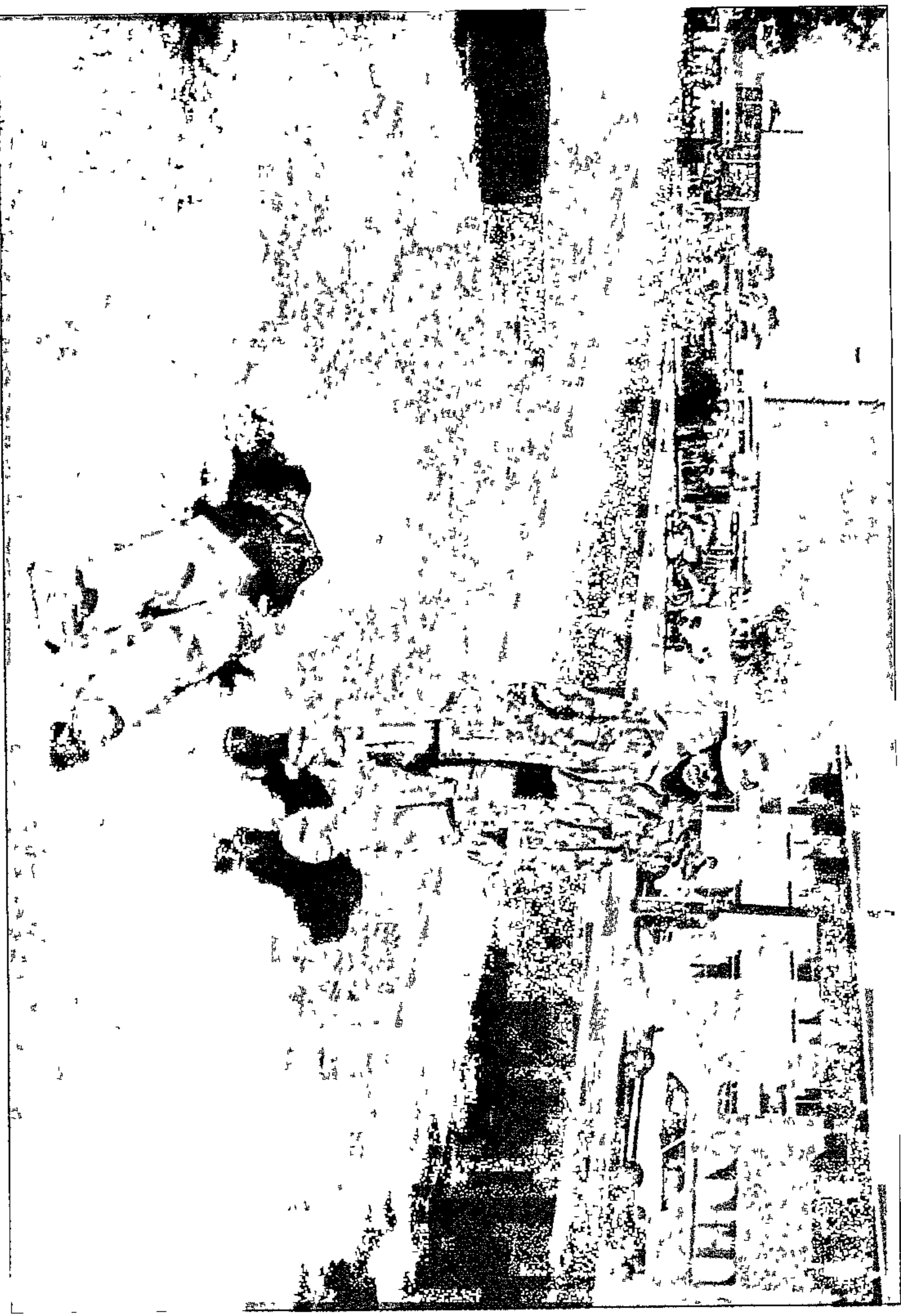
Are we all simply mouthing empty rhetoric about reconciliation and the rainbow nation while reproducing neo-liberal economic programmes that are a recipe for endemic poverty and violence? Perhaps we need to listen more closely to Shirley Gunn, Sheena Duncan and millions of citizens who speak from outside the constricting spaces of Parliament, government buildings and corporate business offices. The conspiracy of silence about the need to redress the economic legacy of apartheid is a worrying feature of the new South Africa. It is hard to see how we can have long term reconciliation and political stability without economic justice.

# 'It was him or me,' says Cape police chief of comrade he shot

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SAW 18/2/97

Senior superintendent concedes he gave one of the Guguletu Seven no chance to surrender because he believed he and his colleagues were in 'imminent danger'

On record ... after explaining at length to the Truth and Reconciliation Commission that he had shot Guguletu Seven member Christopher "Rasta" Piet dead in self-defence in 1986, senior Western Cape police spokesman Superintendent John Sterrenberg battled to explain the smile on his face when the commission produced this photograph. He suggested it was a nervous smile.



BY DAISY JONES  
Cape Town

South African Police Services Western Cape communication head, John Sterrenberg, yesterday admitted to shooting Christopher Piet, one of seven comrades who launched an attack on police at Guguletu township, Cape Town, in March 1986.

Sterrenberg admitted to shooting Piet seven times in the chest and three times in the head.

The seven victims subsequently became known as the "Guguletu Seven" and are the focus of a Truth and Reconciliation Commission inquiry into the incident. Sterrenberg, who told the TRC he was acting in self-defence, said Piet, who was killed along with his six comrades in a shootout with police in Guguletu on March 3 1986, had been running across his line of vision with an AK-47 and a hand-grenade when he first opened fire on him with buckshot (SSG) pellets.

Zandisile Mjobo, Zola Swelam, Mandla Mxinwa, Jabulani Mya, Thembu Mlufi, Zabonke Korile and Piet were suspected by police of being terrorists planning to attack a bus carrying policemen from Bellville to Guguletu.

On the morning in question, the bus arrived safely, but the



Taking the oath ... Superintendent John Sterrenberg at the TRC hearing yesterday

Guguletu Seven appeared where police had stationed themselves to guard against the attack.

Police said the shootout started when one of the seven threw a grenade at a policeman. Sterrenberg said he fired seven shots in quick succession because it occurred to him that the shots were having "no effect".

When Piet, nicknamed "Rasta" and named as the leader of the Guguletu Seven, fell to the ground, Sterrenberg said he took cover behind a tree, about 3m from where Piet was lying.

According to Sterrenberg, Piet turned his face towards him and motioned towards his chest. Sterrenberg feared that Piet would fire on him, or throw his grenade at him. He therefore shot Piet three

times in the head with his 9mm service pistol. "I acted reasonably under the circumstances. He had an AK-47 in his possession. He had fired it, and an explosion had already occurred," Sterrenberg said. He added he had not given Piet an opportunity to surrender, nor fired fewer shots, because he had believed himself to be in "imminent danger".

A photograph taken by a police photographer on the day of the shooting, which shows Sterrenberg smiling at the camera next to Piet's dead body, was produced by the commission.

Sterrenberg said he did not know that the photograph had been taken, and that his smile in the picture was "nervous". "It was never my intention to pose with the body," he said.

Detective Inspector Andre Grobbelaar, who is currently stationed at the livestock theft unit in Faure, Western Cape, also admitted yesterday to having shot and killed one of the Guguletu Seven. Grobbelaar said he emptied his shotgun into the chest of Mya when he saw him running towards him, holding a grenade. "At that stage it was him or me. Either he would throw the hand grenade, killing myself and my colleagues, or I had to kill him," Grobbelaar said.

# Minimum sentencing only a temporary step, says Omar

CLIVE SAWYER

POLITICAL CORRESPONDENT

A new law setting minimum

sentences for priority crimes like rape and car hijacking will be an interim measure, renewable by Parliament each year.

Justice Minister Dullah Omar said today there was no doubt provision for minimum sentences would be constitu-

tional, but there was concern among the judiciary that it would impair its independence

"If we have to introduce minimum sentencing, we will do it to tide us over our transition period," he told a meeting of the National Assembly committee on justice

Mr Omar said he was confident the crime situation would return to normal within a few years

When this happened, the legislation on minimum sentences for priority crimes would fall away

He disclosed that the new law, which he hoped to have before Parliament soon, would allow courts to impose sentences which were less than the specified minimum. However, the courts would have to give reasons for doing so

Mr Omar said the minimum sentences law and bail reform laws were pri-

orities and he wanted to put them to Parliament as soon as possible

He warned that simply legislating that people accused of crimes like rape and hijacking would not be allowed bail might be ruled unconstitutional

Jasper Noët, director-general of justice, earlier told the committee that since bail laws were toughened the number of awaiting-trial prisoners had leapt from 18 000 to 33 000

ARU 18/12/1977

(252)

# Vlakplaas hit

## Squad linked to

## Gugs 7 killings

### Secret memo revealed (252)

JAMN YELD AND JOSEPH ARMES ON THE TRUTH COMMISSION

The Truth Commission today released a secret police document proving the Vlakplaas counter-insurgency unit was directly involved in the killing of the Guguletu Seven in 1986.

The document was referred to yesterday by one of the panelists of the commission's human rights violations committee, which is holding a "special event" hearing into the death of the seven.

The document is page four of a four-page secret communication, marked "censored", between a Colonel Pieters of the Western Cape security branch, and Eugene de Kock, then a captain at CI, the division at security police headquarters in Pretoria under which Vlakplaas fell.

The subject of the telex is a Sergeant W R Bellingham, who worked at Vlakplaas and was sent to the Cape with Askaris - turned ANC guerrillas.

Evidence during the hearing in November was that Sergeant Bellingham had been sent to the Cape with Askaris to help local security police who were not coping with guerrilla attacks.

He was named by several witnesses at the hearing as being present at the scene of the shooting of the Guguletu Seven on March 3, 1986.

He is not one of the nine policemen subpoenaed to testify at the hearing, but is understood to have applied for amnesty from the Truth Commission in connection with the incident.

This has not been confirmed by the commission.

A spokesman said it was not policy to release the names of those applying for amnesty ahead of time.

This was in line with the commissioner's founding act, he said. It is understood the commission has already interviewed Sergeant Bellingham, but this has also not been confirmed. A press conference has been scheduled



Dad: John Sterrenberg gives evidence yesterday

for the end of today's hearing, where the issue is expected to be dealt with.

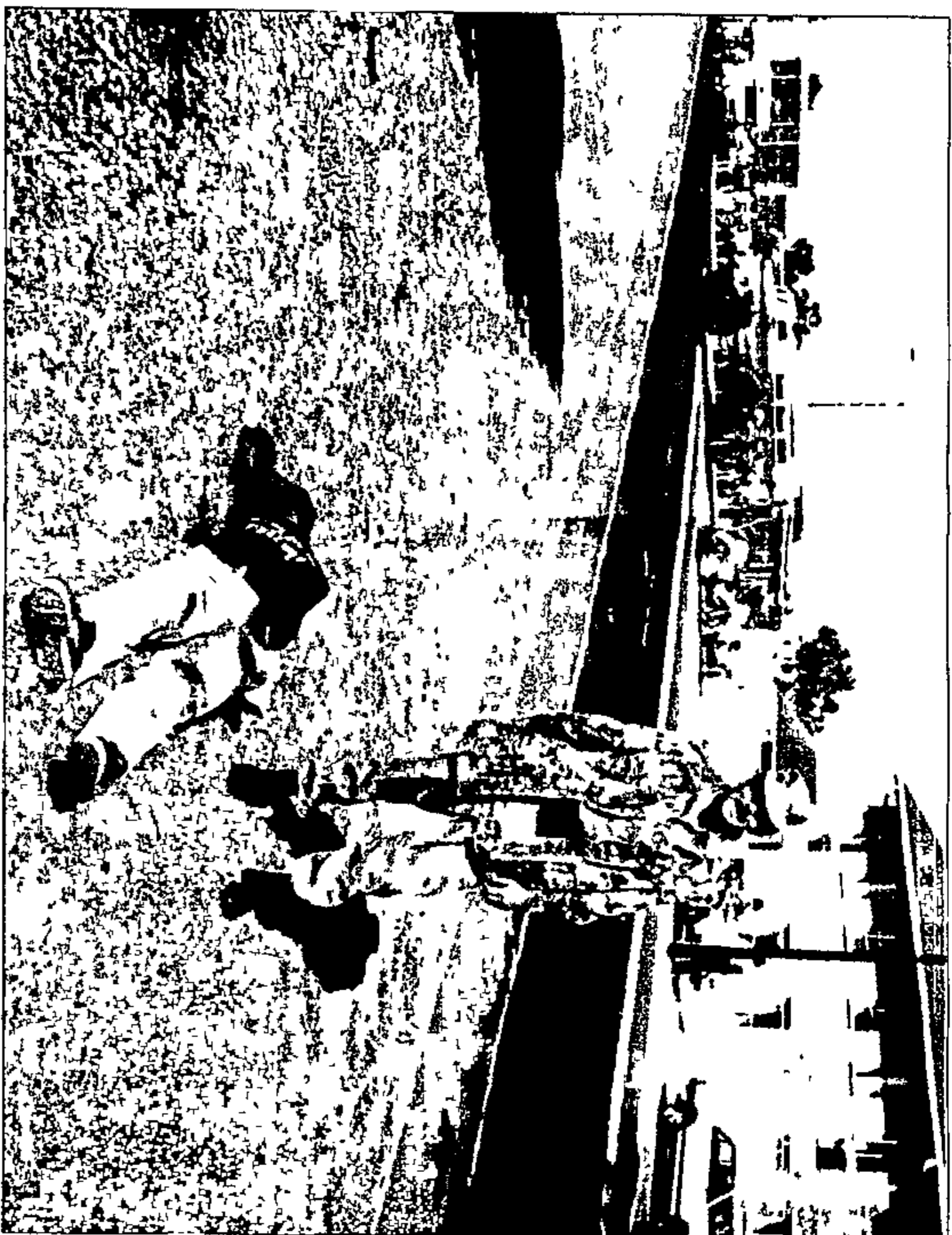
The secret document is dated March 4, 1986 - a day after the shooting of the seven. Colonel Pieters noted that the information provided by Sergeant Bellingham's Askaris - to the effect that the seven were planning to attack a police bus in Guguletu on March 3 - had been corroborated the previous day by a Cape Town murder and robbery unit source.

He stated that security police sources had been co-operating with the Cape Town murder and robbery unit, the "white" section of Guguletu detective unit and the reaction unit based at Matieland in connection with the expected attack.

Colonel Pieters said that according to his own observations at the scene, each "suspected terrorist" had had a weapon or a hand-grenade in his possession.

Colonel Pieters also stated that another group of ANC guerrillas was operating in the area.

Colonel Pieters's message also contains a paragraph in which an unidentified person is referred to. It states "He also mentioned that the operation at Guguletu on March 3 1986 must be followed by other incidents, for example, bombs in shopping centres, so that the leaders in detention can see that the struggle is continuing."



Controversial photo a police picture showing a smiling John Sterrenberg minutes after he shot and killed Christopher 'Rasta' Piet

## Picture of body not a trophy,

## says Sterrenberg

AKU 18/2/97 (252) Shown a police photograph of himself standing casually and apparently smiling over a man he had just killed, chief Western Cape police spokesman John Sterrenberg was at a loss for words.

"It was definitely not my intention to pose with a body. "I don't why the picture was even taken or who the photographer was."

"We all know that photographers have their own agendas," said Senior Superintendent Sterrenberg.

The picture is of him in police camouflage uniform standing next to the body of Christopher "Rasta" Piet, one of the "Guguletu Seven" activists shot by police in March 1986.

Superintendent Sterrenberg earlier told the commission he had fired seven SSG shotgun rounds at Mr Piet.

When the victim fell, he said he took up a position behind a tree three to four metres away and fired another three shots with his service pistol, hitting Mr Piet in the face.

Looking at the picture, Superintendent Sterrenberg said it was not a kind of trophy.

He added that the expression on his face was a nervous grim rather than a smile.

"I was not aware of the picture - this is the first time that I have seen it," said Superintendent Sterrenberg.

## 'No second

## thoughts' about bodies

A retired police officer told the Truth and Reconciliation Commission today that he and two colleagues walked past several bodies without giving them a second thought after the fatal shooting of the "Guguletu Seven".

Karel Bothma, who was a warrant officer with the murder and robbery unit in March 1986 when the shootings took place, said he was in a car with his superior, Johan Kleyn.

They drove past five suspicious-looking men in NY111 and made a U turn to confront them head-on.

He said that as the car they were driving slowed down and Superintendent Kleyn jumped out with his pistol drawn, a hand grenade was thrown against the car.



Long wait: policemen and their legal representatives wait for the Truth Commission to begin its hearing



# Nervous, smile of killer cop

(252) 21 18/2/97

**THE TRC** yesterday hinted that it has a memo ordering that only white policemen be involved in the Guguletu Seven operation. **CHRIS BATEMAN** and **ROGER FRIEDMAN** report

**S**ENIOR Western Cape police spokesman Superintendent John Sterrenberg was photographed smiling with the bullet-riddled corpse of Guguletu Seven member Mr Christopher "Rasta" Piet at his feet, minutes after blasting the suspected "terrorist" with his shotgun and then shooting him three times in the head at close range with a pistol.

The Truth and Reconciliation Commission confronted Sterrenberg with the photograph yesterday at the resumed special hearing on the Guguletu Seven massacre of March 1986.

It emerged at the commission's initial hearing last November that members of the security police's notorious Vlakplaas death-squad played a leading role in the killing of the seven ANC cadres.

In related developments, the Vlakplaas operative who apparently planned the operation, Sergeant W R Bellingham, has apparently applied for amnesty and already been interviewed by the commission.

Bellingham is said to have reported directly to recently convicted Vlakplaas commander Colonel Eugene "Prime Evil" de Kock.

And the commission hinted that it was in possession of a secret memo ordering that only white policemen should be involved in the operation, but refused to reveal further contents of the document.

Sterrenberg yesterday admitted shooting Piet seven times with a shotgun, and then "finishing him off" at close range with his service pistol.

After emptying his shotgun he took cover behind a tree about three metres from the wounded man, he said. Suspicions that Piet could be preparing to shoot or throw a grenade at him, he fired three pistol shots at his head.

At the time, Sterrenberg was a member of the unrest unit.

He argued yesterday that if he had not brought Piet down with his shotgun, innocent people could have been injured. And it was because his own life was at risk that he shot him in the head.

He acknowledged that Piet had fallen face-down with his hands under his body after the initial salvo of seven "lethal" SSG cartridges.

He said the smile on his face was probably "a nervous reaction".

"It was not pleasant," Sterrenberg said of his part in the gun battle and its aftermath.

Turn to Page 3



**NO LAUGHING MATTER:** After telling the Truth and Reconciliation Commission that he had shot Mr Christopher "Rasta" Piet dead in self-defence in 1986, Western Cape police spokesman Superintendent John Sterrenberg battled to explain the smile on his face when the commission produced this photograph. He suggested it was a nervous smile.

# Killer cop still has 'sleepless nights' (252)

CT 18/2/97

□ From Page 1

He claimed to still suffer from sleepless nights. There was however "no question" in his mind that he had overstepped any legal bounds with the close-range shooting, described as "a bit excessive" by one commissioner.

Psychologist and commissioner Ms Pumla Gobodo-Madikizela said that Sterrenberg's explanation for his smile was "possible", but she "wondered" why there were ambulances still parked in the background of the picture when only minutes earlier the man, identified as Mr Christopher Piet or "Rasta", had been "lying there dying".

Sterrenberg denied an assertion by commissioner Mr Denzil Potgieter that he was "almost posing with this body" and that it could be interpreted as "almost like a trophy (picture)".

"I've no idea why that photograph was taken. It was never my intention (to pose) and it's the first time I've seen that picture," Sterrenberg replied.

When Potgieter said it was known to the TRC that "people got R1 000 per head," for killing "terrorists", Sterrenberg replied that if that was the case he had never been paid, nor had he been paid overtime for the pre-dawn planned police "counter-ambush".

He confirmed having been decorated for long service on the Namibian border, which included logistical support for the infamous Koevoet police unit and secondment to the former Rhodesian security forces.

Sterrenberg stuck rigidly to the police version of events that day, that they had information that an MK cell was planning to ambush a police van delivering early morning staff to the Guguletu police station. This version has it that the police wanted to arrest the would-be attackers, and only killed them after one had thrown a hand-grenade.

Eyewitnesses dispute this account, claiming that at least some of the seven were shot while trying to surrender or killed after being wounded.

Testifying before Sterrenberg yesterday, surprise witness Sergeant Tommy Hendricks seemed to contradict the police story, and particularly the evidence of his former direct boss Director Johan Kleyn, now the Mitchells Plain station commissioner.

Hendricks denied hearing a grenade explosion and placed Kleyn on the ground instead of in his car.

Inspector Andre Grobbelaar testified that a blanket pictured in the boot of his car at the scene seemed similar to one found in bushes in the aftermath of the gun battle.

In the picture of the car boot police-issue weapons lie alongside the blanket, while in the bush picture near one of the bodies "terrorist" weapons lie near the blanket.

Earlier evidence claimed that police "planted" the "terrorist" weapons.

Grobbelaar denied having put the blanket in his boot or having seen anyone do so. He said he fired four SSG rounds at the chest of the grenade-carrying Jabu Godfrey Miya from about seven metres, felling the man.

Sterrenberg and Grobbelaar said they knew nothing of any Vlakplaas link to the shoot-out.

However, Sterrenberg said he became aware of two police informants among the guerrillas during a pre-dawn security police briefing at Wingfield on the day of the counter-ambush.

The hearing continues today.

# Vlakplaas secret out TRC reveals link between De Kock and Guguletu 7

The Truth and Reconciliation Commission yesterday released a secret, encoded message sent to former Vlakplaas commander Eugene de Kock the day after police shot dead seven alleged African National Congress guerrillas in Guguletu in March 1986.

The release of the document to the media comes after earlier claims that Vlakplaas operatives were involved in the March 3 1986 police ambush in which the seven men, known as the Guguletu Seven, were killed. The communique was headed

"Gehum, Secret" and the sender identified only as a Colonel Pieters. The recipient was Captain EA de Kock based at the security police's C1 unit in Pretoria.

The document includes a paragraph in which an unidentified person suggested that the operation in Guguletu should be followed by further incidents such as the bombing of shopping centres, so that impromptu anti-apartheid rallies could see the struggle continue.

In the document Pieters and informants had planned the attack by commandos from the KTC squatter camps on a police bus transporting 11 minor officers and other members to Guguletu on March 3. It would be led by "Christopher".

In preparing to thwart the attack, the unit had been made with Cape Town's inland road robbery unit while members of Guguletu's detective branch and the Mannenberg action unit.

He said on March 3 a document carried after police pulled the illegal attack lists off of whom were arrested with firearms and grenades. Pieters said the informants had subsequently been moved to a safe place. They would be taken out at night to point out houses they had visited to look for possible traces of returned ANC fighters.

He said the informants could not be taken to the state mortuary to identify the bodies of the Guguletu Seven but he was confident sufficient identification could be made by using photographs of the corpses. He would include De Kock's immediately on the list, identification was made.

The informant had also indicated that Jamille group of 11 was still operating in Crossroads and that they were armed with four AK-47s and seven RGD 5 grenades.

They were considering renewing contact with Jamille through a middleman.

Pieters ended the communique by saying that De Kock should send an R1 rifle with a Warrant Officer Mose as Bethangan's weapon was not working.

According to police accounts of the killings, they opened fire on the Guguletu Seven in self-defence after a grenade was lobbed at them.

Witnesses alleged police had executed at least two of the men as they lay unarmed on the ground. *Sapa*

252  
19/2/97

# Evidence cops had shoot-to-kill orders - TRC

*ARLT 19/2/97 (252)*

## 'No attempt to make arrest'

**JOHN YELD**  
ON THE TRUTH COMMISSION

The Truth and Reconciliation Commission says it has objective evidence that police had "shoot-to-kill" orders in connection with the planned attack on a police vehicle by the "Gugulethu Seven".

This was disclosed by the head of the commission's investigative unit, Dumisa Nisebeza, at a media conference after the "special event" hearing on the deaths of the seven African National Congress guerrillas in March 1986. The implication of the order was that police made no attempt to arrest the seven. Witnesses say at the least two of them were "executed".

Most of the six policemen and former policemen who testified this week - three of their colleagues gave evidence during the first session in November - were questioned closely about their orders at a briefing hours before the incident.

Police informers from the Vlakkplaas base had reported that the seven were going to attack a police bus in Gugulethu. A combined force of security police, the reaction unit, murder and robbery detectives and white detectives based at Gugulethu police station were assembled and briefed at the Wingfield dog unit in the early hours of March 3 1986.

All denied being given "shoot-to-kill" orders and said their instructions had been to prevent the attack on the bus and arrest the attackers.

However, Mr Nisebeza said at a press conference that the commission had

"objective evidence" of such orders. He did not elaborate, but this evidence is believed to have been gleaned during official inquiries, held behind closed doors in terms of section 29 of the commission's founding act, with some of the policemen involved who did not testify publicly.

Yesterday the commission released the final page of a four-page secret communication between a Colonel Pieterse of the Western Cape security police and Captain Eugene de Kock of security police headquarters in Pretoria, which made it clear Vlakkplaas operatives had been involved in the operation.

Mr Nisebeza declined to release the first three pages, saying the commission was "trying to build an investigation around that".

His colleague, Denzil Potgieter, who has been leading the commission's investigation into the deaths of the seven, declined to identify the person referred to in the final page only as "he".

The document states: "He also mentioned that the operation at Gugulethu on March 3 1986 must be followed by other incidents, for example, bombs in shopping centres, so that the leaders in detention can see that the 'struggle' is continuing." Mr Potgieter commented "We don't believe we should deal with this in any other detail at this stage."

He also disclosed that the commission knew the names of the two Askaris - turned ANC guerrillas - who had infiltrated the Gugulethu Seven. He said the hearing had painted a picture of "collusion" between the Peninsula murder and robbery unit and Vlakkplaas.



Top cop: chief of the police violent crimes unit Leonard Knipe testifies at the Truth Commission

LEON MOLLER

## Gugulethu 7 probe bungled, says Knipe

*ARLT 19/2/97 (252)*

**JOSEPH ARMES**  
ON THE TRUTH COMMISSION

Top Western Cape policeman Leonard Knipe, who heads the province's violent crimes unit, told the Truth and Reconciliation Commission the initial investigation into the killing of the Gugulethu Seven was unprofessional.

Director Knipe, who was with the Peninsula murder and robbery unit at the time of the shootings in 1986, told the commission yesterday he was not directly involved in the investigation although he had collected evidence at the scene and handed it to his boss, Fanie Brits, who had been in charge of the probe.

He said that he did not believe Major Brits had conducted a professional investigation and it was not the type of work he would have expected from a police-

man of Major Brits's calibre.

The initial investigation led to the then attorney-general Niel Rossonw calling for a second probe and Director Knipe said he felt comfortable this investigation had been done professionally.

Both inquiries found that the police had acted in self-defence and that no individual was responsible for the death of the activists. It later became known that the security police hit squad based at Vlakkplaas near Pretoria and Askaris (turned ANC guerrillas) had been involved in the killing of the seven.

Director Knipe said it was a huge error for the murder and robbery unit to investigate an incident in which they had been directly involved and he had noticed that some of the weapons used by police were still lying around their offices for a few days after the shootings.

Director Knipe, who was a captain at

the time, said he had no prior knowledge of and was not informed of the planning of the operation as he had personal problems with members of the security police. He said it was possible a colleague, Johan Kleyn, also a captain at the time, had been briefed about it.

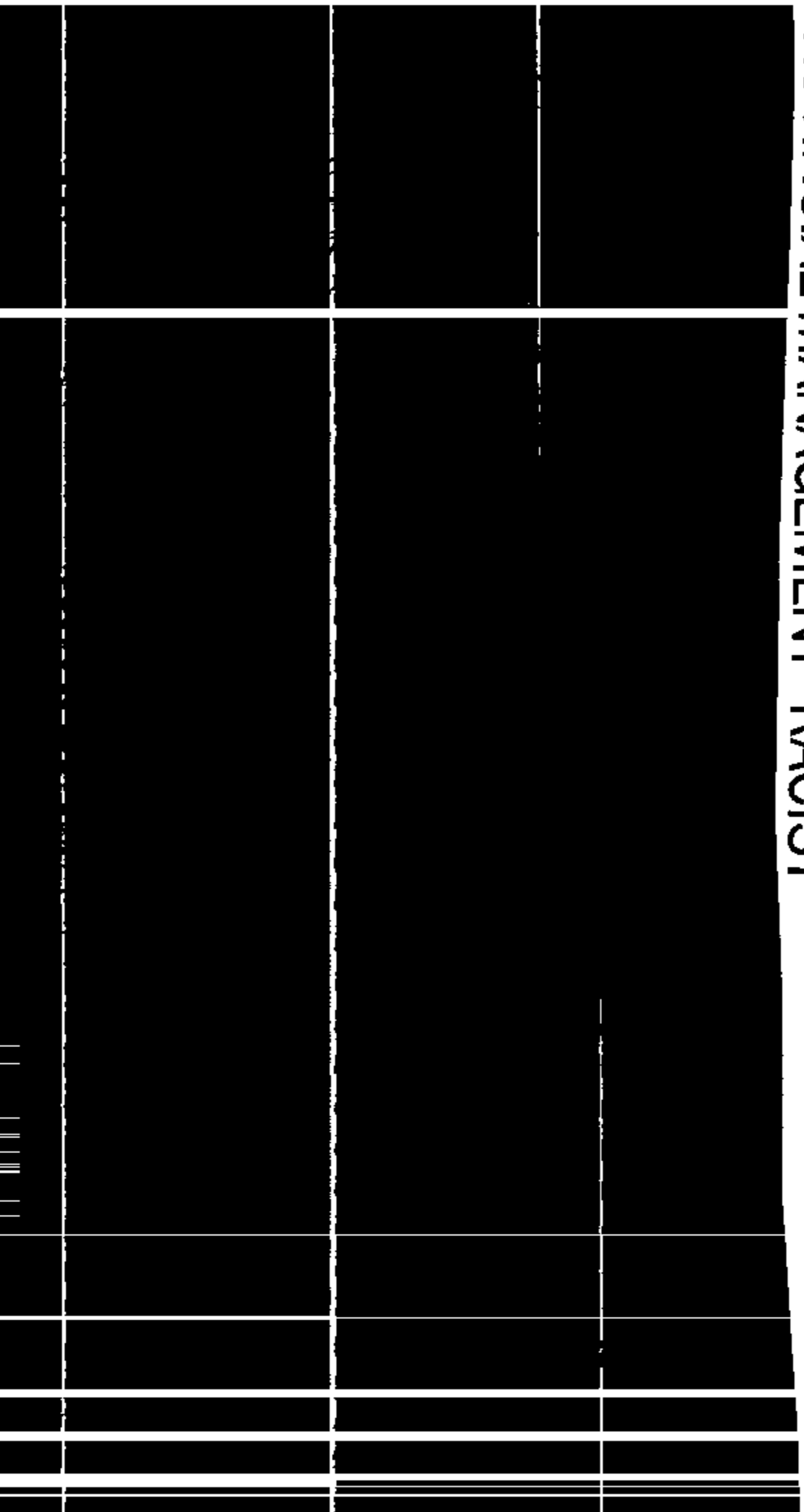
Reading from a prepared statement with sweat running down his face, Director Knipe said because the country had been involved in a low-intensity war at the time of the shootings, the police had viewed many people as enemies rather than as criminals and this had led to their being treated differently.

At the beginning of his testimony Director Knipe said he was very upset at the manner in which the commission had approached him to give evidence. He said that through the subpoena, the media had the impression he was directly involved in the shootings.



**UNDER PRESSURE:** Director Leonard Knipe told the Truth and Reconciliation Commission yesterday that he believed the probe into the police inquiry of the deaths of the Guguletu Seven was sub-standard and unprofessional

CT 19/2/97 PICTURES SABC



# Probe sub-standard, cops abused power — Knipe

CT 19/2/97 (262)

**PETER DENNEHY**

DIRECTOR Leonard Knipe of the SAPS testified yesterday that the investigation into the deaths of the Guguletu Seven had been sub-standard and that the decision to investigate then Cape Times journalist Tony Weaver over his reporting of the 1986 killings had been an abuse of power.

No one was found responsible for the deaths and Weaver was eventually acquitted.

Knipe told the Truth and Reconciliation Committee he believed Weaver's prosecution should never have taken place. Knipe was a state witness in the Weaver case.

His evidence followed the release of a secret communique allegedly sent to former Vlakplaas security police base commander Eugene de Kock on March 4, 1986, the day after the shootings.

Commission investigative unit head Mr Dumisa Ntsebeza said the encrypted communique, sent by a Colonel Pieters, confirmed earlier allegations of Vlakplaas involvement in the killings, which were officially described at the time as a shootout with ANC guerrillas.

Commissioner Mr Denzil Potgieter said the two askaris who allegedly infiltrated the group of ANC guerrillas could hold the key to unanswered questions.

"We are not happy that we have reached the end of our investigations. We still have other avenues to explore."

Although a number of policemen have testified over the past two days that they were ordered only to arrest the Guguletu Seven and prevent the attack on the police bus, Ntsebeza said the commission had evidence that the policemen were given shoot-to-kill



**'TRIED UNFAIRLY':** Tony Weaver

orders beforehand.

Knipe testified that it was because of the involvement of murder and robbery unit members in the shootings that he objected to the unit's acting commander, Major Fanie Brits, being appointed to head the subsequent investigation into the circumstances surrounding the shootout.

If he had been in charge of the investigation of the police shooting of the Guguletu Seven he would have done things differently.

Knipe said he would have ensured statements were taken from all the relevant people, and that evidence against the police was treated objectively.

Ntsebeza asked Knipe why he had not voiced his opinion on the Weaver case during the investigation or trial and if it had not been his duty to find a chance to state his belief that charging Weaver had been an abuse of power.

Knipe replied "You must also look at the realities of life. I was a captain. I would be a captain today if I had made that statement."

He had once been suspended for advocating principles like non-racialism within the police force.

Ntsebeza asked if he had been prepared to hold back his views, in this case, for convenience and career advancement. Knipe replied that he would have answered any question put to him in the Weaver trial honestly, but had not been asked for his opinion.

His reservations about the initial investigation had arisen only at a late stage.

He had telephoned from Natal to satisfy himself that fairness was upheld in the investigation leading to the second inquest, which also found that no one could be held responsible for the deaths.

Knipe said he had not been involved in the planning for what turned out to be a police ambush of a supposed group of guerrillas who were, according to police infiltrators, about to lay an ambush of their own against the police.

If it were true that "askaris" (turned ANC members) had infiltrated an ANC cell, and if he had been in charge, he would have tried to make pro-active arrests. The ambush carried a very high risk.

Potgieter sketched a possible scenario of events in which two askaris from Vlakplaas had infiltrated a Cape Town ANC cell, set its members up to launch an attack, and then arranged for them to be ambushed, shot and killed.

Knipe responded that if that scenario were the case, there would be "more than sufficient grounds for a murder charge that should be investigated to the fullest."

At a press conference afterwards, Potgieter said the commission knew the names of the two askaris and was fairly confident it would be able to get hold of them.

# Anti-crime group threatens to quit police structures

ET 19/2/97

(251)  
(262)

**VARIOUS ORGANISATIONS**, including Popcru, called yesterday for the resignation of senior police officers in the Western Cape. Staff Writer **ROGER FRIEDMAN** reports.

**T**HE Western Cape Anti-Crime Forum accused provincial police management yesterday of racism, calling for heads to roll.

Contending that police management had "attempted to use community organisations to legitimise their concept of community policing and yet retain the white power structures", the forum — with representatives of over 35 community-police forums (CPFs) in its ranks — threatened to withdraw from the community policing process.

Responding to the allegations, Western Cape police Commissioner Leon Wessels said the police investigated all cases without regard to race or creed.

"It was a pity" that the forum had threatened to pull out of community-policing as it still had an important role to play in "training and mobilising" the community.

Meanwhile, reacting to the Truth and Reconciliation Commission's special Guguletu Seven massacre hearings yesterday, the Police and Prisons Civil Rights Union (Popcru) also called for senior-level resignations, saying the police who killed black people "like animals" were "honoured for their cowardly deeds" with promotions.

And, reacting to the initial Guguletu Seven hearing at which Mitchells Plain station commis-

sioner Director Johan Kleyn described shooting one of the seven, a group calling itself "Concerned Residents of Mitchells Plain" joined the chorus for resignations.

Anti-crime forum chairman Mr Chris Ferndale said his organisation's gripe was with police management only, "not the rank and file members".

He said the forum had tried to work with police to build community structures, but the police were "paternalistic" and indifferent to fighting crime in black areas.

Ferndale called for the reallocation of resources to equip the police in black areas, referred to claims of a "Boeremafia" within the police who controlled decision-making, and "strongly objected" to the influence in community-policing matters of Mr Peter Stevens, an adviser to Police Services MEC Mr Gerald Morkel.

Morkel's "inability to firmly get to grips with his portfolio" contributed to the alleged white cabal's reign in the province.

Ferndale alleged that Stevens had "bulldozed the recognition of certain CPFs and refused to recognise others", and that attempts were being made "to keep (CPF) area boards white with token representation of the other races".

He said affirmative action was not enjoying priority, and ques-



**RESTRUCTURING:** Leon Wessels

tioned how people could be expected to trust a provincial police service with a chief spokesman who admitted to shooting one of the Guguletu Seven seven times with his shotgun and three times in the head.

Wessels responded that it appeared "a recent confrontation between the community-police forums and the Western Cape Anti-Crime Forum" had sparked the allegations of racism.

He said resources were being redistributed, and referred to 44 new Scout vehicles recently allocated to certain areas "where imbalances existed". District commissioner's offices had been phased out and their staff redistributed. The police "manpower plan" was structured to increase the number of members on the Cape Flats, and the Crime Investigation Service

had been restructured to the betterment of policing on the Cape Flats.

He said the police were "awaiting outstanding promotions of members and the implementation of the en masse transfer process", which would "ensure that all stations in the Western Cape are in the same position in respect of the manpower/community ratio".

Ten months ago, Wynberg enjoyed 2,6 police members per 1 000 residents, Claremont 1,3 per 1 000 and Bellville 2,3 per 1 000 — compared to 0,4 per 1 000 in Mitchells Plain and 0,3 per 1 000 in Khayelitsha.

Although the ideal ratio had not yet been achieved, "several new appointments" had been made to rectify racial imbalances at management level, said Wessels.

Referring to the revelations before the TRC, Popcru said the hearings had "proven" its long-held belief that some senior police members now in management positions had been involved in gross violations of human rights.

"Black people were killed like animals. The officers that killed the innocent black people were honoured for their cowardly deeds. Today they are directors and commissioners in the SAPS. With these ruthless killers and corrupt officers, how do law-abiding citizens expect to root out violence, crime and drugs from our communities?"

"This is an urgent appeal to (Safety and Security) Minister Mr Sydney Mufamadi. Get rid of these killers," Popcru said.

# Policemen linked to chemical weapons

Stephané Bothma

252  
PB 19/2/97

PRETORIA — The involvement of former deputy police commissioner Gen Basie Smit and SA Police forensics chief Gen Lothar Neethling in the supply of the base compounds of mandrax and LSD to military front companies was just one of the issues cardiologist Wouter Basson testified about behind closed doors recently.

Although a portion of Basson's testimony — delivered during a bail application — was not available for publication, two typed pages of evidence delivered by the One Military Hospital heart specialist at an earlier unspecified occasion stated that the military co-operated closely with Smit and Neethling in the manufacture of "chemical weapons".

The two pages formed part of doc-

uments in a Pretoria High Court application instituted by Business Day and its sister paper The Sunday Times yesterday in which the newspapers sought access to evidence delivered by Basson in camera during his bail application two weeks ago.

The newspapers believed it was in the public interest that the cardiologist's evidence be published.

Basson, who developed SA's chemical and biological warfare programme in the 1980s, was arrested by the narcotics squad last month on charges of dealing in the drug Ecstasy. Although intervention by the two newspapers enabled a part of Basson's subsequent bail application to be heard in an open court, regional magistrate Rhyndardt de Vos ruled that the doctor's testimony should remain secret "in the interest of state security".

Continued on Page 2

## Claims against affluent Pretoria suburb

Louise Cook

THE Gauteng office of the restitution commission has received 78 claims against land which now forms part of Garfontein, an upmarket suburb east of Pretoria which is home to many senior white public servants.

The previous government removed hundreds of black families from the area known as Eastwood in the 1950s and 1960s. White settlement was encouraged by guaranteeing the housing loans of white state employees after the Pretoria city council had reproclaimed the suburb a white group area.

Most urban land claims country-wide have so far involved government or parastatal-owned land, with farmers bearing the brunt of claims against

privately owned properties. Gauteng regional restitution commissioner Emma Mashinini said more claims were expected before the extended deadline at the end of next month.

Eastwood Land Claims Committee chairman Kenneth Sibuya said the claimants had suffered severe emotional and material losses due to the forced removal and would refuse all compensation other than the return of the original land. "This is where we were born, lived and went to school. I returned from work one day to find my family and all my belongings missing. I had to search for days in Mamelodi to find my family." He said many potential claimants had hesitated in coming forward because the area had been developed. "Others have moved far away

and are difficult to locate." The committee expected up to 600 claims.

The area in dispute includes more than 100 upper middle class houses, the Garfontein Laerskool, a Catholic seminary, a Pick 'n Pay Hypermarket, a post office, a police station and a municipal recreation area.

Homeowners in the area knew nothing of claims against their properties when approached this week. Most said they would discuss the issue as long as there was no question of anything less than market price being offered. Engineer Ben Naude said he would be prepared to sell if he got "the right price", while a medical doctor who did not want to be named said claimants deserved compensation for past injustices if the claims had substance.

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PB 19/2/97





# Truth commission releases secret Vlakplaas communiqué

BD 19/2/97

(2/72)

CAPE TOWN — The truth commission yesterday released a secret encrypted communiqué sent to former Vlakplaas commander Col Eugene de Kock the day after police shot dead seven alleged African National Congress (ANC) guerrillas in Gugulethu in March 1986.

The release of the document to the media follows claims that Vlakplaas operatives were involved in the March 3 1986 police ambush in which the seven men — known as the Gugulethu Seven — were killed.

The communiqué was headed "Gehem, Secret" and the sender identified only as a Col Pieters. The recipient was Capt EA de Kock based at the security police's C1 unit in Pretoria.

The document includes a paragraph in which an unidentified person suggests that the operation in Gugulethu should be followed by further incidents, such as the bombing of shopping centres, so that imprisoned anti-apartheid leaders could see that "the struggle was continuing".

In the document, Pieters said infor-

nants had warned police on February 27 1986 of a planned attack on a police bus transporting 11 senior officers and other members to Gugulethu on March 3, by "comrades" from KTC squatter camp led by "Christopher".

In preparing to thwart the attack, he said contact had been made with Cape Town's murder and robbery unit, white members of Gugulethu's detective branch and the Manenberg reaction unit.

He said that on March 3 a shootout ensued after police spotted the alleged

attackers, all of whom were armed with firearms and hand grenades.

Pieters said the informants had subsequently been moved to a safe place. He said the informants could not be taken to the state mortuary to identify the bodies of the Gugulethu Seven, but he was confident that sufficient identification could be done through photographs of the corpses.

The informants had also indicated that "Jamile's group of 11" were still operating in Crossroads and that they were armed with four AK-47s and sev-

en RGD-5 hand grenades. They were considering renewing contact with Jamile through a middleman.

Pieters ended the communiqué saying that De Kock should send an R-1 rifle with a W/O Mose as Bellingan's weapon was out of action.

According to police accounts of the shootings, they opened fire on the Gugulethu Seven in self-defence after a hand grenade was lobbed at them. Witnesses alleged police had executed at least two of the men as they lay unarmed on the ground — Sapa

# Judiciary is changing its face but held up by legacy of past

(252)

Most recent appointments have been black, but there is still a long way to go

By JAMEEL CHAND

The wheels of justice grind slowly and the much-awaited transformation of the judiciary has not materialised at expected levels, despite assurances by Justice Minister Dullah Omar

Cecille van Riet, a director at Lawyers for Human Rights, said the transformation process had to go ahead but expressed concern that it was moving too slowly

She said that was mainly because 11 different justice ministries had existed in the past


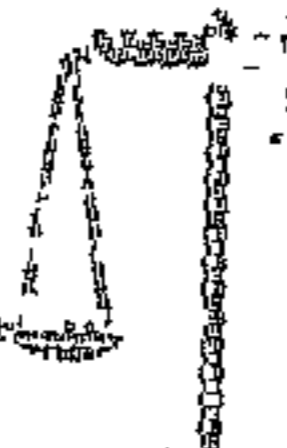




"Today, we have a single ministry and the task of amalgamating structures that were created in the past into one is a mammoth one," she said

According to Van Riet, the task was further complicated after the ministry's budget was cut by 2% a year for the last two years

"Minister Omar appears to have adopted a sensitive and reconciliatory approach to the transformation which may have its merits, but is slowing the process down," she said

Advocate Justice Phoswa, the president of the Black Lawyers' Association, said he believed the delays in appointing more black people to the High Court bench was a factor inherited from the past "It appears that on the eve of the April 1994 elections many young white judges were appointed to the bench. Black advocates would probably have to wait a while before any future vacancies are forthcoming since appointments to the bench are for

/20/2/97

CHANGING FACE OF THE SA JUDICIARY			
<b>April 1994</b>		<b>January 1997</b>	
	<b>JUDGES:</b>		<b>JUDGES:</b>
	White males 179		White males 156
	White females 6		White females 7
	Black males 1		Black males 20
	Black females 0		Black females 3
	<b>TOTAL 186</b>		<b>TOTAL 186</b>
	<b>REGIONAL MAGISTRATES:</b>		<b>REGIONAL MAGISTRATES:</b>
	White males 160		White males 164
	White females 5		White females 7
	Black males 1		Black males 19
	Black females 3		Black females 4
	<b>TOTAL 169</b>		<b>TOTAL 194</b>
	<b>MAGISTRATES:</b>		<b>MAGISTRATES:</b>
	White males 655		White males 669
	White females 200		White females 189
	Black males 39		Black males 453
	Black females 14		Black females 76
	<b>TOTAL 908</b>		<b>TOTAL 1 387</b>

\*excludes former homelands

life," said Phoswa.

Since April 1994 only 22 blacks (African, coloured and Indian) have been appointed as permanent judges to the High Courts. That represents only 11,85% of the total positions on High Court benches

Justice Department statistics for 1997 indicate that of the 1 387 magistrates in South Africa, 529 are black and 858 are white

According to Advocate Pieter du Rand, chief liaison officer for the Justice Ministry, most of the personnel changes within the ministry began to take place after the April 1994 election when the

ANC government came to power

"At that time the need to redefine the ministry and make it more broadly representative of the various communities was clearly evident," Du Rand said

"Prior to 1994, the Supreme Court was almost exclusively white with the only exception being one black judge," he said

Du Rand pointed out that most of the recent senior appointments have been black. Mr Justice Ismail Mohammed was appointed as the new Chief Justice on January 1 1997.

In addition, various blacks have been appointed as chief

magistrates, regional court magistrates, regional court presidents and senior magistrates

Black magistrates have been appointed to senior positions in five major cities in the country MC Bashe (Johannesburg), DS Kondile (Port Elizabeth), TJ Raulinga (Bloemfontein), MI Mkize (Durban) and A M Laugaju was appointed as president of the regional court in Cape Town.

"These appointments coincide with our policy of addressing the imbalance created in the past, but there is still a long way to go before a truly representative situation exists," said Du Rand.

## Clergy draws TRC criticism

(252)

JOHN YELD

ON THE TRUTH COMMISSION

ARG 20/12/97

Oudtshoorn. - The absence of white church ministers from a meeting here aimed at reconciling the once sharply divided Oudtshoorn community drew criticism from Truth Commissioner Mapule Ramashala.

Dr Ramashala is a member of the commission's reparations and rehabilitation committee, which organised yesterday's meeting.

The meeting, the first of its kind, was to enable the committee to hear submissions from the Oudtshoorn community on how to structure its policy recommendations in December.

Dr Ramashala noted the presence of whites in the audience, and said this was "heartening".

"Oudtshoorn can never move forward without everybody's commitment," she said.

But she criticised the absence of white clergy and appealed to the Southern Cape Council of Churches to play an active role.

# Missing files 'not destroyed'

(252) CT 20/2/97

It was believed that a number of missing intelligence service files had not been destroyed, but were being kept by certain people to protect themselves, Deputy Intelligence Minister Mr Joe Nhlanhla said yesterday.

He hoped these files would eventually be retrieved, he said at a media briefing on the intelligence services.

However, it was true that the destruction of documents had been widespread.

The directors-general of the National Intelligence Agency and the South African Secret Service had been given instructions to conduct a comprehensive audit of all documentation within the services.

Asked whether the services co-operated with the Truth and Reconciliation Commission, Nhlanhla said that if the services had

information the TRC needed, they had no problem in giving it to them.

This meant the TRC had access to classified documents.

While no country could do without intelligence services, which could be likened to insurance, the service was in the process of making itself fully accountable, Nhlanhla said.

Justice Minister Mr Dullah Omar said South Africa needed an effective intelligence capacity to protect democracy and help fight crime.

The focus of the service was to ensure that intelligence existed and to co-operate with the police to ensure that intelligence was converted into evidence.

It was essential for South Africa's intelligence service to be dedicated to upholding democracy, Omar said. — Sapa

# Two rulings that can derail TRC operations

Star 21/2/97

(252)

Although the official response has been slow, two court rulings in recent weeks may have a far-reaching effect on the Truth and Reconciliation Commission's operations

In one case, a Cape High Court judge ruled that a person could not be prosecuted for a crime committed more than 20 years ago, in another, the Appeal Court ordered the commission to provide "timely and reasonable" notice to alleged human rights violators expected to be named during a public hearing

In both cases, TRC spokesman John Allen responded that the commission's legal department was studying the ruling. But behind the scenes there is acknowledgment of the implications these rulings may hold for the commission's efforts to get to the truth about our past

The effect of the first ruling may be that perpetrators of political crimes committed before 1977 will not feel the need to apply for amnesty because there will be no sanction if they don't

Almost all the amnesty applications from former members of the security forces so far are from people who are either in jail or face a very real prospect of successful prosecution. The desire to unburden the heart has had very little to do with the confessions received so far, and if that possibility of punishment is removed, so may be the only motivation to apply for amnesty

So far no one has applied for



VIEW

By Robert

Brand

general is appealing against this ruling, which was based on an obscure 19th century provincial statute, and one can only hope that he succeeds

The Appeal Court ruling is even more serious. Already, there is talk in the commission's Johannesburg office of postponing a hearing scheduled for the last week in February because there is not enough time to notify all the alleged perpetrators identified in witnesses' statements

Briefly, the background is this: the Promotion of National Unity and Reconciliation Act says that perpetrators named at public hearings should be notified of the allegations made against them and should be given a chance to state their side of the story. But the act also enjoins the commission to respect the dignity, safety and privacy of victims and their relatives

The spirit, if not the letter, of the law seems to be to give victims the opportunity to speak their minds without fearing legal or other consequences

The commission interpreted the act as meaning alleged perpetrators only had to be notified *after* being named at a hearing, nevertheless it decided to give them prior notice without naming the witness or giving substantial details of the allegations. Thus two retired security policemen, Brigadier Jan du Preez and Major General Nic van Rensburg, received notice that a witness intended implicating them in the "1981 disappearance and probable

murder of Siphiwe Mhmkulu, an Eastern Cape activist. They received the notices on a Saturday, the hearing was scheduled to start on Monday

They sought, and obtained, a court order preventing the commission from hearing the evidence of the witness, Mhmkulu's mother Joyce Mhmkulu. The TRC successfully appealed to a full bench of the Cape High Court. Du Preez and Van Rensburg then took the matter to the Appeal Court, and won the day

Chief Justice Michael Corbett said although the alleged perpetrators were not entitled to a disclosure of the witness's identity, they had a right to fair procedural treatment, and this included the right to be receive "timely and reasonable" notice that allegations would be made against them, as well as details of those allegations

The advantages of such notice were obvious, Judge Corbett said. It would enable the accused to attend the hearing in person and be legally represented, to rebut the allegations immediately if they could, and the commission might even be obliged to afford them the right of immediate cross-examination to test the veracity of the allegations

One wonders if it was necessary to go through the whole charade of obtaining court orders to protect one's "rights" if, as it now turns out, that amounted to the "right" not to have substantially true allegations made against one?

Consider Joyce Mhmkulu's words after she heard about their confession: "If they had told the truth from the start, I may have forgiven them. But they tried to gag me, and now that I can never forgive"

Although the ruling will not, after their confession, protect the good name of Van Rensburg and Du Preez, it has the potential to bog the commission down in a bureaucratic nightmare. Officials will have to sift through every statement made by a potential witness, identify alleged perpetrators, track them down, and serve notice on them before the evidence could be heard in public. The perpetrators may have to be allowed to cross-examine witnesses

Perpetrators already named in previous hearings may have to be given the opportunity to state their case and cross-examine those who made allegations against them. In the short time left for human rights violations hearings, this procedure could certainly stunt the commission's ability to hear as much about our past as possible from the perspective of the victims, those whose stories the legal system in the past discarded

## Committee 'heartened' by attendance of whites

By JOHN YELD

The TRC's reparations and rehabilitation committee met in Oudshoorn this week to hear submissions from the local community on how to structure its policy recommendations on compensation for the victims of apartheid

Addressing about 150 people at the start of the proceedings, Truth Commissioner Dr Ramashala Ramashala pointed out that the commission's human rights violations hearings had concentrated on what had happened to individuals during 1960 and 1993

In contrast, this hearing was designed to understand the consequences of those violations at the community level and would concentrate on three aspects

- Strategies for improving the quality of life of all Oudshoorn residents
- Discussion about the process of healing
- Discussion about how the Oudshoorn community could unite "making it the best it could ever be and somewhere down the line talking about reconciliation"

Nothing the presence of whites in the audience, Dr Ramashala said, was "really heartening" as "without the commitment of everyone, Oudshoorn can never move forward"

But later she criticised the absence of white pastors and appealed to the representatives of the Southern Cape Council of Churches at the meeting to "send them a message"

### TRC DIARY

**MONDAY**

On Monday, the TRC's amnesty committee resumes its hearing of amnesty applications by five former Northern Transvaal security branch policemen who, between them, have confessed to about 40 murders. The five are former Vlakplaas commander Brigadier Jack Cronje, Colonel Roelof Venter, Captain Wouter Mierz, Captain Jacques Hechter and Warrant Officer Paul van Vuuren

During the first part of the hearing, in October last year, the five gave evidence about the assassination of Mamelodi doctor Fabian Ribeiro and his wife Florence, the killing of about 18 Mamelodi youths, the murder of KwaNdebele cabinet minister Piet Ntuli and the torture deaths of two suspected ANC activists. Still to come is their testimony on the so-called Zero hard grenade case, in which at least eight activists were killed by booby-trapped grenades supplied by the police, as well as a number of other murders, assaults and cross-border operations. The hearing, which is open to the public, will be held at the Council Chamber, Muntoria, in Pretoria. It starts at 9:30am

**COMING UP**

The commission's human rights violations committee has scheduled a hearing in the Northern Province starting on March 3. Also in March, the commission will hold a hearing on death squads in KwaZulu Natal and on submissions made to the commission by political parties. Details of these hearings will be released later

# Anti-crime bills aim to 'tighten up on bail'

## Tougher jail sentences on the cards

ARG 22/2/97 ~~253~~ (252)

**WILLIAM-MERVIN GUMEDE**  
POLITICAL STAFF

**South Africa's hard-working Ministry of Justice is going into overdrive this parliamentary session.**

Justice Minister Dullah Omar, in his blueprint to win the country's war against crime – the Justice Vision 2000 unveiled last week – has set out a long list of anti-crime bills to be pushed through Parliament this year.

The tightening up of South Africa's much-maligned bail system is at the heart of the upcoming Criminal Procedure Amendment Bill, which will allow the courts, in certain circumstances, to refuse bail.

"My view is that courts should be compelled to refuse bail in appropriate cases, and legislation is being considered in this direction. At the same time consideration will be given to the constitutional implications," Mr Omar said.

He said the tightening up of bail conditions would strengthen the hands of Government and the courts in protecting the community against serious criminals.

The Judicial Matters Amendment Bill provides that the ceiling on maximum sentences – that regional courts can impose – will be raised from five years to 10 years, and in the case of smaller district courts, from one year to three years.

The Cabinet had approved the principle of legislation for compulsory minimum sentences for certain serious crimes, such as gang and drug-related offences.

The community will also have a hand in sentencing – recommending whether the courts should hand out lenient

or tough sentences in individual cases.

The Department of Justice is also thinking about putting together a "national sentencing policy".

Mr Omar's dream of greater community involvement in criminal courts will move a step closer to realisation when laws to expand the lay-assessor system in lower courts will be introduced to Parliament. Mr Omar said draft proposals have been worked out.

South Africa could have its first Office for Witness Protection, responsible for the protection of witnesses. A Witness Protection Programme Bill makes provision for the placing under protection of a witness, prospective witness or a person who has given evidence in court or before a commission, at his or her request.

Legislation to provide greater protection to victims is also in the pipeline. The SA Law Commission has urged the Government to establish a compensation scheme for victims of crime.

Mr Omar said Section 300 of the Criminal Procedure Act, 51 of 1977, makes provision for the payment of compensation to victims of crime at the request of the prosecutor. However, these claims are limited to damage or loss of property. The Act does not make provision for compensation to victims for injuries sustained, or the payment of compensation to the family, if the victim was killed.

There is no State compensation fund to assist victims of crime. And, as far as protection

of witnesses, which includes the victim, is concerned, only a limited service is provided, due to the lack of funds.

Mr Omar said the Prevention of Crime Fund Bill will, for the first time, provide for the formation of a State fund to compensate victims of crime.

In line with popular thinking that the courts should mete out tougher sentences to deter crime, the Minister said legislation would be introduced this year that would increase the sentencing powers of the lower courts. The Justice Department has launched the "No Violence Against Women" campaign. It has re-examined whether the laws regarding violence against women and children are still relevant.

It has, for example, been re-examining at the definition of rape.

Bills aimed at making prosecutions – and court management of cases involving violence against

women and children – more sensitive and compassionate are also being drafted, he said.

Special courts are also mentioned as an option, although many Attorneys-General are sceptical of such courts.

The magistrates' debt collecting procedure will also see a major revamp with the Court Amendment Bill, which hopes to simplify the country's confusing debt collecting procedures. It wants to regulate the at-times chaotic debt collecting profession. A Bill to establish a Council of Debt Collectors, to set minimum standards for debt collectors, are in the pipeline.

The Bill also supports the Constitutional Court's landmark judgement that to be jailed for debt was unconstitutional. Then there is corporal punishment. Mr Omar wants to make whipping as punishment unconstitutional.

South Africa's law at present allows for whipping as a punishment for adult males between the ages of 21 and 30 years. Juvenile whipping has been outlawed.

The possibility of creating a separate juvenile justice system is also being investigated.

And, the Department of Justice wants to give natural fathers a greater say over their extra-marital children.

The Powers of Natural Fathers of Extra-marital Children Bill will deal with the right of access to, custody and guardianship of these children.

The Bill, suggested by the SA Law Commission, gives fathers an undisputed right to approach the courts to gain access to their children.

The courts will be able to provide such access, if satisfied that it is in the best interest of the child.

Mr Omar hopes to finally scrap the apartheid-inspired Divorce Courts for Blacks, which dates back to 1927.

These divorce courts were established under the Black Administration Act to hear separation and divorce cases of blacks.

This Act is in conflict with the equality clause in the new Constitution, and the Department hopes to introduce new legislation to scrap these courts replacing them with family courts.

Tougher legal action is envisaged for men avoiding contributing to maintenance for their children.

**'Legislation to provide greater protection to victims is also in the pipeline'**

# Steyn lifts the

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el 23/2/97

# covers

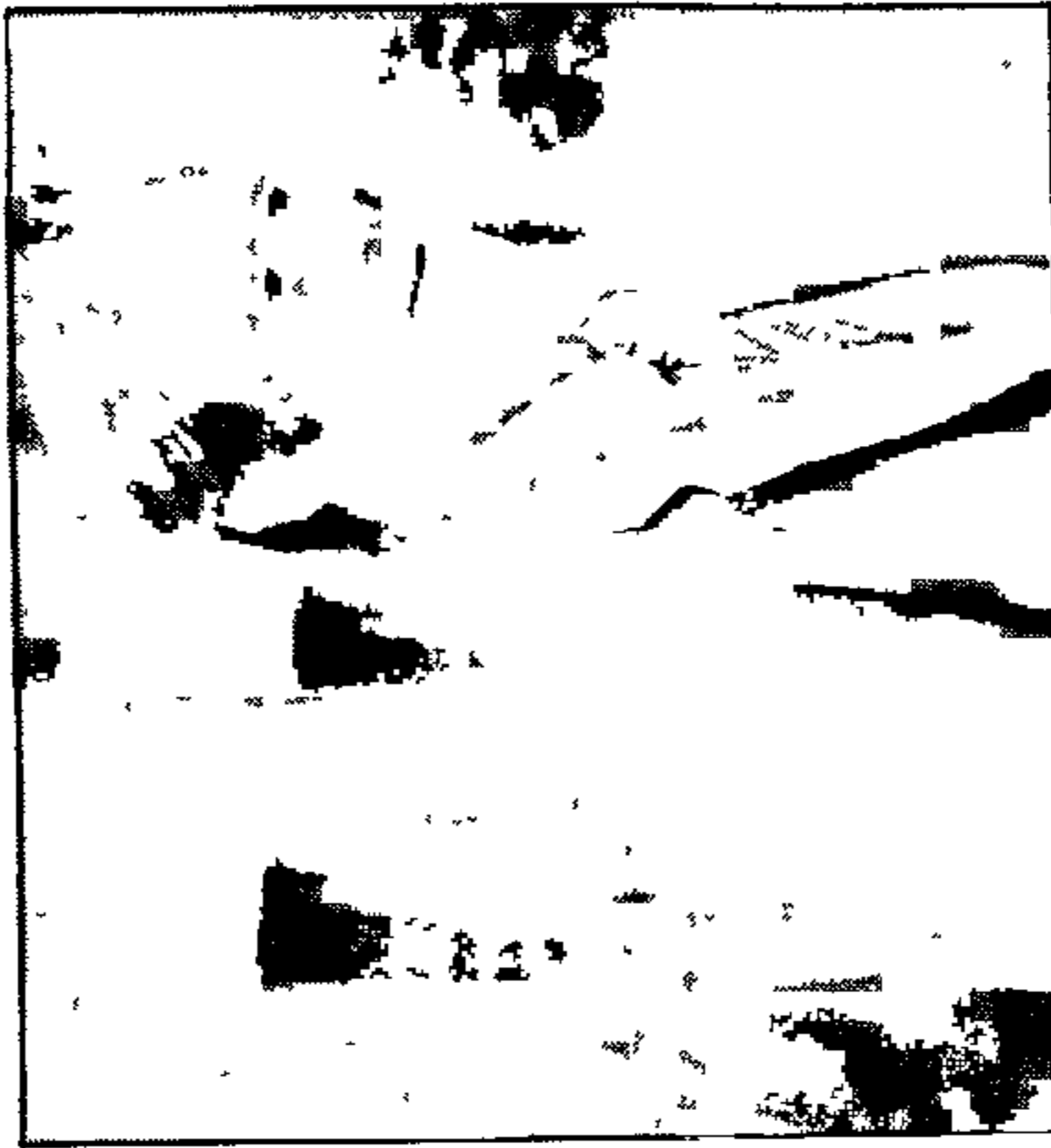
By DESMOND BLOW

**THE STEYN Report reveals that not only were many officers and people who had contact with the Directorate of Covert Collection (DCC), which fell under the Directorate of Military Intelligence, involved in criminal activity, but some were unfaithful to their wives.**

General Pierre Steyn was asked to investigate the DCC after a raid by the Goldstone Commission on DCC headquarters in Pretoria. Among those investigated were operatives of the CCB, the clandestine military hit squad, such as former cop Colonel Staal Burger, alias Bert, alias Brummer, who was regional manager of the CCB, and JG Nieuwoudt, alias Neuman.

Both Burger and Nieuwoudt are listed in the report as having an extra-marital affair, and Burger is also listed as being involved in smuggling.

**'Covert operatives were unfaithful to their wives as well as being criminals'**



**BREAKING LAWS, AND VOWS**  
Former policeman and regional manager of the CCB, Colonel Staal Burger, who was listed by the Steyn Report as being involved in smuggling and having an extra-marital affair

Major AM van der Berg of the SADF was also named as having an affair, and was listed as being involved in corruption.

The Steyn Report also revealed that although the CCB was abolished in 1990, a similar type of or-

ganisation was privately initiated in 1992 with the promise of funding estimated to be between R30 million and R120 million.

The CCB, consisting mainly of former cops, is reputedly responsible for the assassination of activ-

ist Dr David Webster in Johannesburg and Anton Lubowski of Swaziland in Namibia.

Dr Wouter Basson, currently on trial for dealing in Ecstasy tablets, and who was named in the Steyn Report as being involved in chemical warfare and widescale corruption for personal gain, made various promises of financial support at a fund-raising event for the "new" CCB, and suggested that US\$7 million to \$10 million was available from the Chief of Staff of the Belgian Defence Force.

The former managing director of the CCB, Joe Verster, was said to have R19 million available, gleaned from criminal activities. Steyn said when permission to get the CCB going again was not forthcoming from the SADF, it was decided to go ahead privately. Verster was known to have been on a recruiting drive in the Johannesburg area in July 1992.

It was said this was connected with establishing a security and transport company to transport goods to frontline states, but he appeared to have access to vast quantities of money, and he had contact with a general in the SADF.

It was rumoured that Eugene de Kock, who was in charge of the Vlakplaas police hit squad, was to leave the SAP and join him, and that De Kock would bring along weapons and a number of colleagues, Inkatha members and his brother, a former member of the East Rand Murder and Robbery Squad.

The report said ex-CCB members socialised at favourite hangouts in Pretoria, including the La Fragola restaurant in Sunnyside, Eagle's Nest in Valhalla, and the Oyster Bar in Lynnwood.

Steyn recommended action be taken against many officers, including generals FW de Klerk, who was president at the time, fired and retired more than 20 of them, including Staal Burger and Chappies Maree, and the latter was found to have been rehired by the DCC after the CCB was shut down.

Steyn had recommended action be taken against General Georg Meiring, then head of the army, but for following his own agenda, but that no action should be taken against General Chris Thirion.

However, De Klerk took no ac-

tion against Meiring, but retired Thirion.

Steyn also named 23 people who worked with or had contact with the DCC, and who were involved in criminal activities and in some cases extra-marital affairs, or were still in contact with ex-CCB members. Some were businessmen.

Among them was Johan "Rich" Verster, alias Jessie Grant, who was named as being involved in criminal activity, and ex-CCB operative Calla Botha, who was in contact with Verster.

Another was ex-CCB operative Ferdi Barnard, alias Lanco Heins, who was named for smuggling, and Leon Flores, who was in regular contact with Eugene de Kock.

Steyn also named 12 people outside the SADF with potential hidden agendas or who were involved in violent activities, including Eugene de Kock and former SADF Colonel Jan Breytenbach.

Another 60 people were named who were either ex-CCB members or people in contact with CCB members - including spy Eugene Riley and spy and triple-murderer Craig Williamson.

# Justice for all, without the frills

CP 23/2/97 (252)

**HIS appointment last week as the first African judge in the 13-strong Grahamstown High Court bench was by all accounts unanimous among the 'brethren', as the eagles of the bench like to call each other. MIKE LOEWE spoke to Judge Lex Mpati, and found a man who steadfastly refuses to alter his warm and humble nature. He is indeed an 'everyman'.**

## THE HONORABLE Mr Justice Lex Mpati (47) is in no rush to acquire the elegant trappings which go with the job, such as a luxury German car.

"I want a bakkie," the first African judge to take chambers in the capital of the Eastern Cape judiciary says with passion

After stepping out of his modest silver Cressida and walking to the edge of Grahamstown, Judge Mpati slowly removed his jacket and the, stooped to the ground, and withdrew his full judge's robes from a crimson velvet bag with the initials "LM" embroidered on the side in shiny gold thread

It is a measure of the man that the former in-house counsel for Grahamstown of the human rights-focused Legal Resources Centre refused to have his judge's gowns made from fancy maternal - opting for simple Trevira wool instead of silk

Moments later, he stood resplendent on Gunfire Hill, and spreading out behind him in a wide panorama lay Grahamstown, visibly split into town and township

This week, as students poured into the town below to start their

year at Rhodes University, Mpati might have thought of his own student days. They were neither so carefree, nor so secure

He was a mature student whose love for law was sparked mostly by his distaste for what he saw as the ruthless treatment of black people by an indifferent and authoritarian judicial system

He once had to defend himself in a magistrate's court in High Street. The experience spurred him on to become one of Grahamstown's "watchers" - one of those people who could be found on any day on the gallery benches observing the parade of punishment ordered by the apartheid rulers

Swept along by burgeoning black resistance in the 1970s and 1980s, the young Mpati enrolled for a law degree at Rhodes. By day he was a student, but by night he led a working man's life, serving liquor to his classmates and members of the legal bar - from behind the bar at the Settler's Mojel

He also worked as a petrol jockey to help fund his law studies and to help his family of four. However, it was the student nursing wages earned by his wife, Mfihlale Nontobeko at the Pelonomi Hospital at Bloemfontein which kept the family going

The Mpatius worked hard to ensure their children got the best education. Their oldest son Lyle Luthango (23) is studying mechanical engineering at the Port Elizabeth Technikon; their attractive daughter Dawn (22) is in her final year of law at Wits and working as an SABC television presenter, their son Ludi is in standard four at the highly regarded State school, Graeme College, and little Denni (7) is attending Sub A at St Andrews primary

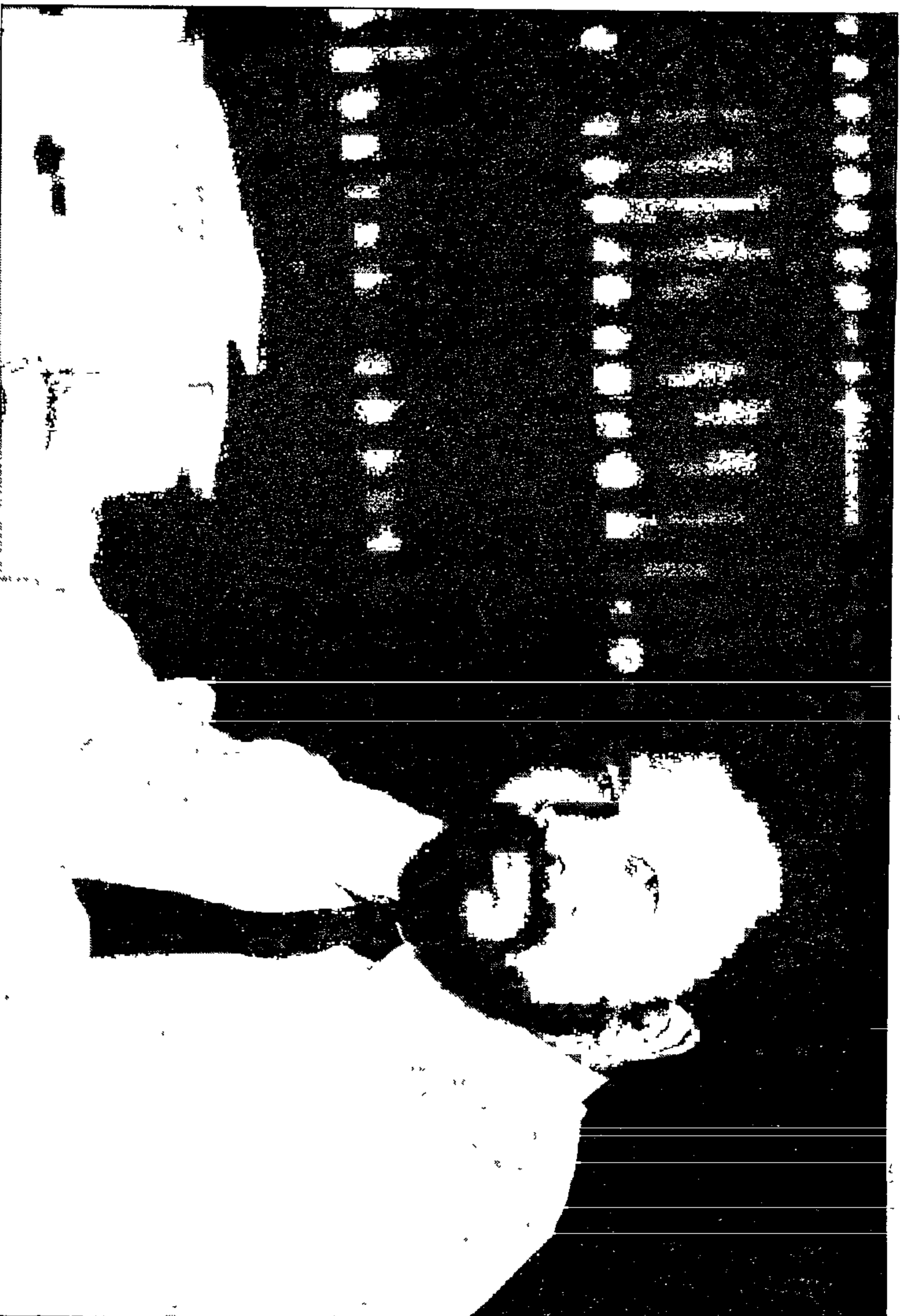
After graduating, Mpati says, he spent many years defending black people charged in the lower courts with political dissidence - the old "public violence" charges

These sentences were mostly upheld by the judges, many of whom are still in office and whom he hopes will have taken notice of the new Constitution and the fact that democracy has come to South Africa

A partnership in local law firm Netteltons in that period did not inspire the Mpatius to become upwardly mobile. While most of Grahamstown's legal fraternity lived in splendid homes - many of them Victorian masterpieces - Mpati moved only once, from a simple township home in Victoria Street in Fungo Village where he lived for 22 years, to a modest home in the former coloured areas. That move was in 1986 - and he recently moved again, to a home 500 metres away in the same area

Mpati is adamant that he is a "people's person", and that he is an uncompromising African humanist at heart - and intends to stay that way

He said "I am a black person through and through. I believe in my culture and practise it. It will take a hell of a long time to get me Westernised to the extent that I forget my culture



**A FUTURE OF FAIRNESS** The Honourable Mr Justice Lex Mpati in his chambers in the Eastern Cape High Court. He chose to be a judge after witnessing the atrocities being visited upon his fellow countrymen under apartheid, and is committed to making himself accessible to all, and rigorously upholding the law

Photo: ELSABE VAN TONDER

"People around here look at me as part of the community, as an ordinary person, and I intend to keep it that way. I'd like to lead the same social life as before my appointment. I'd like to go out, talk and drink

"What black people like is if you are holding high office you should still be seen as being part of them, and not unreachable. That is what I try to do. I still have the friends I had before joining the legal profession - ordinary people, with whom I played rugby," he said

He also had no hesitation in sending his eldest son for circumcision - and not at the hospital, but "to the bush, boy." However, he is concerned about the recent 83 circumcision deaths, which he felt resulted from unscrupulous operators who were capitalising on the manhood ritual

As part of his link to the community, he serves on the disciplinary committee of the SA Rugby Football Union and has strong

views about the lack of change in the union

"One would like to believe that the unity process in rugby has succeeded, but it is disappointing to note that few, if any, blacks have come through to the A sides," he said

This was in spite of Sarfu's development portfolio and the fact that unification took place in 1992

Our interview had started in his modest, half-bare new chambers. He has a wall of legal books on one side of the room, a row of empty bookcases opposite, and there is not a single picture on the walls. His desk, however, leaps out at the observer - it is laden with books, papers, court records and other signs of the workaholic

It was from this humble office that Mpati launched his judicial career in June last year as an acting judge

Since then he has started increasing sentences for people who appeared to be getting away with

rape and murder. He and Judge LE Leach ruled in an appeal case that a rapist who was given a suspended sentence would have to sit for eight years. In other cases he has ruled that family killers get between 14 and 18 years in jail

Mpati firmly believes that the media should be helped to do their job in popularising court proceedings and sentences. He believes the media and public should have more access to judges outside the courtroom, although this must not be allowed to affect the decisions they have come to, or compromise them in any way

His appointment as the first African judge in the 13-strong Grahamstown bench - historically the province's judicial capital - was by all accounts unanimous among the "brethren", as they call each other

There are only two black judges in Grahamstown, one of whom is Indian, while only seven out of 24 Eastern Cape judges - including former Ciskei and Transkei - are

black. There are no women judges in the Eastern Cape

And yet, the man who comes with accolades from legal legends such as senior counsel George Bizos - "I always knew you would make it" - says he almost turned the post down

He said "I ordinarily would not have allowed my name to go forward for selection, but what came to mind is that the vast majority of Africans who bore the brunt of the onslaught have viewed the entire legal system as illegitimate. In those days we were often fighting to prevent our clients from going to the gallows

"That has changed now, and it is time to reverse the perception. I felt that one of the ways that we, as black people, could change it was to accept this appointment. People must see that the courts are manned by black people and say 'It is one of ours'. That was my main consideration in becoming a judge," he said. - Eona Weekend Service



'mandrax doctor'

# Basson

Amazing admission by Ronnie Kasrils about

# ANC hired

ST 23/2/97

By MARLENE BURGER

DEPUTY Defence Minister Ronnie Kasrils yesterday admitted that the ANC government had ordered in 1995 that sacked chemical warfare expert and alleged drug dealer Wouter Basson be rehired by the military.

Basson was dismissed and given a generous retirement package five years ago by President F W de Klerk after being implicated in alleged crimes ranging from distributing mandrax to murder.

Kasrils said that Basson had been reappointed to the SA National Defence Force on the orders of Defence Minister Joe Modise because it was "in the national interest".

The appointment, at a higher level, contravenes public service regulations which prohibit the permanent reappointment of an official who has opted to take a severance package.

Basson, who was arrested on January 29 on charges of dealing in the designer drug ecstasy, was one of 23 senior officers purged from military ranks in the wake of the 1992 Steyn report on alleged criminal activity and irregularities perpetrated by Military Intelligence.

In January 1993, he left the defence force as a brigadier but since October 1995 has been chief cardiologist, at the level of a major-general, at 1 Military Hospital.

Defence secretary Pierre Steyn, the man who recommended Basson's dismissal in 1992, said yesterday he had been "horrified" to learn "some time after it happened" that Basson was back on the military payroll.

"I immediately lodged a strong protest with (Surgeon General) Niel Knobel. His response was that the matter had been discussed with Georg (Meiring, chief of the SANDF) and that they had agreed it was in the best interests of the SANDF to reappoint Basson. I then reminded him how prominently Basson had featured in

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my 1992 report, and suggested that bringing such a man back into the military fold was a stupid thing to do," said Steyn, who effectively becomes head of the SANDF on April 1.

Knobel's reaction, he said, was that Basson's appointment had "support at the highest level of authority".

"At that point, I warned him that it was a step he would regret," said Steyn.

Basson, the kingpin behind Project Coast, the sophisticated chemical and biological warfare programme developed in South Africa during the 80s, claimed in court two weeks ago that his reappointment had been the result of intervention by "the cabinet and State President".

Jakes Gerwel, director general in President Nelson Mandela's office, denied this weekend that either the President or the cabinet had been involved in Basson's reappointment.

However, Kasrils admitted that the instructions to bring Basson back into the military fold had been issued by the defence ministry to Meiring and Knobel.

"Given the information to which Basson is privy, and the position he previously held, the only way we could bring him under control was to re-employ him. We were fully cognisant of the allegations in the Steyn report, but we were also aware that Basson had made a number of trips abroad, including one to Libya," he said, adding that they did not want Basson's expertise to fall into the wrong hands.

Cheryl Carolus, the deputy secretary general of the ANC, last night objected to the Sunday Times linking the ANC to the reinstatement of Basson. She described it as "cheap sensationalism" and said the ANC and SANDF were two different organisations.

The Editor of the Sunday Times, Brian Pottinger, said the decision to re-employ Basson was taken by an ANC minister and an ANC deputy minister serving in an ANC-dominated government.

# Press wants facts on chemical warfare

By MARLENE BURGER

AN APPLICATION by the Sunday Times and its sister newspaper, Business Day, to gain access to testimony given in camera about South Africa's chemical warfare programme, will be heard by the High Court in Pretoria on March 4.

The evidence was given under cross-examination by the head of the South African Defence Force's top-secret Project Coast, Dr Wouter Basson, when he applied for bail recently after having been arrested on charges of dealing in the drug ecstasy.

The media were excluded from the hearing on the grounds that Basson's testimony would reveal state secrets.

The Sunday Times is seeking access to the court record on the grounds that the constitutional right to information has been infringed.

# Basson murder link to be probed

(252) ST 23/2/97

By MARLENE BURGER

INVESTIGATIONS into the activities of chemical warfare expert Dr Wouter Basson, already being conducted on four fronts, may be extended to include a number of bizarre murders which have baffled police since 1991.

The probe by Transvaal Attorney General Dr Jan D'Oliveira's third-force investigators has moved into top gear since several boxes of secret documents were seized following Basson's arrest on January 29 on drug-dealing charges.

Sources close to the investigation say that Basson may also be investigated in connection with the unsolved murders of

- Thor Chemicals executive Alan Kidger, whose dismembered body was found in the boot of his abandoned BMW in Soweto in November 1991. It has now emerged that, shortly before he died, he sold 2,5 tons of mercury oxide to Delta G Scientific, an SADF front company, for R120 000 cash.
- John Scott, manager of the Randburg branch of German chemical company Wacker Chemicals, who

was found gassed in his car after he apparently stabbed to death his wife, Andrea, and daughters Sarah, 5, and Helen, 3. There is now some doubt that Scott committed suicide.

- Chemical engineer Wynand van Wyk, who was bludgeoned to death in a Sea Point hotel in 1993.
- Trevor Carter, an employee at a Johannesburg chemical company, who was shot in the head in March 1994.
- Durban-based international arms dealer Don Juan Lange, found dead in his La Lucia flat in June 1994 with a bag linked to a cyanide cylinder over his head.
- International arms dealer Dirk Stoffberg and his wife at their home overlooking the Hartbeespoort Dam in 1994.
- The execution-style killing of two young men, Scott Ayton and Felix Coetzee, who died of single gunshot wounds to the head after being bound and gagged in Ayton's parents' home in Walmer, Port Elizabeth, in May 1995. Coetzee was employed by Algorax, manufacturers of carbon black.

# Press group sends report to TRC

CT 24/2/97

(252)

**WILLEM STEENKAMP**

INDEPENDENT Newspapers last week became the first media group to make a submission to the Truth and Reconciliation Commission (TRC) on its role in apartheid South Africa from 1960 to 1993.

A 55-page report, compiled by former Natal Mercury editor Mr John Patten, was submitted voluntarily to the TRC on Friday.

In the report Patten concludes that while the company was consistently anti-apartheid in outlook and newspapers took many risks in covering the news of the day, they failed in many other ways in exposing human rights abuses.

Heading the list of shortcomings is the admission that the com-

pany's "commercial viability" — the need to make profits, attract advertisers and "relate especially to core market readers" — inhibited it in publicising apartheid abuses.

The report also states that newspapers did not try hard enough to circumvent restrictions placed on them until the instatement of the emergency restrictions in the mid-1980s.

The company was also guilty of discrimination, including allowing white perceptions to dominate news-gathering, while the reverse was true in black newspapers.

There was also discrimination in reporting accidents and crime. The "gradualist" anti-apartheid editorial policies caused the perception that the company colluded with

apartheid, and that there was a "paternalistic" attitude toward some black editors, the report states.

Other discriminatory practices included petty apartheid in the workplace. The recruitment of black staff began in earnest only in the 1970s and the advancement of black staff proceeded too slowly.

Contributions by black staff were not recognised and they were not timeously rewarded, and some black staff were paid less than their white colleagues.

Patten notes that journalists were subjected to "naked propaganda" by the state but did not counter-balance this properly.

He also identifies human rights abuses suffered by the company and its staff members.

# Anger at decision to employ sacked scientist Basson

SAW 24/2/97

(272) ( )

Modise and deputy Kasrils must appear before parliamentary committee to explain 'an abuse of power' - says DP

## STAFF REPORTERS

The National Party has reacted with indignation to the revelation that the apartheid era military scientist it dismissed during a purge of senior officers in 1992 was re-employed - and at a more senior rank - by the post-apartheid defence force.

The NP defence spokesman Gerhard Koornhof said last night it was another blunder and his party, "together with thousands of law-abiding citizens, is becoming disillusioned with the present Government's actions".

And the DP defence spokesman Douglas Gibson declared he would insist that Defence Minister Joe Modise and his deputy Ronnie Kasrils must appear before the parliamentary committee on defence to explain what could only be described as "an abuse of power".

Kasrils said last night the decision to take back into the army Wouter Basson - a chemical warfare expert who is now facing criminal charges of being a drug dealer - was taken "in the national interest" when the NP was still in the Government of National Unity and it had been party to the decision.

NP leader FW de Klerk is expected to respond today to Kasrils' claim that he was consulted on the decision in his then capacity as deputy president.

Basson was one of 23 senior officers dismissed from the military in 1992 after the Steyn Report implicated them in criminal activities and dirty tricks by Military Intelligence.

Basson was arrested last month on charges of dealing in the rave drug Ecstasy while working as chief cardiologist at 1 Military Hospital outside Pretoria, where he now heads the SANDF heart transplant programme.

Gibson said: "The ANC quite correctly adopts a high moral stance about the ghastly goings-on which took place under the NP's rule. To discover that the ANC is just as bad will come as a shock to many South Africans," Gibson said.

Kasrils said the decision to re-employ Basson was taken because of fears that he might disclose secrets to other countries as a free agent.

"By reappointing him to the SANDF we were able to bring Basson, who was the leading scientist in the apartheid era charged with developing the country's

chemical biological programme, under a greater degree of control," Kasrils said.

"His court appearance widely publicised the fact that he was re-employed by the SANDF and this is by no means a big secret as implied by the newspaper report."

Furthermore, Kasrils said, the appointment was not made in contravention of the public service regulations as implied by the report. Approval had been obtained from the office of the Public Service Commission.

The Sunday Times newspaper reported that Defence Secretary Pierre Steyn, the man who had recommended Basson's dismissal in 1992, said he had been "horrified" to learn that Basson was back on the military payroll and had lodged a strong protest with Surgeon-General Niel Knobel.

Basson, the kingpin behind the chemical warfare-based Project Coast in the 1980s, claimed in court two weeks ago that his re-appointment had been the result of intervention "by the Cabinet and the state president".

Jakes Gerwel, director-general in the president's office, denied that either the president or the Cabinet had been involved in Basson's reappointment.

# Victims of crime, victims of justice

## Law Commission slams 'ineffective' support services

(252)

LINDSAY BARNES

CRIME DESK

The South African Law Commission has slammed support services for victims of crime and violence as ineffective and has called for a Victim's Advisory Council to be set up to address their plight.

They have also called for a compensation scheme for victims of crime. The suggestions followed a meeting of the commissioner's project committee on sentencing in January during which victim support was discussed.

The report said the council should include representatives from the departments of justice, health, welfare, police services and community-based organisations. The proposals have drawn support from

the Human Rights Commission which said the proposals would help develop an ethic of victim accountability among the police and court officials.

"Many complaints to our offices are from victims of crime who have received little, if any response from the South African police service or public prosecutors subsequent to laying a charge," said Human Rights Commissioner Rhoda Kadahle.

"We are alarmed at the apparent lack of accountability displayed to complainants by the police and court officials. It is unacceptable and inappropriate," she said. The Law Commission said in its statement "Many victims go unsupported, remain traumatised, become victims again or even turn to crime and violence themselves."

The commissions other recommendations include

■ Legislation should guide the treatment of victims of crime to ensure they are dealt with sympathetically, constructively and in a reassuring manner.

■ Due regard should be given to the victim's personal situation, rights and dignity.

■ Victims should be informed regularly of the progress of police investigations unless disclosure might hinder the investigation.

■ They should be told of charges laid against the accused and any decision of the accused to accept a plea of guilty to a lesser charge or a plea of guilty in return for a recommendation on sentencing.

■ If a decision is taken not to proceed with a charge against the accused, the victim should be told.

■ If a victim's property is held by the state for investigation or evidence purposes, inconvenience to the victim should be minimised and the property returned promptly.

■ Victims should be told about the trial process and of the rights and responsibilities of witnesses.

■ They should be protected from unnecessary contact with the accused and defence during the trial.

■ The outcome of criminal proceedings and sentences should be explained to victims.

■ Victims who have asked for protection from an offender should be told of the offender's impending release from custody. The South African Law Commission's working committee is to consider the proposals and may publish an issue paper for comment.

# BEYOND THE LAW

## Township drivers escape prosecution

ARG 24/2/97 (252)

ANDREA WEISS  
METRO CORRESPONDENT

**Warrants of arrest for traffic offences have not been executed by police in the Langa, Guguletu and Crossroads areas since 1991, a confidential Cape Town municipal report has disclosed.**

About 5 000 warrants are outstanding in these areas and the abandonment may have been a key contribution to township traffic chaos, including lack of control over minibus taxis

About R10-million is owed to the municipality in outstanding traffic fines

The report to the municipality's engineering committee said only 8 000 of 20 000 warrants of arrest issued in the city during

a nine-month period last year were carried out. The rest were either untraceable (6 500) or had not been dealt with (5 500)

According to the engineering committee report, 81 000 outstanding warrants of arrest had accumulated since the implementation of a computerised contravention system in October 1992

In addition, arrangements to execute warrants across municipal boundaries had fallen apart

About 5 000 warrants were not executed in township areas last year for this reason

Of about R10-million owed in fines in the city, according to the auditor's report, about R6,5-million is owed to the State and about R4,5-million to the council

The situation is put down to the inability

of the State, due to lack of resources, to execute warrants of arrest for failures to appear in court on traffic offences

More than R40 000 a month is spent on employing an additional 26 law enforcement officers after hours to execute warrants of arrest and serve summonses. Seven officers serve warrants full-time

The report came to light when it was mentioned during an executive committee debate on the municipality's confidentiality policy, which allows for certain items to be kept on confidential "green" paper

It was released to the Cape Argus on request because the outcome of the meeting was recorded in an open minute.

These minutes are not normally circulated to the media

# Rehiring Basson 'was in SA's interests'

Tim Cohen

CAPE TOWN — Deputy Defence Minister Ronne Kasrils has defended government's decision to rehire sacked chemical warfare expert and alleged drug dealer Wouter Basson, saying the consequences of allowing him to "go freelance" would have been "too ghastly to contemplate"

Kasrils rejected a report in yesterday's Sunday Times, which he said had created the impression government had acted in a sinister way in rehiring Basson, who is facing charges of manufacturing the drug "ecstasy"

Kasrils said government had acted in the nation's best interest by rehiring Basson, who was dismissed and given a generous retirement package after being identified in the Steyn commis-

80 24/2/97 (252)  
sion report in 1992. He said the defence ministry had decided in 1995 that the national interest was best served by rehiring Basson. It came to this conclusion after being briefed on the allegations surrounding Basson, and decided that instead of allowing him to sell his skills to the highest bidder, he should be brought back into the SANDF's ambit of discipline.

The fact that Basson had been arrested suggested government's strategy had been correct, Kasrils said

Government had been aware that Basson had travelled out of the country, including to Libya, at the time the decision was made. It was also aware of the allegations in the Steyn commission report, but these remained merely allegations, Kasrils said. Consideration had been given to demanding his

passport, but the constitution would have prevented such a move

Asked whether government had adopted a general strategy of rehiring former SADF members who had sensitive information which could have been sold, Kasrils said: "I leave that to your imagination"

According to the Sunday Times, Basson left the defence force as a brigadier in January 1993 but was rehired in October 1995 as chief cardiologist at major-general level. Until his arrest he was based at 1 Military Hospital, where he was in charge of the SANDF heart transplant programme.

It was reported yesterday that Defence Secretary Pierre Steyn, who recommended Basson's dismissal in 1992, said he had been horrified to learn that Basson had been rehired

# Media consider response to TRC

Some of the major media players in South Africa are still pondering how to respond to the Truth and Reconciliation Commission's proposed hearing into the role of the media during the apartheid years.

They include the SABC, whose new management appears reluctant to apologise for the excesses of the former corporation bosses in their slavish support for the National Party government

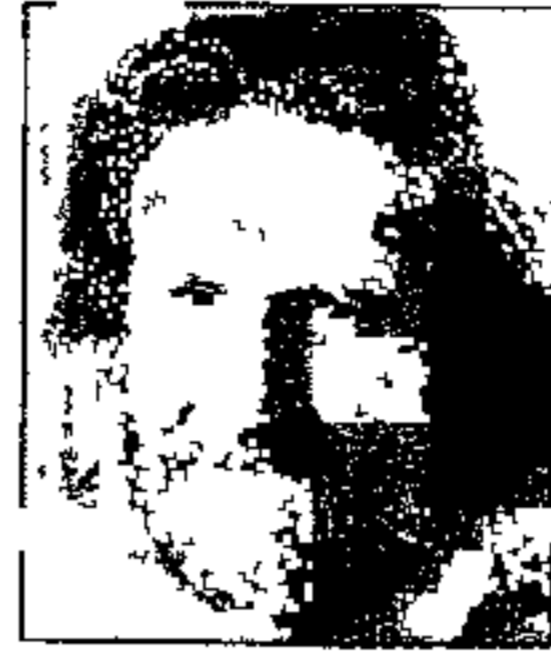
The mainstream black press will not make a voluntary submission to the Truth Commission as it believes its record under apartheid speaks for itself. However, it will consider responding to a formal request from the TRC.

To date, Independent Newspapers – publisher of the Cape Argus – is the only major media group which has made a voluntary submission

Last week, the company delivered a 55-page report highlighting its failings and shortcomings, difficulties and achievements from March 1 1960 to May 10 1994 – the period being scrutinised by the TRC for human rights abuses

The report was commissioned by senior executives at Independent Newspapers immediately after the call earlier this year

YED



ON THE TRUTH COMMISSION

by TRC chairman Desmond Tutu for hearings about the media's role under apartheid

The SABC is still considering the issue and is in something of a quandary – should its new management under chief group executive Zwelakhe Sisulu answer on behalf of the "old regime"?

Enoch Sithole, the corporation's general manager communication and marketing, said they were in a similar position to the new South African National Defence Force

"When the issue of a media hearing came up, we also felt we should make a submission. But it's like (Defence Minister) Joe Modise going to appear before the Truth Commission as part of the (former)

(252) ARG 25/2/97  
SANDF" He added "It's not a straightforward case, as it is with Independent Newspapers, who are more or less the same (as they were)"

Aggrey Klaaste, editor-in-chief of the Sowetan and New Nation newspapers, said they would not be making a voluntary submission to the TRC, although they would comply if there was a direct request from the commission

"If we were asked to (make a submission to the TRC) as the Sowetan, we would go, otherwise I don't think we would have our hand forced," Mr Klaaste said "Because I don't think we need to, really – we would almost say our history in the past speaks for itself. There is no need for us to justify our past conduct"

The same applied for New Nation, Mr Klaaste said "Absolutely"

Neil Jacobsohn, deputy chief operating officer of Times Media Ltd, which has the Sunday Times as one of its titles, said his company had not yet decided whether to make a voluntary submission

Ton Vosloo, managing director of the giant Nasionale Pers group, declined to comment

Perskor chief executive Piet Greyling was not available



# A-G accused of preventing TRC hearing vital facts

By ROBERT BRAND

Star 25/2/97

(252)

ment against movements such as the ANC

Transvaal Attorney-General Dr Jan D'Olivera was accused of trying to withhold evidence about apartheid-era crimes from the public and the Truth and Reconciliation Commission during heated wrangling at an amnesty hearing in Pretoria yesterday.

D'Olivera's office has opposed an application to call former state counter-revolutionary strategist Jaap van Jaarsveld as a witness in the amnesty application, brought by five former security policemen who have confessed to more than 40 murders.

The applicants are Brigadier Jack Cronje, Colonel Roelf Venter and Captain Wouter Menz; all former members of the police's Vlasplass unit and Captain Jacques Hechter and Warrant Officer Paul van Vuuren, former members of the Northern Transvaal security branch.

They claim they committed their crimes in the course of a war fought on behalf of the National Party govern-

ment against movements such as the ANC

Van Jaarsveld, who represented the security police on the secretariat of the State Security Council and was involved in counter-revolutionary strategy during the 1980s, could provide evidence of great importance in police counter-revolutionary methods, the applicants' lawyer, Roelof du Plessis, told the committee.

"I cannot understand why the attorney-general would wish to keep this information from this committee, or why he would want to keep such evidence from the public," Du Plessis said.

Torne Pretorius, representing the attorney-general, said Van Jaarsveld was a key State witness against some of the five applicants.

The prosecutions, which would begin if the five did not receive amnesty, would be prejudiced if he testi-

## Five have

## confessed

## to 40

## murders

fed, Pretorius said. Committee chairman Mr Justice Hassen Mall ruled that a written statement by Van Jaarsveld, setting out the command structures of the State Security Council and explaining the counter-revolutionary strategy, should be submitted.

Du Plessis also complained to the committee that the five applicants were not receiving any assistance from their former masters, including their police superiors and the National Party. "There is a general feeling, especially among the superiors of the applicants, that this committee should not be assisted.

"The party for which the applicants had given their careers, the NP, has made no effort to be of assistance at these hearings," Du Plessis said.

He had found it impossible to obtain information about the State Security Council and had not been allowed

to consult with potential witnesses.

In other evidence yesterday, Cronje, who had commanded Vlasplass for two years in the early 1980s and then became head of the Northern Transvaal security branch, told the committee about the murder of United Democratic Front activist Joe Tsele in Bophuthatswana in 1986.

Cronje and Hechter were part of a group of security policemen who went to Tsele's home after receiving information that he was harbouring "terrorists", instigating boycotts and strikes.

Two policemen, Joe Mamasela and "Bafana", were sent to scout the house to see if there were any "terrorists" there.

Disregarding their orders, they shot Tsele, who had been alone in the house, Cronje testified. He added that the intention had been to kill Tsele to "neutralise" him, but that they had intended to do this only if there were other "terrorists" with him.

The hearing continues today.

# SA police union backs Sterrenberg's right to his job

APR 26/1997

(212)

LINDSAY BARNES

The SA Police Union says it will not tolerate "absurd" statements by Western Cape Police Minister Gerald Morkel that provincial police media liaison head John Sterrenberg will have a "difficult time keeping his job"

This follows evidence by Senior Superintendent Sterrenberg to the Truth and Reconciliation Commission (TRC) about the shooting of the Gugulethu Seven in 1986. A photograph of Superintendent Sterrenberg standing next to the body of one of the victims has sparked further controversy.

The minister's "high-handed" comments would endanger the workings of the TRC and result in other police officials not coming forward to testify to the commission, the union's Western Cape secretary Andy Miller said.

However, Mr Morkel said he had not implied Superintendent Sterrenberg would lose his job, but that considering the circumstances, it would be difficult for the media liaison head to remain in his post as police spokesman.

According to a report, Mr Morkel said at a meeting of the Matieland community police forum recently, it was not his decision whether or not Superintendent Sterrenberg - and the other top policemen involved in the Gugulethu shootings - would lose their jobs, but it would be difficult for the superintendent to keep his

after the TRC hearing

Last week, after his evidence to the TRC, a photograph of Superintendent Sterrenberg and the body of Christopher "Rasta" Piet, who he shot dead in the March 1986 incident, appeared in newspapers.

Superintendent Sterrenberg appears to be smiling in the photograph. He told the commission it was probably a "nervous reaction".

He denied posing with the body.

Western Cape police commissioner Leon Wessels said Superintendent Sterrenberg remained the head of the Western Cape police's communications department, but dealt mostly with "internal matters" pending the findings of the special sitting of the commission. Superintendent Sterrenberg had not officially been released from his duties, he said.

If the TRC recommended the police carry out a further investigation into the Gugulethu shooting, the case would be reopened and the results referred to the Attorney-General for a decision on prosecution, he said.

Mr Miller said "Reconciliation will indeed not be brought about by screaming for a person's blood when that person gave evidence before the commission at his own volition."

"One should bear in mind that staff in the SA Police Service have the full force of the Labour Relations Act behind them and we will advise police members of their rights," he said. Mr Morkel's spokesman, David Frost, said the minister was aware of the Labour Relations Act provisions.



Denial: media liaison head John Sterrenberg



Outspoken: Police Minister Gerald Morkel

# Vlok seeks pardon from TRC

ET 27/2/97

(252)

## OWN CORRESPONDENT

**JOHANNESBURG** Former law and order minister Mr Adriaan Vlok has applied to the Truth and Reconciliation Commission for amnesty, his lawyer said yesterday, becoming the first member of an apartheid-era cabinet ready to admit abuses

Vlok headed the police at the height of emergency rule in the 1980s when hundreds of black activists were killed by police and about 30 000 people were detained without charge amid countless allegations of torture in prisons,

Lawyer Mr Jan Wagener said Vlok was one of 80 serving and ex-policemen seeking a pardon. He declined to detail for which acts they were seeking amnesty.

The TRC's amnesty committee is expected to rule soon on whether former state president P W Botha and other apartheid-era cabinet ministers should

be subpoenaed to testify at an amnesty hearing for five ex-security policemen

The commission announced yesterday that chemical warfare expert Dr Wouter Basson, arrested recently on a drugs charge, is to be subpoenaed to appear before a public hearing

Basson was originally due to testify at an in-camera commission of inquiry today and tomorrow, TRC deputy chairman Dr Alex Boraine said, but Basson's lawyer's had asked for more time to prepare and the commission agreed to postpone his appearance

The TRC's amnesty committee will hear evidence in Pretoria today from former police commissioner Johan van der Merwe before ruling on whether to subpoena Botha and some of his cabinet colleagues

Mr Brian Currin, an attorney representing the victims of the five amnesty applicants, asked the committee to subpoena Botha, former defence minister

Mr Magnus Malan, Vlok and former constitutional development minister Mr Roelf Meyer, as well as a number of senior policemen, now retired

Currin said they could provide crucial information on the functioning of the State Security Council and other structures set up by the state to deal with what it perceived as a revolutionary onslaught

Van der Merwe will be asked today about the State Security Council and the Counter-revolutionary Intelligence Target Centre known as Trewits, an organisation comprising representatives from the police and military, which identified targets for "elimination"

Committee chairman Mr Justice Hassen Mall said the committee would hear Van der Merwe's evidence before deciding whether to subpoena Botha, Vlok, Meyer and Malan

TRUTH  
RECONCILIATION  
COMMISSION



# Truth body reviews cross-examinations

Stephané Bothma

PRETORIA — The truth commission's amnesty committee would reconsider the right of counsel representing implicated persons to cross-examine amnesty applicants, committee chairman Judge Hassan Mall said yesterday. A decision would be delivered this morning, he said.

The change in approach followed hours of detailed cross-examination by advocate Louis Visser, representing 80 policemen — including two former police commissioners and several high-ranking officers and former police minister Adriaan Vlok — in the amnesty applications of five former security policemen.

Jack Cronje, Roelf Venter, Jacques Hechter, Paul van Vuuren and Wouter Mentz, who applied for amnesty relating to several incidents of gross human right violations including about 40 murders, claimed that they were the foot soldiers following orders from their superiors — many of them represented by Visser.

The committee earlier this week granted permission for the five security policemen to be cross-examined by Visser, but late yesterday afternoon the committee adjourned to return a few minutes later with the announce-

AD 28/2/97 (252)

ment it would reconsider its stance.

"Counsel must understand that these hearings will snowball and we will end up with application upon application and never complete our work," Mall said.

Roelof du Plessis, representing the five applicants, said earlier this week his clients had received no assistance from their former superiors, with the exception of former police commissioner Gen Johann van der Merwe.

Meanwhile, the commission heard evidence from Cronje about the December 1986 murders of Mamelodi doctor Fabian Ribeiro and his wife. According to Cronje, Ribeiro, who had supplied medical and other assistance to activists and "terrorists", was killed by the SA Defence Force's special forces.

The security police had only supplied them with a memorandum on the activities of Ribeiro. Special Force commander Gen Joep Joubert had been aware of the planned assassination.

"I was never informed that Ribeiro's wife would also be assassinated. If I had been informed, I would never have agreed to it," Cronje told the committee. He said after the killings he had informed security police chief Willem Schoon and then police commissioner Johan Coetzee.

The hearings continue today.

EW voices doubts on fairness

# Ribeiro killed for treating 'activists'

(252) CT 28/2/97

## OWN CORRESPONDENT

PRETORIA Mamelodi's "People's Doctor" Mr Fabian Ribeiro was assassinated because he gave medical treatment to "activists and terrorists", former Vlakplaas commander Brigadier Jack Cronje told the Truth and Reconciliation Commission's amnesty committee here yesterday.

Ribeiro was gunned down at his home together with his wife Florence in 1986. Cronje testified previously that the assassination was the work of Special Forces agents under the command of Commandant Charl Naude.

Two Angolans were flown in from Namibia, driven to Ribeiro's house by a Special Forces member called Mr Noel Robey and flown back to Angola immediately after the assassination, Cronje said.

At the time, Cronje was head of the Northern Transvaal security

branch. He said Naude had asked him for a file on Ribeiro before the assassination, and had requested help in the planning of the operation from one of his policemen, Captain Jacques Hechter.

After the killing, Cronje said, Special Forces head Major-General Joep Joubert had asked him to try to derail the police investigation, which had by then already tied the getaway vehicle to the SADF.

Cronje said he had informed then police commissioner General Johann Coetzee about the Special Forces' role in the murder.

Cronje and Hechter are applying for amnesty for more than 40 murders together with three other former security policemen.

Cronje was asked why Ribeiro had been a target for assassination. He answered: "Ribeiro was in-

involved in helping activists and terrorists. He gave them medical treatment and assisted them."

He later qualified his statement, saying Ribeiro was not targeted for providing medical treatment only,

but because of his "general" assistance for "activists and terrorists". He said he never would have approved the killing of Florence Ribeiro as she had not been involved in political activities.

Ribeiro was known in Mamelodi as the "People's Doctor" because he regularly treated activists injured in clashes with the security forces without giving them up to the police.

Coetzee's advocate, Mr Louis Visser SC, said Coetzee would deny being briefed about the assassination by Cronje. He said Coetzee had applied for amnesty, but not for the Ribeiro killing.

In other evidence yesterday, former police commissioner Johan van der Merwe said it was not government policy to assassinate opponents of the state inside the borders of South Africa.

But he added public utterances by cabinet ministers as well as the official approval by the government of certain other attacks could well have given Security Branch officers the impression that their actions bore the approval of their commanders, the cabinet and the State Security Council.

Van der Merwe revealed that he had applied for amnesty for several acts other than those he previously admitted to. He told the committee last year that he had approved the bombing of Khotso House and an operation in which several activists were killed by booby-trapped hand grenades supplied to them by the security police.

The hearing continues today.



NEWS

# 'South African judiciary is dragging its feet'

## Blacks still minority on High Court benches

ARGUS CORRESPONDENT

Johannesburg - The wheels of justice grind slowly and the much-awaited transformation of the judiciary "has not materialised at expected levels, in spite of assurances by Justice Minister Dullah Omar".

This is according to Cecille van Riet, a director at Lawyers for Human Rights, who said the transformation process was going ahead, but expressed concern that it was moving too slowly.

She said this was mainly because 11 different justice ministries had existed in the past "Today we have a single ministry and the task of amalgamating structures that were created in the past into one is a mammoth one," she said.

According to Ms Van Riet, the task was

further complicated when the ministry's budget was cut by 2 percent a year for the past two years.

"Minister Omar appears to have adopted a sensitive and reconciliatory approach to the transformation which may have its merits, but is slowing the process down."

Advocate Justice Phoswa, the president of the Black Lawyers' Association, said he believed the delays in appointing more black people to the High Court bench was a factor inherited from the past.

"It appears that on the eve of the April 1994 elections, many young white judges were appointed to the bench.

"Black advocates will probably have to wait a while before any future vacancies are forthcoming, since appointments to the bench are for life," said Mr Phoswa.

Since April 1994 only 22 blacks (African,

coloured and Indian) have been appointed as permanent judges to the High Courts. That represents only 11,85 percent of the total positions on High Court benches.

Justice Department statistics for 1997 indicate that of the 1 387 magistrates in South Africa, 529 are black and 858 are white.

Advocate Pieter du Rand, chief liaison officer for the Justice Ministry, said most of the personnel changes within the ministry began to take place after the April 1994 election when the ANC government came to power.

"At that time the need to redefine the ministry and make it more broadly representative of the various communities was clearly evident," said Mr Du Rand.

"Prior to 1994 the Supreme Court was almost exclusively white, with the only exception being one black judge."

Mr Du Rand pointed out that most of the recent senior appointments had been black.

Mr Justice Ismail Mohammed was appointed as the new Chief Justice in January. In addition, various blacks have been appointed as chief magistrates, regional court magistrates, regional court presidents and senior magistrates.

Black magistrates have been appointed to senior positions in five major cities in the country: M C Bashe (Johannesburg), D S Kondile (Port Elizabeth), T J Raulunga (Bloemfontein), M I Mirze (Durban) - and A M Laugau was appointed as president of the regional court in Cape Town.

"These appointments coincide with our policy of addressing the imbalance created in the past but there is still a long way to go before a truly representative situation exists," said Mr Du Rand.

CHANGING FACE OF THE SA JUDICIARY

April 1994		January 1997	
<b>JUDGES:</b>		<b>JUDGES:</b>	
White males	179	White males	156
White females	6	White females	7
Black males	1	Black males	20
Black females	0	Black females	3
<b>TOTAL</b>	<b>186</b>	<b>TOTAL</b>	<b>186</b>
<b>REGIONAL MAGISTRATES:</b>		<b>REGIONAL MAGISTRATES:</b>	
White males	160	White males	164
White females	5	White females	7
Black males	1	Black males	19
Black females	1	Black females	4
<b>TOTAL</b>	<b>167</b>	<b>TOTAL</b>	<b>194</b>
<b>MAGISTRATES:</b>		<b>MAGISTRATES:</b>	
White males	655	White males	603
White females	200	White females	100
Black males	39	Black males	45
Black females	14	Black females	20
<b>TOTAL</b>	<b>908</b>	<b>TOTAL</b>	<b>1 387</b>

ARGUS 28/2/97 (252)

# De Kock in 1 000-page TRC appeal

(252) ARG 28/2/97  
Former Vlakplaas commander Eugene de Kock will hand over a 1 000-page amnesty application to the Truth and Reconciliation Commission next week, his attorney Schalk Hugo confirmed today.

De Kock, who was convicted last year on 104 charges ranging from murder to attempted murder and torture, would not be applying for those offences which did not have a political motivation, Mr Hugo said.

De Kock's application would deal with most of the 104 charges, but it would also provide detailed new information on his involvement in cross-border operations in Botswana, Zimbabwe, Britain, Swaziland and Lesotho.

The former Vlakplaas security police base commander would admit to planning and executing a "fair number" of cross-border operations.

"Some of these incidents were touched on during the trial as an aside when he testified in mitigation of sentence."

In applying for amnesty, De Kock hoped to have his prison sentence reduced, Mr Hugo said.

He also wanted to give the South African public a better insight into "what really happened".

Referring to De Kock's complaint that he had been abandoned by the National Party government, Mr Hugo said: "I don't think the purpose of the amnesty application is to be vindictive."

"It is not driven by the desire to get even with the previous government. He is not like that."

He was not sure when the application would be heard by the commission, but acknowledged that the hearing was likely to be lengthy.

De Kock was given two life sentences, one for murder and the other for conspiracy to murder, by the Pretoria High Court.

On the other charges, De Kock was given a combined sentence of more than 200 years in prison.

The sentences will run concurrently.

Sapa

# Truth body subpoenas chemical warfare boss

ST 2/2/97

By PETER De IONNO

(252)  
THE Truth and Reconciliation Commission served a subpoena on Dr Wouter Basson — the maverick genius who created South Africa's chemical warfare capability — during his bail application in the Pretoria regional court yesterday

Commission spokesman John Allen said Basson would have to attend an investigative inquiry in Cape Town on February 10

Basson told the court he had rejected a truth commission amnesty offer because he had no information on the allegations against him

During the bail hearing he said he had been involved in the smuggling of technology from the US and Europe

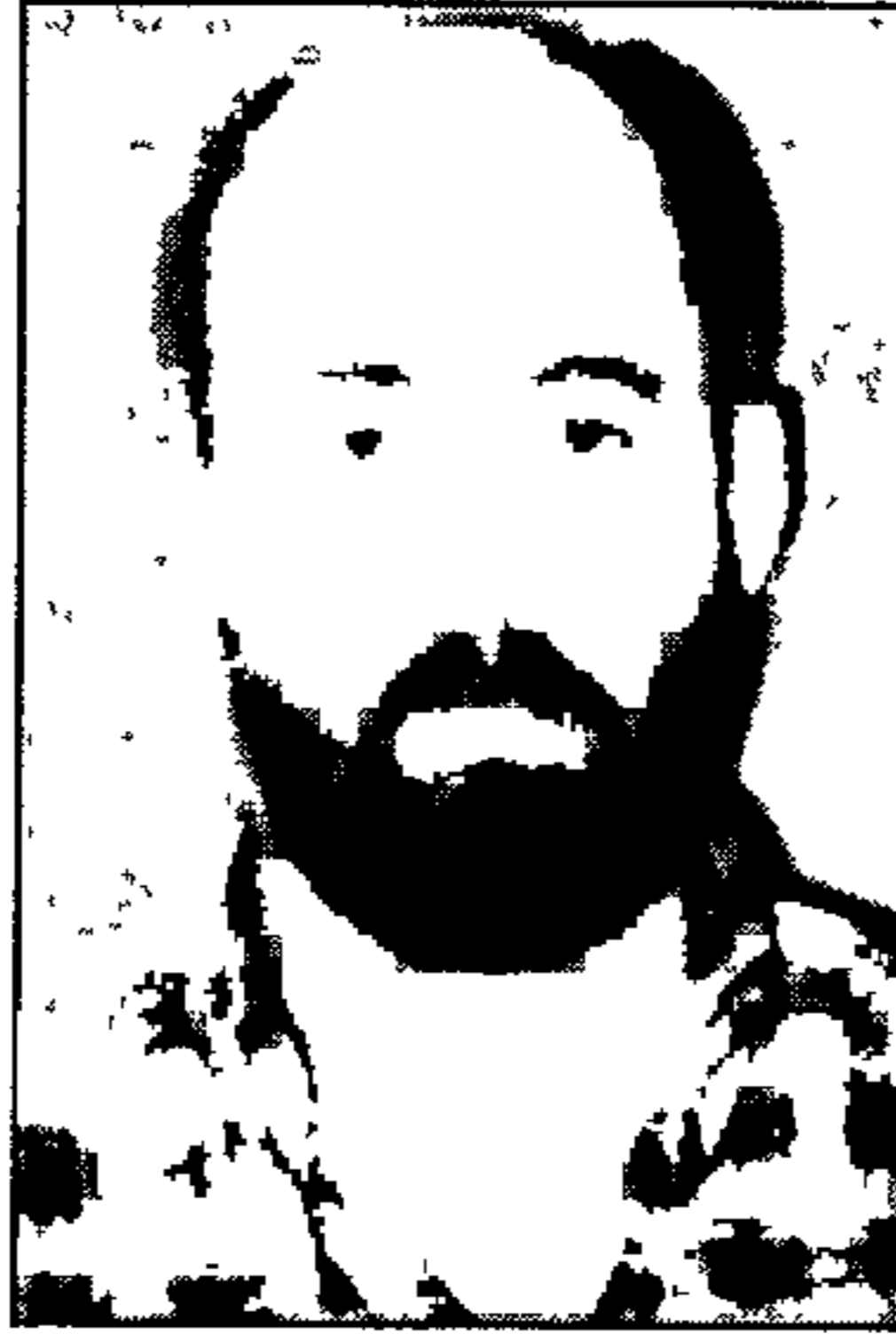
He had also given medical support to clandestine military operations by the former SA Defence Force. He took early retirement in 1993.

The SANDF is paying legal costs for Basson, who has been working as a cardiologist at One Military Hospital at Voortrekkerhoogte. A spokesman said the money would have to be repaid if he was convicted.

Testifying about his assets, Basson said he owned a house worth about R700 000 in Lukasrand, Pretoria, and had a R400 000 mortgage. He bought the property in June 1996. His movable assets were worth about R450 000. He said he would be able to pay bail of R50 000.

Torie Pretorius, the state prosecutor, said that some of the documents seized from a safe at Basson's house allegedly contained possible evidence that he might have owned an aircraft and an R11-million house, which he had not mentioned to the court. The house was later allegedly sold for R7-million.

Basson told the court he had a 21-



MAVERICK GENIUS . . . Dr Wouter Basson is in custody

year-old daughter from a previous marriage, and a three-year-old son with his present wife, Annette.

His father, Colonel "Boesman" Basson, who had been a police officer, died in 1992. His mother Bronwyn, who had been an opera singer, was living in a flat in Pretoria.

The truth commission document says Lieutenant General Pierre Steyn had uncovered evidence that Basson's 7th Medical Battalion was involved in third force activity.

Steyn says the battalion "via Wouter Basson" was linked to the Directorate of Covert Collection, Special Forces (recce regiments 1 and 5) and the Vlakplaas police hit squads.

Basson was said to head an "elimination group" which had been in charge of all SADF elimination ac-

tions which had been conducted with the involvement of former SADF chief General Kat Liebenberg.

Basson is also linked to the stockpiling of clandestine arms caches in Kenya, Zambia, Mauritius and Portugal, usually in nature reserves, to create "springboards" for potential military action.

This had been conducted under an "official" project called Operation Pastoor.

Basson was a recipient of the Order of the Southern Cross for his work in the development of chemical and biological weapons. He was allegedly involved in an attack on Frelimo soldiers with chemical weapons.

Steyn says the attack, corroborated by a British team from the Chemical and Biological Warfare Establishment, was intended to smear the ANC by linking it to the use of chemical weapons.

Basson was also allegedly involved in attempts to revive the Civil Co-operation Bureau. The report says he attended a fund-raising meeting organised by landmine and explosives expert Dr Vernon Joynt, where he had suggested that tens of millions of rands were available through General Joop Joubert, a former commander of the unit.

Described by former colleagues as "a secretive genius", Basson attained the rank of brigadier at the unusually young age of 30. He held more than one passport when he bought materials for SA's chemical and biological weapons research.

He is known to have travelled to Libya where his presence drew criticism from US intelligence agencies which linked him with Libyan chemical and biological weapons programmes. But Basson said he was involved in a railway deal.



# TRC offers heart doctor protection

(252) Stowman 3/2/97  
Commission wants medico to reveal his alleged role in murders

**P**RETORIA heart specialist Dr Wouter Basson has been offered protection by the Truth and Reconciliation Commission in exchange for disclosing his alleged role in numerous murders, the Pretoria Regional Court heard at the weekend.

Testifying at a special afternoon bail hearing on Saturday, Basson said a commission investigator had told him the body had substantive evidence about his involvement in covert operations during the apartheid years.

The investigator mentioned murder, abduction and human

rights abuses

"He gave frightening figures of the number of murders I was supposed to have been involved in," Basson said.

The commission added it might be able to arrange for Basson not to be scrapped from the medical roll should he reveal details of his past activities, he said.

Basson was arrested in Pretoria last Wednesday for allegedly trading in ecstasy tablets.

Earlier, he admitted having

given medical support to clandestine military operations by the former SA Defence Force. He took early retirement from the SADF in 1993.

Basson told the court he had rejected the commission's offer of amnesty because he did not have information on the allegations against him.

He did offer to provide the commission with information on the SADF's chemical warfare project - Sapa

## Will commanders of death speak up?

By CHIARA CARTER (252)

THE WORD "Missing" is superimposed across the face of a jaunty Siphiwo Mthinkulu on a poster still hanging in a friend's house.

The poster is a haunting reminder that for almost fifteen years nobody knew what happened to the young Port Elizabeth student leader after he had been fetched by his friend, Topsy Madaka.

His disappearance was but one of a string of notorious political mysteries in the Eastern Cape.

Despite two inquests – the second of which found security forces were responsible for killing the Cradock Four – nobody knew for certain what happened to the

<sup>ep 2/2/97</sup>  
Pebco Three after they had set off for the Port Elizabeth airport one day in May, 1985.

And while Black Consciousness leader Steve Biko's terrible end – battered, bruised and naked in the back of a police van – was well documented, nobody stepped forward to say what had happened in that Port Elizabeth police cell almost two decades ago

The families and friends of these political leaders suffered the frustration of watching the State prevent them from finding answers. Years of sporadic police investigations and judicial inquiries achieved little

Just how far the authorities were prepared to go to conceal their evil deeds has become clear with details coming to light about how po-

licemen and askaris were murdered to prevent them from speaking.

The TRC's announcement this week that a group of seven security policemen had applied for amnesty in connection with ten high profile Eastern Cape deaths and several other cases is a major breakthrough in unravelling the secrets of the past

But TRC deputy chairman Alex Boraine has warned that the full stories are yet to unfold

The applications contain contradictions and the full chain of command has not been uncovered.  Whether those who commanded the country's security structures will join the stampede for amnesty or whether the TRC will have to tease out the full truth remains to be seen.



**LIVING VICTIMS** . Nomonde Calata (widow of Fort), Sindiswa Mkhonto (widow of Sparrow), Nombuyiselo Mhlauli (daughter of Siculo Mhlauli) and Mhlauli's widow Nombuyiselo meet the press after testifying to the TRC last year  
■ Pic: MANDLENKOSI MNYAKAMA

## How they died: horrors revealed in amnesty applications

By CHIARA CARTER

**SEPTEMBER 1977** – Steve Biko died after being driven naked, battered and suffering brain damage in a police van from Port Elizabeth to Pretoria. Biko sustained brain damage while being questioned by security police in Port Elizabeth

■ **August 1981** – ANC cadre in Lesotho, Sizwe Kondile, vanished after being detained by police who maintained they had released him

But Kondile sustained brain damage in police custody and was taken to a piece of open ground near the Komatipoort borderpost, drugged and shot in the head

His killers burnt his body for about seven hours, turning

bodyparts to ensure they burnt.

■ **April 1982** – Siphiso Mthimkulu and his friend Topsy Madaka were abducted by police in Port Elizabeth, and taken to a disused police station at Post Chalmers near Cradock

They were interrogated, given drinks spiked with drugs, carried outside and each shot in the head

Their bodies were burnt for six hours, and the remains thrown into the Fish River

Mthimkulu's wheelchair and Madaka's car were left near the Lesotho border to create the impression they had left the country

■ **May 1985** – The Pebco Three, Siphiso Hashe, Champion Galela, and Qaqawuli Godolozu, vanished

They were abducted by a group

of security policemen who took them to Post Chalmers.

The civic leaders were given coffee laced with sedatives and then shot. Their bodies were burnt, the remains put in plastic bags and thrown into the Fish River

■ **June 1985** – Remains of the Cradock Four: Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Siculo Mhlauli, were found outside Port Elizabeth

They had been abducted in a mountain pass and taken to Port Elizabeth. One was shot while trying to escape, and the others were beaten to death with an iron bar. They were stabbed and mutilated and their car set alight to make it look like they were the victims of a vigilante attack

# TRC inches towards facts on Third Force

Wouter Basson named as being a kingpin in discovering the truth about SADF covert operations

(252)

Star 3/2/97

STAFF REPORTERS AND SAPA

Chemical warfare expert Dr Wouter Basson, in police custody on drugs charges, was described last night as the kingpin in the unravelling of Third Force activities said to involve the old South African Defence Force

Basson is to seek bail in the Pretoria Regional Court today after his case was postponed on Saturday. He was arrested in a police sting operation last week after allegedly being found in possession of 1 000 Ecstasy tablets.

When his bail application began on Friday, he was served with a subpoena to appear before the Truth and Reconciliation Commission next Monday in connection with allegations made in the Steyn report on Third Force violence.

The pressure that is mounting on Basson and other former SADF figures was underlined last night when the TRC warned that Basson, a heart specialist and former physician of P W Botha, could face criminal charges if he did not seek amnesty.

A well-placed source in Pretoria told The Star last night "Basson is the kingpin. He is the breaking point (for the investigators) that will expose Third Force activities in the military"

The source said that with Bas-

son's arrest the lid would be lifted off not only Third Force activities which reached their heights prior to the 1994 general elections but also on a chemical and biological warfare programme which the Government constantly denied

Suspicions that the country had such a programme were reinforced in the early 1980s when a platoon of Frelimo troops in western Mozambique collapsed as a

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**Report  
makes him  
liable  
for offences**  
”

result of having breathed fumes which they said had come from a shell fired at them from the Kruger National Park. Their statements were later confirmed by a United Nations investigation.

It is also known that Basson, who at the time of his arrest was working as a surgeon at 1 Military Hospital in Voortrekkerhoogte and who had commanded 7 Medical Battalion, had appeared to lead an expensive lifestyle, in that he used a corporate jet to fly

around the world, including a trip to a rugby Test at Twickenham between South Africa and England and other similar sporting and social events

He was also involved with the Roodeplaat Research Group's Protechnik Laboratories, which was sold off after the Government admitted two years ago that the chemical programme had been in existence. A number of people were given large retrenchment packages as a result of the winding down of the programme

A report by General Pierre Steyn, appointed in 1992 to investigate Third Force allegations, was recently handed to the TRC. The Steyn report on security force dirty tricks implicated Basson.

TRC investigative unit head Dumisa Ntsebeza said his investigators had been given access to documents police seized from Basson's Pretoria home. Ntsebeza said he had sent his two top investigators - national investigations director Glenn Goosen and special investigations head Wilson Magadla - to study the papers

Goosen flew to Johannesburg on Friday, less than 24 hours after Basson first appeared in court. Magadla was already in Johannesburg on another assignment

"We had a look at the documents but we did not seize them," Ntsebeza said. Most of them have been handed to the Office for Seri-

ous Economic Offences

Ntsebeza said he had first spoken to Basson last year to inquire whether he intended applying for amnesty.

"What is contained in the Steyn report is of such a nature that he would be criminally and civilly liable for acts and offences detailed in it," he said

"When I phoned him he said he was sick. We had an arrangement that as soon as he got well he would contact me for us to have a conversation"

At the bail hearing on Saturday, Basson admitted he had been involved in the smuggling of technology from the United States and Europe. He said the project he had been involved in also entailed acquiring technology from the Middle East and north Africa

Earlier, he admitted giving medical support to clandestine military operations by the former SA Defence Force. He took early retirement from the SADF in 1993.

He also told the court he had been offered protection by the TRC in exchange for providing documents on SADF covert operations during the apartheid years. Basson told the court he had rejected a TRC amnesty offer because he had no information on the allegations against him.

He did offer to provide the TRC with information on the SADF's chemical warfare project.

# ANC wants truth probe of Niel Barnard

(252) (3) ARG 3/2/97

WILLIAM-MERVIN GUMEDE

POLITICAL STAFF  
CLASSIFIED

**The African National Congress will ask the Truth and Reconciliation Commission to investigate whether Niel Barnard had a role in human rights abuses during his career as head of the National Intelligence Service (NIS).**

The Western Cape provincial working committee of the ANC decided at the weekend to make the request to the TRC and the Human Rights Commission. Dr Barnard was head of the NIS under former president P.W. Botha.

The provincial working committee of the ANC has decided to formal-

ly request the TRC and the HRC to investigate the role of Dr Barnard as head of the NIS. The provincial executive will soon submit the request on behalf of the ANC," said Cameron Dugmore, ANC member of the Western Cape legislature.

Dr Barnard has been appointed director-general of the province by Western Cape Premier and provincial NP leader HERNUS KRIEL amid fierce opposition from the central government, the ANC and its alliance partners, the Congress of South African Trade Unions and the Communist Party.

Constitutional Development Minister Mohammed Valli Moosa and Public Service and Administration Minister Zola Skweyiya have also

opposed the appointment.

Dr Barnard was director-general of the Constitutional Development Department before his new appointment.

The National Education, Health and Allied Workers' Union, after failing to reverse Dr Barnard's appointment at a meeting with the provincial administration, said it would lodge an urgent application in the Supreme Court to overturn the appointment.

Nehawu claimed Dr Barnard was disqualified under the Public Service Act from holding the post because he was "not of good character". It also criticised the alleged lack of transparency around his appointment.

# Truth commission finds CCB operative's identity may

Drew Forrest

PRETORIA cardiologist Wouter Basson, allegedly the founder of a chemical and biological warfare programme for SA, may have some claim to be a victim of mistaken identity after the truth commission said yesterday it had found five defence force members of the same name.

Commission spokesman John Allen said Civil Co-operation Bureau (CCB) member Wouter Basson, linked to the assassination of Swapo lawyer Anton

Lubowski in 1989, appeared to be a different man.

At the inquest into Lubowski's death, the Namibian judge named Basson and CCB operatives Ferdi Barnard, Slang van Zyl, Steal Burger, Calla Botha and Chappie Maree, along with hit man Donald Acheson, responsible for the murder.

Basson the cardiologist, subpoenaed last week to give evidence to the commission on February 10, said that since 1992 he had been aware of allegations of his involvement in the SA

Defence Force's chemical warfare programme. Most of these were "based on confusion with regard to my identity", he said.

"When the truth commission investigator approached me, I told him I had certainty in my heart that I had not been involved."

The commission's interest in Basson appears to stem from his former membership of the SADF's 7th Medical Battalion, which Lt-Gen Pierre Steyn had listed as being involved in "third force" activity.

The truth commission also said yesterday that Basson had been implicated in activities which could see him face criminal charges if he did not seek amnesty, Sapa reported.

Testifying in a special after-hours bail application in the Pretoria Regional Court on Saturday, Basson admitted he had been involved in smuggling technology from the US and Europe. He said the project also entailed acquiring technology from the Middle East and North Africa.

The hearing was postponed to this

BD 3/2/97  
BASSON (252)

Continued from Page 1

support to clandestine operations by the SADF, from which he took early retirement in 1993.

Testifying about an operation involving the smuggling of technology from abroad, Basson said the US government in 1995 asked SA to disclose details of the project. He said some of the countries involved wanted to prosecute him.

In the 1990s he was arrested in three European countries in connection with covert operations. He declined to say which countries.

Earlier, he told the court he had been offered protection by the truth commission in exchange for providing documents on SADF covert operations

A truth commission investigator informed him the body had substantive evidence about his involvement in such activities.

The investigator mentioned murder, abduction and human rights abuses, Basson said.

Basson told the court he had rejected a truth commission amnesty offer because he had no information on the allegations against him.

He was arrested by police in a drug-bust last week after allegedly handing over 1 000 Ecstasy tablets to a buyer for R60 000.

Steyn's report alleges that the 7th Medical Battalion, which Basson formerly headed with the rank of brigadier, supplied poisons to assassins from army hit squads and was involved in a chemical bomb attack on Frelimo troops in Mozambique in the late 1980s.

morning and Basson was reminded in custody. Asked by his lawyer, Jaap Cilliers, if he would be welcome in other countries in view of his former SADF covert activities, Basson had said he had been "somewhat compromised" in this regard.

Basson testified that several governments in Europe, the Middle East and North Africa, as well as the US, might consider him a "turncoat". Earlier, he admitted giving medical

Continued on Page 2

Be mistaken

# Govt expected to change structure of justice system

Deborah Fine

(252)  
D03/2/97

THE justice ministry is expected to introduce draft legislation during the coming parliamentary session which would substantially alter the structure of SA's present justice system in line with changes prescribed by the new constitution

The biggest change to be made by the proposed National Prosecution Authority Bill will be the introduction of a single national prosecuting authority headed by a national director of public prosecutions, to whom public prosecutions directors for each provincial division of the Supreme Court will report.

The national director will, in concurrence with the justice minister, determine a national prosecution policy to be applied uniformly throughout SA, to which all public prosecutions directors will have to adhere

The national director has the right to intervene in any prosecution (or failure to prosecute) in any

division should there be a breach of policy directives, and also has the power to review any decisions taken by the public prosecutions directors

The justice minister exercises final responsibility for the prosecuting authority and may co-ordinate its functions

The new system will replace the current structure in which attorneys-general are appointed as separate prosecuting authorities in the Supreme Court divisions of each province, and are not accountable to a higher authority

The attorneys-general will be replaced by the public prosecutions directors

While the justice ministry has submitted that the new system will render the justice system and its structures more efficient, transparent and accountable, parliamentarians are expected to scrutinise the mechanisms set out in the bill to ensure that the new prosecuting authority was able to exercise its functions "without fear, favour or prejudice"

Concerns have previously been expressed that the ruling party may be able to influence prosecution policy unduly because the national director and public prosecutions directors are appointed by the SA president.

However, the justice ministry has pointed out that the SA courts remain independent in terms of the constitution

No person or organ of state could interfere with the functioning of the courts, while the state, through legislative and other measures, was obliged to ensure the courts' impartiality

The new constitution, which comes into effect tomorrow, changes the name of the Appellate Division to the Supreme Court of Appeal. The Supreme Courts will be renamed High Courts

However, a justice ministry spokesman said that none of Supreme Courts would be renamed until the completion of the Hoexter commission probe, which was investigating the rationalisation of court structures

Southern

4/12/99

# Biko truth shows <sup>(252)</sup> value of the TRC

By Tyrone Seale

**LONDON** - There must have been police perjury on a major scale in the November 1977 inquest into the death of Steve Biko, says the man who cross-examined the activist's police handlers during eight days in court

As befits a Queen's Counsel who has served as an acting judge in the Constitutional Court, Sydney Kentridge is an incisive but cautious commentator. But he displays no hesitation in affirming today, as he did during the court proceedings in 1977, that Biko had been killed.

He clearly recalls trying to extract the truth from three of the five former security policemen who are now seeking amnesty in exchange for detailing the murders of Biko, Sipho Mthimkhulu, the Peboco Three (Sipho Hashe, Qagawli Godolozzi and Champion Galela), and the Craddock Four (Matthew Goniwe, Fort Calata, Sparrow Mkhonto, and Sicele Mhlau).

The policemen, who have volunteered to revisit their recollections of these atrocities, are retired Major General Nic van Rensburg, convicted Motherwell bomber Gideon Niewoudt, Colonel Harold Snyman, Superintendent Gerhardus Lotz, Brigadier Daanjan Siebert, Warrant Officer Ruben Marx and Colonel Eric Taylor.

Kentridge clearly recalls Snyman, Siebert and Marx and their insistence that they were not responsible for Biko's death. The magistrate found no one could be held responsible.

Biko died on September 12, 1977 while in custody in Pretoria, where he had been driven, naked and comatose, in the back of a police van as security forces denied him access to relatives, comrades and legal representation back in Port Elizabeth.

"The fundamental point about (the inquest) is that there was overwhelming evidence, including evidence from one of the world's leading neuropathologists, Dr Neville Proctor, that Biko had suffered massive brain injuries that could not have been caused by a single blow," says Kentridge. "Moreover, the evidence was that with these

If what the police say now is true, then they lied 20 years ago

brain injuries, he must have suffered a considerable period of unconsciousness. The police at first denied that he had suffered any serious injury and maintained that he was malingering.

"They also had a story that in the course of a scuffle with the police, Biko must have accidentally bumped his head. But the medical evidence showed conclusively that his injuries weren't compatible with an accidental fall or bump, but rather with deliberate blows to the head."

Kentridge recalls evidence indicating beyond doubt that Biko had been assaulted while in custody in Port Elizabeth, where he had at one stage been chained to a grille at security police headquarters.

"The only question which wasn't clarified was exactly how and when the fatal assault took place, and more importantly, just who the officers were who perpetrated it. It seems now that this mystery may be cleared up by the Truth Commission."

He says revelations such as those proffered by Biko's murders show that the philosophy behind the commission is sound, adding that no such confessions would have been forthcoming without the commission.

In order for the Biko mystery to be unravelled, the amnesty applicants will now have to provide full details of their involvement in the chaining and beating of the charismatic Black Consciousness leader, and how exactly, for example, it came to be that he was driven to Pretoria in a police van, not in an ambulance.

Kentridge describes the policemen's owning up as remarkable, and hopes the revelations will "finally open the eyes of those who had sympathy for the apartheid government."

A central figure in the apartheid government in 1977 under prime minister BJ Vorster was police minister Jimmy Kruger who, asked about

Biko's death, said it left him cold. Vorster and Kruger are dead.

"It was this callous remark which played a great part in making the Biko case an international *cause celebre*." Of course, Kruger also came out with a story that Biko had died of a hunger strike. At the inquest, the police accepted this was completely false.

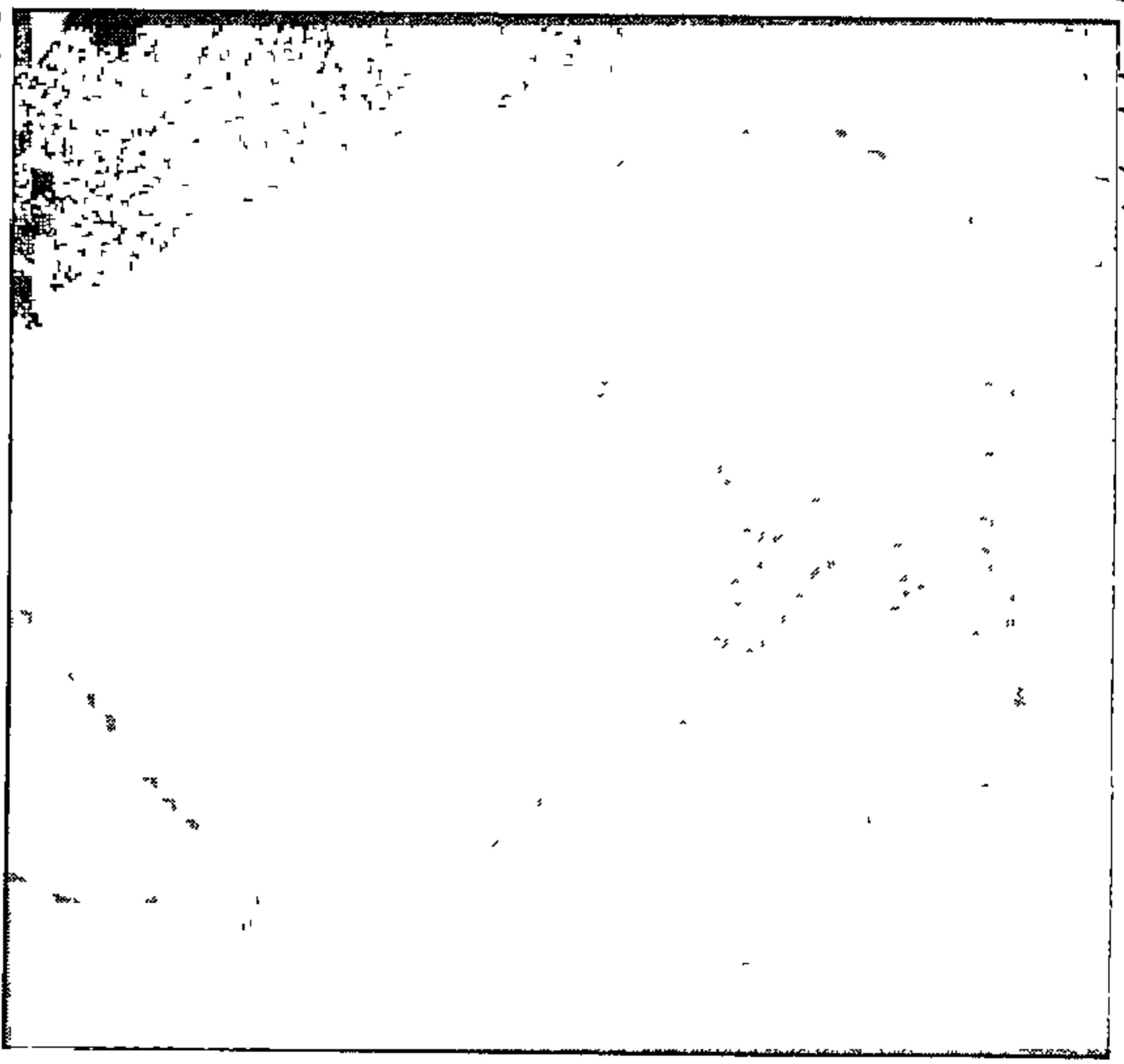
Nearly 20 years later, the same policemen are volunteering to reconstruct the truth. Even before submitting detailed evidence to the commission, they have asked that their actions be appreciated in the light of the culture of the government of the day.

"The irony is that they want their day in court 20 years ago, they had their day in court. If what they are saying now is the truth, what they said then couldn't have been true," Kentridge notes.

"Now the Truth Commission at last has got a real opportunity to bring out the whole truth." Then he issues this caution: "I would also say that I'm sure (the commission) will have regard to the record of the inquest in deciding whether these officers qualify for amnesty."

"As I understand it, amnesty isn't automatically awarded simply because you apply to the commission. The commission has to be satisfied that (the police) are telling the truth and that they were acting with political motives."

Kentridge has high regard, though, for Biko's



Sydney Kentridge says there must have been police perjury on a major scale in the 1977 inquest into the death of Steve Biko

political motives. He delved into the martyr's writings once the inquest was over.

"They showed a good deal of really original thought. The main theme was self-reliance, not at all looking to the Soviet Union or anything like that. If he had survived, who can doubt he would have had a large part to play in South Africa today."

"When he died, he was still a very young man, but he could well have been a man of destiny." On a personal level, Kentridge's experience of a changing South Africa has, since 1977, embraced a myriad of transitions - from appearing for the Biko family to sitting on the Constitutional Court bench as an acting judge.

He has practised alternately in South Africa and Britain for 13 years. "The political transition) was an almost unbelievable change for me, but of course much more so for people who had been in the thick of the fight, like (Constitutional Court Judges) Albie Sachs and Prins Langa, and Fikile Bam (presiding judge in the Land Court)."

"The real miracle in South Africa is the miracle of reconciliation" - Independent Foreign Service



# Supreme Court becomes High Court from today

(252)  
RONALD MORRIS

CT 4/2/97

THE Supreme Court of South Africa becomes the High Court of South Africa from today

The name change is in terms of the Constitution, which becomes the supreme law of the land from today, Judge-President of the Cape Mr Justice G Friedman said yesterday.

Judge Friedman said the jurisdictions of the divisions of the Free State, the Cape Provincial Division, the North West Cape and Natal would "to all intents and purposes" remain the same, but changes would occur in the Transvaal and the Eastern Cape in accordance with the Hoexter Commission of Inquiry, which decided to locate the High Courts there

In the Eastern Cape there are three Supreme Courts, at Grahamstown, Bisho in the Ciskei and Umtata in Transkei, which now fall into the Eastern Cape Province, while the Transvaal Provincial Division and the Witwatersrand Local Division have jurisdiction over the whole of the former Transvaal, which now comprises Mpumalanga, the North West Province and the Northern Province

The commission must decide whether there is going to be a High Court in each of the provinces and what its area of jurisdiction would be, Judge Friedman said

Commission secretary Mr Gouws Marais said the commission's report was in an "advanced stage" and an interim report on the location of the High Courts in the Eastern Cape and Transvaal would be released in the "immediate future"

The Cape Provincial Division's area of jurisdiction remains the same, while the Appeal Court now becomes the Supreme Court of Appeal and acquires jurisdiction over constitutional matters. Appeals would now go from the High Court to the Supreme Court of Appeal and ultimately to the Constitutional Court

Judge Friedman also confirmed that Judge J J Fagan, Deputy Judge President, would retire on August 4

The Judicial Services Commission has called for nominations to be submitted by February 21 and the candidate for Deputy Judge President must be a serving judge in the Cape Provincial Division. Judge Fagan's replacement would be an "appropriately qualified woman or man", Judge Friedman said.

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# TRC calls on P.W. to explain

## Boraine sends 'long list of questions' on presidency

AR4 4/2/97

(252)

Former president P W Botha has been asked by the Truth and Reconciliation Commission to answer "a long list of questions" on instructions given and policies formulated during his term of office in the dying days of apartheid.

The list was sent to Mr Botha yesterday. This was disclosed by Alex Boraine, deputy chairman of the commission, in a briefing to the Independent Newspapers' International Advisory Board.

Some of the worst apartheid atrocities happened in the 1980s when the P W Botha administration's "total strategy" was at its height.

Dr Boraine said "I sent a long list of questions to him, in the name of Archbishop Tutu, asking him to give account. I'm not sure what he is going to do or say". He added that he felt politicians "who actually formulated policy and gave instructions are much more responsible (than people who followed orders) and should be held accountable".

It is understood that some of the questions relate to the 1988 Khotso House bombing. It was alleged last year - in a court case and before the TRC's amnesty committee - that Mr Botha had personally ordered the bombing of the building. Among those making the allegations was former police chief Johan van der Merwe.

The submission of questions to Mr Botha yesterday follows a ground-breaking meeting in George between the former president and commission chairman Desmond Tutu in November.

At that time, Mr Botha insisted he was not guilty of any deed for which he needed to apologise or apply for amnesty.

In a written statement, he added "I am, in any event, advised that the damage to

### REPORT



MICHAEL MORRIS

dent does not constitute a gross violation of human rights .. and consequently falls outside the scope of the jurisdiction of the commission."

While he had never associated himself with "blatant murder", he acknowledged that "it would now appear that there might have been instances during the conflict of the past where individuals exceeded the limits of their authority".

Mr Botha indicated that he was not willing to respond to issues on an "ad hoc basis" but would be prepared to comment on a comprehensive list of questions.

Dr Boraine also disclosed yesterday that the Ministry of Safety and Security had begun a probe into the destruction of police files and documents which could have a bearing on atrocities or unsolved apartheid era events.

In many instances, there were still records of the removal and destruction of files and the names of those responsible.

"We have asked (Minister of Safety and Security) Sydney Mufamadi to find out when files were destroyed and which files are missing," said Dr Boraine.

"They are working on this now."

He also told the International Advisory Board that the value of public apologies

underestimated. Citing the amnesty applications by Defence Minister Joe Modise and his deputy Ronnie Kasrils, he said. "This is an unbelievable example where political leaders will actually come and say they are sorry."

"I just wish people on the other side would show the same graciousness."

"It would make a huge difference to this country if the people responsible for making policy in the past would come to do the same thing."

Meanwhile Freedom Front leader Constand Viljoen dismissed a television news report last night which said he had applied for amnesty to the TRC for planning and organising to defend an Afrikaner volkstaat before the 1994 elections.

The confusion stemmed from a top item on television news that erroneously quoted the former general as saying he had already applied for amnesty.

However, the corporation corrected the story later in the same news broadcast after General Viljoen telephoned a radio journalist to point out the error.

General Viljoen said last night "As far as I am concerned, nothing has changed since I had a meeting with President Mandela three weeks ago where the issue of amnesty was raised."

"I only confirmed that I would seek an interview with the TRC to discuss the procedures for seeking amnesty and once this is done, go back to my people and talk it over with them."

He said although the seeking of amnesty would be done on an individual basis, members of his organisation had made a joint effort in their quest for a "volksstaat" and this would impact on the applications.

"In our case, fortunately, there were no gross human rights violations of any kind."



Looking for answers: the Truth Commission is quizzing P W Botha, living in retirement with his wife Elize in the Wilderness

REUTERS

# Second doctor arrested over Ecstasy tablets

Star 5/2/97 (252)

By NORMAN CHANDLER

A second medical doctor has been arrested in connection with an alleged trade in Ecstasy tablets yesterday - the same day that chemical warfare expert Dr Wouter Basson appeared in court accused of handing over 1 000 similar tablets to a buyer for R60 000.

Superintendent Giel Ehlers, who arrested Basson last week, said the second suspect was a chief chemical researcher at Delta G, a Midrand company established in the 1980s as a front company for the development of the SADF's chemical warfare capability. The man has been identified as Dr Johan Koekemoer (55).

Police had also discovered a factory where Ecstasy tablets were allegedly manufactured, Ehlers told Sapa

He declined to reveal the location of the factory, saying that the investigations had reached a sensitive stage.

Legal representatives for the second suspect were at the Pretoria Regional Court yesterday afternoon in connection with a possible bail application

The application is expected to be heard today

Meanwhile, it was claimed in

the Pretoria Regional Court yesterday that the life of Basson, a chemical and biological warfare expert, would be endangered if the evidence led at his bail application became public knowledge.

Court orderlies cleared the court after magistrate Rynhardt de Vos ruled in favour of a State application yesterday that the hearing be held in camera

This ruling may later also be extended to evidence given by witnesses

De Vos gave the ruling in terms of section 153 of the Criminal Procedure Amendment Act following a request by Transvaal Deputy Attorney-General Torie Pretorius, who is leading the prosecution team opposing bail.

The ruling was not opposed by Basson's legal team, led by Jaap Cilliers

The act covers aspects of official secrets, and De Vos ruled that his decision was based on "the interests of the state and of justice"

Basson, who has not been charged, is a heart specialist who has admitted to being involved in South Africa's aborted chemical and biological warfare programme

This was described by the SA

National Defence Force in Parliament last year as "defensive" rather than "offensive"

Basson is applying for bail after being arrested in Brooklyn, Pretoria, last Wednesday in connection with being in possession of 1 000 Ecstasy tablets

It was only after the arrest that the National Intelligence Agency, the Office for Serious Economic Offences and the Truth and Reconciliation Commission were alerted to the identity of the person taken into custody.

The bail application was delayed yesterday for the second time in two days as a result of both the State and defence teams seeking more time to study documentation found in Basson's Brooklyn home. The documentation is understood to contain sensitive information

Cross-examination by Pretorius was brought to a dramatic close minutes after it started at 11 30am when Basson was asked about what Pretorius described as a "murder photo album" which had allegedly been found at his home

Pretorius also said he might ask the court to hear evidence from State witnesses in camera "for their own safety", but would take a decision at a later stage

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# POISON Linkin' Biko

# death

## TRC TELLS OF MYSTERY WITNESS

THE TRC has started to probe the mystery of the death of activist Steve Biko in police custody. **ROGER FRIEDMAN reports.**



**B**LACK consciousness leader Steve Biko may have been poisoned by his police captors and not beaten to death as previously believed, according to new information in the possession of the Truth and Reconciliation Commission. This revelation, confirmed last night by the head of the commission's investigative unit, Mr Dumisa Ntsebeza, follows the announcement last week that five former security policemen had applied for amnesty in respect of Biko's death.

Ntsebeza told the Cape Times "I can only confirm to you that we are investigating an indication from a source, whose identity I am not disclosing at present, that the brain damage suffered by Biko may have been caused by poisoning."

"We have received a document from the source saying that (Biko) was poisoned, and that (the source) is prepared to say (under oath) that he was poisoned."

Asked if the information related in any way to the former head of the former military's chemical and biological research programme Dr Wouter Basson, who was arrested in possession of 1 000 Ecstasy tablets last week as the commission was about to subpoena him, Ntsebeza said it did not.

"But we would investigate if Basson had anything to do with it to the extent that he was involved in chemicals," he said. Basson was subpoenaed by the commission during a break in his bail application in Pretoria at the weekend. He is expected to appear before the commission later this month.

According to the post-mortem report presented by chief state pathologist Professor Johan Loubser, Biko died as a result of a brain injury. Resulting centralisation of the blood circulation system led to acute kidney failure.

Biko was detained in Grahamstown under the Terrorism Act on August 19, 1977. He died 24 days later. At the ensuing inquest, his interrogators claimed that Biko had hit his head against a wall after becoming violent during interrogation.

During cross-examination, Dr Colin Hersch, the physician who attended to Biko at Sydenham prison hospital, said the lumbar puncture he conducted suggested Biko could have had brain damage. Nonetheless, he was put into a police van and driven to Pretoria — where he died.

Loubser said there were five distinct areas of brain lesion, which could all be the result of a single blow. A neurological pathologist giving evidence for the Biko family, Professor Neville Proctor, said at least three blows would have been required.

Now, if the commission's mystery witness is to be believed, it appears that the lesions could have been the work of poison meant to induce haemorrhaging — poison that would not necessarily have been evident in the post-mortem.

It appears that members of the Eastern Cape security

forces had a particular penchant for administering poison and/or knock-out drugs to activists before killing them.

In 1977 the children of then-East London newspaper editor Mr Donald Woods received, through the post, T-shirts contaminated with a burning substance.

In 1981 Port Elizabeth student leader Siphiso Mtinkulu lost his ability to walk after five months in police detention. On his release, Mtinkulu was diagnosed as suffering from the effects of the rat poison thallium. He said the police had fed him tablets. He began proceedings against the police, but they detained and killed him. According to some of the policemen seeking amnesty for the Biko murder, Mtinkulu and his comrade, Topsy Madaka, were given drinks spiked with sedatives and shot in the head.

In 1981 Port Elizabeth law student Sizwe Kondile was detained and tortured until he suffered brain damage. To prevent an outcry similar to that which greeted Biko's death in detention, Kondile was allegedly fed knock-out drops in a glass of water before being shot in the head. The police claimed they had released Kondile and planted his car in Lesotho to make it appear he had gone into exile.

In 1985 the Pebco Three — Siphiso Hashé, Champion Galela and Qaqawuli Godolosi — were abducted, interrogated, given spiked coffee, shot and burned.

In 1989 the former secretary-general of the SA Council of Churches, the Rev Frank Chikane, became ill while on a trip to the United States. Sources close to the old military chemical weapons programme headed by Basson claimed that covert military operatives had impregnated Chikane's clothing

with poison. Basson has consistently claimed that the programme was to develop defensive capacity only.

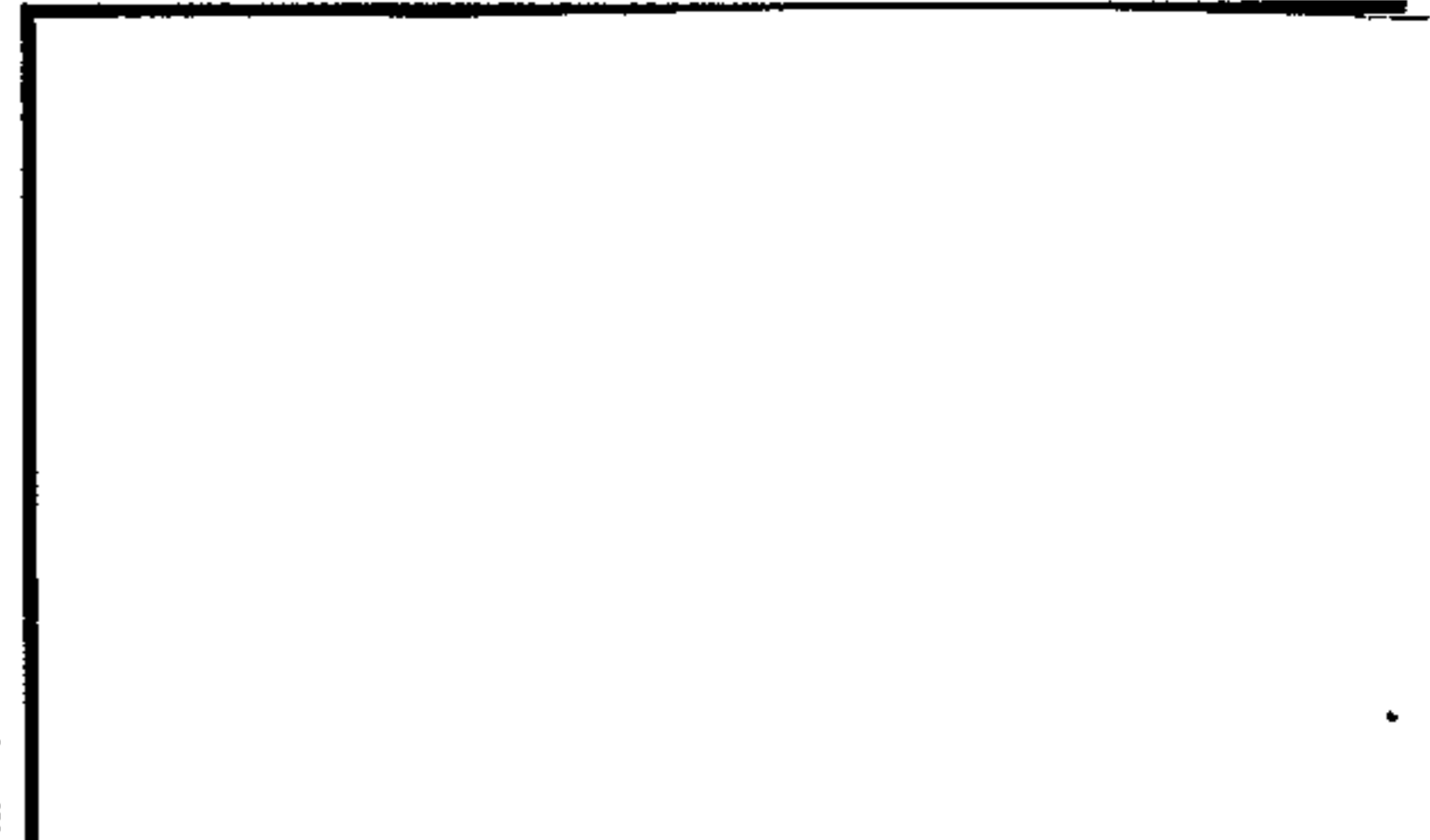
The police forensic division headed by General Lothar Neethling was originally fingered as being responsible for doling out the poison, but it emerged during the trial of unofficial apartheid state assassin Eugene de Kock last year that at least some of the poisonings were joint police/military operations.

The commission said last week that whereas it had made good ground in uncovering human rights violations perpetrated by former and serving members of the police, the paucity of information on military involvement was of concern.

A programme had been put in place to rectify this imbalance. ● See Page 7



POISONED?: Steve Biko





Steve Biko: secret documents uncovered

# 007-style operation nets Biko poison file

JOSEPH ARANES AND MICHAEL MORRIS  
ON THE TRUTH COMMISSION

In a dramatic James Bond-style operation, members of the Truth and Reconciliation Commission's investigative unit and National Intelligence Agency operatives have seized a trunkful of top secret documents - one indicating that Black Consciousness leader Steve Biko could have been poisoned by police.

In what appeared to be a decoy operation, agents saw a woman drop off a garbage bag at an evidently pre-arranged spot in an unnamed city

The bag was later picked up by someone in another car. But the decoy failed, and investigators were led to the trunk containing top secret military documents

It is believed the documents were seized while the TRC investigators and NIA members were monitoring people linked to Wouter Basson, including his wife

Dr Basson is the former head of the military's chemical and biological research programme and was arrested in possession of 1 000 Ecstasy tablets last week

Some of the documents contained fine details of experiments using poison, including thallium, the effects of which are easily mistaken for haemorrhaging of the brain resulting from a blow to the head

A senior TRC source said "This is the closest thing we have found to experiments in Nazi concentration camps - the production of materials for the specific purpose of clandestine killing."

The poison was used on Eastern Cape youth activist Siphiso Mtshkulu in 1981, resulting in him losing the use of his legs.

Head of the TRC investigative unit Dumisa Ntsebezi, while refusing to confirm the weekend's sting operation, said

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the unit was in possession of a document that suggested that the brain damage suffered by Mr Biko could have been caused by poison

He said the unit had a source, who he declined to name, that was prepared to testify under oath that he (the source) was present in a room in 1981 when another security force member claimed to have administered the poison to Mr Biko.

"It is now becoming clear to the TRC that activists and opponents of the previous regime were being poisoned systematically and there doesn't seem to be any doubt that people within the apartheid security system were responsible"

Mr Ntsebezi said that, since the Steyn report and the arrest of Dr Basson, the TRC had been investigating possible links between the poisoning of the anti-apartheid activists and the defence force seventh medical battalion, with which Dr Basson was involved

Mr Ntsebezi said the commission had subpoenaed Dr Basson to attend a Section-29 hearing in Cape Town on February 27 and 28. He could not confirm whether Dr Basson's wife would also be subpoenaed.

Mr Biko was detained in Grahamstown on August 19, 1977, under the then Terrorism Act. He died on September 12 in Pretoria after being driven there naked in the back of a police van

An autopsy was performed a few days later and the preliminary findings indicated brain damage. An official post mortem found that the death was caused by extensive brain damage resulting in a reduction of circulation to other organs, acute renal failure, uraemia and intravascular coagulation.

In addition there were other injuries that could have been inflicted during the eight days before his death

# Tribunals are balm for troubled nations

## Goldstone back home to speak on healing effect of truth commissions

**TOMORROW SOUTH AFRICAN CONSTITUTIONAL COURT JUDGE RICHARD GOLDSTONE IS TO SPEAK TO THE INSTITUTE OF CITIZENSHIP IN CAPE TOWN ON TRUTH COMMISSIONS AND INTERNATIONAL WAR CRIME TRIBUNALS, TWO AREAS IN WHICH HE HAS SPECIAL EXPERTISE. ROY GUTMAN OF NEWSDAY INTERVIEWED THE JUDGE ON HIS EFFORTS TO WIN REDRESS FROM WAR CRIMINALS AND OTHERS GUILTY OF HUMAN RIGHTS ABUSES**

Four months after returning as chief prosecutor for war crimes in the former Yugoslavia, Judge Richard Goldstone is speaking out again, excoriating the "wishy-washy" United States policy against arresting the war criminals he indicted and demanding justice for their victims

His message on a recent US tour was a powerful one if leading nations do not insist on justice for the victims of genocide and massive repression, then "I fear the 21st century will be a lot worse than the century which is about to end"

The South African jurist was hailed as a human rights advocate by US Supreme Court Associate Judge Ruth Bader Ginsburg, who introduced him recently to a packed auditorium at the Holocaust Memorial Museum in Washington

**'Where there is no justice, where victims have been forgotten, the effect is a cancer in the society'**

matic and his rhetoric without flourish, but the passion of his convictions riveted the 600 people who filled the main auditorium and spilled over into a second

"People don't seem to have learned the lesson of history," he said

"How is it that there have probably been more genocides committed since the second World War, since the Holocaust, than before?"

He said the only response to mass crimes was justice through a criminal tribunal or an internal "truth commission". Judge Goldstone, who was also chief war crimes prosecutor for Rwanda, warned that The Hague tribunal on the former Yugoslavia "could be in mortal danger" with 75 people indicted and only seven in custody.

The court soon will find itself in a crisis, because the four-year terms of the 11 judges expire in November and the United Nations Security Council may not renew them if they have no cases to try

To date, Serbia, Croatia and the Bosnian Serbs have refused to turn over the suspects

The US military, which leads international peacekeepers, also has shied away from making arrests.

Just two days after Judge Goldstone spoke, President Clinton seemed to rule out the use of the 20 000 Nato troops to carry out the arrests

He said their purpose was to preserve the peace, stabilise borders and provide security, and it would be "impossible to do that and spend your time taking affirmative action over (war crimes) as a police force"

Judge Goldstone had strong words for the Clinton administration's attitude.



International expert Judge Richard Goldstone robes himself before being installed as chancellor of Wits

ASSOCIATED PRESS

ever assembled anywhere with the intelligence capability of the United States and of the major European powers" were given the legal right to arrest under the Dayton, Ohio, peace agreement of November 1995

"However, they have made little effort to seek out indicted suspects," he said "Current policy," he added, "was either stupid or intended not to work. Because it

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him delay taking up the post for two years so that he could serve as chief prosecutor in The Hague

There, he had "a Herculean struggle", said Professor Theodor Meron of New York University, a leading US scholar in international humanitarian law who introduced Judge Goldstone to an annual conference for diplomats on the topic

The struggle was "to convince the international community that it must back up its rhetorical commitments with deeds"

It takes "a very special person to be able to tell the truth as it is to the powerful and mighty in the United Nations and national governments"

The human rights community and jurists place Judge Goldstone on a high pedestal

"He was one of the first South African jurists to turn against apartheid when doing so was both unfashionable and dangerous," said Professor Meron

"He is in that really rare category of people who can speak to universal conscience and make people reflect on their own responsibility," said Diane Orentlicher, a professor of law at American University who is a leading expert on genocide

In the United States, Judge Goldstone has argued that war crimes prosecutions or truth commissions are essential to restoring peace in countries where repressive regimes of warring factions have violated human rights

Exposing the truth, he said, avoids collective guilt, establishes the facts so they cannot be denied later and allows the victims to begin the healing process

It also identifies the structure of repression so that it can be dismantled more easily and has a deterrent effect, he added "The truth is a balm. It does bring a certain amount of peace to the nation," he

# Cape policemen to appear a second time before truth body

Stephen Laufer  
and Nomavenda Mathiane

SIX Western Cape policemen have been asked by the truth commission to appear at a second hearing later this month on the March 1986 shooting of seven men in Cape Town's Guguletu township in which the Vlakplaas killer unit might have been involved

The commission originally subpoenaed nine officers to appear at a hearing into the incident last November, but ran out of time before it could question all of them

The first evidence suggesting Vlakplaas involvement in the shooting emerged at the November hearing

Witnesses said at the time that some of those killed in the shooting had been executed at close range after having surrendered or being wounded

Two consecutive inquests at the time cleared the police

Among those the commission has

said it wanted to question again were Western Cape police spokesman Supt John Sterrenberg and gang unit head Dir Leonard Knipe

Meanwhile Human Rights commissioner Tom Manthata yesterday described the death of SA's first "necklace" victim Maki Skosana in July 1985 as a national shame and asked members of the public attending the human rights violation committee hearings in Duduza to remember Skosana with a moment's silence

Skosana's sister Puleng Moloko told the committee Skosana had been killed on suspicion of having been involved in a hand grenade explosion in which youths had been killed and injured in Duduza

She said she was prepared to forgive her sister's killers, but she wanted to know who the person was behind the rumour that Skhosana had been an informer. She denied any knowledge of the policeman who was alleged to have

been her sister's lover

She also denied any knowledge of money her sister was alleged to have been paid for being an informer

"Instead she left us with debts which we had to pay off" she said

Two of the youths who survived the June 1985 booby-trapped hand grenades said they had been approached by MK people calling themselves James and Mike. The two men had offered them help fight "the forces of darkness that were killing the leadership in Duduza"

Titus Mazibuko who was a student leader said they were given a "one night" crash course on how to put together bombs and then told to choose a target. They had decided on a councillor's house and that of his brother

Mazibuko who lost some of his fingers said he had not questioned the people who had given him the bombs because MK operated on a "need to know basis", and this had happened after they had received a directive from the ANC in exile that MK cadres were to be trained inside the country

His story was collaborated by Veli Mazibuko who was then chairman of the Congress of SA Students who said as leaders in the township their lives had been at stake and they needed to defend themselves.

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**Poison gas**

**Secrets were**

**Sold to Libya**

Following the arrest of Dr Wouter Basson, SADF scientists are revealing details of its covert chemical programme, writes **Peta Thornycroft**

**S**CIENTISTS involved in the development of chemical weapons by the former South African Defence Force (SADF) have begun talking to authorities, giving details of the sale of chemical weapons technology to Libya after the 1994 elections. The sales were without the knowledge of the present government.

At least one chemist, and possibly two more, have been co-operating with the authorities. One was a key figure in the programme, and was formerly connected to two SADF front companies, Delta G, the chemical factory and research facility at Midrand, and Protechnik, an analysis and defensive research laboratory near Hartebeespoort Dam.

The chemists face an enormous dilemma — they don't know how much their former client Wouter Basson is telling the investigators prosecuting him for allegedly selling the designer drug Ecstasy.

Basson is a doctor and toxicologist but not a chemist. As head of South Africa's 7th Medical Division, he was intimately involved with the chemical and biological warfare programme. He knows all those involved in the covert programme under which South Africa honed its technology for chemical warfare to First World standards.

Information emerging about the SADF's chemical warfare development programme indicates the scientists involved made substantial use of the then South African Police's forensic laboratories for some of their base ingredients.

In March 1995 Basson acted as a go-between during negotiations by the parastatal Transnet with Libya to build part of a large railway construction project. Transnet was referred to Basson because of his well-established Libyan links. He claimed to have been involved in a hospital building programme with the Libyans.

The *Mail & Guardian* has been told that some of the chemicals used in the SADF programme are stored in the region. Only a handful of men know exactly where the chemicals are hidden.

The Office for Serious Economic

Offences is investigating the sale of Delta G to listed chemicals group Sentrachem, and the Roodeplaats animal testing centre to its directors. Basson was arrested last week and substantial documents were found at his Pretoria home.

A breakthrough for investigators looking for the SADF's chemical warfare secrets was found in two trunks at the home of one of Basson's associates, Pretoria businessman Sam Bosch.

Meanwhile the *M&G* has established that the Belgian scientist who first claimed that chemical warfare had been used by the MPLA in the Angolan conflict in the late 1980s, so prompting South Africa to begin pouring millions into its own defensive programme, has been convicted of fraud. Dr Aubin Heyndrickx was recently found guilty of misusing funds from his employer, the University of Ghent, where he was head of the department of toxicology.

Belgian police are still looking for 12 British-made chemical agent monitors which Heyndrickx bought with university funds. He said he destroyed the machines because they were defective.

South Africa spent many millions of rands on defensive clothing, gas masks and other chemical warfare equipment after Heyndrickx said the MPLA forces were using poison gas on Unita in the Angolan war. He refused to allow his findings to be assessed by his peers. His research project was done in loose collaboration with a clinic in Mavinga in southern Angola staffed by some SADF personnel.

● Defence Minister Joe Modise has stopped the South African National Defence Force (SANDF) from paying Basson's bail application legal costs. His deputy, Ronnie Kasrils, told the *M&G* that Modise had ordered on Tuesday, after it emerged the SANDF was provisionally footing the bill, that no payments be made to Basson's legal team. Kasrils said the Basson charges were of a purely criminal nature and not related to Basson's SADF duties.

● The office of President Nelson Mandela points out that Mandela never possessed a copy of the Steyn Report in which Basson's chemical warfare activities were detailed. Mandela's spokesman Parks Mankahlana said press reports, including last week's *Mail & Guardian* were incorrect in claiming that Mandela's office had sent a copy of the report to the truth commission for investigation.



The truth about assassinations is making news through the Steyn Report and the truth commission

# Shocks from the Steyn Report

Mail & Guardian Reporter

**T**HE Mail & Guardian has a summary of the Steyn Report, a document considered so explosive that President Nelson Mandela chose not to make its details public after he was briefed about its findings in case it jeopardised the post-1994 election transition

The controversial report has been kept under wraps for more than two years by all parties — including Mandela's office, former president FW de Klerk and two attorneys general — who had access to the information contained in it

The summary in the M&G's possession shows that General Pierre Steyn, appointed in late 1992 to investigate Third Force violence that racked parts of the country in the run up to the elections, believed

● The South African Defence Force's (SADF) reconnaissance regiments, with the help of Spoornet's intelligence agency, were involved in train massacres that rocked the Witwatersrand in the run up to the 1994 elections

● The military's Seventh Medical Division supplied poison to assassins from army hut squads and was involved in a chemical bomb attack on Prielmo troops in Mozambique in the late 1980s

● Caches of arms were stockpiled



The Cradock Community and the people of S.A. salute you in your heroic struggle for freedom, peace, justice and social emancipation. Your blood will nourish the tree that will bear the fruits of freedom. Land, the fulfilment of our leaders.

Apartheid's past: The truth about the Cradock Four is finally coming out

PHOTO JONATHAN ANCKER

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The Steyn Report provides details about these and other extraordinary covert operations run by the SADF's military intelligence division and members of the army's special forces in the late 1980s and

or "probably true"

Although Steyn pointed out that he was relying on internal intelligence sources and reports, rather than evidence of the kinds that

denied he was implicated in the Steyn report

The summary notes that Steyn reached his conclusions and recommendations after making use of

counter intelligence unit) and the Seventh Medical Battalion. Although concrete evidence was not available, monitoring of conversations, movements and transport suggested that, under cover of Operation Pastoor, elements of the Special Forces were involved in East Rand violence, that Recce Regiments One and Five were in Kwazulu, raising the possibility that they may be involved in activities there

"There were rumours that Five Reconnaissance Regiment, together with ex-Selous Scouts, were involved in train violence

"There were also reports that Spoornet's intelligence structure which comprised old Special Force members was involved in the train massacres. Destabilisation encompasses a variety of actions broadly designed to destabilise the internal and external situations. There seems to be some suggestion that there was an intention of creating sufficient disorder to enable the military to step in credibly to create order

"Numerous allegations revolve around stockpiling arms in caches in various countries [largely African — Kenya, Zambia and Mauritius — but Portugal is also mentioned] and creating 'springboards' in these countries for potential military action. Much of this appeared to happen in nature reserves

including Kevya, Zambira and Mautius — so that they could be used by South African special forces to destabilise African countries and also a new black government in Pretoria.

● Right-wing Renamo rebels in Mozambique and members of Inkatha hit squads in South Africa were armed and trained by operatives in the Department of Covert Collections, a wing of military intelligence, even in the early 1990s.

● Game reserves in South Africa and neighbouring states were used to stockpile war material and train surrogate paramilitary forces.

# Commission creates fresh interest in past

**Eddie Koch**

**T**HE confession by a group of policemen about their role in the killing of Steve Biko and the grisly assassination

of at least nine other anti-apartheid activists from the Eastern Cape has focused renewed local and international attention on the main themes and controversies shaping the work of the truth commission.

The revelations about who killed Biko, a figure who has become an icon of oppression under apartheid, have now established beyond doubt that the commission has become an effective instrument for extracting the truth from those who assassinated and murdered at random under National Party rule.

With details now pouring out about the murders of the Cradock Four, the Pebeo Three and Siphwe Mtimkulu, the truth body can effectively claim to have prised open the grim secrets inside South Africa of almost every major assassination and massacre of the apartheid era — bar the mystery that still surrounds the murder of David Webster, the Boipatong Massacre, and

Last month Mandela's office, for the first time, provided the truth commission with a copy of the Steyn Report so that it could be investigated more fully. Truth commission officials say the information cannot be released because much of it is in the form of "untested allegations".

However, the summary document, apparently drafted by a team of state investigators probing the possible prosecution of members of military hit squads, points out that details of many of the clandestine operations described in the report were regarded by its author, General Pierre Steyn, as "corroborated"

London, reveal most of his findings were strong enough to warrant dismissal or forced retirement of many officers named in the report.

The summary makes clear that Steyn recommended the forced retirement of General Georg Mering, then chief of the army, General Kat Laebenber, then chief of the defence force, and General Joffel van der Westhuizen, then chief of staff intelligence because they had been linked by counter-intelligence officials to some of the clandestine activity described in the report.

Laebenber and Van Der Westhuizen have since retired. Mering, the current chief of defence, has

activity conducted by the military's own department of counter intelligence and the National Intelligence Service — the National Party government's information gathering unit that operated outside the ambit of the police and military.

These are extracts from the summary of the Steyn Report. "With regard to violence, activities range from targeted assassinations or involvement in inter-organisational conflict (between black organisations) to seemingly random violence such as the train massacres. Groups involved included DCC, Special Forces (Reconnaissance Regiments One and Five), Vlakplaas (the police

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the identities of those who carried out a spate of random attacks on black train commuters and township residents during the negotiations that led to the 1994 election.

But there are now signs that the role of the military's secret squads — a group who, unlike the police, have so far remained impregnable to truth commission probes — is likely to be prised out of the perpetrators. This month the commission's investigative unit announced it was working on information contained in the Steyn Report. There is sufficient detail — including the names of dozens of agents linked by the old government's intelligence services to murder and other dirty tricks — in this document for the truth body to begin a prosecutorial process, in collaboration with the attorney general, that could put some of these people in jail for a long time unless they come clean and apply for amnesty (see accompanying story).

But while the commission is effectively showing its ability to uncover the truth, the other side of its coin remains concealed.

The naming of Biko's killers, a hero of the black consciousness move-

ment whose members reject the right of perpetrators to obtain immunity in return for full confessions, has galvanised opposition from the Pan Africanist Congress and the Azanian Peoples Organisation to the amnesty provisions of the truth process.

Statements from many of the families of the Eastern Cape activists who were murdered by the ten policemen applying for amnesty indicate demands for the truth to be followed by justice, rather than for justice to be traded in exchange for truth.

And, perhaps more disturbing, is that the commission is sometimes reinforces

this complaint by neglecting the feelings and needs of victims' families in its determination to show its truth side. A number of the relatives of those who were killed in the Eastern Cape by special branch operatives complained that they either heard this week's grisly details through the media or were only informed at the eleventh hour of the press conference in Port Elizabeth where they were announced.

Steve Biko: His killers have confessed



internally training was alleged to be given to Inkatha and Ciskei security forces by DCC. As regards Inkatha, training was given to supporters who were then armed by security companies with strong ex-Rhodesian links. This is said to run from the Durban DCC offices.

"Arms were also said to be transported from South Africa to Mozambique. One route was via the Kruger National Park to the PWV area. Another organisation by the Durban security police involved smuggling AK-47s for Inkatha.

"A number of allegations also centred on setting up covert structures (to derail the negotiation process under way at the time). From a box at Loftus (rugby ground in Pretoria), there were talks of setting up and underground organisation, attempts were made to set up a CCB-type organisation at the beginning of 1992 (the Civil Co-operation Bureau was officially disbanded after being exposed as a death squad), a former SADF officer was said to be organising a resistance structure involving old Special Force members, 32 Battalion and the Parachute Battalions. It was also believed that some of the arms coming from Mozambique were being distributed to the AWB (Afrikaner Weerstandsbeweging).

"Aside from the chemical attack on Frelimo a CBW (chemical and biological weapons) programme is operating under Brig/Dr Basson. The project is codenamed Project Jola and a process of privatisation is proceeding in order to ensure its survival. Companies involved include Rooderplaat Naworsingslaboratorium, Rooderplaat Teelondering, Delta G, Protechnics."

● M&G reported last week that President Nelson Mandela had been in possession of the Steyn Report since 1994. Presidential liaison officer Parks Mankahlana thus week denied Mandela had a copy, but confirmed he had been briefed by Steyn

# Truth body to probe IFP hit squads

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THE hit squads created and trained by the SA Defence Force (SADF) and the Inkatha Freedom Party (IFP) in the Caprivi Strip and their use in KwaZulu Natal's political conflicts are to be the subject of an eight-day truth commission hearing in late March.

The creation of the 200-strong force, many of whose members later joined the KwaZulu police, had changed the nature of violence in the province, commissioner Richard Lyster said. Many of the trainees were still involved in political violence, and it was crucial to understand the origins, training, role and activities of the force if a full picture of events in KwaZulu-Natal during the 1980s and 1990s was to be given.

The commission was not looking for a rerun of the trial of former defence minister Magnus Malan who was charged last year in connection with a massacre at

KwaMakhutha believed to have been carried out by Caprivi trainees. Instead, the truth commission was keen to give as full and balanced a picture as possible.

Victims of attacks by Caprivi trainees, participants and experts would be asked to testify at the hearings in Durban, Lyster said. Separate hearings in the KwaZulu-Natal midlands would look at gross human rights violations in which IFP members or sympathisers had been the victims.

Lyster said the hearings with IFP victims were scheduled for five days in April, but the commission was still unsure whether they would come forward in sufficient numbers. With no official support from their political party for the commission, many were reluctant to take part in the hearings.

Separately, commission investigations head Dumisa Ntsebeza confirmed yesterday that his staff was following up a statement claiming that black consciousness

activist Steve Biko had been poisoned and not beaten to death as widely believed, Sapa reports.

The commission said last week five former security branch policemen had admitted killing Biko while interrogating him in 1977.

Cape Town newspapers quoted unnamed commission sources yesterday saying they had security documents showing army scientists had experimented with poisons that produce brain bleeding which could make it look as though the victim had sustained blows to the head.

The truth commission said yesterday that eight prisoners serving long sentences for murders they claim were committed in the context of the political conflict in the province would ask for amnesty at public hearings in Maritzburg next week.

They included two policemen, three alleged African National Congress supporters and three alleged IFP supporters.

# great police cover-up

## Bopape murder: the

Senior officers misled Vlok over activist, saying he had run away, but his 'escape' was to the grave after a torture session, amnesty hearing is told

Stanza/3/97

BY ROBERT BRAND

Top police officers, including former commissioner General Johan van der Merwe, covered up the death of Mamelodi activist Stanza Bopape in 1988 and allegedly fed their minister, Adriaan Vlok, false information which he presented to Parliament as the truth

Five former security policemen have applied for amnesty in connection with Bopape's death, while several others, including former commissioner Johan van der Merwe, admitted covering up the killing, the Truth and Reconciliation Commission announced yesterday

The applicants say Bopape died on June 12 1988 while they were administering electric shocks to him when he was in custody at John Vorster Square in central Johannesburg

They claim the shocks were not intended to be fatal, but Bopape may have suffered from a heart ailment which caused his death

At the time, police said Bopape had escaped while being transported to Vereeniging to point out sites of "acts of terror" in which he allegedly had been involved

They said he had eluded and outspurred his three captors while they were fixing a punctured tyre on their police vehicle

Three months after Bopape's disappearance, on August 30, Vlok told Parliament "a certain person" had escaped from cus-

tody, and the matter was being investigated

On April 25 the next year, Vlok told Parliament that Bopape had escaped while pointing out "certain spots in connection with acts

### What I told Parliament is what the police told me

of terror in which he was allegedly involved"

He added that police had said they had found witnesses who had seen Bopape after his disappearance

"This was one of the most elaborate cover-ups ever, from the level of constable right up to the minister," said TRC human rights violations committee member Dr Russel Ally

Police opened an escape docket, fabricated forensic evidence to "prove" they had fired a shot at Bopape during his escape, provided evidence of a punctured tyre on the police vehicle, and produced witnesses who pointed out Bopape's identikit among photographs of suspects seen in the vicinity of the 1988 Ellis Park bombing, Ally said

(252)  
Vlok claimed yesterday he did not know the true facts when he made his statement to Parliament "I didn't know What I told Parliament is what they (the police) told me," he said, adding that he would not apply for amnesty in connection with Bopape's death

Van der Merwe said he could not discuss the matter as it was subject to an amnesty application.

He said the issue of what he had told Vlok about the Bopape case would be addressed in his application

Five policemen - Lieutenant-Colonel Adriaan Peter van Niekerk, Constable Hennick Albertus Beukes Mostert, Constable Jacobus Hermanus Engelbrecht, Sergeant Johan Ludwig du Preez and Major Charles Alfred Zeelie - have asked for amnesty over Bopape's killing

Two - Brigadier Schalk Visser and Captain Leon van Loggerenberg - want amnesty for their part in disposing of the body

Van der Merwe, General Gerrit Nicholas Erasmus and General Petrus Lodewikus du Toit are seeking amnesty for their part in the cover-up

TRC investigating unit head Dumisa Ntsebeza said they had applied for amnesty after some of them had been subpoenaed to answer questions about Bopape's disappearance

He said the commission was not convinced that everyone involved in the Bopape case had come forward, and that investigations would continue

# Top government officials informed for security police

(272) Star 1/3/97

Certain informers for the police's security branch in the 1980s were now high-profile members of the Government, and to disclose their names would have serious repercussions for the country, the Truth and Reconciliation Commission heard yesterday

The commission's amnesty committee, chaired by Judge Hassen Mall, is hearing the applications of five former security policemen in Pretoria

Yesterday it heard additional evidence about the killing of Mamelodi doctor Fabian Ribeiro and his wife by the SA Defence Force's Special Forces, with the help of the security branch

Brian Currin, lawyer for the Ribeiro family, requested the disclosure of those who had informed on the Ribeiros. He was supported by lawyer for the commission, Mokatedi Mpshe, who said the names were part of the full disclosure required by the Promotion of National Unity and Reconciliation Act

## Not for revenge

Roelof du Plessis, lawyer for the applicants, said disclosing the names of the informers would put them in danger and be grossly unfair to them

Currin said his clients did not want the names in order to exact revenge for the Ribeiros' killing, only to know all the details of that event

Du Plessis replied "One effect of disclosing the names, I can assure you, is that it will not be to the advancement of reconciliation in this country"

"There are people in current government structures, high-profile people in the current Government, who were informers for the security police at that time" - Sapa

# The breeze of change

## Appeal Court gets a new chief and new powers

CARMEL RICKARD

ST 2/3/97  
(252)

**F**EW spectators came to witness the historic moment ushered in by Appeal Court orderly Ferdie Strydom as he drew back the plush red curtains of Court One last week.

Perhaps a dozen people watched Chief Justice Ismail Mahomed, the green gown he wore as deputy president of the Constitutional Court now consigned to mothballs, lead a solemn procession of five black-clad judges through the archway. They took their seats according to seniority, with Mahomed in the centre.

In the 87 years that appeals had been heard in this stately, stinkwood-panelled room, the presiding judges had been white. So had the chief justice.

Until Thursday last week Judge Mahomed broke this mould, and became the first chief justice to preside over the Appeal Court as it starts to wield its significant new powers under the Constitution, signed into law in December.

He is also the first chief justice to be appointed after a gruelling public process, including official nomination and public interview. And he faced a united front of opposition from virtually all the Appeal Court judges, who made it clear they wanted their longest-serving colleague, Judge Hennie van Heerden, to be appointed as chief justice.

Nevertheless, Judge Mahomed won the backing of the Judicial Service Commission and, after a further interview, was invited by President Nelson Mandela to hold the highest judicial office.

As he drove to court on the morning of his first case, he may have reflected on the irony — and the challenge — of his situation: once disqualified on racial grounds from sleeping overnight anywhere in Bloemfontein, he now lives in one of its plush suburbs in the White House, the only official residence provided by the state for a judge.

And whatever his reaction to the more recent rejection by most of his colleagues in this same city, he must now help unify the judges and provide direction under the Constitution for the Appeal Court as well as South Africa's other courts.

Fortunately the storm surrounding his appointment has faded to little more than an embarrassing memory and talk at the court is that the tense atmosphere of the early days of his tenure is evaporating, with all parties beginning to work well together.

Judge Mahomed's first case last week — a civil dispute about a mistake in a rental agreement — helped dispel one of the myths about the new chief justice. Some had claimed his interventionist approach in court, in which he asks counsel many questions and engages them in lively debate, would not go down well in Bloemfontein.

But they were wrong. Just 30 seconds into the hearing, Judge Mahomed opened his account with counsel. The other judges soon followed suit with debate spread evenly enough among them.

Friday's case, in which he again presided, followed a similar pattern, with all five judges debating repeatedly with counsel.

This case was also important because it put the Constitution, and the response to it by the Appeal Court and the chief justice, firmly on the agenda.

The case examined Black Mountain Mineral Development's sacking of more than 300 workers who went out on a legal strike. The National Union of Mineworkers appealed against the dismissal to test the boundaries of the law and clarify under what circumstances workers on a lawful strike may be sacked.

Counsel and the judges referred to the new Constitution several times during argument, aware of the Appeal Court's new role in constitutional matters.

The court has been given extra jurisdiction to hear cases involving constitutional questions, although its decision on these issues may still be taken to the Constitutional Court for a final ruling.

The Appeal Court has also been given the task of shaping the common law to fit with the new constitutional values. Its new powers could make its decisions even more relevant to ordinary people than in the past.

Last Friday's case involved a strike called before the Constitution came into force and it raised no specific constitutional issues.

But the Constitution was clearly in the minds of many in court, including the chief justice who commented at one point: "To strike is a fundamental right protected by law but also, in an era of constitutionalism, by the values of the Constitution."

Malcolm Wallis SC, who appeared for Black Mountain, also referred to the Constitution, saying the new constitutional values were not part of the law in 1991 when the strike took place. However, he added, even though strikes were now protected under the Constitution, "there comes a stage when it is appropriate to dismiss workers."

Discussing who should pay for the legal costs of the appeal, Judge Mahomed again referred to constitutional values. He recalled a Constitutional Court ruling that in some forms of constitutional litigation it might be unwise to punish the losers by awarding costs against them so that people would not be discouraged from testing their constitutional rights.

Martin Brassey SC, for the union, urged that the Appeal Court should take a similar approach.

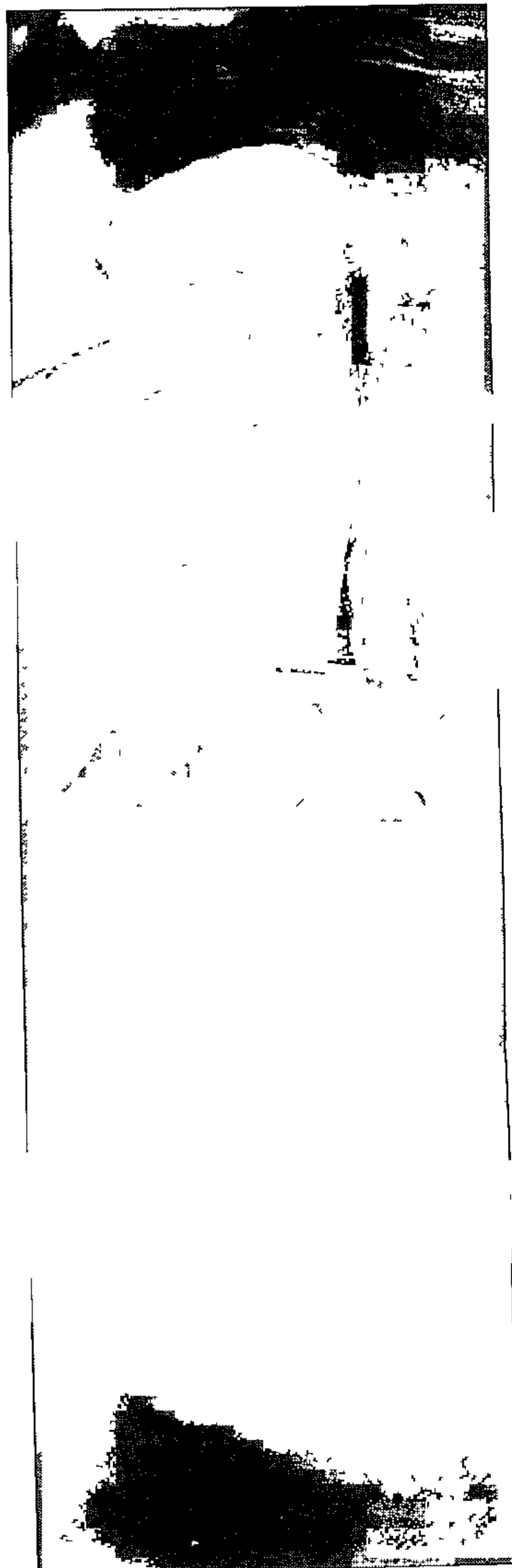
The Constitutional Court and the Appeal Court differ sharply. The former, housed in a Braamfontein business park since its establishment two years ago, projects a modern, business-like image. By comparison, the Appeal Court's chandeliers, dark panelling, uncomfortable antique chairs and pulpit-like podium for the judges speak of ceremony and tradition.

Now, the Constitution has challenged the Appeal Court to become involved in the task of contemporary constitutionalism — just as it inherits a chief justice steeped in precisely this culture. As the author of several of the Constitutional Court's most noteworthy judgments, Judge Mahomed could play a key part in shaping the court's response to its new role.

Some experts predict it will take time before the Appeal Court begins to fulfil its constitutional function, as relevant cases must first make their way through the system. Others say it might happen far sooner if judges approach every case before them with a new mind-set shaped by constitutional values.

From the tone set by the court in the Black Mountain case, it is clear that change might be closer than anyone expected.

*Once disqualified on racial grounds from sleeping overnight in Bloemfontein, he now lives in the only state residence for a judge*



**GROUNDBREAKING:** Although he has hung up his robes as deputy president of the Constitutional Court, Chief Justice Ismail Mahomed has an important part to play in shaping the new constitutional role that has been assigned to the Appeal Court in Bloemfontein.

# Legal aid body in chaos

Lawyers call for a clean sweep as R300m project teeters on the brink of collapse

ST 2/3/97

CARMEL RICKARD

**T**HE Legal Aid Board, which has a R300-million budget from the government to ensure the public's right to legal representation, is said to be on the verge of collapse

Its deputy director has been suspended pending a disciplinary inquiry and members of the legal profession want its director to step down. In addition, lawyers are outraged at the huge backlog of accounts which it has left unpaid.

Tony Hutchinson, the board's deputy director and a former president of the Transvaal Law Society, confirmed this week that he had been suspended.

However, he would not elaborate on the reasons for the move, saying that suspension was standard procedure if there was an inquiry in progress, "as is the case here".

But when asked to comment on the situation at the board, he said, "I can confirm that the Legal Aid Board is in a chaotic state. It is worse now than it has ever been. The staff is totally demotivated."

Many lawyers agreed that the system was close to collapse, and called for Hutchinson's boss, director Nick Pretorius, to quit.

They said that the board's troubles would not be resolved until there was a clean sweep.

Members of the board, which includes the president of the Constitutional Court, Justice Arthur Chaskalson, the director general of the Department of Justice, Mr J.J. Noeth, and several law professors, have allegedly been gagged.

All queries have to be directed to the chairman, Mr Justice Chris

Plewman of the Appeal Court, and there has been no reply from his office in Bloemfontein. Pretorius, criticised for his management style and the board's inability to resolve its problems, was "in consultations all day and not taking calls".

However, the Transvaal Law Society executive committee considered the escalating crisis at the board at a meeting on Friday.

The national president of the Association of Law Societies, Mike Pinnock, said yesterday that the board's position was viewed with "with extreme disquiet".

The state of affairs was believed to be prejudicial to both management and the public, he said.

Pinnock said the problems had been referred to the association's AGM in two weeks' time because they were of national importance.

It is understood that preparations are under way to approach the Minister of Justice, Dullah Omar, about the crisis.

It is hoped that he will agree to the appointment of a commission of inquiry into the board's affairs.

Sources said the board received about 13 000 accounts a month from lawyers who had undertaken legal aid work. Less than half were settled and the backlog was growing by thousands every month.

Prominent lawyers said there was a ground swell of discontent among lawyers who regarded legal aid work as "high risk".

One advocate said "You resign yourself to a protracted battle to get the money they owe you, or you write them off as a bad debt."

"Frankly, we are all totally fed up and many of us are now unwilling to consider briefs from that source."

Sources said dissatisfaction with

the board was affecting its ability to deliver legal aid to the public.

Internal problems are rife at the board, with several staff members involved in drawn-out labour-related litigation against their bosses.

Staff and consultants employed to suggest improvements to the structures said there was massive unhappiness with inefficiency, as well as personality, administrative and management problems.

Both staff and consultants have allegedly left or have been "frozen out" after having incurred top management's disapproval.

Staff alleged that "thousands" of faxes arrived at the board daily and were simply left unread.

The special advisor to the Minister of Justice, Enver Daniels, said this week that Omar viewed the delays in settling bills with lawyers as extremely unsatisfactory.

However, the problem would be resolved only if new, simplified methods of charging for legal work done on the board's behalf were introduced, Daniels said.

Legislation was passed a year ago to transform the board by providing for additional board members and giving it the authority to operate throughout the country.

However, Omar said these changes would not be implemented until a legal aid guidebook had been completed. Daniels said it had been expected from the board by the end of last year but was not ready.

Some lawyers criticised reports that Omar had called for new structures to be found for the board's operations. The board had already spent a lot of money on consultants' fees to advise on precisely such issues, but their work had come to nothing, they said.

ST 2/3/97

# Justice Department helped cover up Ribeiro killings

MARLENE BURGER

SENIOR Justice Department officials colluded with the security forces to cover up their involvement in the 1986 assassinations of Mamelodi doctor Fabian Ribeiro and his wife, Florence, the truth commission heard on Friday

Former security policeman Captain Jacques Hechter, who is seeking amnesty for his role in assisting SADF special forces to plan the killings, said he and the only man ever held in connection with the murders had been briefed by a state advocate, acting as a prosecutor, and a state attorney on how

to answer questions during a court appearance in July 1987

Hechter said he could no longer remember the names of the officials concerned. The incident occurred a day before former Civil Cooperation Bureau agent Noel Robey appeared at a preparatory examination ordered by then-Transvaal attorney general Don Brunette

"The prosecutor handed us a list of questions and answers he had compiled and said 'Learn these. If you stick to them in court tomorrow, the magistrate knows what to do'. It was clear abundantly clear to me that everyone involved knew the matter would never go any further," Hechter testified

Robey was acquitted on the

grounds of insufficient evidence

According to Hechter's testimony, the Ribeiros were shot by two Angolans "flown in by special forces specifically for the hit, and flown out again that same night"

He said the couple had been assassinated because they were high-profile activists who various informers had claimed were helping youths who wanted to go abroad for military training

Although he had personally wanted to "take out" Ribeiro, Hechter said the "elimination" of the couple had been the work of special forces

Both he and his commanding officer at the time, Brigadier Jack Cronje, who is also seeking

amnesty, testified that security police involvement was confined to making their file on the couple available to SADF Commandant Charl Naude and another man, whom he knew only as Paddy

Shortly after the murders, Cronje and Hechter were summoned to a meeting at Speskop, the home of special forces outside Pretoria, and told by then-special forces chief Major General Joep Joubert that there were "problems" — one of the vehicles used by the assassins had been traced back to the SADF by investigating officers

Joubert asked Cronje if he could do anything about the investigation. Cronje told him he would see what he could do

"The next day, I was told Joubert had gone to see General Johan Coetzee, the police commissioner, the night before about the problem with the vehicle. I immediately notified Cronje, who was summoned by Coetzee later that day and confronted, in the presence of Brigadier Willem Schoon, with the fact that we had assisted special forces"

Hechter said Cronje later told him Coetzee was "furious" that the two policemen had been involved. Coetzee has denied in an affidavit to the commission that he had any knowledge of the assassinations



# HRC chairperson: we need measures to fight racism

(252) CP 2/3/97  
By **HANGWANI MULAUDZI**

THE HUMAN Rights Commission workshop at Houghton yesterday declared war on racism and all forms of discrimination

HRC chairperson Dr Pityana said there was a need for the commission to devise measures to combat these evil deeds. In a proposed programme of action, the HRC has set out to help develop a culture of racism awareness to free people from racial stereotypes

He added that the objective was to equip people with the tools to analyse racism as a societal dynamic

Pityana said many complaints of racial injustices had been received

from society - including the workplace and schools

A monitoring system should be implemented in order to advise both government and the HRC on mechanisms for the elimination of racism. Racism awareness programmes must be developed, and discriminatory legislation should be challenged

In 1994 the South African government signed the International Convention on the Elimination of All Forms of Racial Discrimination - but it has not yet been ratified. Nonetheless, South Africa has indicated its broad acceptance of the principles contained therein and, at the minimum, will not undertake any action contrary to its principles

## Generals warn that prosecutions could lead to conflict (252)

Stephané Bothma

BD 3/3/97  
PRETORIA — The "biased and unconstitutional treatment" of former security force members by Transvaal attorney-general Jan D'Oliveira and the truth commission could rekindle the conflicts of the past, former top policemen warned at the weekend.

A statement by former police commissioners Mike Geldenhuys, Johan Coetzee, Hennie de Witt, and Johan van der Merwe and other retired generals and former policemen criticised D'Oliveira's special investigation team for continuing to prosecute policemen but failing to charge liberation movement members for their role in acts of violence and murder.

They also lashed out at the truth commission for compelling security force members to testify while not issuing subpoenas to African National Congress, SA Communist Party and Pan Africanist Congress leaders. "Until now, we have endeavoured to play a constructive role regarding the promotion of national unity and reconciliation. However, the one-sided approach regarding contemplated actions against both serving and former members of the security forces at all levels has now reached the point where the attitude and motivation of government, the attorneys-general and the truth commission have to be seriously questioned, especially with regard to the fundamental right that every person shall enjoy equality before the law," they said.

It was reported last week that D'Oliveira's investigations into the actions of several former police generals, including Krappies Engelbrecht, Nic van Rensburg and Johan le Roux, were nearly complete and that arrests could be expected this month.

The former commissioners said D'Oliveira's office had, for quite a while, been in possession of more than 60 dockets containing evidence of numerous cases of murder and gross mutilation of "defenceless women and children" at the hands of ANC and SACP members.

Continued on Page 2

## Generals (252)

Continued from Page 1

BD 3/3/97  
"The only reason why the former SAP was not able to act against certain figures was the fact that investigations were suspended on the instructions of former president FW de Klerk at the request of President Nelson Mandela. The temporary indemnity granted to these people at the time had expired more than a year ago, they said.

Despite the fact that many former members of the police had applied for

amnesty and were co-operating with the amnesty committee in every respect, D'Oliveira continued with his prosecutions, the policemen stated.

In direct contrast, it appeared many ANC and SACP members, especially leadership figures, had not applied for amnesty. Yet, D'Oliveira had not acted against them, or even used them as state witnesses. They said this state of affairs threatened the objective of furthering national unity and reconciliation. More "important and alarming is the fact that this scenario could lead to the conflict of the past being rejuvenated", they said.

'STEPS NEEDED TO STEM DOMESTIC VIOLENCE'

# Call to publish names of wife-beaters

CT 3/3/97

(252)

**A MITCHELLS PLAIN** magistrate says tough steps should be taken to curb the alarming incidence of domestic violence, among them changing the law governing the "ineffectual" interdict court. **YAZEED FAKIER** reports.

**A**S South Africa prepares to celebrate International Women's Day on Saturday, a city magistrate has taken the unusual step of going public about the horrific incidence of domestic violence and the inadequacies of the court system in stemming it

Mr Francois Botha, who presides over the family law division (the so-called "interdict court") at the Mitchells Plain Magistrate's Offices, said the shocking number of cases pointed to an urgent need to change the law governing the interdict court because it had become ineffectual

Between 1 500 and 2 000 urgent applications for interdicts had been made by women in the suburb every year since 1993, when the Prevention of Family Violence Act was passed, said Botha, who is also a Child Welfare commissioner

He has called for the implementation of drastic measures to reverse the trend. These include:

- Publicising the names of convicted and sentenced offenders, as well as details of their offences, in a weekly blacklist in local newspapers

- Using radio stations and talk shows to highlight deficiencies

- Exposing magistrates, prosecutors and police officials who are not sensitive to the serious nature of domestic violence and approach victims indifferently

Of the suggestion to name offenders in newspapers, Botha says: "It will be hard to convince people otherwise if your name has been in the local newspaper for beating your wife. You will think twice before doing it again"

The negative publicity would also serve as a powerful deterrent to others

In the first three months after the act came into effect, Mitchells Plain had 247 applications for interdicts, the highest number in the country. Johannesburg had 18 and the Cape Town magisterial dis-

trict 77

"From my position in court, I have seen many tales of horror unfold before me," says Botha

"I've been involved with domestic violence cases for the past three years and the corridors of the magistrate's court often resemble a day hospital with the number of women who sit there with black eyes, bruises and broken limbs"

Women who reported cases of domestic assault by their husbands or boyfriends were normally referred to the "interdict court" by police who regarded such cases as a "family and not a criminal matter"

State prosecutors and police had not dealt with domestic violence cases well, Botha said. They often treated serious cases of

assault as domestic violence or domestic problems and referred these to the interdict courts

One such case, that of a woman who had been stabbed in the back with a screwdriver by her husband, had been referred to the interdict court instead of

a criminal court

"My complaint has been that the formation of the interdict court was perhaps a novel idea at the time (December, 1993), but it has also done some damage in its own way," Botha said

"It's created an artificial environment such as (that of) a traffic court, where offenders feel they have been removed from the normal criminal way of dealing with offenders

"This has created the perception among offenders that there's not a real court sitting"

This setting was also alienating to survivors of abuse

"The victim has normally made a statement weeks prior to her court appearance at a time of extreme trauma.

"In court she can be torn to shreds by lawyers representing the opposing party, while she is there by herself"

Botha has been frustrated by the many cases "that could have gone a different route had there been a consolidated effort by the various role-players"

This effort was turned into reality when he spearheaded the formation of the Abuse, Truth Action Committee (Atac), an initiative involving representatives of the Network Opposing Women Abuse, Mosaic, Nicro, Wildd, Child Welfare, Cape provincial administration, Black Sash and a justice of the peace

As a magistrate, Botha said, he was limited in the degree to which he could be involved in running Atac, but he could supply useful information to the committee

"The more information you have, the more powerful an organisation Atac will become — it can also play a monitoring role in following up complaints," Botha said

Atac's chairman, Ms Dawn Keytle of the Mosaic healing centre for women, said the formation of the organisation was "way overdue"

"This problem is rotten to the core — I work in domestic violence courts and it's frightening how so many men think they have a right to beat up women

"They are simply sent to counselling sessions or sentenced to community work, which they never ever do and they go right back and abuse the interdict

"The women get so fed up and frustrated by the whole system that they don't want to go back to court every time

"The only word I can use for justice in this country is that it stinks and we need to clean up this mess we need to bring in some fresh air"

Atac's vice-chairman, Child Welfare social worker Mr Selema Mashiane, said the organisation had been established because "we feel enough is enough — something must be done"

The immediate task was for the various role-players to report the problems they encountered and to address these in order of urgency

Botha, meanwhile, has introduced the appointment of expert domestic violence assessors in his court because magistrates are not trained to pick up on the "psychological interplays" that emerge during a hearing

He hopes this innovation will set a precedent and that the benefits for other magistrates may be realised

"A magistrate not aware of all the issues involved can be sensitised by the assessors



**WANTS CHANGES:** Magistrate Mr Francois Botha has spoken out against the increasing number of domestic violence cases passing through his court in Mitchells Plain and says the system has become ineffectual in combating the scourge

PICTURE THEM BINKOSI DWAYISA

"They can point out that we are dealing not only with an abused woman, for instance, but also with an offender with serious psychological problems who should not only be jailed but also be subjected to some form of treatment," Botha said

● This Friday, March 7, is Open Court Day For Women, a Department of Justice campaign to enable communities, and women in par-

ticular, to familiarise themselves with the justice system. In Mitchells Plain, women have been invited to visit the court, where several speakers will be in attendance to explain interdicts, maintenance and other issues

● Keytle can be reached at 73-6494 and Mashiane at 761-7130

# Spies stay nameless, TRC rules

(252) AR 4 3/3/97  
Pretoria - The amnesty committee of the Truth and Reconciliation Commission today ruled against the disclosure of the names of informers for the security police in the 1980s.

The lawyer for the families of the victims of security police actions, Brian Currin, on Friday requested the names be disclosed.

This was opposed by the lawyer for five former security policemen applying for amnesty, Roelof du Plessis, who said many of the informers were

high-profile members of the current government and the disclosure of their names would have serious repercussions for the Government and for national reconciliation.

Committee chairman Judge Hassen Mall today referred to common law and cited the case of Van Schalkwyk before the Appellate Division in 1957, as well as subsequent decisions.

He said the committee felt that for present purposes it was not appropriate to compel witnesses to disclose the names of their informants - Sapa

# TRC records feared lost in Pretoria fire

(252)

**OWN CORRESPONDENT**

CT 4/3/97

PRETORIA: Thousands of truth and reconciliation recordings are feared to have been lost in a fire that destroyed the west wing of the city council's administration building, Munitona, last night.

Firemen were battling late last night to stop the fire from spreading to the north wing, fire department senior officer Mr Johan Pieterse said.

It is believed the fire began in the west wing. It spread rapidly to the ground floor.

A group of 20 people was evacuated at 6.15pm.

Antgie Samuel, from the SABC radio offices on the second floor, said the fire alarm had gone off about 6pm.

"We started seeing smoke after five minutes, we went outside and joined other people leaving the building," she said.

"There are thousands of truth and reconciliation recordings and lots of expensive equipment in those offices — it will be a pity if the second floor has been burnt."

City council spokesman Mr Tommy Thomson said it was believed the Truth and Reconciliation Commission's amnesty committee, which had been holding a public hearing in Munitona, had lost millions of rands worth of sound and translation equipment.

Pieterse said the entire building had been damaged by smoke and windows in the west wing were exploding.

Ten major fire tenders and more than 60 firemen were at the scene.

A fireman, Mr Jappie Breytenbach, collapsed after inhaling smoke and was taken to the Meul Med Hospital.

Thomson said the back-up data for the treasury and water and electricity departments were kept outside the building, but property worth millions of rands had been damaged.

The vehicle licensing department's information was stored at a national data base, but it was not clear if all the data had been transferred.

The fire was still burning fiercely late last night and clouds of smoke billowed around the complex.

Firefighters from Akasia and Centurion near Pretoria arrived at the scene last last night to relieve teams who had been inside the building since 6.30pm.

Pieterse said firemen fighting the blaze in the licensing departments were in danger because the basement could collapse.

"We have not identified the cause of the fire yet, but we know there are probably a number of reasons," Pieterse said.

"There are many things — like wooden cabinets and the open plan format of the offices — that probably spread the fire rapidly."

# Charge them if they don't apply for amnesty — Yengeni

(252) CT 4/3/97

THE policemen involved in the shooting of seven Guguletu men in 1986 should be prosecuted if they failed to apply for amnesty, ANC MP and former regional uMkhonto weSizwe commander Mr Tony Yengeni said yesterday

Yengeni said that while he could not confirm that the so-called Guguletu Seven had been ANC guerrillas — as police alleged at the time — he believed their relatives qualified for the recently announced special pensions for activists

"We saw them as freedom fighters participating in the struggle against oppression. Thousands of people attended their funeral."

A monument should also be built at the spot they were killed so that future generations would be reminded of their sacrifice, he said

Yengeni was speaking to journalists after joining relatives of the Guguletu Seven in a commemorative march to the site of the shootings, at the intersection of the NY1 and NY111 highways in Guguletu

The march, led by church ministers, was organised by the Truth Commission to coincide with the 11th anniversary of the killings

It was on March 3, 1986 that police shot dead the men, claiming they fired in self-defence after a

handgrenade was lobbed at them

Policemen involved in the shootings, including chief Western Cape police spokesman Senior Superintendent John Sterrenberg, told the commission at a recent hearing that a trap had been set after informants warned of a plan to ambush a police bus

Yengeni said if the policemen failed to apply to the Truth Commission for amnesty he would push for them to be prosecuted

"I don't believe they killed (the Guguletu Seven) in self-defence"

But the mother of one of the dead men, Mrs Cynthia Ngewu, said the families did not want the policemen prosecuted, but they should be made to pay for the costs of educating the dead men's children

Her son Christopher was shot 10 times by Sterrenberg, who told the commission he had acted in self-defence

Ngewu also praised the work of the Truth Commission, which held two public inquiries into the incident "It has opened up our wounds. But we enjoyed it because through that we were able to know the truth"

The mother of Mandla Mxungwe said the commission had brought the families "out of the darkness" — Sapa



**PRESSING FOR ACTION:**  
Tony Yengeni

# TRC papers safe after municipal centre fire

(252)  
AR 4/3/97  
ARGUS CORRESPONDENT

Pretoria - A fire that gutted the city's municipal centre Munitoria did not destroy Truth and Reconciliation Commission files as at first feared.

However, police spokesman Morné van Wyk said, the TRC documents and equipment suffered water damage in all-night efforts to douse the blaze.

The commission's amnesty committee has been hearing applications by five former security policemen in the council chamber at the building.

Commission spokesman Sello Rabothata said efforts were being made to find an alternative venue for the hearings, but this was proving difficult.

The hearings have been running way behind schedule, and it now appears they will have to be postponed.

Pretoria's city centre was plunged into chaos as exhausted firemen finally gained the upper hand on the Munitoria blaze.

A 12-hour battle by more than 200 firefighters finally tilted the balance in their favour at about 5am today.

Eight firemen were admitted to hospital with injuries and for smoke inhalation.

And while the Pretoria fire department had its hands full with the blaze at the Munitoria, it was left to the Boksburg and Centurion fire departments to put out a fire in Church Square.

Police believe someone threw a petrol bomb into a bank's premises on the corner of Pretorius and Paul Kruger Streets shortly before 5am.

Although firefighters managed to save the east wing of Munitoria, one of the biggest fires in the city's history has left the administrative and accounting systems in a complete shambles and caused an estimated R50-million damage.

Police are investigating the possibility of arson.

Police spokesman Morné van Wyk said it was standard procedure to open an arson docket when a fire was as extensive as this one.

But the cause of the fire is still unknown. Yesterday the council started city-wide power cuts to payment defaulters, but council spokesman Alet van Tonder said she doubted the fire had anything to do with this.

"There are so many factors. It could be anything - the Truth and Reconciliation Commission is also holding hearings in the council chamber," Ms Van Tonder said.

# Bitter Ribeiro stands against amnesty plea

By Josias Charle

**T**HE KILLERS OF POPULAR Mamelodi medical practitioner Dr Fabian Ribeiro and his wife Florence should not be granted amnesty, said their son Mr Chris Ribeiro yesterday during the hearing of the amnesty application by five former security policemen.

An emotional Ribeiro, who broke down once during his testimony, said "We as a family are vehemently opposed to amnesty being granted to the applicants. My parents were killed for nothing."

"It is painful enough to lose one parent violently but no words can describe the pain of losing two of them simultaneously in such a violent way."

Ribeiro, who witnessed the killing, said the hearing had been told "blatant lies" about his parents' involvement in politics, "especially my mother."

He told the committee, chaired by Mr Justice Hassan Mall, that the applicants were showing not a semblance of remorse for their actions. He also told the committee that he and his brothers were unable to finish their university education because their parents had been their sole sponsors.

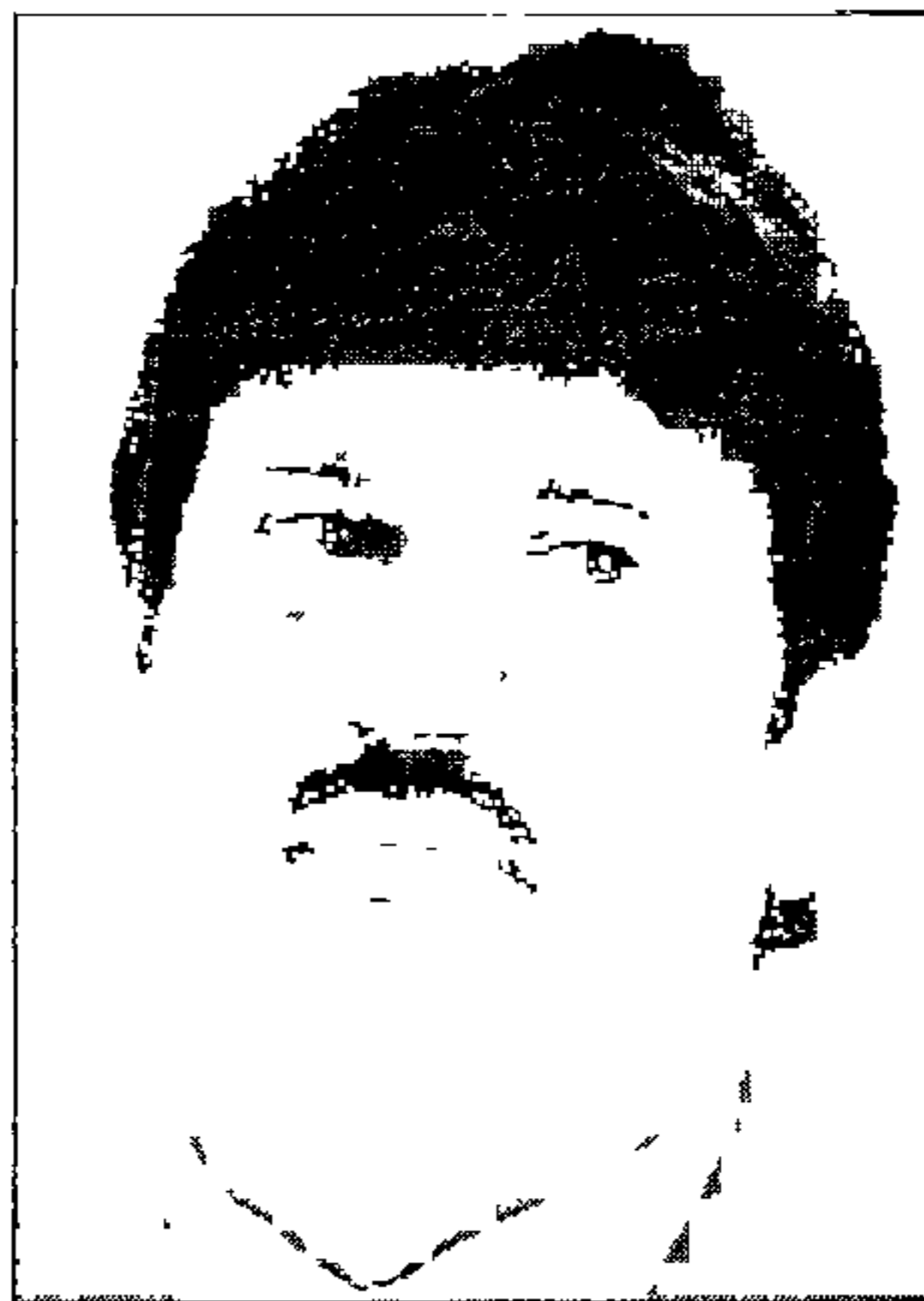
"Much as they died violently, it is those of us who are left behind who are suffering."

He said his parents were killed to intimidate and destabilise the community of Mamelodi and not because they were high-profile activists as the applicants had claimed.

He told the hearing that there had been threats on his life and he had reported the matter to the attorney-general, the Minister of Justice and other high-placed people.

"Third forces are threatening my life. They are monitoring my actions and I had to go into hiding in January to avoid them. How can we forgive and forget, or condone amnesty in the face of such hatred? The people who did this will no doubt murder again because none of them has ever apologised in public," Ribeiro

Slain doctor's son says he finds it hard to forgive killers who show no remorse



Paul van Vuuren

said

He said his family was seeking justice in the matter. "It is not vengeance that we want, it is justice. We can only talk of reconciliation if justice is seen to be done."

The applicants' legal representative Mr Roelof du Plessis, put it to Ribeiro that his clients sincerely regretted the incident.

Ribeiro replied "I still cannot forgive them. I don't accept that you are sincere. You are trying to get your clients off the hook. I can't accept your apology."

The applicants are former Vlakplaas commander Brigadier Jack Cronjé, Colonel Roelf Venter, Captain Wouter Mentz, Captain Jacques Hechter and Warrant-Officer Paul van



Chris Ribeiro

Vuuren

Before the start of yesterday's proceedings, Mall announced that the committee had decided against witnesses making known names of informers who had provided the information that led to the killing of the Ribeiros.

Last week Advocate Cocky Mphye, who is leading evidence, applied to have the names of informers made public.

He said this would be in the interest of full disclosure as is required by the Truth and Reconciliation Commission Act.

Announcing the committee's decision, Mall said it would not be appropriate "for present purposes" to call on witnesses to provide names of their informers.



# Newspapers win access to Basson records

CT 7/3/97  
PRETORIA: Several newspaper groups and organisations won a High Court application here yesterday to gain access to the record of the in camera bail application by former army scientist Dr Wouter Basson, but may not publish even the censored version of the records they will receive. (252)

Basson, the former co-ordinator of the SA Defence Force's chemical and biological warfare programme, was arrested earlier this year for alleged possession of the designer drug Ecstasy.

Pretoria magistrate Mr R de Vos ordered that part of Basson's bail hearing in February be heard in camera at the request of the attorney-general, who submitted that state security might be at risk.

Times Media Ltd and two reporters then challenged the magistrate's decision in the High Court, claiming the public had a right to be informed on evidence about the chemical and biological warfare programme undertaken by the previous government.

They said De Vos' ruling violated their constitutional rights relating to freedom of expression, access to information and the right to conduct a profession.

Yesterday, Mr Justice W Hartzberg granted leave to the Freedom of Expression Institute, Nasionale Pers, Gauteng Newspapers, the Minister of Foreign Affairs and the South African Council for the Non-Proliferation of Weapons of Mass Destruction to intervene as parties in the application.

An agreement was reached between the parties that the record must be released to the advocates, lawyers and designated representatives of the various groups, but subject to a number of excisions suggested by Basson and the Non-Proliferation Council.

The parties were also prohibited from disclosing the contents of the record, save for purposes of filing affidavits and presenting argument in the litigation, which was postponed indefinitely.

Basson expressed concern in court papers about his safety and that of certain agents in other countries, who had provided him with information relating to biological and chemical warfare.

SANDF surgeon-general Lieutenant-General D Knobel, who is a specialist adviser to the Non-proliferation Board, said in an affidavit it seemed Basson had made factual allegations in relation to several countries from which information and technology was secretly obtained for South Africa's chemical warfare programme under the previous government.

Knobel said publication of this information would cause great embarrassment for the government, and might harm international relations.

Foreign Affairs director-general Mr Rusty Evans, said in court papers that it appeared that Basson had given details regarding names, places and countries "which if published could jeopardise relations between the Republic of South Africa and various countries".  
Sapa

# It's crunch time for amnesty process

## POLITICAL STAFF

CT 2/13/97 (252)  
JOHANNESBURG: The Truth and Reconciliation Commission's amnesty process is heading for a crisis, with a backlog of thousands of applications and only 169 working days left to dispose of them.

A task group headed by TRC deputy chairman Dr Alex Boraine was appointed last year to investigate ways to ease the amnesty committee's work load, but in spite of several recommendations by the group, there remains doubt that it will be able to complete its task on time.

The commission has until December 14 to complete its investigations. After that, only a few staff members and the 17 commissioners will remain, for three months, to write the final report.

The task team recommended that the amnesty committee's administrative staff be supplemented, and several appointments have already been made. Staff numbers will eventually more than double, says TRC spokesman Mr John Allen.

The commission has also discussed enlarging the committee with Justice Minister Mr Dullah Omar.

The TRC envisages a restructured committee large enough to split into three panels, two of which will hear amnesty applications simultaneously while the third will deal with applications in chambers. This requires an amendment to the Promotion of National Unity and Reconciliation Act.

The committee has, to date, announced only 47 amnesty rulings. It has received more than 5 200 applications.

Earlier this year the commission said this did not, however, reflect the committee's true work load.

A few thousand have and can be dealt with administratively, without the need to hold a public hearing.

These include acts which do not fall within the amnesty cut-off dates — March 1, 1960 to May 10, 1994 — or do not show a prima facie political motive or constitute a gross violation of human rights.

However, hundreds of applications may have to be decided through public hearing.

Lawyers in an amnesty application by five former security policemen in Pretoria, which is now into its third week, agree that the committee in its current form will not be able to complete its task before December 14.

This Pretoria hearing has become bogged down in procedural disputes and some lawyers say the committee will have to find a more streamlined way of running hearings if it is to hear even a fraction of the outstanding applications.

Compounding the problem has been a recent Appeal Court judgment suggesting that people implicated during TRC hearings should be given the chance to cross-examine witnesses.

This has led to a proliferation in advocates and attorneys attending the amnesty hearing, resulting in inevitable delays.



# ANC hails move to name apartheid state's spies

*Party set to testify at May hearing*

ARG. 7/3/97  
(292)

**CLIVE SAWYER**  
POLITICAL CORRESPONDENT

**The African National Congress today welcomed the Truth Commission's decision to disclose names of those who had informed for the apartheid state, saying it would counter a snowballing disinformation campaign**

A delegation of the ANC's national executive and sub-committee on truth and reconciliation met Truth Commission head Archbishop Tutu for talks on this and other issues in Cape Town today

Acting secretary-general Cheryl Carolus, speaking at a media briefing after the meeting, said the ANC was "very happy" with the decision, because full disclosure was an essential part of the TRC process

Archbishop Tutu said earlier that those who were to be unmasked would be given 21 days' notice

Ms Carolus said the risks of not disclosing the identities of informers were to be seen already in the "mischief and disinformation" in certain media reports, including those which had claimed Defence Minister Joe Modise had been on the payroll of the previous government

Another example was reports about Communist Party chief Chris Hanu's murder

Ms Carolus said the ANC had used today's meeting to get clarity from the commission about questions the party would

be expected to answer in further submissions and hearings

It had been agreed that the ANC would give evidence at a hearing in May, although detailed written submissions would be made before then to give the commission time to prepare

The ANC had emphasised to the commission that it saw its armed struggle as part of a just war against apartheid

She said the amnesty applications by Mr Hanu's murderers, Clive Derby-Lewis and Janusz Walus, had been discussed

The ANC did not want these delayed, but in fact wanted the matter investigated in depth

"We have indicated already that we believe the murder of Chris Hanu was part of a broader plot to undermine the processes underway (at the time of his death)"

The ANC earlier made it clear that it wanted full disclosure of the names of those in the media, trade unions and student organisations who had spied for the previous government

ANC spokesman Ronnie Mamoepa confirmed that the party's demand for disclosure went beyond the names of those now in senior government posts who are said to have been informers

It was clear from ANC deputy president Thabo Mbeki's letter to the Truth Commission last week that complete disclosure of all those who had been informers was required, Mr Mamoepa said

Meanwhile, the Truth Commission may subpoena Jacques Hechter, one of six former security police officers applying for amnesty, if he refuses to disclose the identities of his informants.

Commission deputy head Alex Boraine said Captain Hechter, if he refused to cooperate, could be summoned to a behind-closed-doors hearing where he could be forced to disclose the names

In the ANC submission to the commission last year, it was claimed that more than 600 members of the movement had betrayed their comrades to security police in the apartheid era

Senior defence sources have said that the degree of penetration of the liberation movement by the former security forces was high

Destruction of at least some records by military intelligence may complicate efforts to verify claims about turncoats

Some records of the pre-1994 National Intelligence Service are also said to have been destroyed or otherwise have gone missing

Sapa reports that Mr Modise has provided the commission with some leads about who gave the orders for defence force records to be destroyed

Members of today's ANC delegation to the meeting with Archbishop Tutu included Dullah Omar, Charles Nqakula, Mathews Phosa, Mac Maharaj, Mr Mamoepa, and Mongesi Tshongweni

**CALL TO CLOSE IT**

FM 7/3/97

**Chairman Barney Pityana's** heartfelt plea for more funding for the Human Rights Commission (*Current Affairs* February 7) has been countered by a suggestion that government close the HRC and apportion its responsibilities to non-governmental organisations (NGOs)

The commission has produced a report on its activities from October 2 1995 to November 31 1996 in an analysis made available to the FM, Colin Douglas, parliamentary affairs manager of the SA Institute of Race Relations, isolates the following deficiencies in the commission's work

- It spent more than R6m between April and October 1996 but acknowledges its legal department is in a "state of chaos" Seventy complaints have been lost despite expenditure of R969 000 on administrative costs, excluding salaries and office equipment.
- A regional HRC office was opened in Cape Town in September last year but the appropriate liaison committee "has not yet formally met."
- The HRC spent R332 000 on travel — including sending commissioners to Mauritius, China, Cameroon, Australia, Uganda, Germany, Britain, Poland and the US. The necessity for these visits is not explained, and

□ Public relations cost R54 000, though the report admits "the most striking feature of the coverage of the HRC was the lack of media reporting on it"

Douglas notes that the HRC — by way of justifying increased expenditure on its goals — wants paid monitors to "make regular careful analyses of newspapers, publications, radio and television to show the meaning behind language, idioms, culture and images being projected in the public media" This could entail serious intrusions on press freedom

Douglas says "government should consider scrapping the commission, making the necessary amendments to the Constitution and legislation (It should affirm that nongovernmental organisations are best placed to defend and promote human rights and should assist them by granting tax-exempt status for donations to such NGOs (as has been recommended by the Department of Welfare) and adopting legislation which guarantees them freedom of access to government information"

Race Relations, of course, is itself an NGO. However, if the HRC really cannot fulfil its functions within the available budget, the NGO route makes sense provided clear lines of accountability are established *Peter Wilhelm*

# Newspapers secure partial release of chemical expert's testimony

Deborah Fine

A HIGH Court application by sister newspapers Business Day and The Sunday Times for access to controversial in-camera evidence by former SA Defence Force chemical warfare expert Wouter Basson has resulted in the partial release of his testimony.

However, "sensitive" portions of his evidence, cited in court papers as a possible threat to his and other people's lives and to SA's international relations, will remain secret until the Pre-

toria High Court is satisfied it would be correct to release full transcripts.

The evidence, delivered by Basson during his magistrate's court bail application after his arrest on drug-selling charges in January, contains details of his involvement in the SADF's biological and chemical warfare programme in the 1980s.

He is said to have named people and foreign countries with whom he clandestinely swapped information about chemical warfare.

He is currently in a National Intel-

ligence Agency protection programme. The court ordered the release of the transcript yesterday after the newspapers negotiated a deal with counsel for De Vos, Basson, the Transvaal attorney-general's office, the foreign affairs department and the SA Council for the Nonproliferation of Weapons of Mass Destruction, who were all opposed to the information's unfettered release.

In terms of the agreement full transcripts would be handed to the applicants on condition that parts deemed sensitive by Basson and surgeon-

general Neil Knobel, Basson's superior in the chemical warfare programme, would not be made public.

Business Day deputy editor Alan Fine and Sunday Times editor Brian Pottinger, both designated by the court to receive unexercised copies, said they did not wish to do so as it could "compromise" the newspapers.

The deal came after judge Willie Hartzberg said he was inclined to order the transcript's release but was concerned about the possible detrimental effects of disclosure.

## BASSON

Continued from Page 1  
Basson testified about dealings with other foreign organisations which were "by their very nature classified top secret", he said.

Counsel for the Times Media newspapers, Adv Cedric Puckrin SC, contended, however, that the court was being asked to protect people overseas who "were cheating on their governments and stealing secrets".

The case was postponed indefinitely to allow applicants to consider the full transcript and prepare submissions for argument on why unrevealed portions should be disclosed. Their argument will be opposed by the respondents.

Tim Cohen reports that Evans denied government was trying to suppress information by intervening in the case.

He said the foreign affairs ministry had become involved only to gain ac-

cess to the trial record so that it could be sure SA's international obligations were not being breached.

Evans said government had to ensure that no other government, with which SA might have had contractual arrangements, had been compromised. Once the department had seen the transcript of Basson's statements, government would make it known whether there was a danger of SA's bilateral relations being affected.

It is understood that one of the treaties that might have been affected is the UN's chemical and biological warfare treaty which SA agreed to sign about two years ago. The treaty was ratified about a year ago and SA will formally accede to it on April 29.

However, SA has handed in reports to the UN in line with treaty obligations which indicate that SA has only a defensive chemical warfare facility. Deputy Defence Minister Ronnie Kasrils said recently it appeared SA might have more than a defensive capacity in chemical and biological warfare.

"My prima facie view is that the rights of the press to openness and insight should be recognised, but there must be safeguards. I'm not going to execute people," he said.

Applying yesterday to be included in the matter, foreign affairs director-general Rusty Evans said in an affidavit that he had been advised the evidence could have "a very serious effect" on relations between SA and other countries. He had been advised that

Continued on Page 2

# AMC welcomes TRC decision

## to unmask government spies

### Necessary 'to counter disinformation campaign'

APR 8/9/97

CLIVE SAWYER AND JOSEPH ARANES  
STAFF REPORTERS

The African National Congress has welcomed the Truth and Reconciliation Commission's decision to disclose names of those who have informed for the state, saying it would counter a snowballing disinformation campaign.

A delegation of the ANC's national executive and subcommittee on truth and reconciliation met Truth Commission chairman Desmond Tutu for talks on this and other issues in Cape Town.

Acting secretary-general Cheryl Carolus, speaking at a media briefing after the meeting, said the ANC was "very happy" with the decision, because full disclosure was an essential part of the TRC process.

Archbishop Tutu said earlier that those who were to be unmasked would be given 21 days' notice.

Ms Carolus said the risks of not disclosing the identities of informers were to be seen already in the "mischief and disinformation" evidenced in certain media reports, including those which had claimed that Defence Minister Joe Modise had been on the payroll of the previous government.

Other examples were reports about Communist Party chief Chris Hani's murder.

Ms Carolus said the ANC had used the meeting to get clarity from the commission about questions the party would be expected to answer in further submissions and hearings.

It had been agreed that the ANC would give evidence at a hearing in May, although detailed written submissions would be made before then to give the commission time to prepare.

The ANC had emphasised to the commission that it saw its armed struggle as part of a just war against apartheid.

She said the amnesty applications by Mr Hani's murderers, Clive Derby-Lewis and Janusz Walus, had been discussed.

The ANC did not want these delayed but in fact wanted the matter investigated in depth.

"We have indicated already that we believe the murder of Chris Hani was part of a broader plot to undermine the processes under way (at the time of his death)."

The ANC earlier made it clear that it wanted full disclosure of the names of those in the media, trade unions and student bodies who spied for the previous government.

ANC spokesman Ronnie Mamoepa confirmed that the party's demand for disclosure went beyond the names of those now in senior government posts who are said to have been informers.

It was clear from ANC deputy president Thabo Mbeki's letter to the TRC last week that complete disclosure of all those who had

been informers was required, he said. Meanwhile, the commission may subpoena Jacques Hechter, one of six former security police applying for amnesty, if he refuses to name his informants.

TRC deputy chairman Alex Boraine said Captain Hechter, if he refused to co-operate, could be summoned to a behind-closed-doors hearing where he could be forced to disclose the names. In the ANC submission to the commission last year it was claimed that more than 600 members of the movement betrayed their comrades to security police.

Senior defence sources have said the degree of penetration of the liberation movement by the former security forces was high.

Destruction of at least some records by Military Intelligence may complicate efforts to verify claims about turncoats. Some records of the pre-1994 National Intelligence Service are also said to have been destroyed or otherwise gone missing.

# Amnesty bid a 'Marxist head-hunt' - ex-SAAF chief

(252)

AACT 8/3/99

Pretoria - There was no need for SA Air Force members to seek amnesty for counter-insurgency operations during the apartheid years, former SAAF chief Lieutenant-General Denis Earp said.

General Earp said he accepted full accountability for all actions under his command during such operations against what he described as the "communist-backed" African National Congress

He said anyone who had acted in terms of the Defence Act of the time could not possibly have committed a political offence

"Accordingly, I have no intention of applying for amnesty myself nor need any member of the SAAF of that time do so," he said

Stressing he was proud to have served in the SAAF, he said all members of the force had performed their duty with professionalism and distinction

"In Marxist ideology the greatest crime is opposition to Marxism," he said "I believe that it is this Marxist ideology which is being used to head-hunt the top echelon of the former leadership of the SA Defence Force, and I reject it unequivocally" - Sapa



Tandem: twins Joar Argus Cycle Tour Th

# Censored record keeps germ warfare secrets safe

MARLENE BURGER

(252) ST 9/3/97

THE full might of the state was mustered this week in a bid to ensure that details of South Africa's controversial chemical and germ warfare programme remain secret

In an extraordinary flurry of top-level intervention, the Department of Foreign Affairs, the surgeon general and the chairman of the South African Council for the Non-Proliferation of Weapons of Mass Destruction joined the Transvaal attorney general in helping to keep testimony by chemical warfare expert Dr Wouter Basson secret

Basson was sacked from the South African Defence Force in 1992 by former state president F W de Klerk and rehired on the instructions of the ANC's Minister of Defence, Joe Modise, in October 1995. He was arrested on January 29 on charges of dealing in the drug ecstasy.

Since Basson's bail application was

conducted in camera in early February, the Sunday Times, its sister newspaper Business Day and various other newspapers have been trying to gain access to the court records on the grounds that the ruling violated the right to information and freedom of the press

On Thursday, the media won a partial victory when Mr Justice Wilhe Hartzberg ruled in the High Court in Pretoria that the record should be released, but in a heavily censored form

Excisions requested by Basson and defence force surgeon general Lieutenant-General Niel Knobel have made the documents as innocuous as Basson's own evidence in open court

Hundreds of names of people, countries and organisations have been blacked out and several pages removed from the transcript

● Lawyers for the Sunday Times are perusing an uncensored transcript of Basson's testimony with a view to arguing that it is in the public interest to disclose this information



# Mandela: Expose

Intelligence reports claim that 'high-profile people'

# ANC spies were informers

CYRIL MADLALA  
and RAY HARTLEY (252)

**P**RESIDENT Nelson Mandela has stepped into the ANC spies row, demanding that government officials who served as informers for the apartheid state be named in the interests of national security.

His statement came hours after truth commission chairman Archbishop Desmond Tutu had announced that the names of informants given to the commission would be revealed after they had been given 21 days' notice.

Speaking in Malaysia yesterday, Mandela said he had received reports from intelligence agencies claiming that there were "high-profile people, not necessarily in the cabinet" who had informed on their colleagues in the past.

If ANC cabinet ministers were found to have spied, he would consider firing them. However, he would look at each case on its merits.

"You may have people in the cabinet who have been on the other side, but who are giving such service that they have almost become indispensable."

Anyone found to have given information that had led to the deaths of innocent people would be axed.

Explaining why he wanted the names of spies for the former government to be made known, Mandela said "There are still elements in the country who want to return to the old order and they will be using various strategies to achieve that goal, and if high-profile people in government were informers, the country has to know."

The truth commission had earlier refused to release the names of spies. It changed its position after receiving a plea for transparency from Deputy President Thabo Mbeki and meeting with an ANC delegation, led by acting secretary general Cheryl Carolus, on Friday.

At the meeting, the ANC urged Tutu to make the names public to halt "mischief and disinformation" which had begun to circulate over spies in government.

Lawyer Roelof du Plessis, representing five former high-ranking police officers who have applied for amnesty, told the commission. "There are people in current government structures, high profile people, who were informers."

87 9/3/97  
Former Vlakplaas assassin Joe Masasela claimed in the New Nation newspaper on Friday that five ANC cabinet ministers had been spies. He offered to name them to the ANC.

Mpumalanga Premier Mathews Phosa, a former ANC intelligence secretary, said yesterday: "We (the ANC) have our own internal records of those who were spies. To me, if someone is a spy, he is an enemy."

But Phosa would not comment on whether or not his party would release its list of spies.

Asked if any cabinet ministers were on the list, he said "I don't know I can't talk loosely about it."

National Intelligence Agency official Mo Shaik also declined to comment on whether cabinet ministers had been exposed as spies.

"It is the policy of the NIA neither to confirm nor deny these matters."

ANC circles have been awash with talk of high-ranking spies for years, but no evidence has yet emerged that proves any of its senior officials were spies.

A former ANC underground operative, Gavin Evans, published a report two years ago claiming that he and Safety and Security Minister Sydney Mufamadi had exposed Deputy Environmental Affairs and Tourism Minister Peter Mokaba as an informant.

Both Mufamadi and Mokaba were involved in the then-banned ANC's internal operations.

Mokaba, who could not be reached for comment this week, denied at the time that he had been a spy.

Reports this week claimed that Defence Minister Joe Modise was rumoured to have been an informant for the old order when he had headed Umkhonto we Sizwe in exile.

Modise's deputy, Ronnie Kasrils, told the Sunday Times this was untrue.

"If it were not so laughable it would be defamatory. It stinks of dirty tricks all over again and it's typical of the psychological operations of the military and police of the past," he said.

Mandela told journalists in Malaysia "We have generally adopted a policy of transparency in everything that we do and the people who have committed gross human rights violations are being named."

"I think, personally, that publicity and transparency are essential."

# Rights watchdog on the

## The Human Rights Commission could get by on less money

CHRIS BARRON

IT IS not hard to view the South African Human Rights Commission with scepticism a year after having been sworn in, it is already demanding more money from taxpayers and hinting at racist motives for any criticism it gets in the press.

Commissioner Rhoda Kadalie did not elicit much sympathy for the commission's supposed financial woes when she whinged recently that she and her colleagues were paid less than other commissioners.

A basic annual salary of R142 731 plus perks such as a car allowance, medical aid and pension for commissioners, and R183 432 for the chairman, Dr Barney Pityana, is hardly peanuts

As a measure of their plight, Kadalie disclosed that "we often fly economy class, unlike other commissioners."

For taxpayers already giving away R330-million a year to a plethora of commissions, boards and directorates, all supposedly there to protect our rights, the news that human rights commissioners do not always fly first-class must be heart-rending.

The fact that Kadalie and her colleagues have had to slum it in economy has not stopped them flying — they have visited Mauritius, China, Cameroon, Australia, Uganda, Germany, Britain, Poland and the US.

The commission's first annual report does not explain why its members had to go these places or what they did there that they could not have done from South Africa. What it does do is give the

impression of a Don Quixote tilting furiously, but for the most part ineffectually, at 1 000 windmills at the same time — noble sentiments aplenty but little sense of direction or priority.

The commission's legal department has processed 299 complaints but, judging by the few examples given, many of them could and should have been handled by other bodies.

Instead of wasting time and money on a housing problem in Alexandra in Johannesburg, for example, it could have rattled the Gauteng housing department's cage and moved on.

Surely there are enough structures to handle complaints of sexual discrimination in the work place without the commission involving itself as well?

And if local government bodies armed with the Bill of Rights

cannot deal with the occasional race discrimination issue in some *platteland* school without the commission's aid, they should not be in power.

There is a well-supported argument that instead of bogging itself down in countless probes into often relatively trivial issues, the commission should stick to educating the public about their rights.

It should also monitor, together with the Law Commission, which does much the same thing, legislation to ensure it does not conflict with the Bill of Rights.

It should select major issues, such as abortion and the rights of conscience of doctors and nurses who do not believe in it, and focus its attention on them.

If it confined itself to this role it is hard to see how it could not get by on the R6,4-million the gov-

ernment gave it last year.

The Legal Resources Centre and Centre for Applied Legal Studies at Wits have managed to do more than most in upholding people's constitutional rights — and they operate on a shoestring. The South African Institute of Race Relations says that instead of funding the commission, the government should give more money to non-governmental organisations which have proved they can do the job.

As it happens, these organisations do not agree. Professor Dennis Davis, of the Centre for Applied Legal Studies, says: "Money from government promises our independence. We should be getting more money from the private sector."

Dene Smuts of the Democratic Party believes there is "definitely" a need for a statutory, inde-

pendent watchdog body with the gravitas and standing lent it by Parliament to make recommendations and be listened to.

But its role should be "much narrower and more focused" than the one the commission is trying to play. It would then not need more money, she says.

Faj from being happy to limit his commission's role, Pityana appears hellbent on extending it into every facet of our lives.

A programme of action drawn up by the commission late last year speaks of instituting a "national racism barometer" to publish details of anti-racism in schools, the civil service, business and the government.

The barometer would draw up an annual "performance index" on racism and affirmative action. It also wants to set up an "information line" to provide coun-

selling for victims of racism, and a network of groups "engaged in anti-racism advocacy".

It demands that all public and private institutions be forced to submit to an annual "racism audit" which would have the same force in law as a financial audit.

As if this is not enough, the commission proposes that the barometer review make "regular, careful analyses of newspapers, publications, radio and television in order to show the meaning behind language, idioms, culture and images that are being projected in public media."

This smacks of McCarthyism. Paul Pereira of the race relations institute points out it has less to do with protecting human rights than infringing other rights.

It is also another indication of the commission's hang-up with the press, aired at tedious length

in its annual report, which concludes that most of the criticism has come from white-owned and run publications.

Given Pityana's grandiose plans, it is small wonder that the commission overspent its budget by R1,8-million last year.

It also comes as no surprise that Pityana says it will not be able to do its job unless the government gives it R32,4-million in the coming financial year — more than five times as much as in the year just ended.

In Pityana's defence, the commission's constitutional mandate is extremely broad.

Davis believes that having loaded it with such huge responsibilities, the government must give it enough money to carry them out, even if this means putting other rights-related commissions under its jurisdiction.

ST. 9/3/97

# wrong track

if its role were modified

## Bikers rally to reinstate the death penalty

(252)

PRETORIA — About 2 000 bikers on more than 1 500 motorcycles gathered at the Union Buildings in Pretoria at the weekend to demand the reinstatement of the death penalty

In a memorandum handed to president's office official Basil Moonsamy, the group demanded murderers, rapists and armed robbers be punished with death

BD 10/3/97  
"Nothing else has helped so far," Margie Franz, leader of Citizens of the New South Africa, said "We call on Madiba to punish criminals. The death penalty is not barbaric, but what they are doing to us is"

A petition with more than 7 700 signatures was also handed to Moonsamy

Franz said concerned citizens from as far afield as Bloemfontein, Sasolburg, Port Elizabeth and Cape Town had joined the bikers

She said it was disappointing that motorists and other members of the public had not joined the demonstration. She ascribed this to bikers' image as hooligans. A bakkie with a hangman's noose was parked in the centre of the group

Moonsamy promised to hand the memorandum to Mandela as soon as possible. "You are all aware the president and all other roleplayers are doing everything possible to curb these crimes," he said

"That is not enough," a biker shouted "All the criminals are escaping."

Sapa



Bikers from across SA travelled to the Union Buildings in Pretoria yesterday to hand to an official from President Nelson Mandela's office a memorandum calling for reinstatement of the death penalty

Pictures GARTHLUMLEY

LIST FINGERS 600 MEMBERS

# ANC, TRC in dilemma over naming informers

THE NAMING of apartheid-era informers in ANC ranks would enable the ANC to "launder itself" manage decisions about who should be fired and delisted, the issue as a potential smokescreen that could be used against it in the next general election campaign, insiders say. **ROGER FRIEDMAN** reports



**T**HE Truth and Reconciliation Commission is uncertain whether exposing apartheid-era informers in African National Congress ranks is within its mandate and whether it has the capacity to tackle the task.

The ANC wants the informers to be named and, after its National Working Committee met in Johannesburg yesterday, it said it believed that exposing spies was within the TRC's mandate.

Doing so was critical in bringing to light past injustices and entrenching democracy, it said.

TRC deputy chairman Dr. Alex Boraine said the commission would discuss on March 19 the "full implications" of undertaking the task. It was also likely to formulate a policy on the issue.

Former ANC deputy cabinet minister Mr. Bantu Holomisa said yesterday that exposing spies was an impossible task for the TRC to undertake as the commission itself had been infiltrated by former ANC and National Party intelligence agents.

He found it puzzling that the ANC appeared already to have the very information it was asking the TRC to investigate, Holomisa said.

On Friday, the ANC said it was

willing to hand over information it had collected on more than 600 members who allegedly betrayed comrades in the apartheid era.

President Nelson Mandela has called for the names of spies to be released. He has said it would be "unacceptable" if serving cabinet ministers were informants and unapologetic about their actions.

ANC sources acquainted with the list said yesterday that Mandela had asked, at an ANC Department of Intelligence and Security (DIS) conference in Broederstroom before the 1994 elections, that all apartheid collaborators be identified. Although lists were compiled and all records handed to the ANC National Executive Committee, there had been some disagreement about the calibre of the information.

"Some of the people implicated in the original list are so senior that if the list is exposed, it could mean political disaster in some areas where the ANC is strong," one said.

Holomisa said it appeared that the ANC could be trying to "purge from its ranks some people it does not want." He warned that if the ANC had such intentions, they were "dangerous and could boomerang."

ANC and intelligence sources

said yesterday that exposing the spy network would enable the party to "launder itself" and prevent the ANC's political opposition from using the issue as a 1999 election tactic. In the confusion over suspected and confirmed agents, the ANC would be able to manage who remained and who was fired, the sources said.

Whereas before, the spy network in its ranks had been a major headache, it now represented a major opportunity — apart from the ANC's genuine desire to expose those agents of whom it might be unaware.

The question of apartheid-era spies was first raised by the ANC in its submission to the TRC in August. It alluded to the list of names and urged the commission to investigate.

The question failed to ignite interest until, less than two weeks ago, a lawyer for a former security policeman told the TRC's amnesty committee "There are people in current government structures —

high-profile people — who were informers."

The committee ruled that the amnesty applicant, who apparently was uncomfortable about naming his informants, did not have to divulge their names. This unleashed a storm of protest from the ANC and other political parties.

Debate has raged since over who the "high-profile" people might be. Self-confessed apartheid death-squad member Joe Mamasela has said he knows of five serving members of the cabinet who were recruited by the security branch.

On Friday, however, ANC acting secretary-general Ms Cheryl Carolus said the ANC could say

"with a fair amount of confidence" that no senior members — and no cabinet members in particular — had been informants. Certain members had confessed to being informants, she said.

The ANC said yesterday that its past "security and intelligence operations" — which included the exposure of a wide network of informers — had averted "countless dastardly acts planned by the regime and ensured that the movement emerged from exile, underground and other terrains of struggle intact and capable of leading the people to a democratic South Africa."

(252) CT 11/3/97  
The DIS had uncovered many agents through "its professional work within security structures of the apartheid state", the processing of new recruits and confessions from contrite agents.

The ANC urged those of its members who might have been compromised by the apartheid regime to volunteer such information "to the officials of the ANC".

It also gave an assurance that this information would be handled as sensitively as it had been in the past.

However, the ANC said it had learnt that an integral objective of the apartheid regime's security network had been to destabilise the ANC's leadership and political course by casting aspersions on the loyalty of members.

It appealed to the public and media "to avoid rumour-mongering and creating a psychosis of paranoia and suspicion that would play into the hands of these forces".

It expressed its "full confidence in those who may have been mentioned unfairly and without substance in recent media reports".

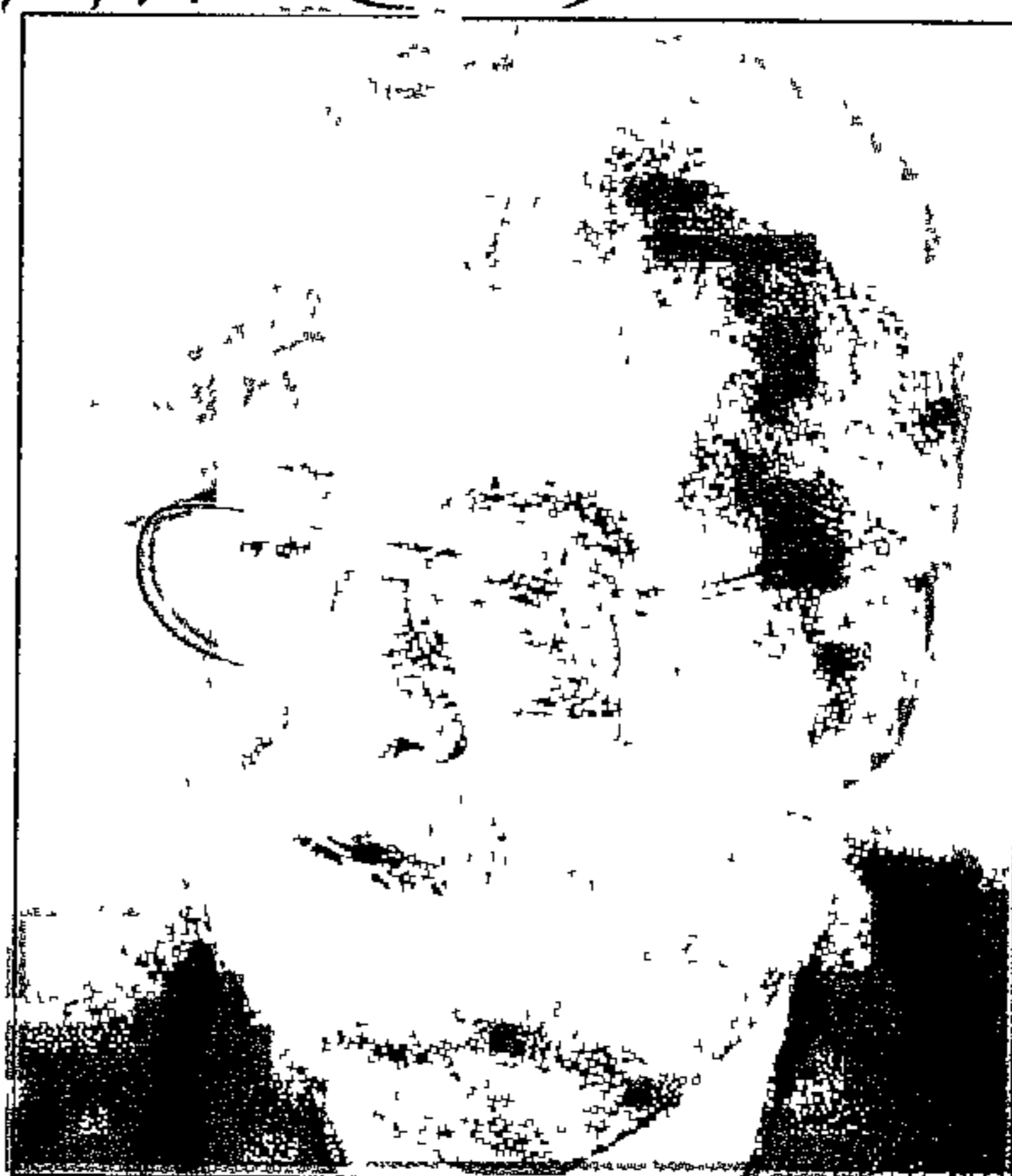
"Our approach on the disclosure of the National Party's apartheid security network applies equally to those agents who were, and may still be, operating in other political parties, universities, religious bodies, the media and other institutions, and who were part of the perpetration of gross human rights violations or helping to create an environment for such violations."

*"Some people are so senior it could mean disaster in some ANC areas."*

# held until their wounds healed'

## *Ex-security man speaks out*

ARC 11/3/97 (252) ~~11/3~~



### ON THE TRUTH COMMISSION

People tortured during questioning by security police were sometimes taken to Vlakplaas and kept there until their wounds healed, the Truth Commission heard in Cape Town today.

The prisoners were then taken to normal jails and charged, the commission's amnesty committee was told.

This was testimony by former security police brigadier Jack Cronje, one of five former security policemen applying for amnesty for several human rights abuses, including more than 40 murders.

Brigadier Cronje also said that he was convinced that former Minister of Foreign Affairs Pik Botha had lied when responding to a formal objection from the Botswana government about a car-bomb explosion in Gaborone.

Applying for amnesty for the car-bomb incident in 1987 in which innocent people could have been killed or injured, Brigadier Cronje said this incident had occurred when the South African security forces had decided to eliminate Johannes Mnisi, a one-time "Askari" (turned African National Congress guerrilla) who had decided to rejoin the ANC.

A security police informer, "a certain McKenzie", had been sent to Botswana in a vehicle into which a bomb had been fitted, and which was supposed to have been used to kill Mr Mnisi.

The plan had not worked, and Mr McKenzie later told him that he (Mr McKenzie) had been ordered by the ANC to go to Zambia for further training.

"The ANC had apparently known already that he was an informant of the South African Police.

"On the pont at the Zambezi River he was assaulted by them (the ANC) and his arm was broken. He was then taken to the ANC's Quatro camp in Zambia, where he was detained and tortured further," Brigadier Cronje said.

He said he had later heard that the bomb, which had been hidden in a secret compartment, had exploded, putting innocent people in Botswana at risk of injury or death.

Botswana police had traced the vehicle to Mr McKenzie and had lodged a formal objection with

the South African government.

"The Minister of Foreign Affairs at that time, Mr Pik Botha, alleged that Mr McKenzie had been an ANC member and that they (the ANC) had themselves blown up their own vehicle.

"I have no doubt that Mr Botha must have known what the true situation was."

Brigadier Cronje also applied for amnesty for the death of an "unknown activist" in Mamelodi, outside Pretoria, around 1987.

He said security policemen under his command had assaulted the man in a vehicle on a gravel road in Bophuthatswana.

He had been beaten with fists and kicked for about 30 minutes and had died after being throttled by two policemen.

The body had then been taken to a deserted area and blown up with a limpet mine.

Responding to questions by the five-member amnesty committee, Brigadier Cronje confirmed that security police had routinely taken suspects to deserted areas and tortured them.

Suspects were sometimes held at Vlakplaas, the headquarters of the police counter-insurgency unit, until their injuries had healed, and if they attempted to lay charges against the police, the allegations were simply denied, Brigadier Cronje said.

It was "possible" that some suspects had been "eliminated" so that police would not have to explain the circumstances of their detention.

# Crackdown on corruption

## *Criminal justice system under spotlight*

(252)

ARG 12/3/97

FIGHTING CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM IS OF GREAT CONCERN TO THE NEW GOVERNMENT. STAFF REPORTER JOSEPH ARANES VIEWS NEW PROPOSALS AND STRATEGIES IN A WORKING DOCUMENT BEING DRAFTED TO FIGHT THIS SCOURGE



**Fighting the scourge:** Safety and Security Minister Sydney Mufamadi

Already within each of the criminal justice departments – police, justice, correctional services and welfare – anti-corruption measures have been put into place, but many of these are in reaction to corrupt practices which have been exposed

Now the Secretariate for Safety and Security is developing a “bottom-up” programme which will be managed through a project management system of the National Crime Prevention Strategy (NCPS)

The programme proposes that each of the four departments sets up a departmental working group on criminal justice-related corruption in that department which must report directly to the ministers and department director-generals through the various NCPS mechanisms

The working document proposes that the working group in each department should not just consist of anti-corruption investigation units, but should comprise stakeholders within the departments and those who could make an impact on the corruption problem

Each department will have the liberty to place consultants or international advisors on its team

The focus of the new approach is to tackle corruption in the departments in a systematic and co-ordinated manner to prevent wasted efforts and duplication of tasks

A preventative approach must be adopted to stamp out the causes of corruption

The new approach also must recognise the uniqueness of the system within the government and the enormous potential for abuse of rights and powers which it contains

This initiative arose out of a request to President Mandela by two of the country’s attorneys-general for the establishment of a special investigative unit to address the broad problem of corruption in the criminal justice system

While the attorneys-general held the view that the ideal situation would have been to have an investigation unit separate from the police, they agreed that an investigation into a desirable structure would take time and that an interim measure would have to be put in place

Their initial request to the president was that they get a formal mandate to conduct the investigations and to set up a new permanent structure. However after discussions it was agreed that such a step was premature

While the proposals are being discussed by the cabinet, the different departments

are engaged in other initiatives to help combat corruption in their departments

The Justice Department recently has promoted a piece of legislation which enables the establishment of a special investigating unit and special tribunals to deal with corruption

This amendment enables the president to appoint a judge to head the unit which would investigate serious malpractices or misconduct in the public service

The unit would collect evidence and present it to the special tribunal as well as reporting to the president and Parliament

The special tribunal may adjudicate on any civil dispute brought before it by the special investigation unit, thus enabling the recovery of state assets lost through corruption

The cabinet is discussing the establishment of the first such tribunal.

In the Department of Safety and Security, headed by Minister Sydney Mufamadi, several initiatives are being undertaken to counter allegations of corruption

These include assessing the functioning and effectiveness of the police’s anti-corruption units

At the beginning of the year the national police commissioner agreed that a single body be established to investigate all forms of corruption within the police

This is a departure from the situation

where there were different regional and national units

The idea is to restructure the existing units, some of which reported directly to provincial commissioners, and to make them directly accountable to Commissioner George Fivaz and to link it to the president and the attorneys-general initiative

In addition to the investigative approach, the police’s change management team is working on preventative and monitoring strategies around corruption. These are aimed to improve the level of integrity and professionalism in the service

The development of these strategies will start shortly when a departmental working group on corruption will be established and a number of international experts on corruption will visit the police

The Correctional Services Department has established its own anti-corruption units which have been given the task of investigating allegations within the department

While the Welfare Department has a major investigation on the go into corruption in the social security services, this will not be drawn into the process around the criminal justice system

However, it will be involved in the process where the department provides services, like probation, in areas of the justice system

In addition to these, investigations also are being carried out by the Public Protector, the Independent Complaints Directorate and the Auditor-General

There is a clear danger of duplication and fragmentation in respect of the various initiatives, particularly as much of the corrupt activity takes place across departmental boundaries and involves personnel from more than one agency

But the idea behind the new programme is that it would be built bottom-up from within each department and would be developed in more detail over time with the different working groups co-ordinated through a programme management team

These departmental working groups will not deal with investigative matters, but will focus on developing of preventative strategies in each department and across the criminal justice system as a whole

The document outlines a need for the co-ordination of intelligence about corruption and states that the National Intelligence Co-ordinating Committee (Nicoc) will play a major role in doing this from the various intelligence agencies

The programme team, made up of the four departmental teams, together with representatives from Nicoc and the attorneys-general will make up the national programme team on corruption

The proposal recommends that the departmental working groups be established immediately and the management team will be initiated as soon as the proposal is approved

# We 'necklaced' ANC activist, police admit

## Dead interrogation victim was blown up with mine in cover-up

JOHN YELD  
ON THE TRUTH COMMISSION

Security police strangled an "unknown" activist with a piece of wire during interrogation and "necklaced" his body to disguise their involvement in his death, the amnesty committee has heard.

It also heard that the security police bound at least one other "unknown" activist to a telephone pole and blew him up with a limpet mine to make it look as though he had died by mistake while on sabotage mission. He was already dead when blown up.

It was possible a second activist had been disposed of similarly, the amnesty committee was told during its hearing in Cape Town yesterday.

This was testimony by two of five former Northern Transvaal security policemen seeking amnesty for more than 40 state-sponsored murders, bombings and assassinations.

Paul van Vuuren, a warrant officer, said he and Vlaskoplaas "askarr" (turned African National Congress guerrilla) Joe Mamasela had abducted the "necklaced" activist in Mamelodi, Pretoria, in 1986 or 1987.

The unnamed man had been identified as an ANC activist or "terrorist" by Harold Sefola, leader of an ANC cell, during a torture session in which Mr Sefola had been given shocks with a portable generator. Mr Sefola had later been electrocuted with the generator after being allowed to sing 'Nkosi Sikelel' iAfrika, the amnesty



Memory trouble: Jacques Hechter

committee had heard in Johannesburg last year.

Yesterday, Warrant Officer Van Vuuren said that while they were driving with their captive in a minibus, his superior officer, Jacques Hechter - one of the five applying for amnesty - throttled the



Consultation: ex-security officers Jack Cronje, back left, and Paul van Vuuren, right, speak to attorneys

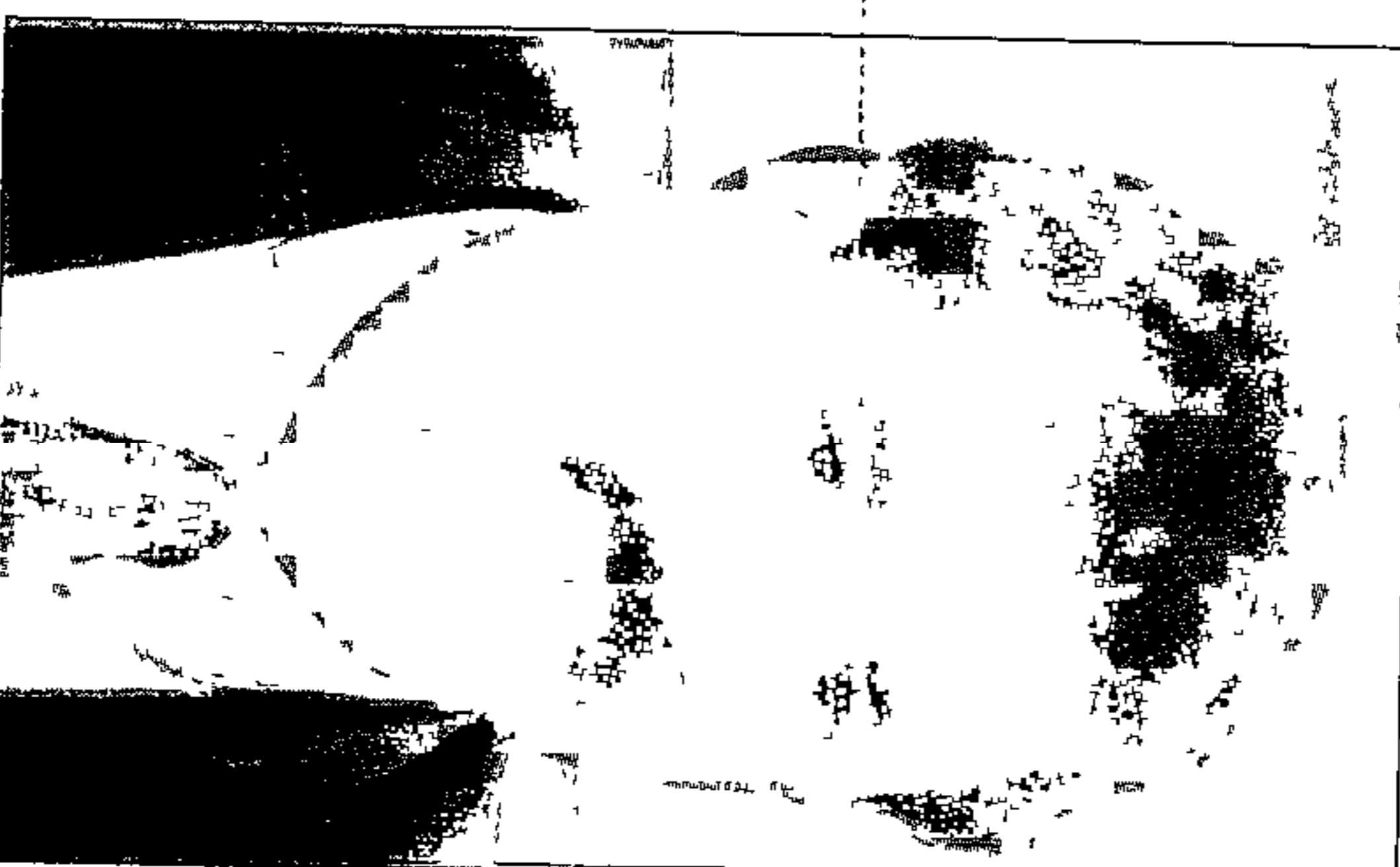
captive with a length of wire "to get information out of him".

"He was throttled to death during the interrogation, whereafter we drove to a deserted road in Bophuthatswana. We unloaded him, poured petrol over him, put a tyre on him and set him alight so that it

should look as though he died as a result of 'necklacing'."

Captain Hechter testified that he tied a dead activist to a telephone pole and blew him up with a limpet mine.

"I cannot remember at all how he died. I cannot remember where it happened. I



LEON MULLER

Wouter Mentz: giving evidence today

am not dead sure, but I imagine a second activist was eliminated in the same way."

He has told the amnesty committee he had serious memory problems and could not remember most of the incidents for which he was applying for amnesty, although he did not deny being involved

(252) ART 12/3/97

# 'PIK KNEW OF PLOT'

## Former Vlakplaas cop also implicates general in attempt to kill ANC man

*Source Jan 12/3/97*

(252)

**T**HERE was "no doubt" that former foreign affairs minister Piik Botha knew of a security force plot to eliminate one of the alleged masterminds of the 1983 Church Street bomb blast in Pretoria. Truth and Reconciliation Commission heard in Cape Town yesterday Testifying before the TRC amnesty committee, former Vlakplaas security police commander Brigadier Jack Cronje also implicated retired police commissioner General Johan van der Merwe in the failed attempt to kill Johannes Mmusi in a car bomb explosion in Botswana.

Cronje said former Western Transvaal security police chief Brigadier William Louw had discussed Mmusi's "neutralisation" with Van der Merwe, who had given the go-ahead for the cross-border operation. Van der Merwe has applied for amnesty for several unspecified incidents. Cronje said the operation was away after a security police agent, known only as McKenzie, was detained by the African National Congress and tortured at Quatro detention camp in Angola. He said the booby-trapped vehicle which was to have been used to blow up Mmusi was detonated in Gaborone without killing him. After Botswana police identified McKenzie as the vehicle's owner, there had been an "uproar" in the newspapers. The Botswana government had laid a formal complaint with the South African authorities. Botha later publicly claimed that McKenzie, who died in a gang fight at Eerstes near Pretoria several months ago, was an ANC member and that he had blown up his own vehicle. There is no doubt in my mind that minister Botha knew what the true situation was," Cronje said. He said it was necessary to neutralise Mmusi because he was the mastermind behind many operations in South Africa. Cronje also testified that the 1987 death of a Mamelodi Pretoria, activist, who was beaten and strangled during interrogation by security police, had been an accident. He said the activist was tortured after he failed to point out safe houses for suspected guerrillas in Mamelodi. Cronje said he later accompanied Du Plessis, a Lieutenant Nombberg and a Captain Prinsloo to Mamelodi with the activist, whose name was not known to him. "He did not point out houses in Mamelodi and also did not point out any terrorists."

The policemen then drove to a deserted road in the former Bophuthatswana homeland where the activist was questioned further. During the interrogation, he was beaten and throttled. "I believe the activist had valuable information. But he died before he could give us any. His death was an accident. I could have stopped it (the assault) but I did not expect them to throttle him so long that he would die."

Cronje said he ordered that the activist's body be destroyed with a limpet mine - one of many Russian weapons his men carried in their cars. "We wanted to create the impression that he was playing with the limpet mine and in this way blew himself up."

Committee member Judge Andrew Wilson questioned how the activist's death could have been a politically motivated - a requirement for amnesty - when the security police men had not intended to kill him. His death was brought about by negligence," Wilson said. - *Vaya*



# Former police confess to more murders

BD 13/3/97 (252)

Stephen Laufer

SIX former Natal security branch policemen have led truth commission investigators to the graves of 10 activists they murdered during the 1980s, confirming the existence of another regional death squad which acted independently of the police's Vlakplaas killer unit

A team of body recovery specialists, pathologists and an SA Police Service video unit were exhuming victims found in a shallow pit close to the ruins of an old farmhouse in the KwaZulu-Natal midlands last night, the province's truth commission chief Richard Lyster confirmed

The death unit had operated from

Durban and Maritzburg and included six policemen who applied for amnesty when they learned the commission was aware of their activities. The unit appeared to have functioned in a similar manner to the Northern Transvaal security branch death squad whose members have been appearing before the commission's amnesty committee for the past three weeks

The former Northern Transvaal security branch members have admitted to more than 40 killings, including participation in the murder of Mamelodi doctor Fabian Ribeiro, his wife Florence and 19 Mamelodi youths lured to their death with an offer of military training by Umkhonto weSizwe.

The Natal unit's members had been

responsible for the death of at least three high-profile and seven lesser-known African National Congress (ANC) activists. Skeletons found at the farm showed the prisoners had been shot in the head.

Most of the murdered activists had been listed as missing. Their names would be released once their families had been informed of their fate

The squad had rented a farm in the Midlands where opponents of the National Party government were imprisoned in a small cell, interrogated, executed and buried in shallow graves, Lyster said

The farm had also been used as a

Continued on Page 2

## Killings (252)

BD 13/3/97

Continued from Page 1

safe house where informers had been debriefed and members of the death squad could relax.

The amnesty applicants had taken truth commission investigators to a site on the banks of the Tugela River where they said two people had been shot before their bodies were weighted with rocks and thrown into the water,

spokesman Mdu Lembede said. The former policemen had then led the investigators to sites at Bulwer in the Midlands and Phoenix, the former Indian township outside Durban

Four victims had been blown up so that very little was left of their bodies, a method also favoured by the Northern Transvaal security branch amnesty applicants

The former security branch policemen had led investigators to five sites in KwaZulu-Natal where they had disposed of bodies, Lembede said

# 2 Witness statements by police criticised

B019/9/97

(267)

To a Deborah Fine

THE "scandalously" low standard of witness statements recorded by police for trial purposes was of "grave concern" to many judges, acting Johannes-burg High Court judge Mike Hannon said this week.

Handing down judgment in a murder trial, he appealed to Justice Minister Dullah Omar and Safety and Security Minister Sydney Mufamadi to address an urgent need to train policemen on how to record statements accurately and properly.

The important task of taking down witness statements could be entrusted only to properly trained policemen who would not prejudice the administration of justice with inaccurate recordings, he said.

Presiding in a matter in which he sentenced Lordwin Thabayane of Soweto to six years' imprisonment for stabbing to death his girlfriend Joyce Poonyane, Hannon said he would have had to acquit Thabayane had the court been forced to rely solely on the evidence of the state's main witness, Nomathemba Khanyile.

Although Khanyile appeared to have been an honest and trustworthy witness, the court had been forced to approach her evidence with "great caution and circumspection" because her verbal testimony had differed so greatly from her witness statement recorded earlier by police.

If her evidence had not been corroborated by other witnesses, he would have had no choice but to disregard it, Hannon said.

Accusing policemen of "appalling standards of English", he cited a line from Khanyile's statement which read:

"The accused got not injures except I found with it"

"It appears that the police who take down the statements don't understand what the witness is saying, or what they are being told by the witness. They just write down what they think the witness is saying," he said.

It was obvious that interpreters were not being used to assist in the taking down of statements, and that policemen were deciding what was important or not in the taking down of statements.

"It appears that there are great shortcomings in their training."

The judge said he had spoken to several of his fellow judges, who had expressed similar concerns.

# Witness statements by police criticised

B013/13/197

(252)

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# Who are these spies?

252

Jowetom 13/13/97

**E**VER SINCE MY RETURN from exile, I have been clamouring for the exposure of the spies who haunted us and played havoc with the lives of so many liberation fighters. At long last the lid is being lifted on this well-kept secret.

But why did we have to wait for Mbeki or Mandela to speak on the matter for action to be taken? Was it not clear from the revelations of the Truth and Reconciliation Commission that behind so many of the atrocities was the black hand of spying activities?

Take the case of Mr X, a former Robben Island prisoner. He was one of the youngest prisoners on the island. He was taken there when he was only 16 years old. The best part of his boyhood was spent on that dreadful island.

When he was eventually released, a whole chunk of his life had passed away. He would like to know who shopped him to the authorities. Who was the police informer that gave him away?

He had belonged to a small unit of Poqo in those days when the country was entering a new phase of militancy after Sharpeville in 1960.

The question of spies and police informers has dogged the history of the liberation movements. They have often been the source of the worst kind of harassment.

Take the case of Ken Jordaan, one of the country's finest historians, who died a few years ago in Zimbabwe. He was accused of being a spy who gave away Imam Haroun, the leader of the Cape Coloured People's Congress, in the aftermath of Sharpeville.

Haroun's death in police cells shocked the liberation movement and rocked the coloured community.

He was immensely popular, a leader of stalwart qualities. After the arrest of George Peak and the flight into exile of Alex la Guma, Reggie September and Barney Desai, Haroun took their place.

The accusation haunted Jordaan for the rest of his life, and divided his colleagues and friends. But the fact is that both Jordaan and those who in all sincerity made the charge might have been victims of a deliberate disinformation campaign to crush the CPC.

There were scores of such examples. Indeed, in those days the accusation of being a spy was enough to silence people and put paid to their character.

Some of the worst necklacing cases brought forward at the TRC were based on these false accusations – as we now know.

There was paranoia, too, in the liberation movements about spies and police informers.

So many people were accused of being spies. Spying activities were among the reasons given by the African National Congress for

Exiles grew old on Robben Island. Who gave them away is being revealed at TRC hearings, but many questions remain unanswered. **Bennie Bunsee** explains...



**Former police commissioner Johan van der Merwe threatened last year to reveal the names of elements in the ANC who allegedly collaborated with the apartheid authorities.**

atrocities in the Quattro camps in Angola.

Last year Stephanie Grant, in an angry letter to a newspaper, asked that the names of the Cabinet Ministers who were informers be made known. Immediately afterwards, names began to circulate of Ministers who might have worked with the apartheid authorities.

## Existence of informers

Former commissioner of police Johan van der Merwe threatened to reveal the name of elements in the ANC who allegedly collaborated with apartheid authorities.

One could not get a higher source that there might be some truth in the allegations that informers existed in the highest echelons of the liberation movement.

When the Pan Africanist Congress approached the intelligence services for information on spies in its midst, it was told that this could not be done because the spies were still active!

Educationist and writer Herbert Vilakazi, in a newspaper article, claimed that the PAC was destroyed from within – presumably through the work of spies.

To what extent can some of the problems

that arose within the PAC be attributed to the work of spies and police informers?

We need to know. Who are the alleged Central Intelligence Agency operatives in the ANC? What is the role of the CIA in our country's politics?

Now that we are in control of the intelligence services, is it not proper that – as far as is possible – the names of spies and informers should be released?

## Third Force theory

Is there not the danger that these elements might be working in positions of power and carrying out their activities in other ways?

If the Third Force theory is believed, is it illogical to conclude that these elements might still be at work in a far more subtle manner, working on long-term plans of destabilisation?

The country needs some explanation of the darker activities of the intelligence services. We cannot leave this to the TRC since it does not have the mandate to delve into this as a matter in itself.

Certainly names will be mentioned of spies, but will that explain the elaborate network that existed and how it operated?

It is already known that files are being destroyed. It would appear that we might never know the entire truth about spies and spying activities as a result.

Immediately after the East German government fell, the archives housing the files of Stasi, its intelligence network, was raided and thousands of files were seized. They were made available to the public.

Many, for the first time, were able to see what was recorded about them. Thousands of spies were exposed.

Nothing like this happened here. But something should be done about exposing the spy network that existed.

This Government is committed to transparency in theory and to the establishment of an Information Bill that would give the public the right to information from any agency. This is commendable, if it is not going to be hedged in by ifs and buts.

But, as part of the culture of transparency and human rights, it is important that we know how we were spied upon in the past, and how spies work.

*(The writer is a parliamentary adviser to the PAC.)*

# Truth commission reveals victims of security

Farouk Chothia

DURBAN — The truth commission yesterday disclosed the names of four victims of Vlakplaas-style hit squad operations in KwaZulu-Natal — including Operation Vukla operatives Mbuso Tshabalala and Charles Ndaba — and identified the sites of three camps used either to murder anti-apartheid activists or as "safe houses" for hit squad members.

KwaZulu-Natal commission convenor Richard Lyster said that a camp in the Mount Edgecombe/Phoenix area on the north coast and another in Elandskop in the midlands had been used by the security branch in the 1980s and early 1990s to kill and bury activists.

A third camp in Camperdown, between Durban and Maritzburg, had been used as a base for askaris, African National Congress members who had become police hit squad operatives. No murders had been carried out at this camp, Lyster said.

The commission identified the camps after disclosures in the amnesty applications of a group of former Natal security policemen, believed to include provincial head Col Andy Taylor.

Lyster said that investigations being conducted by Transvaal attorney-general Jan D'Oliveira's office had pressured the policemen into applying for amnesty.

He said the commission was also aware of a fourth site in Bulwer, which was used by policemen as an "overnight" place.

Tongaat-Hullelt executive director Johannes Magwaza confirmed that the Mount Edgecombe/Phoenix camp had been on property owned by the company Tongaat-Hullelt had been unaware that it was being used by the security branch, he said.

Another four activists had been shot and "blown up with explosives to the extent that their bodies no longer existed", Lyster said.

He said that three bodies had thus far been exhumed, including that of then-acting Umkhonto we Sizwe commander Phila Ndwandwe. She had been kidnapped from Swaziland in October 1988. After refusing to become a police informer, she was shot and buried.

An Umkhonto we Sizwe cadre involved in special operations, known as MK Tekere, had been killed and buried at the Elandskop camp in 1988, Lyster said.

by regional policemen

He said that contrary to initial reports, the commission had not exhumed 10 bodies from graves dug up at the camps.

It would not be possible for the commission to find the bodies of Tshabalala and Ndaba, as they had been thrown into the mouth of the Tugela River in northern KwaZulu-Natal.

The activists were killed after their arrest in July 1990, when then-state president F.W. de Klerk claimed that a SA Communist Party plot to overthrow the state had been uncovered.

Another four activists had been shot and "blown up with explosives to the extent that their bodies no longer existed", Lyster said.

He said that three bodies had thus far been exhumed, including that of then-acting Umkhonto we Sizwe commander Phila Ndwandwe. She had been kidnapped from Swaziland in October 1988. After refusing to become a police informer, she was shot and buried.

An Umkhonto we Sizwe cadre involved in special operations, known as MK Tekere, had been killed and buried at the Elandskop camp in 1988, Lyster said.

by regional policemen

He said that contrary to initial reports, the commission had not exhumed 10 bodies from graves dug up at the camps.

Police killing fields (242) 60 14/3/97



Regular contact with NIS: Aziz Pahad



Jacob Zuma



Joe Nhlanhla

# Tracking down spies in ANC

MTG 14-19/3/97

(252)

The hunt is on for informants in the ANC, report **Ann Eveleth, Rehana Rossouw** and **Peta Thornycroft**

**T**HE African National Congress is sitting on information linking one of its prominent provincial members of Parliament in KwaZulu-Natal to the former South African Security Police

The allegations about the MPP first surfaced in 1994 following the death of an ANC member believed to have discovered the agent's alleged connection to the security police and its successor, the Crime Information Services Division.

Subsequent internal probes into the allegations produced the "proof" the ANC was looking for, which included the man's police identity number — information which has now been handed to senior officials in the Department of Safety and Security

ANC KwaZulu-Natal representative Dumisane Makhaye said exposure of apartheid-era informants was "an essential condition for national

reconciliation and healing This becomes even more important in the case of KwaZulu-Natal which bore the brunt of "third force" activities The network is still intact and functioning," he said

The five former security policemen who told the Truth and Reconciliation Commission last week that there were people in government "structures" who spied on anti-apartheid activists were referring to operatives who hold office at a fairly low level The security police in the Northern Transvaal during the late 1980s operated on a regional basis and were unlikely to have recruited spies with a national profile Those agents were usually handled by head office in Pretoria

While the men — Jack Cronje, Paul van Vuuren, Roelf Venter and Wouter Mentz — were told they do not have to identify their former agents to the truth commission's amnesty committee, they have talked among themselves about their spies And there are no national names among those they mention The highest ranking are two city councillors who worked in their region

The men's former askari, Joe Mamesela, last week told the *New Nation* there are five Cabinet

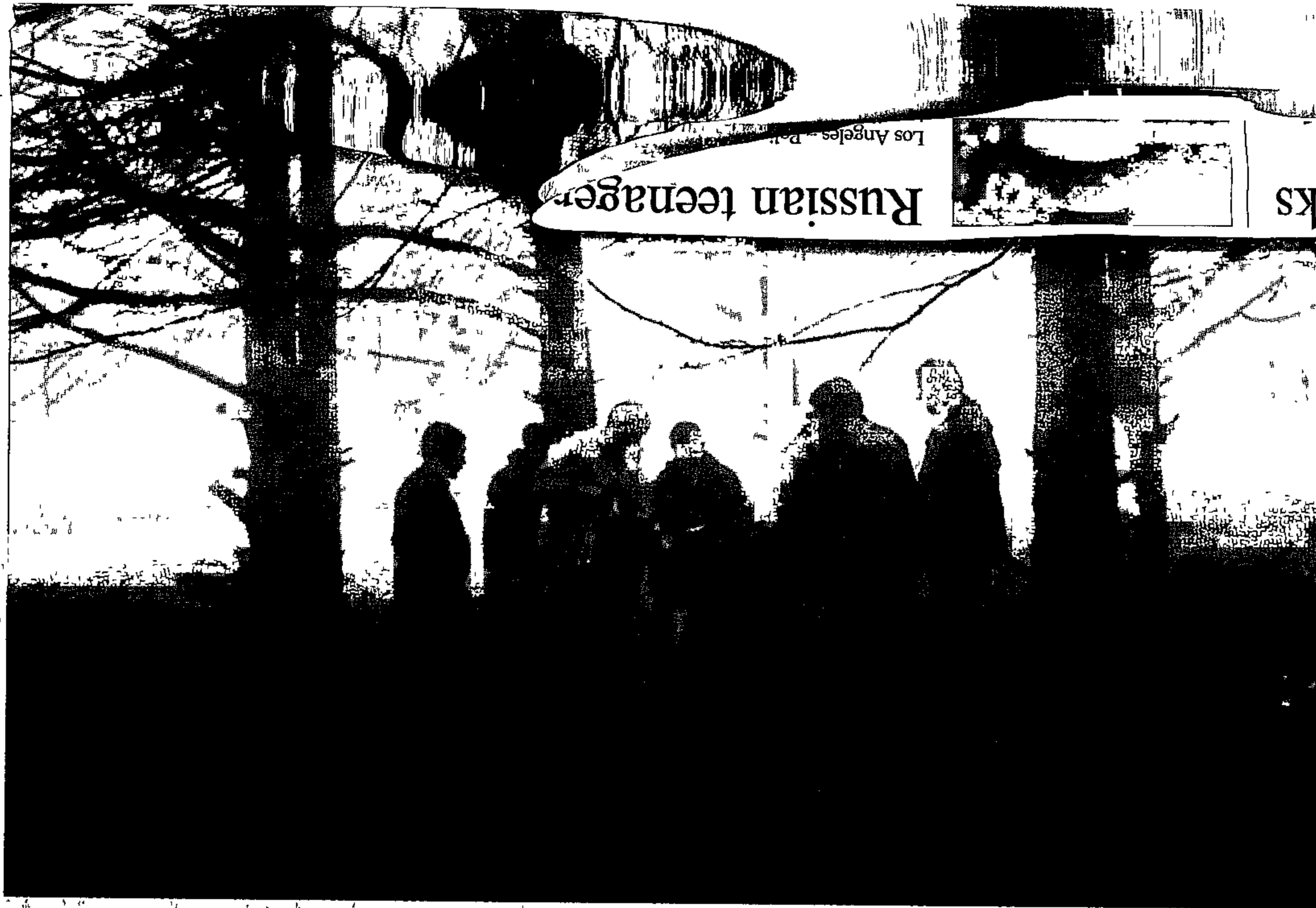
ministers who were paid police informers He has not divulged any names or explained how he came across the information at a time when informers with such a high profile were handled at head office level

Names of several top ANC leaders appeared as regular contacts on National Intelligence Service documents after the National Party government and the ANC began meeting secretly in 1989

There was regular contact between national ANC chairman Jacob Zuma, Deputy Intelligence Services Minister Joe Nhlanhla and Deputy Foreign Affairs Minister Azz Pahad with the National Intelligence Service

While the PW Botha administration approved of the meetings, it covered its back in the event of a leak The meetings could have been explained as an intelligence-gathering exercise As a result, the senior ANC members involved in the groundbreaking meetings were allocated source numbers Some ANC stalwarts believe these numbers are now being used to suggest they were informing on their organisation

The truth commission had neither "the time nor the resources to sniff out informers", deputy chair Alex Boraine said on Thursday



Albania asks for foreign

near Pietermaritzburg  
Three bodies were exhumed on Tuesday and Wednesday. Six former security policemen have applied for amnesty for the murders. More TRC reports on pages 6 and 13.

## State hit squads were operating during De Klerk's presidency

By ROBERT BRAND

FW de Klerk is in the firing line over new revelations that state hit squads were kidnapping, torturing and murdering political opponents during his apartheid-era presidency

Evidence given to the Truth and Reconciliation Commission by six former security policemen from KwaZulu Natal shows that two Operation Vula operatives were murdered in July 1990, months after the start of talks be-

tween the Government and the ANC.

The policemen also revealed the existence of Vlakplaas-type farm bases in KwaZulu Natal where activists were tortured and killed, and a farm where Askaris - ANC guerrillas who changed their allegiance to the security forces - were housed

The ANC in KwaZulu Natal yesterday said De Klerk should bear full responsibility for these operations

De Klerk's spokesman, Jan

(252) SA 14/3/97  
Bosman, said De Klerk would comment when he presented the NP's second submission to the TRC in Cape Town next month

TRC investigators will today start digging at a third farm in the Verulam-Mount Edgecombe area for the remains of an activist murdered by security police

Three bodies were exhumed at two farms in the Natal Midlands earlier this week

The names of four of the murdered activists were released yesterday. The remains of former

Umkhonto weSizwe operative Phula Portia Ndwandwe and another MK operative, known as "MK" Tikere, had been exhumed at the Elandskop farm near Pietermaritzburg on Wednesday and Monday

Ndwandwe was an acting commander at the time she was abducted by police and Tikere was involved in MK's special operations unit, the commission said

Both were shot dead after they refused to become police informers following their abduction from

Swaziland in 1988

Charles Ndaba and Mbuso Shabalala, Operation Vula operatives, were killed and their bodies dumped into the Tugela River, the TRC said. The two had disappeared shortly before Vula, an operation designed to establish underground MK structures inside South Africa, was exposed

Four other bodies will in all probability never be found. They were blown up with explosives - two near Bulwer in the Midlands and two in Phoenix near Durban.

# TRC investigators exhume fourth body in KwaZulu killing fields (252)

ARG 15/3/97

**Umdloti - The body of a fourth political activist murdered by apartheid security police in KwaZulu-Natal in the 1980s has been exhumed.**

The Umdloti grave site was pointed out to the Truth and Reconciliation Commission yesterday by six former security policemen who have applied for amnesty for killing 10 anti-apartheid activists in the late 1980s and early 1990s

TRC investigators had previously uncovered three other burial sites identified by the policemen. The sites are on farms leased under false names by the security police.

The fourth body was in a metre-deep grave in a vegetable garden set in a sugar cane plantation about 30 km north of Durban

The body had been covered in lime to speed decomposition and there were two small neat holes on each side of the skull, which was missing its front teeth

"The person was obviously shot in the side of the head. From the look of the remains the person had their hands tied behind their back but we are unsure at this stage if the body is in the kneeling position," said a policeman at the scene

The identity of the victim has been withheld until the family have been notified

Commission spokesman Mdu Lembede said the three bodies uncovered earlier had been found in a crouched positions with bullet holes in the top of their skulls

"It looks as though the victims were made to sit in holes dug in the ground and then shot in the top of the head execution style," said Mr Lembede

One of the victims, Portia Ndwandwe, had been kidnapped in Swaziland and taken to the farm to be interrogated and "turned" by security police to work for them, Mr Lembede said

Earlier this week Mr Lembede said the six policemen had confessed to throwing two other bodies into a river.

"The applicants also confirmed that four more people were blown up in such a way that very little remained of their bodies," he said. - Reuter

Stormtroopers' grim tales, page 22



Howesard

QUESTIONS

†Indicates translated version

For written reply

Legal Aid Board: unpaid accounts

86 DHM GIBSON asked the Minister of Justice

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7

(1) What amount was spent on the representation of accused persons in 1996.

(2) whether there is currently a backlog of unpaid professional accounts from lawyers who performed work for the Legal Aid Board, if so, (a) as at the latest specified date for which information is available, (i) how many accounts were still unpaid and (ii) what total amount was owed and (b) over what period have these unpaid accounts accumulated.

(3) whether sufficient funds exist for the payment of these accounts if so (a) what factors are preventing the payment of these accounts and (b) when is it envisaged that these factors will be resolved if not (i) why not and (ii) when is it envisaged that such funds will be available

(4) whether the Legal Aid Board is currently under investigation if not what is the position in this regard if so (a) by whom (b) what specific matters are being investigated (c) when was the investigation initiated and (d) when will it be completed

(5) whether any recommendations have been made or action has been taken in this regard, if so what are the relevant details? NI46E

THE MINISTER OF JUSTICE

In reply to the hon member's question the following was supplied by the Director of the Legal Aid Board

(1) The Board provides legal representation in criminal cases by way of -

(i) the judiciary-system in terms of which instructions to represent accused persons are issued to practitioners in private practice During 1996 an amount of R59 236 372 was paid to such legal practitioners.

252

(ii) the Office of the Public Defender The total cost of the Office of the Public Defender in Johannesburg, which renders legal representation to accused persons in the Johannesburg Magistrate's courts, amounted to R1 640 494, and

(iii) Legal Aid Clinics attached to Universities and other Institutions Twenty two Legal Aid Clinics at Universities and other institutions with which the Legal Aid Board co-operates, provided legal representation for accused persons In terms of agreements entered into between the Board and the Universities and/or other Institutions the Board provides funds for the salaries of a principal and candidate attorneys and makes a contribution towards the running expenses of the Clinics The obligation of the Clinics on the other hand is, *inter alia* to render legal aid to indigent persons

The Board's total expenditure in respect of the twenty two Legal Aid Clinics during 1996 was R10 921 244 As these Clinics also render legal assistance in divorce and civil matters it is not possible to say what the cost of the representation rendered by them in criminal cases amounted to during 1996 However, as the bulk of the legal representation provided by Clinics is rendered in criminal matters a fair estimate would be that 60% of the Board's expenditure on Clinics relates to the provision of legal administration in criminal matters Calculated on that basis the total amount spent by all Clinics on the provision of such services during 1996, amounted to R6 552 746

As is the case with the Office of the Public Defender, the average cost per case in which the Clinics render assistance is considerably less than the average cost of cases in which legal representation was provided in terms of the *judicare*-system

The total amount expended by the Board on the provision of legal representation of accused persons during 1996 by way of the aforementioned is approximately R67 329 612

(2) Yes, according to the Legal Aid Board there is a backlog of unpaid professional accounts from lawyers who performed work for the Board

(a) (i) On 27 February 1997 approximately 37 942 unpaid accounts were at hand. Approximately 62% (23 462) are older than 60 days

(ii) The amount owing to lawyers in the case of accounts older than 2 months is approximately R25 277 364. This amount is arrived at by multiplying the number of outstanding accounts by the average size of payments that are currently made to practitioners, namely R1 036

The total number of payments made to practitioners during 1996 in respect of fees and disbursements was 93 064 (an average of 7 755 per month). The total amount paid during that period was R96 484 447 (an average of R8 040 370 per month)

(b) With the exception of a relatively small number of older accounts, the unpaid accounts have accumulated over the last nine to twelve months. Accounts are received from practitioners at the rate of 363 per day

(3) Yes, according to the Legal Aid Board sufficient funds are available to pay these accounts

(a) the Board submits that the following are the main factors preventing payment of accounts within a reasonable time

*The increasing demand for legal aid*

The demand for legal aid has increased sharply during the last few years. This has brought about an increase in the number of legal aid applications granted, which in turn brings about an increased workload for the Board

The number of applications granted during the period 1989/90 to 1996/97 and the percentage increase per annum is as follows

Year	Number of applications granted	% Increase
89/90	24 281	46%
90/91	35 513	62%
91/92	57 692	16%
92/93	67 103	18%
93/94	79 501	7%
94/95	85 231	33%
95/96	113 774*	35%
96/97	154 000*	

\*Project

An indication of the rate at which the demand for legal aid is increasing, is to be found in a comparison of the number of legal aid applications granted during the first six months of the 1995/96-financial year and the number granted during the first six months of the current financial year. During the first six months of the current year the Board granted 79 101 applications for legal aid, which is 61% more than the 48 955 applications granted during the first half of the 1995/96-financial year

*Lack of sufficient, adequately qualified staff*

This is a problem which the Board has been faced with for a number of years. The increase in its staff is not commensurate with the rate of which its workload increases

In order to cope with the ever increasing workload the Board's staff have been working overtime for a number of years and crisis measures such as the employment of temporary personnel have been resorted to

In addition the Board appointed consultants to examine its administrative and accounting processes and procedures and to devise processes and procedures that will lead to the quicker processing of accounts and to the

improvement of its financial book- and record-keeping. An important part of the consultants mandate is to determine the Board's personnel requirements. The implementation of new processes is unfortunately being delayed as the consultants have failed, in the Board's view, to comply with their contractual obligations. The Board has given the consultants notice to rectify a number of shortcomings within a reasonable time

*Non-compliance with rules by practitioners*

In many cases the accounts submitted by practitioners do not comply with the Board's rules. For example accounts that are not properly drawn are submitted for payment proof of disbursements are often not submitted with accounts VAT invoices are not submitted and counsel's accounts submitted for payment together with the accounts of attorneys are often not as is required certified by the taxing secretaries of Bar Societies. These and other factors not only cause delays but also bring about unnecessary additional work for the Board's staff

Advocates frequently complain to the Board that their accounts are not paid timely. In many cases the reason is that their accounts have not been submitted to the Board by their instructing attorneys. Furthermore it is not uncommon that the Board is blamed by counsel for non payment of accounts whilst the true position is that payment of those accounts have already been made to their instructing attorneys and that the latter have failed to pay the advocate's fees

The Board is doing everything in its power to resolve the problem of a backlog and the following steps have been and are being taken

- (i) Staff are working overtime.
- (ii) temporary personnel have been employed
- (iii) computer technology is used to speed up all processes and
- (iv) consultants are being employed to design and implement new and more efficient work procedures

The aim is to eradicate the backlog within the next three months

(4) The Legal Aid Board itself is not under any investigation. An investigation into alleged irregularities by certain members of the Board's staff and a firm of attorneys was ordered by the Board and commenced during August 1995

(a) the investigation is conducted by a Regional Court Magistrate, Mr F Roets

(b) the board requested Mr Roets to investigate allegations that -

- \* members of the Board's staff paid the accounts of certain attorneys on a preferential basis and that they were remunerated for doing so by those attorneys
- \* members of the Board's staff, in particular the Deputy Director Administration, authorised payment of accounts without ensuring that the accounts were properly taxed

\* irregularities are committed by a firm of attorneys in connection with accounts submitted to the Board for payment e.g. charging for work not performed, etcetera

In addition Mr Roets was requested to investigate all apparent irregularities that might come to his attention during the course of his investigation

(c) The investigation commenced during August 1995

(d) Indications are that the investigation will be completed towards the end of April 1997

(5) Mr Roets has already submitted four interim reports to the Board in which the following recommendations were made

- (i) That disciplinary steps be taken against the Deputy Director Administration. Following the recommendation this official was charged with misconduct consisting, inter alia, -

# De Klerk's 'death farms'

## As ministers accuse FW, an old man begins search

FROM THE FRONT PAGE  
CRAIG DOONAN and RAY HARTLEY

# farms'

## for lost grandson

ST 16/3/97

(252)

**A** GRIEVING grandfather has launched a search for the grandson he has never seen following the discovery of his daughter's body on one of the four death farms uncovered by the truth commission this week.

The exhumation of the body of Phila Ndwandwe and three other activists in shallow graves in Kwazulu Natal has already sparked a furious political row, with ANC cabinet ministers accusing former State President FW de Klerk of knowing about the killing fields.

Truth commission investigators have evidence that at least 12 people were killed by police operating from at least four death farms in the province.

But all Nason Ndwandwe could think of yesterday was finding his grandson, who would be aged nine now.

Until this week's grisly find, he had no idea where his daughter was after she disappeared in 1988 amid false claims that she had become a police informer.

But it has emerged that Phila, who was based in Swaziland, left her son with a minder when she set off for what she thought was a rendezvous with Umkhonto we Sizwe members. It turned out to be a police trap and she disappeared without trace.

"I want to hold him in my arms. He was part of my daughter and this will help ease my pain. The commission said they will search for him and hopefully they will bring him home where he belongs," Ndwandwe said yesterday.

The killing-fields revelations have prompted two cabinet ministers to accuse National Party leader De Klerk of knowing about the hit squads.

Disclosures this week included details of the executions of Charles Ndaba and Mbuso Tshabalala, who went missing during Operation Vula while talks between the NP government and the ANC were under way in 1990.

The Deputy Minister of Defence, Ronnie Kasrils, told the Sunday Times this weekend. "The record shows that De Klerk was closely briefed by his security police chiefs immediately after the disappearance of Ndaba and Tshabalala."

"The discovery of these bodies is the strongest evidence of the double-track strategy that De Klerk was following at the time of the negotiations."

"They were running these death farms, these interrogation centres, and they were blithely claiming no knowledge of what happened to these people," he said.

Kasrils said the discoveries showed that "sadistic people" had been running the security forces.



**TESTIMONY FROM THE GRAVE: The exhumed remains of an ANC activist**  
Picture: MICHAEL WALKER

he is traceable. We know he was in the country at one stage and the ANC will help the family to find him."

The Elandskop farm about 40km from Maritzburg, where Phila's remains were exhumed, was used as a "safe house" where activists were tortured and killed. She appears to have been shot in the head while kneeling because she refused to become an informer.

The grim discovery was made after a group of former security policemen confessed to the killing of at least 10 political activists.

Ndwandwe identified his daughter in the Maritzburg mortuary on Friday. "There was just a bag of bones. But I relied on the shape of her head and her high cheeks. It was her," he said.

"At last I had found out what had happened to her. For nine long years since the day she disappeared my life has been torture. Now that I can bury her, I have to start to look for my grandson."

Former Viakplaas commander Dirk Coetzee said De Klerk should now admit that he knew of police hit squads.

● See Page 4

The Minister of Transport, Mac Maharaj, the leader of Operation Vula, said. "I find it very difficult to accept that the regime at the very highest level didn't know. There is no way that the top leadership like De Klerk can say 'I didn't know'."

Maharaj said the discoveries had taken an emotional toll on the families and colleagues of the executed guerrillas. "It has rekindled the trauma. The truth has come out in such a gruesome way."

De Klerk has repeatedly denied any knowledge of hit squads.

A former MK operative who was close to Phila Ndwandwe, and who asked not to be named, said yesterday. "The child is alive and I think

CP.

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16/5/97

For Mary Rose Shabalala, a teacher at a local school, the only bitter relief is that she finally knows what happened to her husband – and for that she praises the TRC.

On the day he disappeared, her husband went to visit a friend – but never came home, she says.

“That was strange because he never slept out.

“Two days later, I went to the KwaMashu police station – but was told they had no information about my husband.”

She later asked family lawyers to try to trace him. They put advertisements in newspapers, but to no avail.

Then an anonymous caller told the lawyer to go and ask police at CR Swart Square.

“I did not trouble myself with that,” says the lawyer – who had felt the caller was making a dreadful joke.

Where everybody else failed, the TRC has finally succeeded, says Mary Rose.

Though she has no body to bury, she can now officially become a widow and apply for a death certificate for her husband.

She has not yet had time to decide whether she will forgive her husband’s killers – or oppose the amnesty applications.

But she says she will attend the hearings.

Holding a statement of confession by the killers in her hand, she says she does not believe they told the whole truth.

Deborah Fine

SA ATTORNEYS' journal De Rebus has called for a national attorneys' ethics conference to examine professional codes of conduct, given "commercial realities" and the pressures of the modern environment

In an editorial in this month's edition, De Rebus described an emerging trend of attorneys forming relationships with banks and estate agents that could violate "touting" rules, which prohibit attorneys from soliciting for work or finding work through an intermediary such as an agent

It had come to the journal's attention that some estate agents were passing bond applications to

## Call for ethics conference

(252) BD 17/3/97

banks with the provision that the bond registration instructions were to be issued only to certain conveyancing or notarial attorneys nominated by the agent

"Naturally the bank wants the business, but is perturbed because if it accepts the business, it also accepts a limitation on its freedom and it is worried about the ethical implications for the attorneys involved," De Rebus said

Banks, however, often saw no wrong in persuading their own attorneys to reduce their bond registration fees by the value of the commission paid to the bank's

agent for procuring applications

The important question, De Rebus said, was whether such behaviour constituted improper conduct, or whether it was a "perfectly acceptable modern business practice" which had rendered the old touting rules irrelevant

Attorneys themselves differed in their opinions, which was why a conference should be convened

De Rebus's call for a conference was fully supported by Transvaal Law Society vice-president Esme du Plessis, who said the society had set up a committee to examine the relevance of touting rules

# More amnesty committees in the pipeline

DD 17/3/97

(252)

Stephané Bothma

AN URGENT amendment to the Truth and Reconciliation Act is expected within the next few weeks to allow the amnesty committee to deal with the more than 5 200 applications already received from perpetrators of human rights violations. Hundreds more applications are expected to be filed before the cut-off date of May 10.

Since the amnesty committee started hearing applications a year ago, only about 100 have been heard.

Justice Minister Dullah Omar would ask Parliament to approve legislation allowing the appointment of one or more extra amnesty committees to process the confessions before the

commission's lifespan ended, deputy commission chairman Alex Boraine indicated last week.

The law, which originally provided for a single amnesty committee of five members, has already been amended to allow hearings to take place before three designated members.

The commission now proposed to appoint two full-time amnesty committees of three members each to conduct hearings simultaneously in different parts of SA. A third team would deal with applications which did not demand public hearings and could be dealt with in chambers. New committee members could be drawn from the ranks of existing commissioners, and President Nelson Mandela should call

on retired judges to serve on the additional committees rather than removing serving judges from the (High Court) bench, Boraine said.

He said the commission would stick to its deadline of March 14 next year for the presentation of its final report.

Meanwhile, commission media and communications committee chairman Denzil Potgieter said May 30 had been set as the deadline for submissions on the role played by the media between 1960 and the 1994 election.

Sapa reports Deputy Defence Minister Ronnie Kasrils said yesterday the revelations of the murders of 10 anti-apartheid activists in KwaZulu-Natal,

Continued on Page 2

## Amnesty (252)

DD 17/3/97

Continued from Page 1

four of whose bodies were exhumed last week, were the most compelling indictment yet that former president FW de Klerk was apparently involved during the negotiation process in a double agenda, one which possibly condoned the murder of activists.

The names of the policemen have not been confirmed by the truth commission, but the Sunday Tribune named the six seeking amnesty for the murders as retired KwaZulu-Natal Gen Johannes Albert Steyn, Lt-Col Hendrik Johannes Botha, a "Col Vorster", and three others of unknown rank. Sam du Preez, Laurie Wasserman, and Cassie van der Westhuizen. The report said Steyn was believed to

have been responsible for cracking the ANC's "Operation Vula" structures in KwaZulu-Natal in 1990.

Kasrils said "the record shows" that De Klerk was briefed by security police chiefs immediately after the disappearance of Operation Vula operatives Mbuso Shabalala and Charles Ndaba who had been arrested in Durban in July 1990. "We all recall how De Klerk raised the spectre of an alleged Vula plot by the ANC/SACP alliance to overthrow the state."

De Klerk now had to answer key questions, Kasrils said. "Did he not know that gruesome atrocities were being carried out by his security forces against Vula operatives at that very time? If he knew what was going on, as he claimed in his public statement about the alleged Vula plot, then he should have known that Ndaba and Shabalala had been eliminated."

# TRC unearths truth for family

some tan 17/3/97

(252)

After years of uncertainty, Ndwandwe now know what happened to Phila

By Sharon Chetty

**A** SKULL WITH A SINGLE bullet hole has come to symbolise hope, peace and relief for the family and comrades of disappeared Umkhonto we Sizwe soldier Phila Ndwandwe

After nine years of uncertainty and speculation Ndwandwe's remains were exhumed from a shallow grave at a farm in Elands kop, outside Maritzburg, last week

Her remains were discovered by Truth Commission investigators acting on information from six former security branch policemen who have applied for amnesty from prosecution relating to the deaths of 10 activists

They exposed, for the first time, the existence of four Vlakplaas-type farms in KwaZulu-Natal where kidnapped activists were taken for interrogation and detained in 'safe houses'

The six white policemen - Andy Taylor (believed to be seriously ill with cancer), Hendrik Botha, Sam du Preez, Cassie van der Westhuizen, JA Steyn and Laurie Wasserman - have also pointed out the bodies of MK special operations unit member MK 'Mkhwanazi' Tekere, Phumezo Nxumweni and Dion Cele, all shot dead between October and November 1988

Three youths, Sibusiso Ndlovu, Manzi Vilakazi and Elias Gift Mtshali were blown up somewhere in the Phoenix area in November 1988

## Cadres captured

Operation Vula cadres Charles Ndaba and Muso Tshabalala, they said, were captured in 1990, and despite strenuous denials to the contrary by FW de Klerk's government, the two were detained by the police and later shot dead after being duped into believing that they were going to be taken to a safe house

Their bodies were weighed down and dumped into the Tugela River

Ironically Ndwandwe, whose MK alias was Zandi, had become the *de-facto* head of the movement's Natal operations in Swaziland after Charles Ndaba was deported by Swazi police

Although she had left South Africa in 1986 after she had been arrested and charged by the security police, Ndwandwe managed to be an "above board" operative in Swaziland. She had a legitimate passport and was a student at the University

## Dispel any suspicion

Significantly, in describing to the TRC the details around Ndwandwe's abduction and death, the former security policemen were also able to dispel any suspicion that she had turned *askari* and sold out her comrades

Instead, they say that she refused to cooperate with them

Their plan had been to "turn" her into one of their agents and to immediately redeploy her in Swaziland to work for them

She refused, so they took her to the farm near Maritzburg where she was eventually shot dead and buried

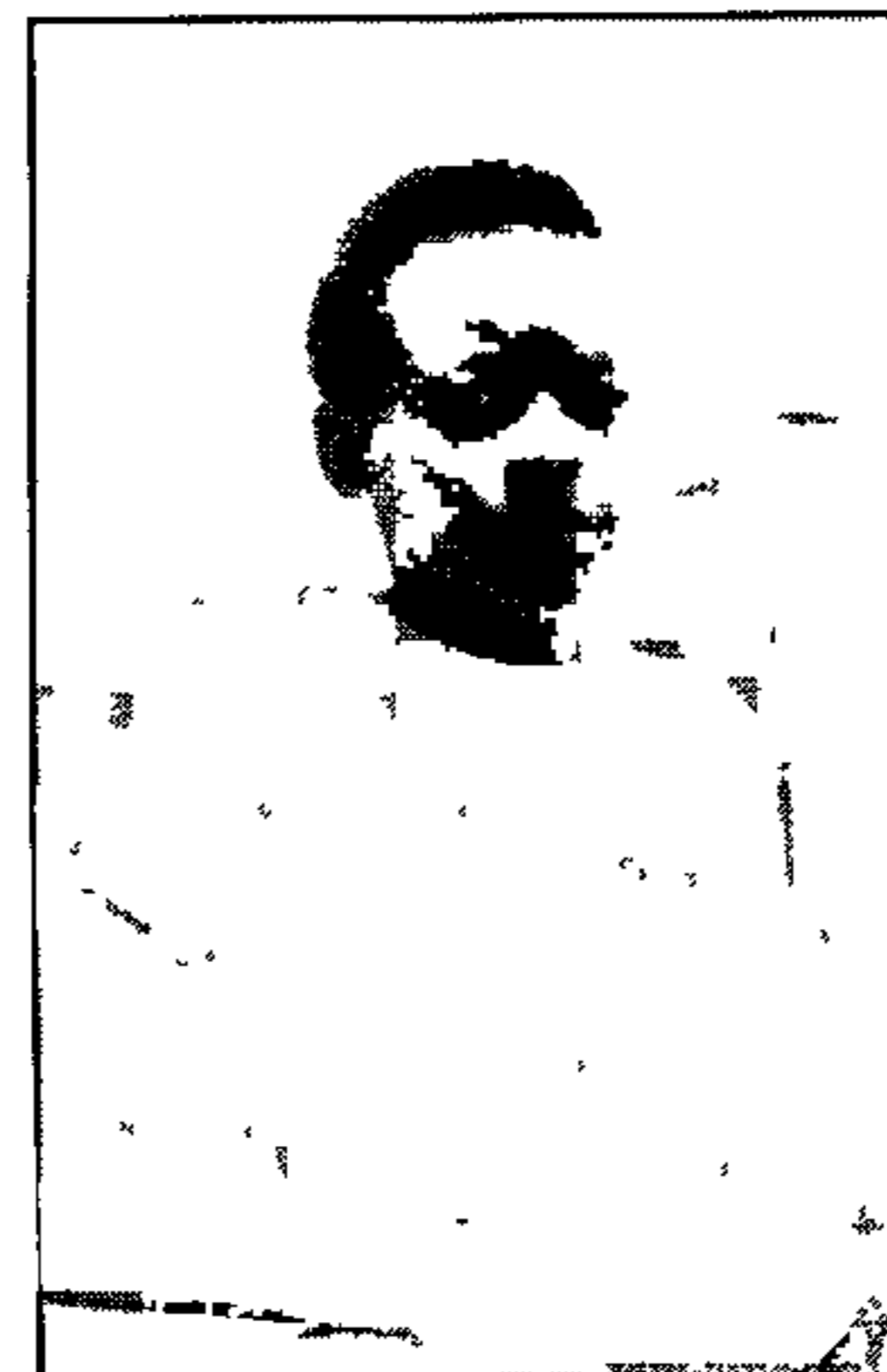
Her disappearance happened when there was much paranoia in the organisation as spies were being unmasked "left, right and centre", recalled one of the last people to see her, a fellow soldier named Jones

He had driven her to the George Hotel in Manzini where she had met her two contacts, with whom she was obviously familiar. Everything appeared fine to him as Ndwandwe went with them without hesitation



Andy Taylor, one of the policemen implicated in Phila's abduction and murder

GRAPHIC COURTESY SABC TV



Phila Ndwandwe the MK commander murdered by police after she refused to work for them.

But once she disappeared, rumours started circulating that Ndwandwe had been a spy and informer. And despite evidence to the contrary, the speculation persisted until last week

Ndwandwe had left behind her year-old son Thabani with a babysitter, was dressed in shorts and T-shirt and had only R20 with her, of which she gave R10 to Jones for petrol

On the night of the abduction, the home she was living in was burgled and about R20 000 of MK's money was stolen

During 1987 and 1988 Swaziland had been a "hotbed" of MK activity and increased numbers of cadres were infiltrating the country with Natal as the prime target

It had also been dubbed as the time of "uncovering the spies in MK in Swaziland," and cadres were often forced to be suspicious of each other

Jones recalled that often the Security Branch 'were ready for us' as they had managed to infiltrate their ranks so well

Therefore, suggestions that Ndwandwe could have become a turncoat were not farfetched, although

**'I'm just so happy to give my Phila a dignified burial ... at least we know where she is now'**

Jones remained convinced that the fact that she had not taken her child with showed that she had not taken part in planning her disappearance

But after last week's find, he's pleased that his former commander can now enjoy the respect and honour of a disciplined soldier and hero, even if it is in death

While her capture had severe ramifications for her unit, it appears as if she "acquitted herself bravely when faced with coldblooded and calculating killers", says Jones

Ndwandwe apparently took the rap for, among other incidents, two MK attacks on policemen in Durban (a Lt Raju and Warrant Officer Sokela)

For her father Nason Ndwandwe, finding the remains of his child has finally put to rest years of anxiety. He'd always feared the worst when she went into exile 11 years ago, but never imagined that he would one day be confronted with a pile of bones and be told that that was his daughter

"I'm just so happy to give my Phila a dignified burial ... at least we know where she is now"

If he's angry or bitter, he's not making it obvious and can't decide how to react to her killers' amnesty application "God will take his way no matter what happens now, it won't bring back Phila"

But, he does hope that his daughter's partner, a Zimbabwean named Bheki Mabuza, will now make contact with the family

Most of all he wants to meet his long-lost grandson Thabani

Somewhere there is this child who is still part of her maybe he can become part of our family too"

# Debate on Killings

## Parliament asked to discuss murder of ANC activists

7/31

By Sharon Chetty

**P**arliament is called upon to debate the killing of ANC activists in Durban on Wednesday. The debate will be held in the afternoon of the day following the 21st anniversary of the assassination of Dr. Martin Luther King.

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# Informers: TRC's decision the correct approach

By Robert Brand

Sheepers Morudu was a police informer. As a youngster in Mamelodi during the late 1980s, he fell into the hands of Joe Mamasela, Jacques Hechter and Paul van Vuuren, the so-called "taxi hit squad" which terrorised black communities around Pretoria for years, hiding behind baladavas while they crawled the streets in a minibus looking for victims.

Morudu, the chairman of his school's SRC, was captured by the three security policemen and beaten. He was told that he would be killed unless he agreed to become an informer.

So the teenager Morudu became an informer. He was given a source number, which was entered into files. His information found its way into Hechter's hands. He gave his handlers details about the activities of his SRC and of the over-arching student body for Mamelodi schools. This information, he testified before the Truth and Reconciliation

Commission, was about educational issues, campaigns for free books and so on, because he had no contact with the banned ANC and knew nothing of underground resistance structures.

Occasionally, Mamasela would give him information which he would in turn pass on to Mamasela's superiors, Hechter and Van Vuuren. Mamasela was then working undercover in Mamelodi, masquerading as an ANC comrade who recruited youngsters for military training. Most of the "taxi hit squad's" targets were people identified by Mamasela, although Hechter and Van Vuuren claim they would not murder anyone on the basis of information supplied by Mamasela alone. This information had to be corroborated by another source.

This raises the possibility that Mamasela fed his superiors information through third-party sources to corroborate his own and seal the fate of those he wanted to kill.

Much has been said about the disclosure of police informers' names,

and everyone - except the TRC's amnesty committee - seems to be in favour of it.

There are strong arguments for disclosure. One of the essentials of the amnesty process is full disclosure of all information relevant to the act for which amnesty is being sought. It is also part of the TRC's general mandate to inquire into the identity of people who played a part in human rights violations, and many informers undoubtedly fall in this category.

There is also the danger, as expressed by Deputy President Thabo Mbeki, that anti-democratic elements from the former security forces could blackmail their former informers who now occupy positions of influence.

The apartheid system's network of informers was no doubt extensive and complex - we heard last week how security policemen killed an "enemy" in Botswana, not knowing that the man was in actual fact a valued informer

for Military Intelligence - but so was the system of disinformation, suspicion-sowing and sheer intimidation.

Morudu's case illustrates this complexity. Was he guilty, or was he a victim? Many informers, of course, were knowingly and voluntarily working for the state. The problem is that the files detailing their operations have been destroyed, and in any event their real identities were known only to their handlers.

For everyone else, they were a number in a file. Anyone who supplied information to the police was given a source number, even if the information had been extracted by torturing the "source". Ahmed Timol had a source number, but no-one would describe him as an informer.

But how are we to know? One of the lawyers involved in the hearing which resulted in the amnesty committee's ruling against disclosure of informers' names put it this way: a security policeman could name a high-profile member of government

as an informer, most probably, that person will deny it. There is no proof to back either claim. But the accusation, true or false, will stick forever.

TRC deputy chairman Dr Alex Boraine said the commission was not about to embark on a witch-hunt to expose informers, and would not reveal the names disclosed to it unless the evidence has been tested and corroborated.

He added that the commission would restrict its investigation of informers to specific instances. When evidence is placed before a hearing alleging that an informer was party to a gross violation of human rights, either before, during or after the fact.

In these cases, the commission is bound to investigate the allegation.

That is the correct approach. If the issue turns into a political football, if people are allowed a public platform to publish untested accusations against "informers", the chances are that it will sow hatred and division rather than reconciliation.

(252) KAW 17/13/97

# Lawyers' unity is a top priority for Trikamjee

Linda Ensor (252) 8018/3/99

CAPE TOWN — The Association of Law Societies has appointed its first black president, Ashwin Trikamjee, and its first woman vice-president, Esmé du Plessis.

Trikamjee, 52, a Durban-based commercial attorney and former president of the SA Soccer Federation and National Soccer League, yesterday vowed to bring about an amalgamation of the three law-

yers' bodies — the Association of Law Societies, Black Lawyers' Association (BLA) and National Association of Democratic Lawyers (Nadel) — in his term of office.

There had been continuing talks about amalgamation and it had been agreed initially the Association of Law Societies would have a 50% representation on the new body and BLA and Nadel a combined 50%. The task now was to get the initiative going, Trikam-

jee said. The new body would represent about 15 000 attorneys.

Another burning issue facing the legal profession was how to respond to the creation by accounting firms of their own legal practices. Some lawyers feared that if they did not work with accountants they would lose clients, but Trikamjee believed quality of service would be decisive. "The solution lies in the hands of the attorneys themselves," he said.

PUNISHMENT 'NOT HARSH ENOUGH'

# Most SA women want death for rapists

**THE "HORRIFIC INCREASE"** in rape offences in South Africa in the past three years has led to most women, black and white, wanting the return of the rope. **DIANE CASSERE** reports.

**S**OUTH AFRICAN women do not believe that punishment for rapists is harsh enough and most are demanding that the death penalty be brought back for rape.

This was the finding of a survey conducted in February this year by Research Surveys and commissioned by a public relations company, Pamela Westaway CPRP, as part of its social service programme.

The research indicates that the "horrific increase" in rape offences in South Africa during the past three years has galvanised South African women, black and white, into demanding the reinstatement of the death penalty.

Pamela Westaway CPRP conducted a similar poll in 1994 then 24% of black women chose the death penalty as a suitable punishment. This year the figure has increased to 49%. In 1994, 29% of white women polled wanted the death penalty and this has increased to 46% this year. In 1994, 59% of black women

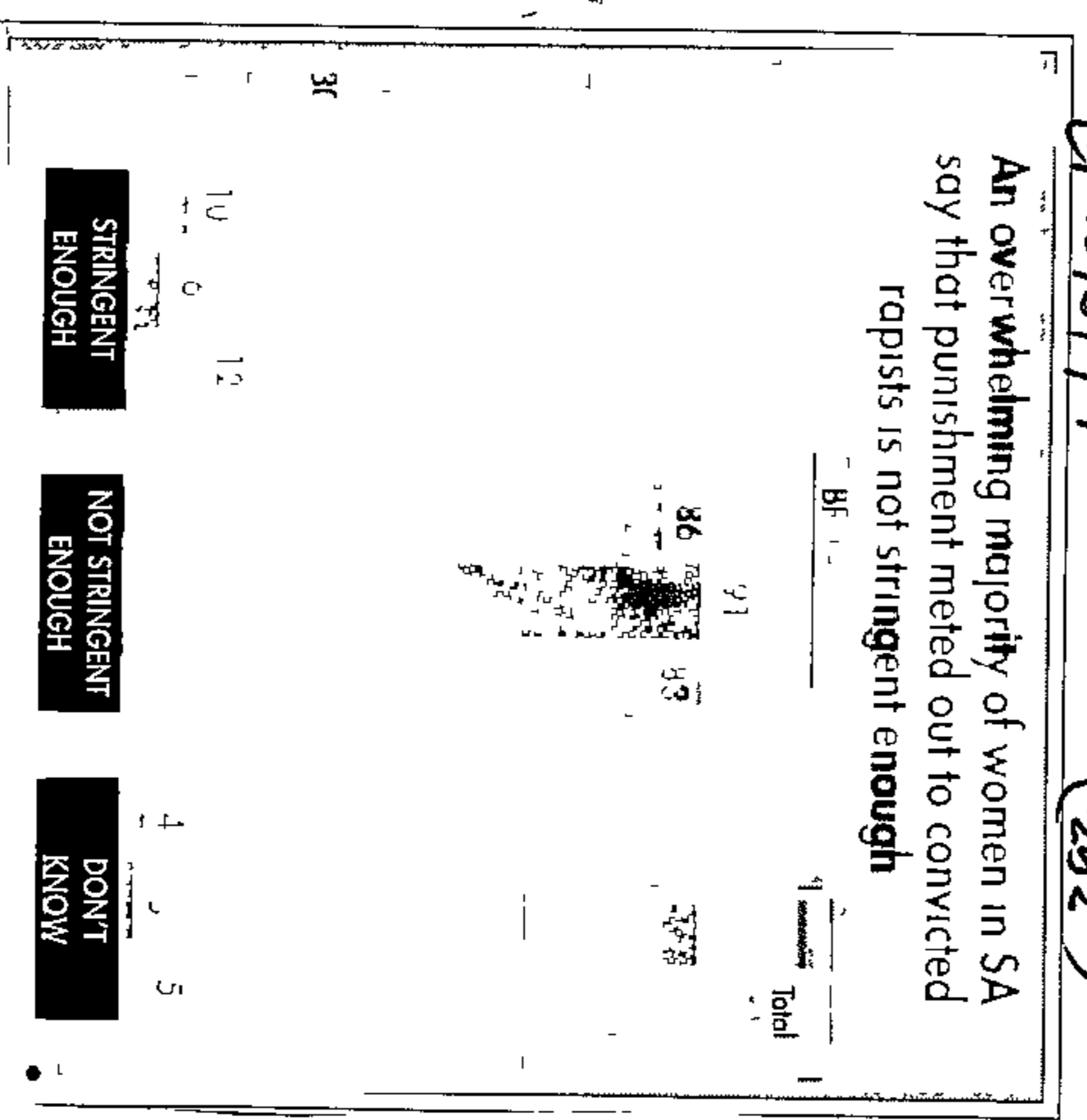
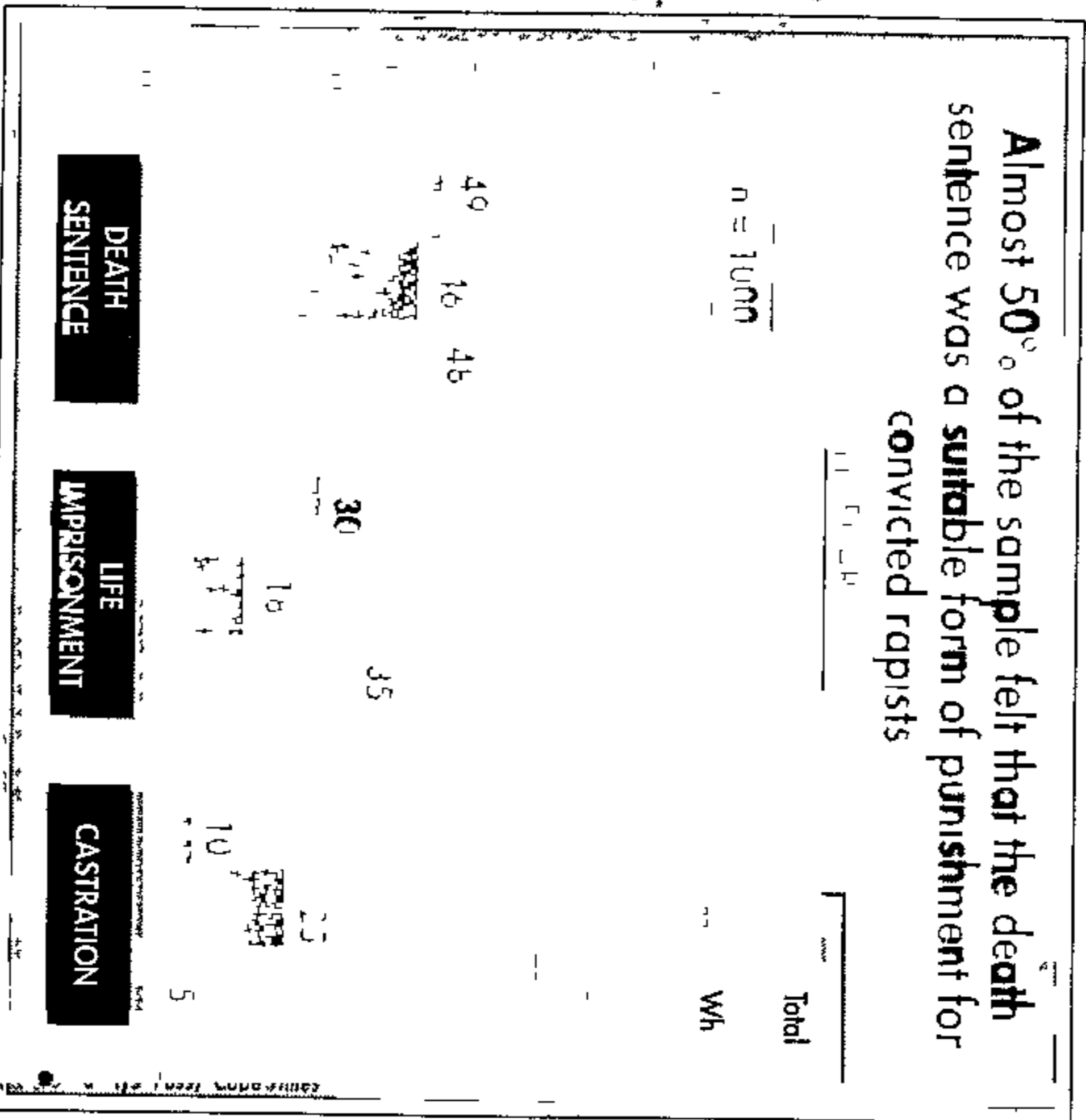
felt the punishment for rape offenders was inadequate this figure has jumped to 84% in 1997.

A spokeswoman for the PR company, Ms Catherine Wisdom, said the women were polled nationally and were "representative of the population." Interviews were done face to face.

"The recent poll compared with the 1994 figures represents an amazing shift in data, indicating that women want stringent penalties in the face of increases in rape offences," she said.

This year 86% of South African women feel punishments for convicted rapists are ineffective and inadequate. When asked what the suitable punishment should be, almost half of both black and white women (49%) demanded the death penalty be reimposed, 30% opted for life imprisonment with 10% preferring castration as punishment for rape.

The second most popular choice of punishment from white women was castration (25%) with



only 5% of black women choosing this option. "The research has been scientifically weighted, making it truly representative of the black and white urban female population," said Ms Wisdom.

(243/97)

07/18/3/97

(252)

# The danger of putting the wrong crime target

## Curbing human rights of criminals will not solve the crime problem

ART 18/3/97

(252)



Under guard: Polisrioor prison inmates under the watchful eyes of three warders.

SHOULD CRIMINALS BE ENTITLED TO THE PROTECTION OF THE BILL OF RIGHTS? IN THE THIRD ARTICLE ON HUMAN RIGHTS IN THE CAPE ARGUS-RADIO GOOD HOPE 'RIGHTS ON' CAMPAIGN, RON PASCHKE, AN ATTORNEY AND THE LEGAL AND EDUCATION OFFICER OF THE HUMAN RIGHTS COMMISSION IN THE WESTERN CAPE, EXAMINES THE CONTROVERSIAL ISSUE OF THE RIGHTS OF CRIMINALS

A common perception is that the crime problem is exacerbated by laws which are "soft on criminals". People believe that the introduction of new human rights standards allow criminals to get away more easily. "So much for criminal's rights," what about the rights of the victims?" people say. They believe that part of the solution entails harsher laws to restrict human rights.

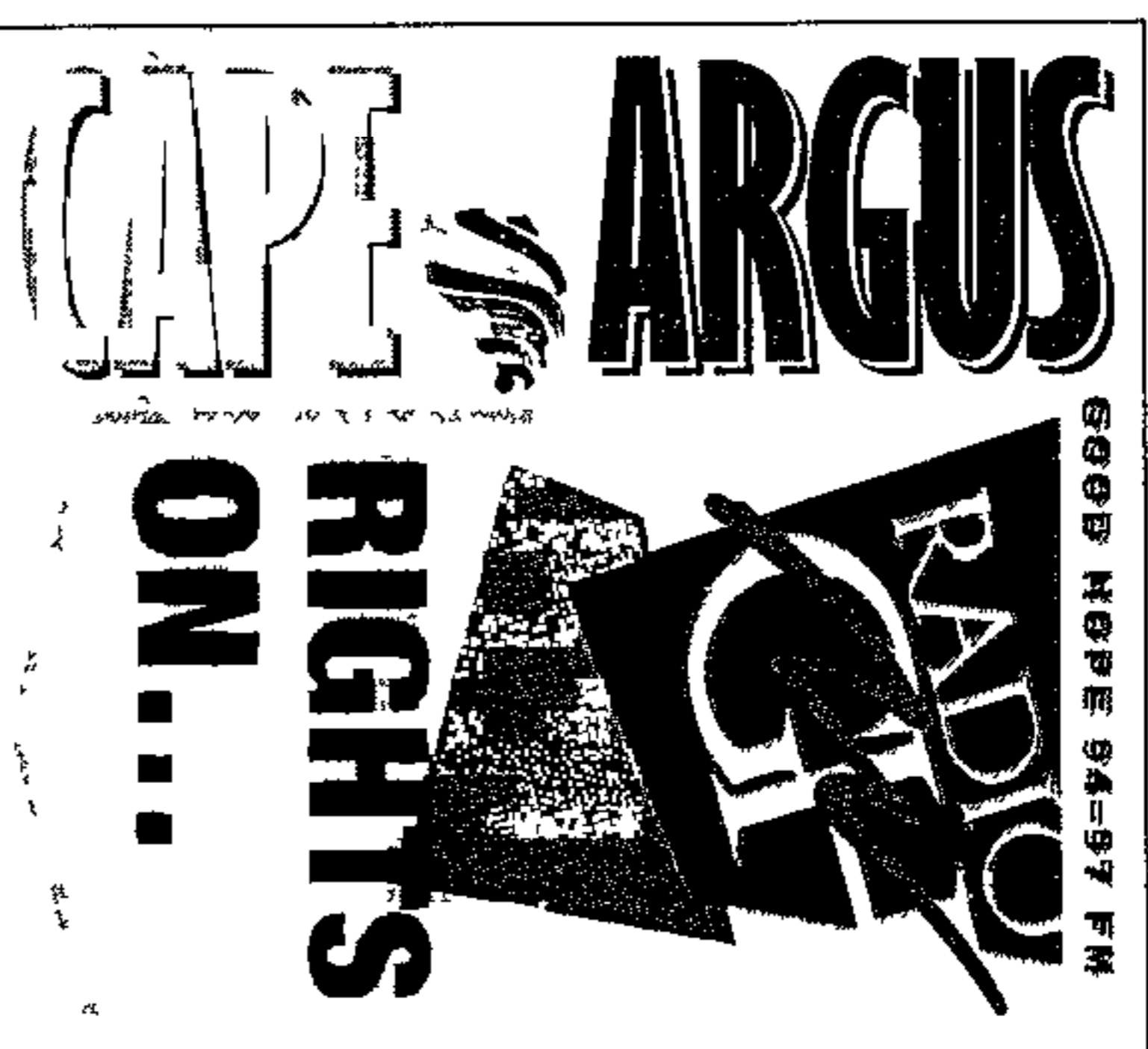
The government has recently indicated that it would be prepared to cut back on human rights in response to a public demand to do so. There are rumours that it will go so far as to amend the bill of rights in order to pass laws which would otherwise be unconstitutional. Possible changes in the law include the blanket denial of bail to persons accused of certain crimes in what will effectively amount to detention without trial.

Unfortunately this public demand is based on various misconceptions. There are two important dangers that could result from such moves. Firstly, attention will be detracted from the real causes of crime. Secondly, an unjustified curtailment of rights creates a precedent for government to erode other rights in the future.

Why is it wrong to view human rights as an obstacle in the fight against crime? The bill of rights has not significantly impeded the ability of the police to fight crime, and the constitution still allows tough action against alleged criminals. For example, it is not unconstitutional for the police to arrest somebody or search their house if they have a warrant.

The bill of rights has not given accused persons many rights which they did not have before the chapter on fundamental rights came into force in 1994. Many of the criminal process rights in the constitution are a codification of the Criminal Procedure Act 51 of 1977. For example an arrested person previously had the right to bail if it was in the interests of justice, an accused person previously had the right to be presumed innocent until proven guilty, and the same factors were taken into account by a magistrate in deciding the sentence of a convicted person.

Granting rights to a person accused of committing a crime does not take away any rights from the victim of that crime. Victim's rights and accused person's rights cannot be compared on the same scale, and it is illogical to relate them. If they were



related, then taking rights away from an accused person would restore the rights of the victim. This is absurd. The act of denying a person accused of rape a fair trial may satisfy the desire for revenge, but it does not undo the hurt and indignity suffered by the victim of the brutal crime.

If respect for human rights was a cause of crime, then one would expect countries with a high level of respect for human rights to have a high crime rate. This is not the case. Most countries with long established cultures of human rights have relatively low rates of serious crime.

Harsh laws do not necessarily mean a more obedient or compliant society. The most repressive laws that this country has known were used by the previous government during the states of emergency in an attempt to control people. Those times were among the most violent in our history, and showed that draconian laws do not work when people do not respect them.

Criminals don't do crime because they think the laws are soft. Criminals do crime because they think they can get away with it. And they are right. The fact is that with a conviction rate as low as 30 percent in South Africa, criminals do not expect to be apprehended.

If these points are valid and human rights are not the cause of crime, then we have nothing to worry about? Wrong. We have plenty to worry about.

In politics, perception is reality. If human rights are perceived by the public to be a problem, the expedient politicians will support the abrogation of those rights, even though they may know that doing so will not solve the crime problem. Some of the politicians intent on changing the laws privately acknowledge that they know it is not the solution to the problem of crime. But introducing harsher laws will boost their image. They will be seen to be tough on crime and that is what will count in the 1999 elections.

In a country which has a long history of rights violations, and where a human rights culture is still in its infancy, human

rights are a soft target. Tackling the real problems is far more difficult. This can be seen by considering just how difficult they are.

Unemployment and poverty are the root causes of much crime. These can only be solved in the longterm through economic growth and social development.

There is an entrenched culture of tolerance of crime. Tax evasion is practically a national pastime and the Minister of Justice lends public support to Alan Boesak, a man accused of serious charges of fraud.

There is still distrust of the police in some communities which is rooted in our troubled past. People have to learn to work with the police in fighting crime. Community policing is an admirable attempt to address this but has yet to get off the ground in some areas.

Police do not have sufficient resources and capacity to fight crime. Detectives are overburdened and the result is that the police cannot investigate the crimes properly, and criminals get off because there is insufficient evidence against them.

Prosecutors are inexperienced and overloaded. They are often no match for old hand attorneys and senior counsel and often struggle to secure convictions.

Prisons are way overcrowded - by as much as over 200 percent in some prisons. This means that the authorities are forced to release some criminals onto the street after they have served only a third of their sentence.

Many prisons do not even attempt to rehabilitate inmates. Prisoners in these prisons are kept locked up in crowded cells for more than 23 hours a day. Under these conditions it is no wonder that many who are released from prisons are even more dangerous than when they went.

It is understandable that the average law abiding South African is galled with being a victim of crime. People are desperate for a solution. Given that the solutions to the real problems cost money and are longterm solutions, some will clutch onto the belief that curbing human rights is a quick fix.

In doing so they make the error of thinking that human rights is the problem. They also allow human rights to become a red herring and detract from the real problems in the fight against crime. More ominously, if they allow the government to tinker with our human rights they allow a dangerous precedent to be created.

Next time it may be they who have to defend themselves against discrimination or abuse of power.

The Human Rights Commission will be hosting its inaugural human rights debate on Wednesday, March 19 at 4 pm to 6 pm. The topic "Should criminals have rights?" The panel will include members of parliament, an academic, human rights lawyers, a judge, and community activists. The debate will be held at the Cultural Museum, 49 Adderley Street.

# Women want death penalty

*Sowetan 18/3/97*

THE increase of rape offences in South Africa during the past three years has galvanised South African women, both black and white, into demanding the reinstatement of the death penalty, a survey has found

Research Surveys, South Africa's largest consumer research company, released the findings of its latest poll in Cape Town yesterday (252)

When a similar poll was conducted in 1994, 24 percent of black women chose the death penalty as a suitable punishment. This year it increased to 49 percent.

In 1994, 29 percent of whites wanted the death penalty. In 1997 this increased to 46 percent. In 1994, 59 percent of black women felt the rapists' punishment was inadequate, compared to 84 percent this year.

This year 86 percent of all South African women feel that the punishment metered out to convicted rapists are ineffective and inadequate. Asked what the suitable punishment should be, almost half of both black and white women demanded the death sentence to be reimposed, 30 percent opted for life imprisonment, with 10 percent preferring castration to be used.

Research Surveys said the poll has been scientifically weighted making it "truly representative of the black and white urban population" - Sapa

# Law profession 'under threat'

(252)

ASHLEY SMITH  
STAFF REPORTER

ARG 19/3/97

The legal profession is under threat from accounting firms muscling in on their historic turf, says the new president of the Association of Law Societies of South Africa, Ashwin Trikamjee.

Mr Trikamjee said while lawyers did not wish to start a "war" with accountants, he was not in favour of the trend which threatened the independence of the legal profession

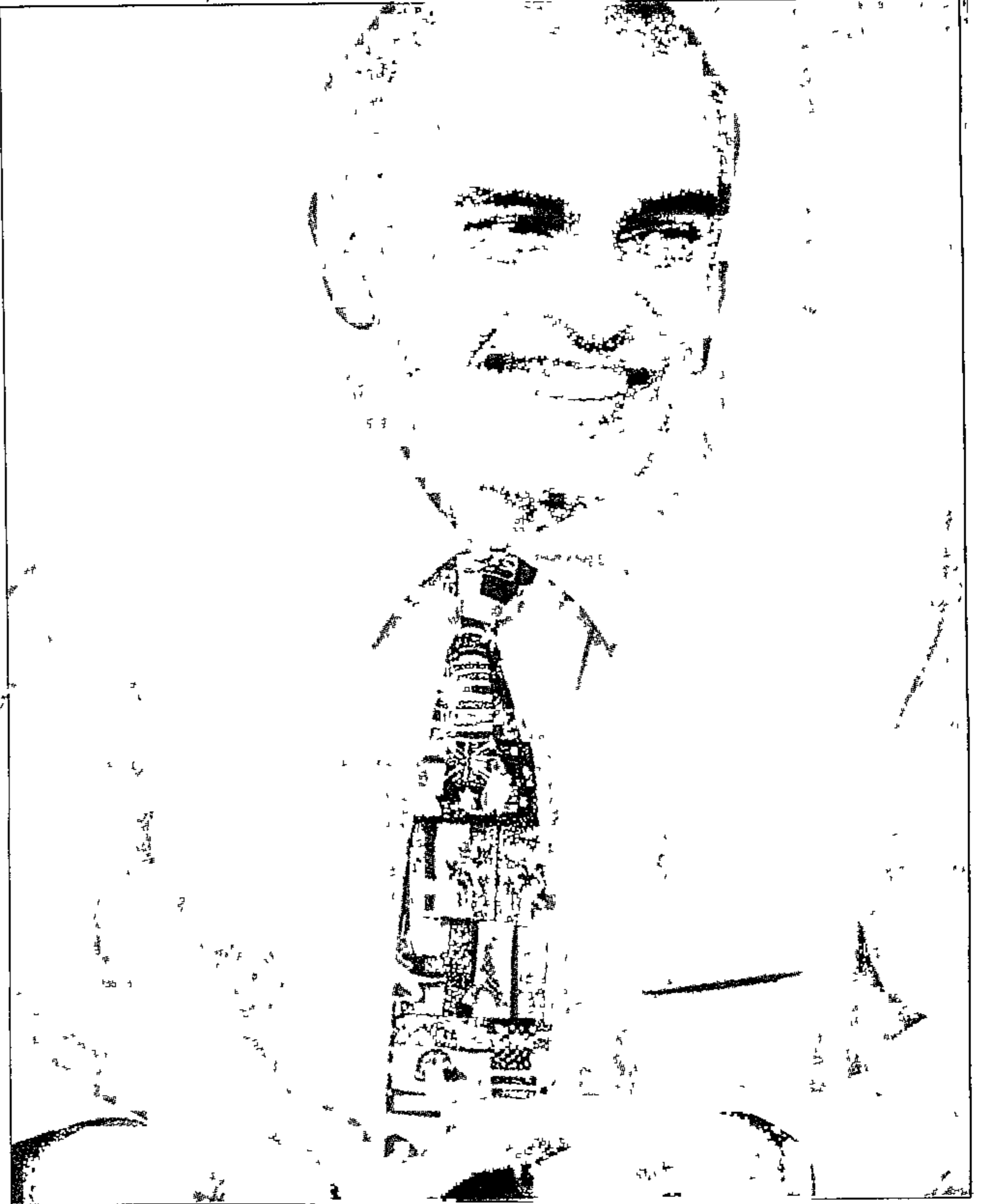
Mr Trikamjee, also well known in the soccer world - he is a former president of the Federation Professional League and the National Soccer League - said accountants were opening legal departments in their businesses and stealing clients from law firms which in the past had a monopoly on mercantile contracts and other legal documentation

But there was no need for any organisation or entity to turn to accountants trying to muscle in on the market if legal professionals paid attention to the quality of service they gave clients Mr Trikamjee said that before the end of the year he hoped to establish a single law society which would steer the profession through troubled waters in the immediate future

Black lawyers' associations remained separated from the society he headed

"My presidency brings with it my biggest challenge which is to bring together the associations in the legal profession"

He described his rise to prominence as the fulfilment of aspirations harboured by black lawyers throughout the country



Legal eagle: Ashwin Trikamjee says accountants are moving in on lawyers' turf

# White-collar criminals may go free as courts clog up

ARG 19/3/97

(252)

LENORE OLIVER  
STAFF REPORTER

**White collar criminals could walk free because Cape Town Regional Court staff cannot cope with the avalanche of commercial cases.**

This fear was expressed yesterday after fraud charges against a Rylands woman involving about R800 000 were provisionally withdrawn when a prosecutor said his workload was too heavy.

Ferial Safter, 34, of Joolag Way, was due to have pleaded to charges of fraud and theft, but the charges were withdrawn provisionally after prosecutor Werner Bouwer told the court the 15 prosecutors in the Cape Town Regional Court could not cope with the number of commercial crime cases.

Mr Bouwer initially asked magistrate B Nqwala for a postponement for a new prosecutor to take over the case.

He said the investigating officer had left the police and he, with the help of complainants, had been doing most of the investigation.

He had a little help from the new investigating officer who did not know much about the case and had to be largely guided by him.

Mr Bouwer said the State had not yet been able to draw up a charge sheet.

"This is a difficult case to investigate and many witnesses' affidavits are outstanding." He said he had decided two weeks ago not to investigate the case further because he had too much other work and was being transferred to the Pretoria Attorney-General's office in May.

"At the Regional Court we have only 15 prosecutors who have to handle six courts daily. We also have a court in Malmesbury and we are responsible for the circuit courts in Vredendal, Vredenburg, Springbok, Caledon and Clanwilliam at least once a week," Mr Bouwer told the court.

Counsel for Mrs Safter, C Nel, argued it was not his client's fault that the Department of Justice was understaffed. He said the constitution guaranteed her the right to a speedy trial. Mr Nqwala said the problems with the case rested with the State. The charges were then withdrawn.

# 'ANC hid killers'

(252) Sewetan 19/3/97

**A** National Commission of Truth and Reconciliation has tacitly approved the murder of a woman supporter of former military ruler Brigadier Quthi Gqozo in 1993, the Truth and Reconciliation Commission heard yesterday.

The officials hid the woman's killers from police in the ANC's regional offices in King William's Town. ANC Youth League member Sikhumbuzo Mphambani testified before the TRC amnesty committee in East London.

Mphambani is one of seven ANCYL members who have applied for amnesty for the murder of his aunt Nohombiwe Mphambani, a supporter of Gqozo's African Democratic Movement, at Gobozana location near King William's Town.

He told the committee that a group of ANC youths stoned Mphambani to death after hearing rumours that she was trying to enlist the aid of ADM members from a nearby village to assassinate local ANC executive members.

## Involved in killing

Some of those involved in the killing went to the ANC office in King William's Town to report the incident. 'We wanted them to know that we had done what the ANCYL could do. They approved of what we had done. They never rebuked us. They gave us a hiding place because the police were roaming around King William's Town.'

Mphambani was taken to Cape Town for the murder of the ANCYL member.

He was arrested and sentenced to 15 years imprisonment.

Mphambani called her mother's house with her two daughters when she saw on the news that on April 27 1993.

The men broke in with her and then stoned, stabbed and beat her with canes and firebricks. After leaving her bed in the cell.

**'I could say they approved of what we had done. They never rebuked us.'**

they came across her two daughters who asked whether their mother was dead.

'We said we had killed her. We asked which side they belonged to. The one daughter said she was ANC. She was asked to sing a song of the struggle. She sang.'

Earlier, Mphambani told the committee that a group of youths met at the local school on April 26 1993 to discuss his aunt's murder. During the meeting her son had come into the room.

He was aware of what was being said about his mother. He said he could do anything to his mother but not to the house - it belonged to his father.

Sikhumbuzi Bheqezzi, who has also applied for amnesty, said the emergence of the ADM on the political scene led to violence in the village.

A former chairman of the local ANCYL branch, Bheqezzi said the ADM supported the unpopular headman as a source of friction between the party and the ANC.

ADM supporters also disrupted ANC meetings and harassed the organisation's members. They were helped in this by members of Peaceforce, a controversial security group that helped protect the headman.

Local ANC members burnt the houses of ADM members.

The committee of local ANC members went to the police station in King William's Town to inform them of what had happened. They did not criticise or dising...



# Less than 50% of serious offenders go to court

BD 20/3/97 (252)

**Wyndham Hartley**

CAPE TOWN — Less than half the recorded murders and rapes in SA resulted in court appearances, Safety and Security Minister Sydney Mufamadi told Parliament yesterday.

Responding to a question from Democratic Party leader Tony Leon, Mufamadi said 25 782 murders were committed last year, and only 11 722 had been referred to court. A few more than 21 000 perpetrators ended up in court accused of rape during the calendar year, when 50 481 rapes were committed.

Mufamadi stressed that court appear-

ances did not necessarily occur in the same calendar year the crime was committed.

Court appearances did not automatically mean that those accused were prosecuted and, similarly, prosecutions also did not automatically mean that convictions were obtained. The number of successful prosecutions was not specified in the question.

The figures showed that last year KwaZulu-Natal remained the province with the most murders, with 6 678 crimes committed. This was closely followed by Gauteng with 5 789. Only 2 309 of the KwaZulu-Natal murders ended up in court while 1 257 suspected murderers were charged in Gauteng.

Gauteng was easily SA's rape capital with 12 938 reported crimes and only 3 045 court appearances. KwaZulu-Natal followed with 8 706 and 3 178 appearances.

In response to another question from Leon, Mufamadi said murders last year were down by 3,2% compared with 1995 but rapes increased by 6,3% in that same time.

Kidnapping was marginally down but assault with intent to do grievous bodily harm and culpable homicide were both up last year, by about 4% compared with 1995.

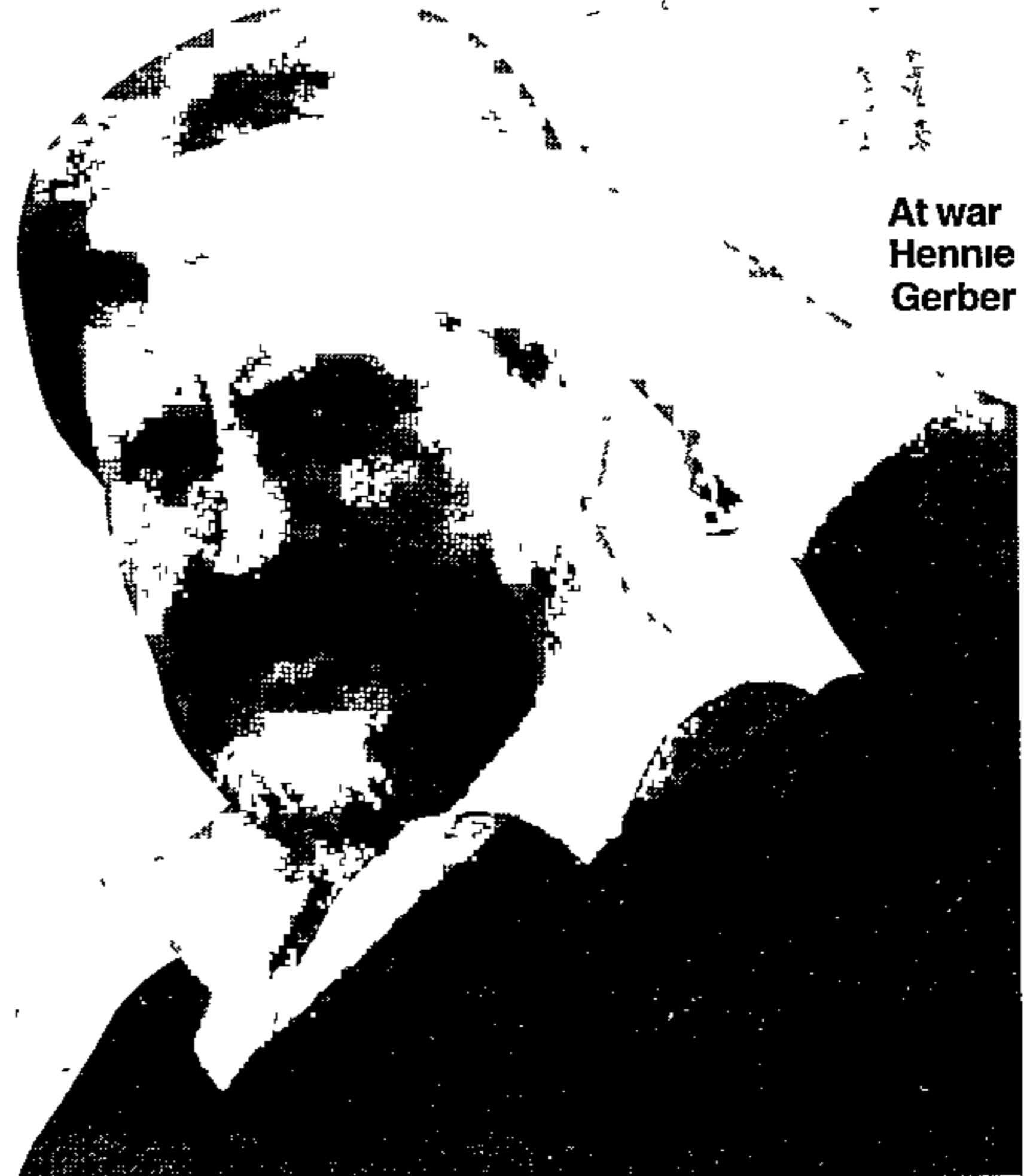
Sapa reports that no AK-47 rifles were surrendered voluntarily to the SA Police Service for a reward last year but 1 169 were seized in police action, Mufamadi said.

# Murderer

5.2P  
fights

MTG 20-26/3/97  
amnesty

ruling



At war  
Hennie  
Gerber

Despite a ruling that found him guilty of non-politically motivated torture and murder, an ex-policeman still hopes to get amnesty, reports **Jim Day**

**S**ITTING in a conference room at the maximum-security Zonderwater Prison, east of Pretoria, Hennie Gerber looks more like a casually dressed insurance salesman than a convicted murderer. He seems a nice enough guy, the kind who likes to braai and drink a couple of beers.

Then he starts talking about how he used to take suspected gangsters out to an abandoned mine-dump near Cleveland, hang them upside-down all day and shock their testicles with a hand-held generator.

But that was in the bad old days when he was at war with the forces that wanted to overthrow the state, he says, first fighting these forces with his colleagues on the police force, then as an investigator with Fidelity Guards in Johannesburg. He does not believe he deserves to sit in prison with what he calls "bad, bad people."

The amnesty committee of the Truth and Reconciliation Commission was wrong, he says, when it denied him amnesty last year for the May 1991 torture and killing of Samuel Kganakga, whom Gerber suspected of taking part in thefts of millions of rand from Fidelity Guards. Gerber was convicted in 1993 of the murder of Kganakga, and sentenced to 20 years in prison.

Gerber, 48, is putting together an application to have the high court

review the amnesty committee denial. If he succeeds in getting his application before the court, it would be the first high court review of an amnesty committee ruling, legal experts confirm.

Gerber is basing his appeal on the argument that other applicants received amnesty for similar crimes. He says that in denying him amnesty, the amnesty committee denied him the "equal justice" guaranteed in the Constitution.

Last week, Gerber filed a motion with the high court to force the truth commission to release documents pertaining to the cases of five amnesty applicants — identified in his motion as P Thulo, R Petrus, Mphondo, B Diale, and C Makgale — whose cases he believes were similar to his own. In that motion, he claims officials in the commission have denied him access to these documents.

Truth commission legal consultant Hanif Vally told the *Mail & Guardian* this week that he is reviewing whether Gerber is entitled to access to the documents or if the commission should oppose his motion in court.

Gerber may be grasping at legal straws in a desperate attempt to get out of prison. The amnesty committee was clear in articulating why it denied his first amnesty application. Gerber failed to prove that the killing was linked to his belief that Kganakga was a Pan African Congress operative, and, therefore, was politically motivated, he failed to show his own belief in a political ideology, and he failed to show that the killing fell within the scope of carrying out his duties, all of which are requirements for amnesty.

The committee found, instead, that the interrogators had taken the whole Kganakga incident "as an entertain-

ment of some sort", the consequences of which they hoped to shirk.

"The applicants were in the habit of indulging in unlawful torture when interrogating persons and relied on their police connections to avoid any unfortunate consequences of such acts," the committee found.

The facts of the Gerber case may also fail to tug the heartstrings of a sympathetic public. Gerber, Johan Van Eyk and Francois Oosthuizen took Kganakga to the abandoned mine-dump where Gerber used to braai in his time off. They tortured Kganakga throughout the day of May 21, 1991, drinking brandy and vodka to ease the strain of a tough interrogation.

Sometime before 6pm, for reasons they did not explain, Oosthuizen shot the suspect in the shoulder. Kganakga then tried to escape, so Gerber shot him dead. Van Eyk took the body to another site, where he doused it in petrol and burned it. The whole affair might have been forgotten except, as Gerber explains it, one night several months later he and Oosthuizen got in a fight over their investigative methods, and Oosthuizen put a gun to Gerber's head, so Gerber shot him. Oosthuizen, wounded in the shoulder, got mad and spilled the beans to the police, and all three were charged and then convicted of murder.

Van Eyk, who is incarcerated with Gerber in Zonderwater, joined Gerber's application to the truth commission, but has decided against a court appeal.

Gerber, meanwhile, insists he deserves amnesty, like other men who committed violent acts in a violent time. He knows his rights, and he'll be damned if he's not one to fight for them.

In Constitution Week, Mungo Soggot asks lawyers and academics for a scorecard on the country's highest court

# Success of 'super debating club'

M+G 20-26/3/97

(252)

## Matters of life and death

In the two years that the Constitutional Court has sat in Braamfontein, Johannesburg, the streets of nearby Hillbrow have deteriorated into some of the nastiest stretches in the city. The court's neighbour to the east, the Hillbrow morgue, is doing a roaring trade in corpses. Its neighbour to the south, the Civic Theatre, struggles to overcome the fears of audiences reluctant to brave the city for a night's entertainment.

The setting is appropriate for the court that stands out as a beacon of enlightenment in a country experiencing a near collapse of the rule of law, and a consequent rise in conservatism and intolerance.

South Africa's highest court has buried the death penalty — declaring it inconsistent with the Constitution — even though most citizens are baying for it. The court has made it clear that its task is not to reflect public opinion. In the death penalty case, its president, Judge Arthur Chaskalson, said "If public opinion were to be decisive, there would be no need for constitutional adjudication."

Even those judges and lawyers who criticise the court for being an elitist talking shop say its first two years in existence have proven many sceptics wrong.

"It's a success story," says one academic. "It is a fantastic forum, with superb intellectual debate," says a former clerk of the court. When President Nelson Mandela appointed the court's first judges, there was widespread criticism about their purported political leanings. Political commentator Steven Friedman, director of the Centre for Policy Studies, wrote at the time that the appointments constituted a coup for the African National Congress.

"The problem is not that the court is too representative, but that it is not representative at all," Friedman said. For example, the panel

**SOME** of the Constitutional Court's landmark judgments in its first two years:

● *S v Makwanyane* — in which the court ruled the death penalty unconstitutional.

● *Executive Council of the Western Cape Legislature v The President of South Africa* — in which the court ruled against an African National Congress move to modify the Local Government Transition Act.

● *Azapo v The President of South Africa* — in which the court rejected an application by the families of leading anti-apartheid activists

the ANC's years in exile. And then Mandela appointed Sachs anyway.

But commentators now say the court has proved itself a model of apolitical fairness. "It has come out squeaky clean," says one academic. An advocate says "There is no evidence of political affiliation or bias. It is a democratic court of the highest calibre, on a par with similar courts elsewhere."

One former clerk believes Judge Chaskalson — "a truly world-class lawyer" — is responsible for this acceptance. "He has made the rest of the legal profession sit up and take its judgments seriously."

The court so far has concentrated on determining constitutionality of the National Party government's legislation, such as the old Criminal Procedures Act. But the one time the court was confronted with a piece of ANC legislation — an attempt by Mandela to modify the Local Government Transition Act — it decided against the ruling party.

When it came to certifying the Constitution,

to have the Truth and Reconciliation Commission's amnesty provision declared unconstitutional.

● The certification of the KwaZulu-Natal provincial Constitution, which it dismissed as an attempt at secession. The court scoffed at the Inkatha Freedom Party's legal bid to go it alone from the central government. But as one of the judges' clerks puts it: "Even a layman could have seen that the KwaZulu-Natal Constitution did not fit with the interim Constitution."

● The certification of the final Constitution.

One advocate believes the court "has established itself as a legally cautious court, anxious to define its role within the broader political context of the separation of powers and the new legal order."

When the court was certifying the Constitution, it stressed repeatedly that its task was not political, but merely to check that the final Constitution fitted with the principles set in the interim Constitution.

"Although cautious, it has not hesitated to lay down clearly the fact that the Constitution has marked a radical break from the past, and laid the foundation for other courts," the advocate says.

The court has had a relatively light workload in its first two years — it has delivered 43 judgments — and some judges and advocates predict its workload will lighten further, with pressing policy issues such as the death penalty decreasing in number.

The court is considerably better equipped than the rest of South Africa's struggling jus-

Court judges — who receive a salary of between R350 000 and R392 000 a year — are each served by two clerks. (At the Appellate Division in Bloemfontein, only the chief justice has a researcher.)

Those who were not formerly judges receive a golden handshake in the region of R1-million at the end of their seven-year term. The Justice Department had not provided the exact figure at the time of going to press. Former judges are expected to return to their posts.

Half the clerks, all of whom are recently qualified lawyers, are paid with foreign donor money. Judges with the strongest academic backgrounds are believed to make extensive use of their clerks. Others, such as Judge John Dikcott, reportedly use them rarely. The Constitutional Court also has a superb library, courtesy of the Norwegian government.

Some academics and lawyers believe the court's judgments have been excessively erudite and intellectual. Many of its judgments are packed with detailed references to foreign case law. One Cape judge says the court, which he describes as a "super debating club", is excessively indulgent and often "puts pen to paper for the sake of it. They often dress up policy decisions with reams of law."

An academic who specialises in constitutional law agrees that the judgments are sometimes "over the top", but says "It [the court] is deciding on complex matters. It should be intellectual and thorough about it."

It is apparently not an altogether harmonious court, which is reflected both in the dissenting judgments and in the nature and tone of the judgments.

After the court hears argument — which

punishing grilling about his failure to condemn arbitrary detention and torture during opposition parties and threw the text back to the Constitutional Assembly for reworking on without dictaphones, computers or research assistants, the 11 Constitutional



Judge Johan Kriegler: 'Aggressive towards counsel, but usually with a twinkle in his eye'



Judge Kate O'Regan: 'An absolute star. Everyone likes her'



Court president Judge Arthur Chaskalson: 'The epitome of a fair-minded judge'

# The judges: Brilliant, intimidating and tetchy

THE members of the court represent some of South Africa's finest legal minds, and as such can be intimidating individuals. They have been openly hostile to criticism, even that expressed in academic journals, and highly critical of press coverage. Here are opinions of some of their performance, expressed by clerks, academics and lawyers:

**Constitutional Court president Judge Arthur Chaskalson**, one of South Africa's leading human rights advocates and a founder of the Legal Resources Centre: "The epitome of a fair-minded judge."  
**Judge Kate O' Regan**, appointed with relatively little experience as a practising attorney: "The find of the court." "A superb judge who conducts herself with dignity." "Intellectually astute and dignified." "An absolute star. Everyone likes her."  
**Judge Pius Langa**, a former senior counsel tipped to be the court's next president: "Has established himself as a fine judge." "Doesn't like to intervene in court." "Solid, but he rarely takes a lead."  
**Judge Albie Sachs**, whose appointment sparked much criticism and who remains one of the court's more controversial figures: "The touchy-feely member of the court." "He brings a crucial political dimension to the court." "His interventions frequently leave advocates perplexed as to whether he has asked a question in the first place." "He has dug a hole for himself with his soft, sociological approach."  
**Judge John Dikcott**, the outstanding member of the Natal Bench during the apartheid era, whose tetchy and aggressive approach in the Constitutional Court is seen as intimidating by many advocates: "'Up there with the sharpest." "The lawyer's lawyer." "A brilliant, fair judge."

**Judge Johan Kriegler**, the former Appellate Division judge who headed the Independent Electoral Commission, regarded with intellects: "Joined at the hip [Judges Dikcott and Kriegler]." "Aggressive towards counsel, but usually with a twinkle in his eye." "Devolving but funny." "Both [Kriegler and Dikcott] can be incredibly rude." "The fixer. Judge Chaskalson calls on him if he needs a judge to do something quickly and effectively."

tively cheap experience for its users. — Judge Chaskalson appoints one judge to write the judgment. That judge then circulates a draft, providing the other judges the opportunity to write concurring or dissenting judgments.  
Judge Dikcott's judgments are brief and to the point. Others, such as those of Judge Laurie Ackerman, are lengthier. In one case Judge Yvonne Mokgoro wrote that she had had the opportunity of reading "Judge Dikcott's admirably concise judgment." Judge Dikcott wrote two pages, Judge Mokgoro wrote 35.  
Says one lawyer: "They can never get it right. You either get a two-page hat from Judge Dikcott or a 100-page treatise from Judge Ackerman."

There is much criticism about the length of time the court takes to deliver decisions. For example, the recent judgement of *State v Coetzee*, in which certain provisions of the Criminal Procedure Act were ruled unconstitutional, was handed down almost a year after argument was heard.

Decisions are often delayed by haggling between the judges, who meet two to three times a week to discuss their judgments. They gather in their common room on the third floor of the modern brick Braamfontein building in which the court sits.

Apart from those meetings and coalition-building forays to the offices of their colleagues, the judges generally stick to themselves. Clerks say there is a collegiate spirit. The judges swap seats each term, in what some believe is an attempt at team-building, and in what others suspect is an attempt to assuage judges' concerns about hierarchy.

One advocate says the court is unpredictable about which cases it chooses to hear. "One sometimes feels it hears what it wants to hear," the advocate says.

An academic says the court often rejects applications on technicalities. "On substantive issues it is open and generous in its interpretations. But with technical matters it is tight. This makes it difficult for practitioners." In two years the court has undoubtedly become a prominent feature of public life. As one former clerk puts it: "I knew the court had established a presence when I heard someone at a concert at [Johannesburg's] Zoo Lake say to a man who had taken his space: 'I'll take you to the Constitutional Court!'"

# Human rights abuse body to begin work despite shortages

(252)

Independent directorate is hoping the Cabinet will boost funds to R40-million

By **MIKE MASIPA**  
Crime Reporter

An independent investigative body set up to look into human rights abuses and other complaints by the public against the police is faced with serious personnel shortages and budgetary constraints only two weeks before its launch early next month.

The Independent Complaints Directorate (ICD), scheduled to start work on April 1, has managed to employ only about a third of the personnel it needs to operate nationwide. ICD deputy director for special investigations, Julian Snitcher, however, said the body would be able to start its duties in spite of the shortfalls.

He said they were waiting for the Cabinet to approve a proposal

to increase their budget from R15-million to the R40-million needed to finance six regional offices countrywide.

Snitcher said only about 100 people had been appointed and would start work at the regional offices in April.

## More staff needed to be effective

Seventy of the appointees were investigators "loaned" from the SAPS, said Snitcher.

The ICD would, however, need civilian investigators to be truly independent, he said.

The appointments, Snitcher said, would enable the ICD to start work in Gauteng, Northern

Province, Mpumalanga and KwaZulu Natal with about 20 investigators per office.

This was disputed by Gauteng reporting officer Jan Munnik, whose office is currently investigating allegations of police misconduct and other complaints.

He said the ICD was underestimating the task at hand if they believed they could begin work regardless of the problems.

Munnik said delays in the appointment of staff - especially investigators - would make April 1 an unlikely date.

He said the investigators would simply find the workload enormous.

Snitcher said they would need to employ about another 90 investigators.

Munnik said the envisaged number of investigators would

also probably prove to be insufficient and the problem would be compounded by a lack of facilities.

"The ICD was trying to get 24 investigators only last week. There is no infrastructure that I am aware of besides the head office in Pretoria. You can't run a show like this," said Munnik.

He said his office, the duties of which will be usurped by the ICD, handled about seven serious cases of police misconduct a month in Gauteng.

He added that the figure was only the tip of the iceberg since many cases were handled by internal police investigations while others probably went unreported.

Snitcher said plans to extend to an office per province would be considered once the budget increase was secured.

APR 20/3/97

# 'Breakthrough' in Stanza Bopape mystery

BY ROBERT BRAND

Truth and Reconciliation Commission investigators have made a "major breakthrough" in their investigation of the disappearance of Mamelodi activist Stanza Bopape, the TRC said yesterday.

Three policemen who were transporting Bopape in a car when he disappeared applied for amnesty after the commission had subpoenaed them, a TRC source told The Star. They have pointed out the site of the "disappearance", the source said.

More details about the investigation will be announced today at a media conference in Mamelodi,

Pretoria, by TRC investigating unit head Dumisa Ntsebeza.

The Star reported in January that investigators had subpoenaed Senior Superintendent Adriaan Peter van Niekerk, Inspector Hendrik Albertus Mostert and Sergeant Jacobus Hermanus Engelbrecht for in-camera questioning about Bopape.

The three were driving Bopape, general secretary of the Mamelodi Civic Association, from Johannesburg to Vereeniging when he disappeared in 1988. He had been arrested earlier in Soweto.

According to police statements at the time, the vehicle in which

(252)  
the three policemen and their captive were travelling developed a puncture. While the policemen were fixing the tyre, Bopape - handcuffed and manacled - managed to get hold of the car keys, open the door and run away, police said.

Bopape's family has consistently disputed the police version, saying it is unlikely a handcuffed and manacled man would have been able to outrun his guards.

His mother, Francina Bopape, told the TRC last year "I don't believe Stanza released himself and disappeared. I'm asking the police where they buried him. They must know where my son is."

Star 20/3/97

# Family opposes 10 cops' amnesty bid

## Men accused of not telling whole truth

(252) Souter 21/3/97

By Sharon Chetty

**T**HE FAMILY of activist Stanza Bopape have opposed the amnesty application of 10 policemen implicated in his killing.

They question the sincerity and motives of the 10 - including former South African Police commissioner General Johan van der Merwe - who only applied for amnesty in December when they realised that Truth Commission investigators were closing in on them.

It has emerged that Bopape was killed three days after his arrest but his death was covered up in an elaborate conspiracy that included former law and order minister Adriaan Vlok.

The policemen concocted a story about an unarmed and handcuffed Stanza escaping when they stopped to change a tyre while they were taking him to the Vaal Triangle.

Vlok repeated the lies to Parliament and the public. More than once he denied knowing Stanza's fate.

Yesterday Mr Prince Mafojane, the family's lawyer, said the Bopapes were not satisfied that the policemen had made a full disclosure about the killing.

Five policemen - Lieutenant-

Colonel Adriaan van Niekerk, Constable Hendrik Mostert, Constable Jacobus Engelbrecht, Sergeant Johan du Preez and Major Charles Zeelie - have applied for amnesty for Stanza's killing.

They have admitted that he died during interrogation at John Vorster Square in Johannesburg. They gave him electric shocks.

They claim that after they had shocked him "only two or three times" he slumped forward in the chair he was tied to.

### Not revived

When mouth-to-mouth resuscitation did not revive him, the policemen say they suspected that Stanza had a heart ailment.

Brigadier Schalk Visser and Captain Leon van Loggerenberg were responsible for disposing of Stanza's body. They have told the TRC that the body was dumped in the Komati River.

But TRC investigators have not been able to locate Stanza's remains.

Generals Johan van der Merwe, Gerrit Erasmus and Petrus du Toit are seeking amnesty on charges of conspiracy and defeating the ends of justice for their part in the cover-up of the killing.

They say they authorised the cover-up because they feared that if



Stanza Bopape was killed within three days of his arrest by policemen.

the death became known, there would have been "widespread unrest" during the June 16 celebrations. Stanza was killed on June 12.

Yesterday the Bopape family questioned the policemen's claim that they had administered only three electric shocks to Stanza, said their lawyer.

They also maintained that the young activist had no heart ailment when he was detained.

"We believe that the policemen are trying to understate their role and the reasons for the torture."

"It is also not clear what their version (the policeman's) is going to be on the disposal of the body. The family is not satisfied with the policemen's account of how the body was disposed of," Mafojane said.

The family also contended that the police had "ample time" to go public about Stanza's death and questioned their motives and sincerity.

Over the past nine years the family and their legal representatives had been sent on a "merry-go-round" by the policemen, except "nothing was merry or funny at all", said Mafojane, referring to the complex web of lies the police had spun around Stanza's death.

Mr Michael Bopape called on

other members of the security forces to come clean on atrocities they perpetrated during apartheid. He said he was not satisfied that all had been told about Stanza's death.

He said his brother was a "caring person who had been a liberator, especially in Mamelodi".

A squatter camp had been named after Stanza as a tribute to the role he had played as a civic activist in the area.

Despite the breakthrough in the case, the probe would continue, said Mr Dumisa Ntsebeza, the TRC's head of investigations.

### Investigative unit

"The investigative unit is not persuaded that enough has been said or that all involved have come forward," he said.

The law required full disclosure as a condition for granting amnesty. It was not clear if the 10 policemen were seeking amnesty for other cases.

Vlok had not applied for amnesty in this case, nor had he been subpoenaed.

He was expected to make a submission to the TRC.

"It will have to be seen if he includes this case," said TRC commissioner Yasmin Sooka.

See page 2.

# Police admit killing Bopape - 9 years later

*Sowetan 21/3/97 (262)*  
Elaborate cover-up kept family in the dark  
about what happened to missing activist

By Sharon Chetty

**S**TANZA BOPAPE was killed on June 12 1988 - three days after his arrest - but the police conspiracy to deny his death in detention has lasted nine years

"It was one of the more elaborate cover-ups, involving police from the junior ranks to a minister," said Truth and Reconciliation Commission investigations head Mr Dumisa Ntsebeza

The police went to great lengths to fabricate the story of his alleged escape while travelling to the Vaal Triangle. They said the unarmed Bopape had managed to grab the keys, unlocked his handcuffs and ran away when they stopped to fix a puncture.

They made out a docket to record this "escape" and even took a forensics team to the scene of the alleged puncture and escape. The police then produced a gun they said had been used to fire at the fleeing Bopape.

Bopape was a well-known activist in Mamelodi, Pretoria, and there was a high-profile campaign to pressurise the police for his release. Lawyers repeatedly questioned the police, but were given the run around.

In August 1988, Adriaan Vlok, then police

minister, told Parliament that someone had escaped from police, but did not identify the person.

Eight months later, Vlok told parliament that Bopape had escaped while pointing out "certain spots in connection with acts of terror in which he was allegedly involved".

He also told parliament that police had sworn statements from people who had seen Bopape after his escape.

Meanwhile, Vlok had refused to meet Bopape's father earlier that year, saying he knew nothing about the activist.

Mr Junus Bopape travelled to Zambia in February 1989 to meet the exiled African National Congress in the vain hope that his child had joined them.

The ANC had no information on him.

But rumours of Bopape's "sightings" persisted and after the bombing of Ellis Park in Johannesburg, police included his photograph among the identikits of the bombers.

The true picture started to emerge only after three former security policemen were subpoenaed by the TRC's investigations unit in December.

But instead of appearing at the inquiry, they asked for a postponement and later applied for amnesty. The rest came forward.



# Family angry and bitter about killing

*sewetan 2/3/97 (252)*  
Nxiwenis will oppose amnesty bid of policemen implicated in son's death

By Sharon Chetty

**W**HEN THE remains of student activist Phumezo Nxiweni were exhumed last Friday, it ended a long search for him by his family

It also put to rest speculation that he had been a police informer

Now the Nxiwenis have more questions for the police who kidnapped, tortured and shot Phumezo dead

The family intends opposing the amnesty applications of former security policemen General JA Steyn, Sam du Preez, Andy Taylor, Hendrik Botha, Cassie van der Westhuizen, Laurie Wasserman and Colonel J Vorster, who are implicated in his death and those of nine other Umkhonto we Sizwe cadres

Three of the activists - Phumezo, Phila "Zandi" Ndwandwe, "MK" Tekere Mkhwanazi and Dion Cele - were killed and buried in shallow graves on two farms in KwaZulu-Natal

The bodies of two others - Charles Ndaba and Mbuso Shabalala - were dumped in the Tugela River. Four others were blown up

Phumezo, then 23, was a medical student at the University of Natal when he disappeared

## Called to answer phone

One Friday in November 1988 he was called from the dining hall at the Alan Taylor Residence to answer the public telephone. He left immediately for the main gate, apparently to meet a fellow operative. He was never seen again.

It now turns out that Phumezo, who had been part of a highly-trained underground structure dubbed the "Butterfly Unit", had been arrested by Botha, Du Preez and Van der Westhuizen.

They took him to a safe house on a sugarcane farm at Waterloo, outside Verulam, where he was interrogated.

The policemen claim he and his unit were involved in at least 13 bomb blasts in and around Durban that year and that he led them to Montclair, where a railway line was bombed while they were detaining him.

When he refused to become an askari, they shot him dead, poured lime on the body to make it decompose faster and buried him in a shallow grave.

He had been arrested previously and was charged with the celebrated "Durban 12" who were tried for treason. He and co-accused Stanley Bhila

were acquitted.

Bhila also disappeared around the same time as Phumezo.

Phumezo's brother Mr Lindile Nxiweni, who was jailed for MK activities on Robben Island at the time, said there had been many confusing stories about his brother's disappearance.

"The family asked the police many times if they were holding him and they said no. There were also stories that he could have gone into exile.

"But the police had managed to spread rumours that Phumezo was an askari. No one knew the truth."

And while unearthing the young man's remains has helped to stem some of the pain, it has also resulted in a lot of bitterness and anger.

"There's no way we can accept the amnesty applications. We are preparing to oppose them very strongly," said Nxiweni.

Last week's revelations of how the security police worked confirmed a lot of what has always been suspected - that they went to great lengths to "deal" with activists.

The Waterloo farm where Phumezo's remains were found, belongs to the Tongaat Hulett Group.

It now emerges that one of the policemen, probably Taylor, had leased the farm house in 1987 under the name Andy Sullivan.

Tongaath Hulett executive director Johannes Magwaza said they leased several of their properties and had no idea that police operated from their land.



The remains of Phumezo Nxiweni, an ANC activist killed by security police, are displayed at a farm near Umdloti in KwaZulu-Natal.

"Most of these farm houses are in the middle of the sticks, therefore it is convenient to rent them out."

The man calling himself Sullivan moved a year later to another property about six kilometres away. He rented a third property near Effingham in Durban, which he vacated in November 1992.

The company heard about the policemen's deeds only when approached by the Truth Commission.

## Private investigator

Magwaza said that a private investigator hired by the company had established that the man renting the property was Andy Taylor.

It has still not been established who owns the land in Elandskop, where the other three bodies were found.

A TRC official said it appeared to have once been a privately-owned farm which was incorporated into KwaZulu-Natal government property. It was probably tribal land now.

Meanwhile, TRC investigators are still looking for the remains of Ntombi Qubheka, another woman "disposed of" by the policemen.

The policemen told the TRC that she was killed and her body dumped in the Bhambayi squatter camp to make it look as if she had been killed in the fighting between the African National Congress and Inkatha.

TRC spokesman Mdu Lembede said it was hoped that there still might be a record of her burial.

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Elaborate cover-up kept family in the dark about what happened to missing activist

By Sharon Chetty

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But instead of appearing at the inquiry, they asked for a postponement and later applied for amnesty. The rest came forward.

# Family opposes 10 cops' amnesty bid

(253) *Rowe Jan 21/87*

## Men accused of not telling whole truth

By Sharon Chetty

**T**HE FAMILY of activist Stanza Bopape have opposed the amnesty application of 10 policemen implicated in his killing.

They question the sincerity and motives of the 10 - including former South African Police commissioner General Johan van der Merwe - who only applied for amnesty in December when they realised that Truth Commission investigators were closing in on them.

It has emerged that Bopape was killed three days after his arrest but his death was covered up in an elaborate conspiracy that included former law and order minister Adriaan Vlok.

The policemen concocted a story about an unarmed and handcuffed Stanza escaping when they stopped to change a tyre while they were taking him to the Vaal Triangle.

Vlok repeated the lies to Parliament and the public more than once he denied knowing Stanza's fate.

Yesterday Mr Prince Mafokane, the family's lawyer, said the Bopapes were not satisfied that the policemen had made a full disclosure about the killing.

Five policemen - Lieutenant-

Colonel Adriaan van Niekerk, Constable Hendrik Mostert, Constable Jacobus Engelbrecht, Sergeant Johan du Preez and Major Charles Zeelie - have applied for amnesty for Stanza's killing.

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They claim that after they had shocked him "only two or three times" he slumped forward in the chair he was tied to.

### Not revived

When mouth-to-mouth resuscitation did not revive him, the policemen say they suspected that Stanza had a heart ailment.

Brigadier Schalk Visser and Captain Leon van Loggerenberg were responsible for disposing of Stanza's body. They have told the TRC that the body was dumped in the Komati River.

But TRC investigators have not been able to locate Stanza's remains. Generals Johan van der Merwe, Gerrit Erasmus and Petrus du Toit are seeking amnesty on charges of conspiracy and defeating the ends of justice for their part in the cover-up of the killing.

They say they authorised the cover-up because they feared that if



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the death became known, there would have been "widespread unrest" during the June 16 celebrations. Stanza was killed on June 12.

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They also maintained that the young activist had no heart ailment when he was detained.

"We believe that the policemen are trying to understate their role and the reasons for the torture.

"It is also not clear what their version (the policeman's) is going to be on the disposal of the body. The family is not satisfied with the policeman's account of how the body was disposed of," Mafokane said.

The family also contended that the police had "ample time" to go public about Stanza's death and questioned their motives and sincerity.

Over the past nine years the family and their legal representatives had been sent on a "merry-go-round" by the policemen, except "nothing was merry or funny at all", said Mafokane, referring to the complex web of lies the police had spun around Stanza's death.

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He said his brother was a "caring person who had been a liberator, especially in Mamelodi".

A squatter camp had been named after Stanza as a tribute to the role he had played as a civic activist in the area.

Despite the breakthrough in the case, the probe would continue, said Mr Dumisa Nisebeza, the TRC's head of investigations.

### Investigative unit

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Vlok had not applied for amnesty in this case, nor had he been subpoenaed.

He was expected to make a submission to the TRC.

"It will have to be seen if he includes this case," said TRC commissioner Yasmin Sooka.

● See page 2.



Electrocuted at John Vorster Square ... Mamelodi activist Stanza Bopape who, police claimed, escaped while being transported by them to Vereeniging.

## Bopape's family say full story has not yet been divulged

By ROBERT BRAND

The family of Stanza Bopape, the Mamelodi activist whose torture and death at the hands of police was revealed by the Truth and Reconciliation Commission yesterday, say they believe the full story has not yet been told.

Bopape's brother Mike yesterday called on former law and order minister Adriaan Vlok to tell the TRC what he knew about Stanza's "disappearance".

"And General (Johan) van der Merwe - I think he still has more to tell," he said.

Mike Bopape added that the

family still needed to know where Stanza's remains were so that they could give him a decent burial.

"I'd like to thank the TRC and I wish them well in their further investigations in this regard."

The family's attorney, Prince Mafojane, said the family would oppose the amnesty applications.

"The family believes these people had ample time to go public. The family questions their motives and sincerity. We think they are trying to underplay their role in the torture (Bopape) was subjected to," Mafojane said.

Five policemen - ranging in rank from constable to colonel -

*Star 6/21/3/97*

**We think the police are underplaying role in torture**

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who want amnesty for Bopape's death say they arrested him on June 9 1988 in Hillbrow, and took him to John Vorster Square for interrogation.

On June 12, an electric-shock device was brought to John Vorster Square from the Sandton security branch because Bopape had refused to give them information.

Bopape was tied to a chair, and "two or three" shocks were administered to him before he "slumped forward". The five say they tried unsuccessfully to revive him with mouth-to-mouth resuscitation.

The applicants say the shocks should not have been fatal, and they suspect Bopape was suffering from a heart ailment.

In other amnesty applications, senior officers including then-

commissioner Johan van der Merwe say they authorised a coverup because they feared that public knowledge of Bopape's death could cause widespread unrest during the June 16 commemoration.

According to the applications, Bopape's body was taken to the eastern Transvaal security police to be disposed of. A police officer has led TRC investigators to a place where Bopape's body was dumped into the Komati River.

Mike Bopape said his brother was in good health at the time of his arrest and had never suffered from a heart ailment.

# Stop the TRC witchhunt, say Defence Force veterans

(252)

OWN CORRESPONDENT

AGT 22/3/97

Pretoria — Ex-members of the old South Africa's security forces are demanding the immediate disbanding of the Truth and Reconciliation Commission because its activities are, they say, questionable and a witchhunt.

The demand was made by about 250 ex-South African Defence Force staff who met at the Pretoria Showgrounds yesterday to discuss possible courses of action, including amnesty applications, as TRC investigators home-in on deeds of former members of the security forces.

"It's high time the witchhunt of former Defence Force members stopped," one speaker at the meeting said.

Theo de Jager, chairman of the committee which called the meeting, said the TRC had to date summoned 12 SANDF generals to appear before it, but that no MK or Apla member had been called.

Earlier those present had heard Jan Breytenbach — one of South Africa's most legendary soldiers — say he was not ashamed of what he had done while in the Defence Force.

"We didn't fight to support apartheid — we fought a morally justifiable war to stop communism from taking over southern Africa. We were morally obliged to South Africa and all its people to stop the communists," he said to applause.

"I, for one, am not ashamed of what I did and there's no bloody way I'm going to apply for amnesty."

"The TRC is out to destroy us. We are here to defend the honour of the Defence Force and our units."

"Our successful war against the communists in Angola and Mozambique was the straw which broke the back of communism in Europe and worldwide," Colonel Breytenbach said.

He raised a huge round of laughter when he said the one thing MK as a military force would be remembered for was the necklace — "its only contribution to modern warfare."

Former Defence Force chief and now Freedom Front leader Constand Viljoen, Conservative Party leader Ferdi Hartzenberg, a number of ex-Defence Force generals, including Tienie Groenewald and ex-chaplain-general Chris Naude and Witwolf Barend Strydom, were at the meeting.

## SUNDAY ANALYSIS

# Violating the human rights commission

*If South Africa is to be a successful constitutional democracy, it needs a watchdog, writes BARNEY PITZYANA (252)*

ST 23/3/97

**S**<sup>INCE</sup> April 1994, there have been occasions when one has been truly proud of being a South African. Last week added two others to the list. The first was the Budget speech by the Minister of Finance, the second the launch of Constitution Week.

The Budget speech won my heart because it recognised that our constitutional democracy is meaningless for the poor — unless steps are taken to alleviate poverty and extend the welfare safety net.

However, while the Budget implemented programmes to support the work of charity and development agencies and increase allocations for the administration of justice, I regret that there was no mention of the words "human rights".

This omission is even stranger given that the minister himself said "The assessment of expenditure has to take place within the framework of social, developmental and economic priorities identified by government."

Among those priorities, surely, is the imperative to promote "human dignity, the achievement of equality and the advancement of human rights and freedoms." By this omission, the minister may be giving expression to the idea that human rights are a luxury we indulge in if affordable.

Then, in Johannesburg, the creators of our Constitution, Cyril Ramaphosa, Leon Wessels and Valli Moosa, emphasised the importance of the Constitution in the development of our democracy — and the vital role of the South African Human Rights Commission.

Against the further background of the furore over housing prisoners — termed "animals" by the commissioner of prisons — in disused mine shafts and the assault of schoolchildren in Jan Kempdorp, one must consider how misguided those like Chris Barron are who seem to argue that the function of the commission should be curtailed.

In fact, Barron's article "Rights watchdog on the wrong track" (March 9) was informed only by the views of the Institute of Race Relations. He made no use of material supplied by the human rights commission which put the budget requirements of the commission in the perspective of our statutory responsibilities and in terms of international practice.

The article was misinformed about the difference between the commission as a national institution and bodies like the South African Law Commission, local authorities and non-governmental organisations. The commission has to monitor and remain independent, and has unique powers not vested in any of these other institutions.

The commission's annual report states clearly the purpose of the overseas visits by members of the commission. The visits, none of which were paid for from the commission's budget, demonstrate the esteem in which members and the commission are held.

Barron makes unsubstantiated statements that non-governmental organisations have managed to do more than the commission with less money. In fact the budgets of organisations like the South African In-

stitute of Race Relations, the Institute for Democracy in South Africa and others are substantially more than the R6,4-million provided by the government. Barron has a duty to declare the comparative budgets of the various organisations referred to.

The commission cannot accede to the sentiments of those who believe that both the Constitution and the law have been misguided in establishing a body like the human rights commission. The campaign being waged to discredit the commission is, in fact, directed at the Constitution and the law of the land. We cannot join that battle. We have a duty to uphold the law as it is.

Contrary to the impression that the Sunday Times seeks to convey, the commission has developed a strategic plan which takes account of its statutory responsibilities. It has also submitted a plan which sets its priorities until the year 2000 to the government.

We are engaged in human rights education programmes for example, during Human Rights Week, which ended on Friday. Commissioners and staff visited schools throughout the country. Education programmes do not come cheap. The cost of advertising and publicity campaigns can range from R6-million to R15-million.

The commission has a duty to investigate complaints of violations of human rights. As a result of complaints from inmates, commissioners and staff are engaged in a countrywide inquiry into prisons, and plans are afoot to hold public hearings into the criminal justice

system in April. We are concerned that the perceived failure of the administration of justice creates the impression that human rights leads to miscarriages of justice.

All of this is taking place even though staff is grossly inadequate in the legal services and research departments. Only a prejudiced mind, then, can make wild and unsubstantiated statements that the commission lacks an operational strategy, priorities or direction.

Barron has also failed to understand the substance of the debate about the funding of the commission. It was never just about salaries, even though everything that Commissioner Rhoda Kadalie is alleged to have said is true. It has been about preserving the independence of the commission.

The issue of funding is important if the commission is not to be subjected to political pressure.

We are the first such national institution in South Africa. Should we fail to assert our independence we shall be a spineless pliable commission, which would betray the sentiments of the Constitution.

The media has a vital role in this. Not to use the commission as a pawn in their political games, but to support the principle of protecting democracy. Barron's article has fallen short of fair political comment. It is uninformed and lacks balance and objectivity. The truth is that the human rights commission cannot carry out its statutory mandate with the resources now at its disposal.

● *Pityana is chairman of the human rights commission.*

# Bold legal aid plan in chaos

## 'Autocratic' director asked to explain board's debts and mismanagement

ST 23/3/97 (252)

MARLENE BURGER

**T**HE board set up to provide legal aid to the needy has been called to account to Parliament tomorrow after an 18-month litany of complaints about its alleged mismanagement to the brink of collapse

The Legal Aid Board's fledgling trade union claimed in a memorandum this week that a backlog of 63 000 payments was due to attorneys and advocates who had accepted briefs from the board, that its financial matters were in disarray and that steps taken after the appointment of outside consultants who have already cost the taxpayer R2-million had proved "virtually fruitless"

A copy of the memorandum was faxed on Wednesday to ANC MP Johnny de Lange, who will chair tomorrow's hearings of the parliamentary portfolio committee on justice, which has called the board's executive director, Nick Pretorius, to appear

His employees have placed the board's problems squarely on his shoulders and called for his suspension. He also faces several unfair labour practice lawsuits and in one this week, a Pretoria judge expressed concern that taxpayers were covering his legal fees

Senior employees of the board say summonses are "streaming in" from lawyers who are no longer prepared to wait for their money, some of it outstanding for up to two years. It has been estimated that the Legal Aid Board owes R54,8-million to lawyers, who accept its briefs at a 20 percent discount on their-usual tariffs

The board, which has a budget of R300-million a year, will be footing the bill for two attorneys, two ad-

vocates and an accountant to defend former ANC Western Cape leader Allan Boesak when he goes on trial in August on 21 charges of theft and nine of fraud

Problems at the board were first brought to the attention of Justice Minister Dullah Omar and Public Protector Selby Baqwa 18 months ago when a group of "concerned employees" sent them a seven-page memorandum containing allegations of irregularities, mismanagement, financial ineptitude and victimisation of senior staff

They identified the root of the board's ills as "gross mismanagement" by Pretorius, accusing him of "neglecting his duties", failing to exercise proper control over monies due to the board, being "incapable of exercising even the most rudimentary tasks expected of a manager", and "conducting witch hunts" against employees who disagreed with him

Calling for his suspension, pending a full investigation into the problems at the board, the employees also accused Pretorius of showing total disregard for affirmative action, failing to provide a cost-effective legal aid service and "displaying all the characteristics of a despotic and autocratic person"

The employees say they had not received a response to their memorandum, compiled just two months after Pretorius was hauled over the coals by the parliamentary public accounts committee for inadequate financial controls, and the auditor general found the board's administration to be in an "unsatisfactory" state

Pretorius — who is estimated to have already spent R200 000 of taxpayers' money defending unfair labour practice suits brought against him by former and existing employees — blamed the board's problems on lack of staff and

alleged irregularities by senior staff members

Regional magistrate Frans Roets, who was appointed to investigate the allegations, said this weekend he would hand his final report to the board's chairman, appeal judge Chris Plewman, within days

Judge Plewman declined to comment on the allegations levelled at Pretorius but said the continuing problem of arrear accounts was due to "outside consultants not being able to bring things up to date"

He said his board had not been made aware of allegations of mismanagement. Senior employees said this didn't surprise them as they believed reports to the board were "made selectively — the facts are carefully filtered first"

Earlier this month, Pretorius suspended Tony Hutchinson, a former president of the Transvaal Law Society who joined the board as deputy director three years ago, pending a disciplinary hearing

Hutchinson declined to disclose the reasons for his suspension, but confirmed the board was in a "chaotic state"

The Association of Law Societies national president, Michael Pinnock, said the position of the board was being viewed with "extreme disquiet"

Democratic Party spokesman Douglas Gibson, who raised concerns about the board in Parliament, said that after spending two hours at the organisation's head office recently, he was convinced many of the problems resulted from the departments of justice and finance dragging their feet over approving the appointment of desperately needed extra staff. He pointed out that the number of applications for legal aid had jumped to more than 150 000 last year from 24 000 a year in 1994

# Landmark ruling enshrines rights of company directors

The Constitutional Court judgment has implications for prosecutions of white-collar crime, writes CARMEL RICKARD

ST (BT) 23/3/97

**L**EGAL controls, long used to hold directors personally responsible for crimes committed by their companies, were eased earlier this month when the Constitutional Court declared sections of the Criminal Procedure Act invalid

The controversial section 332 (5) of the Act said that "servants or directors" of a company which had committed an offence were legally presumed to be guilty of the offence and were personally liable for punishment unless they could prove they did not participate in and could not have prevented the offence. The court had heard that this infringed the right of company directors to be presumed innocent until proved guilty, as well as certain other constitutional rights

This month the court upheld this view, and declared that the section was unconstitutional. However, the decision was not unanimous. Many of the judges remarked on their concern about white-collar crime, the prevalence of fraud and the need to protect the public. However, the majority decided that the inroads into the constitutional rights of directors could not be justified by considering these crime-control questions

The issue has proved so difficult for the court to decide, that the judgment has taken a year to be handed down, while 10 of the 11 judges wrote their own decisions, spelling out where they agreed or disagreed with each other

The court was asked to settle a second question, and its decision on this

matter was unanimous. The judges had heard a challenge to the validity of another provision of the Criminal Procedure Act, which says that if someone is charged with an offence involving "false representation", and it was proved that the false representation was made by the accused, he or she is legally assumed to have made the false statement knowing that it was false.

All the judges agreed that this section infringed the right of individuals to be presumed innocent and that the infringement was not justified. In his opening remarks, Judge Pius Langa took a swipe at the prosecuting authorities for continuing to rely on provisions of the law which were unconstitutional. He said the Criminal Procedure Act had been drafted when the legal validity of its provisions could not be questioned. This law had been the target of many challenges in the Constitutional Court and a number of sections had been declared invalid

Langa said important provisions of this law in particular were being struck down by the Constitutional Court because they were inconsistent with the Constitution, and this left "gaps in the law" which only parliament could fill

The Department of Trade and Industry said this week the Standing Advisory Committee on Company Law, chaired by Judge Richard Goldstone, would consider whether to recommend appropriate amending legislation consistent with the judgment of the Constitutional Court.

*'The Criminal Procedure Act was drafted when the legal validity of its provisions could not be questioned'*



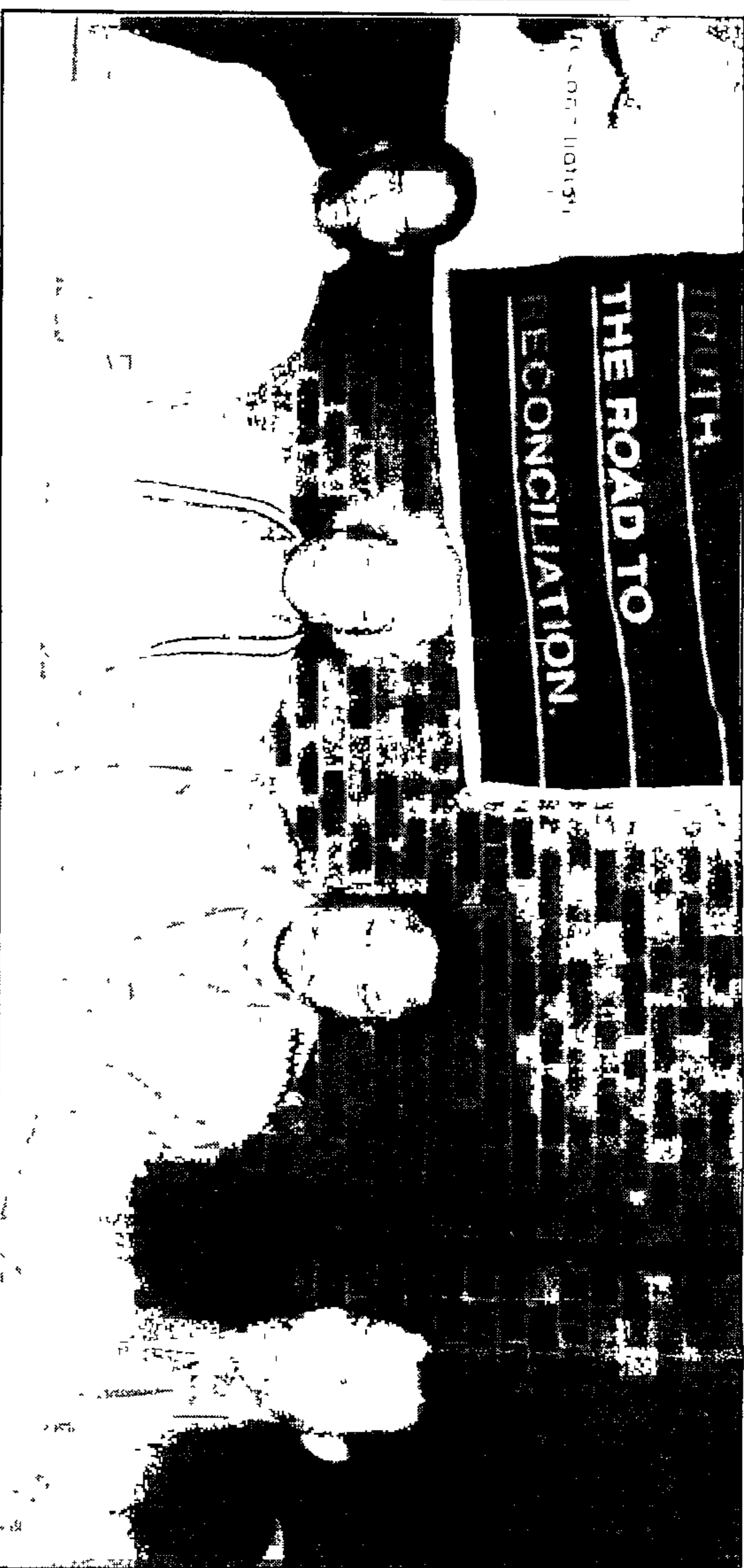
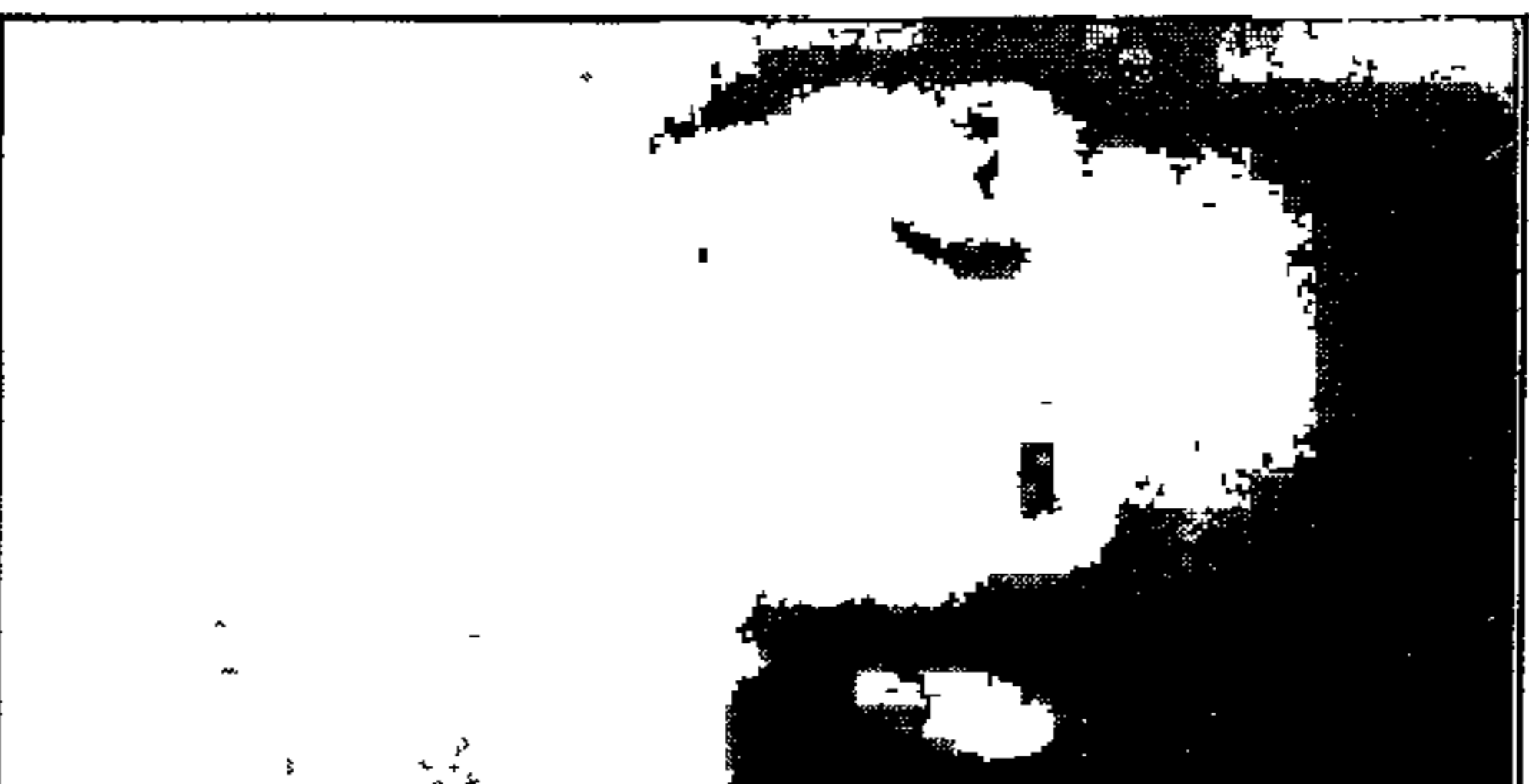
# 'We do NOT believe this!'

## Bopape's bitter family vow not to let killers walk free

(2/12) CP 23/3/97

FOR NINE years 10

policemen kept their lips sealed on how activist Stanza Bopape (right) had been killed by electric shock torture during interrogation. Now they want amnesty for his death. But Bopape's shattered family are not prepared to forgive - or even believe them. **WALLY MBHELE** tells of their anger.



NO FORGIVENESS Stanza Bopape's family tell the press why they are opposing ten policemen's application for amnesty for his brutal death by electric shock torture with their lawyer, Prince Matofane (right) are Bopape's brother Mike, his mother Francina and a relative (far left)

# We thwarted unrest: cops

**THE MURDER** of former Mamelodi Civic Association general secretary, Stanza Bopape, was covered up because his chilling death would have caused widespread unrest during the 1988 commemorations of June 16

This is acknowledged in the amnesty applications of ten former security policemen who claim responsibility for his death

Bopape disappeared on June 9 1988, after he was detained in terms of Section 29 of the Internal Security Act at his Hillbrow flat in Johannesburg

Now five security policemen acknowledge in their amnesty applications that he died while undergoing electric shock torture during interrogation in security police offices at John Vorster Square

The five are part of a group of ten policemen, including former commissioner General Johan van der Merwe, who have told the Truth and Reconciliation Commission they killed Bopape

Colonel Adriaan van Niekerk, who headed the Interrogation Unit of the security branch in Sandton and had the special responsibility of investigating "ANC terrorists", is included in the five

The four who worked under him are Constable Hendrick Mostert, Constable Jacobus Engelbrecht, Sergeant Johan de Preez and Major Charles Zeelie

The three senior police officers seeking amnesty on charges of conspiracy and defeating the ends of justice by covering up Bopape's death are led by Van der Merwe, the head of the security branch at the time. He was helped in the cover-up by the former security branch head, General Nicholas Erasmus, and former Witwatersrand security branch head General Petrus du Toit

Former Middelburg security branch officers Brigadier Schalk Visser and Captain Leon van Loggerenberg claim responsibility for the disposal of Bopape's body

□ The Johannesburg office of the TRC Investigative Unit began probing Bopape's disappearance after his family testified at a hearing of the human rights violations committee in Pietersburg last year

Three security policemen were subpoenaed to appear before an investigative inquiry. According to the TRC, their legal representatives applied for the postponement of their inquiry pending the submission of amnesty applications when they were due to appear on December 10 last year

The head of the investigative unit, Dumisa Ntsebeza, said: "The amnesty applications of these policemen have since been filed. However, the Investigative Unit does not believe all those involved have applied for amnesty yet and it will continue its investigations"

Ntsebeza said on February 27 this year a police officer had shown a commissioner the place in the Komati river where Bopape's body was allegedly dumped

The policemen claim Bopape was taken to John Vorster Square on Friday, June 10 1988, where he was held without trial

□ On Sunday June 12, an electric shock device was brought from the Sandton security branch to John Vorster Square after Bopape had allegedly refused to give information during interrogation

The policemen say Bopape was tied to a chair and slumped forward after only two or three shocks were administered. They say they tried to revive him with mouth-to-mouth resuscitation

"The shocks should not have been fatal, and we suspect he died of heart failure," say the applicants

The commanding officers of the five security policemen say they authorised the cover-up of Bopape's death because they feared the truth would cause widespread unrest during the forthcoming June 16 commemorations

According to the applications, Bopape's body was taken to the Eastern Transvaal security police for disposal.



# THE PROTEIN ENERGY MALNUTRITION SCHEME (AND OTHER NUTRITION PROGRAMMES AND FEEDING SCHEMES ADMINISTERED BY THE NATIONAL DEPARTMENT OF HEALTH)

The President appointed a Commission of Inquiry into the Protein Energy Malnutrition Scheme by Proclamation R83 in Government Gazette No. 16661.

Adv. JH Wiegand subsequently replaced Regional Magistrate HH Van Der Watt as Chairperson. The other members are Prof. PMN Kuzwayo and Adv. NR Rathidili. Adv. J Adams was appointed to lead evidence.

The Commission's terms of reference were initially to specifically investigate the allocation of contracts, the spending of money and the supervision of the Protein Energy Malnutrition Scheme.

The Commission's terms of reference were, however, amended by Notice No. 812 in Government Gazette No. 17175. The terms of reference now direct that the other Nutrition Programmes and Feeding Schemes administered by the National Department of Health, are to be investigated as well, specifically regarding the allocation of contracts, the spending of money and the supervision thereof.

The NDP (Nutrition Development Programme), the NNSDP (National Nutrition and Social Development Programme) and the PSNP (Primary School Nutrition Programme) are therefore also being investigated.

Interested parties / persons who have any knowledge of irregularities regarding the allocation of contracts and/or the spending of money or of any mismanagement regarding any of the above-mentioned Programmes and Schemes, are requested to submit relevant written representatives to the Commission before 31 March 1997.

Persons who prefer to give oral evidence before the Commission must inform the Secretary to the Commission in writing thereof before 31 March 1997 at the following contact number and address:

**The Secretary**  
**Commission of Inquiry**  
**Private Bag X917**  
**PRETORIA**  
**0001**

**TEL: (012) 326-1003/4**  
**FAX: (012) 326-1008.**

Stanza had a heart ailment. He was in good health when they arrested him," said Mike.

"I don't believe their stories. Even before, they gave different stories. They still want us to believe them - when they were telling lies all along."

The family's lawyer, Prince Mafogane, said the policemen were "trying to understate their role and the extent of the torture inflicted on Stanza before he died".

"We have been sent on a merry-go-round a number of times about this issue. The family believes there is nothing to be merry about at all. There has not yet been a full disclosure."

Stanza's father, Junius, passed away in 1994 after many fruitless searches all over the country and in Lusaka.

He died a worried man.

He was still speaking about his missing son when he died, said Mike.

Bopape's son Amanda, newly born when he disappeared, never had a chance to see his father.

Amanda's mother, Lorraine Mokgotsi, was restricted to the Vaal after Bopape was detained.

"How, then, do we forgive people who have caused such a lot of suffering to our family?" asked Mike.

The ten policemen decided to break their guilty silence of nine years after being subpoenaed by the TRC investigators, who wanted to know what they knew about Stanza Bopape.

Bopape, general secretary of the Mamelodi Civic Association at the time, was detained by the former SAP on June 9 in terms of Section 209 of the former Internal Security Act.

The police at the time said he had escaped from custody while being transported to the Vaal Triangle at about midnight on June 12 1988.

According to the police, he was escorted by three armed policemen and was in leg-irons and handcuffs.

The policemen claimed Bopape had escaped while they were changing a punctured tyre. They claimed Bopape had taken the keys from a policeman's jacket inside the vehicle, unlocked the leg-irons and handcuffs and dashed into the bush. The policemen said they had fired two shots at him - but missed. They searched, but could not find him, they said.

After that no one - including his family, friends, colleagues and his lawyers - saw or heard of him again.

The police informed Stanza Bopape's lawyers of his "escape" on June 15 - three weeks later. His family was not informed.

FATHER'S GONE... Lorraine Mokgotsi with her son Amanda - who never had the chance to see his father, Stanza Bopape



DIED SPEAKING OF HIS SON... Junius Bopape, Stanza's father, died in 1994 after fruitlessly searching for his son in Zambia

In response to a question in parliament, Adriaan Vlok minister of law and order at the time, said a certain person - whom he refused to identify - had escaped from custody and the matter was still under investigation.

On June 15 1988, the police confirmed to the Bopape's lawyer that he was in detention - but later they claimed Bopape had escaped from their custody.

Vlok told parliament the police had tracked down people who had stated under oath that they had seen Bopape after his escape. "In one incident," said Vlok, "he was observed and recognised in the vicinity where an act of terrorism was perpetrated and in which people were killed."

Later Vlok claimed Bopape had been spotted in the West Rand by a youth with whom he had served with in an "organisation" after his alleged escape from detention. But Vlok refused to disclose the identity of the youth or the name of the organisation.

Vlok's media spokesperson, Brigadier Leon Mellet, also confirmed that a youth who had served on a youth council with Bopape had identified him on the West Rand shortly after his escape.

Bopape's distraught father, Junius, went to see Vlok and Vander Merwe - hoping they would produce his son.

Vlok told him the policemen

from whose custody he had "escaped" had been "very tired"

He suggested Bopape might have joined the exiled ANC mission in Lusaka

Bopape's father and lawyer Nicholas Haysom flew to Lusaka, Zambia, in February that year - but failed to find Bopape. The ANC told them he was not in Zambia or in any of the neighbouring African states.

Haysom then said "As far as I'm concerned, the minister's utterances will remain an improbable aspect. We hold police responsible for Stanza's disappearance because they have not given us any hard facts to justify their allegations."

"The clues tend to dry up because the people who made the allegations about Bopape do not come forward to substantiate them," Mellet said at the time.

The adamant police claim followed a widely publicised campaign in which an advertisement focusing on Bopape's disappearance was signed by a number of prominent anti-apartheid leaders and organisations.

Among a host of signatories were the now Justice Minister Dullah Omar, Deputy Minister of Education Simgaliso Mkhatswa, Albertina Sisulu, Frank Chikane, Beyers Naudé, presidential aide Jakes Gerwel and the now TRC deputy chairman Alex Borrome.

# No mention of Vlok knowing

CP 13/3/97  
252  
By WALLY MBHELE

FORMER Law and Order Minister Adriaan Vlok may face the music if the Truth and Reconciliation Commission discovers that he knew about the sophisticated cover-up into the murder of Stanza Bopape.

City Press has established that among all the ten policemen seeking amnesty for Bopape's killing, not one mention of Vlok's name is contained in their application apart from Vlok being "very close to Van der Merwe at the time".

The irony is that in all the matters in which former Police Commissioner General Johan van der Merwe is applying for amnesty, Vlok is also applying.

According to the TRC sources, it is strange that Van der Merwe is not making any mention of Vlok's knowledge of the murder of Bopape.

In most TRC hearings, former police hit squads have insisted that politicians knew about Third Force activities. Among them is former Vlakplaas commanders Brigadier Jack Cronje and Colonel Eugene de Kock. Craig Williamson has also confirmed this.

City Press has also discovered that former National Party Secretary-General, Roelf Meyer was the deputy minister of law and order at the time. Could Meyer not have known about Bopape also?

Furthermore, City Press has learned that the TRC is now in possession of crucial documentation which the commission believes may assist in establishing Vlok's knowledge of Bopape's killing.

Vlok denies he had any knowledge that Bopape - former general secretary of the Mamelodi Civic Association - was killed by the former security branch before they embarked on a sophisticated cover-up. He twice told parliament Bopape had escaped from police custody.

At the other end of the spectrum, former Police Commissioner General Johan van der Merwe is admit

ting knowledge of Bopape's killing. He is applying for amnesty on charges of conspiracy and defeating the ends of justice for covering up the real reasons for Bopape's death.

However, Vlok - who told parliament Bopape escaped from police custody and was spotted near the scene "of a terrorist attack" thereafter - says he was misled by the police.

He is not applying for amnesty in respect of Bopape's murder, but is asking for pardon in relation to the police bombings of the SA Council of Churches and those of Cosatu headquarters.

Included in his amnesty application, Vlok claims knowledge of plans to bomb cinemas which were supposed to show Steve Biko's film, *Cry Freedom*.

He was also implicated by Van der Merwe in the gruesome killing of Duduza students on the East Rand by booby-trapped handgrenades which were supplied by self-confessed assassin Joe Mamasela.

"I find it difficult to accept that the minister twice told parliament that Bopape had escaped, and then said he was misled by the police," said the TRC's head of Investigations, Dumisa Ntsebeza yesterday.

Ntsebeza said the story at the time was that Bopape was manacled both hand and foot, but managed to grab the key, unlock the manacles and flee.

"If I was a minister," said Ntsebeza, "I wouldn't have believed such a story. A man who was manacled in that way wouldn't have been able to run away."

"The Investigative Unit is continuing its investigations into this matter with a view to providing the Amnesty Committee's staff with a report designed to assist the committee to decide - when the hearings take place - whether the applicants have made full disclosures. Full disclosure is one of the conditions for amnesty laid down by the law," said Ntsebeza.

# De Klerk slams TRC assumptions

ROGER FRIEDMAN

CT 24/3/97

FORMER president Mr F.W. De Klerk yesterday released the National Party's response to questions posed by the Truth and Reconciliation Commission.

The document includes many criticisms of the commission.

Commission deputy chairperson Dr Alex Boraine said last night the commission would study the document carefully before making any pronouncements.

"It would be a pity if Mr De Klerk and the National Party have chosen to focus so much of their submission on criticising the commission, instead of providing the answers we need to carry out our mandate," he said.

All the questions were answered, but many of the answers quote the NP's initial submission to the commission, are short on specific information, or state that the NP does not have the required information.

"I am not in possession of any information that might be of use to you," De Klerk says in response to questions about his government's support for the Inkatha Freedom Party. He also had "no knowledge of the CCB" before it was publicly exposed.

He suggests in the document that the commission ask the Department of Foreign Affairs to obtain clarity on alleged South African support for anti-democratic movements in the Frontline States, the government for information on chemical and biological warfare, and the head of the security secretariat Mr Johan Mostert for information on the destruction of documents.

De Klerk denies that his government ever adopted a policy to promote "black-on-black violence", that he had any knowledge of so-called Third Force activities, and that he was ever part of any decision taken by the cabinet, the State Security Council or any committee authorising or instructing the commission of gross violations of human rights.

In several instances De Klerk berates the commission for the way in which it phrased its questions. "This question is more a contentious statement than a question," he says of one query, accusing the commission of appearing not to have studied the NP's initial submission.

"The contention that you make is totally fallacious and does not constitute a fair assumption at all," he begins his answer to another.

"The manner in which you have phrased your question creates the impression that the commission has already reached its own conclusions on these important matters," prefaces his answer to a question about whether apartheid was unconstitutional.

De Klerk does, however, reveal the existence of a set of guidelines approved by the cabinet on June 29, 1990, for the "conducting of unavoidable secret operations". The reason the guidelines were adopted was to eliminate the possibility of human rights abuses, he says.

The guidelines included: "That operations should be undertaken only when normal line-function activities of departments proved insufficient, that the political head and the officials involved in special projects accept full accountability for such actions".

□ Turn to Page 5



**DEFENDING THE PAST:** F.W. de Klerk yesterday accused the Truth Commission of bias and denied that he had known about political assassinations or death squads. He said he had submitted a 50-page response to Truth and Reconciliation Commission questions that arose out of a document handed in last year. **PICTURE BENNY GOOL**

## TRC is hopelessly one-sided — De Klerk

(252)

From Page 1

CT 24/3/97

that approval for the principle, purpose and objectives, methods and funds be given in writing by the responsible minister, that the minister should himself determine to what extent he wished to be informed of details, and that the minimum number of people should be informed.

De Klerk says former police minister Mr Adriaan Vlok and any other members of former cabinets should be allowed to speak for themselves, in answer to a question relating to Vlok's alleged knowledge of the Khotso House bombing.

De Klerk says that in spite of the "often praiseworthy efforts" of commission chairperson Archbishop Desmond Tutu, the commission is "hopelessly one-sided" in its composition, is not perceived to be impartial and is losing credibility in the eyes of most NP supporters.

"An analysis of the statements and speeches of some leading members of the commission indicates that they tend to view the conflict of the past from the broad perspective of the ANC and its allies," he says, quoting three statements by Boraine. "There is deep concern that their report might simply give an official endorsement of this one-sided view of our history."

The commission's activities were beginning to create a skewed perception, "fanned and magnified by the SABC which uses every opportunity to cast a pall of collective guilt over anyone associated with the former government."

# FW explains apartheid to TRC

JOSEPH ARANES AND WILLIAM-MERVIN GUMEDE  
STAFF REPORTERS

(252)

National Party leader F W de Klerk has defended apartheid.

In a submission to the Truth Commission, he praised the achievements of the "apartheid years" and hammered the UN General Assembly's decision to declare apartheid a crime against humanity.

He said the anti-apartheid resolution had been "little more than a mobilisation exercise by the African National Congress and its totalitarian and Third World supporters".

It had never been adopted by the Security Council and only the Soviet Union and

its satellite states, and China, had signed it. He praised the NP's achievements in black education, increasing black income and abolishing discrimination.

His statement was part of the NP's second submission to the Truth Commission, on the role the party played during the apartheid-era conflict. The submission is a reply to a list of questions the commission put to the party stemming from its first submission in August.

Spokesman John Allen said the TRC had received only 18 pages of the 40-page submission and could not comment on the contents. "But we will be calling the NP

AR 24/3/97

To page 3

# De Klerk explains apartheid to Truth Commission

From page 1

and other political parties to public hearings in the middle of May to answer any outstanding questions.

Mr De Klerk said it was becoming evident the commission was losing credibility as it seemed as if it was intent on investigating only one side of the conflict.

The commission's investigations had targeted almost exclusively those associated with the former government, and its

behaviour at times appeared to be increasingly aggressive and prosecutorial.

"At the same time, comparatively little is said, written or reported about abuses perpetrated by those who were opposed to the government. This is beginning to create a skewed perception of the conflict."

The submission outlines NP perception of crimes and abuses committed by the ANC and the mass democratic movement. "The NP is prepared to accept responsibility for the policies it adopted and for the

actions taken by its office bearers in the implementation of those policies," said Mr De Klerk.

"But the party is not prepared to accept responsibility for the criminal actions of a handful of operatives of the security forces of which the party was not aware and which it would never have condoned.

"Neither is it prepared to accept responsibility for the actions of any office bearer who might have acted outside the mandate given him or her by the party."

AR 24/3/97

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He said the NP wished to emphasise that it had no problem with bona fide efforts to establish the truth regarding the conflict of the past.

The commission should make the distinction between the NP per se and the NP as the government. "We strongly object to the practice of our political opponents and elements within the media who automatically charge the NP with responsibility for all abuses committed by employers of the previous government."

# Pondos 'massacred by police'

(252) BD 25/3/97

LUSIKISIKI — The truth commission yesterday heard witness accounts of how heavily armed police surrounded a group of unarmed Pondo tribesmen in June 1960 and then opened fire without warning, killing 11.

The shootings, at Ngquza Hill near Flagstaff in Eastern Cape, occurred during a revolt by the Pondos against government interference in their affairs, the commission was told.

Clement Kabu, a survivor of what became known as the Ngquza Hill massacre, said the Pondos had rebelled against Bantu education, government's use of chiefs to enforce apartheid, and the taxation of cattle.

He said on June 6 1960 a group of tribesmen were meeting peacefully at Ngquza Hill when helicopters swooped down, offloading heavily armed policemen. The tribesmen held up a white flag to indicate they were unarmed and posed no threat, but police at once shot dead rebel leader Wanna Johnson.

"Some of us were able to run into the forest. There were people around the whole mountain shooting at us. People were injured. We carried 58 people to a house. Eleven were killed instantly."

Another survivor, Simon Silangwe, said he and three others were delegated to take the news of the massacre to African National Congress (ANC) president Chief Albert Luthuli, then under house arrest in Durban.

ANC veteran Govan Mbeki, father of Deputy President Thabo Mbeki, was yesterday also due to testify on his involvement in the Pondoland revolt, but was unable to attend due to ill health.

In his written submission, he described how he disguised himself as a Uitenhage factory chauffeur to pass security checkpoints in Pondoland.

ANC committees, he stated, "were set up (in) all the districts in eastern Pondoland and within a short period of time the (area's) entire population was drawn into the struggle." — Sapa

# Legal aid body's boss fights mismanagement claim

(252) 60 25/3/97

CAPE TOWN — The beleaguered director of the Legal Aid Board, Nic Pretorius, said the board was not being mismanaged, but that its biggest problem was a shortage of skilled staff.

He also said yesterday that media reports that the board was struggling with a backlog of 63 000 payments to attorneys and advocates who had received briefs were exaggerated.

At a hearing called by the Assembly's justice committee he said a final report by regional magistrate Frans Roets — appointed to investigate the board — could be made public next month.

He knew complaints about an allegedly autocratic management style had been sent to Justice Minister

Dullah Omar and Public Protector Selby Bagwa. "I never had the opportunity to answer a single one of them because I've never seen them," he said.

In a fax to the committee yesterday the protector's office detailed some of the complaints it had received, but asked that they be kept confidential as they were mainly untested.

Pretorius said he was "amazed" at claims that he had shown a lack of accountability, transparency and communication.

He also said that a submission to the committee by the Association of Law Societies contained so many inaccuracies and half-truths that he did not think it right to waste time by going through each one.

The submission said there was a "chronic disability of proper management" in the board, that it had no clear vision or mission, and that there was a sore need for clear leadership.

Pretorius said the board had begun a special project to eliminate all backlogs in payments to lawyers over the next 100 days. Only about 22 000 accounts were older than 60 days and the board had employed management consultants and was using computer technology to speed them up.

The board might reclaim all or part of the R659 000 it had paid consultants Ernst and Young for their 14 months of work setting up a computerised work flow system that in the end had been unable to

do the job.

Committee chairman Johnny de Lange said it seemed to him that someone involved in this contract had been grossly reckless and negligent.

Pretorius said the board did not have the staff it needed to process accounts quickly, a problem rooted in the circuitous procedures for appointing new staff.

In May 1995 the board had applied for 77 new posts, and in October 1996 was told by the state expenditure department that it could have only 40.

Staff problems had also been mainly responsible for the board's inability to spend R10m allocated to it in 1995/96 for women's rights programmes. R3m of that was rolled over to the following year — Sapa



re-apply  
Their employment would depend on unconstitutional

## Legal aid chief defends role amid furore over fees logjam

WILLIAM-MERVIN GUMEDE  
POLITICAL STAFF

As thousands of lawyers wait for payments, the director of the Legal Aid Board, Nic Pretorius, has dismissed claims that his management style is autocratic.

He denies showing lack of accountability, transparency and communication.

In testimony to the National Assembly's justice committee, which is holding hearings on alleged mismanagement of the board and the restructuring of South Africa's legal aid system, Mr Pretorius said he was "amazed" at the allegations.

In a submission to the committee, the

Association of Law Societies alleged a "chronic disability of proper management" on the board and a lack of clear vision or mission. The association said the board was struggling to pay 63 000 outstanding amounts to attorneys and advocates briefed by the board.

"Many attorneys and advocates wait two or three years before they get paid," the association said.

Mr Pretorius told the committee the board was not being mismanaged but was hamstrung by a shortage of skilled staff.

It had begun a special project to eliminate backlogs in payments to lawyers over the next 100 days. About 22 000 accounts were older than 60 days.

## Boesak's court bills: aid explained

POLITICAL STAFF

Former anti-apartheid leader Allan Boesak qualifies for legal aid because he has no income and no assets, according to a senior official of the Legal Aid Board.

Peter Brits, the board's senior legal administrator, said that if Dr Boesak was convicted of fraud and theft it was likely he would be sent to jail.

Dr Boesak is accused of misappropriating about R1 million donated to underprivileged South Africans by a Danish aid organisation while he was head of the Foundation for Peace and Justice.

At a National Assembly justice committee hearing into the Legal Aid Board, Mr Brits was asked by Democratic Party member Douglas Gibson to explain why Dr Boesak qualified for legal aid.

Mr Brits said the board had a statement signed by Dr Boesak that he had no income and no assets.

The board had already approved the costs of an attorney and a junior counsel for the case in the High Court in Cape Town in August.

An additional application by Dr Boesak for a senior counsel was being considered.

■ The Legal Aid Board may reclaim about R659 000 it paid consultants Ernst & Young for setting up a computerised accounting system that did not work.

Board director Nic Pretorius told the National Assembly justice committee that the board had declared a legal dispute with Ernst & Young and demanded its money back.

Committee chairman Johnny de Lange said it seemed that someone involved in the contract had been grossly negligent.

Mathew Ohlsson was last seen by his

# 'Lists' of ANC ex-fighters face subpoenas from truth

Stephen Laufer

THE truth commission is to subpoena former African National Congress (ANC) activists and guerrillas involved in gross human rights violations including bombings, torture and murder, says commission investigations head Dumisa Ntsebeza.

Lists of names of "liberation movement perpetrators" to be subpoenaed under section 29 of the Truth and Reconciliation Act being prepared by the commission's provincial offices, are

likely to include Winnie Madikizela-Mandela and Robert McBride, it is understood Ntsebeza refused yesterday to confirm or deny names of individuals to be subpoenaed.

The subpoenas would go out in May once the commission had dealt with the second round of submissions by political parties and the SA Defence Force, Ntsebeza said. The commission's Gauteng regional office was preparing a list of people to be subpoenaed who were suspected of involvement in bombings in Pretoria and the Johannesburg city

centre. But KwaZulu-Natal commission head Richard Lyster said some subpoenas would be served as early as next week.

It was premature to release the names of those to be interviewed now, Lyster said. Names would be released once the subpoenas had been served. Some of those to be subpoenaed were "notorious", while others had been identified in victims' statements.

The decision to call ANC members to testify behind closed doors had been taken at the last full commission meet-

ing. Earlier attempts to subpoena former guerrillas and activists had been scuppered by a court ruling requiring that potential witnesses be given adequate notice of the commission's intention to act.

Truth commission chairman Archbishop Desmond Tutu said in January that he wanted members of the ANC and other anti-apartheid organisations implicated in gross human rights violations to be subpoenaed in the same manner as alleged security force per-

## Truth

Continued from Page 1

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Richardson, Jerry

delala football club, Jerry Richardson, refers specifically to her. Richardson is serving a life sentence for the murder of Stompie Sepele. The parents of two other alleged members of the football club who disappeared in 1988, Lolo Sono and Siboniso Shabala, appealed during commission hearings in Soweto last July for Madikizela-Mandela to produce information on the fate of their sons. McBride was sentenced to death for his part in the June 1986 bombing of

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Magoo's bar in Durban and released in September 1992 under an agreement between the NP government and the ANC, who were involved in constitutional negotiations at the time.

Lyster said the subpoenas were "certainly to push people into applying for amnesty". The approach had proved effective in encouraging former security branch policemen to reveal the whereabouts of 10 ANC activists they had murdered in KwaZulu-Natal, and whose bodies they had put in shallow graves and in the Tugela River.

Subpoenas could be used to encourage known perpetrators to reveal the names of those who had given them instructions for particular operations.

Continued on Page 2

petrators. The commission has come under fire from National Party (NP) leader FW de Klerk, who accused the body of bias and said its activities were being used by his enemies to vilify him and his party.

Madikizela-Mandela has been mentioned in at least four statements to the commission by victims of gross human rights violations or their relatives. It is understood that an amnesty application by the former coach of the Man-

Commission

# Bar project's exclusivity 'necessary'

Deborah Fine

THE Centre for Human Rights' Integrated Bar Project, which specifically excluded white law students, was a "very mild" but necessary form of affirmative action to address past imbalances, project director Prof Christoff Heyns said yesterday.

The project, which caters only for black, coloured and Asian law students, places selected final year students on three-week internships each year with top SA law firms, SA courts, including the Constitutional Court, senior advocates and the legal departments of large commercial banks.

The project's aim was to provide students with an opportunity to supplement their theoretical knowledge with practical experience, and at the same time

allow the companies involved to "consider the cream of the crop of the country's law faculties in a working environment, with a view to possible employment in the future," Heyns said.

Conceding there had been "some complaints" about the project's racial exclusivity, he said previous racial discrimination against blacks, coloureds and Asians had resulted in a "grossly distorted" pattern of representation in the legal profession.

"There is a huge discrepancy in terms of senior positions between whites and other groupings. As soon as there is a significant change in the racial composition of the profession, we will look at opening the project to all students who need such opportunities," he said.

Asked whether the project was not unfairly dis-

criminating against white students in violation of the constitution — which prohibits discrimination on the basis of race — he said the programme was "the mildest form of affirmative action there is".

In the unlikely event of a legal challenge to the project, he firmly believed the programme would stand up to constitutional scrutiny in terms of section 9 (2), which provided for "legislative and other measures . . . to advance persons . . . disadvantaged by unfair discrimination".

"We're dealing with law students so I suppose one of them could think of a challenge along constitutional lines, but I doubt they would succeed. The country and the legal profession needs programmes like this and I cannot imagine that it would be condemned under the new constitution," he said.

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# White TRC members grilled by PAC operative

CT 26/3/97

**BLOEMFONTEIN** After grilling amnesty applicants, white members of the Truth and Reconciliation Commission unexpectedly found themselves on the receiving end here yesterday when an applicant asked them whether they had grown up in South Africa or America.

PAC member Sebolai Nkwedi, 32, convicted with three others for the murder and robbery of farmer Mr Roelf Fourie in Verkeerdevlei in October 1992, told an amnesty hearing that he had the impression white commissioners seemed to be unaware of the oppression suffered by Africans under apartheid.

Nkwedi and the other three are applying for amnesty on the grounds that they were carrying out instructions from an Apla commander, Mr Jan Shoba, to attack white farmers.

Leeuw and Nkwedi grew up on Fourie's farm. Nkwedi was born on the farm.

Nkwedi claimed Fourie had treated his black workers badly and had stolen cattle belonging to Nkwedi's grandfather, who also lived on the farm.

Replying to a question from Judge Andrew Wilson, Nkwedi said Fourie had

told him to leave school in Sub B and start working on the farm.

"If it was not for Fourie, I would be sitting up there at the table with you," he said.

Nkwedi said the motive for the killing was part of Operation Great Storm in which a PAC task force had to help the PAC's military wing Apla to regain the land taken from Africans by whites and to overthrow the white government.

Towards the end of his testimony, Nkwedi asked "Did these commissioners grow up in South Africa or America? I would like the honourable sir on the left (advocate Mr

Chris de Jager) to answer this question."

De Jager replied "My father, grandfather and I grew up in South Africa. I know no other country."

Nkwedi continued. "Is this commissioner not aware that Africans were oppressed by the past government. Is he not aware of this, or is he saying South Africa was a democracy at that time?"

De Jager said "There was not democracy in the sense that you did not have the vote before, and I thought it was wrong that you did not have the vote" — Sapa



# Villagers fear for their lives after testifying at Commission

CT 26/3/97

(252)

**LUSIKISIKI** - an Mpondo chief burnt down the home of three elderly African National Congress supporters in 1993 because they were a threat to his authority. The Truth and Reconciliation Commission heard yesterday.

Testifying at a human rights violations hearing here, the three said they lived in fear of their lives after implicating Chief Patho Fide Bhulrula in the arson attacks.

"We are terrible oppressed and live in fear. Our life may not be able to keep at home because it may not be safe," Mr Elliot Sekhosana, 81, said.

Mr Siphiso Panonjo, 70, said he was certain he would be killed when he returned home to Mthimda village in Lusikisiki for speaking out about the arson attacks. "I was really all but killed for coming here and speaking."

Mr Songwe em'Fino, 60, also in his 70s, said his house was burnt down

after Bhulrula accused him of causing trouble in the village.

Bhulrula, who attended yesterday, hearing with prominent Eastern Cape chief and attorney Mr Masoko, said he had denied the allegations.

Slhe said he testified that he had been warned by Bhulrula in 1993 not to hold ANC meetings in his house.

Several days later his house had been burnt down.

Testifying later yesterday, Bhulrula denied involvement in the attack on Slhe's ancestral home, claiming the blaze had been started by children playing with burning sticks inside the house.

Eastern Cape commissioner head Poyiso Bongaani Fines said the commission had taken note of the victims' concern for their safety.

"If anything happens to them, they have told the whole of South Africa they fear for their lives," Sipa.

Star 26/3/97

# Outrage as rapists walk free

By BONGIWE MLANGENI

A survey showing that most rape suspects walk free after their day in court has left women's groups shocked and with little faith in the criminal justice system

The study, conducted by the Sexual Harassment Education Project (Shep), also shows that the conviction rate in rape cases is much lower than that of other crimes

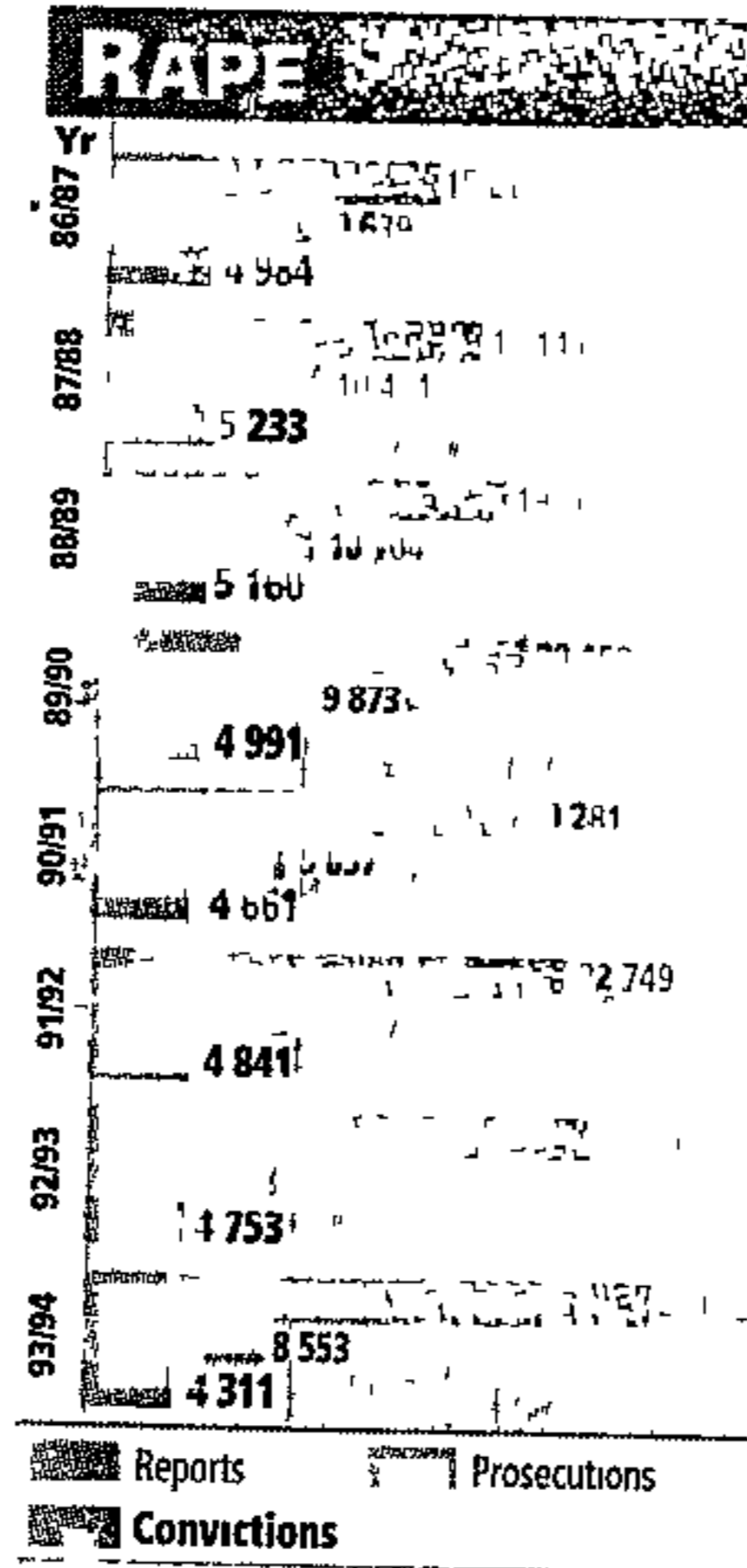
It shows that during 1994, 29 000 of the nearly 36 000 cases of common assault that appeared in court ended in a conviction, while only half of the 8 500 rape cases that were prosecuted that year ended in convictions

Shep director Lisa Vetten, who conducted the research, said although police regarded rape as a priority crime, it was not treated as such in court

Police statistics show that last year about 50 481 rapes were reported countrywide and that the number of reported rape cases has been increasing at an annual rate of 23% since 1994. Gauteng had 12 938 rape cases reported last year.

Looking at 1994 figures, out of 27 039 rape cases reported that year, 8 553 went to court and only 4 311 ended in a conviction.

"We believe the conviction rate is even lower now because no changes have occurred in courts, and incidents of rape have increased," Vetten said. She added that in the Johannesburg Magistrates' Court there were only two



prosecutors dealing with rape

"There have been attempts to make the courts more user friendly but the number of prosecutors dealing with rape is not enough to handle the increasing number of cases"

Cecile Palmer of the Women's Institute for Leadership Development and Democracy said that at times the magistrates favoured perpetrators over complainants

According to a survey by Interpol, the international police

(252)  
force, South Africa is now regarded as having the world's worst rape rate - almost three times higher than in the United States and 12 times higher than in Germany

Women Against Women Abuse (Wawa) said although reported cases were increasing, there seemed to be a rise in actual incidents of rape

Wawa is now working with magistrates at the Protea Court in Soweto to assess cases of abuse. Eleven women have been appointed to attend court cases and advise the magistrate on the type of sentences to be handed down. Some have received an introductory law course but they are learning most skills on the job.

Dinah Nkoba from Wawa said the involvement of community members in courts had ensured that justice was done.

"Although we still have to remain impartial in our assessment, our presence and our suggestions help the magistrate to make balanced decisions"

Several organisations say rape should be viewed as a sexual assault rather than as an act of uninvited sexual intercourse.

Vetten said that regarding rape as sexual assault would relieve the State of the burden of proving the absence of consent but would allow the accused to raise consent as a defence.

► Reports and graphics

# Legal Aid Board cannot cope with backlog in payment of fees to lawyers

By JOVIAL RANTAO  
Political Correspondent

Cape Town - The Legal Aid Board could not cope with the backlog in the payments of lawyers' fees because of a lack of capacity, board director Nic Pretorius told Parliament's justice committee yesterday.

Pretorius, who has come under a barrage of criticism from unidentified colleagues in his office for his management capability and style, told the committee his office did not have enough personnel to process the accounts.

He said his request to the Department of Justice for 70 more employees in his office was answered after 18 months and only 40 posts were approved by the Department of State Expenditure.

"The workload has increased at an unprecedented rate and we cannot find staff to attend to the problems", he said reports that 63 000 payments were outstanding to attorneys and advocates who had received briefs from the board were incorrect. Only about 22 000 accounts were older than 60 days and the board had employed management consultants and was using computer technology to speed up payment.

Pretorius was asked by the justice committee to return next month with the Legal Aid Board's vision on how it should be restructured - Committee chairman Johnny de Lange expressed frustration that yesterday's hearing did not achieve much.

About allegations on his leadership style, Pretorius told the committee that no member of staff had ever approached him and raised concerns. He was asked to prepare a detailed response to concerns about the board raised by prominent bodies such as the Association of Law Societies of South Africa and the National Association of Democratic Lawyers.

The justice committee meets tomorrow to adopt an approach to the board's problems.

For 26/3/97 (252)

# Truth committee ready to table views on relief

Stephen Laufer  
and Farouk Chothia

THE truth commission's reparation and rehabilitation committee would table its long-awaited proposals on relief measures for the victims of gross human rights violations at a two-day workshop in Johannesburg next week, commission spokesman John Allan said yesterday.

The committee has the task of making recommendations to government on how victims should be helped. Its first proposals for interim relief measures were tabled late last year amid criticism that they offered too little, too late. In the meantime voluntary organisations have helped with psychological and medical counselling of victims in the most urgent need.

Victims of actions by police and anti-apartheid forces who have testified before the commission have asked for a range of assistance, much of it modest. Requests have been made for help with further education, medical expenses

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and housing

Several victims have said they would like to see a monument to the victims of apartheid.

Allen said next week's conference would be "of critical importance to how the country deals with the legacy of human rights violations long after the commission has ended its work and the more spectacular revelations made before it have receded into history".

In another development, it was announced that the commission would launch a national campaign next week to make one "last big push" to get victims of gross human rights violations during the apartheid era to step forward with statements.

Allen said the commission had received between 8 500 and 9 000 statements from victims, but wanted more than this.

A three-month campaign to achieve this objective would be launched by commission chairman Archbishop Desmond Tutu in Mariannhill in KwaZulu-Natal on Tuesday.



# LHR lashes out at De Klerk

Johannesburg – National Party leader F W de Klerk's attempts to cast aspersions on the credibility, integrity and impartiality of the Truth and Reconciliation Commission were deplorable, Lawyers for Human Rights said today. (252)

Mr De Klerk said this week in his party's second submission to the commission about apartheid-era human rights violations that the TRC was biased and its commissioners' sympathies leaned against the former government. ARG 27/3/97

LHR spokesman Fay Saleh said in a statement: "No attack on the TRC can

obscure the overwhelming evidence of the appalling violations of human rights that were perpetrated during the more than four decades of National Party rule"

Ms Saleh said Mr De Klerk could not resolve himself, his party or his government from the moral responsibility for the violations by blaming them on rogue elements within the security forces, or "claiming that he simply did not know"

Ms Saleh asked who had created the conditions for such elements to operate, especially the "draconian security legislation" that provided for arbitrary arrest – Sapa

# Courts in the dock after cop takes bribe

ST 30/3/97 (252)

## We pay a corrupt policeman R70 to shred a case docket

ELIAS MALULEKE

**T**HE Justice Department and police have launched a probe into bribery in the courts after the Sunday Times paid a policeman R70 to destroy a case docket.

The policeman approached a reporter and offered to destroy his docket, which related to a speeding offence.

The reporter agreed in an attempt to test claims that corrupt court orderlies and other Justice Department officials were thwarting efforts to bring cases to trial. He later paid his traffic fine.

Johannesburg's chief magistrate, Mncedisi Bache, said "The matter is receiving our personal attention because we want to stamp it out."

The Sunday Times's decision to pay the bribe follows other incidents, in which

- A murder suspect was freed in February after the investigating officer had failed to submit the case docket to the Mamelodi district court,

- A police constable was arrested in Yeoville in February after a theft case docket was thrown into a dustbin,

- A police sergeant who had freed a robbery suspect was arrested in Cleveland last month after the docket had been dumped into a garbage bag, and

- Three Mpumalanga men charged with theft in Nelspruit were freed on Monday after the docket disappeared.

In the latest incident, the policeman had approached the reporter at the Johannesburg magistrate's court on Tuesday and offered to make his docket "disappear". The reporter was to have paid a R140 admission of guilt fine or appear in court following a speeding offence.

After having taken R70 from the reporter, the policeman, who worked in Court 29, retrieved the docket from Court 35 and shredded both it and the original summons. He had then flushed the evidence down a toilet.

The senior public prosecutor, Gert Jonker, later confirmed that the charge sheet appeared to be missing.

Court records indicated that the case was on the roll, but the accused had not turned up in court and a warrant for his arrest had been authorised.

However, the case could not be pursued as the docket and warrant of

arrest were missing.

Bache, who will conduct the probe with Jonker and the police anti-corruption unit, did not want the policeman's identity made known, saying it would hamper the investigation.

Police are investigating whether the docket was stolen or whether the policeman had worked with court orderlies and other policemen in Court 35.

Pieter du Rand, a spokesman for the Justice Department, said the probe would involve checking computer records, court rolls and crime register books for previous cases whose outcomes could not be determined.

Police would trace those who had been summonsed to pay fines or appear in court to obtain statements.

Those who had accepted money for documents would be charged and put on an identity parade.

The disappearance of dockets was a manifestation of corruption in the criminal justice system nationally, he said.

The policeman who had allegedly accepted the R70 and others who had been implicated in the scam had been seconded personnel who were not employed by the department. Their job was to assist prosecutors as clerks of the court and court orderlies.

The scam has been in existence for some time, despite the "tough measures" announced by the department after rumours about the operation began circulating a few months ago.

Du Rand said the measures had included proper control and supervision of court documents and dockets.

The department had also installed steel cabinets to store dockets in and introduced registers which anyone removing a docket had to sign.

In addition, members of the anti-corruption unit were conducting undercover inspections at affected courts.

But corrupt officials were seen touting for business this week, accepting money in exchange for "fixing things".

Payment is usually half the amount of a ticket or summons in the case of a traffic offence, and half the amount posted on bail. Those who had handed money to the officials waited while the officials searched for the dockets.

Du Rand appealed to people who could help police with their investigations to contact the anti-corruption unit at telephone (011) 403-1114.

# Armed with information — and dangerous

*The truth commission has new evidence with which to cross-examine political parties, writes CARMEL RICKARD*

(252)  
ST 30/3/97

**O**UTSIDE the former government's security establishment, few can be as well versed in the documentation of its domestic "dirty war" as the Investigation Task Unit

The unit and its umbrella organisation, the Investigation Task Board, were set up in September 1994 by the Minister of Safety and Security, Sydney Mufamadi, to probe organised hit-squad activity in Kwazulu Natal

The board has come to the end of its term, and its members are completing a series of official reports recording the information it has gathered and the conclusions it has drawn

One of these reports deals with Operation Marion, the covert project which created a professionally trained, paramilitary elite for Inkatha at the request of its president, Mangosuthu Buthelezi

The report was handed to Mufamadi this week, with a copy sent to the Truth and Reconciliation Commission. Its detailed documentary evidence could now add to growing pressure for the former government's clandestine activities to be forced out of the closet. And it will give the commission inside information on which to base questions to politicians and security officials

The convenor of the board, Howard Varney, had a mandate to investigate official hit squads — which took him and the unit, under Colonel Frank Dutton, to inquests, trials and interviews around the country

Varney and his colleagues have turned over every stone they could find, however well hidden, for evidence of the origins of third-force activities

When investigators found some former members of the special squads who would cooperate with them, they uncovered a rich vein of information to mine. This led in turn to a bundle of top-secret documents about Operation Marion

The elite unit formed for Operation Marion was subsequently responsible for many attacks on people associated with the United Democratic Front and the African National Congress. The murders and attempted murders against political foes of Inkatha were cynically attributed to "black-on-

black violence" by the then government, while subsequent police investigations into these attacks were constantly hampered on the orders of security officials

On the basis of secret documents unearthed by the task board, Varney and his colleagues prepared a criminal case against the former defence minister, Magnus Malan, and top members of the former defence force, as well as alleged Inkatha operatives, claiming they were responsible for the murders of 12 people at Kwamakhutha in January 1987, one of the first "hits" by the unit

However, after a marathon trial, all the accused were acquitted

As far as Varney is concerned, the case was mismanaged by the Kwazulu Natal Attorney General, Tim McNally. Varney says differences in understanding and approach between investigators and McNally "plagued the handling of the prosecution from start to end", while the trial was characterised by "ongoing disagreements and clashes"

Varney is also critical of Judge Jan Hugo's judgment. He says the judge did not get to grips with the documentary evidence available to the court and made several crucial errors in his findings

Now Varney and his colleagues are trying to "set the record straight" with their report on Operation Marion

Although Malan and his colleagues have been acquitted, the report could prove extremely useful to the truth commission in its quest for information about human rights abuses, and the security framework which made these abuses possible

One important example concerns the representations made to the commission by former State President F W de Klerk at the beginning of this week

Some of his answers on issues of crucial importance appear to contradict evidence presented in the Varney report

One of these questions was whether the security council or any other state agency ever compiled lists of "politically sensitive people" so that action could be taken against them. The commission asked that if the lists had existed, they be handed to the commission, and

that details of what action was planned against those named on the lists also be supplied

The question is important because of the suspicion that the securocrats drew up a "death wish-list" containing the names of people to be eliminated — such as Mathew Goniwe, who was murdered on the instruction of security police officials

Asked whether lists of "politically sensitive people" were ever drawn up, De Klerk replied this week "Not to my knowledge"

However, the Varney report includes documentary evidence about several meetings at which such lists were discussed and authorised — and De Klerk is recorded as having attended at least two of these meetings

On July 14 1986, a special meeting of the State Security Council was held at which aspects of the state of emergency were discussed. Deputy minister Adriaan Vlok briefed those present on plans related to a number of issues such as the handling of detainees and steps against "politically sensitive people"

Two months later, on September 8 1986, at another meeting of the security council, the issue cropped up again. A report on the national state of emergency was headed "List of politically sensitive people". The minutes noted that this list "had to be shortened" and that methods other than detention (to deal with those on the list) should be considered. De Klerk was also present at these discussions

A second question on which the commission might want De Klerk to reconsider his answer is whether the security council ever authorised the security forces to use "the same methods as revolutionaries" to counter the revolutionary threat

Again the question could be crucial. It is part of counter-revolutionary theory, carefully studied by government securocrats (and extensively documented in the new report), that the terrorism used by revolutionaries should be turned against them with the use of similar tactics by the state

In his reply to written questions by the commission, De Klerk said this week he could not recall any decision by the

security council to authorise the security forces to use the same methods as revolutionaries

Once again, however, the report cites documentary evidence that he was present at meetings where these decisions were taken. At its meeting of May 12 1986, the security council noted that the security forces should work together to set up a third force "in order that the underminers be countered with their own methods".

A final example of apparent inconsistency between De Klerk's replies and the documentary evidence in the Varney report concerns the founding of Operation Marion

Asked a number of questions about the project, De Klerk said he did not have any information "that might be of use" to the commission

De Klerk is on record in both his submissions to the commission that the security council was never party to any decisions that resulted in unlawful actions

However, at a meeting of the security council on February 3 1986 at Tuynhuys, a decision had to be taken whether to authorise the launching of an offensive paramilitary unit for Inkatha

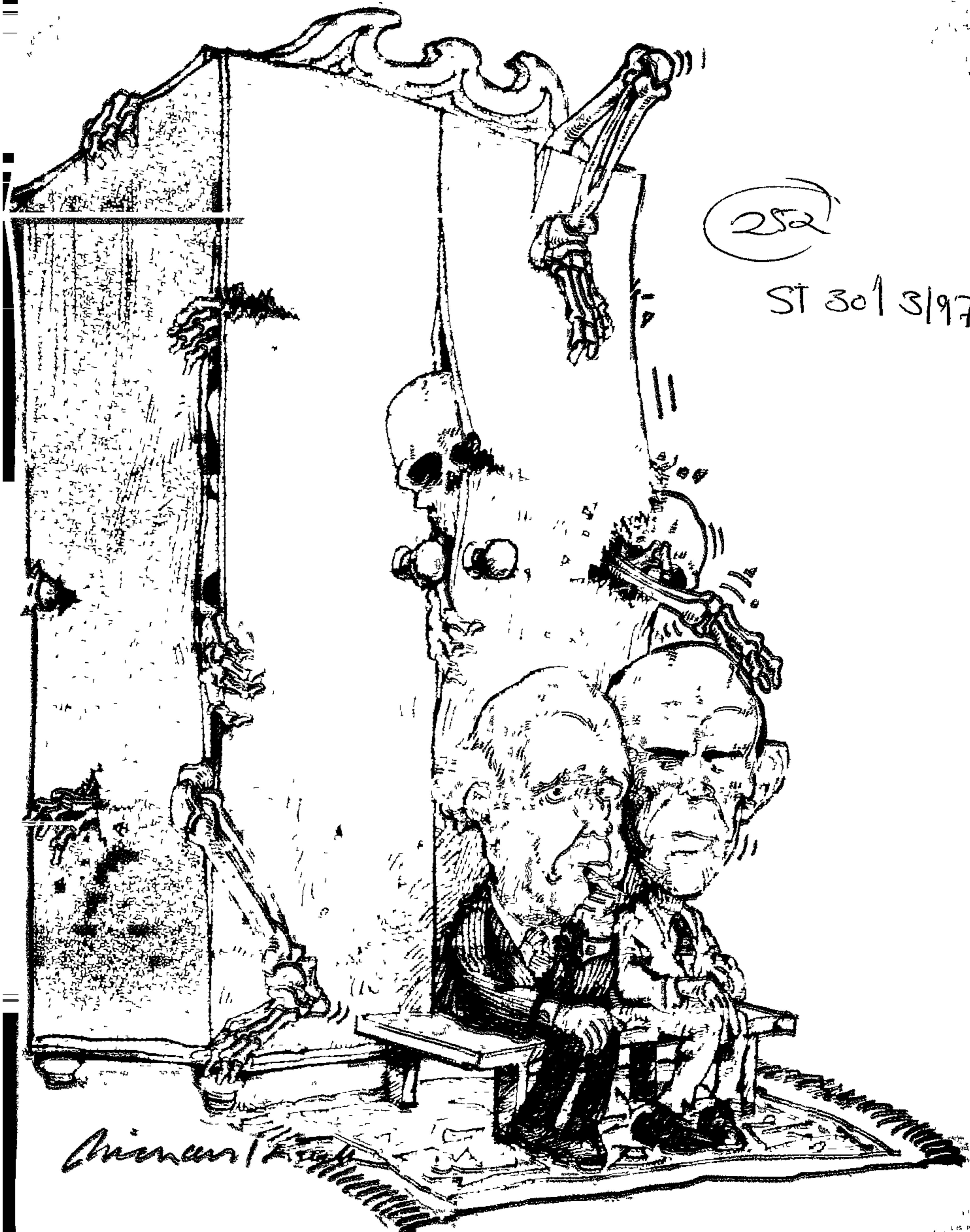
Varney's report discloses for the first time the names of those at this meeting, and De Klerk is recorded as having been present

The final decision on Operation Marion was referred to "the highest political level" because of its sensitivity

The report argues that members of the security council — which included the cabinet — were well aware that once Inkatha was given the offensive paramilitary capability it had requested, it would result in Inkatha's launching attacks on its political opponents

For this reason, the report argues, all present at the authorising meetings "are accordingly accountable for the acts of murder and mayhem that flowed from the creation of the project"

While the criminal court has reached one verdict on this question, the commission now has new information, some of it never presented to the court, on which to revisit the issue and come to its own — potentially damning — conclusion



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# Truth!

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## The Perks of the

### Angry staff threaten to strike over 'fat-cat' commissioners

By WALLY MBHELE

**THE TRUTH and Reconciliation Commission has been plunged into a deep crisis – with furious staff members threatening to go on strike because they won't get the golden handshakes promised to commissioners.**

Tension has been sparked within the TRC by reports that commissioners will be paid three times their monthly salaries at the end of the TRC's mandate – which expires in December

And ordinary staff members have been further incensed by an invitation to commissioners to enjoy an all-expenses paid holiday in Norway

□ Staff members claim that, while the commissioners "will be laughing all the way to the bank", they will be left with nothing to show for their efforts

It is understood the commissioners are not prepared to negotiate the same deal for ordinary staff members

□ According to sources, TRC commissioners earn the same salaries as high court judges.

□ City Press has reliably established that an invitation by the Norwegian Council of Churches for a "one-week retreat" in Norway – accepted by the commission – has added fuel to the fire

TRC spokesperson John Allen yesterday told City Press that because of the staff's dissatisfaction about the commissioners' proposed holiday in Norway, the TRC has decided to leave the matter to each individual's discretion

"Because of unhappiness expressed by the staff, it was decided at a meeting that each commissioner will decide whether to take a visit or not"

City Press understands that on learning about the invitation to Norway, the staff tried to persuade the commissioners not to take the trip

But the commissioners are said to be reluctant to forego the visit to Norway. They insist they need "a rest" – and Norway is an ideal retreat

The commissioners are said to argue that if they don't take the trip, they will offend the Norwegian Council of Churches (NCC)

City Press understands that a TRC official described the objection as "disturbing and smacking of internal politics"

□ As the controversy grew this week, a staff member was mandated to try to persuade the commissioners not to undertake the trip

In a strongly worded letter, the staff member said the commissioners "have ignored the appeal from staff members to forgo the trip and negotiate with the NCC to channel the funds where they are most needed – to the poor and destitute of our country"

"The trip represents a broader pattern in our society – more privileges for those who already have and more constant calls to the poor to tighten their belts. A central thrust of our struggle was aimed at fundamentally altering these power relations

Yet the culture continues, only today the custodians are a new set of beneficiaries

"However, if commissioners still feel compelled to take up the invitation, why not put together a group of victims of gross human rights violations from around the country who could embark on the trip?" the letter says

□ The staff letter says the trip could be the opportunity of a lifetime for victims "because as we know, some victims have rarely been outside the borders of their own township or province, let alone travelled abroad"

Victims could also tell their stories to the Norwegian public, the letter says

"A decision to send victims would be consistent with the proclamations of commissioners that we are victim orientated"

□ Allen said there was provision for "limited" severance packages for commissioners at the end of their term to bridge the gap while they look for new jobs

He said the pressure on staff to remain with the commission after December won't be as strong as on the commissioners

(1E40)

# No Xhosa forms, say amnesty applicants

By DAISY JONES  
East London

Prisoners from Eastern Cape jails have complained to the Truth and Reconciliation Commission that some prison officials had violated their human rights in the amnesty process.

In terms of the Promotion of National Unity Act, all applicants have the right to apply for amnesty in their home language, in their own time, with the assistance of a lawyer in private practice, or an attorney appointed by the Legal Aid Board.

Skumbuza Mphambane, one of seven ANC Youth League (Ancyl) members applying for amnesty for the April 1993 killing of Nohombile Mpambani, told the amnesty committee last week he and his comrades were not given forms in Xhosa, their home language, and they were instructed to fill in the forms in one day.

He said there was "no time to give proper detail" and the prisoners, who are being held at

Mdantsane Prison, had not been told they were entitled to assistance from a lawyer.

Mphambane, who in 1993 was the secretary of the Ancyl in Gobozane, Ciskei, said he had completed most of the seven forms on his own, but some of his comrades were less fortunate. "Some of us are illiterate," he said.

This was later confirmed by Ndumiso Mdyogolo (24), who cannot write or speak English. Mphambane said the applicants would "definitely" have been more comfortable with forms in their own language.

Mzwandile Madela is applying for amnesty for the December 1993 arson attack on a service station in Uitenhage. When the amnesty committee asked why Madela had not applied separately for amnesty for each of his convictions, Madela's legal representative, Lungelo Mbandazayo, said "None of the prisoners had forms in Xhosa and he (Madela) was not assisted."

Madela is being held at St

Alban's Prison in Port Elizabeth. Amnesty committee spokesman Mokotedi Mpshe told The Star he had received "numerous" complaints from prisoners about Correctional Services personnel.

Mpshe said he had been told of amnesty application forms either being "unavailable", not being posted, or being thrown in the dustbin.

Correctional Services liaison officer Koos Gerber said all the provincial commissioners and commanders of prisons "knew what was expected of them".

Each prison had been instructed to appoint one person to create awareness about the amnesty process and assist prisoners.

"There was an effort to help the people," he said.

Mpshe said prisons providing only English application forms "was inexcusable".

He said forms in all languages had been sent to all prisons, and if one language ran out, the amnesty committee was "just a phone call away".

(252) Star 31/3/97

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(252) Star 31/3/97

PUBLIC SECTOR - GOVT. - JUSTICE

1997

APRIL - MAY



# Generals seek extradition assurances

(252)

Stephen Laufer

FORMER defence force chiefs Jannie Geldenhuys and Kat Liebenberg and former security branch agent Craig Williamson are seeking assurances from government that they will be protected from extradition and criminal charges in neighbouring countries if they agree to divulge details of SA's dirty war to the truth commission.

The generals had asked the justice ministry for changes to the law to prevent them from being handed over to foreign states on charges of having ordered cross border raids, their lawyer, Bernard van der Hoven, said at the weekend. A letter to the state attorney, which would be forwarded to Justice Minister Dullah Omar, was in effect a request for protection of defence force members who made full disclosure while applying for amnesty.

Geldenhuys and Liebenberg commanded the SA Defence Force during a period of cross-border activity which resulted in the deaths of anti-SA government guerrillas and innocent non-SA citizens. Williamson has been linked to the letter bomb murder of Ruth First in Maputo in 1982, the bombing of the African National Congress's London offices and the killing in Angola of Jeanette Schoon and her daughter, Katryn.

Van der Hoven said the generals had not yet decided whether to apply for amnesty. They were awaiting authorisation of defence force funding for a court challenge against provisions in the act governing the truth commission's work which they felt was discriminatory. While former members of

the liberation forces were offered amnesty for acts committed in the bona fide belief that they furthered the aims of their organisations, the yardstick was different for security force members, he said. The act required that instructions to soldiers had to be specific and lawful, which meant an illegal order would not hold up as a common law defence, possibly making security force members vulnerable to extradition.

But a lawyer familiar with the truth commission said the generals were misinterpreting the law. "It was not legal to murder from either side — the truth commission deals with illegality, something has to be an offence to qualify for amnesty." Several lawyers said political acts were generally exempt from extradition under international law. It was unlikely that persons granted amnesty could be extradited.

The former security force members' concern was different, one lawyer said. "They are worried that if they travel to neighbouring countries they may be arrested. They appear to be trying to pressure (President Nelson) Mandela and the government into giving them assurances that they will look after them under such circumstances."

Williamson, who has business interests in Angola and was detained there recently, is understood to have asked government to obtain guarantees that he will not be arrested if he travels internationally. The generals are understood to fear that full disclosure of gross human rights violations could be used to justify arrests when they make hunting trips to neighbouring countries. They are understood to enjoy frequent big game hunts in Botswana.

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March

CAPE TIMES  
TUESDAY, APRIL 1, 1997 ★

'GIVE HOLIDAY OFFER TO VICTIMS'

# Severance package angers TRC staff <sup>(2/2)</sup>

**A PROPOSED** all-expenses-paid, week-long holiday in Norway and a planned severance package for TRC commissioners has angered staff members of the body.

**S**TAFF employed by the Truth and Reconciliation Commission (TRC) have again voiced their dissatisfaction over the planned payment of a four-month salary package to the TRC's 17 commissioners when their contracts expire in December.

And anger over the severance deal was heightened recently by the disclosure of details of an invitation to the commissioners to enjoy an all-expenses-paid, week-long holiday in Norway once their work for the commission is complete.

In an anonymous letter, staff called on the TRC commissioners not to take up the holiday offer extended to them by the Norwegian Council of Churches.

Tensions within the TRC surfaced last September with the news that commissioners would receive four times their monthly salaries at the end of the TRC's mandate — which expires in March 1998.

Sources said TRC commissioners earned a monthly salary of R23 750, which was equivalent to the salary of a High Court judge. Commissioner Ms Mary Burton also said last night that commissioners received annual leave equivalent to the package received

by High Court judges.

When their contracts expire they will each receive a package equivalent to three months' pay, on top of their March salaries.

Staff said that while the commissioners "will be laughing all the way to the bank", they would be left with nothing to show for their efforts.

Fuelling the anger further is the invitation extended to the TRC commissioners by the NCC for a "one-week retreat" in Norway, which has been accepted by the commissioners.

In a strongly worded letter, staff said the commissioners "have ignored the appeal from staff members to forego the trip and negotiate with the NCC to channel the funds where they are most needed — to the poor and destitute of our country."

"The trip represents a broader pattern in our society — more privileges for those who already have and more constant calls to the poor to tighten their belts. A central thrust of our struggle was aimed at fundamentally altering these power relations. Yet the culture continues, only today the custodians are a new set of beneficiaries.

"However, if commissioners

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still feel compelled to take up the invitation, why not put together a group of victims of gross human rights violations from around the country who could embark on the trip?" the letter asks.

The staff letter says the trip could be the opportunity of a lifetime for victims "because as we know, some victims have rarely been outside the borders of their own township or province".

Victims could also tell their stories to the Norwegian public, the letter says.

TRC spokesman Mr John Allen said that because of the staff's dissatisfaction over the proposed holiday in Norway, the TRC had decided to leave the matter to each individual's discretion.

"Because of unhappiness expressed by the staff, it was decided at a meeting that each commissioner will decide whether to take a visit or not."

Last night Allen said "The regulations promulgated by the government laying down conditions of service for the commissioners include provision for severance packages for them."

Allen said the commissioners had asked for the same benefits to be extended to other TRC staff, but the government had refused.

He rejected the idea that the Norway trip was a holiday, saying it was "a retreat" — Own Correspondent, Staff Writer

# TRC staff's anger grows over commissioners' deal

Star 1/4/97

(252)

OWN CORRESPONDENT

Cape Town - Staff employed by the Truth and Reconciliation Commission have again voiced their dissatisfaction over the planned payment of a four-month salary package to the TRC's 17 commissioners when their contracts expire in December.

And anger over the severance deal was heightened at the weekend by the disclosure of details of an invitation extended to the commissioners to enjoy an all-expenses-paid, week-long holiday in Norway once their work for the commission is complete.

In an unsigned letter, staff called on the TRC commissioners not to take up the holiday offer extended to them by the Norwegian Council of Churches (NCC)

They also raised the issue of the severance package deal again, which they said favoured some TRC individuals and not others, TRC spokesman John Allen said

Tensions within the TRC surfaced in September with the news that commissioners

would receive four times their monthly salaries at the end of the TRC's mandate, which expires in December

Sources said TRC commissioners earn a salary of R23 750 a month, which is equivalent to the salary of a High Court judge

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“  
**Trip could be chance of a lifetime for victims**  
”

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Allen said that because of the staff's dissatisfaction over the commissioners' proposed holiday in Norway, the TRC had decided to leave the matter to each individual's discretion

He said there was provision for "limited" severance packages for commissioners at the end of their term, to bridge the gap while they looked for new jobs.

Allen added that the pressure on staff to remain with the commission after December "wouldn't be as strong" as on the commissioners

# TRC in drive to hear of all apartheid atrocities

ET 2/4/97 (252)

## OWN CORRESPONDENT

JOHANNESBURG: The Truth and Reconciliation Commission has launched a R2,4-million drive, in conjunction with non-governmental organisations, to gather statements from victims of the apartheid conflict.

The initiative is aimed at ensuring that "every South African who was a victim of gross violations of human rights during the apartheid era has an opportunity to relate his or her story to the commission", chairman Archbishop Desmond Tutu said yesterday.

The campaign was officially launched at Marannhill in KwaZulu-Natal yesterday, but will extend to all provinces through the commission's four regional offices.

More than 300 "designated statement-

takers" would join the TRC's own staff between now and June to collect as much testimony from victims as possible, Tutu said.

The commission has already received about 9 000 statements, but the majority of people who have made statements have not testified at public hearings.

The new drive would help the commission to fulfil its mandate, which requires it to establish "as complete a picture as possible of the causes, nature and extent of gross violation of human rights during the apartheid era", Tutu said.

He said KwaZulu-Natal had been chosen for the launch of the campaign because people there had been "slow to come forward to make statements, either because they are fearful or because of the remoteness of some areas from urban centres".



## Reparations

(252)  
Continued from Page 1

BD 4/4/97  
expenditure would peak at about R500m a year in 1997 rands in about 20 years' time, tailing off in the following 20 to 30 years.

The truth commission is also unsure about the numbers of victims who could become eligible for reparations under its proposed policy, but the figures are expected to be broadly similar to those of special pensioners.

The 1997/98 budget included an allocation of R270m for special pensions. No money has yet been set aside for reparations.

Commission officials say that most of the 9 000 victims of gross human rights violations who have made statements to date are likely to be recognised as reparations recipients in terms of the act governing the truth body's work.

The current statement-taking drive and the announcement of a final reparations policy could be expected to yield several thousand more recognised recipients.

The commission is also still debating whether the list of recognised victims should remain open after the truth body has ended its work, allowing people suffering from the long-term effects of torture, detention or the loss of a loved one to claim assistance.

# Truth body hearing on ANC atrocities is called off

Farouk Chothia

DURBAN — The truth commission had been forced to cancel a hearing on atrocities committed by African National Congress (ANC) supporters in KwaZulu-Natal because of lack of co-operation from Inkatha Freedom Party (IFP) structures, commission chairman Archbishop Desmond Tutu said yesterday.

IFP KwaZulu-Natal MP Philip Powell confirmed that the commission had approached the party's midlands structures, which rejected the planned hearing as a "sop thrown to us".

"If this commission fails, the consequences for SA will be dire," Tutu said. The commission had, however, achieved a "breakthrough" on the East Rand, where IFP supporters had stepped forward to give their perspective on conflict there. Powell said most commission hearings were politically driven. The commission was attempting to "reopen the Magnus Malan trial" by scheduling a hearing on the Caprivi training for June, he said.

IFP deputy secretary-general Zakhela Khumalo, who was acquitted in the Malan trial on charges of murdering ANC supporters in KwaMakhutha in 1987, would attend the hearing to spell out the IFP's position, Powell said.

Tutu launched a national campaign in Marranhill, outside Durban, yesterday to increase the number of statements the commission had received from victims so that it could fulfil its mandate of establishing as "complete a picture" as possible of human rights violations during the apartheid era.

He said KwaZulu-Natal had been chosen for the launch because residents of the province had been "slow" to come forward to make statements, either out of fear or because they lived in remote areas.

Commission KwaZulu-Natal manager Wendy Watson said the commission had received 2 000-3 000 statements from victims in the province. The national figure was about 9 000.

The commission had recruited 300 people from nongovernmental organisations to help collect statements. The three-month campaign to gather more statements would cost R3,2m, which would be funded by donors, Tutu said.

He refused to be drawn on ANC proposals to negotiate a special amnesty deal with the IFP, saying the issue had not been discussed with him.

The ANC KwaZulu-Natal region was believed to have proposed that the commission's composition be changed to include mutually trusted people, and that the amnesty cutoff date in the province be extended to the middle of last year.

A new precondition for amnesty in KwaZulu-Natal would be a requirement that all arms caches be handed over, an ANC source said.

There would be no blanket amnesty, and full disclosure of crimes committed would have to be made, the source said. The ANC had yet to table its proposals to the IFP in formal talks.

Meanwhile, Sapa reports that the commission is heading for a showdown with five former security policemen over their refusal to name apartheid era police informers who worked for them.

The commission was expected to issue subpoenas this week to former Vlakplaas commander Brig Jack Cronje and colleagues Capt Jacques Hechter, Capt Wouter Mentze, Col Roelf Venter and W/O Paul van Vuuren, who have applied for amnesty for more than 60 murders.

Their attorney, Willem Brits, said yesterday that his clients would be subpoenaed to attend an in camera inquiry in Cape Town, probably on April 18.

Last month, the amnesty committee ruled it was inappropriate for Hechter to name informers who reported to him. The ruling sparked a political outcry and a high-level ANC delegation met the commission to push for the names' disclosure.

# Special probe of ANC's alleged atrocities off

## *Inkatha fails to help TRC inquiry*

ARC 2/4/97

(252)

The Truth and Reconciliation Commission's "special event" hearing to investigate atrocities allegedly committed by African National Congress supporters in KwaZulu-Natal has been cancelled - ironically because the Inkatha Freedom Party failed to co-operate.

The hearing, scheduled for this month, would have been the first devoted solely to violations committed by supporters of one party

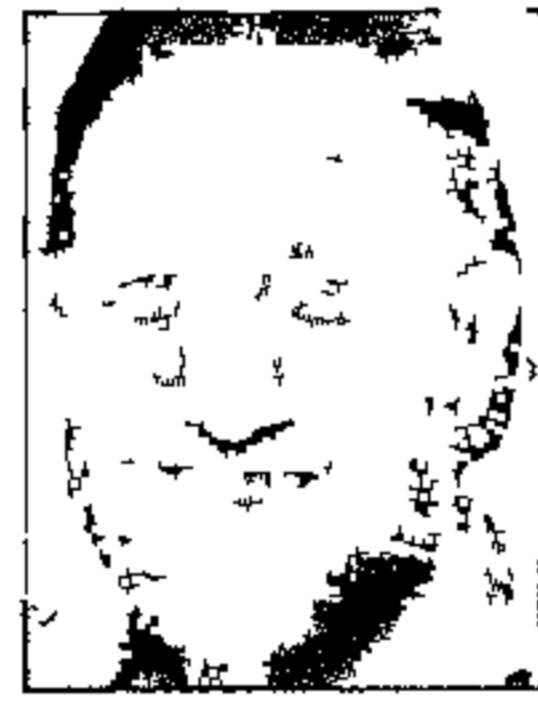
This was disclosed by Truth Commission chairman Desmond Tutu in Durban yesterday during his announcement of a major drive to ensure that all victims of gross human rights violations during the apartheid era tell their stories to the commission.

Archbishop Tutu said the commission was using R2,4-million in donor funding for a countrywide campaign to gather statements from victims

This was being done in partnership with non-governmental organisations, which would provide up to 300 designated "statement takers" to help commission staff until the end of June

"Until now, most of the approximately 9 000 statements which have been given to

VED



### ON THE TRUTH COMMISSION

the commission have been collected by our own statement takers," Archbishop Tutu said

The campaign would help the commission fulfil its statutory mandate, which included establishing as complete a picture as possible of the causes, nature and extent of gross violation of human rights during the apartheid era

The commission had deliberately chosen KwaZulu-Natal for the launch of this project "because it is here in particular that we have found that people have been slow to come forward to make statements, either because they are fearful or because of the remoteness of some areas from urban centres," Archbishop Tutu said

The commission had made "important progress" in persuading the IFP to co-operate with it

"The leader of the IFP made an extensive presentation to us last year, IFP members, albeit in limited numbers, have made statements about the violations they have suffered, and recently we had a breakthrough when IFP members on the East Rand came forward to give us their perspectives on that conflict

"In addition, the IFP will encourage its members to come forward to be considered for reparation and rehabilitation measures

"However, we have also had setbacks: we have had to cancel a special hearing devoted to atrocities carried out by ANC supporters in KwaZulu-Natal because of lack of co-operation from within IFP structures"

The commission belonged to the South African nation and could not present a balanced picture of the past if it received information from only a limited range of sources or organisations, Archbishop Tutu said

"We make a special appeal to those who have not yet done so come and make your statement to the commission"

# Human rights victims urged to make statements

By ROBERT BRAND

The Truth and Reconciliation Commission has launched a R2,4-million drive, in conjunction with non-governmental organisations (NGOs), to gather statements from victims of the apartheid conflict

The initiative was aimed at ensuring that "every South African who was a victim of a gross violation of human rights during the apartheid era has an opportunity to relate his or her story to the commission", chairman Archbishop Desmond Tutu said yesterday

The campaign was officially launched at Mariannhill in KwaZulu Natal yesterday, but will be extended to all provinces through the commission's four regional offices

The TRC is expected to wrap up its process of gathering evidence from apartheid victims, which includes public hearings and statement-taking, by the end of June to

concentrate on amnesty applications and formulating recommendations for reparations to victims

More than 300 "designated statement-takers" from NGOs would join the TRC's own staff between now and June to collect as many testimonies from victims as possible, Tutu said

The commission has already received about 9 000 statements, but most people who have made statements have not testified at public hearings

Tutu said victims who made statements but did not testify at hearings would also qualify for the reparations and rehabilitation measures the commission would recommend to Parliament after the expiry of its mandate

The statement-taking drive would help the commission to fulfil its mandate, which requires it to establish "as complete a picture as possible of the causes, nature and

extent of gross violation of human rights during the apartheid era", Tutu said

The campaign would be coordinated by a community liaison officer in each of the TRC's four regional offices, Tutu said. Designated statement-takers would be based at the offices of the participating NGOs

"The TRC is approaching the final stages of its term of operation. It is now more important than ever that every person, institution and organisation which may have information about gross violations of human rights furnishes it to us without delay," Tutu said

He said KwaZulu Natal had been chosen for the launch of the campaign because people in the province had been "slow to come forward to make statements, either because they are fearful or because of the remoteness of some areas from urban centres"

(252) Star 2/4/97



## 'Special' hearing cancelled

(252)

The Truth Commission's "special event" hearing to probe atrocities allegedly committed by African National Congress supporters in KwaZulu Natal has been cancelled — ironically because the Inkatha Freedom Party failed to cooperate.

The hearing, scheduled for this month, would have been the first devoted solely to violations committed by supporters of one party.

This was revealed by Truth Commission chairman Archbishop Desmond Tutu in Durban yesterday during his announcement of a major drive to ensure that all victims of gross human rights violations during the apartheid era told their stories to the commission.

Tutu said the commission was using R2,4 million in donor funding for an extensive country-wide campaign to gather statements from victims.

He said this was being done in partnership with non-governmental organisations, who would provide up to 300 designated "statement-takers" to help commission staff until the end of June — Own

Correspondent

Star 2/4/97

# TRC campaign to cost R3,2m

By Siphon Khumalo

THE Truth and Reconciliation Commission announced yesterday that it would pump R3,2 million in to donor funding in its campaign to gather statements from victims of human rights violations throughout the country

The campaign was launched by TRC chairman Archbishop Desmond Tutu in Marianhill, outside Durban yesterday

## Partnerships

Tutu said the TRC would enter into partnerships with non-governmental organisations around the country to help in gathering statements

He said between now and June up to 300 designated statement takers from the NGOs would join TRC statement takers in reaching out to thou-

sands of South Africans

Up to now about 9 000 statements have been collected by the TRC statement takers. More than 3 000 of these were collected in KwaZulu-Natal

"Every statement given to the commission enjoys the same status, whether or not the person who has made it appears at the hearing," he said

## Reparations

Tutu said these statements would in future qualify victims to be taken into account for reparations and rehabilitation measures to be decided by Parliament at the end of the TRC's work

He said the campaign was launched in KwaZulu-Natal because people there have been slow to make statements

(252)

# Govt, truth commission head for conflict over reparations

Stephen Lauffer

THE truth commission appears set for conflict with government over a proposal on reparations for victims of gross human rights violations which could cost between R270m and R500m a year for the next 50 years.

At a national workshop on the commission's final reparations and rehabilitation policy in Johannesburg yesterday, commissioner Wendy Orr said victims should not be treated worse than the recipients of special pensions, "and so we are looking at a substantial amount" Victims needed help "to lift

them out of poverty and penury and to give them a much more bearable life"

Deputy Finance Minister Gill Marcus warned later against raising expectations that the country could not afford to meet Millions of South Africans had made sacrifices and it would be difficult to place a value on one life over another.

The finance ministry would consult the justice ministry once it had received the commission's recommendations, Marcus said, but "we are governed by what the country can afford". Commission reparations and rehabilitation committee chairman Hlangi-

we Mkhize said at the workshop that the truth process had so far favoured the perpetrators of gross human rights violations. Those granted amnesty were able to walk free immediately, while victims had to wait for help in overcoming the physical and psychological damage of the past.

Urgent relief had been provided only on an ad hoc basis. A country with too many emotionally and physically damaged people was an economically crippled one because people were unable to cope with the challenges, Mkhize said. Special pensions — known as strug-

gle pensions — are to be paid to former anti-apartheid organisation members who worked full time in political or military structures and could not accumulate pension contributions in the normal way. They become eligible once they reach retirement age.

Although there were no firm figures on the number eligible for such pensions, government expenditure had been calculated on an expected 12,000 to 14,000 recognised recipients, the finance department's Peet Maritz and Actuarial calculations indicated. That

Continued on Page 2

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Desmond Tutu

# About-turn on informers' names

**OWN CORRESPONDENT**

**PRETORIA:** In a sudden about-turn the Truth and Reconciliation Commission has decided against serving subpoenas on five former security policemen who have refused to reveal the names of their apartheid-era informers

The policemen, who have all applied for amnesty, were to have been subpoenaed by the TRC to reveal the identities of their informers

It has been alleged that the informers may include senior members of the present government

Head of the TRC's investigations unit Mr Glenn Goosen confirmed yesterday that it had decided not to proceed with subpoenas for the time being.

"We will attempt to procure the information from other sources," Goosen said. He declined to go into detail about the other sources, although he did not rule out the possibility of other people being subpoenaed to testify about informants in the future

Goosen also withheld comment on whether somebody else had already come forward to testify about the apartheid-era informants



(252) CT 4/4/97

# Give apartheid victims R3-bn, says the TRC

Star 4/4/97

Call for reparations – with everyone who qualifies (252) getting the same package from fund – to be paid out as speedily as possible

BY DAISY JONES

The Truth and Reconciliation Commission has unveiled an ambitious plan to pay more than R3-billion to people who suffered human rights violations during the apartheid era

The TRC's reparation and reconciliation committee (RRC) presented its proposal at a national consultative workshop in Johannesburg yesterday.

Commissioner Dr Wendy Orr said the proposal was not final, but the committee would recommend that reparation awarded to victims be "significant and substantial"

She said the committee had not yet estimated the total cost of the programme, "but looking at the R3-billion set aside for pensioners, we believe the victims deserve nothing less"

She added that her committee was obliged in terms of international treaties and TRC legislation to give victims adequate compensation to make a "meaningful and substantial impact on their lives"

The committee will make its recommendations to Parliament,

which will have the final say.

One of the recommendations is that compensation be given to every person who qualifies for it after making a statement to the human rights violations committee

People referred to the violations committee by the amnesty committee may also qualify.

The proposal also recommended that every victim receive the same package

The RRC proposed that 20% of the total award be paid out to victims initially, with the rest being paid to them on a monthly basis over three to five years

So far, more than 9 000 people have made statements to the TRC, claiming to be victims of human rights violations. They could qualify for urgent interim relief or final reparation. Committee member Dr Mapule Ramashala said she hoped interim relief payments would be made to victims in the next four to six weeks.

Orr said the money for victims would come from the president's fund, which has yet to be established

The fund should be financed

primarily by the Government, with contributions from international and local donors

Orr said local individuals and corporations would be encouraged to make contributions, and a fundraising document would be presented by the RRC at the commission's next meeting.

The document said the board of trustees in charge of the president's fund should be placed in the president's office and not a ministry, because several ministries would be involved.

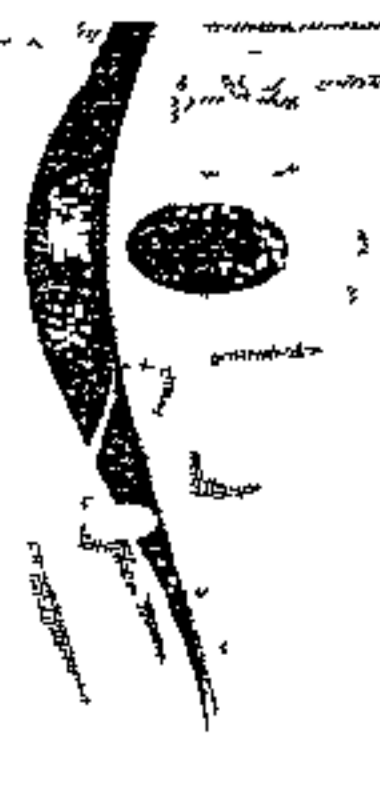
But the RRC wants payments to take place as speedily, efficiently and cost-effectively as possible, and said efforts should be made to cut bureaucratic costs

"The RRC holds the view that money to fund symbolic reparation, particularly for the erection of monuments and memorials, should not come from the president's fund," the document said

TRC chairman Archbishop Desmond Tutu appealed to people to "respond to this generosity, this willingness to forgive"

▶ Reports and picture

# 'Tip of Iceberg' but it's a vast snow



With funding from Belgium, the TRC will field an additional 300 designated statement takers (DSTs) to catalogue the woes of apartheid's victims

Star 4/97

(252)

By Daisy Jones

Months from now people may say that victims' statements to the Truth and Reconciliation Commission (TRC) represent only "the tip of the iceberg" of apartheid atrocities.

But when the Human Rights Violations (HRV) Committee of the commission wraps up its work at the end of June, detractors will not be able to accuse it of not trying.

On Tuesday this week, TRC chairperson and HRV committee head Archbishop Desmond Tutu announced plans for a campaign to increase the number of statements taken from victims.

He said R3,2-million in Belgian donor funding would provide for about 300 designated statement-takers (DSTs) from NGOs to assist the TRC's statement-taking team.

The DST programme will be co-ordinated by a community liaison officer in each of the commission's four regional offices. The DSTs, according to Tutu, would be based in the offices of local NGOs, and would therefore be more accessible to members of the public.

They will be trained by the TRC's statement-takers. In one year, the commission has collected about 9 000 stories from victims. If the commission's statement-taking team continues working at its current pace, it will gather another 2 250 statements before the beginning of July.

It is uncertain how many statements the 300 NGO employees will be able to add to the TRC's final total. Tutu said "It is an indication



ed by the commission, about two out of 13 victims have testified in public. In other words, a relatively small number - about 1 400, according to TRC media officer John Allen - have taken the microphone before a panel of the commission.

As Tutu said in Durban on Tuesday "While most people know the commission through the widely-publicised hearings in which victims relate their experiences, in fact the public hearings make up only one part of the work of the Human Rights Violations Committee. For every one person who gives testimony, there are five others who have given us statements."

Every person who makes a statement to the TRC, whether he testifies or not, may qualify as a victim - and therefore be eligible for compensation from the Government once the commission has made its recommendations to the president. In terms of the Promotion of National Unity and Reconciliation Act, anyone whose human rights were abused within the time frame of the commission may be defined as a victim.

"Most important in the long term, it is the making of an accu-

remoteness of some areas from urban centres. An increased number of amnesty applicants will also contribute to creating a clearer, more detailed picture of victims' experience of apartheid.

The TRC's most recent figures show that 5 000 people are being considered for amnesty. But Allen warns that a large percentage of these applications may have been sent by prisoners who were jailed for criminal acts without a political motive.

The cut-off date for amnesty applications is May 15 this year.

"The TRC is approaching the final stages of its term of operation. It is now more important than ever that every person, institution and organisation which may have information about gross violations of human rights furnishes it to us without delay.

"If we are to present as complete a picture as possible about gross violations of human rights, then individuals, NGOs, political parties and community organisations must make information at their disposal available to us," Tutu said.

The TRC's office in Johannesburg - which is the commission's administrative centre for Gauteng, Mpumalanga, the North West Province and the Northern Province - has a list of the NGOs and DSTs who will be operating in the region.

Readers who would like to know the most convenient place for them to make a statement should call the community liaison officer Lebo Molete at (011) 333-6330.



relationship with NGOs – and of our belief in their central role in civil society – that we are relying largely on them for the implementation of this crucial project.”

Individuals will also be able to fill out statement forms on their own.

Of the 9 000 statements collected

and not an appearance at a public hearing – which qualifies a victim to be taken into account for reparations and rehabilitation measures,” Tutu said.

He added that people in KwaZulu Natal had been slow to come forward, either because they were fearful or because of the

eat of the remaining three provinces.

commissioner Dr Fazel Raderera, told The Star the Gauteng region had been allocated the most DSTs – 107 – because of its population density and its history of human rights violations, and the rest would be divided equally among the remaining three

Statement-taking drive ... TRC chairman Archbishop Desmond Tutu thanks Belgian ambassador Leo Willems for his government's R3.2-million donation to the commission while Raymond Nazari, the Belgian consul in Durban, looks on. The money will be used to employ 300 statement takers in a new drive to collect evidence from victims of the apartheid conflict

# IFP wants a blanket to keep its dirty linen covered

By Robert Brand

The Truth and Reconciliation Commission has cancelled a hearing in KwaZulu Natal because the Inkatha Freedom Party has refused to cooperate. Ironically, the hearing was to have focused on atrocities committed by African National Congress supporters against IFP members in the province.

Speaking in Durban at the launch of a new statement-taking drive by the commission this week, TRC chairman Archbishop Desmond Tutu said the hearing, which was to be held at Pineflow, had been scuppered by “a lack of co-operation from within IFP structures.”

He added that the IFP's reluctance to assist the commission could prevent the TRC from fulfilling its mandate of establishing “as complete a picture as possible of the causes, nature and extent of gross violation of human rights during the apartheid era.”

A member of the commission's Human Rights Violations



TRC chairman Archbishop Desmond Tutu thanks Belgian ambassador Leo Willems for his government's R3.2-million donation to the commission while Raymond Nazari, the Belgian consul in Durban, looks on. The money will be used to employ 300 statement takers in a new drive to collect evidence from victims of the apartheid conflict

Committee, Ian Lax, said the committee had been unable to obtain documentation for suitable cases, for example, where IFP members had been killed in a premeditated massacre.

Lax said the relevant IFP members had been contacted as early as February 6 and informed of the planned hearing from April 16 to 18, but to date no information had been forthcoming.

The IFP has viewed the commission with suspicion from its inception, claiming that it was biased in favour of the ANC. The

commission made some progress in persuading the IFP to co-operate with it. IFP leader Mangosuthu Buthelezi made an extensive submission to the TRC last year, while a few IFP members testified at hearings in Pietermaritzburg and on the East Rand.

In addition, the party undertook to encourage its members to approach the commission so that they could be considered for reparation and rehabilitation measures.

However, relations between the IFP and the commission reached a new low late last year after a hearing into the so-called seven-day war in which several ANC sympathisers were murdered allegedly by Inkatha in 1990. The IFP objected to the handling of the hearing by Lax and commissioner Richard Lyster, accusing them of favouring the ANC.

The IFP charged this week that the cancelled Pineflow hearing was merely an attempt by the TRC to “sugar-coat” the anti-IFP bias shown at other

hearings.

IFP defence spokesman Philip Powell said the problem lay not with a single hearing, but the commission's entire structure and the way it ran its proceedings.

But observers said the IFP's reluctance to co-operate could have to do with the special amnesty deal being mooted in peace talks between it and the ANC.

*Ray 4/14/97*

*(258)*

was established. It belongs to the nation, and it is the nation's instrument for building national unity and reconciliation.

“We cannot present a balanced picture of the past if we receive information only from a limited range of sources or organisations.”

“We make a special appeal to those who have not yet done so come and make your statement to the commission.”

## Keeping you informed

Every Friday, The Star will publish a news feature to help you up to date with the Truth and Reconciliation Commission. The feature, produced by a team of specialist TRC writers, will provide all the news, and the news you need to keep you up to date with the drama of our past unfolds.

## TRC DIARY

### NEXT WEEK

Three public hearings start next week: human rights violations hearings in Grahamstown and the Northern Province, and an amnesty hearing in Johannesburg.

The amnesty committee will open proceedings on Tuesday to hear applications from four nightworkers, a former Umkhonto weSizwe member and a former youth activist.

James Wheeler and Cornelius Rudolph Peyer are applying for amnesty for the murder of a minibus taxi driver, Vyani Kenneth Papiyane, and the attempted murder of his brother, Godfrey, on Election Day in 1994.

Phineas Ndlovu, who says he was a member of the Daveyton Youth Congress and the ANC, is seeking amnesty for the death of four people in Daveyton on June 2, 1987.

William Mokoko Sebiloane claims he was a member of an MK special operations unit under the late Chris Hani. He is serving a 13-year jail sentence for the attempted murder of two policemen on May 25, 1991.

Veronica Sobukwe, the widow of PAC founder Robert Sobukwe, is expected to testify in the Grahamstown hearings to be held from Monday to Wednesday.

The Northern Province hearings start at Messina on Monday before moving to Louis Trichardt on Tuesday and Tzaneen on Wednesday.

**COMING UP**  
The Human Rights Violations Committee will begin public hearings in Vryheid, KwaZulu-Natal, on April 16. An amnesty hearing starts in Mpumalanga on April 21 and the human rights violations committee moves to Parys, Free State, on April 28.



# Legal aid clause triggers flood of (242) applications

MTG 4-10/4/97

**Mungo Soggot**

**T**HE Legal Aid Board has accepted most of the flood of applications stemming from the constitutional clause which offers state-sponsored legal representation.

A board official, Peter Brits, said this week that the board had accepted 115 000 out of about 125 000 applications in the 12 months to March.

The acceptance rate came despite a "relatively complicated" screening process, and, on top of "normal" legal aid, lifted the board's total pay-out to R93-million in the year to March.

The Constitution says citizens have the right "to have a legal aid practitioner assigned to the accused by the state, and at state expense, if substantial injustice would otherwise result, and to be informed of this right".

The board, which last week defended itself in Parliament against allegations of mismanagement, was asked by the Justice Ministry in March 1995 to handle applications flowing from the clause. It set up its constitutional legal aid screening scheme a month later.

The Johannesburg High Court will next week hear the case of a hijacker sentenced to 10 years' imprisonment who was refused state-backed legal representation. It will be argued that he was not informed of his right to the representation.

Paul Setsetse, spokesman for Justice Minister Dullah Omar, said that a Legal Aid Amendment Bill would be placed before Parliament to formalise the Legal Aid Board's position as the state's agent for screening applications under the Constitution.

Board director Nic Pretorius told the parliamentary justice committee that the organisation was not mismanaged, but that it suffered from a shortage of staff. He had applied to the State Expenditure Department in May 1995 for funds for 77 new posts, but was given only 40.



# Apartheid victims to get R3-b

(252)

Sowetan 4/4/97

## Sowetan Correspondent

THE Truth and Reconciliation Commission has unveiled an ambitious plan to pay substantial amounts of money – amounting to more than R3 billion in total – to people who suffered human rights violations during the apartheid era.

The TRC's reparation and reconciliation committee (RRC) presented its proposal at a national consultative workshop on reparations in Johannesburg yesterday.

Commissioner Dr Wendy Orr said the proposal was not final, but the committee would recommend that reparation awarded to victims be "significant and substantial".

She said the committee had not yet estimated the total cost of the programme, "but looking at the R3 billion set aside for pensioners, we believe the victims deserve nothing less".

She added that her committee was obliged in terms of international treaties and TRC legislation to give victims adequate compensation to make a "meaningful and substantial impact on their lives".

The committee will make its recommendations to Parliament, which will have the final say on compensation for apartheid victims.

One of the recommendations is that compensation be given to every person who qualifies for it after making a statement to the human rights violations committee.

People referred to the violations committee by the amnesty committee may also qualify for compensation. The proposal also recommended that every victim receive the same package, regardless of the number or nature of violations suffered.

The RRC proposed that 20 percent of the total award be paid out to victims initially, with the rest being paid to them on a monthly basis over three to five years.

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# Doctors who confess may still face TRC censure

Starr 7/4/97

(252)

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Medical council warns errant medics it is legally obliged to punish them for apartheid era wrongdoing

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## STAFF REPORTER

Doctors who make confessions to the Truth and Reconciliation Commission about their role in apartheid-era human-rights violations will not necessarily escape punishment.

The Interim National Medical and Dental Council says it is legally obliged to discipline health professionals found guilty of professional misconduct or negligence.

In a statement issued by the TRC yesterday, the council was reported as saying health professionals who had information

about, colluded with or participated in human-rights abuses might be deterred from approaching the TRC by the prospect of disciplinary action.

But "full and voluntary disclosure" and an appropriate explanation of the context and environment in which the abuse took place would be taken into account as strong mitigating factors.

The council said that for as long as the TRC is in existence, until December 14, its decisions on mitigation and sentencing would be guided by the TRC's amnesty principles.

On Tuesday, the Interim

Medical Council agreed to present a submission, on behalf of the former council, at the TRC's health sector hearing sometime in June.

The submission will detail "action taken or the failure to act in specific issues and cases, such as the inequality of facilities available to various sectors of the population".

It will outline "the functioning of the council in relation to human rights" and, "most importantly", it will suggest lessons which can be learnt from past mistakes, and ways that similar errors can be prevented in the future.

## Amnesty committee could double in size

CAPE TOWN — A legislative amendment which will enable the truth commission's overworked amnesty committee to more than double in size has been drafted and is ready for submission to the cabinet for approval.

The change to the commission's founding legislation, the Promotion of National Unity and Reconciliation Act, could be approved by parliament before the end of April, says commissioner Denzil Potgieter, a member of the commission's legal working group.

This would leave the committee eight months — the commission's mandate expires in December — in which to process the thousands of amnesty

applications that have flooded

The number of applications has overwhelmed the five-member committee chaired by Judge Hassen Mall, which has already seen administrative support staff double in size to cope with the workload.

Justice ministry spokesman Paul Setsetse said Justice Minister Dullah Omar would submit a memorandum to the cabinet on the amendment after his return from the US on Friday.

Potgieter said that with the appointment of additional members to the committee he did not foresee that it would ask for more time to complete its task — Sapa (252)

BD 8/4/97

# Old regime's role in violence unfolds

## Report to TRC draws on secret apartheid documents

(252)

ARL 8/4/97

### ARGUS CORRESPONDENT

**Durban - A damning report delivered to the Truth and Reconciliation Commission today implicates the former State Security Council and leading political figures in fomenting violence.**

Compiled by the convener of the now-disbanded investigation task unit, Howard Varney, the report draws on secret apartheid documents which detail the sinister role of the former government in political violence and lawlessness.

The documents, are contained in a 160-page dossier recently handed to Safety and Security Minister Sydney Mufamadi.

Using the infamous Operation Maroon as a case study, the report argues that, contrary to their denials, senior members of the former government and Inkatha Freedom Party were aware of a series of unlawful activities. Operation Maroon was a secret project developed for Inkatha by the defence force and aimed at squashing the African National Congress and United Democratic Front. The report says the leaders of the South

African and KwaZulu governments denied before the TRC that they were involved in any process that led to unlawful conduct.

"These claims are not consistent with evidence and analysis set out in this report. These acts of murder and other actions carried out by Operation Maroon members cannot be explained away by the 'bad egg' syndrome," said Mr Varney.

The report argues that those at leadership level were aware that military support to Inkatha would result in Inkatha's offensive unit attacking political opponents.

Mr Varney said submissions by NP leader F W de Klerk, Chief Mangosuthu Buthelezi and the army to the truth commission were at odds with Military Intelligence and State Security Council documentation his team of investigators had uncovered.

An important feature of the report is the detailing of State Security Council decisions during the 1980s. "Certain decisions of the security council set in motion events that resulted in death and destruction, not only in South Africa, but throughout Southern Africa," the report said.

# Judge concerned after amnesty applicant's court record vanishes

By Robert Brand

A judge on the Truth and Reconciliation Commission's amnesty committee has asked for an investigation into the disappearance of a file containing the court record of an amnesty applicant who appeared before the committee yesterday.

Mr Justice Andrew Wilson, who chaired a hearing for the amnesty application of Vernon Vosloo, said the disappearance of documents from state custody was a matter of concern

"It disturbs me that a file can be removed and simply disappear. I want the appropriate authorities to investigate this," Judge Wilson said.

Vosloo (28) was sentenced to 15 years' jail for the murder of an unidentified black man in 1992.

The leader of evidence before the committee, Rodney Black, said Vosloo's court record could not be located in spite of exhaustive efforts by himself and the applicant's attorney, Rudolf Nel. Nel told

The Star that a Mrs Nel, a former employee at the High Court, had checked out the file.

Vosloo, at the time of the murder a security officer with the Johannesburg city council, told the committee he and "a few friends" were drinking in South Hills, Johannesburg, when a black man walked past.

"I went to my car and took out a knife. I followed him, grabbed him from behind and stabbed him in the chest, all over the body, wherever I could." The man was stabbed

14 times. Vosloo was arrested the next day.

Vosloo said although he did not belong to any political organisation, he had supported the Afrikaner Weerstandsbeweging. He admitted that he had never attended an AWB meeting, but said he kept abreast of the organisation's policies by watching television and speaking to his friends.

He said he did not know his victim and the man had done nothing to provoke the attack. "He was just walking past and I saw him as the person who could possibly one day govern me. The political climate was such that Afrikaners had to do something to show that they would not be suspected without a fight."

Advocate Wilhelm Malan said the applicant believed the murder was part of a political struggle against black domination.

Black, arguing against amnesty, said the murder had been committed "for extreme racist motives".

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14/97

# 'Third force' cabinet links investigated

(252)

JOHN YELD AND OWN CORRESPONDENT

ARLT 9/4/97

The Truth Commission is examining the record of a 1986 State Security Council meeting which appears to show that senior apartheid cabinet ministers, including F W de Klerk, helped form a counter-revolutionary "third force".

Commission chairman Desmond Tutu was commenting today on the revelations in State Security Council minutes leaked this week.

Those at the meeting on May 12, 1986, included former state president De Klerk, who has consistently denied knowledge of such a force, his predecessor P W Botha, and former foreign affairs minister Pik Botha.

"This is nothing new," said Fanus Schoeman, spokesman for Mr De Klerk. He said Mr De Klerk had admitted that the National Party government had pondered the possibility of a third force but after lengthy consideration had decided against it.

The minutes are part of a package of information given to the Truth Commission by Durban lawyer Howard Varney, convener of the Investigation Task Board, which oversaw a unit investigating "third force" killings in KwaZulu Natal.

TRC to probe IFP links with violence, page 7

# FW NAMED

CT 9/4/97 (252)



Nelson Mandela battle it out in a TV debate on April 14, 1994, in which Mandela charged that De Klerk had been implicated in financing "the  
- ia Freedom Party"

a large ed by the Truth and Reconciliation  
- order Commission

He said the ANC — which had long  
- iverred that there was a state-sponsored  
- third force — was "being vindicated"  
- He reiterated the call to members of the  
- former regime to "come clean"

Former president Botha, speaking  
- from his home in Wilderness, said last  
- night that the matter of a third force  
- had been dealt with three years ago in  
- his biography, written by former presi-  
- dential adviser Dr Daan Prinsloo, as well  
- as in a statement to TRC chairman  
- Archbishop Desmond Tutu last year. He  
- was not prepared to comment further.

"I don't want to comment on issues  
- that were dealt with in the biography,"  
- Botha said

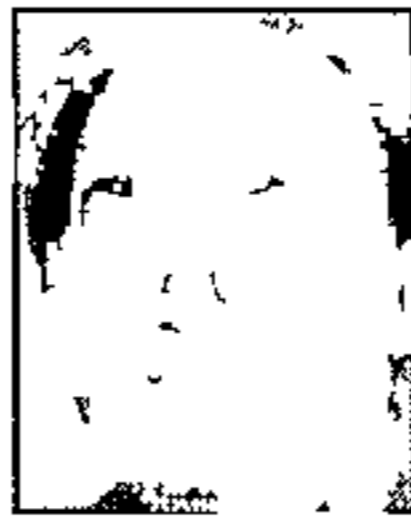
He said Prinsloo's book — which hit  
- the headlines when De Klerk had  
- been named

Turn to Page 3

# PW BOTHA CHAIRED KEY MEETING

# THIRD FORCE

**MINUTES** of a security meeting, now in TRC hands, record that ex-president F W de Klerk and then-minister of foreign affairs Pik Botha attended talks on forming a third force. **DONWALD PRESSLY** writes.



**M**INUTES of a State Security Council (SSC) meeting that have been handed to the Truth and Reconciliation Commission point to the direct involvement of top National Party leaders — including former president F W de Klerk — in the formation of a “counter-revolutionary” third force

The minutes of the meeting, held on May 12, 1986, are part of a long document, marked top secret (uiters geheim), that is likely to send ripples through the opposition NP, as De Klerk and former minister of foreign affairs Mr Pik Botha have consistently denied knowing about a third force

De Klerk recently told a press conference that the term “third force” had been used only as a suggested description for a policing mechanism for crowd control. He denied it had been the former NP government’s intention to use it as a force to marginalise or eliminate political opponents

Members of the Truth Commission refused to release the report to the media last night. It is part of a package of investigations by the Investigation Task Board headed by Durban lawyer Mr Howard Varney. His damning report is drawn from secret apartheid-era documents and tells a different story from the NP version

According to a leaked section of the report, the Investigation Task Board has found that the infamous Operation Marion — a secret agreement between Inkatha and the SA Defence Force to train recruits to work against the “revolutionary” United Democratic Front — cannot be explained away by the “bad egg” syndrome

In a television debate before the elections in 1994, President Nelson Mandela accused De Klerk of “being implicated in financing the murderous activities of the Inkatha Freedom Party”

The report says that, in a state strategy, the “methods of the revolutionaries” were applied to counter the per-

ceived revolutionary threat. These included murder and other unlawful actions

The report also argues that those at leadership level were well aware that this type of support would lead to Inkatha’s offensive units’ launching attacks on its political opponents.

It says that although the state was under violent attack, its political leaders adopted strategies which in effect cast



**IN CHARGE:** Former state president P W Botha allegedly chaired the State Security Council meeting on a third force

aside the application of the rule of law. “These decisions still (have an) impact on society today”

The minutes contained in Varney’s document refer to an SSC meeting chaired by then-president Mr P W Botha. It was attended by then-minister of education De Klerk, Pik Botha, law and order minister Mr Louis le Grange, defence minister General Magnus Malan, justice minister Mr Kobie Coetsee, constitutional development and planning minister Mr Chris Heunis, deputy law and order minister Mr Adriaan Vlok, transport minister Mr Hendrik Schoeman and finance minister Mr Barend du Plessis

Also present were Lieutenant-General P W van der Westhuizen, secretary of the SSC, Major-General R P J van Vuuren and Mr P H Viljoen of the SSC secretariat, Dr Niel Barnard, then-director-

general of the National Intelligence Service and now director-general of the Western Cape, General P J Coetzee, police commissioner, and Mr P R Killen, director-general of foreign affairs

According to the minutes of the meeting, it was held that a third force should be mobile, “with a well-trained ability to effectively wipe out terrorists”

“This mobility must be provided by the ability of the SA Defence Force and the SA Police,” the minutes said

The minutes, in Afrikaans and stamped “Top-secret”, are headed “Agenda Item 11 Discussion of the Third Force” (Bespreking van die Derde Mag).

The chairman is quoted as saying the proposed third force should supplement other security forces to ensure the good name of the security forces was not besmirched. The Afrikaans text reads “Die voorsitter (P W Botha) sê dat die voorgestelde Derde Mag aanvullend tot die ander veiligheidsmagte moet wees, sodat die veiligheidsmagte nie in die gedrang sal kom nie”

The minutes say the security forces must co-operate in establishing the third force so that “the subversives can be combated using their own methods”. The Afrikaans original reads “Die veiligheidsmagte moet saamwerk tot die daargestelling van die Derde Mag sodat die ondermyners met hulle eie metodes bekamp kan word”

Malan and Le Grange were designated to follow this up

It was agreed that the capacity of the proposed third force should be provided by the security force establishment. The minutes say the third force should be prepared to be perceived as being unpopular “and even feared”, but should not impair the dignity of the security forces. The Afrikaans wording is “Dit moet bereid wees om onpopulêr en selfs gevrees te wees, sonder dat dit die SA Weermag of die SA Polisie se aansien sal aantast”

The placing of municipal police under the direct authority of the SA Police should also be investigated, the minutes say. Heunis, Le Grange, the cabinet secretary and the SSC secretariat were designated to follow this up

Varney said last night the full document detailed counter-revolutionary actions of the former state

It indicated that then-president

**FLASHBACK:** F.W. de Klerk’s murderous activities of the

Botha would have been part of a number of decisions about raids

It made the argument that the same structures involved in rising these raids could be involved in internal counter-revolutionary operations, said Varney

De Klerk’s spokesmen, Koornhof and Mr Fanus, could not be reached for comment last night. It was understood that he was attending an NP meeting in I

TRC spokesman Mr G. confirmed yesterday that he received the full document, but declined to release it to the media. He said it had yet to be reviewed by commission members

Mr Joel Netshitenzhe, a spokesman for President Mandela, said that “these are matters being



## TRC grants four amnesty

(252)

THREE North-West Province ANC members who killed a vigilante leader after he sexually assaulted an elderly woman have been granted amnesty by the Truth and Reconciliation Commission.

The commission said yesterday its amnesty committee had also granted amnesty to a Conservative Party supporter in the Eastern Cape who was due to have stood trial this month for the illegal possession of AK-47s.

The committee had turned down the applications of an ANC member who killed a municipal policeman in the Free State, and a man who took part in a fatal attack on a group of whites suspected of being IFP members.

In granting amnesty to Mr Peter Lebona, Mr Thabo Solomon Lekitlane and Mr Ehas Busakwe — three ANC members — the committee found that the murder of gang leader Mr Zenzile Dlamini had been politically motivated.

The committee said evidence had been led that Dlamini had assaulted and raped members of the ANC and its Women's League.

Mr Michael Schutte, a CP and Volksfront member, was granted amnesty for possessing seven AK-47s and ammunition — Sapa

CT 9/4/97

# Amnesty for ANC trio and CP man

Star 9/4/97

By ROBERT BRAND

(252)

The Truth and Reconciliation Commission has granted amnesty to three ANC members who murdered a vigilante leader and to a rightwinger on trial for illegal possession of firearms.

The amnesty applications of two others, including an ANC member who killed a municipal policeman, were refused, the TRC's amnesty committee announced yesterday.

Amnesty has been granted to Peter Lebona, Thabo Solomon Lekitlane and Elias Busakwe, ANC members from Kanana, Orkney, who killed Zenzile Charles Dlamini, the leader of a vigilante group in their township, in July 1991.

The three men were serving 10-year sentences for the murder of Dlamini, who established a vigilante group called Kofifi.

Amnesty has also been granted to Saint Michael Schütte, a Conservative Party and Afrikaner Volksfront member from Stutterheim, Eastern Cape, for the possession of seven AK-47s and 235 rounds of ammunition.

He bought the AK-47s on a visit to Mozambique in September 1993. He said the weapons were bought to defend the white community of Stutterheim after the 1994 election.

Amnesty was refused to Derrick Tshidiso Kobue, an ANC member who killed Bothetsa Sekatame, a municipal policeman, in Kroonstad in December 1991.

Amnesty was also denied to Justice Sekgopa, who took part in the killing of Shelly Erica Basson, Anthony Mark Casey, Johannes P. van Niekerk and Michael F. Belehe at Mashongoville in the Odendaalsrus district in September 1990.

Sekgopa is serving 27 years on four counts of murder.

# Alleged perpetrators named at truth hearing take stand

BY DAISY JONES

Grahamstown - Four alleged perpetrators of human rights violations, who were named by witnesses at the Truth and Reconciliation Commission hearing here, took the stand yesterday to defend themselves.

Former Grahamstown councillor Ntsikelelo Botha responded to the testimony of Temtem Kuhlane, who said her son was shot and killed by him in Port Alfred in 1986 "for no apparent reason".

Former municipal policemen Melekile Ncipe and Mzwandile Mtshali denied culpability for the 1986 killing of Alexandra Youth Congress member Harmanus Zonwabele. And Jibhikile Khani sent a statement with his lawyer Chris de Klerk saying he denied

being involved in the detention and torture of David Nazo.

Botha admitted he had killed Port Alfred Youth Congress member Mhinyane Kuhlane, but said he had opened fire on a group of about 200 masked men in self-defence. According to Botha, the men, whom he believed were "comrades", had told him he was going to be burnt with tyres. "Before I could stand up, members of the group started to stab me in my back, sides and head. I suffered from 16 to 18 stab wounds, apparently caused by screwdrivers," he said.

Botha said he fired three warning shots into the ground with his own gun, but the stabbing continued.

"I was fearful that I was going to be killed and I pointed the firearm over my left shoulder and fired a shot. I did not aim the firearm. I was shooting at my unknown attacker, who was behind me, in order to prevent a repeat blow from the axe or other weapon," Botha said.

When he heard that he had killed Kuhlane, Botha said he was very upset. He had played soccer with Kuhlane, and Kuhlane had shared a clan name with Botha's wife. "I regarded him as a friend, and furthermore I have strong Christian beliefs, being a minister of religion," he said.

Botha was accompanied by his attorney David de la Harpe. Ncipe and Mtshali also had lawyers present. Mtshali said that on the day Zonwabele died, he was chased by a group of about

2 000 people with petrol bombs. When the crowd trapped him against a wall, Mtshali said, he fired five shots.

"There was a group of them and I was by myself. There was nothing else I could do," he said. Asked if he denied killing Zonwabele, Mtshali said "I do not deny that he was struck by a bullet from my firearm, but I was not aiming at anyone. I was firing at a crowd."

Ncipe said he was off duty that day and had spent the entire day in his parents' home. He had not taken part in any shooting, he said.

Zonwabele's grandmother Novakele Thembanu told the commission that the results of a postmortem performed on Zonwabele's body were unknown. She was very disappointed with the way his death had

been handled, she said. Khani, who was named as one of the Kenton-on-Sea policemen who tortured Nazo in 1976 and 1983, said Nazo's statement was "vague, totally incomplete, and therefore I am unable to reply to same in a detailed manner."

He denied assaulting or torturing Nazo. Before Khani's statement was read, Nazo told the commission he was still undergoing medical treatment after contracting pneumonia and tuberculosis from being kept in cold prison cells.

TRC commissioner the Rev Bongani Funca explained to those gathered yesterday that people named as perpetrators in hearings were warned beforehand, and had a right to respond to allegations.

The hearing continues today.

Star 9/14/97

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# Nats nailed in TRC 'third force' report

Star 9/4/97

(252)

Secret documents presented to the Truth Commission implicate top NP leaders, including F W de Klerk

BY CECILIA RUSSELL AND  
OWN CORRESPONDENT  
Cape Town

Minutes of a State Security Council (SSC) meeting handed to the Truth and Reconciliation Commission point to the direct involvement of top National Party leaders, including former president F W de Klerk, in the formation of a "counter-revolutionary" third force.

The minutes, dating back to the mid-1980s, form part of a lengthy document which promises to send shockwaves through the NP because its leader, F W de Klerk, and Pik Botha - both in the apartheid-era cabinet - have been robustly denying any knowledge of a third force.

De Klerk said recently the term "third force" was only a suggested description for a public order policing mechanism to control crowds. He denied it had ever been the NP government's intention to use the force to marginalise or eliminate political opponents.

The report is part of a package of investigations by the Investigation Task Board, headed by Durban lawyer Howard Varney. The

TRC refused to release its full text to the media last night, but The Star managed to acquire some bare essentials of the report.

Varney's damning document draws from secret apartheid-era reports and tells a very different story to the NP version.

De Klerk's spokesman Fanus Schoeman said this morning that if the Varney documents had been leaked out of context, "this is a shocking state of affairs".

The thus-far confidential report says that in terms of a state strategy, the "methods of the revolutionaries" had been applied to counter the perceived revolutionary threat. These included acts of murder and other unlawful actions. It also argues that those at leadership level were well aware that this type of support would result in Inkatha's offensive unit launching attacks on political opponents.

It also states that political leaders adopted strategies that, in effect, cast aside the application of the rule of law.

"These decisions still (have an) impact on society today," it says.

The minutes contained in Varney's document refer to a Security

Council meeting chaired on May 12 1986 by the then president, P W Botha. It was attended by cabinet ministers such as De Klerk, Pik Botha, Louis le Grange and his deputy, Adriaan Vlok, General Magnus Malan and Kobie Coetsee.

Among others present were Niel Barnard, who was then director-general of the National Intelligence Service and who is now director-general of the Western Cape, and the police commissioner at the time, General P J Coetzee.

The minutes showed that a third force should be mobile, "with a well-trained ability to effectively wipe out terrorists. This mobility must be provided by the ability of the SA Defence Force and the SA Police".

Contacted last night, Varney said the full document detailed counter-revolutionary actions of the former state and indicated that P W Botha would have been party to a large number of decisions regarding cross-border raids.

Schoeman said De Klerk would comment later today.

The ANC demanded that De Klerk make full disclosure of his knowledge of a "third force".

SECRET LINK ALLEGED WITH MILITARY

# Spotlight on Buthelezi's 'covert' role

**A REPORT** prepared by the Investigation Task Board set up to probe state sponsored violence details how the board believes Inkatha became involved in covert actions of the apartheid security forces. **DONWALD PRESSLY** reports.

**H**OME Affairs Minister and Inkatha Freedom Party leader Chief Mangosuthu Buthelezi has been drawn into the controversy raging over the previous government's use of sinister forces to eliminate apartheid foes

A report prepared by the Investigation Task Board (ITB) — which was commissioned by Safety and Security Minister Mr Sydney Mufamadi to investigate state sponsored violence — sets out how it believes Inkatha became enmeshed in covert activities of the former government's security forces

The report, in the hands of the Independent Group, says the security apparatus of the former regime had since the 1960s embraced the principles of counter-revolutionary warfare

Central to this strategy was the provision of political and military support to "surrogate or middle forces" within South Africa and in neighbouring states

The report, already presented in oral evidence to the commission by the ITB's head, Durban lawyer Mr Howard Varney, says in pursuance of this strategy the SA military supplied substantial support to groups such as the Mozambican opposition movement Renamo, Unita in Angola, the Lesotho Liberation Army in Lesotho, the Ciskei Resistance Movement — and to the Inkatha Freedom Party

This strategy "coincided" with Buthelezi's long-held desire to have a military force of his own

Buthelezi, according to the report, had "unofficial" military backup through the 121 Battalion "to which he was secretly recruiting his supporters by arrangement with the military"

He pursued his aim of setting up a more organised paramilitary force "which could be used to protect Inkatha members and which could carry out offensive actions against his political opponents", according to the report

While the IFP leader has repeat-

edly denied his involvement in any covert military activity, he has acknowledged the need to protect his people in former KwaZulu. He also regularly cited the need for a defence against the violent activity of the ANC's then internal wing, the United Democratic Front

A Truth Commission hearing next month will consider allegations that Buthelezi was central to a conspiracy with the NP government to create this offensive capacity

The document presents as proof a memo from the Chief of Staff, Intelligence, Vice-Admiral Dries Putter, to the then Chief of the South African Defence Force, General Jannie Geldenhuys.

Varney says this provided certain guidelines originally made by Buthelezi (then Chief Minister of KwaZulu) requiring that there be a "definite separation between support for KwaZulu and support for IFP. Support to Inkatha apparently included security for the chief minister and other Inkatha leaders — but also "steps against" UDF-ANC

Liaison with Inkatha was, in terms of the memo, set up with then deputy IFP secretary-general M Z Khumalo, who was a close

□ To Page 5

Report labelled a 'vendetta'

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lieutenant of Buthelezi's

Financial support for Inkatha's military capacity for that year was listed as "financial support to Inkatha for the para-military force"

As part of the mid-1980s military Operation Marion, the report says, 200 Inkatha members were taken to the Caprivi Strip in Namibia, where they received training at Hippo Camp by the Special Operations component of Military Intelligence and Special Forces

"The recruits were divided into operational groups, one of which was an offensive group of some 30 men. The trainees were instructed that their targets would be located within the UDF-ANC"

The Varney report rejects the court's view during the recent so-called KwaMakhuta trial — in which former Defence Minister Gen Magnus Malan, Mr M Z Khumalo and 18 others were acquitted — that the training in Caprivi "was no more sinister than the training of guards for an agricultural society"

"The court failed to appreciate certain facts which were common cause and which made such a comparison incomprehensible. Unlike security guards, the Caprivi trainees were recruited from one side in a bloody political conflict

"After their secret training they were deployed under the control of political role players in the same violent struggle," the report states

Varney said interviews with their political commissar and five others who had co-operated with the board's inquiries indicated involvement in atrocities in Mpumalanga township, Isikhaweni and the KwaMakhuta massacre (in which 13 people were killed)

Last night, Inkatha spokesman Mr Arthur Konigkramer described Varney's report as "a personal vendetta"

Konigkramer said the ITB had investigated the violence in the Midlands but that there had never been an inquiry until now into the violence

Dismissed ANC member Mr Sifiso Nkabinde was now accused by the ANC of fomenting violence and there was evidence the military and the police knew of ANC hit squads. But Varney had not acted on it.

● Varney last night confirmed NP leader Mr F W de Klerk's view that a counter-revolutionary "third force" proposed by the former State Security Council in the mid-1980s had never actually been implemented as a separate force.

# Community was forced apart, commission told

Stephan Laufer

DD 10/4/97 (252)

LOUIS TRICHARDT — The breakup along ethnic lines of an established township community and the subsequent terror of the homelands authority against those who resisted were the focus of the truth commission's human rights violations hearings in Louis Trichardt yesterday.

The commission also heard how young village activists were mobilised to act against individuals accused of witchcraft. The commission has battled to establish a political link to the witchcraft charges, which appear more often than not to have been used to settle personal rather than political rivalries through newly politicised but still naive youths.

The forced removals of the 1960s, when black farm residents were concentrated in the so-called black spot of Sinthumule, had been an early portent of what was to come in the 1980s, said Muzila Phulwana, a long-time resident of the area.

Intent on establishing the homelands of Venda, Gazankulu, and Lebowa, the SA government used its security forces to separate and intimidate Vendas, Shangaans, and Pedis living in the Louis Trichardt township of Tshikota.

Visible resistance to the removals grew in the early 1980s, as Vendas were moved 25km out of Louis Trichardt to Vleifontein. Rent boycotts and school closures were among the responses to pressure to incorporate the area into the homeland.

Once Vleifontein had been ceded to the Venda authorities, they sent their police and army into the area to institute a reign of terror.

Besides joining SA police units in targeting residents believed to be involved in leading the protests, the homelands security forces attacked and detained ordinary citizens in an apparent attempt to stamp their authority on the township.

Elsa Mthangeni said she had been on a bus when Venda police stopped it and demanded proof that passengers had paid their homelands tax. Passengers were sjambokked, forced into a police vehicle and taken to a police station where they were beaten.

Public attendance at this week's Northern Province hearings has so far been limited, and the commission has apparently battled to get victims of significant violations to come forward.

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# TRC search finds human remains on Karoo farm

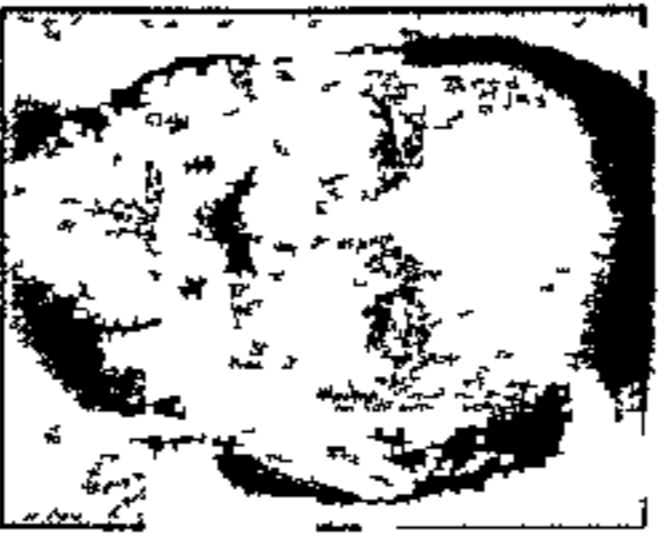
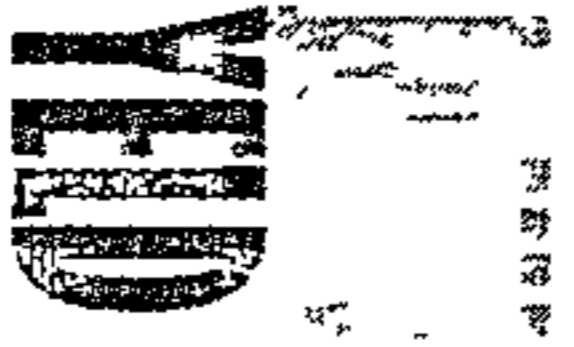
## Bones believed to be of ANC cadres

Truth and Reconciliation Commission investigators today found what they believe are the remains of four Umkhonto we Sizwe cadres killed by security forces in 1981 and buried on a southern Free State farm.

Bones believed to be human were found in a one-metre deep trench. Sapa reports that the investigators stopped digging at the discovery of the bones and sent for a pathologist who will evaluate the find.

Police sniffer dogs and a front-end loader were used in the search for the bodies. The four, who include Gauteng Premier Tokyo Sexwale's brother, Lesetja, were killed by police in two incidents after an intensive manhunt.

Truth Commissioner Dumisa Ntsebeza, who heads the commission's investigative unit, said they had been told the four were buried secretly at night on a farm belonging to a police reservist on the Free State side of the Orange River.



**ON THE TRUTH COMMISSION**

The reservist led commission staff to the area yesterday.

An undertaker, also a police reservist, was called to help the search today. He had admitted burying the bodies with the help of white security policemen, Mr Ntsebeza said.

Police and commission staff uncovered "a big area" yesterday but did not find anything. Commission spokesman Phila Ngqumba said today sniffer dogs were brought to help the search and that a second front-end loader

might also be used. *AKG 10/14/99 (252)*

"The problem was that the farmer pointed out a vast area and he couldn't say exactly where they had been buried."

Mr Ntsebeza said their investigations indicated that two of the ANC soldiers had died on August 7 1981 and the others on August 13.

"The cadres had been based in the Butterworth-Umtata area but were discovered and attempted to retreat into Lesotho. However, they were stopped at a police roadblock near Elliot on August 7, where two cadres were killed. Two escaped but were intercepted six days later at Barkly Pass, outside Elliot, and also killed in a shootout. (The police) did not want to turn them into martyrs so they secretly buried the bodies."

Watching the digging was Mr Sexwale's younger brother, Johnny Sexwale, who said he was confident the commission would unearth his brother's body. His parents had been investigating his brother's disappearance since 1981.





NP GOVERNMENT OPTED FOR STABILITY UNIT

# FW ponders action Over hit squad 'lies'

ET 10/4/97 (252)

**PW DE KLERK** continues to deny knowledge of third force activities and may take legal action against those who accuse him of being a conspirator. **HENRY LUDSKI** reports.

**FORMER** president Mr F W de Klerk has at times responded with indignation, and even with outrage, to claims that he knew of the existence of a sinister "third force"

But like a recurring nightmare, these and other allegations of complicity by the previous National Party government in death squads and death camps continue to haunt him and his party

At a news conference in Cape Town on March 23 this year — the day his party made its second submission to the Truth and Reconciliation Commission — De Klerk again vehemently denied any knowledge of third force activities, saying "It is a lie that I knew. It's a lie that I was part of any conspiracy to do these terrible things to assassinate people."

The next day he threatened legal action against ANC Deputy Minister of Tourism Mr Peter Mokaba, who at a rally said De Klerk was a "bald-headed criminal dripping with the blood of innocent people."

He also responded angrily to statements by ANC Deputy Minister of Defence Mr Ronnie Kasrils who accused him of knowing

about hit squads "I'm no longer prepared to be insulted. Every time a claim was made I had it fully investigated," said De Klerk.

Saying that he had appointed the Goldstone Commission into political deaths himself, De Klerk pointed out that there had been very little evidence of a third force

If there had been abuses, it was because of "over-zealous" interpretation of the law of the time. However, he said that the actions of the security forces in the previous era also had to be seen in the context of a fight against a communist onslaught with the former Soviet Union fueling the revolutionary threat by liberation movements

A NP spokesman said last night that De Klerk was expected to consult with legal counsel on whether or not to carry through his threats of legal action against Mokaba and Kasrils

At the end of last year, De Klerk was reported as saying that he and the NP could not associate themselves with some of the actions that had been taken by the security forces "We cannot condone or align ourselves with some of the things which had been done. I continue to deny knowledge and par-

ticipation in decisions to commit violations of human rights"

Not all members of the previous security forces who fought or acted against the revolutionary forces were guilty of crimes. His party was also not prepared to accept that amnesty applications were required for all security operations against people who had threatened the lives of millions of civilians in a reckless manner

De Klerk has said that the only time there had been mention of a "third force" was when his cabinet had discussed the establishment of an "over-arching" crowd control formation, falling outside the control of the security forces

However, the NP cabinet had decided against this and had opted instead for the formation of the internal stability unit of the then South African Police

Yesterday, De Klerk issued copies of his written evidence to the TRC. In March, in which he confirmed that the previous government had in 1985 and 1986 considered the "possibility" of establishing a "third force"

"The proposal was that a third paramilitary force — separate from the SADF and the SAP — should be created to deal specifically with unrest and counter-insurgency operations." The "uninformed, over" force would have freed the SAP and SADF for other duties

counter-insurgency. West German Border Police, whose duties fell between normal police and army functions, and as such were considered third force functions

The committee recommended the creation of a "special capability" outside the SADF and SAP

It would be "specifically organised, equipped and trained to plan, co-ordinate and execute counter-revolutionary actions" to combat civil unrest and terrorism within the country. The committee was formed in February 1986 and the recommendation was adopted at about that time

## Third force report in PW book

**DAN SIMON**

**FORMER** state president Mr P W Botha's official biographer, Dr Daan Prinsloo, said he was given a document by Botha about the third force

The contents were used in Botha's as yet-unpublished biography, which is kept at the Institute for Contemporary Studies at the University of the Free State

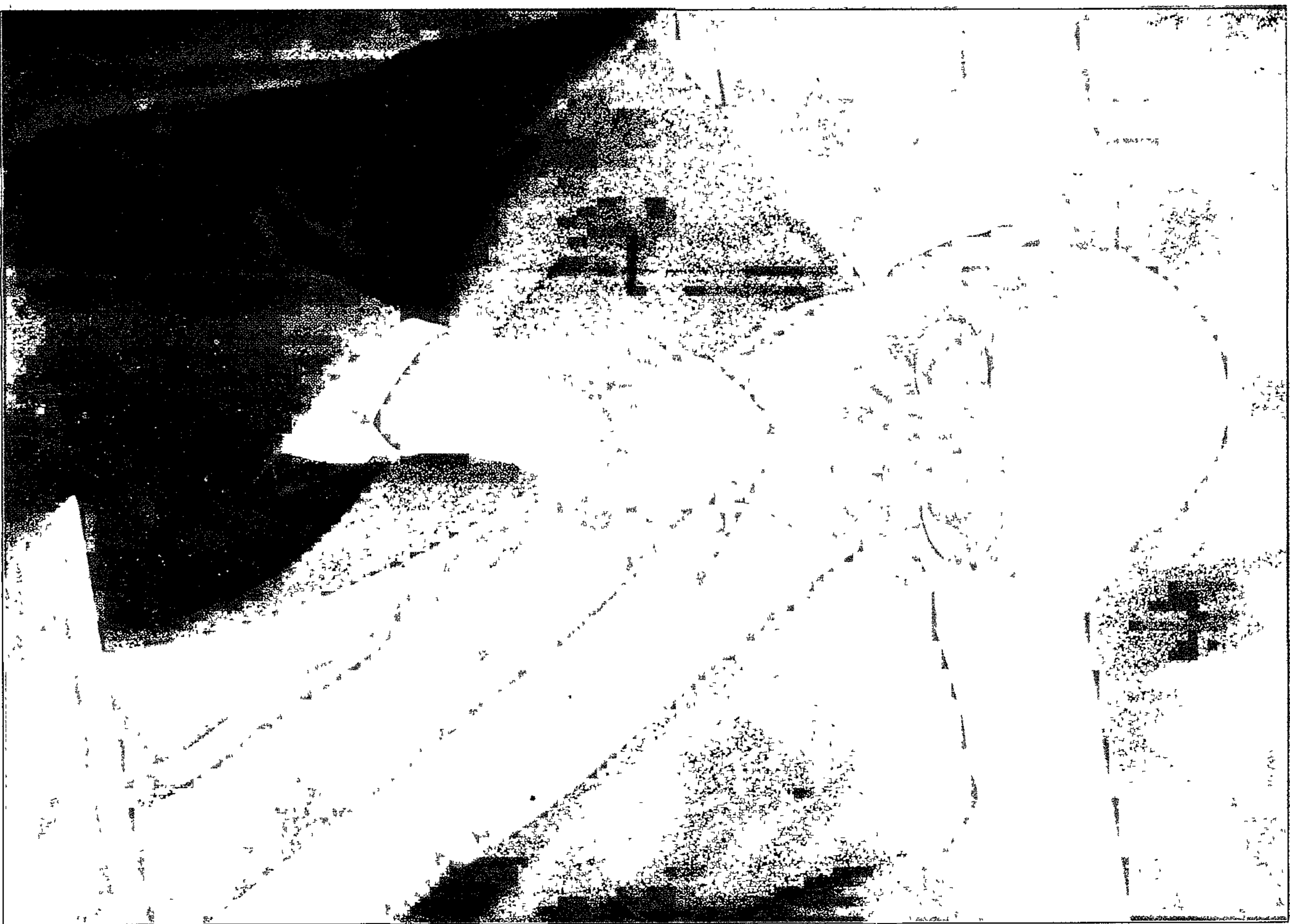
"I didn't have access to any State Security Council minutes but Botha did hand me a bundle of documents, which included a report from Adriaan Vlok to Botha

about a third force," Prinsloo said yesterday

The biography says a plan to set up a counter-revolutionary third force was "mooted" by Botha's government amid national turmoil and unrest in early 1986

The third force proposal to the government was contained in an interim report titled Derde Mag, which was prepared by a special committee of service chiefs under the chairmanship of then deputy minister of law and order Mr Adriaan Vlok

The name "third force" was adopted by Botha from the



**DENIAL:** "It is a lie that I knew. It is a lie that I was part of any conspiracy to do these terrible things to assassinate people," F W de Klerk has said.

# FW and Third Force: all will be revealed

TRC perusing minutes of 1986 cabinet and state security council meetings

*Sowetan 10/4/97 (252)*

By Rafiq Rohan  
Political Correspondent

**D**ESPITE HIS PLEAS of innocence and ignorance, former state president FW de Klerk's links with murderous Third Force elements might once and for all be settled in a document that the Truth and Reconciliation Commission is studying

The "top secret" document will prove whether De Klerk lied or is telling the truth about not knowing about the Third Force

It might also prove that practically every minister in the 1986 government knew about the Third Force and was party to establishing it

TRC chairman Archbishop Desmond Tutu confirmed yesterday that the commission was assessing the contents of minutes of the former state security council and the cabinet

Minutes of the 1986 cabinet meeting, chaired by then state president PW Botha and attended by then minister of education De Klerk, apparently gave carte blanche to security forces to set up the Third Force but not to damage the image of the security forces

Yesterday Tutu said that the document was being independently assessed to establish whether there were links between political decisions and gross violations of human rights during the apartheid era

He said "As with all submissions made to the commission by other organisations, we will examine the document carefully and establish how it can help us in our work

"The commission welcomes such submissions but we will not, as a matter of course, release details of submissions made by other organisations."

The document was uncovered by the Investigation Task Board led by Howard Varney, a Durban lawyer

Its task was to investigate Third Force killings in KwaZulu-Natal

Also present at the 1986 meeting were then minister of law and order Louis le Grange, minister of defence Magnus Malan, Minister of Justice Kobie Coetsee, minister of constitutional development Chris Heunis, deputy minister of law and order Adriaan Vlok, minister of Foreign Affairs Pik Botha and other senior security force personnel

TRC FINDS BONES ON REMOTE FARM

# Remains include those of Sexwale's brother

CT 11/4/97 (272)

**ALIWAL NORTH:** The ANC urged the former NP government to come clean on the disappearance of ANC activists after the remains of four cadres were found yesterday

**A**FTER two days of digging on a remote southern Free State farm, Truth and Reconciliation Commission (TRC) investigators exhumed yesterday what are believed to be the remains of four uMkhonto weSizwe operatives killed by police 16 years ago

The remains, thought to include those of Gauteng Premier Mr Tokyo Sexwale's brother, Mr Lesetja Sexwale, were removed from a shallow grave on a farm by Free State chief pathologist Professor Jan Botha

The four were killed by police in two separate shootouts in the former Transkei in August 1981

Investigators using a front-end loader and sniffer dogs interrupted their digging at midday when they uncovered what appeared to be a human femur and a rib cage. Digging resumed under Botha's supervision

The unmarked burial site at Goede Hope farm was pointed out to TRC investigators by an undertaker and an ex-police captain who the TRC said took part in the secret operation to dispose of the bodies

The commission's investigative head, Mr Dumisa Ntsebeza, said Captain Stoffel Botha and undertaker Mr Johan Kruger, a former police reservist, should seek amnesty for their involvement in concealing a crime

The farm, owned by a former police reservist, is situated on the Free State side of the Orange River, about 12km from the Eastern Cape town of Aliwal North

Yesterday's digging followed unsuccessful excavations on Wednesday

Ntsebeza told journalists the commission was investigating the possibility that Vlakplaas operatives were involved in two of the killings

"I have information that people

who are known to us as having been Vlakplaas operatives took part in the shooting of Sexwale's brother and a second cadre in Barkly East," Ntsebeza said

"There is a pattern kill them, don't take any prisoners, bury them and don't let any become heroes, and the revolution will be stemmed," he said

Lesetja Sexwale's brother Johnny and his sister Ms Madirle Koate watched as Botha began the delicate task of removing the bones from the hard-packed soil in the one-metre deep grave

"I am just glad that we have come to the end of a long search," Johnny Sexwale said

He had telephoned his mother with news of the discovery, he said

"She was trying to be strong, but she was relieved"

For his parents it was the end of a 16-year search for Lesetja. "Now they want to give him a decent burial," he said

His parents had been investigating his brother's disappearance since 1981, after hearing reports of the shootings. At the time Johnny Sexwale was in exile and Tokyo Sexwale was in prison on Robben Island

"My father went to the police and asked if it was true that they had killed his son. The police said nothing had happened"

Johnny said his brother was the commander of a special operations unit that was based in Transkei after infiltrating South Africa through Lesotho

The TRC has said its investigations have borne out the investigations carried out by Sexwale's fami-

ly and colleagues, indicating that two of the cadres died on August 7, 1981, and another two on August 13

Ntsebeza said the commission would not release the names of those cadres who had not been named until the bodies had been positively identified and the next-of-kin had been informed

The ANC has called on the former Nationalist Party government and its security forces to come clean about the disappearances of ANC activists, as well as their participation in creating train, taxi and black-on-black violence.

This followed yesterday's exhumation of the remains of four MK members on the Free State farm

ANC spokesman Mr Ronnie Mamoepa said the discovery of the bodies was only the tip of the iceberg of many other secret graves of anti-apartheid activists, including Mr Stanza Bopape and Mr Ego Mthebula

Mamoepa called on former NP government leaders to tell the TRC all they know about apartheid-era atrocities or state planning behind them

"The moral and political responsibility for these cold-

blooded murders and secret burials of ANC and anti-apartheid activists lies squarely on the shoulders of the NP regime," he said

"It is disheartening to note that NP leader F W de Klerk, instead of accepting political responsibility for these acts, continues to play hide and seek with the truth"

"If the NP is serious about nation-building and reconciliation, they will afford families of these victims an opportunity to bury them in honour and dignity by coming clean on all these issues" — Sapa

*I am just glad that we have come to the end of a long search — Johnny Sexwale, victim's brother*

# Victims to be paid substantial amounts

BY DAISY JONES

A figure of R3-billion for victims of the apartheid conflict was bandied about last week, but who qualifies for what, and how does a person qualify for reparation?

At a national conference last week the Reparation and Rehabilitation Committee (RRC) of the Truth and Reconciliation Commission (TRC) said money would be available for victims of human rights violations in the form of urgent interim relief, final reparation or symbolic reparation.

Urgent relief would not involve large sums of money, and money for symbolic reparation would go towards building memorials and the like, RRC committee member Dr Wendy Orr told The Star

Most of the money the RRC hopes to distribute to victims by means of the President's Fund will be for final reparation

So far, 9 000 people have made statements to the TRC, claiming to be victims of gross human rights violations. In order to qualify for urgent relief or final reparation people would have to be defined as victims in terms of the Promotion of National Unity and Reconciliation Act, a proposal presented by the RRC to the conference said



The committee recommended that those people who have made statements to the Human Rights Violation Committee or been referred for reparation by the Amnesty Committee, and thereafter qualified as victims, should initially be paid a lump sum - 20% of their final reparation package

The RRC has suggested that the victims then receive monthly payments for between three and five years. The RRC is determined that the amount paid out to victims should be "significant and substantial"

It will be up to the victims to decide how to spend their money.

The committee proposed that help be made available to recipients of the package, to assist in financial planning. But it said it wants to avoid being "paternalistic", and victims should be able to

choose how to spend their money - on shelter, education, medical treatment or other needs

How rich or poor a victim is now, and how much they suffered in the past, is irrelevant, according to the RRC's proposal

The RRC said testing victims' current financial means would not save the commission any money. The most cost-effective method of payment would be to pay every victim the same amount

And how much, or for how long a person suffered could not be fairly determined. For instance, the committee said favouring a person who had spent longer to recover from an assault could be interpreted as punishing victims who had not taken as long to recover for coping better

The RRC recommended that victims who had received money for winning civil suits against perpetrators of human rights should have the amount of their award deducted from their final reparation package - if they were applying for compensation for the same violation

The amount of the package will be finally determined only once the RRC's proposal has been passed by the commission and its recommendations have been accepted by parliament

Orr expects that victims will be

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able to draw the first instalment of their package from March next year, depending on the smoothness of the passing of the recommendation through parliament

Until then, people with urgent medical, educational, symbolic or material needs could qualify for urgent interim relief (UIR). The RRC believe 20% of the final number of victims will qualify for UIR.

The RRC said already the TRC had done things like buying a wheelchair for a handicapped person, and paying the registration fees of a university student. Victims who received UIR would not get any less compensation next year, the RRC stressed

The commission has divided beneficiaries of the reparation programme into the categories of primary and secondary victim. Secondary victims of gross human rights violations are defined as relatives and dependents of the primary victim.

The committee has also proposed that people who, for various reasons, will not have been able to access the TRC after it has completed its work, should be allowed to apply for compensation for a limited period

Orr said the investigative unit and the research department of the TRC cross-checked all potential victims' statements

## 4 SOUTH AFRICA

# Spy scandal stretches to IFP

Documents found in the wrecked car of Internal Security head Leonard Radu led to the identification of two KwaZulu-Natal warlords as alleged agents, reports **Ann Eveleth**

**T**HE spy scandal which erupted this week also implicates Inkatha Freedom Party warlord David Ntombela. The *Mail & Guardian* has established that the evidence which led the African National Congress to expel warlord and MPP Sifiso Nkabinde for being an alleged spy also identifies Ntombela, his IFP counterpart, as an alleged security police agent who reported to the same police "handlers" in the KwaZulu-Natal Midlands.

Ntombela on Thursday denied the allegations, saying he had "never worked for any police unit" and that he was being implicated because the ANC feared him as much as it feared Nkabinde.

Nkabinde has already denied the ANC's allegations.

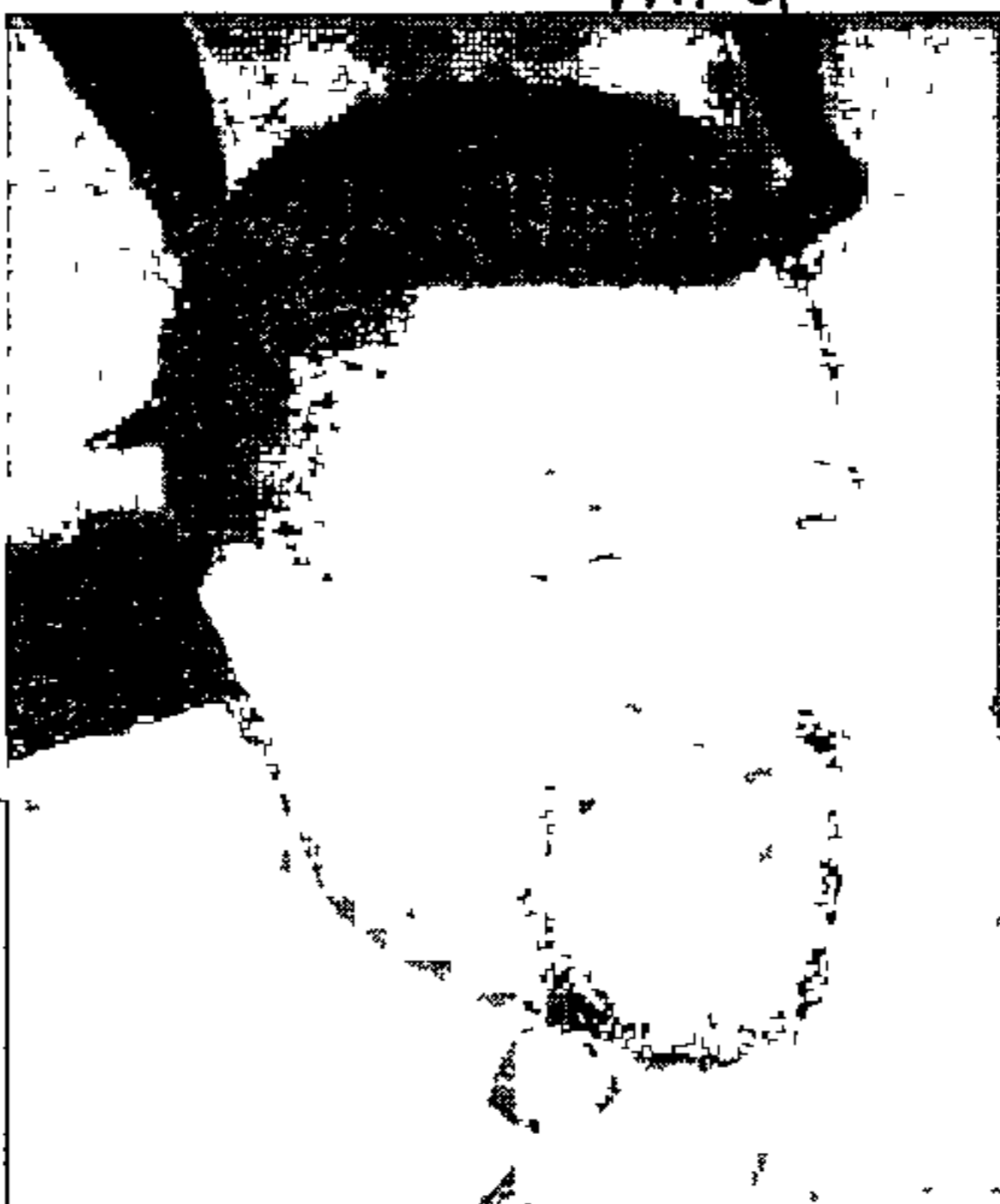
But the *M&G* has been told that Ntombela and Nkabinde were linked to the security police — and its successor, the Crime Intelligence Service (CIS) — in documents recovered from the wreckage of the fatal car crash in which Internal Security head Leonard Radu died last month. Radu was to fly to Durban to discuss the matter with colleagues when his car left the road.

The allegations against Ntombela come from three separate and reliable organisations, although none were prepared to comment publicly.

However, violence monitors in the province said there was evidence that Ntombela enjoyed close links with the police. The Truth and Reconciliation Commission has already heard testimony from two police constables about Ntombela's links with the Pietermaritzburg riot unit. Ntombela this week denied such links.

The allegations raise fresh questions about the role the "third force" played in fomenting political violence in the area. The two warlords also ingratiated themselves with the province's peace drive.

A University of Natal violence monitor, Mary de Haas, said there were allegations that Nkabinde and Ntombela had colluded to



**Denied spying: Sifiso Nkabinde**

PHOTOGRAPH COURTESY NATAL NEWSPAPERS

extend their control over the region while boosting their credibility among supporters. "Now they have both become big peacelords but are continuing to consolidate their territory," she said.

In announcing Nkabinde's expulsion, the ANC named seven security policemen alleged to have been his handlers, including the head of the Pietermaritzburg CIS, Superintendent Chris Moolman.

Moolman declined to identify his informers, but confirmed that all but one of the men named as handlers by the ANC had worked for him. Two of them — Sergeant Shane Morris and Captain Jerry Brooks — are still with the unit.

Brooks applied to the truth commission last December for amnesty in connection with the abduction of a person from Swaziland who was to become an askari. The man he abducted was ANC activist Dion Cele whose remains, along with those of two other activists, were dug up last month by truth commission investigators on a farm near Ntombela's Elandskop stronghold.

The allegations also revive questions about the unsolved October 1992 murder of a Mid-

lands ANC leader, Reggie Hadebe. He was the "right-hand man" of the late ANC stalwart Harry Gwala. Hadebe's death opened that position to Nkabinde in 1993.

The ANC report on Nkabinde's alleged spying says "A new era dawned of prolific reports from [Nkabinde], with 1993 recording a regular flow of information [to police]." Nkabinde had apparently joined the United Democratic Front just four years earlier.

Initial spying allegations against Nkabinde emerged after the 1994 death of an ANC Richmond youth leader, Mzwandile Mbongwa. Two of Nkabinde's self-defence unit members were convicted of the murder.

**M**onitors say the allegations against the two warlords have been strengthened by the police's apparent failure to pursue them for crimes they are alleged to have committed.

A University of Natal academic and former monitor, John Aitchison, said police appeared to have "allowed certain things to happen" in Richmond — the core of Nkabinde's support base — in order to boost his credibility.

These included a 1991 ambush of IFP attackers by ANC youths, who had apparently been tipped-off and were able to arm themselves after they stumbled on an Umkhonto weSizwe arms cache. The ambush led to the death of 23 IFP supporters, "yet there was silence from the police and the IFP", Aitchison said. "The incident didn't even appear in the police unrest report."

More recently, police are believed to have tipped off Nkabinde about two raids on his Dambuza stronghold, which is apparently flooded with illegal arms. Only six weapons were found in the raids.

Nkabinde has faced growing allegations about his involvement in violence, and a recent report by the South African National Defence Force linked him and Ntombela and several others to

paramilitary activity.

The recent furore about alleged informers in the ANC's ranks is understood to have presented the party with the opportunity it has long been seeking to cut Nkabinde loose. Nkabinde will address a rally in Pietermaritzburg on Saturday.

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**Allegations against the two warlords have been strengthened by the police's apparent failure to pursue them for crimes they are alleged to have committed**

# Way opened for death on demand

MTC 11-17/4/97

(252)

Draft legislation proposed by the law commission recommends legalising euthanasia, reports **Gustav Thiel**

**T**HE first steps have been taken toward legislation allowing South African doctors to end the lives of the terminally ill. A discussion document by the South African Law Commission, released to the *Mail & Guardian*, recommends new legislation allowing so-called passive euthanasia — withholding life support or life-saving treatment.

The commission, which is to release its recommendations next week, stresses that its 180-page report should only be regarded as a discussion document. The report is open to public submissions until June.

But medical experts say the report, which also includes a proposed draft Bill, is likely to lead to passive euthanasia being legalised.

Among the draft Bill's clauses is a provision allowing a mentally incompetent person to hand a third party their right to decide whether they should have euthanasia performed.

Commission secretary Willie Hengan said the topic of active euthanasia — where doctors act deliberately to end the life of a terminally ill patient — remained a delicate subject in South Africa, and so no concrete suggestions on it had been included in its proposed legislation. Active euthanasia is expected, however, to be part of the discussion process prior to new legislation.

Recent research by the medical profession found that one doctor in eight was already practising some form of euthanasia — a breach of current law and their own Hippocratic Oath.

The report imposes strong caveats on passive euthanasia.

Section 5 of the suggested draft Bill, states "Should a medical practitioner be requested by a patient to make an end to the patient's suffering, or to enable the patient to per-

sonally make an end to the patient's suffering by way of administering or providing some or other legal agent, the medical practitioner shall not give effect to this request unless he or she is convinced that the patient is suffering from a terminal illness, the patient is subject to extreme suffering, the patient is over the age of 18 years and mentally competent."

Other caveats include ensuring the patient has been adequately informed about their terminal illness, the prognosis of their condition and of any treatment or care available.

The patient's request has to be based on an "informed and well-considered decision", the commission adds. The patient must be given "the opportunity to re-evaluate his or her request", and he or she must persist in that request. Also, euthanasia must be "the only way for the patient to be released from his or her suffering".

The doctor must also consult with another doctor who knows the patient's medical history before making the decision.

# Cash no balm to gross human rights abuse victims

Rehana Rossouw

**A**Ll victims of gross human rights abuse who give their stories to the Truth and Reconciliation Commission will be offered the same cash compensation, irrespective of their individual suffering or financial status.

The commission's Reparation and Reconciliation Committee said this week that every victim would be given an equal share of the money available, regardless of the number of times they suffered a gross violation of human rights. Means testing had been ruled out as too expensive.

The committee also noted that most of the victims heard so far had wanted shelter, medical assistance and an investigation of their complaints. Just 100 of the 9 000 victims identified so far wanted cash.

"For most victims, money alone is not enough," said committee member Piet Meiring. "For many people conciliation does not come at a price."

"We cannot attach a value to the life of a husband, wife, son or daughter. We cannot put a price on the length or intensity of a torture. Whatever money is available should belong



Reparation: Pieter Meiring

PHOTOGRAPH KENNETH MULLER

to all the victims equally. A politician on the gravy train would receive the same amount as an unemployed mother whose only breadwinner has been killed.

"It is my personal hope that those who do not need the money will return it for redistribution

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(252)

to those who are more needy." One reported estimate for the total reparation bill is R3-billion, which would pay for financial and symbolic reparation for the 30 000 victims the commission hopes to have on its books by the time its mandate expires in December.

Most of the funds will come from government, via the President's Fund. Foreign governments have already made donations and further funds could be raised abroad, and from the South African public and business community.

Those victims qualifying for urgent reparation are expected to receive help days after the commission hands its final report to President Nelson Mandela next March.

The reparation committee is also formulating a policy of symbolic reparation, holding national and regional workshops as a first step.

There is enthusiasm for the erection of monuments or memorials, museums, archives and peace parks. A structure similar to the Vietnam memorial in Washington has been mooted.

Many also support the call for a national day of remembrance and reconciliation, further using an existing public holiday or creating a new one.

# Justice needs a flag

By BENISON MAKELE

(292) CP 13/4/97

SHINING in a corner Transkei court  
reminded me of the old  
courts in colonial times.

Take for example the Tolomegi  
tribunal court. There is no  
roof over the building, the police  
station which is just opposite the  
court, nor on the court premises  
either.

In one of the court the magistrate  
is sitting in a case involving two  
youths aged between 12 and 13  
accused of armed robbery. They had  
allegedly taken money and a pistol  
from a home in Isolo, violence-  
ridden country side.

In the same court a 11-year-  
old boy giving evidence for the state  
against his young peer.

The court was filled to capacity by  
a number of tribal men and  
tribe women carrying an assortment  
of umbrellas, knodhens and ticks.

There is no court of arms behind  
the presiding magistrate only a peck-  
ing and a mud wall with a big hole  
in the ceiling to further complement  
the broken down structure.

On the floor old wooden tiles were  
peeling off and in the corner there

was an ancient fireplace reminiscent  
of colonial times.

In fact the court building was  
most likely built during the col-  
onial era and neither the apartheid  
government nor their successor  
African National Administration had ever  
considered to refurbish the building.

One wonders what sort of justice  
is rendered in such an environment  
over all these bitter years.

On being approached for comment  
for a term of the Public Works, Luruko  
Jacob told me the court and the po-  
lice station "did not fall" within the  
jurisdiction of the provincial govern-  
ment but with the "national Public  
Works Ministry".

Then Wenzian Khurwayo, of the  
above-mentioned ministry, told me  
they had not as yet set down to  
prioritise on whether to leave build-  
ing or to renovate existing struc-  
ture.

He added his ministry had a  
"maintenance backlog" with regard  
to courts and police stations because  
of "a very low maintenance budget".

But whoever is responsible for the  
upkeep of the court, it is clear that  
justice in this neck of the woods  
would get a most needed injection  
- if only someone provided a lick of  
paint, and a flag or two.



# Report backs the right to die

## Law commission puts euthanasia on Parliament's agenda

CARMEL RICKARD

ST 13/14/97

(252)

TERMINALLY ill patients will have the legal right to die with dignity, and even to request mercy killing to end unbearable suffering, if legislation proposed by the South African Law Commission is approved by Parliament

The proposals, published by the commission for public comment, would allow life-support machines to be switched off, give legal backing to terminally ill patients who wish to refuse further treatment; and support doctors who give increased doses of painkillers to dying patients to make them more comfortable, even if death is hastened by doing so

Most controversially, the draft law also lays down conditions under which a doctor could agree to assist a terminally ill patient end his or her life

If accepted, these proposals will put South Africa at the forefront of the international debate on euthanasia, a highly emotive and controversial subject in many countries

The proposals form part of a report on euthanasia and the rights of the terminally ill, issued by the commission on Friday

This report marks the first time that the South African public has been asked its views on the many issues raised by euthanasia

The investigation was sparked by the Living Will Society, which advocates that people sign a document when they are healthy and mentally capable, stating that if they become terminally ill, they do not want to be kept artificially alive

Although many people have signed such documents, the legal status of these is not clear and the society wants legislation to remove any doubt

The commission's report marks a radical departure on the sensitive subject of death and dying, and also reveals a new approach by the highly influential body, reflecting the role it sees for itself in the new South Africa

The deputy head of the commission, Mr Justice Pierre Olivier, said the commission asked him to write the report in such a way that it could be widely used by the public

The commission hoped there would be vigorous discussion on the subject, and he invited groups interested in organising debates and workshops, to contact him through the commission in Pretoria

He said the commission realised it was a highly controversial subject and that the report tried to include all possible arguments for and against passive euthanasia— withholding treatment or artificial life-support—and active euthanasia, in which patients may end their lives by, for example, lethal injection

Moral, ethical and religious views had been canvassed and

Many people whose relatives have died after long and painful illnesses have welcomed the report's proposals for active and passive euthanasia, saying that the needs and rights of the terminally ill must be considered

Brigid Raw, director of the Living Will Society, said she welcomed the proposal that a "living will" should have legal weight

She said her organisation would be one of many taking part in debates and discussions on whether to support the suggestion that active euthanasia should also be legalised and if so, under what conditions.

## TRC subpoenas Magoo's Bar bombers

*Star 14/4/97*  
Durban - Magoo's Bar bombers Robert McBride and Greta Appelgren have been subpoenaed by the Truth Commission to reveal the names of the commanders who gave the orders for the bombing

The subpoenas are the first to be issued to senior ANC members by the TRC

Despite receiving indemnity during the negotiation process in 1992, McBride has now also applied for amnesty ANC spokesman Mathews Phosa said last night McBride had been advised to apply for amnesty to prevent the possibility of civil claims being brought against him

The TRC announced yesterday that McBride and Appelgren (as she was then known) would be entitled to legal representation during their questioning, which is due to begin next Monday

Meanwhile, one of the two sisters who appeared before the TRC last year in connection with their sister's death at Magoo's Bar, Sharon Welgemoed, said yesterday justice had "still not been done"

She hoped that the hearing would fi-

*(252)*  
nally reveal the truth behind her sister's murder in 1985 She said there were still conflicting stories as to whether McBride had acted alone - as he testified at his trial - or was following orders from senior ANC commanders

Welgemoed said she would apply to the TRC to be present during McBride's questioning However, it appears the TRC will hold the hearings in camera and will only release details as it sees fit

Attempts to contact McBride for comment yesterday were unsuccessful

Phosa said last night the ANC opposed the subpoena He said information was only issued on a "need to know" basis in Umkhonto weSizwe and McBride might make "a mistake" if asked to give information on ANC command structure and the names of who ordered the bombing

The ANC had accepted collective responsibility for the bombing and its submission to the TRC would include details of command structures and the bombing - Own Correspondent

# Mufamadi backs TRC spy probe

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POLITICAL STAFF

ARG 15/4/97

Pretoria - Safety and Security Minister Sydney Mufamadi says he has ordered police to cooperate fully with the Truth and Reconciliation Commission in its investigation of apartheid informers.

Mr Mufamadi told a press conference in Pretoria yesterday that he had met Commissioner George Fivaz to convey his personal support for any probe into spies of the former government.

Mr Mufamadi discussed his arrival at the crash site where internal security commissioner Leonard Radu was killed in Johannesburg. A report in a daily newspaper had suggested he had taken a list of informers from the dead man's briefcase.

He said he had driven past the scene of the accident en route to the airport and had only returned there when his office informed him Mr Radu was involved.

He said a traffic officer at the scene had handed him Mr Radu's personal belongings.

Two of Mr Radu's deputies had asked for his belongings. "My secretary went with them to the boot of my car and compiled an inventory of all the items and handed them over."

# Barnard 'bragged of shooting Webster'

AKG 15/4/97

JOHN YELD  
ON THE TRUTH COMMISSION

(252)

A former Umkhonto we Sizwe member has told the Truth Commission that Civil Co-operation Bureau operative Ferdi Barnard bragged to him that he had shot Witwatersrand University academic David Webster.

Dr Webster was gunned down at his home in Troyeville, Johannesburg, in 1989.

The former MK member, Kevin John Trytsman, is one of eight people granted amnesty by the Truth Commission today.

They were given amnesty for offences not defined in the Truth Commission Act as being gross violations of human rights - killing, abduction, torture and severe ill-treatment. Their applications were therefore not dealt with at public hearings.

Trytsman was granted amnesty for illegal possession of arms and ammunition, vehicle theft and perjury. He is serving a five-year sentence for stealing a car which he said he had stored for MK.

The perjury charge related to his evidence to the Webster inquest. He said that while he was awaiting trial on other charges, he was approached by Barnard and a certain Eugene Reilly regarding information about his MK commander.

"To a certain extent I became friendly with Ferdi Barnard."

He had been called to testify at the inquest on Dr Webster, where he had committed perjury by not disclosing what he knew about the incident.

"Approximately two weeks after the murder Ferdi came to visit me. Ferdi bragged to me and told me that he had in fact shot Webster. He described how Webster bounced against the wall of the house before hitting the ground."

"He also told me that Webster's fiancée (Maggie Friedman) was standing close to him when he got shot."

The other seven people whose successful amnesty applications were announced today include members or supporters of the African National Congress, United Democratic Front, End Conscription Campaign and the Afrikaner Weerstandsbeweging.

# for rand/dollar futures trading

nts cover market "If there is enough liquidity, it will give us an additional tool to hedge forward commitments," he said.

Rand Merchant Bank head of derivatives Reinier Lombard said he hoped the Bank would lift the limitation on residents. "This would be an obvious way of allowing individuals to obtain exposure to foreign currency movements, rather than just letting them keep their forex at low interest rates," he said. However, he believed the Bank feared the spot and forward rand markets could be severely affected by speculative plays against the rand in the futures market.

"The contract does not have to be a major success — as long as it is there and grows over time," Lombard said. He agreed the contract would aid the Bank's efforts to get out of the forward market.

Absa chief rand trader Audrey Walke said the difference between the way in which the local contract was to be quoted — rands to the dollar — and the way in which the Chicago contract was quoted — dollars to the rand — was a problem; a standardised contract was needed.

Most traders pointed out that there had never been a hugely successful currency futures market in SA and Europe's

time zone, in contrast with the US.

Safex said the Bank had agreed that trading in rand futures should evolve in line with the broader process of relaxing exchange controls, and the restrictions would be gradually lifted until the products were traded freely.

The exchange said the underlying instrument on the futures will be the spot rand/dollar exchange rate, quoted to four decimal places, and contracts will be valued at \$100 000 each. Expiry dates would follow the same cycle as equity contracts — March, June, September and December — with settlement in rands.

## Shell House guards instructed to use 'maximum restraint'

Susan Russell

SECURITY guards at the African National Congress (ANC) Shell House headquarters were instructed to use "maximum restraint" against possible attacks by armed Julius and Inkatha Freedom Party (IFP) marchers, Deputy Intelligence Minister Joe Nhlamhla told an inquest.

Nhlamhla, who was head of ANC security at the time, was testifying in the Johannesburg High Court yesterday at the inquest to events on March 28 1994 when 19 people died in the city centre after the IFP-organised march and mass meeting to launch an anti-election campaign turned violent.

Nhlamhla said he did not know how many guards were deployed in Shell House the morning of the march, but knew

there were "a few inside as well as outside the premises." He was not informed how many would be armed, but on his arrival early on March 28 saw "two or three" armed with shotguns in the foyer.

"The only possible way of securing that building was by the police cordoning it off," he maintained. "What happened (the shootings) was the last resort, regrettably I still hold the view that if there was intervention (from the police) at that moment, we would not be here."

Nhlamhla said that many of the ANC's leadership, including himself, had telephoned the police that morning appealing in vain for assistance in defending the building from marchers.

Nhlamhla said he was not able to say whether or not the shooting came from

Shell House, although Brig Zirk Gouws has said in a statement that the shots clearly came from the building.

Under repeated cross-examination by counsel for the IFP and families of the victims, Nhlamhla conceded that after the shootings he had asked senior ANC security personnel whether any Shell House personnel had fired. He was not able to furnish the court with names of those involved, however, saying that statements by these people had been given to the ANC's lawyers.

Nhlamhla also said the ANC had held no internal inquiry of its own. "We had just started the process of an internal inquiry when we were told that the matter was in the hands of the judiciary and the Goldstone commission and that the law should take its course," he said.

## AWB member among eight granted amnesty

Stephen Lauder

2522

20 16/4/97

THE truth commission has granted amnesty to eight applicants, seven of whom claimed to be associated with organisations opposed to the previous government and one a member of the Afrikaner Weerstandsbeweging (AWB) involved in bombings designed to derail SA's first democratic elections.

Sandton resident Kevin Trytsman told the commission he had stored an AK-47, ammunition and a stolen vehicle for the African National Congress (ANC) military wing Umkhonto we Sizwe.

Trytsman claimed that while awaiting trial after his arrest in 1990 he was visited by Civil Co-operation Bureau (CCB) operatives Ferdi Barnard and Eugene Riley. Barnard had boasted about killing Witwatersrand University academic David Webster, and claimed Riley drove the getaway car.

In Pretoria, Transvaal attorney-general Jan D'Oliviera said Trytsman's claims were an "interesting development". The investigation into Webster's murder was not yet over.

Also granted amnesty was former End Conscription Campaign activist Saul Batzofin, who served 18 months in prison for refusing to do military service. Abel Bhila, who was sentenced to six years in prison for possession of a handgrenade, and said he was an MK member, was granted amnesty, as was Reginald Jameson, jailed for a year in 1976 on arson and public violence charges after student unrest in Bonteheuvel. Three other men who told the commission they were ANC supporters — Mncedisi Klaas, Duke Moliwanyane and Alison Motsopi — were given amnesty on a variety of weapons charges.

Albertus van der Merwe said he had belonged to an AWB explosives unit which carried out attacks in November and December 1993, and was jailed on sabotage charges.



# Medical council pledges leniency

JOHN YELD  
ON THE TRUTH COMMISSION

(98) (252)

ARLT 16/4/97

**Doctors and health workers who admit human rights abuses during the apartheid era will enjoy mitigation of sentence during disciplinary hearings by the Interim National Medical and Dental Council, as long as the Truth Commission is still in office.**

This agreement to co-operate with the TRC, whose term expires on December 14, was reached during the council's two-day meeting this week.

The council also endorsed a decision by its executive to present a submission at the commission's health sector hearings in June. At the TRC's human rights violations hearings during the past year, several victims alleged that doctors – and especially

district surgeons – and other health sector workers had been involved in gross human rights abuses.

This included declaring detainees "fit for torture" by police.

The medical council also discussed the issue of "amnesty" for doctors. Commissioner Wendy Orr said amnesty granted in terms of the commission's founding act did not extend to amnesty from professional discipline for health professionals.

"This could deter health professionals ... from approaching the Truth Commission, as they would still have to face Interim National Medical and Dental Council disciplinary action," Dr Orr explained.

The council had therefore concluded that "full and voluntary disclosure" would be taken into account as a strong mitigating factor in sentencing.



ECNA

Flashback: pathologist Jan Botha at the Aliwal North farm where the remains of ANC cadres were found

# There may be more 'killing fields' - TRC

ARC 17/4/97 (252)

**JOHN YELD**  
ON THE TRUTH COMMISSION

Truth Commission investigators have information that more farms in remote areas of South Africa were used as "killing fields" by apartheid security forces.

Truth Commissioner Dumisa Ntsebeza, who heads the commission's investigative unit, said they had been told that farms in the Eastern Cape, at Phalaborwa in Northern Province and at Ladybrand in the Free State had also been used to dispose of bodies of activists abducted by security forces during the apartheid era.

They are now trying to find out whether such practices might have been a general policy of the South African security forces.

Mr Ntsebeza's disclosure follows the commission's recent exhumation of the remains of four African National Congress guerrillas - thought to include those of Gauteng Premier Tokyo Sexwale's brother Lesetja - from a trench in a remote area about 12km from Aliwal North in the northern Eastern Cape.

Before that the commission exhumed the remains of four political activists in the KwaZulu Natal midlands after burial sites on farms previously leased by the security branch in Durban and Maritzburg were pointed out by former security police officers applying for amnesty.

The commission is still investigating claims that the bodies of an unspecified number of anti-apartheid activists were buried by former security branch opera-

tives in a gorge "somewhere" on the KwaZulu Natal south coast. This follows information from an informer, believed to have been an Askari (turned ANC guerrilla), who told the commission he had seen "quite a number" of bodies of activists on the back of a truck on a Vlakplaas-like farm in KwaZulu-Natal, a commission spokesman said.

Last week Transport Minister Mac Maharaj said he believed the discovery of the Aliwal North remains was "the tip of the iceberg".

He said thousands of former freedom fighters had been taken from their families by the apartheid security forces.

"People were kidnapped secretly from Swaziland and others arrested in this country were murdered brutally and buried in secret with no burial certificate.

"Today we have to confront that reality. Another four bodies have been dug up in the Free State Province and I personally believe this is the tip of the iceberg."

In a radio interview today, Mr Ntsebeza said he was frightened by the discovery that activists had been killed and buried in remote areas. The farms he named are mostly close to the borders of South Africa's neighbours. He said that before the commission had started its work he had anticipated a "worst case" scenario in which the bodies of a few activists may have been disposed of in disused mine shafts, and that he would never have believed he would have to disinter bones on remote farms. Because of this exhumations had not been budgeted for

# IFP jeopardising reparation for abuse victims, warns TRC

ARG 18/4/97

(252)

JOHN YELD  
ON THE TRUTH COMMISSION

The Truth Commission has announced dates for the second submission by political parties, and has warned that the Inkatha Freedom Party is jeopardising its members' chances of getting reparation as victims of gross human rights abuses.

The parties all made initial submissions to the commission last year and have been asked to attend a second hearing to answer questions arising from them. At a press conference after a full commission meeting yesterday, deputy-chairman Alex Boraine announced that the African National Congress had asked for one-and-a-half days for its new submission, and would be heard on May 12 and 13. The ANC had not yet responded to a series of follow-up questions after its first submission.

The National Party, which would

be heard for a full day on May 14, had already released its responses to the commission's supplementary questions, and would be asked further questions on the basis of those responses, Dr Boraine said.

The Freedom Front would be heard on May 16.

The Inkatha Freedom Party had not confirmed the commission's suggestion of May 16 for its follow-up hearing and had also not yet replied to the supplementary questions.

Commission chairman Desmond Tutu said the commission was worried about the slow pace of victims' statements from KwaZulu Natal.

"We would say, please, for their sakes, enable those who have been victims to come forward so that they can qualify for reparation. All people should know that this commission is a commission for all South Africans," said Archbishop Tutu.

Dr Boraine also said that he had been in touch recently with the head of

the former South African Defence Force, George Meiring, who had told him the SADF's second submission – the first was flatly rejected by the commission – was "almost complete".

But because the commission had then sent a list of supplementary questions flowing from the top-secret Steyn Report, General Meiring had asked for more time.

Denying a suggestion that the Truth Commission was being "soft" on the military, while cracking down on the police, Dr Boraine said several former Civil Co-operation Bureau operatives had applied for amnesty and that Section 29 subpoenas on them had therefore been held back.

Truth Commissioner Dumisa Ntsebeza, who heads the commission's investigative unit, said they would focus on the military, and that this would begin with controversial former SADF surgeon Wouter Basson, who had been linked to South Africa's secret chemical warfare programme.

## Policeman shot dead as sergeant goes berserk after family row

JOHAN SCHROENEN  
CRIME CORRESPONDENT

A police sergeant carrying his three-year-old child went on a shooting spree in Bishop Lavis, killing a fellow policeman and wounding three people.

Donovan Kennedy, 23, of the Bishop Lavis police was fatally wounded in the head and neck when he and a colleague went to investigate a shooting in Green Street yesterday.

The mother of the sergeant's common-law wife, a neighbour and the

other policeman were injured.

A police spokesman said the drama began about 6pm yesterday at a house in Green Street where the Khayelitsha-based sergeant was involved in a heated argument with his common-law wife and her family.

The sergeant grabbed his child, pulled out a gun and allegedly shot Valerie Davids, his common-law wife's mother, in the leg. A neighbour, Glasgow Petersen, heard the commotion from his house across the road and was wounded in the arm when he went to help.

Another neighbour ran to the police station and raised the alarm. First to reach the scene were Constable Kennedy and police sergeant Graham du Plessis. When they got out of their vehicle they came under fire.

Constable Kennedy was shot in the head and neck and died minutes later in N1 City Hospital, while Sergeant Du Plessis was hit in the arm.

A bystander disarmed the sergeant and took the child away.

Another police patrol reached the scene minutes later and arrested the sergeant.

## Cop's vital Shell House tape conversations erased

ARG 18/4/97

(253)

ARGUS CORRESPONDENT

Johannesburg – Despite its importance, a recording was erased containing conversations between a senior police liaison officer and African National Congress and Inkatha members on the day 20 000 IFP supporters marched on Shell House.

Superintendent Chris Wilken told

the Johannesburg High Court today conversations with Themba Khoza and Humphrey Ndlovu of the IFP and Joe Nhlanhla and Gary Kruser of the ANC had been taped.

Although the recording had been taped over, there was a transcript of the conversations, which he described as "99.9 percent accurate".

Quizzed by George Bizos SC, for the ANC, Superintendent Wilken conceded

the recordings would have shown what action the ANC had wanted taken as well as what IFP officials believed had happened that day.

His conversation with Mr Nhlanhla had involved a request for police reinforcements to ANC headquarters at Shell House. He discussed with Mr Ndlovu whether the march would be peaceful and whether the IFP would be providing marshals.



# EX-security force raiders

## could face trial outside SA

### There are no guarantees, TRC tells PW

JOHN YELD  
ON THE TRUTH COMMISSION

The Truth Commission has told former president P W Botha it cannot guarantee that apartheid-era security forces who conducted cross-border raids will not be extradited to face trial in neighbouring countries.

This was revealed yesterday by commission chairman Desmond Tutu at a media briefing after a full meeting of the commission. The commission came under strong pressure last year to subpoena Mr Botha to testify after former security policemen, including

former commissioner Johan van der Merwe, alleged during an amnesty hearing that Mr Botha had personally ordered the bombing of Kholiso House, headquarters of the SA Council of Churches, in Johannesburg in 1988.

Former Vlakplaas commander and convicted murderer Eugene de Kock testified during his trial last year that Mr Botha had been involved in human rights abuses.

Archbishop Tutu met Mr Botha in George in November to discuss his co-operation with the commission. Afterwards, Mr Botha agreed to respond to a series of written questions.

He also issued a statement at

AG 18/4/97

the time in which he denied any involvement in the Kholiso House blast and said he was not guilty of any deed for which he should seek amnesty or apologise.

Archbishop Tutu told the briefing he had written to Mr Botha more than two weeks ago because he had not yet replied to the questions.

"I have since met his attorney who came raising certain problems which we hope have been dealt with satisfactorily."

In response to a question, commission deputy chairman Alex Boraine said he was not aware of any discussions between the commission and lawyers acting for for-

(252)

mer defence minister Magnus Malan.

Dr Boraine revealed he had been in contact recently with SA National Defence Force chief Georg Meiring about the second submission by the former SA Defence Force.

Archbishop Tutu said he and Mr Botha's attorney had discussed the question of whether the commission could give guarantees that former South African security force members involved in cross-border raids during the apartheid era would not be extradited to neighbouring countries to face trial. Archbishop Tutu said he had replied: "No."

offices in Mitchell's Plain, Soweto,

REPORT

# Hundreds of ANC cadres make amnesty bids

JOHN YELD  
ON THE TRUTH COMMISSION

ARLT 18/4/97

(252)  
Several hundred amnesty applications from African National Congress members have already been submitted to the Truth Commission and substantially more will be sent before the cut-off date of May 10.

They include a "significant" number from the ANC leadership, including present and past members of its national executive and members of the former United Democratic Front and the ANC-linked self-defence units

The applicants may even include President Mandela, although the ANC today

remained tight-lipped about this.

In its second "very lengthy" submission to the commission, scheduled to be presented at a public hearing on May 12 and 13, the ANC will reveal information that includes an "operational report" outlining the command structures of its military wing Umkhonto we Sizwe (MK), details of deaths in exile, executions and disciplinary tribunals

It will also include a report by Constitutional Court judge Albie Sachs into the death of Thami Zulu, one-time MK commander who died of poisoning in Lusaka in 1989, less than a week after being released from "confinement" by ANC security staff

This was confirmed today after a meet-

ing between an ANC delegation led by Mpumalanga premier Mathews Phosa and a Truth Commission group headed by chairman Desmond Tutu

At the Truth Commission press conference, deputy-chairman Alex Boraine confirmed that Monday's closed hearing - to which Robert McBride was subpoenaed to give details about the Magoo's Bar bombing in Durban - would go ahead

Dr Boraine said subpoenas for other ANC leaders to appear at "Section 29" hearings were in the process of being prepared

Mr Phosa confirmed the ANC would oppose the amnesty applications by Clive Derby-Lewis and Janusz Waluz, who killed SA Communist Party leader Chris Ham

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## Justice Dept plan to deal with racism

CT 18/4/97

JOHANNESBURG: The South African Human Rights Commission was working with the Justice Department to develop anti-discrimination legislation, the HRC said yesterday. (252)

The commission in August last year submitted proposals to the government on how racism could be addressed.

"As a commission we deal regularly with complaints of racism, especially in schools and other public places," the HRC said in a statement.

It said it was worrying that three years after South Africa's first democratic election, and after President Nelson Mandela's "persistent" message on national unity, racism continued to plague South African society.

Some people had not accepted the reality of South Africa's transformation.

"It may be true that there is a struggle for scarce resources and negative assertiveness about power or fears about cultural, language or religious domination.

"None of these justify a resort to racism in a new South Africa," the HRC said — Sapa.

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## TRC hopes to offer families counselling

By ROBERT BRAND

The Truth and Reconciliation Commission is investigating ways of supporting the families of people who committed serious human-rights violations during the apartheid era

Commission chairman Archbishop Desmond Tutu said yesterday the families of perpetrators had been identified as victims in the reparation committee's proposals for assistance for victims

"The committee is busy working out proposals to help care for

such persons. We are looking at counselling. I am thrilled that we can begin to do something."

Commissioner Wendy Orr, of the reparations committee, said families were "very often secondary victims in the process. Often they did not know their husbands or brothers were committing these atrocities, and it is very traumatic when they find out. We would be neglecting our duty if we did not support them."

Tutu said "The commission is concerned about all South Africans"

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Star - 18/4/97

JUDICIAL INVESTIGATIVE UNIT AND TRIBUNAL

**JUDGES TO FIGHT CORRUPTION**

(252) PM 18/4/97

**President Nelson** Mandela has established by proclamation the country's first special investigative unit and tribunal equipped with considerable powers to root out government corruption and recover misappropriated State assets, particularly under former homeland governments

The unit, headed by Judge Willem Heath, will begin work by pursuing cases involving R375m of public money uncovered by the Heath Commission, which was established in June 1995 to investigate maladministration in the Eastern Cape

It has far wider powers than an ordinary commission, which is normally limited to making recommendations that may or may not result in prosecutions or civil action

It can make orders, administer oaths, enter and search any premises in which anything connected with an investigation is expected to be found and attach such an item, with or without a warrant, depending on the urgency. It must submit a report to the President and parliament twice a year

**SPECIAL TRIBUNAL**

Judge Gerhardus Kotze is acting president of the special tribunal which will try civil matters emanating from the unit's investigations. It will have the power to make orders, issue interdicts and warrants of arrest, and subpoena anyone to appear before it or provide documentation

The investigative unit and the tribunal have national jurisdiction and are independent of each other. They are similar to the European courts of administration but will specialise in the recovery of State assets

Judge Heath says there will be close co-operation between the unit and the Office for Serious Economic Offences (OSEO), the Public Protector and the SA Police Service. Any evidence of criminality uncovered in the course of investigations must be referred to the Attorney-General

The Heath Commission had saved the government about R8bn in potential losses by April 1996 when it suspended operations after former Ciskei ruler Brigadier Oupa Gqozo brought a Supreme Court action contesting the

Eastern Cape premier's authority to appoint the commission

The Special Investigative Units and Tribunals Bill was being drafted at the time. But, says Judge Heath, the Gqozo application was "the final straw". In November, parliament passed legislation enabling the President to establish special investigative units and tribunals by proclamation

Gqozo has been on trial for the alleged unlawful purchase of three farms worth about R2m. The trial was also interrupted by Gqozo's court application. Discussions are now under way between the parties to determine the future of the case

Judge Heath says the unit is daily uncovering cases of fraud and corruption involving Eastern Cape government officials. The bulk of new cases stem from the Eastern Cape administration after 1994. But there are still unexamined files from the pre-1994 era. The judge estimates it will take two years just to clear the backlog of existing cases

The Heath Commission uncovered 620 cases involving corruption and the misappropriation of State property or funds in the Transkei, of which 171 are ready for trial. In the Ciskei, 845 cases have been uncovered, of which 342 are ready for trial

Investigations are still under way into allegations of irregularities concerning 21 property transactions involving former Transkei rulers George and Kaiser Matanzima

On April 21 an inquiry will be held into the alleged overcharging of interest by the Bank of Transkei on a former Transkei government overdraft of R700m

It is alleged the bank charged 33% interest when the maximum legal rate was 29%

The unit will also investigate, among other things, unlawful property transactions involving coastal homes in the former Transkei and Ciskei amounting to R29m, the misappropriation of farms and residential properties in the Transkei amounting to R1,9m, cheque fraud and theft amounting to R24m

Several cases of fraud running into millions of rand and involving four Eastern Cape feeding schemes, including one implemented by President Nelson Mandela, are also being investigated

The unit has a staff of 28. If the work load increases, regional offices may be opened in Cape Town and Pretoria. *Claire Bisseker*

*Tomorrow's presentation*

*could possibly be*

*one of the great moments*

*of your life*

*But there still are*

*a few loose ends*

*Quite a few You need to put in a*

*least another four hours*

*of preparation*

*in absolute peace & quiet,*

*you'll need to call head office*

*in New York*

*a few times,*

*you'd love a gourmet dinner,*

*and you just have to get a*

*good night's sleep*

*Oh yes, one other*

*little thing*

*You still need to get there*

HUSSEY & TOWNSEND 3468/51

# Assisted suicide could turn SA 'hospitals into execution chambers'

(252) ARG 19/4/97

ADELE BAILETA  
STAFF REPORTER

For decades doctors have battled with the moral, religious and legal dilemma of whether they could cause the death of a terminally ill patient while - at the same time - having being trained to save lives, no matter what.

This is the crux of a long standing legal and medical debate on euthanasia which has been catapulted into the spotlight with the publication last week of a report by the SA Law Commission (Salc) which asks for comments on legalising euthanasia.

Some doctors believe that even if euthanasia were legalised in South Africa, the primary health care system would not be able to sustain such legislation and hence the possibility of abuse.

Others believe that if a person has a terminal illness, such as cancer, it is the moral obligation of the medical fraternity to relieve that person's distress, if they so wish

At present, South African law does not give doctors the right to end the lives of patients who are suffering unbearably, even if its clear that death is inevitable

The intentional termination of such a patient's life, called "active euthanasia" or "assisted suicide", is punishable even if the suffering person begs to be killed

According to the law commission, passive euthanasia or the withholding or withdrawing of life-sustaining medical treatment or support systems from such a patient may be permissible under certain circumstances

It is not clear what the legal standing is of issues such as "palliative care" which relieves pain and distress of a patient, even if the drug dosages have the "double effect" of shortening life

Questions of whether physical pain should be the only criterion or whether

mental anguish or senility should be considered also have yet to be answered.

The debate on the rights of the terminally ill was started by the Living Will Society, which in 1991 requested legal clarification for people who made a written statement that they did not want to be kept alive artificially

The Living Will Society's Trudie Stohr believes in passive euthanasia, a common practice, but she remains strongly opposed to active euthanasia. She feels that if the latter were legalised it would be open to abuse

"Anyone who wanted to get rid of an irritating old relative may use active euthanasia," she said

She also did not like the idea because the doctor who was asked "to pull the plug" would have to carry the burden of the guilt of having killed someone, and that is wrong"

**'I am a trained sister and I don't think I could pull the plug on someone'**

Suicide, she said, had to be carried out by the person who wanted to die. But she could not say what was to be done if the patient, due to ill health, was unable to commit suicide even if they wanted to.

"I am a trained sister and I don't think I could ever pull the plug on someone or give a double dose," she said.

Trefor Jenkins, professor of Human Genetics at Wits University and who has extensive medical ethics experience says the country's "atrocious" primary health care system for all but the top echelons of society meant that few people had doctors that they had been seeing for the past 20 years

"The pattern of practice here is that some people when they are 65 get to see a doctor who they have never seen before. There is no tradition of family doctors so a trusting relationship required for euthanasia is never set up

**'I have had enough. Will you end it all?'**

"People have to be seen by different doctors everytime and in some case only nurses and in others Cuban doctors who cannot even speak English"

He said that in the Netherlands and Oregon state in the United States where active euthanasia is allowed the doctor-patient ratio was very favourable.

People in those countries could get to see the same doctor over a number of years and trusting relationship could be built up

But, he said, for South Africans to think that "one can build a trusting relationship which is healthy and solid in which

a patient can say to the doctor 'I have had enough Will you end it all' is a pipe dream"

If we practice euthanasia at this time "our hospitals will merely become execution chambers where doctors would be

expected to perform the job because it is law He said the Northern Territory in Australia had recently annulled legislation that had allowed active euthanasia

The document has been welcomed by the Medical Association of SA which has published guidelines on how doctors should react to patients who have signed a living will

The commission's discussion paper, circulated last week, is a 90-page annotation of definitions and 10 pages odd of a draft bill on the rights of the terminally ill

Researcher for Salc, Amanda Louw, said public submissions were invited on the document and the deadline was on June 30

After that more discussion or workshops may be required

A report with the SALC recommendations would be submitted with draft legislation, if necessary, to the Justice minister who would then table the bill She said the process could take up to a year if it goes that route

# Plan for one-stop family justice just weeks away

CARMEL RICKARD

A SPECIAL Justice Department task group is on the point of establishing the first of several pilot projects bringing all "family law" facilities and related court functions under one roof

Enver Daniels, a special adviser to the minister of justice, said that the new "one-stop, family shop", would offer divorce and pre- and post-divorce counselling, as well as dealing with maintenance, family violence, custody issues, adoption, juvenile delinquency and family mediation

The task group was set up at the beginning of the year. Its main task is to establish a pilot scheme, operating in four or five places, which will test the new holistic approach to legal problems impacting on the family

The courts needed to be accessible, quick and effective, Daniels said

He said it was possible that the first such project, expected to be in Port Elizabeth, could well be established "within a few weeks"

Some lawyers have welcomed the news, saying it was high time the department took action to deal with family court problems. But others are concerned that there are no experienced legal practitioners on the team. Nor does the team include people who have experience of trying to use such courts to resolve family problems, such as women who deal regularly with the maintenance courts

Task team members have stressed that their work does not pre-empt the results of the Hoexter commission of inquiry. The Hoexter report on family courts is not expected to be complete before the end of the year

It was decided that, in the meantime, a year-long pilot project should be started. The experimental courts will allow the public, non-governmental organisations and the legal profession to comment on their effectiveness and the task team will also take the Hoexter recommendations into account

Extensive changes to the law will then be made to reflect the final consensus on how the family court should operate

(252) ST 20/4/97



# Buthelezi moves to cut support for Shabalala

Deborah Fine

IN KATYA Freedom Party (IFP) leader Mangosuthu Buthelezi stated government and moved to neutralise support for expelled former IFP provincial MP Mandla Shabalala yesterday when he addressed more than 10 000 people at a rally in Lindelani, near Durban.

Shabalala, the IFP's former Kwa-Zulu-Natal south coast region deputy-chairman, was expelled from the party last year amid accusations that his followers were attacking public buses in an attempt to boost his taxi business. Despite his expulsion, he is believed to still wield considerable influence in Lindelani, which has traditionally been his stronghold.

Buthelezi's perceived criticism of Shabalala comes amid speculation that the former IFP warlord might be looking to form ties with expelled African National Congress former deputy minister Bantu Holomisa, whom he has met three times in recent months. Shabalala also attended a press conference held earlier this month by expelled ANC KwaZulu-Natal MP Sifiso Nkabinde.

Buthelezi's address yesterday was seen as a means to garner support for

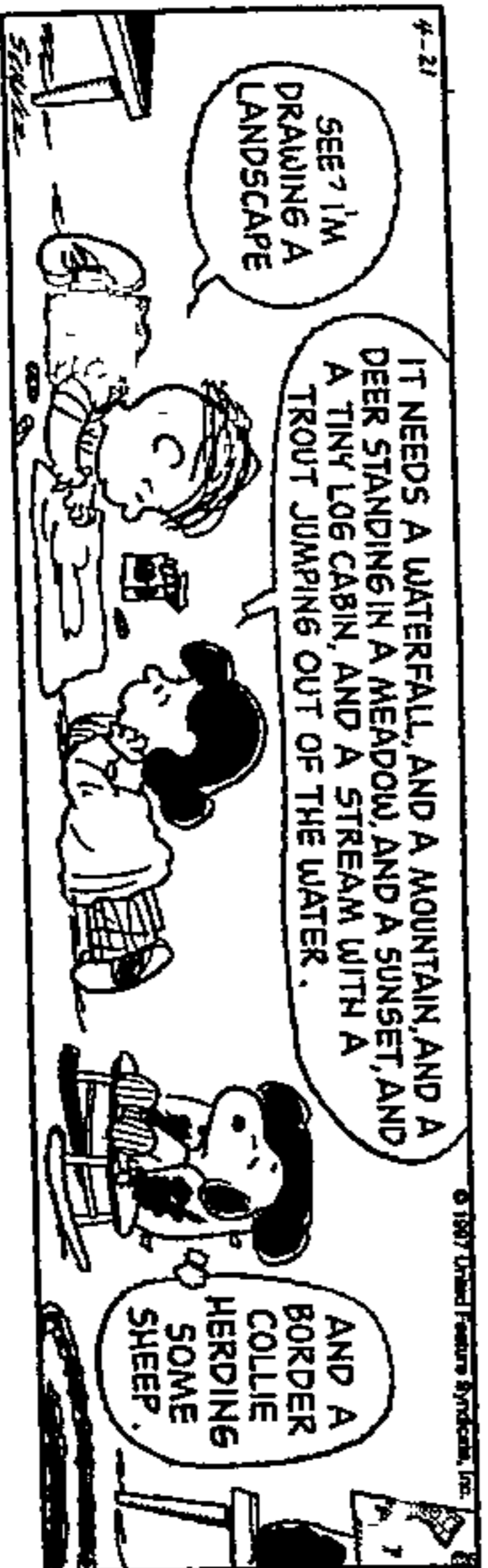
the IFP in the coming 1999 general elections, as well as an attempt to steer support away from Shabalala and any alliance he might attempt to forge with Holomisa, who has made known his intention to create a new political party to contest the 1999 election.

Officially sanctioning James Maphalala as Shabalala's successor, Buthelezi said there was no place in the IFP's leadership for "anyone who feels they are above their own communities and who leads ... by virtue of intimidation rather than ... dedicated service". In what was seen as a stab at Shabalala, he said the IFP would not tolerate "those who, in their own selfish interests, tried to take away and even burn the buses that the people of this community use to commute to their work places".

Attacking government, he said "things are not going well in SA and are bound to become worse unless we heed ... common sense". Many people were still not "making the connection" between SA's "financial and social problems .. and the overall system of government". Only a strong, principled government could prevent the deterioration of rapidly deteriorating justice, welfare, education and health systems.

## PEANUTS

By Charles Schulz



Pat Twala, executive committee member of the Khyalami Metropolitan Council and Development Planning MEC in Gauteng Siculo Shiceka at the formal launch of the council's new name at the weekend. The council was previously known as the North East Rand Metropolitan Council.



## Attorneys slam Omar over legal aid

Susan Russell

ATTORNEYS have called on Justice Minister Dullah Omar to explain why the current crisis the Legal Aid Board faces was allowed to develop when many of the problems were clearly foreseeable and should have been prevented.

An editorial due for publication in the May issue of the attorney's journal De Rebus says Omar owes the public and the legal community an explanation on why the chaotic state of the board was allowed to develop.

Despite an annual budget of R300m the Legal Aid Board has been described by lawyers, increasingly infuriated by a huge backlog in payment of legal aid accounts, as being on the verge of collapse. Its deputy director, Tony Hutchinson, was suspended

pending a disciplinary inquiry earlier this year amid allegations of mismanagement by senior staff.

Board director Nic Pretorius has denied claims of mismanagement but has conceded that it could not cope with the backlog of outstanding payments to attorneys and advocates.

Pretorius told Parliament's justice committee last month that there had been an unprecedented increase in its workload and the board did not have the staff to cope. He said a request for 70 more employees was answered only after 18 months and that only 40 posts were approved.

The crisis and possible solutions will be discussed by the parliamentary committee again this week.

Meanwhile lawyers have called for a complete overhaul of the way legal aid is administered.

# McBride's commander submits affidavit to truth commission

Stephen Lauffer

THE truth commission has been handed an affidavit signed by Robert McBride's commander confirming that the former Umkhonto we Sizwe operative was acting under orders when he bombed Magoo's Bar in Durban in June 1986.

The affidavit suggests that as the old commander of the unit directly responsible for the bombing, McBride made certain tactical choices and decisions of his own.

The document was presented at the beginning of a section 29 hearing in Durban yesterday during which McBride had answered all questions to the commission's satisfaction, spokesman Mdu Lembede said.

McBride's lawyer Brian Curran confirmed last night that he answered questions and "provided documentation, which together were to the satisfaction of the commission." The documentation had included an affidavit and other papers.

Curran said the hearing had been "cordial and very constructive." Hearings under section 29 of the act governing the commission's work are held behind closed doors.

Lembede said it had been agreed not to release details of the hearing. Separately it was learned that McBride also volunteered information not asked for directly.

The affidavit by the superior is understood to confirm that McBride met his commander in Botswana prior to the bombing mission. There he received his orders to place the bomb

at a beachfront establishment frequented by security force members.

The affidavit is understood not to mention anyone other than McBride.

The commission was told his unit, consisting of three people, spent several days observing security force members and following them after work in order to determine which bars they used.

McBride was apparently not asked who else was in the car used for the bombing. Questions centred on the unit's three members —

McBride, his then girlfriend Greta Appelgren, and Mahewle Cordur, who later turned state's evidence in the trial in which McBride was sentenced to death.

The hearing at the Durban offices of the commission was accompanied by a demonstration in support of McBride amid tight security and high comedy.

Armed guards observed all motorists entering the underground parking garage. McBride was accompanied by armed bodyguards.

After the hearing, a white BMW which pulled up in front of the building was used as a decoy to distract attention from McBride as he left by a side exit.

The car sped away, but in a scene reminiscent of the Keystone Cops, hit a bakke, witnesses said.

Sapa reports former SA Defence Force (SADF) chiefs Janine Geldenhuys and Kat Laebenberg had no intention of seeking amnesty for their role in cross-border raids, their lawyer Bernard van der Hoven said.

Ay former SADF member who took part in cross-border operations could be extradited to neighbouring countries.

There were no guarantees that this would not happen, he said.

The consensus among legal experts is that it will be madness for them to apply for amnesty to the Truth and Reconciliation Commission for cross-border excursions.

"Such a move will run contrary to the common-law privilege against self-incrimination, and the protection of our clients are entitled to in terms of our Bill of Rights" — Sapa

Stephen Lauffer

responsible," Cosab CE Bob Tucker said.

More than 40 Gautenz banks have

former Vlakplaas commander Dirk Coetzee had subpoenaed the

called by senior officers, Mamasela said

could not recall their names, Mamasela said

The Sunday Times reported at the communications head Amos Vlakazi, wh

252 22 4 97

# TRC 'violated' human rights

OWN CORRESPONDENT

(252)  
CT 22/4/97

DURBAN A High Court judge here has slammed the Truth and Reconciliation Commission saying he was "astonished" that the very people entrusted to investigate human rights violations "showed such a callous indifference" to the human rights of others.

In a watershed judgment — which tests the right of the commission to keep secret certain evidence — Mr Justice P Combrinck also accused the commission of "flagrantly disregarding" the rights of murder accused Dirk Coetzee.

Lawyers for former Vlakplaas commander Coetzee, who is standing trial for the murder of Griffiths Mxenge, had subpoenaed the commission to provide the transcript and a tape of confidential evidence given by the state's key witness in the trial, Vlakplaas operative Joe Mamesela.

The commission refused, claiming it could withhold certain information gained under section 29 of the Promotion of National Unity and Reconciliation Act.

But the judge said that the commission could not make a blanket decision that all information obtained under section 29 would not be made public. Each request should be considered individually, weighing up the interests of the act against those of the accused's right to a fair trial.

Legal sources said the judgment could open a floodgate of people seeking access to "secret" information which could hamper the work of the commission because people would be reluctant to give evidence.

Commission vice-chairperson, Dr Alex Boraine, said the TRC had opposed the subpoena because it had wanted a ruling on whether it was bound to hand over information.

# McBride's field commander identified

BD 23/4/97

(262)

**Drew Forrest  
and Farouk Chothia**

DURBAN — Defence department policy and planning chief director Aboobaker Ismail was the Umkhonto we Sizwe commander who ordered Robert McBride to plant a bomb in Durban in 1986, sources said yesterday.

Ismail could not be reached for comment, while truth commissioner Richard Lyster declined to confirm or deny that McBride had named Ismail as his commander in evidence to the commission behind closed doors on Monday.

Lyster said the commission did not plan to subpoena the commander at this stage, as ANC legal representative Brian Currin had given an assurance that a number of senior Umkhonto officials were to submit amnesty appli-

cations "quite soon".

Commission spokesman Mdu Lembede said information related to the bombing would become known to the public when McBride appeared before the amnesty committee.

Ismail was appointed to his current post by Defence Minister Joe Modise last month as part of a reorganisation of the military. After the integration of armed forces Ismail was an officer in the SA National Defence Force's logistics division before being seconded to the defence secretariat.

McBride, released from death row during the pre-1994 negotiations, is a deputy director in the foreign affairs department.

Ismail apparently operated under the code name Rashid as an Umkhonto commander of special operations.

In the book *Till Babylon Falls*, Bryan Rostron, who interviewed McBride while he was on death row, wrote that McBride had held meetings with Ismail in Botswana before the June 1986 Magoo's Bar bombing.

"Robert was given further coaching in the construction of larger explosives, and ordered to prepare more dead letter bombs and arms caches around Durban. But the principal emphasis of these lectures was that Robert's unit should now intensify its offensive and select bigger, more conspicuous targets," Rostron wrote.

It is understood that Ismail's affidavit to the truth commission suggests that as the field commander of the unit directly responsible for the Magoo's bombing, McBride made certain tactical decisions and choices of his own.

## TRC 'tries to balance rights of those it subpoenas and of those on trial'

Star 23/4/97

(252)

The Truth and Reconciliation Commission has hit back at comments made by a Durban High Court judge who ruled that murder accused Dirk Coetzee be granted access to confidential statements made to the TRC by self-confessed Vlakplaas killer Joe Mamasela.

TRC vice-chairman Dr Alex Boraine said yesterday the commission respected the court's ruling, but found judge Mr Justice Piet Combrinck's remark that the TRC had acted with callous indifference to the rights of Coetzee and other accused, to have been "gratuitous and unwarranted".

The commission believed the judge to have been mistaken in his assessment of why it had opposed attempts by Coetzee's defence to have access to material gathered in its investigative inquiries, Boraine said.

Coetzee and four others are on trial in the Durban High

Court for the murder of human rights lawyer Griffiths Mxenge.

On Monday Judge Combrinck ordered that Coetzee had the right to peruse the statement. The commission initially refused to hand over the information as it was given in camera during an inquiry to which Mamasela was subpoenaed.

According to law, information gathered at such an inquiry is confidential until the commission decides to release it or it becomes the subject of a public hearing.

Boraine said the commission did not oppose the application for the sake of opposition, but was trying to balance the rights of those subpoenaed against the rights of those who stand accused in criminal trials.

It was a mark of the commission's respect for the law that it decided to have the matter tested in and decided by a court.

Staff Reporter

# More want return of death penalty – poll

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Soaring violent crime sees black support for capital punishment jumping from 49% in 1995 to 76% now

## REUTERS

**S**piralling crime has led to more South Africans demanding the return of the death penalty for violent criminals, according to a new public opinion poll which shows that 80% of urban residents now want the death penalty reinstated

Research Surveys said yesterday the poll reflected a marked increase in support for the death penalty from two years ago, when 80% of whites but only 49% of blacks were in favour of hangings

The Constitutional Court abolished the death penalty in June 1995, lifting the threat of hanging from 453 prisoners on

death row

While political violence has slumped since the general election in 1994, crime, including rape, murder and car hi-

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**80% of urban residents back call**  
”

jackings, has soared

The researchers said 76% of blacks surveyed this year called for the death penalty, compared to 94% of whites

In 1995, half the black women polled were in favour of the death penalty. It jumped to 84% this year

White women followed the same trend in 1995 76% were in favour, rising to 95% this year.

Black men also showed a hardening attitude to violent criminals, calls for the death penalty increasing from 48% in 1995 to 68% this year. White men showed a lesser increase, from 86% two years ago to 93% this year

Rising crime in South Africa, particularly in Gauteng, is scaring off investment and foreign tourists and is one of the main causes of an exodus of skilled people

# TRC spares taxpayer as costs spiral

In the past financial year TRC costs jumped 850 percent over 1995-96

*Sowetan 25/4/97*

**By Rafiq Rohan**  
Political Correspondent

**B**Y THE time it closes its doors next year the Truth and Reconciliation Commission will have spent just over R140 million

The TRC spent R8 million in the 1995-96 financial year, followed by R70 million last year. Spending for 1997-98 is budgeted at R50 million.

Included in the R140,7 million, Minister of Justice Mr Dullah Omar told Parliament yesterday, was a sum of R10,2 million considered as donations.

The TRC has also relied on foreign funding. "Donor funds were also received for specific projects of the commission which amount to R2,5 million for the 1996-97 financial year," Omar said.

He said that the TRC had just come to the end of its 1996-97 financial year and would be submitting financial statements to the auditor-general at the appropriate time.

However, Omar pointed out, more money would be needed for the running of the TRC but the taxpayer need not worry about where the money would come from.

## Additional costs

"A request has been made by the TRC for the enlargement of the amnesty committee from its present five members to a maximum of 13 members.

"The estimated additional cost relating to this and other associated expenditure is R2,9 million and will be funded from donor funds with no additional costs to the taxpayer," he explained.

*(252)*

# Omar seeks to plug legal pay-outs

(292) M+C 25/4-1/5/97

Mungo Soggot

**M**INISTER of Justice, Dullah Omar, is considering a change in the Constitution to rein in hefty legal aid pay-outs and shield the state from a deluge of unaffordable claims

Omar floated the possibility in a letter this week to the parliamentary justice committee, which is investigating the struggling Legal Aid Board. The board said recently that demand for legal aid was increasing by 40% a year and that it was already R150-million in the red.

The Constitution says that citizens are entitled to a lawyer at the state's expense if "substantial injustice would otherwise result". The Constitution also specifies that citizens must be informed of this right.

Omar's comments follow a Johannesburg High Court ruling this month which freed a convicted hijacker, Patrick Mgcina, who had not been informed he was entitled to a free lawyer. Mgcina served 15 months of a 10-year sentence.

Lawyers say the judgment could trigger a flood of applications for free legal defence. The ruling means that magistrates will have to ensure they fully inform those on trial of their rights.

Omar's office said his letter to the justice committee was not a direct reaction to it — it was rather a reflection of a "general concern" about the board's financial state and abuse of the system.

The board, which has been stung by allegations of mismanagement, said recently that it had accepted 115 000 out of 125 000 applications for "constitutional" legal aid, which helped lift the board's total pay-out to R93-million for the year to March. In his letter, Omar expressed concern about the board's 35 600 unpaid lawyers' accounts.

Omar's spokesman said the minister was reluctant to change the Constitution, which requires a two-thirds majority in Parliament, but it is possible he could tighten the legal rules with legislation within the framework of the existing Constitution.

A leading legal commentator, Professor Dennis Davis, said he hoped the government would alter the Constitution only as a last resort. He hoped Omar was being given adequate advice on the state of legal aid and the way forward.

"Before you start tinkering with the Constitution you should ensure that every possible alternative has been exhausted," Davis said.

The current "Rolls Royce" legal aid system — which paid out private-sector lawyers to defend the poor — was probably unsustainable, he said. The government should investigate replacing it with a national "public defender" network.



# Judges and lawyers outraged by report on future of courts

Unexplained gift of Sandton to Pretoria 'absurd' they say

(202) # ST 27/4/97

CARMEL RICKARD

**T**HE biggest shake-up of South Africa's court system since 1910 threatens to split the country's legal fraternity

The Hoexter commission report, which is being considered by President Nelson Mandela, deals with the thorny idea of giving each of the nine provinces their own High Courts

The situation has been complicated by the reincorporation of the former homelands which had established their own High Courts

Evidence given to the commission has disclosed deep divisions among judges, advocates and attorneys about where the High Courts (formerly called Supreme Courts) should be based

Provincial judge presidents have disagreed with one another and the report says that many presentations were motivated by strong vested interests

The report has caused outrage among many lawyers because of its recommendations on three issues in particular

- The unanimous proposal that the richest magisterial district in the country, Randburg-Sandton, be removed from the jurisdiction of the Johannesburg High Court and given to the Pretoria High Court,

- The proposal that Grahamstown should remain the seat of the Eastern Cape Provincial Division, and that the High Court at Bisho be closed down and the lavish building be used as a regional court, and

- The proposal that Mpumalanga, North West Province and Northern Province, which were carved from the hinterland of the former Transvaal, should not be given High Court status. They should be run from Johannesburg and Pretoria as local divisions of these High Courts, but with their own judges

Some lawyers are also critical of how long the commission has taken to prepare its findings and of its overseas trip which lasted more than six weeks

The commission is headed by retired Appeal Court judge Mr Justice Gus Hoexter, and includes retired Kwazulu Natal judge Mr Justice Rae Leon, advocate Achmat Japie and attorney George Maluleke

While some of its recommendations have been slammed, most commentators approve of the guidelines which label the salaries paid to prosecutors in the magistrate's courts a "national disgrace"

The commission said that magistrates were also grossly underpaid and that those who wanted to specialise in civil work should be given intensive training

Once salaries were up to scratch, extra magistrates should be "vigorously recruited" from the ranks of experienced advocates and attorneys in private practice. This strategy would help improve the quality of justice in the magistrate's courts — where most members of the public come into contact with the legal system

The report says that public money should be spent on these improvements to the administration of justice in magistrate's courts before the government begins projects to build new High Courts

Commenting on the more controversial proposals of the commission, many senior lawyers have described as "absurd" its recommendations to remove Randburg-Sandton, the richest slice of the Johannesburg area, from the city's jurisdiction

If accepted, this proposal would mean that the Johannesburg High Court would lose the source of most of its civil work. It would also mean that litigation between the Johannesburg metropolitan council and its substructures would be split between two courts, adding to expense, inconvenience and inefficiency

The recent fight between the council and protesting ratepayers in Sandton, for example, would have had to be played out in the Pretoria High Court, instead of in the Johannesburg High Court

While many lawyers are outraged at the proposal, some members of the Pretoria Bar said they were pleased by the suggestion as it would bring them new work

The relocation would be important if other recommendations of the commission were accepted and Pretoria lost its direct jurisdiction over Mpumalanga, North West Province and Northern Province

The commission gives no explanation for its proposal to remove the Randburg-Sandton magisterial district from Johannesburg's jurisdiction

Instead, without any comment, the area simply appears on a list of magisterial dis-

tricts which will fall under Pretoria

On the problem of the Eastern Cape, where five High Court venues have to be reduced to a more appropriate number, the commission's majority has pushed for Grahamstown to hold on to its status as the "seat" of the High Court in the province

This recommendation was made against a strong lobby from Bisho calling for the Grahamstown High Court to be closed down. The commission also urged that the local division based in Port Elizabeth be retained and that another local division be created from the present Transkei High Court in Umtata

The majority of commissioners have recommended that the local division to serve the Border area be based at East London. But the chairman of the Bisho Bar, Roger Claassen SC, said his colleagues were not happy with this recommendation.

Bisho was the seat of the provincial government, had a more than adequate High Court building and was more central than East London, he said

The chairman of the Eastern Cape Society of Advocates, Richard Buchanan SC, said that he welcomed the proposal to retain Grahamstown as the seat of the provincial High Court

But all the lawyers who have so far commented on the proposals stress that the issues are still far from resolved since they must now be considered by the politicians — possibly with additional input from the Judicial Service Commission — before being debated in Parliament and eventually becoming law

The report and the issues it deals with are so controversial that the General Council of the Bar and the Association of Law Societies have decided not to take an official stand because its members cannot agree

One senior legal analyst said that the report showed the commissioners were divided between those who adopted politically-correct options and those who took decisions made on more pragmatic considerations

He predicted that the strongly argued views of the minority would prevail and lead to the establishment of independent High Courts in Mpumalanga, North West Province and Northern Province, despite the enormous cost involved

BIEHL FAMILY WANTS TO ATTEND HEARING

# Amy's killer to seek amnesty

**WITH THE MAY 10** amnesty deadline looming large for human rights violators, at least one of the racist killers of an anti-apartheid American student, brutally slain in a public street in Guguletu in 1993 merely for having a white skin, has applied to go free

**O**NE of four young men serving 18-year prison terms for murdering United States Fulbright student Ms Amy Biehl in Guguletu in 1993 has applied to the Truth and Reconciliation Commission for amnesty.

Mongezi Manqina, 25, who was found by the Cape Supreme Court in October 1994 to have killed Biehl "for one reason only, because she had a white skin", is scheduled to appear before the commission's amnesty committee on May 19 in Cape Town

Commission official Mr John Allen said yesterday that the number of amnesty applications received by the commission had caused a backlog in their registration. The backlog would be scrutinised after the May 10 application cut-off date to ensure that if any of the other men convicted of killing Biehl had applied their cases would be heard at the same time

Mzikhona "Easy" Nofemela and Vusumzi Ntamo were convicted with Manqina, and Ntombeko Peni a year later, and each sentenced to 18-years' imprisonment

All were said to have been members of the PAC's student wing, the Pan-Africanist Students Organisation (Paso)

Biehl was killed in the opening days of Paso's Operation Barcelona. She was attacked while giving three black student friends a lift home

"Amy died because she forgot she was white," said her friend and former house-mate, Ms Melanie Jacobs, yesterday. "I understand what the truth commission has set out to do, and I know that there must be reconciliation. But I am still sad because of who Amy was, and because her murder was inspired by racism," she said

Speaking on Saturday to the Cape Times from California, Biehl's mother, Mrs Linda Biehl, said she would probably attend the amnesty hearing, though the family was still to be fully informed of the process.

Saturday would have been Amy's 30th birthday

"We would want to attend (the amnesty hearing) to chronicle the event, to understand it and to experience it. We also



**'FORGOT SHE WAS WHITE':** Amy Biehl

believe it is important because Amy was the only US citizen we know of to have died in the anti-apartheid struggle," said Mrs Biehl

"We have come to realise that there is no logical sense for bitterness or anger. We have been able over the last few years to go through many of (Amy's) papers, her journals and writing containing her own

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thoughts on South Africa. We want South Africa to emerge as a bright spot. The election was just the beginning. Amy was the academic, we are not academics, but we want to have hope for your country."

To qualify for amnesty Manqina must convince the amnesty committee that he has made a full disclosure, the offence was politically motivated, and it was proportionate to what was sought to be achieved

On sentencing Manqina, Nofemela and Ntamo the court found as mitigating factors their age, that the murder was not pre-meditated and was committed against a political backdrop. It also accepted that there was political unrest at the time, and that the men had been caught up in a spiral of violence

Aggravating factors included that it was a "racially motivated killing", that the men had the direct intent to kill Biehl, and she was an active supporter of the disadvantaged

Mrs Biehl said she had not yet decided what she felt about the killers. She had considered meeting their families. "I have wondered whether they have any feelings about what the young men did"

She said she had come to understand the political context for her daughter's death, and that the physical act was "a lot of emotional frenzy stirred up by years of anger against an unjust system. But it is kind of difficult for us in a way because Amy was over there working on behalf of the struggle"

# Committee system which questions bills is true test of a democratic parliament

Parliament's committee system, through which the various portfolio committees keep tabs on the policies and practices of the respective ministries, is yet another example of real democracy.

This is a far cry from the previous government's bulldozing system of pushing legislation through.

The committees allow for public hearings on proposed legislation and any matters affecting the South African taxpayer.

Besides dealing with bills and other matters referred to them by the Speaker of the National Assembly, the committees have to monitor, investigate, enquire into and make recommendations relating to any aspect of the legislative programme - including the budget, rationalisation, restructuring, functioning, personnel, policy formulation or any other matter it may consider relevant within a Government department.

The committees do not rub-

Parliament's justice committee demonstrated this power when it called on Transkei Attorney-General Christo Nel to furnish it with reasons for his decision to drop bribery charges against millionaire hotel magnate Sol Kerzner.

Correctional Services Minister Dr Sipo Mzimela and his commissioner, Khulekani Sithole, have been to the relevant committee to explain why they were considering using disused mine shafts to accommodate hardened criminals.

When they handle an issue in which there is huge public interest the committees hold public hearings where members of the public, non-governmental and civic organisations have the opportunity to make submissions containing their grievances.

It's real transparency in action. This was adequately demonstrated this week in the welfare committee where Welfare and Population Development Minister Geraldine Fraser-Moleketi was taken to task for extending the Government's grant to millions of disadvantaged children

called R430 a month. The payment to the mother is to be phased out over five years, at 20% per year, from August 1 this year.

The payment per child will be reduced over the same period from R135 to R75. Payments for children over six will also be phased out gradually.

Political agendas began to show as a group of Western Cape women proclaimed that "when we were under De Klerk, we did not suffer so much". ANC members argued that within the limited resources available to her, Fraser-Moleketi was trying to live up to the obligations guaranteed in the Bill of Rights.

There was also a number of angry women inside Parliament, who represented the 14 organisations which had attacked the new grant system at the welfare committee hearing.

The women belonged to a coalition of civic groups which urged Fraser-Moleketi to reconsider the plan and to suspend its

implementation. Allegations flew thick and fast. These included that the minister had been fed with incorrect figures on which she had based the new child benefit system which came under fire from non-governmental organisations.

Allison Tilley of the Black Sash, one of the organisations that has condemned the reduction of the grant per child per month from R135 to R75, said "The Minister has been placed in the unenviable position of trying to defend a set of recommendations that has far-reaching affects on the welfare of children, with information that is incorrectly calculated mathematically, based on totally unrealistic assumptions, poorly researched and reflecting the fiscal consequences of introducing the new system wrongly," Tilley said.

Missing from the groups was representation from rural and indigent areas, which are the targets of the new system. Amid unprecedented pres-

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sure, Fraser-Moleketi stuck to her plan.

Currently 203 262 children receive the state benefit.

Her goal is to reach nearly three million poor children by 2005, at an estimated cost of

**Estimate of R75 given as minimum to feed, clothe child under 6**

R2.7-billion

The current state maintenance grants cost R1.3-billion.

Fraser-Moleketi said the total grant to child support beneficiaries would be reduced by 20% annually over the next five years.

However, about 2.7 million more children were expected to benefit from these grants by 2005.

Figures for 1990 showed that

48 out of every 1 000 coloured children and only two per 1 000 African children were receiving the grant.

She said the decision taken had not been "anti-child" or "anti-women", nor had it been a punitive measure against the Western Cape.

"We based the decision on what resources the Government has, and how we can target the poorest of the poor."

Fraser-Moleketi said R75 was slightly higher than the minimum required to clothe and feed a child under six years of age. It was meant to supplement other household income, she said.

"There is no turning back. The new child support benefit will become a reality," Fraser-Moleketi said.

Without the transparent committee system, the concerns of taxpayers over the Government's plan could not have been debated in as great depth as it was this week.

## PARLIAMENT

### REVIEW

#### By Jovial

#### Rantao

stamp bills referred to them. They question everything, and when they are not satisfied they have the power to request anyone, from a Cabinet Minister down, to appear before the com-

mittee to offer an explanation if they believe that the public requires more details on a particular issue.

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Stephen Loufer

FORMER security policeman and East London mayor Donald Card, who admits "getting stuck into" opponents of government when making arrests, and "using a flat hand" during interrogation, has been grant-

## Amnesty for helping Woods flee <sup>(2nd)</sup>

ed amnesty by the truth commission — for his part in the escape from SA of former Daily Despatch editor Donald Woods

Card, who had a Damascus Road conver-

sion to Progressive Federal Party (PFP) politics after leaving the police, said yesterday he had not applied for amnesty in connection with his police career.

Card said he had been notified by the commission he had been implicated in the torture of former Pan Africanist Congress (PAC) activists, a charge he denied "I was never in-

involved in terrible things like killing or electric shock treatment"

In Cape Town, Sapa-AP reports, a Guguletu youth sentenced to 18 years in prison for the 1993 murder of American exchange student Amy Biehl, had applied for amnesty. Mongezi Manquana was scheduled to appear before the amnesty committee next month

BD 29/4/97

# The TRC can help the perpetrators, too

## Apartheid leaders should call on their followers to attend hearings

APR 29/4/97

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MINISTER MAC MAHARAJ SPOKE AT THE 'JUSTICE OR RECONCILIATION' CONFERENCE AT CHICAGO UNIVERSITY IN THE U.S. LAST WEEK. THIS IS A SHORTENED VERSION OF HIS ADDRESS

The title of this conference - Justice or reconciliation - implies that justice and reconciliation are mutually exclusive. In the early nineties in South Africa, as we negotiated and grappled for the brink of a new democratic order, the challenge that faced us was how to achieve both: justice and reconciliation.

We had to find a way to deal with our past, and a way into the future that was in the best interests of the country as a whole. For us, our country (divided and torn apart by apartheid) had to emerge the winner. If there was to be a future in it at all, we had to put aside narrow party-political interests. We had to broaden our perception of justice to beyond punishment. We had to look at the fate of victims and the entire political and social framework in which the crimes were committed. We had to balance justice and reconciliation.

To understand the genesis of the Truth and Reconciliation Commission, one must understand something of the history of

victims come to terms with the past.

This was why we broadened the legislation's focus. Yes, amnesty would be granted to applicants who fulfilled the requirements; but we would, in some measure, address the victims and the survivors.

This would give a voice to the very people who had been told by the police that they could scream as loudly as they liked and nobody would hear. It would give victims an opportunity to validate experiences that had always been denied by the State, and were treated with such scepticism by the media.

It would help families find out what had happened to their loved ones who had disappeared or died in mysterious circumstances. It would provide some opportunity for reparation. And, finally, it would allow the State itself to officially acknowledge its history.

But the decision to address the questions of victims was not only ethically based. There was also the political reality that, without some form of acknowledgment, without some exposure of the pain and suffering caused by apartheid, the wounds inflicted would continue to fester for generations.

In short, without some form of acknowledgment and reconciliation, we



traced in our attempts to deal with the land question, the language question, the racial question and the gender question.

Addressing Parliament during his budget debate this month, President Mandela said deracialising our society was a fundamental element of transformation. "We must improve the conditions of the poor, the majority of whom are black - so that we should not have a South Africa in which the ownership of wealth, the spatial demography of communities, and positions of power and influence in the public and private sectors, are delineated according to race or language group."

"It is, therefore," he continued, "a contradiction in terms for anyone to seek to protect privileges of a bygone era... to wash one's hands of the mistakes of the past - in brief, to seek to perpetuate apartheid relations - and at the same time pretend that one is keen to unite South Africans across divisions of the past."

Therein lies the crux. Reconstruction and development and transformation require that we restore to the people of South Africa what is theirs, that we build a South Africa that can honestly face up to its past and courageously face its future.

This is a tough and demanding task. And many of the things we must over-

The hearings of the committee on human rights violations are, by and large, attended by black people - those who bore the brunt of political repression. Those in whose name the wrongs were committed are noticeably absent.

The National Party has turned its back on the process. F. W. de Klerk's party, which has the support of the great majority of white South Africans, has failed to provide any leadership where the commission is concerned. They have not called on their constituency to attend the hearings on human rights violations.

They have not called on their supporters to take stock of the past. All they do is repeat that they didn't know what was happening when they were in power.

Thus white South Africans, through television, radio and press coverage, are learning what apartheid was really all about without being given any way of dealing with the inevitable feelings of denial and horror that it evokes. There is no call to shame. There is no call to use the commission for the purpose for which it was intended to bring about reconciliation and build unity among all South Africans.

In fact, it has been the TRC which has stepped forward to offer counselling and support to the families of the gross human

commission is not an abstract formula drafted by lawyers. It was born in the steamy and often late-night chambers of political negotiation.

During the early stages of negotiations, the National Party thought they had the upper hand. They thought they could achieve a settlement that would keep them in power forever by acceding to a form of democracy, but not to its substance. They thought they could, through a combination of stubborn negotiation and a devastating third-force violence campaign on the ground, keep democracy at bay.

The African National Congress, on the other hand, knew it had to deliver our country to democracy, full democracy based on a system of individual human rights.

Our task was to defeat the self-interest debates and to agree only to what was right and proper for all South Africans. For this, we were prepared to make what concessions were necessary, provided they did not compromise the fundamental principles of equality and democracy.

Once this viewpoint was accepted, albeit reluctantly, by all parties, the issue of amnesty became bitterly contested. The final formulation, known as the Postamble to the Interim Constitution, was agreed to at the 11th hour to persuade the security forces, and also the extreme rightwing, to take part in the elections.

It was used, to put it bluntly, to avoid the ever-threatening possibility of armed counter-revolution. The amnesty clause was combined with the so-called "sunset clause" which guaranteed civil servants - including the police and army - their jobs or the next five years.

The phrasing was deliberately vague. Although there was pressure from the press and some members of the international community for a general amnesty, we were concerned with finding a balance. An amnesty that would also acknowledge the victim. We had to find a way to help

Once again it was the political imperatives of the country that determined the process. The interests of any particular grouping could not dominate. This is the real secret of the South African miracle: the determination that democracy will triumph and national unity will be forged.

The legislation provided for a commission made up of three committees: the committee on human rights violations, the committee on amnesty, and the committee on reparation and rehabilitation.

A further requirement, again driven by the need to proceed with the task of building national unity, was that the TRC should have a lifespan of only 18 months, a period which could be (and has been) extended for a further six months by the president. Thus, we are forced to deal expeditiously with the past in order to move forward into the future.

Finally, the commission must report fully on its work to the president. This document is of central importance as a record of the long nightmare of apartheid. But it has another importance. It is testimony to the fact that, although we examined other solutions, including truth commissions from all over the world, and although we consulted internationally in drawing up this legislation, the final formula was uniquely South African - a formula born of the need to achieve that essential balance of dealing with the past and finding what was required to take our country forward.

In the process, we have done something unique. Let us imagine what would have happened if Nuremberg-type trials had been an option. The courts and all their structures were set up in the apartheid era. The police and security forces were and are, likewise, still from a previous regime.

What chance would we have had of competent prosecutions in such an environment? The trial this year of former Minister of Defence Magnus Malan is an



Key speaker: Transport Minister Mac Maharaj

apt illustration of just how frustrating such a process would have been.

The second point is, of course, that ordinary courts do not necessarily discover the truth. The third point is that many of the kinds of violations committed were committed by a number of perpetrators against one victim. It is very difficult to prove a case beyond reasonable doubt when it is the work of many people. And, finally, as I have said, the political consequences of Nuremberg-type trials could have had calamitous consequences for peace in our country.

In our process, we believe that restorative justice is being done. And, in the language of the law, it is being seen to be done. It is restorative justice in the main, but it is also retributive in that the truth is told, the lies are being exposed and the perpetrators are becoming known.

But there is a broader context in which not only the TRC's work is taking place. Restorative justice is implicit in the very way my government develops its policy to bring about transformation and how it addresses the victims of the policies of apartheid.

Restorative justice enters our work as we transform the institutions we inherited. It's part of our Reconstruction and Development Programme, which aims at bringing equity to all our people. It can be seen in our new constitution. It can be

are people with whom we negotiated a solution.

Daily we hear people lay claim to continued privileges, sometimes curiously in the name of human rights. Daily we face resistance from the huge and bloated bureaucracy we inherited.

Daily we discover that the apartheid engine was fuelled by corruption, incompetence and sloth. The administration is inefficient, and often unwilling and uncooperative. The task of democratisation is a tough and demanding one, but it must be fulfilled.

The previous government has failed significantly to shed its party political preoccupations and put the country first. And perhaps the most graphic illustration of this has been in its approach to the TRC.

In this regard, the very extent of the truths being uncovered by the TRC has shocked even those who thought they knew the worst about apartheid. We knew, of course, of the death squads and the disappearance of comrades over the years. But then we are a society in which it's easy to disappear.

The erosion of family life caused by the migrant labour system and the Group Areas Act, the constant imprisonment of the population for minor offences, and the dangers of life in poor and war-torn areas all contributed to uncertainty. But we never, however, suspected that the killings were taking place on such a vast scale as is now being revealed. And, had it not been for the TRC, we probably would never have known.

But it has not diverted us from our aim of seeking reconciliation in our country. Indeed, the truth and reconciliation approach has been further vindicated by the uncovering of these terrible truths.

rights perpetrators.

Again, the president. "Reconciliation means that we must seek to understand one another's concerns and anxieties. But reconciliation also means that leaders should lead by example in acknowledging the mistakes of the past and committing themselves to prevent their repetition."

But can there be reconciliation without justice? I would like to answer that by saying that, in our country, reconciliation is crucial to the process of bringing justice to all our people. Not justice in its narrowest sense, the kind of justice that demands trial and punishment. Not justice in the sense that those who have committed terrible acts should be stripped of their positions, their jobs and thrown into jail. Not even justice in the sense that reparation is demanded from the perpetrators.

I argue for justice in its broadest sense. A collective justice, a restorative justice that seeks to deliver to the collective, that is aimed at nation building and reconciliation. A justice that focuses on the future rather than on the past. But to shroud the horrors of the past in a collective amnesia would leave posterity with a legacy of festering guilt and unrelieved pain. To eschew reconciliation and forgiveness would be to ignore an unchallengeable truth articulated by Primo Levi when he wrote that "an enemy who sees the error of his ways ceases to be an enemy."

The people who led apartheid cannot avoid accepting responsibility for acts which were seen as crimes in the eyes of the entire world. The opportunity for them to demonstrate their condemnation and lay bare their conscience is now, while the TRC is sitting.

The opportunity for those who supported apartheid is now, while we strive to build reconciliation based on truth and forgiveness for the crimes of the past. Now is the time to come forward, with genuine regret, and say to the victims of apartheid "We are truly sorry. We have done you a terrible wrong."

# Death penalty will not halt crime wave, says Omar

(252)

CHENE BLIGNAUT

STAFF REPORTER

ARG 29/4/97

Reintroducing the death penalty would not halt the crime explosion because most criminals escape the justice process altogether, says Justice Minister Dullah Omar.

Interviewed by Beverley Jansen and Punzile Nteyi on Radio C-Flat yesterday, he said most criminals escaped the law because of an inefficient justice system.

"The death penalty is gone. It is unconstitutional and we now have to look at how we can build an efficient deterrent to crime," said Mr Omar.

This could be achieved through the implementation of a proper criminal justice system and by addressing the root causes of crime through socio-economic transformation. Communities also had a role to play in intervening and stopping crime before it started.

Mr Omar blamed the "inherited culture of violence and domination" from the apartheid era for the escalation of crime. He said it created an environment that "bred crime".

Criminals were also taking advantage of the uncertainty that surrounded the future of the police and justice systems during the transition phase, he added.

Corruption in the lower ranks of the justice system and police further undermined the transformation process.

Asked about his relationship with People Against Gangsterism and Drugs, the minister said he had built up a "good understanding" with the group, although that did not necessarily mean he agreed with it.

## Death penalty won't halt crime, claims Omar

Reintroducing the death penalty would not halt the crime wave that has swept the country because the majority of criminals escape the inefficient judicial process altogether, Justice Minister Dullah Omar has said in an interview on Radio C-Flat

The minister said yesterday "The death penalty is gone for good. It is unconstitutional and we now have to look at how we can build an efficient deterrent to crime."

Omar said this could be achieved through a proper criminal justice system and by addressing the root causes of crime through socio-economic transformation.

Communities also had a key role to play in intervening and stopping crime before it started, said Omar.

He blamed the "inherited

culture of violence and domination" from the apartheid era for the escalation of crime, which created an environment that "bred crime".

Criminals were also taking advantage of the uncertainty that surrounds the future of the police and justice systems during its transition phase.

Corruption in the lower ranks of both the justice system and police further undermined the transformation process, he added.

Asked about his relationship with People Against Gangsterism and Drugs (Pagad), the minister said he has built up a "good understanding" with the group, although that does not mean he necessarily agrees with them.

"As long as they fight crime within the framework of the law, there will be scope for in-

teraction with government departments, but we cannot allow anyone to break the law."

He said there were "bad elements" within the organisation with their own political agenda, but he invited "good" Pagad supporters to participate in anti-crime activities on a non-religious basis.

In his position as ANC leader of the province, the minister said the legacy of apartheid had caused the previously disadvantaged groups to "scramble for the crumbs from the white ruler", causing division and conflict.

The challenge for the ANC was now to equalise society by being sensitive to the needs of the coloured and Indian people, while recognising that black people were still the poorest in the Western Cape -  
Own Correspondent



(252)

Star 29/4/97



# Viljoen seeks mass amnesty for bombings

Star 29/4/97 (252)

Freedom Front leader applies for overall responsibility for 60 attacks by the Afrikaner Volksfront before 1994 elections

## POLITICAL STAFF

Cape Town

The Truth Commission has confirmed that Freedom Front leader Constand Viljoen can hand in a "general" amnesty application for political crimes in the run-up to the 1994 election.

This follows Viljoen's announcement at the weekend that he had met commission chairman Archbishop Desmond Tutu and his deputy Dr Alex Boraine to discuss his plan to lodge an application for clearance on 60 acts of sabotage before the election took place.

These acts were apparently carried out by supporters of the former Afrikaner Volksfront, in which the general was a leading figure.

Commission spokesman Christelle Terblanche said human rights committee member Derick Fotsieter confirmed that he had been part of the discussions with the general about the amnesty procedure.

She said that in terms of article 19 of the Truth and Reconciliation

Act of 1994, provision had been made for people who were applying for amnesty for what she called "similar incidents" to hand in their applications "simultaneously".

Viljoen said he would be taking general responsibility for acts of violence of which he had been aware.

But he emphasised that as far as he knew, no one had been killed in those incidents.

Violence had also been limited and served merely to highlight the Afrikaner's demand for self-determination, according to the general.

Among the targets at the time had been the offices of the ANC and the National Party.

Terblanche said Viljoen had emphasised he was making the announcement that he was applying for a general amnesty so that farmers who had been involved could be alerted.

The general told the Afrikaans weekly Rapport "I fully accept the overriding responsibility for actions which were known to me".

He called on all rightwingers involved in pre-1994 election polit-

ical violence to support him in a composite application for amnesty.

The composite submission would contain a general submission by Viljoen on the political background and individuals' applications, to be handed in before the May 10 amnesty deadline.

Viljoen told Rapport he had been approached by many people, including Afrikaner Weerstandsbeweging members who were serving life sentences for pre-election bomb attacks, to draw up such a composite amnesty application.

Viljoen said this would simplify the process and ensure the individual applicants did not have to bear their own legal costs.

He said although the Freedom Front did not support the TRC, it recognised it as a reality which could not be ignored.

Forms would be available at Freedom Front offices from Thursday and would be collected by the party before being attached to Viljoen's "master" application and submitted.

► Amnesty granted

# Amnesty date stays

*Sowetan 1/5/97 (252)*  
THE Cabinet had agreed to amend the Constitution to give effect to the new May 10 1997 closing date for amnesty applications, Justice Minister Dullah Omar said yesterday

It had also approved legislation to increase the number of members in the Truth and Reconciliation Commission's amnesty committee to expedite amnesty hearings, he said

Omar said the May 10 date would not be extended again and people who did not apply on time would forfeit their right to apply for amnesty. The cut-off date for offences remains May 10 1994

Meanwhile the SA National Defence Force yesterday urged serving or former members of the force who were uncertain about their legal position on whether to apply for amnesty or not, to seek legal advice

They should contact the legal officers at their nearest base, group or command headquarters

Nodal Point at defence headquarters in Pretoria could also be contacted for legal advice. The telephone number is (012) 355-5465. Advice would be provided free of charge, the SANDF said. *Sapa*

# Cabinet approves amnesty extension

BY RAMOTENA MABOTE  
Political Reporter

The Cabinet yesterday agreed to amend the constitution to extend the closing date for amnesty applications from December 14 last year to May 10 this year

Justice Minister Dullah Omar announced that the cutoff date for offences remains May 10 1994

The amnesty application date will not be extended again and people who did not apply timeously would forfeit their right to apply. The Cabinet also agreed to increase the number of amnesty committee members from the present five to 13

The move has been welcomed by both the PAC and the NP, which have both called for an extension of the cutoff date.

Amnesty committee member

(252) Star 1/5/97  
Denzel Potgieter welcomed the decision as a milestone for reconciliation and said they were very happy about it

"One of the main motivations of acceding to the request for extension was for reconciliation. We are hopeful that we will get some of the right wing and Apla people in the process," said Potgieter

He said that because amnesty hearings should be completed by the middle of December this year, the decision to increase the number of commissioners would help the TRC to reach the target

Although the PAC welcomed the decision, secretary-general Ngila Muendane criticised the Cabinet for heeding more to calls made by whites than those from Africans.

"That (the decision) is good. It's only a pity that when we ask

for it as Africans, it is not granted, but when white people ask, the Government does it very quickly," said Muendane.

He said the PAC was not asking that whites should be ill-treated but that the voice of African people "must carry weight" because this was their country

NP spokesman Farus Schoeman said the NP had always asked for the extension if it could play a role in reconciliation, and thus welcomed the latest move

Separately, the SANDF urged serving or former members who were uncertain about their legal position, or whether to apply for amnesty, to seek legal advice

They should contact the legal officers at their nearest base, group or command headquarters. Defence headquarters in Pretoria could also be contacted for advice

# Amy's parents in TRC pledge

(252) ARG 1/5/97

The parents of Amy Biehl, the American student beaten to death four years ago in Guguletu, will not oppose amnesty for one of her killers who is applying to the Truth Commission for amnesty.

"Our feeling is that it's their country and their process, and let the case be decided on its merits, or lack of them," said her father, Peter Biehl, from his home in Newport Beach, California

Ms Biehl, a 26-year-old Fulbright scholar, was stabbed and stoned by a crowd yelling anti-white slogans. She had been working in voter education pro-

grammes preparing for the election in April 1994, and was driving some black friends home

Mongezi Manqina, 25, one of four men sentenced to 18 years in prison for the killing, has applied for amnesty. The other three have also said they will apply.

The attackers, linked to the youth wing of the Pan Africanist Congress, argued during their 11-month trial that they were caught up in the militancy of the waning days of apartheid

Meanwhile two more people have been subpoenaed to appear before the commission's hearing into the so-called "Trojan Horse"

shooting in Athlone on the Cape Flats on October 15 1985

Subpoenas were served on police Sergeant Albertus Myburgh Smit and former police lieutenant Douw Vermeulen

The others are Sergeant Christian Loedoelf, Inspector Andre John Smith and Sergeant Alexander Jacobus Rossell, and a Citizen Force soldier, Lieutenant-Colonel Salmon Pienaar

Michael Miranda, 11, Jonathan Claasen, 21, and Shaun Magmoed, 16, were killed when security force members hiding in on the back of a lorry opened fire on alleged stonethrowers - Sapa-AP

# ANC leaders to accept responsibility

**T**HE second major submission by the African National Congress (ANC) to the truth commission will raise the issues of the relationship between individual and collective responsibility, and whether there was any moral equivalence between apartheid and the struggle against it.

One senior ANC member is understood to have told commission chairman Archbishop Desmond Tutu that he would "be surprised at our submission" and the number of ANC amnesty applicants.

The submission will be presented verbally by Deputy President Thabo Mbeki next Monday and Tuesday (May 12 and 13) in Cape Town, provided the unfolding events in Zaïre do not force a postponement.

In the vein of his recent "African renaissance" speech in Washington, Mbeki's presentation is expected to bring new substance and definition to a major national debate. Countering a recent impression of drift and lack of focus in the party's attitude to the truth and reconciliation process, the submission is understood to be packed with detailed answers to a catalogue of specific questions from the commission. The questions were formulated after submission of the ANC's 134 pages of documentation in August.

"This is an operational report," one of its drafters says. "It will contain a detailed section from the military wing, and one from the security and intelligence section."

Senior ANC sources familiar with the submission say there is a feeling that the organisation has not finally won the debate in the country on the legitimacy of armed struggle. Mbeki will attempt to illustrate and define the moral difference between those who fought apartheid and those who planned and implemented it.

Due for approval by the organisation's national working committee on Monday before submission to the commission the next day, the document is unlikely to be the final word on every action by

The ANC leadership's appearance before the truth commission this month is likely to bring a new dimension to the unfolding debate on the country's past, says special writer Stephen Lauffer

the ANC, Umkhonto we Sizwe (MK) and their often loosely associated township supporters.

"This is not the definitive history of the struggle," one source involved in the drafting says. Instead, it will deal as comprehensively as possible with issues falling within the commission's mandate. Still, the breadth and detail of the submission is likely to put the National Party (NP) submission to shame.

In its submission, the ANC leadership will accept overall responsibility for the pain and suffering caused by its actions against the former government, and display a readiness by individual operatives to admit to their involvement in, and reveal details of, specific actions. Individuals involved in abuses in ANC camps will also apply for amnesty.

In the words of one senior member, the submission "aims to provide cadres with a safety net by showing the larger political context of their actions while explaining the frustrations and anger which also led to deviations from discipline on some occasions".

The ANC will not "take the rap for anything that was not politically motivated, such as rape, robbery for personal motives, disciplinary violence, or brutality", one of the drafters says. While the party has always understood the frustrations which gave rise to necklacing, and saw the practice as a consequence of the informer system, it was "outside the armed struggle", a source contends. Then ANC president Oliver Tambo had condemned the practice.

Mbeki will be assisted in answering the commission's questions by Defence Minister and former MK chief Joe Modise, his

deputy Ronnie Kasrils and Transport Minister and former Operation Vula chief Mac Maharaj, as well as Deputy Intelligence Minister Joe Nhlanhla and ANC national chairman Jacob Zuma, both former heads of the organisation's security service.

While attempting to present a comprehensive list of all its operations since the sabotage campaign in 1961, the ANC will point to grey areas where confusion remains as to who really was responsible for particular attacks.

Using an argument similar to that of the Freedom Front's Commander Viljoen and some former defence force generals, the ANC will argue that purely military engagements between MK and the SA security forces do not require

amnesty. Such clashes were clearly governed by the international rules of military engagement, the ANC believes, placing the deaths or wounding of SA soldiers and police in the context of legitimate military operations involving armed combatants on both sides.

The organisation will admit its cadres were involved in operations which caused pain and suffering to civilians. It will say the vagaries of underground operations with poor lines of communication and the death or arrest of operatives mean it is still unsure whether some attacks ascribed to it were in fact carried out by MK.

It will argue there is a real possibility that attacks ascribed to it over 30 years were the perpetrators could not be identified as ANC

members were carried out by government agents to discredit the organisation. Former generals and former law and order minister Adriaan Vlok have admitted to the Kloof House and other bombings ascribed at the time to MK.

In this category were bombings of Wimpy Bars in the 1980s, many of which, one senior ANC official said, "we strongly suspect were carried out by the regime".

A source involved in drafting the submission says attacks dealt with in the report will be grouped into three categories: those operations clearly conforming to the organisation's policy such as the Sasol bombing, those in a grey area where the target fell within policy, but unavoidable civilian casualties resulted, such as the Church Street bombing of SA Air Force headquarters when the bomb was triggered prematurely, and those clearly in contravention of instructions which resulted in the random deaths of civilians, such as the Ellys Park bomb.

"Despite the context of the planned acceleration of the struggle, the Ellys Park bomb is one operation where we simply have to say sorry," the source says.

By placing the actions, successes and errors of individuals and the organisation in the context of the struggle, the submission will seek to mark a clear dividing line between the ANC and the NP.

The refusal of the former governing party and its senior politicians to lead from the front in accepting responsibility for the past has given rise to anger and bitterness in security force ranks. Policemen and soldiers who believe they did the party's dirty work in the past now feel abandoned as National Party leader FW de

Klerk and his colleagues hide behind plausible deniability.

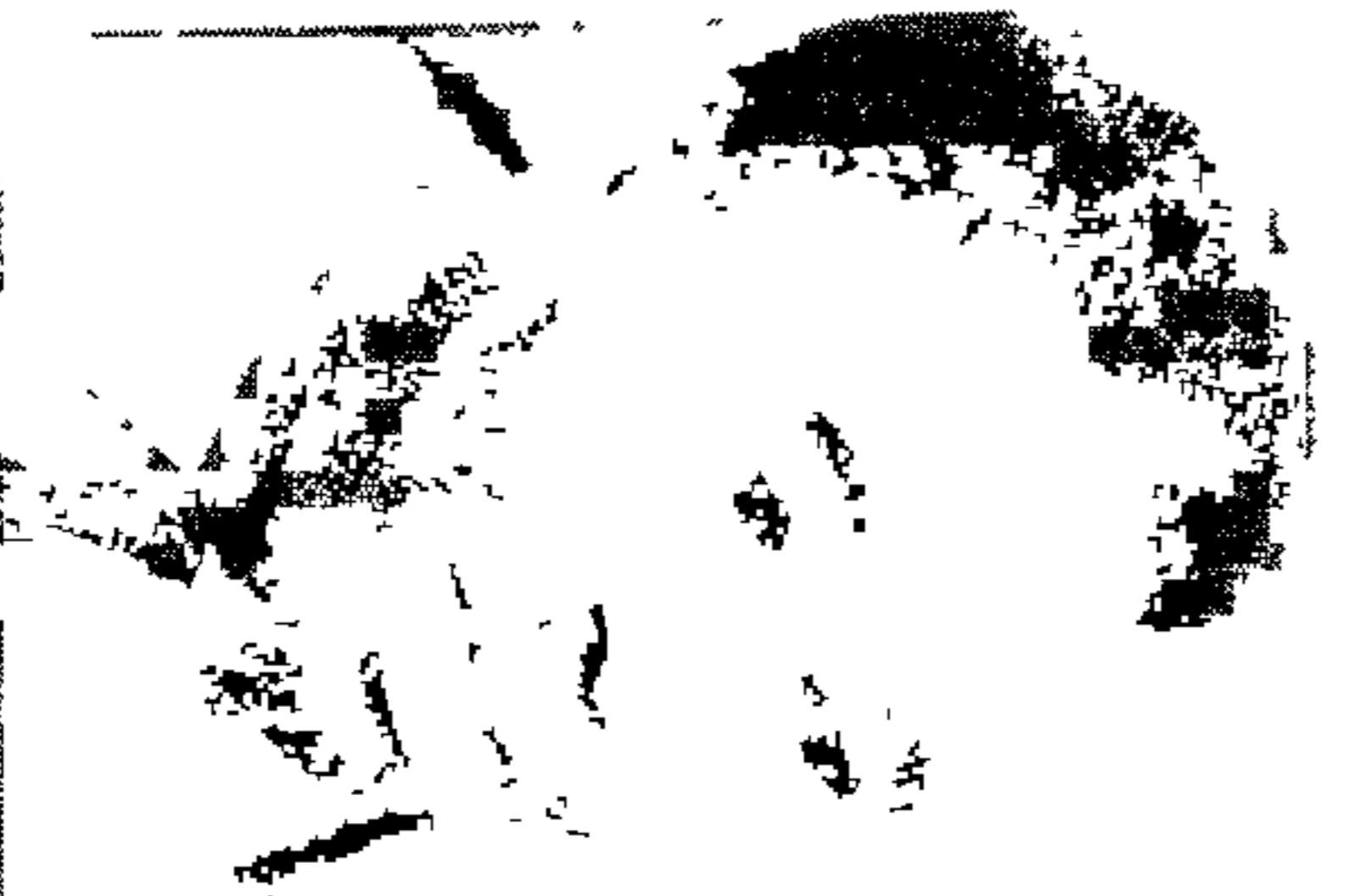
Security force amnesty applicants have spoken bitterly of being left to fend for themselves in the glare of public hearings. Talk of being rejected by their own communities and seldom find gratitude from their victims for their attempts at reconciliation.

The difference in the two parties' approach will be most starkly illustrated by the ANC's decision that its entire national leadership for the period 1961 to May 1994, including all who served on the political and military structures, should apply for amnesty.

The message is that the members of the national executive, the political-military council, and the revolutionary council, depending on the leadership structure in place at any given moment, will publicly accept overall responsibility for the actions of soldiers in the field. All members of the national leadership of MK and the security and intelligence structures will apply for amnesty. Among them will be the commanders of the special operations units responsible for the spectacular attacks on Sasol and Voortrekkerhoogte as well as Mbokodo members named in the Motsuanyane report as having mishandled detainees suspected of working for the SA government.

Having discussed the possibility of composite applications with Viljoen and the ANC, the commission has concluded that collective applications can be submitted as long as they are supported by detailed individual amnesty requests. ANC members not directly involved in directing military operations are likely to request amnesty for the period during which they served in a leadership role. An annex would detail specific acts the applicant is associating him or herself with.

Bridging the gap between individual legal liability and collective responsibility for the armed struggle, the ANC leadership is likely to bring a new complexity to notions of responsibility for SA's past.



MBEKI



MODISE

# Entire leadership of ANC in amnesty bid

Stephen Laufer

THE entire surviving national leadership of the African National Congress (ANC) from 1961 to 1994 was expected to apply to the truth commission for amnesty, drafters of the submission disclosed yesterday.

The possible exception is President Nelson Mandela, who has deliberately remained above party political involvement with the commission.

A source familiar with the ANC's submission said the members of the ANC's military and political leadership structures would publicly accept overall responsibility for the actions of the organisation's operatives in the field. The party would submit a comprehensive list of all of its operations since 1961, with cadres giving details of their actions in their individual amnesty applications.

Leaders not directly involved in military operations were expected to ask for amnesty for the period during which they served on national structures, detailing actions with which they were associating themselves.

Among the ANC's senior leadership figures expected to ask for amnesty are Deputy President Thabo Mbeki and a number of cabinet ministers. Former ANC deputy president Walter Sisulu, who was sentenced to life imprison-



MBEKI

ment with Mandela and served 26 years in prison, would possibly also apply, it was learned. All other members of the national executive committee and of the military command structures at national level would apply.

The ANC's strategy contrasts with that of the National Party (NP), whose leader FW de Klerk said only individ-

ual perpetrators responsible for acts defined in the law governing the truth commission's work should ask for amnesty. Former NP law and order minister Adriaan Vlok is the only NP cabinet member so far to have announced that he will seek amnesty.

The ANC structures whose top leadership will be applying include Umkhonto we Sizwe's (MK's) high command, which operated roughly between the beginning of the sabotage campaign in 1961 and 1963, the exile military command structures from 1963 to 1967, the revolutionary council (1967-1983), the political military council (1983-1990), and MK military headquarters, which prepared guerrillas for integration with the SA Defence Force and was active in community self-defence between the ANC's unbanning in 1990 and April 1994.

The cutoff date for applications is May 10. A second round of hearings with the political parties begins on May 12 with a two-day submission by the ANC. It will be followed by the NP and the Freedom Front, whose leader Constand Viljoen said this week he hoped to make a composite submission on behalf of all of his members involved in planning acts of sabotage before the April 1994 election.

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## Farmers' union calls for return of death penalty

ARG 2/5/97  
Pretoria - The South African Agricultural Union has called for the total redrafting of the judicial system, free of corruption and adjusted so that the punishment fits the crime.

(252)  
An SAAU memorandum to be handed to various Government departments will call for reinstatement of the death penalty as an emergency measure to restore law and order. - Argus Correspondent

# TRC looks at 'death farm' Were E Cape farms once used as operations bases?

By MIKE EARL-TAYLOR

**THE RECENT discovery of the remains of four slain MK guerrillas on a farm near Alwal North has fuelled speculation that Eastern Cape farms may have been used by the police and army as operational bases and interrogation centres during the apartheid era.**

Truth and Reconciliation Commission investigation unit chief Dumisa Ntsebeza said this week he was investigating claims that a so-called apartheid "death farm" was located in the coastal area between Port Elizabeth and Port Alfred.

By last week, the TRC had recorded more than 4 200 killings and hundreds of "disappearances".

The Eastern Cape was the stronghold of resistance against apartheid in the 80s, and it is feared many activists who officially "disappeared" were secretly buried on various farms there.

The towns of Cradock, Cookhouse, Bedford, Fort Beaufort, Grahams-town and Port Elizabeth were hotbeds of violent resistance to apartheid and the number of people who "disappeared" may never be known.

Vlakplaas may well have been the vanguard of many other such places, and precedents are to be found in the Rhodesian bush war when both soldiers and police - including South Africans - often operated from remote farms on the perimeters of the so-called tribal trust lands.

One way of disposing of the bodies of both combatants and civilians favoured by the Rhodesian Special Branch - the equivalent of the South African Security Police - was to throw the corpses into disused mineshafts.

TRC Eastern Cape media officer Phula Ngqumba this week said it was quite possible there were a number of such "farms" in the region that were used by the SADF and police - particularly the security branch primarily responsible for the torture and murder of those who resisted apartheid.

Remote farms, like Post Chalmers near Cradock where the Pebeo Three were beaten to death, would have been ideal torture places as victims' screams would have gone unheard.

Whether farmers who leased their farms to the State during this period knew of the horrors done on them is currently a matter of conjecture and it remains for the TRC to establish the extent of their possible involvement in such actions - **Eena**

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# to subpoena Winnie

## TRC to subpoena Winnie

FROM PAGE 1

about the kidnapping, assault on and killing of Seipei

He claims Madikizela-Mandela was present when the youths were assaulted and made to scrub the house's blood-stained walls

"I now feel betrayed because since I was jailed, Mrs Mandela paid me a visit only once - in 1994," says Richardson  
"Even if I am killed for telling the truth, I'll rest in peace"

CP 415/97

Of the about nine people who took part in all the crimes committed during his time as the Mandela football coach, he is the only one being held in prison, says a bitter Richardson

□ Nisebeza said another key witness the TRC believed might provide valuable information was Xoliswa Falati  
Falati - who quarrelled with Madikizela-Mandela during her kidnapping trial and later fled Madikizela-Mandela's home - will be interviewed this week, according to Nisebeza

### BY CHIARA CARTER and WALLY MBHELE

**IN A DRAMATIC submission before the Truth and Reconciliation Commission, the former coach of the notorious Mandela football club, Jerry Richardson, has implicated Winnie Madikizela-Mandela in the grisly murders of at least four youth activists.**

Richardson, now serving a life sentence for the cold-blooded murder of one of the four - Stompie Seipei - is asking the TRC for amnesty.

Besides the Seipei murder, Richardson claims two youths who disappeared without a trace - Lolo Sono and Siboniso Shabalala - were also murdered on Madikizela-Mandela's instructions

City Press understands that Madikizela-Mandela is set to be subpoenaed to appear before the TRC within the next few weeks because of allegations associated with Seipei's murder

□ The TRC's head of investigations, Dumisa Nisebeza, yesterday said he could not confirm the contents of Richardson's amnesty application "but there has been talk that he has made an application"

"However, in our own investigations into allegations regarding Stompie's murder we felt that we should call people associated with the liberation movement - not excluding Winnie"

□ At the time of going to press, City Press could not yet establish whether Madikizela-Mandela will be among

a host of ANC leaders who will apply to the TRC for amnesty next week (May 12).

The ANC's position is that individuals who committed criminal acts and other human rights abuses must make amnesty applications on their own

□ Richardson says his fourth victim was a woman known as Kuki Zwane, who was murdered after she was suspected of giving information to the Protea police. Her throat was slit with a knife

Shortly after her murder, Zwane's body was dumped between two schools near the Orlando Stadium in Soweto by Richardson and another member of the team, he says.

Zwane was killed after her boyfriend - a comrade - had been shot dead by police. According to Richardson, the killing of her boyfriend led to the conclusion that she was a police informer

Richardson says Shabalala and Sono were also killed because they were suspected of being police informers

The decision to kill them was taken after a police shoot-out at his house, says Richardson

He claims Madikizela-Mandela was personally present in a minibus when they went to fetch Sono at his Meadowlands home

□ Sono's mother recently alleged before the TRC's human rights violation committee that Madikizela-Mandela had been present when she last saw her son

Richardson submitted two amnesty application forms last year but they never reached the TRC offices. He finally got the a chance to expose an alleged secret web when the TRC's investigators paid him a surprise visit in his prison cell two weeks ago

□ However, City Press understands that no lawyer is prepared to repre-

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(252)

sent Richardson before the TRC. All the lawyers who have been approached have declined to represent him

□ Speaking to City Press from his Leeuwkop prison cell, Richardson said a key witness to the events surrounding the killing of Seipei and others was Katiza Cebekulu

Cebekulu was spirited out of the country to Zambia shortly before the beginning of the sensational Stompie trial - in which Richardson received a death sentence, while Madikizela-Mandela was fined for her involvement in the kidnapping of the child activist

City Press understands that the TRC's investigators are faced with a mammoth task in trying to trace Cebekulu's whereabouts

□ Nisebeza confirmed that "the TRC is also keen to see Cebekulu, who seems to possess considerable information which may be useful to our inquiry"

□ Richardson also named high-profile figures - who, he said, knew of the information he has provided about circumstances surrounding Seipei's disappearance. Among them are Reverend Frank Chikane, Sister Bernard Neube, Dr Nihato Motlana and Reverend Beyers-Naudé - who were all part of the Mass Democratic Movement leadership which interviewed him about Seipei at Madikizela-Mandela's house

Richardson claims Chikane made a tape recording of the meeting, which was held in the presence of Madikizela-Mandela

At the meeting, says Richardson, Chikane spoke to him strongly and warned him about his possible arrest. Richardson claims he lied before the high court judge when he said Madikizela-Mandela did not know

TO PAGE 2



# New look for justice in Cape

## Courts' load to be spread

HENRY LUDSKI

**B**OUNDARIES of Cape Town's magisterial districts are to be redrawn in a move signalling the end of racially administered justice in the city.

The most significant aspect of the decision, announced this week by Justice Minister Dullah Omar, will be the incorporation of the city's black townships into radically redefined magisterial districts.

Once the move is promulgated, possibly in June, the townships of Langa will fall under the magisterial district of Goodwood and Nyanga, and Guguletu and Crossroads will fall under Athlone and Wynberg.

By radically redefining the boundaries of these two magisterial districts in particular, Omar hopes some of the work of the traditionally overloaded courts on the Cape Flats will be spread to courts elsewhere in the city.

This would help remove the racial disparities still inherent in the administration of justice in the region, said Omar. It would also result in a fairer administration of maintenance cases, with a direct bearing on how cases involving black women were handled.

In a throwback to the city's apartheid past, aspects of maintenance cases of township women are still handled by Home Affairs and Justice, leading to confusion, and

lengthy delays, with the women being sent from court to court.

"This absurd situation lasts for about 18 months during which time the woman usually receives no money," said Omar.

The new magisterial district demarcations will result in the maintenance cases of black women — as has long been the case with other population groups — being handled by one department.

The minister said this would relieve the pressure on the hugely overloaded Mitchells Plain Magistrates Court.

The urgent reform of South Africa's inefficient and hopelessly inadequate private maintenance

system is at the top of Omar's long list of priorities.

A report recently handed to the minister by a task team he appointed last year to look into the situation, describes the country's private maintenance system as being in complete "disarray".

The task team stressed that the problem could only be addressed by a "radical and unequivocal policy shift".

Its recommendations include the setting up of specialised "deracialised" maintenance courts to be located in the proposed new system of family courts, and a computer network to keep better track of cases and errant fathers.

## Waterfront team looks East

TOM HOOD

THE architectural team that designed Cape Town's Waterfront is bidding for a contract to design a R1,4-billion waterfront at Singapore harbour.

A consortium of Stauch Vorster and GAPP Architects is on the short list for the architectural and urban planning design of the Singapore waterfront. A decision on the appointment is expected this month.

Heading the Cape-based group, Professor Ivan Prinsloo of UCT said

the firm that won the project would be able to use it as a springboard for more work in South East Asia and other parts of the world.

David Jack, managing director of the Waterfront, though independent of the consortium, spearheaded a presentation to the Singapore harbour authority, which has the financial backing of the Singapore government.

"The inclusion of Jack in our team strengthened our chances. He is recognised as a world authority," said Prinsloo, adding that Singapore wanted its waterfront to be the world's best.

# Threat of chaos in justice system

252  
Sowetan 5/5/97  
By Josias Charle

A CEASH is looming between the Police, Prisons Civil Rights Union (Popcru) and police management over a plan by the labour body to embark on labour action.

Popcru leaders have indicated that from today their members will communicate, fill in official documents and take statements in their mother tongue only.

This will throw the justice system into disarray.

The union's assistant general secretary, M. Mnikelwa Nxele, said at the weekend that they have decided on nationwide action after realising that there had been no transformation in the police force. The plan is also aimed at ousting National Police Commissioner George Fivaz.

"This is one way of highlighting the need for transformation in the police force and of showing that we want Fivaz out," Nxele said.

## National strike

The labour action is the first step in a process that may culminate in a national strike by the largely black police union.

Meanwhile the deputy divisional commissioner of human resources management Assistant Commissioner Gert Swart, warned that the envisaged action may be construed by management as "falling within the definition of a strike".

"Members are reminded that the South African Police Service is an essential service as set out in the Labour Relations Act. Members of the service are prohibited from striking in terms of provisions of the Act and their action may constitute fair reason for their dismissal," Swart said.

He also ruled out picketing as a form of supporting a strike. Swart said management approved the

right of members to take part in lawful trade union activities. Such rights must however be exercised in accordance with principles of orderly collective bargaining and prescribed dispute resolution mechanisms.

He said members who engaged in activities that impacted negatively on the rendering of safety and security would not be tolerated and "will be dealt with in terms of the disciplinary code of the service".

# Last-minute rush for amnesty on the cards

Span 5/5/97 (252)

This will be your last chance, warns TRC chairman Tutu

By EDWIN NAIDU

At least 500 new amnesty applications are expected to reach the Truth and Reconciliation Commission this week.

This follows TRC chairman Archbishop Desmond Tutu's weekend appeal to those who took part in political violence during the apartheid era to apply before midnight on Saturday.

TRC spokesman Christelle Terreblanche said the TRC had been promised "quite a lot" of applications, from political parties in particular.

The ANC and Freedom Front (FF) have already indicated their willingness to take part in the process. And National Party leader FW de Klerk is expected to be among a host of NP leaders to apply for amnesty for the actions of the former regime.

Tutu made a "cry from the heart" on the SABC's TRC Special Report on SABC-TV last night.

He appealed to members of security forces, military operatives, members of special defence forces and leaders of political parties to "take this golden opportunity to

apply for amnesty on the most generous terms possible".

"Please come forward because this is an opportunity to put the past behind you, to help in the process of your own healing and the healing of this beautiful land. Please come forward.

"I appeal to you who were in SDUs in the townships, to you in the hostels.

"I appeal to those of you who were in the CCB and military intelligence.

"This amnesty is one that would expunge any criminal or civil liability you are likely to have," he said.

According to the TRC, more than 5 000 applications for amnesty have already been received.

On Friday the ANC's Ronnie Mamoepa said the organisation's entire national leadership would apply for amnesty.

Deputy President Thabo Mbeki had made a recommendation that past and present members of the ANC's national executive committee and various command structures of MK apply.

FF leader General Constand Viljoen has also applied for

amnesty, and he received support at the weekend from Transvaal Agricultural Union president Dries Bruwer and his Free State counterpart Dr Piet Gouws.

Both said they would accept co-responsibility for violent acts by farmers after statements to farmers that they had to protect themselves because the Government could not.

They would be available to give evidence to the TRC in support of Viljoen, they said.

Former Vlakplaas leader Dirk Coetzee, on trial for the 1981 murder of human-rights lawyer Griffiths Mxenge, has already applied for amnesty and the confession cannot be used against him in the court case.

Tutu said last night blanket amnesty would not be considered and that the amnesty committee could sit early next year if it was not able to complete its work.

He said Justice Minister Dullah Omar had granted a request to increase the staff on the amnesty committee.

It would make nonsense if the TRC was unable to deal with the applications and then grant blanket amnesty, Tutu said.

## TRC told of possible tie between gangs and old government

**OWN CORRESPONDENT**

The Truth and Reconciliation Commission is probing the relationship between the apartheid government and Western Cape gangsters, after an appeal by the mother of a gangster recruited by the Civil Co-operation Bureau to learn the truth behind her son's assassination.

Compromising relationships formed between members of the NP, security forces and Western Cape gangsters – and, later, allegedly between ANC elements and gangsters – could contribute to the State's apparent inability to secure convictions against certain known gang leaders involved in the illegal arms and drug trade.

According to evidence placed before the Harms Commission in 1990 – and before the Webster inquest two years later – gangster Edward "Peaches" Gordon was recruited by CCB operative Abraham "Slang" van Zyl to, among other things, assassinate lawyer Dullah Omar in 1989. Omar is now the minister of justice.

Other CCB projects said to have involved Gordon include a blast at the Early Learning Centre in Athlone, the razing of a printing works in Cape Town, hanging a baboon foetus outside the home of TRC chairman Archbishop Desmond Tutu, and a plot to kill journalist Gavin Evans.

After Van Zyl's evidence to the

Harms Commission, Gordon boasted he had managed to "cream" R25 000 from the CCB for operations he never carried out. He later met Omar, who accepted his hand of friendship.

But Gordon was lured to his death in January 1991, apparently by a former prison associate called Mikey. His body was found in a stolen car next to the N2 freeway near Athlone. And a couple, who allegedly saw his killing, were executed a few months later. Neither case has been solved.

It speculated that Gordon was killed because he knew too much about other gangsters, including CCB operatives, connected to political violence.

*Star 5/5/97 (252)*

# Pilot scheme to introduce pre-trial hearings for bail

HENRY LUDSKI

ST 4/5/97

(252)

PRE-TRIAL hearings to prevent dangerous criminals from getting easy bail will be introduced at selected courts throughout the country, Justice Minister Dullah Omar said yesterday.

If the pilot scheme proves to be successful, and if he is able to secure cabinet approval, Omar plans to extend the system to courts throughout the country.

The pilot project will be run at courts in Durban, Johannesburg, Cape Town, Mitchell's Plain and Port Elizabeth.

"The idea is to send someone from the department (of Justice) down to the court cells to sort out the dangerous criminals from the petty thieves," Omar said. "This is part of a process of preparing prosecutors to handle cases and bail

applications when cases eventually land up in court."

Omar, involved in a process of "re-engineering the criminal justice system", also wants courts to be able to tell witnesses within 30 minutes of their arrival how long they may have to wait before they have to give evidence.

The programme will also emphasise what Omar calls "voluntary community participation" which "will allow people from communities to make an input into how we deal with bail applications in various cases."

Omar recently returned from the US where he looked at a pre-trial service model drawn up by the New York-based Vera Institute, which has pioneered similar projects in the US and in Britain. On Friday the Justice Department will sign a five-year agreement with the institute's director, Chris Stone, paving the way for its involvement in SA projects.

# FW de Klerk thinks amnesty

ARCT 5/5/97



Fw de Klerk: thinking about amnesty application

**CLIVE SAWYER**  
POLITICAL CORRESPONDENT

**FW de Klerk and former National Party ministers who held security portfolios are considering applying to the Truth Commission for amnesty.**

The move is being discussed at a federal executive meeting in Cape Town today with just five days to go to the deadline for amnesty applications.

Those who may seek amnesty could include Mr De Klerk, as former state president and commander-in-chief, former law and order minister, Hermus Krugel and Roelf Meyer, a former deputy law and order minister and one-time minister of defence. If the Truth Commission allows it, they

would seek amnesty in their official, and not personal, capacities.

Last week, the African National Congress announced its national executive committee had decided that past and present members of the committee and the various command structures of Umkhonto weSizwe should apply for amnesty.

General Constand Viljoen, former head of the defence force, announced earlier that he would apply for amnesty.

Truth Commission head Desmond Tutu at the weekend made an impassioned appeal for all those who had been involved in gross violations of human rights, and had not yet applied for amnesty, to do so by the May 10 deadline. Archbishop Tutu asked leaders of politi-

cal parties, security forces, military intelligence operatives, as well as members of self-defence units and hostel dwellers, to come forward to the amnesty committee. Amnesty would expunge them of all criminal and civil liability.

Archbishop Tutu firmly ruled out the possibility of a blanket amnesty, saying it would make nonsense of the TRC's work.

The NP confirmed today that the subject of amnesty applications was on the agenda its federal executive meeting. It is understood no specific recommendation will be tabled at the start of the discussion.

Mr De Klerk has said publicly several times, and in the party's most recent submission to the Truth Commission, that neither he nor his security portfolio ministers

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gave orders for murders or other gross violations of human rights.

Top NP members have so far declined to apply for amnesty on the grounds that it is designed for those personally culpable for human rights violations.

Mr De Klerk has said that he and his ministers accept full responsibility, because of their official posts, for the events of the apartheid years.

At the weekend, Dene Smuts, Democratic Party spokeswoman on the Truth Commission, lashed out at the failure of NP leaders to apply for amnesty.

Their failure and their claims of "clean hands" meant they had left members of the former security forces to fend for themselves, she said.

# bid

# Nat ministers reject amnesty

CLIVE SAWYER  
POLITICAL CORRESPONDENT

(252)

ARG 6/5/97

National Party ministers from the apartheid era will not apply to the Truth Commission for amnesty, says party leader FW de Klerk.

The decision was made at an NP federal executive meeting yesterday, five days before the deadline for amnesty applications.

"The amnesty process is not the correct channel for the acceptance of political responsibility, for policy or the execution of policy," Mr De Klerk said.

"Political leaders who in terms of the law did not commit crimes should therefore find another way of doing this."

Mr De Klerk will this week meet Truth Commission head Desmond Tutu, at the archbishop's request, to discuss the party's decision.

Earlier, Archbishop Tutu responded to reports that the NP was considering allowing its security-portfolio ministers to apply for amnesty by saying these would be welcomed.

Editorial comment, page 9

National Party break-up ruled out, page 10



# ANC top brass seek amnesty

*Sowetan 7/5/97*

By Pamela Dube Political Reporter

PRESENT and past leaders of the African National Congress will be part of a list to be presented to the Truth and Reconciliation Commission on Friday

While the ANC took collective responsibility for acts of human rights abuse in the past, the party's acting general secretary Ms Cheryl Carolus said individuals will apply for their direct and indirect participation

Those who will apply include the past and present members of the National Executive Committee, Revolutionary Council, former members of the various regional political committees, the politico-military committees and self-defence units.

The current and former NEC members "will apply for amnesty within the context of the broad principle of collective responsibility for the conduct of the struggle where their conduct might have resulted in acts, omissions or offences envisaged in the TRC Act," Carolus said

However, Carolus declined to reveal names of the applicants, saying "it would be unfair for the TRC to read about those individuals in the media"

## Top ANC leaders

Among the top ANC leaders whose names appeared in the first list submitted last year was Deputy Defence Minister Mr Ronnie Kasrils. This week, Northern Province premier Mr Ngoako Ramatlhodi announced he would apply for amnesty

But leaders implicated in human rights abuses in the ANC camps in exile would not apply for amnesty, she said

Among top ANC officials named in the internal inquiry into acts of torture and other abuses were Defence Minister Mr Joe Modise and national chairman Mr Jacob Zuma, whom Carolus said "would take political responsibility"

She defended them, however, saying that "none of the ANC leaders had been implicated directly. Torture in the camps was not an ANC policy and none of the ANC leaders had direct knowledge of the abuses"

On National Party leader FW de Klerk's comments that he would not apply for amnesty, Carolus said the former president was a "disgraceful coward"

"He was head of the government and he cannot try to distance himself from actions of his foot soldiers"

# I gave go-ahead for CCB, Malan admits

FILE 715197

(252)

**JOHN YELD**  
ON THE TRUTH COMMISSION

Magnus Malan, former defence minister and earlier chief of the South African Defence Force, admitted in Cape Town today he had approved the establishment of the Civil Co-operation Bureau (CCB) in the 1980s.

He disclosed to the Truth Commission that he had at times given orders which had resulted in the deaths of "innocent civilians in crossfire".

He sincerely regretted such deaths, but had never issued any orders for political assassinations, nor had he ever been approached to authorise such assassinations, he said.

"The killing of political opponents of the (then) government, such as the slaying of (Witwatersrand University academic) Dr (David) Webster, never formed part of the brief of the SADF," he said.

Recently, the TRC was told in an affidavit that a former CCB member, Ferdi Barnard, had admitted privately to friends that he had shot Dr Webster.



LEON MULLER

**Sorry:** Magnus Malan and Desmond Tutu today

Under cross-examination, General Malan said former CCB members involved in assassinations should be prosecuted.

General Malan also denied that a so-called "Third Force" - a parallel force to the SADF and the SA Police, specifically to combat unrest - had ever been established.

## Winnie likely to face TRC on Stompie death

Winnie Mandela is likely to face the Truth and Reconciliation Commission (TRC) on the death of Stompie Sepe, a 12-year-old boy who was killed in 1988. The TRC is expected to hold hearings on the case in the coming months. Mandela's role in the death of Sepe has been a subject of controversy for years. The TRC's mandate is to uncover the truth about human rights violations during the apartheid era and to provide a platform for victims to tell their stories. The commission is expected to release a report on the findings of its investigations.

He confirmed such a force had been proposed and then investigated by a sub-committee of the State Security Council headed by the then Law and Order Minister Adriaan Vlok, but the council had finally

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## Cash guards shot in station robbery

From page 1

shot their victims in the head immediately in front of her.

"One of the guards still had the fruit he had bought in his hand when he fell on top of me after being shot," she said.

She said the other guard stumbled back to the ticket office, where he collapsed.

The gang grabbed a bag of money and the firearm off one of the guards and fled.

Police called in a helicopter to help ground patrols search for the gang, and cordoned off the area.

The injured guards are fighting for their lives in Groote Schuur hospital, while police say one of the robbers may have been injured.

A would-be robber was arrested today when he and an accomplice tried to rob a ticket office clerk at Steenberg station.

# Is the TRC becoming a little opaque?

CF 8/5/97

(252)

**SOUTH AFRICANS** need to be assured that the activities of the Truth and Reconciliation Commission will not end up in a rape of the rule of law in this country, argues Contributing Editor **ANTHONY HOLIDAY**.

**A**L South Africans who care about the principles of openness, equity and due process, which are supposed to underpin our legal system, now have reason to feel serious alarm at what is happening in and around the Truth and Reconciliation Commission.

Two telling signs that this is so emerged last week

The first and most important of these was the revelation in the Sunday press that the truth about the murders in 1985 of Matthew Goniwe and the three other members of the Cradock Four had at last been disclosed to the men's relatives by one of the security policemen, Colonel Eric Taylor, who took part in the slaughter — but that the commission had made strenuous attempts to keep the matter secret on the grounds that publicity might prejudice amnesty hearings for Taylor and his accomplices later this year

The killers must find the commission's solicitude truly touching. But what on earth is going on? What has happened to the "transparency" we were promised when this exercise in national "healing" was first launched? Why should the commission fear that its own members will be prejudiced by the disclosure to the public of material which its amnesty committee is going to consider anyway? And — most crucially — does it propose to hear these particular pleas for indemnity in public or behind doors which are firmly shut?

True, the commission is a quasi-judicial body, having been set up under the Minister of Justice. But it is hardly a court. It does not dispense legal retribution, but grants unusual protection from such retribution in cases where its officers see fit to do so. This being the case, it hardly seems appropriate (even if it is not positively illegal) for the commission to

behave like a court by invoking its own version of the *sub judice* rule when this suits it and acting like a sort of public confessional when this is the image it wishes to project

The other indication that all is not well in our own special version of George Orwell's "Ministry of Truth" has been a response from the Bishop of the Central District of the Methodist Church, Peter Storey, to a column I wrote criticising TRC chairman Desmond Tutu's dangerous predisposition to view his commission's entirely secular mandate through the soothing medium of his theological convictions.

Writing in his regular Sunday offering to the readers of the Sunday Independent, Storey concedes that "at one level" I am right to insist that the Truth Commission is empowered by legislation which makes the product of political compromises and which makes no mention of either repentance or forgiveness. He thinks, however, that I am wrong at "the level where most people think and feel and act" to deny Tutu his right "to point to the theological dimensions of this process"

For my part I cannot see that, in terms of the legislation which set it in motion, the process has any "theological dimensions" — and it is to the legislation and not to his religious convictions that Tutu must look if he is to escape the charge that he seeks

**Why did Storey, and not Tutu, choose to reply to my... allegations that Tutu's homily concealed an agenda for saving the skins of murderers...**

to go beyond it. I doubt, moreover, that most ordinary South Africans "think and feel and act" at a level which requires them to suppress their outraged sense of natural justice at the thought that murderers of those who fought to free this nation of the scourge of apartheid — a system criminalised by international law — should escape the punishments the law normally exacts in such circumstances

But my chief concern is less to rebut Storey's complaint than to ask why he, and not Archbishop Tutu, has chosen to reply to my criticism of Tutu's sermonising and to my allegations that the latter's homily conceals an agenda for saving the skins of such murderers as Craig Williamson, Janus Walusz and Clive Derby-Lewis.

Why can't Tutu fight his own battles? Is it, perhaps, that (solid Christian that he is) he does not



**RENDERING UNTO CAESAR:** Are the TRC's Alex Boraine and Desmond Tutu exceeding their secular brief by offering up thanks and prayers as they are shown to be doing in this picture?

want to lie to the public by pretending that the TRC is not under considerable pressure from certain powerful quarters (and in the interests of "reconciliation") to let the murderous minions of PW Botha's "Total Strategy" off the hook, that he is unwilling to dissemble in public about procedures which he knows in his heart to be a travesty of Christian (or any other) conception of justice and that he heartily regrets that he ever consented to take charge of the whole sorry affair?

These questions need immediate answers directed not only towards millions of South Africans who have had little or no say either in the negotiations which resulted in setting up the TRC or in the way the commission presently conducts its affairs, but towards an intensely interested community of diplomatic observers and increasingly anxious members of the legal profession, whose code of conduct inhibits their involvement in public debate

The answers need to be given, not only by Tutu and his lieutenants, but by the Minister of Justice, Mr Dullah Omar, who is the cabinet minister who

must answer, in the last resort, for the decisions the body he set up takes, and for the quality of the report it produces

The public has a right to demand Omar's assurance that the commission will not exceed its legal brief, either in granting amnesties or in using its prerogatives as far as public access to the way it arrives at its decisions is concerned. It has a right to be told that the departure from normal judicial processes, which is what the TRC's activities represent, will not be turned into a rape of the rule of law and that suspicions that such a rape is imminent are altogether groundless

If Omar — who has already tarnished his reputation and that of his ministry by his handling of the Boesak matter — neglects to do this, he must be prepared to face the accusation that he has betrayed not only his portfolio brief, but his profession as a lawyer

□ *Dr Holiday teaches philosophy in the University of the Western Cape's School of Government.*

SO HELP ME GOD: Former military supremo Magnus Malan who says he is a committed Christian, swears before testifying to the TRC yesterday



PICTURE: BENNY GOOL

# Malan pleads innocence

ROGER FRIEDMAN

IF he knows any secrets of apartheid-era atrocities, former chief of the South African Defence Force and defence minister General Magnus Malan was not letting them out of the bag at his voluntary appearance before the Truth and Reconciliation Commission yesterday

Although he handed in several top-secret documents, the commissioners, judging from their gentle prodding during the ques-

tion and answer session, did not believe that Malan's submission contained the weight and detail they had been hoping for

He said he had never authorised unlawful actions such as assassinations, and that the commission would have to face up to the "stark reality" that there was no Third Force. Where soldiers had allegedly engaged in unlawful activities he had no knowledge of their activities, and they should either apply for amnesty or face

prosecution

When the commission produced a top-secret document in its possession — a report by a military and police working group investigating the murder of Renamo leader Orlando Cristina in 1983, and recommending the assassination of five people — Malan said he doubted the document's authenticity

He had just finished informing the commission that it was reported to him that Cristina was killed by

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## Malan sticks to his guns on Lubowski

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fellow-Renamo members, that the case was handed over to Renamo "to decide on", and that he knew of no documentation on the matter

Asked if he shared the nation's disgust at the revelations that had emerged at commission hearings of state-sponsored violence, and the grisly nature of the widespread torture and killings, Malan said "It is very difficult for me to answer that type of question. I can only talk on my own behalf. I would never have approved the elimination of individuals."

And asked if he was surprised at the extent of the disclosures, he replied that he was "shocked" — just as shocked as he was when he was accused last year of the murder of 13 people at KwaMakhuta in KwaZulu-Natal

Malan was grilled twice by the commission's national investigations director, Mr Glenn Goosen, on the assassination of Swapo lawyer Mr Anton Lubowski, apparently by Civil Co-operation Bureau (CCB) members

Goosen told Malan that Namibian judge Mr Justice Levy apportioned responsibility for the assassination to the CCB, and asked if Malan considered these CCB members to be "mavericks" or "bad eggs" in the SADF

Malan said he could not respond to such questions as he left the cabinet three years before the Levy inquest

Goosen pointed out that at the time of Lubowski's death Malan was Minister of Defence, and that he later suggested that the CCB could not have been involved because the victim was a member of the SADF's Military Intelligence. Malan said he stuck to what he had said

FORMER SADF BOSS 'NEVER ABOVE THE LAW'

# No illegal orders — Malan

CT 8/5/97 (252)

**GENERAL MAGNUS MALAN** said he never gave orders for unlawful activities as SADF chief, and regretted the loss of lives during lawful operations **ROGER FRIEDMAN** reports.

**S**OLDIERS who committed unlawful atrocities in support of apartheid should be prosecuted, General Magnus Malan told the Truth and Reconciliation Commission (TRC) yesterday, but he would accept moral and political responsibility for all their lawful actions, including cross-border raids in which innocent people were killed.

The former defence force chief and minister of defence submitted that although he approved the formation of the shadowy Civil Cooperation Bureau (CCB), and at times gave orders resulting in the death of civilians, he never instructed the execution of unlawful activities.

"Cross-border raids caused bloodshed. As a Christian, I regret

the loss of lives. I, however, do not intend to seek amnesty for those operations. I consider those operations as legal acts of state which soldiers performed as servants of the state," he said.

If members of the CCB or any other military component engaged in unlawful activities they were not instructed to do so by him, and it was up to the attorney-general to take the necessary steps against them, he said.

Malan suggested such people take urgent legal advice on whether to apply to the TRC for amnesty.

The old South African Defence Force (SADF) did not consider itself above the law, he said, and those members who transgressed the law were subjected to courts martial.

"Where members of the SADF acted unlawfully during the period of conflict, I wish to offer my unqualified apologies. The background against which such acts were committed must, however, not be forgotten.

"The sound judgement of members of the SADF sometimes suffered in the heat of battle, owing to the abhorrence generated by the deeds of terror committed by liberation movements.

"If, however, moral blame is to be attached to the lawful actions of the SADF, such blame must be levelled at the former government and not at individual members of the SADF."

Malan said that the members of previous National Party government were, on the whole, avoiding "taking a clear, comprehensive, collective, political and moral responsibility" for the actions of the SADF. He said former president Mr PW Botha was an exception.

"I hope, with all my heart, that the other members of the previous government will also be prepared, as I am, to accept this collective moral responsibility for the actions of all members of the SADF during the armed struggle."

It was not his plan to abandon the "honourable and brave" men and women who served the SADF in difficult times.

"I come here to tell you my story and to face your judgment. I shall be content if what I am saying may spur the slightest understanding of former adversaries. I shall rejoice if my efforts can contribute towards reconciliation and if all soldiers may obtain moral amnesty.

"It is understanding and forgiveness we really seek, not legal pardons," he said, seated with three former SADF chiefs: General Constand Viljoen, General Kat Liebenberg and General Jannie Geldenhuys.



# Jellera. Malan, I presume?

Former defence minister General Magnus Malan greets chairman of the Truth and Reconciliation Commission Archbishop Desmond Tutu before appearing before the TRC in Cape Town yesterday. Malan apologised to the TRC for unspecified illegal acts committed by his subordinates during apartheid years.

PIC AFP

# We set up CCB - Malan

*Source Jan 8/5/97 (252)*

## 'Assassination of opponents was not SADF policy'

**F**ORMER DEFENCE minister General Magnus Malan yesterday admitted setting up the Civil Cooperation Bureau to "penetrate and disrupt the enemy" in the mid-1980s but denied having authorised the assassination of anti-apartheid activists.

Malan also dismissed allegations that the former National Party government had established a "sinister and shadowy third force" to target its opponents.

Testifying before a special Truth and Reconciliation Commission hearing in Cape Town, Malan also told of his involvement in South Africa's chemical and biological warfare pro-

gramme and of orders he gave for cross-border raids against "enemy targets" in southern Africa.

Malan volunteered to testify at the public hearing on the role of the SADF during the apartheid years at a recent meeting with TRC chairman Archbishop Desmond Tutu, who chaired yesterday's hearing.

Among the members of the public listening to his testimony were retired army generals Janne Geldenhuys, Kat Liebenberg and Constand Viljoen, and former National Party cabinet ministers Andre Fourie and Abe Williams.

Malan opened his two-hour long submission by taking political and

moral responsibility for the actions of SADF members during the 1970s, when he was defence force chief, and later as defence minister under president Mr PW Botha.

The SADF had never considered itself to be above the law. Soldiers who transgressed the law were court-martialled, Malan said.

### Golden opportunity

The former NP government had missed a "golden opportunity" to create a climate of reconciliation when it failed to legislate a general amnesty before the 1994 general election, he said.

"If the former government had ful-

filled its responsibility in respect of a general amnesty, to which the ANC was inclined in those days, this Truth and Reconciliation Commission would have been unnecessary."

He was closely questioned by TRC national investigations head Mr Glenn Goosen on a top-secret document recommending the "elimination" of five Renamo members suspected of killing Renamo secretary-general Orlando Christina in April 1983.

Christina was living on a farm owned by the SADF just outside Pretoria at the time of his death.

Goosen put it to Malan, who was then defence minister, that Orlando's

death would have been embarrassing to the SADF as South Africa's support for Renamo had not been officially confirmed by the government.

He said one of the five men identified for elimination, Bonaventura Bomba, had been killed. The fate of the other four was not known.

Malan also told the hearing that the killing of political opponents of the government, such as the murder of University of the Witwatersrand academic Dr David Webster, had never been SADF policy.

He had authorised the establishment of South Africa's chemical and biological warfare programme, code-named Project Coast, in 1981 - *Sapa*

# Malan accepts moral responsibility for all 'lawful' cross-border raids

OWN CORRESPONDENT  
Cape Town

Soldiers who committed unlawful atrocities in support of apartheid should be prosecuted, General Magnus Malan told the Truth and Reconciliation Commission yesterday, but he would accept moral and political responsibility for all their lawful actions including cross-border raids in which innocent people were killed.

The former defence force chief and minister of defence submitted that although he approved the formation of the shadowy Civil Co-operation Bureau (CCB) and at times gave orders resulting in the deaths of civilians, he never instructed the execution of any unlawful activities.

Said Malan "Cross-border raids caused bloodshed. As a Christian I regret the loss of lives. I, however, do not intend to seek amnesty for those operations."

"I consider those operations as legal acts of state which soldiers performed as servants of the state."

If members of the CCB or any other military component did engage in unlawful activities they were not instructed by him to do so, and it was up to the attorneys-general to take the necessary steps against them.

Malan advised such people to



Grim-faced ... Magnus Malan waits for the opening of the TRC session in Cape Town.

take urgent legal advice on whether to apply to the commission for amnesty.

The old South African Defence Force did not consider itself above the law, he said, and those members who transgressed the law were subjected to courts-martial.

"Where members of the SADF acted unlawfully during the period of conflict, I wish to offer my unqualified apologies."

"The background against which such acts were committed must, however, not be forgotten."

The sound judgment of members of the SADF sometimes suffered in the heat of battle, owing to the abhorrence generated by the deeds of terror committed by the liberation movements.

"If, however, moral blame is to be attached to the lawful actions of the SADF, such blame must be levelled at the former governments and not at individual members of the SADF," Malan said. Members of the previous National Party government were, on the

whole, avoiding "taking a clear, comprehensive, collective, political and moral responsibility" for the actions of the SADF.

He mentioned former president PW Botha as an exception.

"I hope, with all my heart, that the other members of the previous governments will also be prepared to accept this collective moral responsibility for the actions of all members of the SADF during the armed struggle."

It was not his plan to abandon the "honourable and brave" men and women who served in the SADF in difficult times, he said.

"I come here to tell you my story and to face your judgment. I shall be content if what I am saying may spur the slightest of understanding of former adversaries."

"I shall rejoice if my efforts can contribute in the minutest sense towards reconciliation and if all soldiers may obtain moral amnesty. In the final analysis that is all that really counts for me."

"I, and most of my generals are in the autumn of our lives anyway."

"It is understanding and forgiveness we really seek, not legal pardons," said Malan.

Sitting behind him were three former SADF chiefs. General Constand Viljoen, General Kat Liebenberg and General Jannie Geldenhuis.

# Malan shoulders moral responsibility

Wyndham Hartley

CAPE TOWN — Gen Magnus Malan yesterday became the first apartheid-era politician to accept political and moral responsibility for illegal acts by the forces under his command while he was defence force chief and defence minister.

In what represents a major breakthrough in truth commission attempts to penetrate the wall of secrecy surrounding military operations in the apartheid era, Malan told a special hearing that he had authorised the creation of the Civil Co-operation Bureau.

Malan acknowledged that there had been illegal acts by members of the defence force and for this he tendered an

“unqualified apology”. He also said he had, as head of the defence force, issued orders, and later as defence minister authorised orders, for military operations which resulted in the deaths of innocent bystanders in the crossfire. This he deeply regretted, but it represented one of the horrors of war.

Malan said simply “yes” when asked if he accepted moral and political responsibility for the illegal acts of the SA Defence Force and the CCB. He said he had, however, not ordered the assassination of anyone and was never approached for authorisation for such actions — “the killing of opponents of the government such as the slaying of Dr Webster never formed part of the brief of the SADF”

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“During my term of office as head of the SADF and minister of defence instructions to members of the SADF were clear: destroy the terrorists, their bases and their capabilities. This was also government policy.

“If, however, moral blame is to be attached to the lawful actions of the SADF such blame must be levelled at the former governments and not at individual members of the SADF. I make this statement with the full realisation that I was part of those governments. I hope with all my heart that the other members of the previous governments will also be prepared, as I am, to accept collective moral responsibility for the

Continued on Page 2

## Malan

Continued from Page 1

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actions of all members of the SADF during the armed struggle.”

Sapa reports Malan insisted murdered Swapo lawyer Anton Lubowski was a paid government agent.

Responding to questions on a statement he made in Parliament after Lubowski's death that Lubowski was a Military Intelligence agent and, for that reason, he did not believe that an order had been given for him to be assassinated, Malan said: “What I said in Parliament I stick to.”

Malan declared himself to be appearing voluntarily before the commission because he could not turn his back

on the brave men and women who had served their country. The African National Congress had adopted a similar position in regard to the actions of Umkhonto we Sizwe by saying that the collective responsibility rested with the politicians.

Malan said the “third force” which had been considered would have been a statutory force operating in parallel with the police and the army in unrest and counterinsurgency operations.

Malan said after his testimony that he would not apply for amnesty.

“If there are individuals who committed a crime in their heart, I believe that such a person, subject to legal advice, should consider (making use of) the opportunity for amnesty.”

Picture: Page 4



# Malan shoulders moral responsibility

BD 8/5/97 (252)

Wyndham Hartley

CAPE TOWN — Gen Magnus Malan yesterday became the first apartheid-era politician to accept political and moral responsibility for illegal acts by the forces under his command while he was defence force chief and defence minister

In what represents a major breakthrough in truth commission attempts to penetrate the wall of secrecy surrounding military operations in the apartheid era, Malan told a special hearing that he had authorised the creation of the Civil Co-operation Bureau.

Malan acknowledged that there had been illegal acts by members of the defence force and for this he tendered an

“unqualified apology”. He also said he had, as head of the defence force, issued orders, and later as defence minister authorised orders, for military operations which resulted in the deaths of innocent bystanders in the crossfire. Thus he deeply regretted, but it represented one of the horrors of war.

Malan said simply “yes” when asked if he accepted moral and political responsibility for the illegal acts of the SA Defence Force and the CCB. He said he had, however, not ordered the assassination of anyone and was never approached for authorisation for such actions — “the killing of opponents of the government such as the slaying of Dr Webster never formed part of the brief of the SADF”.

“During my term of office as head of the SADF and minister of defence instructions to members of the SADF were clear: destroy the terrorists, their bases and their capabilities. This was also government policy

“If, however, moral blame is to be attached to the lawful actions of the SADF such blame must be levelled at the former governments and not at individual members of the SADF. I make this statement with the full realisation that I was part of those governments. I hope with all my heart that the other members of the previous governments will also be prepared, as I am, to accept collective moral responsibility for the

Continued on Page 2

## Malan

(252)

Continued from Page 1

BD 8/5/97  
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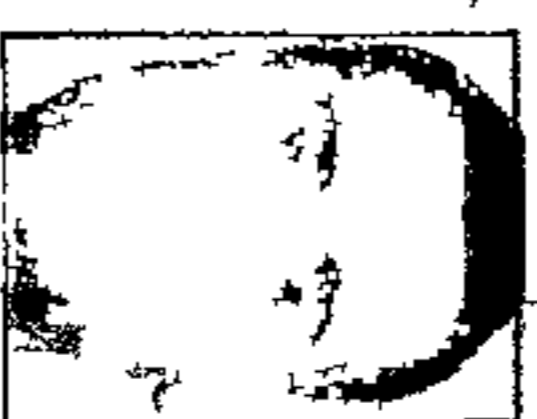
“If there are individuals who committed a crime in their heart, I believe that such a person, subject to legal advice, should consider (making use of) the opportunity for amnesty.”

Picture: Page 4

# Exposed: SADF's big Swapo 'hanging' hoax

ET 9/6/97

(252)



**THE TRUTH** anti-Racon, the Commission yesterday served a subpoena on the commanding officer of SADF Western Province Command to answer questions pertaining to alleged gross human rights violations on the Namibia/Angola border. **ROGER FRIEDMAN** reports

**T**HESSE are some of the allegedly fake pictures from the pages of a 19-year-old Scope magazine which former Defence Minister General Magnus Malan told the Truth and Reconciliation Commission this week he would like to see

Yesterday, the commission served a subpoena on the head of the Castle and officer-commanding Western Province Command, Major-General Chris van Zyl, to answer questions at an in-camera hearing pertaining to the alleged gross violation of human rights on the Namibia/Angola border. The commission has information that Van Zyl might also know something about the magazine article.

According to information in the possession of the commission, the pictures were set up and the article fabricated by an elite "special operations" unit operating from Oshakati on the Namibia/Angola border, which conducted false-flag "Swapo" killing operations by night.

The pictures — part of a "Scope World Exclusive" under the heading "The Bloody, Brutal Butcher's of Swapo" — are accompanied by a lengthy article about a former Swapo cadre alleging widespread Swapo brutality and denouncing the movement. The pictures are blurred, which may be deliberate to conceal the identity of their subjects.

All the people in the photographs appear to be black, but according to the commission's information they were all white members of the unit, painted black — and they were not really hanging either. Apparently, the unit's members favoured painting themselves black, wearing Swapo fatigues, and using AK-47s on night missions.

A team of the commission's investigators have been gathering information throughout the country on such special operations for several months.

Asked by the head of the commission's investigative unit Mr L. M. Nisebeza on Wednesday whether he knew anything about any such units or operations, Malan — who also served as chief of the Old South African Defence Force — replied in the negative.

Malan said he knew little about SADF disinformation operations, but would certainly not have condoned any of the variety Nisebeza was mentioning. "I do not know who authorised such operations. If we did, it was totally against the argument of winning the hearts and minds of the people. At that stage we were busy with civil affairs and trying to help people help themselves," said Malan, adding he would like to read that Scope article.

According to the commission's information, a group of Oshakati-based soldiers were deployed in such civil affairs as teaching and assisting farmers. But there was a parallel, more sinister section engaged in altogether harder forms of propaganda — such as killing. The June 1978 Scope magazine featured a partially-

draped blonde on the cover in a suitably seductive pose, with the "horrifying pictures of terrorist atrocities in the border area" as the main featured news item.

"These horrifying photographs of Swapo terrorist brutality were taken in Angola by an unknown guerrilla either for propaganda purposes or perhaps even for his own macabre amusement. They were smuggled out of Angola by a Swapo defector now living in Botswana," the magazine claimed.

Funnily enough, this was what Malan suggested to the commission was the likely scenario.

The editor of Scope was, however, cautious enough to add a disclaimer. "Scope has scrutinised the originals and we are convinced, as far as humanly possible, that the pictures reproduced here are not fakes."

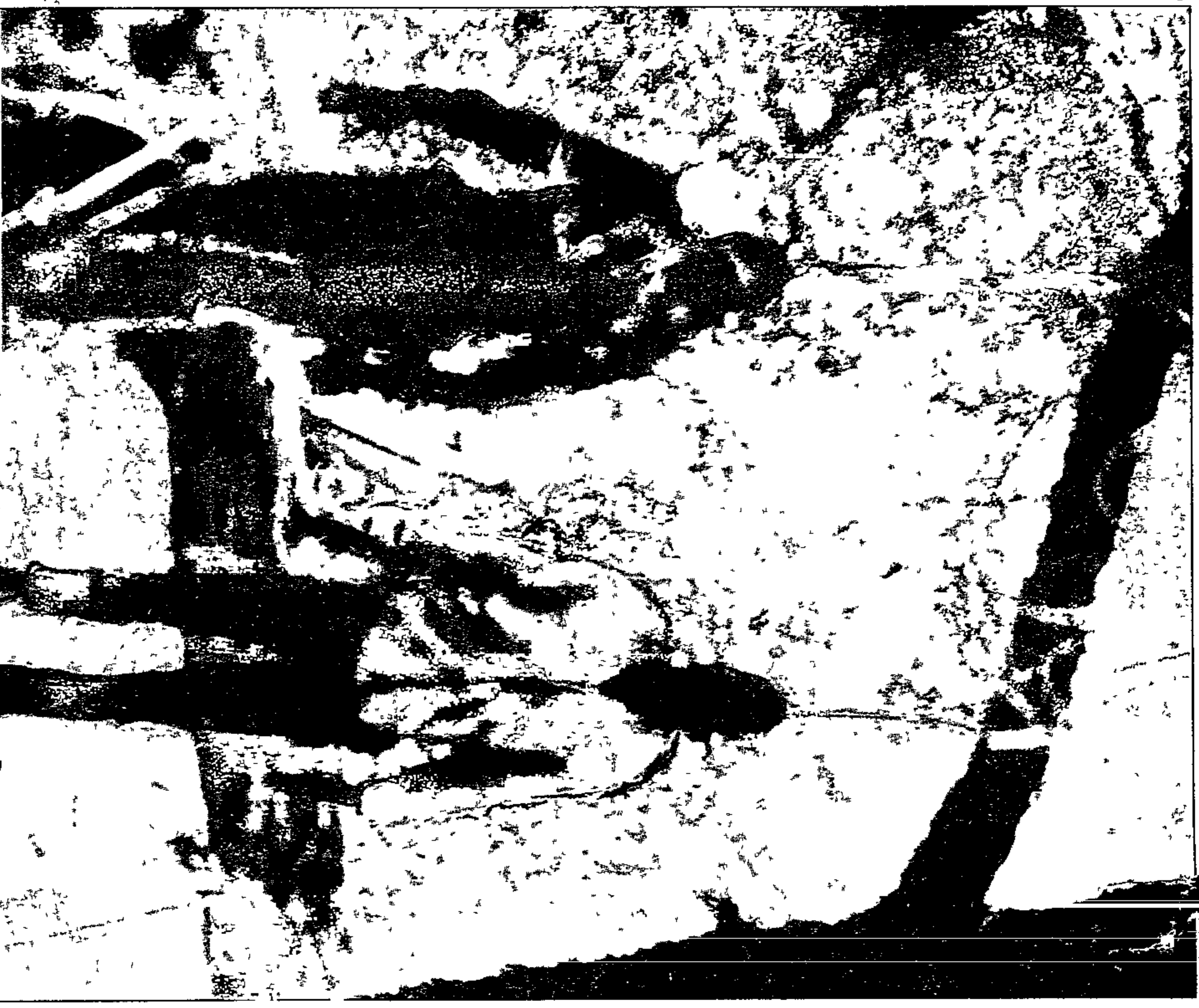
The magazine is now defunct, but the Cape Times tracked down the then-editor Mr David Mullany in Durban yesterday.

There could be no question of any collusion between Scope and the SADF because the SADF regularly complained it did not want the title to be read by its troops, he said. "I have no recollection of the piece, it was virtually 20 years ago," said Mullany.

"It might have come from a freelancer or an agency source. I really don't know. It was June 1978, it would have been in the original first issues. I only took over the editorship in June."



**SUBPOENAED:** Officer-commanding Western Province Command Major-General Chris van Zyl.



Scope's caption to the above picture was "HANGED BY THE NECK: The bodies of two Swapo terrorists swing from a branch after they had been executed for 'collaborating with the enemy'. They wanted peace, their leaders wanted war."



Scope's caption to the above picture was "BEATEN TO DEATH: A Swapo terrorist examines the body of a former comrade — accused of being a traitor to the cause — whom he has clubbed to death."

# Lubowski's sister labels TRC a 'circus'

05/15/94

(252)

## STAFF WRITER

THE sister of slain Swapo leader Mr Anton Lubowski has hit out at the Truth and Reconciliation Commission, which she says should change its name to "The Amnesty Circus".

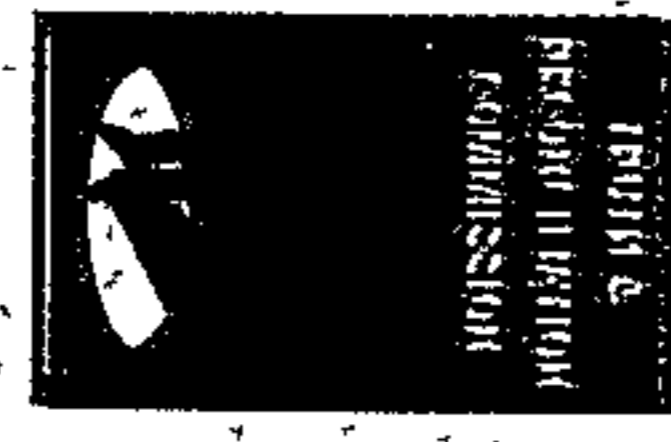
Ms Annaliese Lubowski said in a letter to the Cape Times yesterday. "As a member of the public, as well as the sister of the late Anton Lubowski, I would like to voice my utmost disbelief at the travesty of the 'voluntary appearance' of Magnus Malan at the TRC.

"Whose judgment is he facing and whose fairy-tale story is he telling? It was clear from the broad-

casting of the event that the TRC was not interested to hear the true story and I fully agree with Dr Anthony Holiday (Cape Times, May 8) that we have reason to feel serious alarm at the absence of openness, equity and due process at the TRC."

She said she and the Lubowski family had asked the TRC to allow them to be present at Malan's hearing and had also asked them to put certain questions to Malan. However, the TRC had not replied to their request.

"I am also at a loss as to whether to believe my ears or my eyes in the



light of the fact that on television, Malan's response to Goosen's questions about his reported statement that Anton was a spy was, I quote, 'I deny that I ever said that.'

"Your paper's headline reports 'Malan sticks to his guns' Will someone please be so kind as to tell me what he actually said?"

She pointed out that at the Levy inquest, both the military and the police had denied that Lubowski was a spy, and the court found that he had not been an agent.

"Are we to accept that the TRC is mainly about amnesty or about

truth? Maybe they should change their name to The Amnesty Circus. How can amnesty be granted to anyone if the truth is not told?"

Lubowski asked.

After the SADF's Civil Cooperation Bureau (CCB) was implicated in Lubowski's murder in Windhoek in 1989, Malan said in Parliament that Lubowski was actually a paid South African spy.

The claim was met with widespread disbelief at the time. The Lubowski family said he had been the victim of a government disinformation campaign, whereby government opponents were smeared as undercover agents working for the apartheid regime.



SMEARED?: Anton Lubowski

# Asking for amnesty not everyc

(252)

While some people have owned up to their crimes, others have decided not to accept the opportunity

**Anyone can apply for amnesty**  
Once the application has arrived in the Amnesty Committee's postbox, it could be sent off down various different channels. But initially, one of two things could happen

- 1) The application could be sent back to the applicant for more detail. This often happens if the committee thinks there may have been a political motive to the "act, omission or offence", but they do not have enough information from the applicant
- 2) The application will be investigated. If a person is going to be considered for amnesty, the information provided needs to be cross checked and approved by members of the TRC's investigative unit and research department

- If the committee's investigation finds that the offence for which amnesty is requested cannot be associated with a political objective, the application may be refused, or the applicant may be asked to apply again
- So far the committee has rejected 773 applications on paper. TRC media liaison officer Christelle Terblanche pointed out on Wednesday that many of these rejections had been necessary due to an early flood of applications from prisoners who could not prove a political motive, or whose crimes fell outside the mandated period of the TRC

If the committee is satisfied there are possible grounds for granting amnesty, the application could go one of two routes

- 1) If it details a gross violation of human rights (murder, torture, severe ill treatment and abduction) it would be placed on a waiting list to be heard at a sitting of the Amnesty Committee
- 2) The committee has heard 58 cases so far, and a total of 22 applicants have been granted amnesty as a result of their cases being heard. Fifteen applicants have been rejected after their hearings.

If the applicant wants amnesty for an offence which is not defined as a gross violation of human rights, he may be granted amnesty on paper

- To date, 17 applicants have been granted amnesty on paper. For an application to be successful, at a hearing or on paper, the applicant must fulfil the requirements of the TRC Act.
- The applicant should make full disclosure, and the act, which must have been committed between March 1 1960 and May 10 1994, must be shown to have been associated with a political objective. The act may not have been committed for personal gain or out of personal malice, and its results must be shown to have been in proportion to the stated political aim
- The latest figure available, of applications received and entered into the TRC's database is 500. Terblanche said about 500 more applications had been received since this figure was released.

Special amnesty hotlines have been set up in all regional offices of the commission before tomorrow's deadline, the commission announced this week

People wanting to inquire about amnesty can call the following numbers during the day.

- Johannesburg, (011) 333-1425 or 333-6330
- Cape Town (021) 262-028 or 245-161
- Durban (031) 305-2678 or 307-6767
- East London (0431) 432-746 or 435-223

## Applications granted and refused

The TRC has granted and refused amnesty in too many cases to mention here. Listed below are some of the applicants who were successful - and some who were unsuccessful - in their attempts to get amnesty

Brian Mitchell, the policeman who ordered the Trust Feed massacre of 1988, was released from jail in December last year. Eleven people died as a result of his actions

Two Bafokeng tribe members, Boy Diale and Christopher Makgale, who were convicted of murdering a tribal councillor, got amnesty

The men, who were serving sentences of 12 and 15 years, said they killed Glad Mokgale because they believed he was a supporter of former Bophuthatswana president Lucas Mangope

A former Conservative Party MP, Koos Botha, and three other right-wingers, Gerhard Roux, Cornelius Volschenk and Rowland Robinson, were granted amnesty for bombing schools and post offices during the early 1990s

Jean van Wyk and Jean du Plessis, members of a secret organisation called the National Socialist Partisans, were unsuccessful in their applications for amnesty

They killed two farmworkers and a woman while attempting to steal guns from a farm near Louis Trichardt

Thamsanqa Jackson was denied amnesty for murdering a policeman who slapped him in the face

Brothers Adrian, Willem, Gideon and Dawid van Straaten,

who claimed to be Afrikaner Weerstandsbeweging (AWB) supporters, were refused amnesty for murdering two blacks during a robbery in 1989

### Keeping you informed

Every Friday, The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds



By Daisy Jones

At the time of going to press, the following people had, to the best of The Star's knowledge, not applied for amnesty

The first is President Nelson Mandela. Acting ANC secretary-general Cheryl Carolus told a news conference this week that Mandela had been incarcerated on Robben Island when most of the organisation's military operations had taken place

National Party leader FW de Klerk said on Monday that the amnesty process was not the correct channel for leaders to accept political responsibility for past policies.

Former law and order minister Hernus Kriel and former deputy minister of law and order (and one-time minister of defence) Roelf Meyer were present at the party's federal executive meeting, where the issue of amnesty for NP leaders was discussed and decided upon.

Magnus Malan, former minister of defence, told the truth commission on Wednesday that he would not apply for amnesty. "I never regarded myself to be above the law. If, with the wisdom of hindsight, my authority, which I endeavoured to exercise with responsibility, should be regarded by some as culpable, I am prepared to face the consequences," he said

Joe Mamasela, who has admitted to killing about 35 people as a Vlakplaas operative for the SAP, is the State's key witness in the trial against former Vlakplaas commander Dirk Coetzee and three others. He also testified at the trial of Eugene de Kock. As a State witness, he is temporarily exempt from criminal prosecution.

Former security branch policemen Andy Taylor and Johannes van der Hoven, who are on trial for the brutal murder of human rights lawyer Griffiths Mxenge in 1981, told the Durban High Court this week they would not apply for amnesty for the murder of Mxenge, or for any other act.

Former foreign affairs minister Pik Botha said last year he would not apply for his alleged part in the 1992 Bisho massacre, or any other alleged offence

Former state president PW Botha is in the process of responding to the TRC's questions about the apartheid government during the 1980s, and he has stated he will not apply for amnesty. According to testimony supplied to the commission by retired police commissioner Johan van der Merwe, Botha personally ordered the bombing in 1988 of Khotso House, the headquarters of the SA Council of Churches

Former police commissioner Johan Coetzee authorised an order to supply ANC activists on the East Rand with booby-trapped grenades, according to Van der Merwe. He was also allegedly involved in the cover-up of the 1986 murder of Mamelodi activists Dr Fabian Ribeiro and his wife Florence, according to former security policeman and amnesty applicant Brigadier Jack Cronje. Former Special Forces commander Major-General Joep Joubert, former SADF chief of staff Lieutenant-General Ian Gleeson and former Civil Co-operation Bureau (CCB) commander

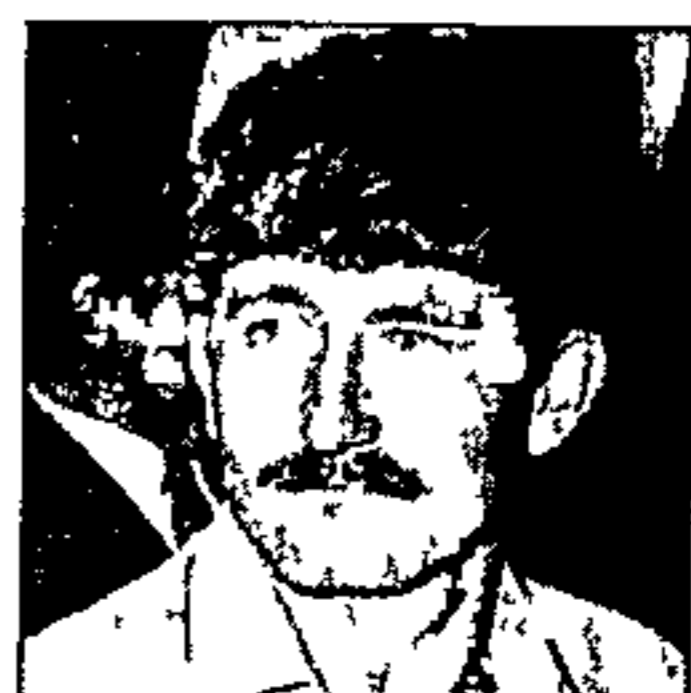
### They applied



Robert McBride



Thabo Mbeki



Barend Strydom



Adriaan Vlok

Colonel Joe Verster were also involved in the cover-up, according to Cronje

CCB operative Noel Robey, who is suspected of having shot and killed Mamelodi activists Fabian and Florence Ribeiro, did not apply

President of the ANC Women's League, Winnie Madikizela-Mandela, has not applied for amnesty, despite allegations that she was involved in murder and kidnappings. The TRC said this week it would "more than likely" subpoena Madikizela-Mandela to answer questions about the death of 14-year-old activist "Stompie" Moeketsi Sepele in February 1989, and the disappearance of two other children from Soweto

IFP leader Mangosuthu Buthelezi has also not applied. The IFP initially described the TRC as being a creation of the ANC intent on a "witchhunt" to punish its opponents of the past. But months into the commission's life, the IFP leadership said it would encourage its members, especially those who were serving jail terms, to apply for amnesty

Brigadier Oupa Gqozo, former military ruler of the Ciskei, has

not applied for amnesty. Bisho massacre of 1992.

Eight CCB agents - Wouter Basson and Fe - who were named as torturers during the of Swapo lawyer Anton - ki, have not applied for the murder. Fe - also been named as the murdered Dr David - Johannesburg in 1989

Some of the people below, who have amnesty, handed in their applications today, while some are trying to find out if they heard. Others have already the Amnesty Committee anticipating the results of applications

Former law and order Adriaan Vlok has applied. TRC heard that Vlok and Botha ordered the Khotso House.

"Superspy" Craig who previously admitted the parcel bombs that Ruth First in Maputo in as well as Jeanette Schoon and year-old daughter Katryn gola in 1984, has Williamson also being involved in the ANC's London in 1982. He is suspected involvement in the 1986 actions of exiled ANC activists September and Swedish Minister Olaf Palme. He is recently facing a R1-million claim from Marius Schoon husband of Jeanette and Katryn.

Former police Johan van der Merwe's tion covers a number of including the bombing of K House and an operation at least nine East Rand were killed with booby hand grenades. He has to covering up the Mamelodi activist Stanz

Former Vlakplaas Eugene de Kock, who h for amnesty, was found the Pretoria Supreme Court year on 89 criminal charges, including six murders. He is recently serving a

Former commander of Transvaal security Brigadier Jack Cronje his lower-ranking Captain Jacques Hechter, Wouter Mentz, Colonel Roel ter and Warrant-Officer Paul Vuuren - have admitted to incidents in which 65 people, ing targeted anti-apartheid tivists, were killed.

Janusz Walus and Lewis, convicted for SA Communist Party leader Hanu, have applied.

So has Barend Strydom, man who was sentenced for shooting and killing eight ple in central Pretoria in 1988

The men who say they Black Consciousness leader Biko have also applied amnesty. The five policemen Lieutenant-Colonel Gideon woudt, Colonel Har and warrant-officers Johan and Ruben Marx, and a branch captain, Daan

Snyman, Lieutenant Eric lor and Major Gerhardus hope to get amnesty for and mutilating the "Four" Matthew Goniwe, Fort lala, Sparrow Mhlauu

Another two Eastern Cape county policemen, Nic van

# Amnesty not everyone's choice

(252) Star 9/5/97

For their crimes, others have decided not to accept the opportunity to turn to the TRC



By Daisy Jones

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## They applied



Robert McBride



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Barend Strydom



Adnaan Vlok

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Brigadier Oupa Gqozo, former military ruler of the Ciskei, has

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Eight CCB agents - including Wouter Basson and Ferdi Barnard - who were named as conspirators to murder during the inquest of Swapo lawyer Anton Lubowski, have not applied for amnesty for the murder of Ferdi Barnard. He has also been named as the man who murdered Dr David Webster in Johannesburg in 1989.

Some of the people listed below, who have applied for amnesty, handed in their applications today, while some are waiting to find out if they will be heard. Others have already faced the Amnesty Committee and are anticipating the results of their applications.

Former law and order minister Adrian Vlok has applied. The TRC heard that Vlok and PW Botha ordered the bombing of Khotso House.

"Superspy" Craig Williamson, who previously admitted to sending the parcel bombs that killed Ruth First in Maputo in 1982 as well as Jeanette Schoon and her 7-year-old daughter Katryn in Angola in 1984, has applied. Williamson also admitted to being involved in the bombing of the ANC's London headquarters in 1982. He is suspected of involvement in the 1986 assassinations of exiled ANC activist Dulcie September and Swedish Prime Minister Olaf Palme. He is currently facing a R1-million civil claim from Manus Schoon, the husband of Jeanette and father of Katryn.

Former police commissioner Johan van der Merwe's application covers a number of incidents, including the bombing of Khotso House and an operation in which at least nine East Rand youths were killed with booby-trapped hand grenades. He has admitted to covering up the murder of Mamelodi activist Stanza Bopape.

Former Vlakplaas commander Eugene de Kock, who has applied for amnesty, was found guilty in the Pretoria Supreme Court last year on 89 criminal charges, including six murders. He is currently serving a life sentence in jail.

Former commander of Vlakplaas and head of the Northern Transvaal security branch Brigadier Jack Cronje, plus four of his lower-ranking colleagues - Captain Jacques Hechter, Captain Wouter Mentz, Colonel Roelf Venter and Warrant-Officer Paul van Vuuren - have admitted to 40 incidents in which 65 people, including targeted anti-apartheid activists, were killed.

Janusz Walus and Clive Derby-Lewis, convicted for the murder of SA Communist Party leader Chris Hani, have applied.

So has Barend Strydom, the man who was sentenced to death for shooting and killing eight people in central Pretoria in 1974.

The men who say they killed Black Consciousness leader Steve Biko have also applied for amnesty. The five policemen are Lieutenant-Colonel Gideon Nieuwoudt, Colonel Harold Snyman, warrant-officers Johan Beneke and Ruben Marx, and a security branch captain, Daantjie Siebert.

Snyman, Lieutenant Eric Taylor and Major Gerhardus Lotz hope to get amnesty for killing and mutilating the "Cradock Four" - Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli.

Another two Eastern Cape security policemen, Nic van Rens-

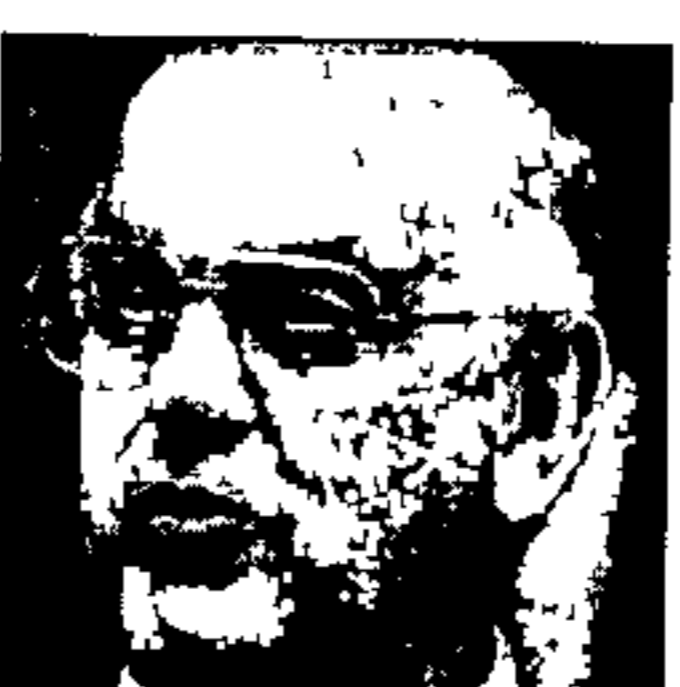
## They did not



FW de Klerk



Winnie Madikizela-Mandela



PW Botha



Magnus Malan

burg and Sakkie van Zyl, have applied for amnesty for the murders of young Port Elizabeth activist Siphwe Mthunkulu and his friend, Topsy Madaka. The commission was told that the two were drugged, shot through the head and burnt on a pyre for six hours before their remains were dumped in the Fish River.

The "Peboo Three" - Siphwe Hashe, Qaqawulu Godolozzi and Champion Galela - suffered similar fates.

Snyman, Nieuwoudt and Lotz have claimed responsibility for the killings.

Nieuwoudt, Van Rensburg, Lotz, Wal du Toit and J Kok are applying for amnesty for the Motherwell car bombing, which left two police informers and a policeman dead.

Former Vlakplaas commander Dirk Coetzee and Vlakplaas askans Almond Nofomela and David Tshikalange have applied for amnesty for the murders of civil-rights attorney Griffiths Mxenge and ANC activists Sizwe Kondile and Joe Pillay.

Van Rensburg has also applied for amnesty for the murder of Kondile.

A former commander of a secret security police unit, Brigadier Willem Schoon, has admitted to being involved in the killing of the brother of the current chief-of-staff of the SANDF, Siphwe Nyanda, and another man, Keith MacFadden.

Lieutenant-Colonel Adnaan van Niekerk, Constable Hendrick Mostert, Constable Jacobus Engelbrecht, Sergeant Johan du Preez and Major Charles Zeelie will, for the first time, reveal the truth about the death of Stanza Bopape when they apply for amnesty.

A number of PAC and Apla members have applied for amnesty. It was reported on Tuesday that amnesty applications would be sent by more than 200 PAC members, including those from the high command of Apla.

The acts for which the PAC will be seeking amnesty include high-profile attacks on whites in the early 1990s, a wave of "fundraising" robberies in the Eastern Cape in the 1990s, and the killings of at least 25 defence force soldiers.

Apla members who have applied include Genkhaya Makona, jailed for 23 years for his part in the St James Church attack, and Vuyisile Madasi, who was jailed for 24 years for the Heidelberg attack. Ntobeko Peru, who is serving an 18-year jail sentence for murder, and Mongezi Mangina, are two of the four men who are seeking amnesty for the murder of US student Amy Biehl.

Robert McBride, who currently holds the position of deputy director in the Department of Foreign Affairs, was sentenced to death three times for the 1986 Magoo's Bar bombing, which left three women dead.

Director of Welfare in the Northern Cape, Zahrah Narkedien (formerly known as Greta Appelgren), announced this week that she had applied for amnesty in order to have her criminal record expunged. She was arrested and charged after the Magoo's bomb blast. Aboobaker Ismail, the former MK special operations commander who is currently chief of policy and planning in the Defence Secretariat, is also applying for amnesty for his part in the Magoo's Bar bombing.

Cheryl Carolus told the media last week that past and present members of the ANC's National Executive Committee, the revolutionary council, former members of the various regional political committees, and former leaders in the politico-military committees and self-defence units would apply for amnesty. About 500 ANC amnesty applications have been posted.

Deputy President Thabo Mbeki, three ANC cabinet ministers and a deputy minister have said they would apply for amnesty. They are Defence Minister Joe Modise, deputy Defence Minister Ronnie Kasrils, Safety and Security Minister Sydney Mufamadi, and Communications Minister Jay Naidoo. Naidoo and Mufamadi were convicted of assault and kidnapping after holding and allegedly beating a suspected police spy. The assault conviction was set aside. An appeal on the kidnapping conviction is pending.

Freedom Front leader and former head of the defence force General Constand Viljoen has announced that he will apply for amnesty for acts of sabotage committed in the name of the Volkfront prior to the 1994 elections.

# Malan risks civil action Over SADF raids - Boraine

## Ex-defence chief urged to seek amnesty

JOHN YELD  
OF THE TRUTH COMMISSION

Magnus Malan may have laid himself open to civil claims for damages from victims of SA Defence Force cross-border raids and internal operations in which innocent civilians died, Truth Commission deputy chairman Alex Boraine warned today.

He called on General Malan to apply for amnesty "even at this 11th hour" - the deadline for amnesty applications is midnight tomorrow - for the sake of reconciliation in the country and in his own interest.

Dr Boraine's remarks follow a statement by General Malan after his voluntary testimony to the Truth Commission in Cape Town this week, saying he stood by his decision not to apply for amnesty.

Dr Boraine told the Cape Argus today there were two reasons why he believed General Malan should apply for amnesty.

The first was because the former defence minister had told the commission he had agreed to testify in order to further the cause of reconciliation.

"He played a dominant role as head of the SADF and as minister in the implementation of a policy that damaged and destroyed many people, both in South Africa and in the surrounding countries," General Malan had also publicly acknowledged he had given orders for raids and had accepted responsibility for the killing of innocent civilians by soldiers under his command.

"Violations of fundamental human rights were committed by the SADF and in the final analysis he was responsible for them," he said. "In my opinion he puts himself at risk of possible civil claims from victims and their relatives of military manoeuvres, both inside the country and out."

"So he should seek amnesty both in terms of his own commitment to reconciliation, and in his own self-interest."

Former state president P W Botha has not yet replied to a comprehensive set of questions by the commission, but his attorney told Dr Boraine this week he and Mr Botha were working "flat out" on the submission, which was a "huge undertaking".



Warning: TRC deputy chairman Alex Boraine



Could be sued: Magnus Malan

# Round Slangkop and save the fynbos

To capitalise on the heightened environmental awareness that it's generated, Keag has organised a half-marathon event this Sunday.

The route - from Kommetjie to Misty Cliffs and Scarborough and back via Slangkop mountain - is through the heart of the fynbos project.

"What makes this road race so unusual is the strong environmental message we're promoting," said group spokeswoman Jenni Trehowan. "The first 500 entrants will be given indigenous plants to take home and grow. There will be several banners and signs along the route, all creating awareness of our natural environment."

The race starts at Keag's headquarters at Imhoff's Gift Farm opposite Ocean View at 9.30 am. For further information call Ms Trehowan at 783 3433.



Fynbos fit: at the launch of Sunday's 21km race are, from left, Keag ecologist Wally Petersen, Gary van Rooyen of Nike, Lisa Padfield of WWF-SA, Calix's Alfred Mahlangu and Keag chairman Peter Erasmus

# Constantia wants united front against housing plan

ASSET SALES  
SWF REPORT  
R45 9/5/97

Constantia residents have asked fellow Capeans to unite with them against a proposed housing development at Eagles Nest - one of the last unspoilt areas of the Peninsula.

They have also called on the area to be proclaimed "another Oudekraal" - referring to a decision by municipal authorities to oppose a development at that site near Camps Bay.

At a public meeting in Groot Constantia last night on the controversial plan to build 15 luxury houses at Eagles Nest near Constantia Nek, several residents called on the National Parks Board to intervene.

The developers presented detailed studies at the meeting, including one on the environmental impact of the proposal and an assurance that the natural beauty would not be unforged.

Resident Robbie Fitchien said it was time to say "enough is enough" and stop developers from encroaching further on the area.

It was not only up to Constantia residents to decide the fate of Eagles Nest, but developers also had to consider the opinions of the broader Cape Town community, who also had a stake in the future of the property, she said.

Miss Fitchien also fears the increase in traffic would impact on everyone using the M41 to and from Hout Bay.

David Baker, who has lived in Eagles Nest for 17 years and knows the area "very intimately" said the site proposed for the development was closed off by trees, was damp and would be a breeding place for tuberculosis.

"The people of Constantia and the citizens of Cape Town should say enough is enough. We have wonderful green areas, but we keep creeping up on them," said another resident.

One resident, Brent Meder, was more conciliatory, saying the developers had proposed building low density housing and it was up to Constantia residents to reconsider their objections.

Eagles Nest owner John Schouling emphasised houses would be built on plots of about 8 000 sq m and would not adversely affect the area. In fact, the site would be improved through the removal of alien vegetation and a better drainage system.

# Last chance for apartheid era's amnesty-seekers before bell tolls

By DAISY JONES

When the clock strikes midnight tonight, perpetrators of human rights violations who have not applied for amnesty will have thrown away their only chance to avoid court action against them.

And when that fateful hour is reached, the Truth and Reconciliation Commission hopes that at least 6 500 people will have applied for amnesty for human rights abuses committed between 1960 and 1994.

Among the 6 500 are prisoners, politicians, former soldiers and policemen, and political activists. TRC media liaison officer Christelle Terblanche said yesterday the commission was expecting a flood of applications today.

## Hotlines

The TRC's head office in Cape Town had experienced a rush for amnesty application forms on Wednesday. About 500 blank forms had been dispatched, with 100 going to the ANC, "some to the SAP, and so on", Terblanche said.

Telephone hotlines which were set up this week to deal with inquiries from potential applicants had been "busy", according to Terblanche. All four of the TRC's regional offices, in Cape Town, Johannesburg, Durban and East London, will stay open until midnight tonight. Fax lines at the offices will also be open

until the stroke of midnight. The commission announced this week that applications sent in the post, which bore a postmark of today or before, would not be rejected, regardless of the date of their arrival.

Late on Thursday the TRC said it had received more than 6 000 applications from individuals hoping to get amnesty. Hundreds more applications were expected to arrive from individuals and political parties today.

Only a handful of more than 6 000 amnesty applications sent to the TRC were from former members of the SA Defence Force, officials said yesterday. Amnesty committee official Mokotedi Mpshe confirmed that two applications from the SADF - one from a high-ranking officer and his second-in-command - were received.

On Thursday the IFFP said that by today it would have sent about 100 applications from its members. The PAC said it would send in applications from more than 200 members, including those from the high command of Apla. The ANC committed itself to submitting 500 applications. These included applications from past and present members of its national executive committee, Umkhonto weSizwe operatives and self-defence unit members.

A number of applications from Freedom Front members have also been promised by the party's leader, General Constand Viljoen. And a



P W BOTHA. The former state president has not yet approached TRC

Bloemfontein lawyer contacted the TRC this week to say he was sending between 50 and 60 applications for amnesty from "the right wing".

After tonight, if antagonists in the apartheid conflict are arrested for any act which constitutes a crime, they will face prosecution and possible civil claims.

Some famous South Africans who, at the time of going to press, had not applied for amnesty were former defence minister Magnus Malan, former state president P W Botha, self-confessed Valkplaas killer and State witness Joe Mamba, convicted kidnapper Winnie

Madikzela-Mandela, former minister of foreign affairs P W Botha, IFFP leader Mangosuthu Buthelezi, former Ciskei military ruler Oupa Gqozo, former police commissioner Johan Coetzee and National Party leader F W de Klerk. Among those who have applied for amnesty are Deputy President Thabo Mbeki, Justice Minister Dullah Omar, "super-spy" Craig Williamson, Barred "Witwolf" Strydom, convicted killers Janusz Walus and Clive Derby-Lewis, former minister of law and order Adrian Vlok, Constand Viljoen, Deputy Defence Minister Ronnie Kasrils, Defence Minister Joe Modise, former police commissioner Johan van der Merwe, former Valkplaas commanders Jack Cronje, Dirk Coetzee and Eugene de Kock, and Magoo's Bar bomber Robert McBride.

Information provided at amnesty hearings could help "solve" a number of high-profile South African murder mysteries. Ten former Eastern Cape security policemen have applied for amnesty for killing Steve Biko, the Cradock Four, the Pepeco Three, and Siphiwe Mthimkhulu and Topsy Madaka.

The bombing of Khotso House will be explained by Vlok, Williamson will have to tell the whole truth about "several" incidents for which he seeks amnesty, five former policemen will tell the truth about Stanza Bopape, and Chris Han's killers will detail

the lead-up to that assassination

The political motivations behind other high-profile cases, such as the St James Church massacre in Cape Town, the attacks on the King William's Town golf club and the Herdelberg tavern, and the murder of Amy Biehl, will be explained. There is a strong likelihood that information about other unsolved "cases" will emerge during amnesty hearings, as applicants are pressed for full disclosure. So far, 39 people have been granted amnesty and 788 people have been turned down.

Terblanche said several applications from prisoners had been rejected on paper because the incidents they wanted amnesty for had not been politically motivated. Other applications that were rejected on paper referred to crimes committed before 1960 or after 1994. The TRC's amnesty committee has heard 58 cases at public hearings. Some are yet to be decided.

## Gross violations

Cases that are heard before the committee involve gross violations of human rights - murder, torture, severe ill-treatment and abduction. Amnesty applicants must make a full disclosure and prove that the "act, omission or offence" for which amnesty is being requested was linked to a political motive. And the applicant must have convinced the committee that the action was not

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# Courts' under

## Dockets go missing by the truckload

By SASHA JENSEN

Hundreds of court dockets and crucial court exhibits were stolen in one fell swoop while on their way from the Gauteng Attorney-General's office to a Johannesburg court — effectively halting the criminal procedures they were to be used in.

This example highlights the corruption which is wreaking havoc in South Africa's criminal justice system.

Police have been unable to ascertain whether the heist was purely for the vehicle, or a syndicate after the dockets.

The news of the heist was revealed for the first time last night at the culmination of an investigation by the *Saturday Star* which has revealed that corruption in the criminal justice system is rampant and, combined with the levels of dishonesty and disorganisation within the South African Police Service, is crippling the system.

The corruption involves justice officials and members of the SAPS. Hundreds of dockets are disappearing every month from courts all over the country. As a result, the State is losing millions of rands through lost man-hours and bungled court cases — and criminals are walking free.

Certain lawyers in Johannesburg have confirmed that the "lost-to-order" operation is up and running. It is based on collaboration between the police and certain attorneys who will charge up to R3 000 for a docket to disappear.

When a docket is "lost" and the accused arrives at court for his hearing, the prosecutors will ask for a postponement so that the docket can be found. After several postponements, a case is struck from the court register. This procedure costs the State millions of rands in fees.

Astonishingly, an investigation has revealed that there are no official statistics available from the Ministry of Justice, the South African Police Service and the legal bodies in the Transvaal which disclose how many dockets are either stolen, unaccounted for or missing.

There is no "foolproof" system for the control of dockets and their whereabouts as they travel the long road between police and court officials. Members of the police and justice officials blame each other for the disappearance of dockets.

However, serious levels of corruption within the justice system and the police have been confirmed by the attorney-general of Pretoria, the deputy attorney-general of Johannesburg, the SAPS anti-corruption unit, the National Task Team, the Transvaal Lawyers Association and individual lawyers.

There are no statistics available from the law association or the Ministry of Justice on how many interpreters or orderlies have been suspended or dismissed from their duties.

But after interviewing individual departments, lawyers and police from Johannesburg to Cape Town, the *Saturday Star* was able to gather that thousands of police case dockets are either missing, stolen or sold, the result of collusion between justice officials and police.

In Johannesburg it has been revealed that interpreters were caught coming out of the Johannesburg courts and hiding dockets underneath cars by strapping the dockets to the engines.

Fifteen court officials are currently being investigated, or are in the process of being criminally charged, in Johannesburg, Pretoria and Cape Town.

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Siege

STREET

### Missing dockets

A state prosecutor is being prosecuted by the Pretoria attorney-general's office, and two more were recently successfully convicted for corruption.

In Cape Town, a report has been compiled by a special investigative team set up to uncover why 600 dockets had disappeared. One investigator told how the level of corruption was out of control. A court assessor was being prosecuted for fraud in the Western Cape.

"Dockets are going missing all the time and there is no way of tracing them unless there is a system where we duplicate all dockets, which we all know is expensive. All 600 files were declared missing while in transit between courts and police stations," he said.

Witwatersrand Deputy Attorney-General Kevin Attwell said difficulties sometimes arose when the lawyers asked for photocopies of dockets, or when the dockets were moved from court to court. "You cannot ask a prosecutor to be the sole guardian of a docket. During his day there are many situations where the docket will leave his possession in order to be copied or taken to another courtroom," he said.

In another revelation, an investigator who spearheaded an investigation last year into an allegation that dockets were "lost to order" admitted the investigation went sour after the contacts became frightened and physically threatened the officers.

National Party MP and justice spokesman Sheila Camerer recently asked Justice Minister Dullah Omar how dockets were lost between police stations and courts during the past 24 months. Omar said the pilot scheme of lock-ups implemented in 184 of 500 courts in the country was proving successful. But there were no statistics on the number of dockets currently astay.

Camerer said "The biggest problem that we have uncovered is that hundreds of women in the maintenance courts will turn up for court and wait all day, only to be told that their case dockets have been lost."

"We have gathered information which leads us to believe that the situation is extremely worrying and an absolute fiasco. There is a system in place at the moment where you can pay for a docket to go missing. The rule is you don't get a lawyer, you get a policeman," she said.

### Cheaper to buy a docket

Corroborating this statement was a senior Johannesburg criminal lawyer who claims he and his colleagues are losing business because criminals will ask about their fees and then scoff — they claim that they can buy the docket cheaper.

"It's unbelievable. The people walk in here and after 10 minutes they are not interested. Why pay R3 000 for a lawyer when you can have your docket stolen for R1 000?"

Attwell admitted that the register system was not working for Johannesburg. "There are too many people, too many courts, too many lawyers, police and prosecutors, and it is very difficult to monitor all the signing that needs to be done by everyone. It doesn't work here."

"Sometimes prosecutors take their dockets home and we have had cases where they have been hijacked — what do you do then? We all need to be vigilant and work together," he said.

"Out of several magistrates' courts approached in Gauteng, only the Germiston magistrate's court had docket statistics readily available."



hillbrow were captured at station. The pup

P.T.O



# Amnesty applications pour in as TRC's midnight cut-off time looms

ARG 10/5/97 (252)

JOHN YELD  
ON THE TRUTH COMMISSION

**Hundreds of amnesty applications have been pouring into Truth and Reconciliation Commission offices around South Africa this week, ahead of the cut-off date of midnight tonight.**

By yesterday more than 6 300 applications had arrived, and hundreds more – including an estimated 500 from the African National Congress in Durban and another 300-400 from the ANC's Truth Commission desk in Johannesburg – are expected to be delivered today

But in a shock disclosure, officials of the TRC's amnesty committee revealed that just "a handful" of applications from former SA Defence Force members had arrived by 4pm yesterday, little more than 24 hours before the deadline.

The committee's chief leader of evidence, advocate Mokotedi Mpshe, said he also was not aware of any applications yet by members of the SADF's notorious Civil Co-operation Bureau (CCB) who have been directly implicated in several high-profile cases of gross human rights abuses, including the murder of Wits University academ-

ic David Webster and Swapo lawyer Anton Lubowski

According to earlier reports, several CCB men intended applying for amnesty.

One of the SADF applications which has arrived is understood to be from a senior officer

Truth Commission chairman Desmond Tutu, asked yesterday whether he was happy with the number of applications, replied "We've got more than we can handle, but we can never say we're content."

Archbishop Tutu described the amnesty process as "a wonderful impetus" for the process of reconciliation in South Africa, but he expressed disappointment with the low number of amnesty applications from Inkatha Freedom Party (IFP) members, saying he did not think the party's response had been adequate

"They've said that they're not over-enthusiastic (about the commission), but they're missing out on a wonderful opportunity to bring down the curtain on this horrendous period of our history"

This week, the commission received just over 500 applications, to add to the 5 800 already received

Of these, 142 were delivered at its Cape

Town offices, 350 in Johannesburg, seven in East London and 10 in Durban. Of the applications sent to Cape Town, 74 were from ANC members, nine from the Pan Africanist Congress, 45 from the IFP, 16 from the Afrikaner Weerstandsbeweging (AWB), three from the Conservative Party and 18 from the police

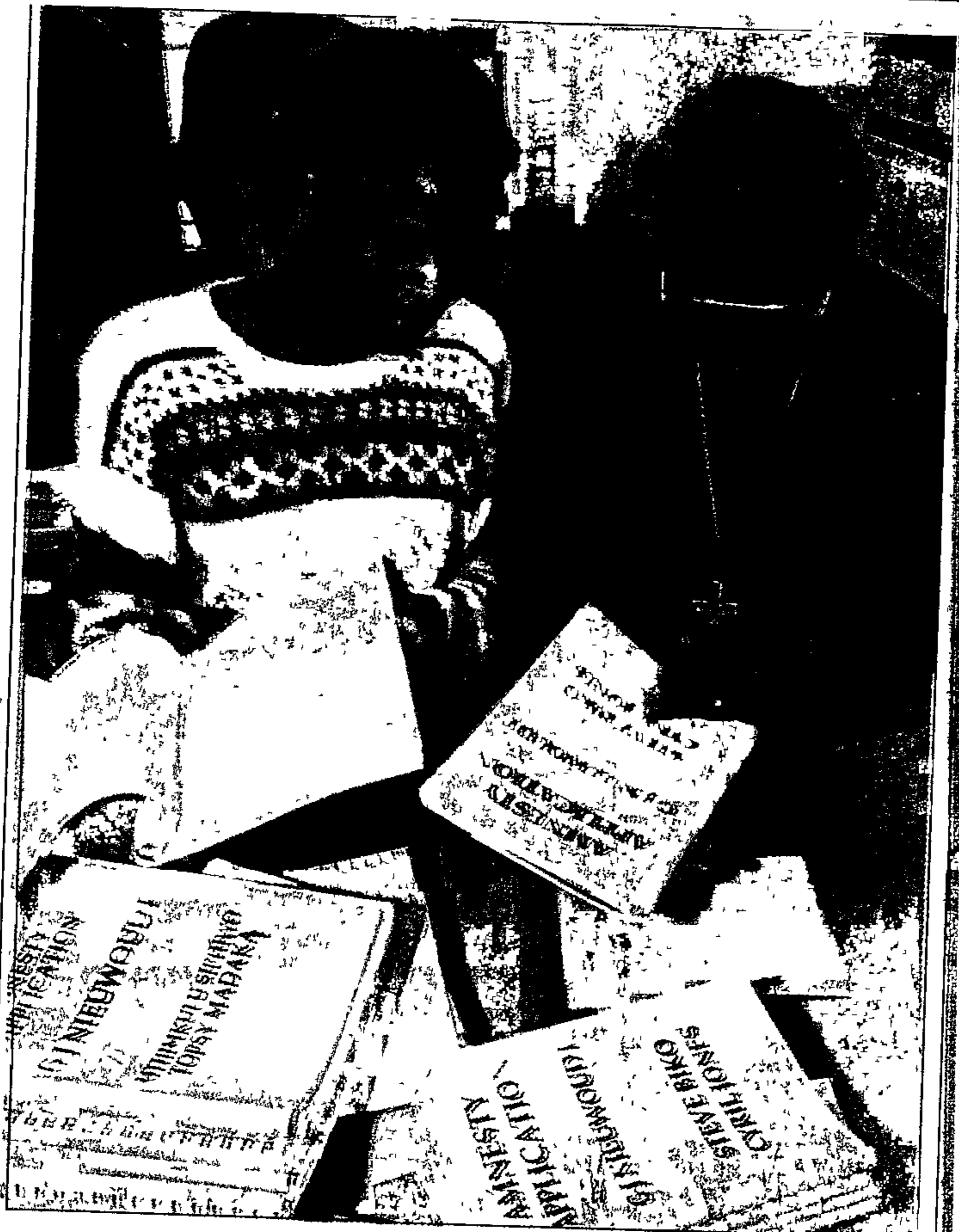
"This is a mad-house here!" Mr Mpshe quipped during a photo session with Archbishop Tutu late yesterday Archbishop Tutu confirmed that the commission would not ask for the cut-off date for amnesty applications to be extended a second time

The original cut-off date was December 15 last year, but was changed – reportedly reluctantly – by President Nelson Mandela after representations by the commission "We would be quite crazy to extend the deadline," Archbishop Tutu said "The extension we asked for was to be as inclusive as possible, and there is no justification for a further extension We would just be playing games"

Meanwhile, Political Correspondent Clive Sawyer reports that Mr Mandela is

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P. T. O.



LEON MULLER

Applications: Archbishop Desmond Tutu, chairman of the TRC, sifts through a pile of amnesty applications

## Bell tolls for amnesty applications

From page 1

ARG 10/5/97

(252)  
adamant that the deadline for applications to the Truth Commission for amnesty will not be extended

As the hours ticked away today towards deadline at midnight tonight, the flood of last-minute applications continued

From tomorrow, anyone found by investigators to

have taken part in violence and other abuses – no matter which side they were on in the liberation struggle – will be liable for prosecution if they have failed to ask for amnesty. In line with a decision by the ANC's national working committee, Deputy President Thabo Mbeki has applied for amnesty.

The TRC's offices are to stay open until midnight to

receive applications, while postal applications will be accepted if their frankings prove they were posted today or earlier

Today is the third anniversary of Mr Mandela's inauguration and the event officially accepted as the cut-off date for politically-motivated violations of human rights, perpetrators of which may be eligible for amnesty.

It is estimated that more than 100 dockets at Germiston were struck from the register last year due to being classed as "outstanding" or lost in the system which could mean lost while in police safekeeping or within the court system.

An administrator said "This is a big problem for us. We are trying to keep control of these dockets but it is very difficult. Sometimes dockets are in transit between the court and the investigating officer, but at other times we discover that they have gone missing completely."

Pretoria Attorney-General Jan d'Oliveira admitted the level of corruption in the criminal justice system was a problem and said the docket issue was being addressed.

"It is very hard for us to keep statistics on the amount of dockets that have gone missing because it is a progressive movement. An attorney will arrive at court only to find that a docket is missing, and the court hearing will be postponed for up to three weeks, sometimes. It is only after this time that we may discover how many dockets are irretrievable," he said.

After Omar's appeal in May last year for an independent investigation into widespread corruption within the criminal justice system, steps have been taken to prevent more dockets from being misplaced.

"One of the main reasons why syndicate members and gangsters are not arrested is because elements in the criminal justice system manipulate cases to achieve results. That is why police dockets disappear, why dockets are not in court on trial dates, why witnesses are not in court when cases are called and why important evidence is not placed in front of the court," he said.

In an alarming allegation made by some attorneys, key witnesses do not appear in court because gangsters have seen the case dockets either legally through their defence lawyer or illegally by some other means, and witnesses have been known to have been murdered. "This is why we have a witness protection scheme," said one police official.

Superintendent of the National Task Team, Faizel Kader, said they were flooded with allegations of docket tampering. There was a big problem in the Western Cape with the influence the gangsters.

Head of the anti-corruption unit Steff Grobbelaar said, "At the moment we have 1 250 police members who are known to be involved in illegal practices reported in some 1 412 dockets that have been opened against certain officers. There are no specific statistics which declare how many of these are docket-theft (or tampering) related cases."

"There is a difficult climate at the moment and docket theft is a problem and we are dealing with that and all other complaints. It is very difficult to know who to trust," he added.

According to the Transvaal Lawyers Association, 33 attorneys were barred last year, five this year, and 14 are under investigation for crimes of corruption.

This brings an official figure of 0,6% of South Africa's registered attorneys who are corrupt, compared to the police, of whom 1,30% are corrupt.

■ If anyone has had problems with lost or stolen dockets, call reporter Sasha Jensen on (011) 633-2407.

# Amnesty not for Buthelezi

(252) CP 11/5/97

INKATHA Freedom Party leader Mangosuthu Buthelezi said yesterday he would not apply for amnesty because he had never been in command of an army.

According to radio reports, Buthelezi confirmed his intention not to apply at an IFP national council meeting in Ulundi.

He said President Nelson Mandela had been the founder of Umkhonto we Sizwe, the military wing of the African National Congress

Buthelezi said he had never led an army, while Mandela had been the commander-in-chief of MK

The only command he had was the group of 200 IFP members trained in the Caprivi

strip to protect him and other IFP leaders, who had "already been sentenced to death"

Buthelezi also dismissed a suggestion by Truth and Reconciliation Commission chairman Bishop Desmond Tutu that political leaders visit the sites of human rights violations perpetrated by their followers and apologise to victims

He described the suggestion as "theatrics" and said he had already apologised twice for acts of violence by IFP members.

Buthelezi's confirmation that he would not apply for amnesty came hours before the final deadline for amnesty applications at midnight. - Sapa

# It's the final curtain!

## Prosecutors get ready to 'strike hard'

By **DESMOND BLOW**

**THE final curtain came down on apartheid killers at midnight last night! Closing off all those who still see themselves above the law by refusing to apply for amnesty for crimes committed in the name of apartheid.**

And now, evidence that Gauteng Attorney General Jan D'Oliviera's special team, under Brigadier Ivor Human, has been painstakingly collecting over the past years, will be used to "strike them hard"

According to Christelle Terblanche, of the TRC, during the past week, until noon yesterday, 700 people applied for amnesty, bringing the grand total of applicants close to the 7 000 figure

Yesterday 370 ANC members applied for amnesty, including cabinet ministers Mac Maharaj, Ronnie Kasrils and Alfred Nzo

Top security boss Joe Nhlanhla, as well as former cabinet minister Piet Koornhof, also applied for amnesty

Earlier in the week Deputy President Thabo Mbeki and former minister of law and order Adriaan Vlok also applied

Christelle Terreblanche, speaking from the TRC headquarters in Cape Town, said that the names of a fur-



APPEARING Deputy Minister of Defence Ronnie Kasrils to face the Truth Commission



APPEARING Minister of Foreign Affairs Alfred Nzo will discuss ANC's activities while in exile



APPEARING Former minister Adriaan Vlok will outline the role of his law and order ministry under apartheid

ther 50 ANC members were also expected

Six former security branch members applied yesterday, including former members of the CCB

She said she understood other former CCB members had applied in Gauteng

However TRC officials said this Friday that only a handful of applications were from former members of the SA defence force - of which the CCB "hit squad" formed an integral part - had applied to the TRC

One of the applications from the SADF was from a high ranking officer and the other was from his second-in-command

Those who did not make their applications by midnight last night are now all liable for prosecution

Over the past few years Human and his team, which includes Capt Mike Holmes - who was mainly responsible for bringing Vlakplaas commander Eugene de Kock to trial - have been working to build up a dossier to prosecute others who kill-

ed and maimed in the name of apartheid

However, because of the existence of the Truth Commission, they have not made as many arrests as might have possible because after De Kock was convicted five former Vlakplaas cops, headed by Brigadier Jack Cronje, commander of Vlakplaas "hit-squad" base between 1986 and 1989, rushed to the TRC when Human and his detectives were closing in

D'Oliviera and his team have kept their investigations close to their chests and this week no one was prepared to make any comment, but City Press established that there were constant meetings at the Maize Board in Pretoria - where D'Oliviera and his special squad now have their headquarters - between D'Oliviera, Deputy Attorney General Torie Pretorius and Ivor Human

Many of those who feel safe might soon get a very rude awakening when they discover that D'Oliviera has amassed evidence

and witnesses to prosecute them

CHIARA CARTER reports that Eugene de Kock will provide further bombshell disclosures when the TRC hears his application for amnesty He will reportedly give evidence on about a further 200 incidents

This factor, and the evidence given by CCB operatives, plus the tons of evidence collected by D'Oliviera, will almost guarantee that those who have not asked for amnesty will face a prosecution that is well prepared

One of the difficulties in prosecuting some of the top figures in the past has been that the witnesses are usually fellow criminals and are likely to be hammered by defence counsel

The only way to obtain a conviction is to obtain a number of co-conspirators who all tell the same story

The TRC refuses to disclose the names of those who have applied for immunity in this week's last minute rush - or to detail the crimes for which they are applying for im-

munity, but City Press understands that many well-known players have not asked for immunity

Nor it appears has anyone asked for immunity for the murder of David Webster or Anton Lubowski

City Press understands that former CCB agent Ferdi Barnard has applied for immunity but not for any role in the murder of university lecturer and activist Neil Webster - with whom his name has often been associated

The ANC submitted 375 applications were submitted on behalf of members who include senior leaders, former military commanders and cadres countrywide

The ANC refused to say if its applicants included Women's League, President, Winnie Madikizela-Mandela

The remainder of the ANC applicants were 200 former MK members and the rest were members of local self defence units

The TRC's Cape Town offices this week received more than 150 applications from PAC members, including members of the organisation's armed wing, Apla

Requests for amnesty were also received from more than 55 Inkatha members, six National Party members and about 20 members of the ultra right wing

Yesterday Freedom Front parliamentarian Tienie Groenewald handed in 13 applications of people involved in the pre-election plot to establish a volkstaat

Groenewald in a press statement that both he and FF leader General Constand Viljoen were among the applicants

A total of 50 applications from FF members were expected to be handed in to TRC offices countrywide before Friday's midnight deadline, Groenewald said

## Malan's lawyer may be called by TRC

By **CHIARA CARTER**

ERNEST Penzhorn, the lawyer who advised former Defence Minister Magnus Malan when he made a submission to the TRC earlier this week, might himself face questioning from TRC investigators

Penzhorn remained silent when TRC investigations director Glen Goosen questioned Malan about the murder of Swapo lawyer Anton Lubowski

But Penzhorn in fact was the lawyer who registered a military intelligence front-company through which the SADF claimed payment was made to Lubowski as a secret agent

Family and friends of Lubowski say this was an elaborate attempt to frame Lubowski as a spy

This weekend, Penzhorn confirmed he had registered the company,

Global Capital Investments CC, on behalf of unnamed clients

After Lubowski was shot dead in 1989, Malan told Parliament the Swapo leader had been a Military Intelligence agent

This week, Malan told the TRC that he stood by his comments in Parliament and referred the TRC to the Harms Commission investigation

That commission heard Military Intelligence chief General Witkop Badenhorst allege that two amounts totaling R60 000 were paid by Global Capital Investments CC into a Trust account which owned the Cape Town home where Lubowski's wife and children lived

The Lubowski family withdrew from the commission because they said it was impossible to operate within the restrictions of the SADF

The commission made no findings on whether Lubowski had been an agent or was in fact framed

The Defence Force has never supplied the original motivation for recruiting Lubowski or proof of work he allegedly did

Following the Harms commission, several anomalies were discovered in the Defence Force records.

These included attempts to backdate at least one of the Treasury cheques, crude attempts to backdate ownership of Global and a requisition form which refers to "final payment"

The Namibian high court ruled in 1994 that Donald Acheson, a former member of the Rhodesian army, had killed Lubowski on the instructions of the shadowy Civil Co-operation Bureau - a covert division of the SA Defence Force

### ASSASSINATED

Swapo lawyer Anton Lubowski. The TRC might question Magnus Malan's lawyer, Ernest Penzhorn, about the setting up of a front company, through which the SADF claimed Lubowski was paid as a secret agent



ep 11/5/97

(252)

# Truth to cost state thousands

CP 11/5/97  
By CHIARA CARTER

(262)  
THE GOVERNMENT is counting the cost of providing legal counsel for former SAP members who are claiming amnesty or have been linked to gross human rights violations

Responding to a question from Douglas Gibson, Safety and Security Minister Sydney Mufamadi said 234 former SAP employees had so far indicated they would be claiming defence fees.

Fewer than half had so far put in claims and the bill faced by the state so far stands at R840 948

None of the claimants had yet faced court proceedings

Although Mufamadi's answer does

not specify whether the claims relate to TRC proceedings, this seems to be the case

The claimants include former Law and Order minister Adriaan Vlok, several former generals and other top brass from the old SAP, Vlakplaas commanding officers and security policemen from around the country, including several generals and brigadiers

Former Vlakplaas chief Jack Cronjé and his four fellow amnesty applicants have accounted for more than half the state's expenses with a bill of just under R443 000

The bill for a case involving Martinus Ras, Almond Nofomela and David Tshikalange stands at about R103 000

Former Law and Order Minister Adriaan Vlok has so far claimed more than R5 000. Several former generals and other top brass are still to put in their bills, as is the head of the SAPS Violent Crimes unit, Director Leonard Knipe

The host of former security policemen who are claiming expenses include the Natal security police chief, who has been linked to death farms, Andy Taylor, former head of the security branch in Cradock, Eric Winter, former East London mayor Donald Card and Motherwell car bomber Gideon Nieuwoudt

# Youths in mineshaft, says Falati

By WALLY MBHELE

TWO YOUTHS who mysteriously disappeared without a trace from the Soweto house of Winnie Madikizela-Mandela were murdered before their bodies were thrown into a disused mineshaft.

This shocking allegation was made to the Truth and Reconciliation Commission's investigators regarding the mysterious disappearance of youths Lolo Sono and Siboniso Shabalala.

City Press has established that more than ten members of the notorious Mandela Football Club were among thousands of people who made last-minute applications for amnesty before the TRC deadline expired yesterday.

Amid the rush, former controversial National Party cabinet minister, Piet Koornhof, also submitted an amnesty application yesterday.

Sapa reports that Koornhof personally delivered his amnesty application form to the Cape Town offices of the TRC.

Among those who met with the TRC this week were Madikizela-Mandela's erstwhile per-

sonal friend, Xoliswa Falati, who is believed to have submitted damaging allegations about Madikizela-Mandela.

Falati is believed to have told the TRC "about people who were pushed into a disused mineshaft". Some of them were still alive when they met their cruel fate, City Press was told.

Falati is one of the people believed to have information about the secret graves of Sono and Shabalala, as well as that of Kuki Zwane - whom the jailed coach of the Mandela club, Jerry Richardson, last week confessed to have personally murdered.

Like Richardson, Falati allegedly told the TRC investigators on Thursday that she had lied before the high court judge to protect Madikizela-Mandela concerning the circumstances surrounding the death of teenage activist Stormie Seipei.

City Press was told that Falati also spoke about the press conference she had held in Durban after she was specially flown there to "clear" Madikizela-Mandela's name.

She is understood to have taken strong ex-

ception to the TRC's intention to hold discussions with Madikizela-Mandela in camera. City Press also understands that Falati has demanded the presence of "an international investigator" before she will spill the beans.

Although far-reaching allegations have been made against Madikizela-Mandela - in particular by Falati and Richardson - she is understood to be unshaken and "is not even considering the idea of TRC amnesty".

The TRC this week confirmed that it "was more than likely" that she would be subpoenaed about her alleged role in the killing of Seipei and the disappearance of other youths.

Falati is believed to have submitted a map of a disused mineshaft into which she claims the bodies of three youths were thrown.

Falati confirmed meeting with the TRC investigators this week and said she was going to help the commission investigate the site of secret burials.

Speaking to Sapa yesterday, Koornhof said he had applied for amnesty because he was part of the apartheid system.

CP 11/5/97 (250)

# Last-minute rush by politicians to beat amnesty deadline

CYRIL MADLALA  
and MARLENE BURGER

ST 11/5/97

SENIOR ANC leaders, a former National Party cabinet minister and several agents of the shadowy Civil Co-operation Bureau are among about 1 500 people who made last-minute amnesty applications to the Truth and Reconciliation Commission this week to beat last night's midnight deadline.

ANC politicians seeking amnesty for politically motivated human rights violations include Deputy President Thabo Mbeki, Defence Minister Joe Modise and his deputy, Ronnie Kasrils; Transport Minister Mac Maharaj, and deputy Intelligence Minister Joe Nhlanhla.

Those who missed last night's deadline for applications now face the prospect of criminal or civil prosecution for human rights violations.

Among the first to face charges could be a number of former senior security policemen, including generals, and senior members of the Inkatha Freedom Party. Attorneys general also have their sights set on former military officers.

The former NP minister who has applied for amnesty is Dr Piet Koornhof Koornhof, who delivered his application form to the commission's Cape Town offices yesterday, said he was applying because of his role in forced removals.

"I have applied for amnesty because I was part of the apartheid system," he said. "My black friends consider it a symbolic act of asking for forgiveness. Applying for amnesty is a sign of feeling intensely sorry."

About 40 members of the ANC's national executive committee are among an estimated 400 Umkhonto we-Sizwe and self-defence unit cadres who also submitted applications, along with members of the organisation's politico-military council, which replaced the revolutionary council in 1983.

Commission spokesmen confirmed that an application had been received earlier from former minister of law and order Adriaan Vlok.

CCB applicants include Staal Burger, Slang van Zyl and Calla Botha. The "managing director" of the CCB, Joe Verster, is also believed to have applied. Their applications were filed just three days after a former minister of defence, General Magnus Malan, told the commission he had approved the setting up of the CCB, but had never approved political assassinations. Malan was adamant that he would not seek amnesty.

In addition to thousands of former security policemen and a handful of military men who have already sought amnesty, a former senior SADF member and 26 former security policemen beat last night's deadline.

Staff at TRC offices throughout the country were frantically processing 11th-hour applications yesterday, and the final tally is expected to be in the region of 8 000 applications.

The IFP has largely ignored impassioned last-minute pleas from commission chairman Archbishop Desmond Tutu to come forward. No more than 100 IFP applications were submitted yesterday, including one from Daluxolo Luthuli, leader of the 200-strong band of recruits trained in a military intelligence operation in the Caprivi in 1986.

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# New court boss aims to level the playing fields

(252)  
YVETTE VAN BREDA

ST(CM) 11/5/97

ALL but one of the regional magistrates in the Western Cape are white and their new boss, Victor Moyisi Lugaju, intends to change that

"There is only one coloured regional magistrate in the province, the rest are all white, and we need people of colour on board as regional magistrates," he said

Lugaju, the Western Cape's new regional court president, felt it was necessary to draw magistrates from the ranks of advocates.

"But then we need to make the salaries attractive to get good quality people on the bench."

Lugaju said incentives such as safe working conditions, car schemes and adequate remuneration should be provided for regional magistrates.

Eight regional court posts were vacant in the Western Cape, and they needed to be filled urgently. There were six "already-tested" magistrates whom Lugaju had recommended for these posts.

A local committee has been formed comprising Lugaju, the chief magistrate (of the district court), an advocate and an attorney to decide on candidates for training

Lugaju, 48, who rose through the ju-



**MIGHTY MAGISTRATE :** Victor Moyisi Lugaju, the Western Cape's top ranking magistrate

dicial ranks from a clerk in 1969, has been a magistrate for 20 years. He became a regional magistrate in 1987 and in 1990 he was admitted to the bar as an advocate.

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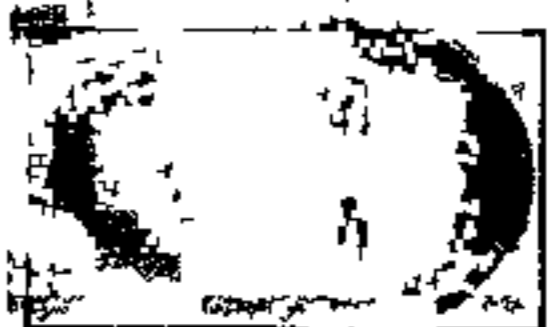
ANC WANTS WEALTHY TO PAY VICTIMS

# Call for reparation tax

(252) et 12/5/97

of a once-off tax "White society is in general not prepared to recognise the extent to which it benefited," the professor said. "For over 40 years, racial policies closed doors to black opportunities and advancement." Or, the government could negotiate with foreign governments to try to gain access to the secret funds allegedly stashed away by apartheid beneficiaries, particularly in the final years of NP rule. Once the money has been raised, reparation could take the form of special pensions, educational grants, skills training, medical and welfare grants, the issuing of special medals, the erection of memorials, and possibly a museum in remembrance of those who suffered injustices, the ANC says.

**WEALTHY** South Africans must be asked to pay a once-off tax to fund reparations for victims of gross violations of human rights, **ROGER FRIEDMAN** reports.



**T**HOSE who prospered under the apartheid system should finance "meaningful" reparations for the victims of gross violations of human rights on both sides of the apartheid conflict, the ANC will advise the Truth and Reconciliation Commission today.

Should the proposal win favour, it could mean wealthy, mainly white, South Africans would be asked to pay a once-off tax similar to that levied after the 1994 election to raise money for the Reconstruction and Development Programme, or the once-off tax collected from former West Germans after the re-unification of Germany.

The ANC's views on reparation and rehabilitation are contained in its second submission, which will be delivered to the commission today.

The Promotion of National Unity and Reconciliation Act, which led to the creation of the TRC, requires the commission to make recommendations to the president on the reparation and rehabilitation of victims.

The ANC believes meaningful reparations are essential to ensuring justice and reconciliation, and that identifying who should qualify for reparation or rehabilitation is one of the TRC's most crucial tasks.

But resources are scarce. "We take into account the fact that available resources can never match what would be required to ensure reasonable reparation and rehabilitation for the gross violations of human rights.

"Nonetheless, there is widespread recognition that there are

individuals within our society and abroad who have benefited directly from the system which was sustained by apartheid repression.

"It would be useful if the commissioners could apply their minds to considering the necessity and viability of ensuring that the Doctrine of Odious Debt is given recognition in mobilising some of the resources that would help make the reparations more feasible."

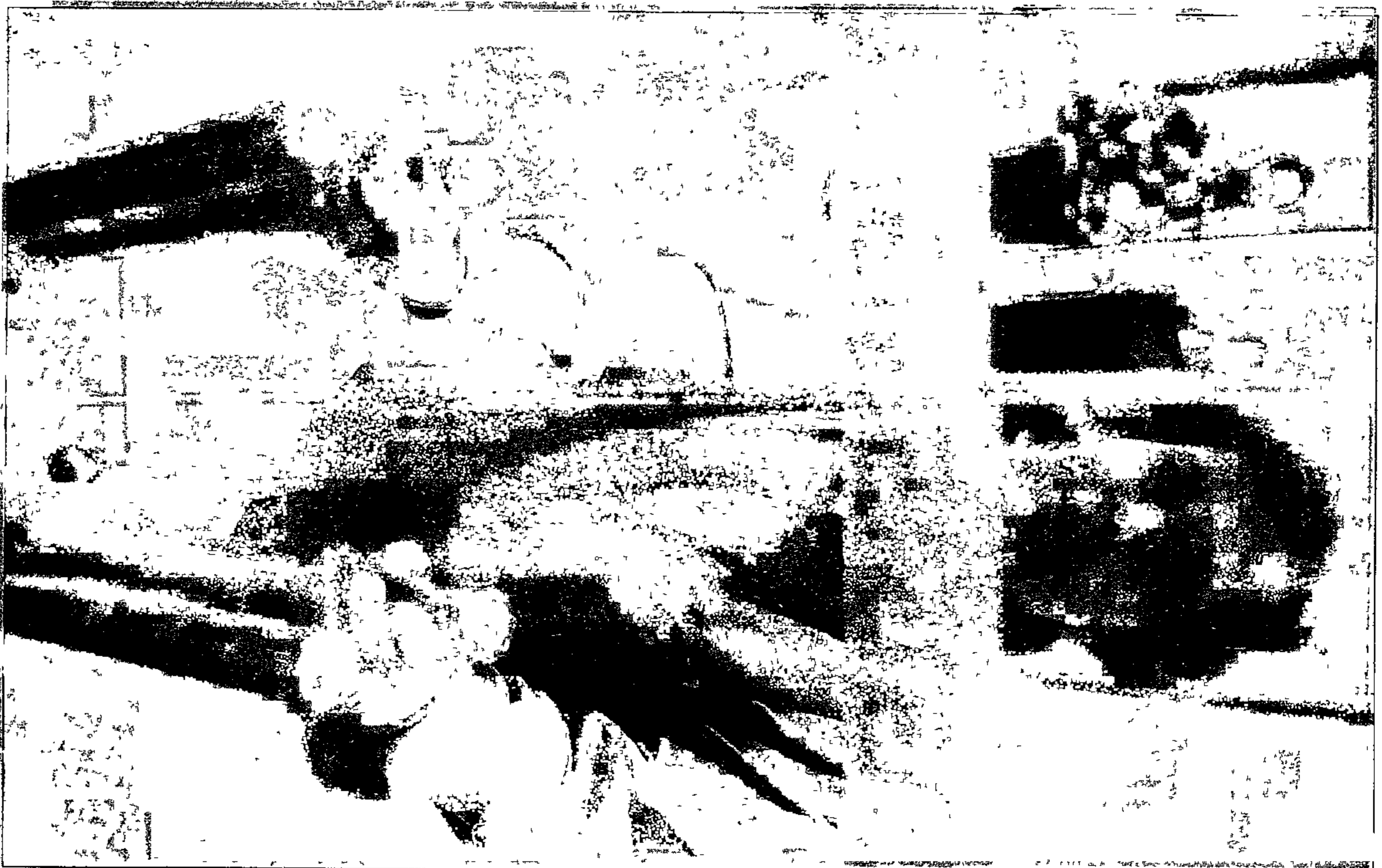
The finalisation of the forms, amount and implementation of reparations should be the responsibility of the state, the ANC says.

Although the party does not define who benefited directly from apartheid, a senior academic told the Cape Times yesterday that the Doctrine of Odious Debt introduced the moral and ethical arguments that if you knew about conditions of illegitimacy, you could not benefit from them.

Taking the argument a step further, they are the old principles in Roman and Roman-Dutch law that the wrongdoer should not benefit from the wrongdoing.

After the Soviet Revolution in 1917, for example, the Bolsheviks invoked the principles of the Doctrine of Odious Debt by refusing to recognise the international debts incurred by the Tsarist regime. Closer to home, the doctrine has been raised mainly in the wake of decolonisation struggles, where newly democratic governments said colonisation was criminal and they could not be held accountable for their coloniser's debts.

In South Africa, the application of the doctrine could take the form



**CLOSED:** Truth and Reconciliation Commission commissioner Mnyamane Burton closes the doors to the TRC office in Adderley Street at midnight on Saturday, the deadline for amnesty applications. **PICTURE: BENNY GOOL**

# Koornhof seeks amnesty for role in forced removals

CT 12/5/97

(252)

AMONG the last-minute applicants for amnesty are former cabinet minister Dr Piet Koornhof, a clutch of unnamed former Civil Co-operation Bureau members, senior ANC officials and former Vlakplaas commander Eugene "Prime Evil" de Kock, who is believed to have applied in connection with more than 100 offences

It is believed that De Kock, convicted and sentenced earlier this year for murder and other charges, is seeking amnesty for more than 100 offences, including the 1983 bombing of the ANC offices in London and several murders

It is understood that Ms Helene Pastoors, jailed in 1986 with her former husband, Mr Klaas de Jonge, for smuggling arms into South Africa, has applied from overseas. Pastoors was released in 1989

Fifty applications from former self-defence unit members were also handed in late.

Almost 8 000 applications were received by the Saturday midnight

deadline. Doubts are being expressed that the 99 working days left to process them will be enough

"I wish I could say I was confident, but I am not confident at all," amnesty committee chairman Judge Hassen Mall said from his Durban home yesterday

He said TRC chairman Archbishop Desmond Tutu had suggested recently that the amnesty committee's life might have to be extended to next year

TRC spokeswoman Ms Christelle Terreblanche said more applications were expected through the

post "Saturday's date-stamp would be a valid indication they had met the deadline"

Koornhof, who held a number of cabinet posts between 1972 and 1984, was among the last-minute applicants who walked into the TRC's Cape Town offices. He said he was seeking amnesty because of his involvement in forced removals and enforcing pass laws

"Applying for amnesty is a gesture black people appreciate. It is a

sign of feeling intensely sorry," he told Sapa

On Saturday, a lawyer handed in six applications for former members of the SA Defence Force special forces, including the CCB

Former CCB managing director Mr Joe Verster and colleague Mr Staal Burger were reported to have delivered their applications to the TRC's Johannesburg offices. This could not be confirmed.

The applications of more than 40 senior ANC members, including Deputy President Thabo Mbeki, were among more than 370 delivered to the Cape Town offices

Cabinet ministers known to have applied are Transport Minister Mr Mac Maharaj, Defence Minister Mr Joe Modise, Public Administration Minister Dr Zola Skweyiya and Justice Minister Mr Dullah Omar. Deputy Defence Minister Mr Ronnie Kasrils and Deputy Minister of Intelligence Mr Joe Nhlanhla have also applied

Freedom Front MP General Tienie Groenewald handed in 13 applications in connection with the pre-election plot to establish a volkstaat by force. FF leader General Constand Viljoen was among them, he said



# ANC leads parties in a new round of

## submissions to TRC

Star 12/5/99

(252)

Staff, trebled two months ago, will have to be enlarged again to cope with thousands of applications in time

BY DAISY JONES AND SAPA  
Cape Town

Five days of submissions to the TRC start today with Deputy President Thabo Mbeki leading an ANC delegation presenting its second submission. It will be followed by the NP on Wednesday. In all, five political groups will make submissions.

The ANC says it will detail guerrilla activities within and outside the country while its first submission had dealt largely with political activities.

Others to appear this week are the IFP and Freedom Front and next Monday the PAC will give details of activities by its armed wing, the Azanian People's Liberation Army.

TRC vice-chairman Dr Alex Boraine said yesterday the rush of amnesty applications received just before the midnight deadline on Saturday would make it necessary for the committee to be enlarged. Its staff was trebled two months ago.

Even if the amnesty committee were enlarged, it would still be "unbelievably" difficult to deal by year-end with the almost 8 000 applications received, Boraine said.

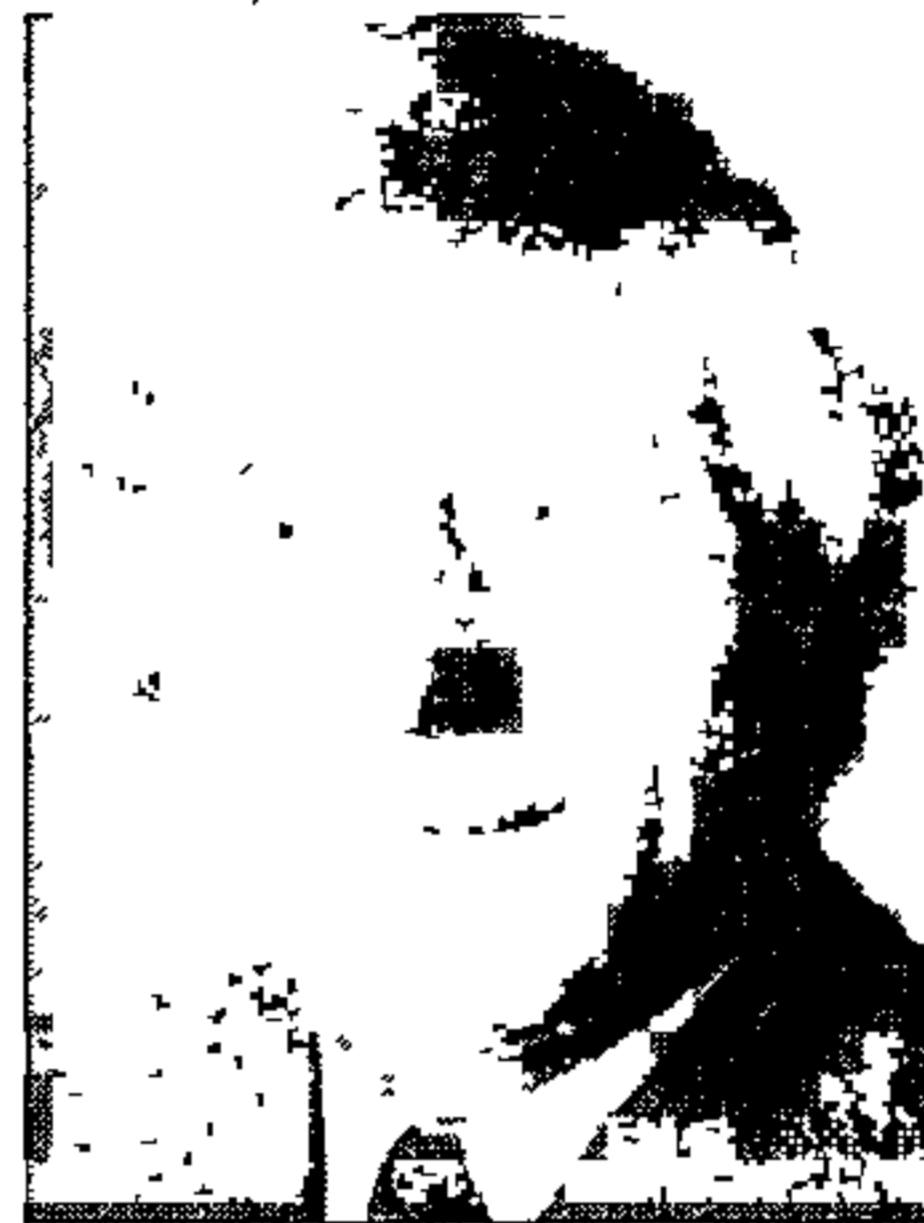
An analysis of how many public hearings would be required to hear all the cases of gross human-rights violations would be needed before the commission could decide on how many more staffers the committee needed.

Boraine said the TRC opposed an extension of the cut-off date for public hearings. It wanted the committee to stick to its December 14 deadline because the TRC's report to the president was due on March 14.

The TRC was absolutely opposed to general amnesty.

If blanket amnesty were granted, "amnesty would become impunity", Boraine said.

TRC spokesman Christelle Terblanche said there had been "no last-minute banging at the



Alex Boraine ... 'unbelievably difficult' to finish in time

door" by applicants seeking amnesty.

Former Vlakplaas commander Colonel Eugene de Kock, through his lawyer, and 56 ANC members were among the last people to submit their applications in Johannesburg shortly before the Saturday midnight deadline.

Terblanche said staff would

**No 'last  
minute  
banging on  
the door'**

immediately start processing the applications.

"There are only 99 days to work," she said, adding that in this time the leader of evidence would call for more legal advisers, and the 13-member amnesty committee should be in place by about the end of this month.

Commissioner Mary Burton said it was important that people from all ranks, particularly senior people, applied for amnesty.

Saturday saw about 2 500 applications being received.

A PAC batch of 305 submissions was delivered late on Sat-

urday night, bringing the party's total applications since Friday to 460.

The party delivered 145 applications to the commission's Cape Town offices on Friday.

The applications were hand-delivered by Letlapa Mphahlele, former operations director of the PAC's military wing, the Azanian People's Liberation Army. His own application was among them.

Terblanche said that only between 20 and 30 former police and defence force members were among the late applicants. Only one IFP application was received.

By midnight on Saturday, the TRC's Cape Town office had received 780 applications; the Durban office 128; Bloemfontein 22, of which 21 were from AWB members, Johannesburg 364, and East London 21.

Among the eleventh-hour applicants were former members of the Civil Co-operation Bureau - including Joe Verster and Staal Burger - and former NP minister Piet Koornhof.

Koornhof personally delivered his application form to the Cape Town offices of the TRC in Adderley Street.

As the minister of co-operation and development, he was ultimately responsible for forced removals.

The amnesty applications of senior ANC leaders, including Mbeki, were among the more than 300 delivered to the TRC's Cape Town offices early on Saturday.

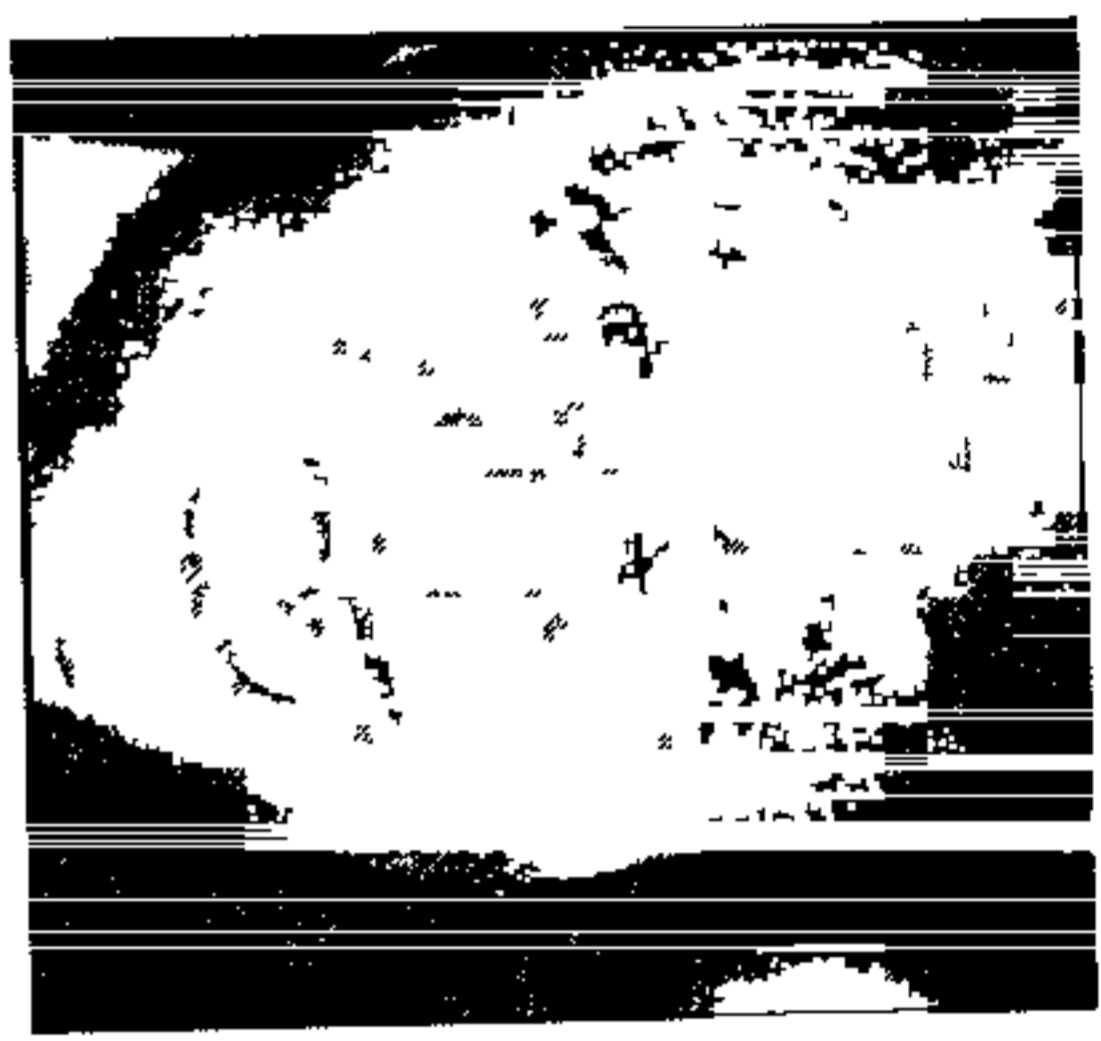
An ANC spokesman said about 40 members of the leadership, excluding President Nelson Mandela, had applied.

Former presidents P W Botha and F W de Klerk did not apply and said their governments never sanctioned human-rights violations.

IFP leader Mangosuthu Buthelezi has said he would not apply because he had never killed anyone or ordered anyone killed.



Thabo Mbeki



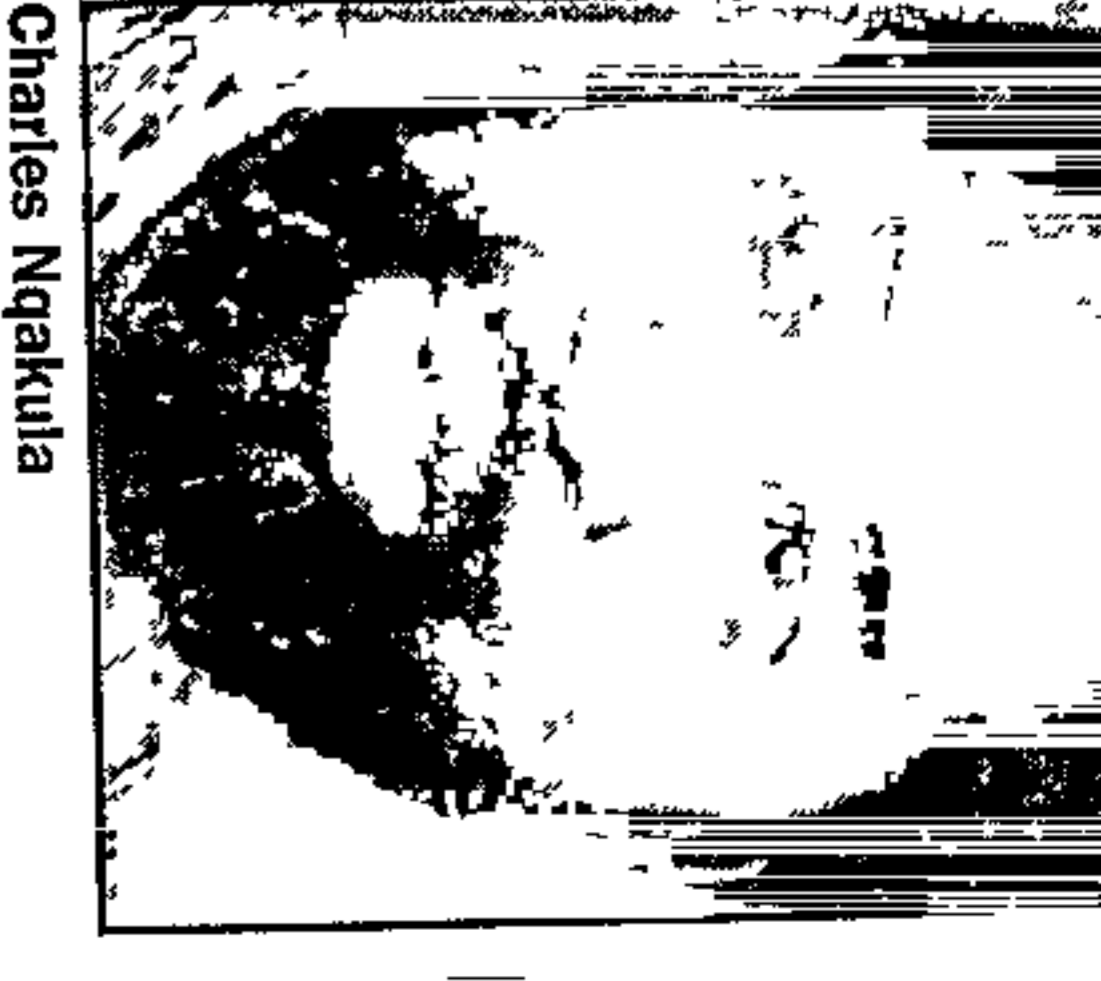
Joe Modise



Cheryl Carolus



Jacob Zuma



Charles Ngakula

# ANC bosses join

# race for amnesty

*Lawyer 12/5/97 (252)*

**D**EPUTY president Thabo Mbeki, African National Congress national chairman Mr Jacob Zuma, ANC acting general secretary Ms Cheryl Carolus, Defence Minister Mr Joe Modise and South African Communist Party general secretary Mr Charles Ngakula will lead a 20-person delegation to submit the ANC's second major submission to the Truth and Reconciliation Commission in Cape Town today and tomorrow.

The submission will deal with the conduct of the movement's military and security and intelligence arms. The submission to be made by Mbeki will also seek to answer questions posed by the TRC to the ANC. Meanwhile the TRC faces the mammoth task of sifting through thousands of pages of documents after a deluge of amnesty applications at the weekend.

Doubts are already being expressed on whether the 99 working days left to process them are enough

dent but I am not confident at all," amnesty committee chairman Judge Hassen Mall said yesterday.

He said TRC chairman Archbishop Desmond Tutu had suggested in a recent interview that the life of the amnesty committee might have to be extended to next year. "But the amnesty committee has not been officially told of this," he said.

**Increased workload**

The first order of business for committee staff today, however, will be to sort out applications not involving gross human rights abuses. These, he said, could be dealt with in chambers and would not require a public hearing. "So far a high percentage of the applications we have dealt with fall into this category." He said he hoped his committee would be expanded before the end of the month to cope with the increased workload. However, the necessary

before Parliament. By midnight on Saturday nearly 8 000 applications had been received by the TRC at its offices in East London, Cape Town, Johannesburg and Durban, TRC spokeswoman Ms Christelle Terreblanche said.

The bulky 1 000-page application of jailed former Vlakplaas commander Eugene de Kock - who was convicted last year on 87 charges - was delivered by his lawyer, Mr Schalk Hugo, just 20 minutes before the deadline.

Hugo said his client was seeking amnesty for more than 100 offences, including the bombing of the ANC's London offices in 1983 and several murders for which he was never charged. Terreblanche said the Ministry of Correctional Services waited until the last possible minute to submit 200 applications from prisoners to the TRC's Johannesburg offices. "When I phoned our offices at 11 55pm they had still not been handed in," she said.

defence unit members were also handed in late. The final figures for this week showed that the Cape Town office received 1 000 applications, Durban 150, East London 21 and Johannesburg 1 000. However, 1 500 applications were faxed or hand-delivered on Saturday alone.

Terreblanche said more applications were expected through the post. **Apartheid system**

Among the last-minute applicants who walked into the TRC's Cape Town offices on Saturday was former National Party cabinet minister Mr Piet Koorhof. Koorhof, who held a number of cabinet posts between 1972 and 1984, said he was seeking amnesty because of his involvement in an apartheid system which had caused people so much hurt. Also on Saturday, a lawyer handed in six applications on behalf of former SA Defence Force special forces members, including former opera-

tives of the Civil Cooperation Bureau. Former CCB managing director Joe Verster and colleague Staal Burger were reported to have delivered their applications to the TRC's Johannesburg offices. However, this could not be confirmed.

The applications of more than 40 senior African National Congress leaders, including Mbeki, were among more than 370 delivered to the Cape Town offices in a cardboard box. Freedom Front parliamentarian General Tieme Groenewald handed in 13 applications to the TRC's Cape Town offices for the pre-election plot to establish a *volksstaat* through force. FP leader General Constand Viljoen was among the applicants. Groenewald confirmed.

The Pan Africanist Congress, which delivered 140 applications on Friday night, handed over another 140 forms on Saturday night. Among the applicants were former Apla operations director Letlapa Mphahlele and those responsible for the St James Church massacre - Sappa

# Political leaders among final amnesty requests

Wyndham Hartley

BD 12/9/97

(252)

CAPE TOWN — The extended period for amnesty applications failed to draw significant numbers of the military or the Inkatha Freedom Party into the open in spite of former defence minister Magnus Malan accepting responsibility for all defence force actions.

This emerged yesterday as the truth commission began organising the almost 8 000 applications which were received up to the final deadline at midnight on Saturday.

The final flood of amnesty applications came as the commission was preparing for the second round of submissions by political parties, which begins today with Deputy President Thabo Mbeki presenting for the African National Congress (ANC). The National Party (NP) will be heard on Wednesday and the Freedom Front (FF) on Friday.

The huge number of applications has again raised the question of whether amnesty can be dealt with in the time remaining for the truth commission to complete its work. There have been suggestions from chairman Desmond Tutu that the life of the amnesty committee might have to be extended and that the size of the committee increased to cope with the load.

Sapa reported amnesty committee head Judge Hassen Mall as saying: "I wish I could say I was confident (about completing the task in time), but I am not confident at all."

Commission spokesman Christelle Terreblanche said the correctional services department waited until the last minute to submit 200 applications from prisoners to the commission's Johannesburg offices.

Fifty applications from self-defence unit members were also handed in late. Terreblanche said more applica-

tions were expected through the post. "We have already said that Saturday's date stamp would be a valid indication they had met the deadline."

Among the last-minute applicants was former NP cabinet minister Piet Koornhof, the second NP cabinet minister to apply for amnesty. Former law and order minister Adriaan Vlok submitted his application last December.

Also on Saturday, a lawyer handed in six applications on behalf of former SADF special forces members, including former operatives of the Civil Cooperation Bureau (CCB).

Former CCB MD Joe Verster and colleague Staal Burger were reported to have delivered applications to the commission's Johannesburg offices. However, this could not be confirmed.

The bulky 1 000-page application of jailed former Vlakplaas commander Eugene de Kock — who was convicted last year on 87 charges — was delivered by his lawyer Schalk Hugo 20 minutes before the deadline.

The applications of more than 40 senior ANC leaders, including Mbeki, were among 370 delivered to the Cape Town offices. Cabinet ministers known to have applied are Transport Minister Mac Maharaj, Defence Minister Joe Modise, Public Administration Minister Zola Skweyiya and Justice Minister Dullah Omar.

FF parliamentarian Gen Tienie Groenewald handed in 13 applications for the pre-election plot to establish a Volkstaat through force. FF leader Constand Viljoen was among the applicants, Groenewald confirmed.

The Pan Africanist Congress delivered 140 applications on Friday and another 140 forms on Saturday night, including one for former Apla operations director Letlapa Mphahlele and for those responsible for the 1993 St James Church massacre.

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# ANC hands over enemy agent names

ROGER FRIEDMAN

CT 13/5/97

THE African National Congress has handed the Truth and Reconciliation Commission a secret document labelled "for TRC eyes only" which contains the names of an unknown number of "confessed enemy agents" and a list of "agents executed on the orders of tribunals"

The document was contained in the ANC's second submission to the commission delivered by Deputy President Thabo Mbeki yesterday. Mbeki was supported by a number of leading ANC members — many of them cabinet ministers — who stayed to answer the commission's questions when he left to attend to matters pertaining to the conflict in Zaire.

There were several references to the "confidential" part of the submission during the morning session, and after lunch commission deputy-chairperson Dr Alex Boraine challenged the party on the necessity for its secret status. Boraine said it was the commission's "normal intention" to make information available because people had a right to know.

Minister of Transport Mr Mac Maharaj responded that the document contained the names of confessed enemy agents, and the ANC did not wish to see people who had made honest confessions suffer for the rest of their lives.

A "large number" of people sent to infiltrate the ANC were so poorly prepared as to be incapable of causing the organisation any damage. Because the organisation was "guided by a policy of rehabilitation", a number of such infiltrators were "left to lead normal lives".

Mr Maharaj suggested the commission devise the means to disclose names without necessarily ruining lives.

The names on the list could not be compared to the names of cabinet ministers alleged by some security policemen to have been informers, which the ANC has been demanding are released.

Obviously it was in the country's interest to know if there were spies in the cabinet, he said.

Boraine said the commission had to bear the victims of human rights violations in mind, who were critical of information being withheld. "Obviously, the transparency of the commission is fundamental," he added.

Commission chairperson Archbishop Desmond Tutu said: "It is quite crucial for the integrity of this operation that we are the ones who take decisions as to what we are going to disclose. We'd need a fair degree of persuasion to withhold information."



See Page 5

# Courts proposal dismays business

ET(BR) 13/5/97  
MATT GETZ

(252)

Johannesburg — The Hoexter commission's recommendations on reorganising the Transvaal courts system have been met with consternation from Sandton businessmen, particularly over its decision to move the Randburg magisterial district, which includes Sandton, from Johannesburg's jurisdiction to Pretoria's

"It would be quite a large irritant," said the chairman of a large public company in Sandton who declined to be named

The commission was set up two years ago to reorganise the courts system following the change of government and provincial systems

It recommended making the Witwatersrand local division, with its centre at Johannesburg, an autonomous division of the high court because Johannesburg "is the economic, industrial and mining hub of the entire southern African continent (and the division) is by far the largest and busiest division of the high court"

It recommended that the number of judges in Johannesburg be lifted from 26 to 35, and the division receive its own judge-president. It reallocated responsibility for Gauteng magisterial districts, explaining the reasons for all the changes except the reallocations of Krugersdorp, Randburg and Kempton Park to Pretoria

"The change is ridiculous," said a well-placed legal source. He said one of the four commissioners had not even known that Sandton was within Randburg

Sandton is no less a business hub than Johannesburg. Of the more than 600 companies listed on the JSE, over 90 are registered in Sandton, including CG Smith, Barlows, Group 5, Stocks & Stocks, Tiger Oats, RMB Holdings and Dimension Data

There are a further 30 listed companies based elsewhere in Randburg and about 10 in Kemp-

ton-Park. In contrast, there are about 20 listed companies registered in the rest of Pretoria's recommended jurisdiction. The only heavyweights are Iscor and Momentum Life

"There are so many people in business there, and ty-

ing them to a court 50km away doesn't seem to make sense," Reg Edwards, the chairman of Stocks & Stocks, the construction group, said last week

Judge Gus Hoexter is a former member of the Appellate Division. "I'd like very much to help, but I take the position that it is a matter of principle. When the chairman signs a report, that's it, good bad or indifferent," he said

He said it was now up to the government, in conjunction with the Judicial Service Commission, to decide how to implement the recommendations

**'I'd like to help  
but it's a matter  
of principle.  
When a chief  
signs a report,  
that's it'**



# Contentious bill could have helped Boesak

CS 13/5/97

(252)

**ALLAN BOESAK** could have escaped the long arm of the law if a contentious piece of legislation sponsored by Justice Minister Dullah Omar had made an earlier entry into Parliament's legislative pipeline, writes **MARTIN SCHÖNTEICH**.

**T**HE prosecution of Dr Allan Boesak could have been stopped or interfered with by his allies in government if the National Prosecuting Authority Bill, shortly to be introduced by Justice Minister, Mr Dullah Omar, had already been law.

The bill proposes to remove the security of tenure of the country's chief prosecutors and to concentrate power in one "super attorney-general" appointed by the president. There is concern in the legal fraternity that the bill will encroach on the independence of the various provincial attorneys-general and impair their ability to fulfil their obligations without fear or prejudice.

The concern that the independence of attorneys-general is under threat was reinforced by Omar on the occasion of Boesak's return to SA, when he said "Neither the president, deputy-president, the cabinet or the minister of justice were asked for their views with regard to possible prosecution and when the attorney-general, after his own investigation, decided to prosecute, again we had no say in the matter. Neither the president, deputy-president, cabinet or minister of justice asked for the investigation or for the prosecution."

Boesak faces trial for 12 counts of fraud

and 20 of theft relating to the alleged misappropriation of about R8,8-million in anti-apartheid funds.

Had the National Prosecuting Authority Bill already been law it would have provided the government with a structure which would have enabled it to interfere with the decision of the attorney-general of the Western Cape, Mr Frank Kahn, to prosecute Boesak.

The bill sets out the structure of a "national prosecuting authority" which will consist of a "national director of public prosecutions" and (provincial) "directors of public prosecutions." The Constitution grants the national director considerable powers over the directors. He can, for example, determine prosecution policy for the country in consultation with the various directors of public prosecutions, issue policy directives "which must be observed in the prosecution process", "intervene in the prosecution process when policy directives are not complied with", and "review a decision to prosecute or not to prosecute".

The bill also makes provision for the national director to appoint one of his staff members to the offices of the provincial directors, to enable him "to exercise his or her powers or to carry out his or her duties" there. Such an appointee of the national director could — in terms of the bill — interfere in the independence of the various directors, with the result that they could lose control of prosecutions in their areas.

A further disconcerting aspect of the bill is that it does not contain any requirements regarding the qualification of the national director or his staff. Yet, in terms of the bill, a (provincial) director may be appointed only if such a person has been involved with the application of the law



for at least 10 continuous years, possess such expertise as to be suitable for the position and has the right of appearance in the High Court.

The bill provides security of tenure for neither the national director nor the various directors of public prosecutions. Their terms of office will be restricted to such fixed terms "as the president may determine at the time of such appointment", whereafter they may be reappointed for one additional term.

Present legislation dealing with the appointment of attorneys-general (the Attorney-General Act of 1992) determines that an attorney-general is secure in his position until the age of 65.

The parliament committee of the General Council of the Bar of SA commented "The impression is created that the national director and directors of public prosecutions may be appointed for a period of probation and thereafter, if the rul-

ing party is happy that they are toering the line, they will be reappointed."

It is also of concern that provisions of the bill could be used to shorten the terms of present attorneys-general who are unpopular with the ruling party. Attorneys-general holding office under the present act will become directors under the new legislation. The date of their original appointment will be deemed to be the date of their appointment under the new legislation. This could mean, for example, that the attorney-general of Kwazulu-Natal, Mr Tim McNally (who was appointed in his present position in 1992), could be removed if the term of office of directors set by the president is five years.

In essence, the bill would permit the country's political executive to influence the prosecution process. This would infringe on the important principle that the country's most senior public prosecu-

**STRONG SUPPORT:** Justice Minister Dullah Omar chose to pursue his support for Dr Allan Boesak when he must have known that his responsibilities as a minister compelled him to place national before private interests.

tors should be absolutely independent in their functions and decisions. They should be under no obligation to afford any "say" to the government, as Omar implied with regard to Boesak.

Section 96(2) of the Constitution declares that members of the cabinet may not "expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests", or, "use their position to improperly benefit any other person." It seems that in the present case Omar's private interests — as Western Cape leader of the ANC — conflicted with his official responsibilities. Yet Omar chose to pursue his support for Boesak when he must have known that his responsibilities as a minister compelled him to place national before private interests.

□ *Martin Schönteich is the parliamentary analyst of the South African Institute of Race Relations.*

*The bill proposes to remove the security of tenure of the country's chief prosecutors and to concentrate power in one "super attorney-general" appointed by the president.*

## TRUTH COMMISSION

# ANC document could be watershed for SA history

BD 13/5/97

(252)

Reports by  
Stephen Laufer

CAPE TOWN — Although apparently meant to explain the struggle for democracy in SA from the perspective of the African National Congress (ANC), the party's second presentation to the truth commission yesterday could also be read as a contribution to the further normalisation of the political situation in the country

At 139 pages plus appendices, the presentation is significantly longer than last August's initial submission. It takes up where the first document left off, detailing attitudes and actions and explaining policy decisions and changes in the light of practical experiences, for example the decision to discontinue the use of land mines. But its most significant aspect is, arguably its approach to that part of the past which continues to influence politics, the struggle between the ANC and the Inkatha Freedom Party (IFP) in KwaZulu-Natal and the Witwatersrand

It skirts some of the more contentious figures associated with the internal struggle against apartheid, such as Winnie Mandela. While dealing in detail with the ANC's rejection of necklacing, the document will not be seen as the final word on the relationship between external leadership and internal opposition to apartheid

Many attacks on councillors and other "stooges", as the text calls blacks who worked with the National Party (NP) government, were carried out by communities loosely allied with the ANC, the submission said. External controls were often nonexistent

Even so, the broader submission is likely to be seen in retrospect as a turning point in SA's understanding of its own history, particularly viewed alongside the

less-than-completely forthcoming attitude of the NP to the commission's request for clarification

Unlike the NP leadership, which has been dismissive of the commission, the authors of the ANC submission appear to have recognised the opportunity to put a coherent picture of the organisation's struggle to the country

It sets the armed struggle in the context of the centuries-old battle of the country's black people against colonial repression

But it is more than just a rehash of the now somewhat dated revolutionary rhetoric which once characterised apartheid as colonialism of a special type. Quoting the American declaration of independence, it describes the universal links between the struggle for democracy in SA and the creation of rule of law and government by the people elsewhere

In attempting to answer specific questions arising out of the first document, the submission gives a great deal of detail regarding the activities of Umkhonto we Sizwe (MK) between 1961 and the suspension of the armed struggle after the unbanning of the ANC. It lists 30 pages of military actions, seeking, as Deputy President Thabo Mbeki said yesterday, to answer the question about the definition of legitimate targets by giving practical examples.

The difference in approach to the NP's, which has left the perpetrators of gross human rights violations to fend for themselves, is illustrated by the submission entry on a horrendous act carried out in violation of ANC policy. The Ellis Park bombing, the organisation said, contravened instructions not to hit purely civilian targets

But the submission makes it clear that the organisation has no intention of abandoning the

cadres who carried out the attack. It notes that the details asked for by the commission are contained in an amnesty application, implying support for the perpetrator.

The overview given by the document is of a period now firmly rooted in the past. Although it does not skirt those conflicts which still flicker in parts of the country, notably KwaZulu-Natal, it is supportive of political efforts to woo the IFP and its leader, Mangosuthu Buthelezi

Mbeki's admission yesterday that there had been a plan to assassinate Buthelezi is a case in point. The plan had been formulated by MK, he said and had been countermanded as soon as headquarters had heard about it

The fact that the story had remained alive, by implication poisoning relations between the two parties and providing the justification for the setting up of IFP killer units, had been the work of SA military intelligence.

The message to Buthelezi, the home affairs minister and sometime acting president of the unity government was clear. ANC and IFP can find and solidify common ground, the past difficulties between our political parties were in large part the work of outsiders

It was a message strengthened further by its approach to the conflict of the 1990s. Dealing in detail with the self-defence units, Mbeki took care to say that the IFP and its members had never been official targets of the ANC. Only warlords had been real targets

That there were warlords on both sides has been openly admitted since the expulsion of KwaZulu-Natal midlands leader Sifiso Nkabinde and the submission's approach can be read as a further attempt to isolate those members of all parties who still rely on the force of arms

# ANC apologises for deaths of civilians

Stephen Laufer

CAPE TOWN — The African National Congress (ANC) has told the truth commission it killed informers and apartheid government agents, violated legal and human rights of detainees suspected of working for the government, waited too long before condemning necklace murders and carried out at least 500 military actions inside SA.

The organisation said it regretted the deaths and injuries to civilians "We apologise to their families for the suffering and hurt that these actions caused"

ANC units had also plotted to kill Inkatha Freedom Party leader Mangosuthu Buthelezi, Deputy President Thabo Mbeki said. The plan was called off when the leadership heard about it, as the IFP and its members had not been regarded as legitimate targets

Among the agents imprisoned by the ANC was the man who, the organisation said in its submission, had confessed to the murder of anti-apartheid activist Victoria Mxenge. Marvin Sefako had been recruited by Durban security police in March 1985 and said he was paid R5 000 to kill Mxenge

While acknowledging the ANC's shortcomings during its period underground Mbeki — who led a high profile delegation to present the organisation's second report — said the commission should not ignore the morality and achievements of the struggle against apartheid. There was a danger that the focus on a limited number of human rights violations would obscure the justness of the ANC's war.

Thousands of cadres had passed through Umkhonto weSizwe camps who had not been subject to abuses.

While pursuing human rights violations committed in the name of the ANC, "we must not allow the impression that that is what we were about", Mbeki said. The organisation had been caught unawares by the extent of government infiltration in the early 1980s and had initially reacted inadequately.

Tribunals set up to judge informers and mutineers had used confessions obtained under torture and offered the accused little legal assistance. Continuing improvements had ensured that later suspects had received a fair trial, and the ANC had declared an amnesty of its own after its unbanning.

The ANC said it believed meaning-

ful reparations for the victims of gross human rights violations by the apartheid system were necessary, and that the state should make resources available. As these were limited, the commission should consider the doctrine of odious debt to mobilise further funds.

The ANC's use of the legal concept of odious debt suggests that it wants the commission to consider recommending a tax or some other form of levy on those who benefited from apartheid to fund reparations and rehabilitation measures. The concept holds that wrongdoers should not benefit from their wrongdoing.

Many armed actions attributed to the ANC had in fact been carried out by the government in an attempt to discredit the ANC, it said. The ANC was unsure about who had carried out many other actions — including several attacks on Wimpy Bars and shopping centres — but would accept responsibility if cadres asked for amnesty for them.

Asked whether Winnie Madikizela-Mandela had been subject to ANC discipline during the 1980s when she had

Continued on Page 2

ANC (252)

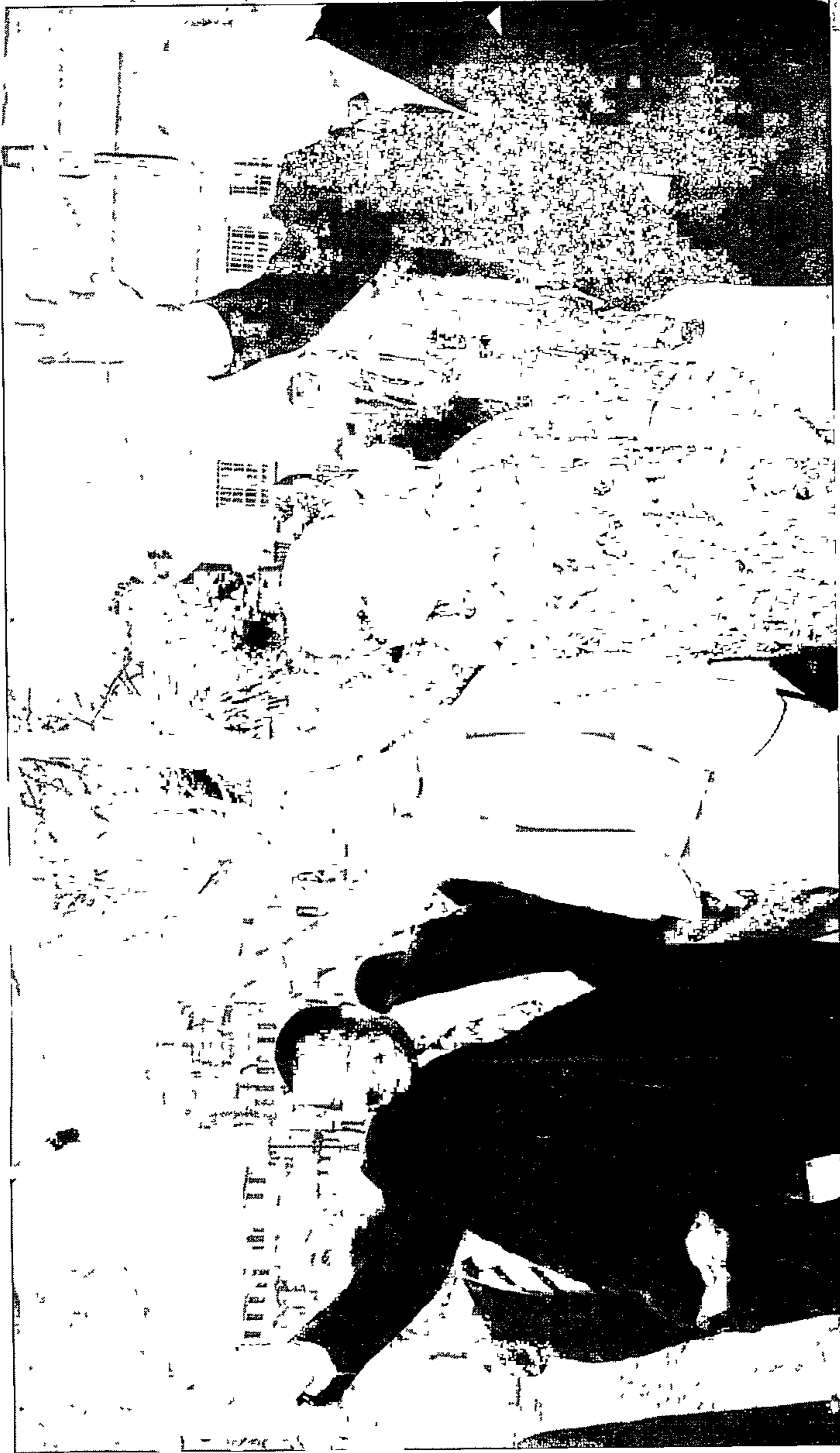
BD 13/5/97  
Continued from Page 1

publicly championed the use of necklace murders against government agents in the townships, Transport Minister Mac Maharaj told the commission it had been difficult to get access to her as she had been surrounded by government agents. The ANC would

assist the commission in obtaining information from her on a variety of incidents in which she is alleged to have been implicated.

While the ANC had needed to approve actions of the masses even when it had disagreed with certain tactics from a distance, it could say with hindsight that it had waited too long to condemn necklacing, Maharaj said.

See Pages 6 and 7



**HELLO THERE:** Finnish President Martti Ahtisaari (right) and (from left) National Council of Provinces chairman Patrick Lekota, Eeva Ahtisaari and Speaker of the National Assembly Frene Ginwala wave to a group of schoolchildren outside Parliament yesterday, where Ahtisaari addressed a joint sitting

PICTURE: BENNY GOOL

## Finns to help reform SA justice system

(2022) 14/5/97

Mr Clive Sturmm  
Olivia Henwood  
Mr Fred Fehrser

SOUTH AFRICA'S success in achieving a political "miracle", social harmony and the expansion of its economy was a signal of the African continent's new coming, visiting Finnish President Martti Ahtisaari said yesterday.

In an address to a joint sitting of Parliament, Ahtisaari said the entire continent's self-confidence and will to develop was on the rise.

South Africa was expected to serve as a locomotive for economic growth, he said. "Consolidation of political democracy and economic strategy should go hand in hand, because what use could democracy be without an equitable sharing of economic prosperity?"

Critical to the creation of economic growth was reform of the justice system, he said, and Finland was willing to help

South Africa reform her justice system. "The goals to which that reform aspires are set forth in your government's Justice Vision 2000 action programme. To ensure the stability and security that are the prerequisites for foreign investments, carrying through that programme would be a more sustainable alternative than a strategy based solely on increasing police powers." — Political Staff



Archbishop Desmond Tutu (left) receives further African National Congress submissions to the Truth and Reconciliation Commission from Deputy President Thabo Mbeki at the TRC offices in Cape Town yesterday. The ANC submitted a further 375 amnesty applications, including applications from Mbeki and some Cabinet colleagues.

PIC AP

# ANC puts its case

## Assumes responsibility, denies systematic abuse

*Seulekan 13/5/97 252*

By Rafiq Rohan  
Political Correspondent

**W**HEN the African National Congress promised it would present detailed evidence to the Truth and Reconciliation Commission and take collective responsibility for its role in the struggle against apartheid, it clearly meant business.

Yesterday, through a high-powered delegation headed by Deputy President Thabo Mbeki, the ANC said it was quite prepared to accept responsibility for what happened during the bloody apartheid struggle.

But at the same time, it had to be remembered that the organisation was also the victim of a disinformation campaign led by the National Party.

While accepting responsibility for hundreds of military attacks orchestrated by Umkhonto weSizwe (MK),

including the Church Street car bomb attack, it did not agree with the perception that there was widespread abuse of prisoners in its camps, particularly in Quatro, Angola.

A large part of the ANC submission was confined to events at the camps and allegations of excesses against cadres and captured agents.

It acknowledged that "some excesses" occurred, for which it apologised, but the organisation refused to accept that the abuse was widespread.

"Those members of the security department, of national intelligence and security who abused prisoners did so in violation of ANC policy there was nothing 'systematic' about such acts," Mbeki said.

The ANC rejected "with contempt" the assertion that its cadres were trained specifically to torture, the report said.

Mbeki was flanked by Defence

Minister Mr Joe Modise and his deputy Mr Ronnie Kasrils as well as Minister of Transport Mr Mac Maharaj.

The report detailed how strict structures were in place to punish MK cadres who breached discipline. Punishment did involve execution, the report revealed.

### List of names

"Between 1981 and 1989, four cadres were executed for murder and rape of Angolan women and four for murder. In 1989 one was executed for rape."

The TRC was furnished with a list of names of those executed. The ANC leadership had consulted with Angolan authorities on how to deal with the crimes.

Turning to the conflict in KwaZulu-Natal, the ANC denied it had a military policy towards the Inkatha Freedom Party.

Mbeki confirmed to the TRC that

there had been a plot to execute IFP leader Chief Mangosuthu Buthelezi but the plot was not approved by ANC headquarters.

The report denied that MK was involved in "serial mass murder" and that there was a "death list".

When Harry Gwala (the late ANC Natal Midlands leader) was released from prison, he shared a cordial relationship with Buthelezi.

But when violence in the Natal-Midlands started and elderly people and children were killed, Gwala urged communities to defend themselves.

"As he put it, were communities to fold their arms and passively accept attacks?" the report said.

Gwala encouraged people to form self-defence units rather than run away.

On armed operations and civilian casualties, the report released two lists of operations: those carried out

by legitimate MK units and the armed actions that fell in a "grey area for which we suspect MK cadres were not responsible".

The ANC said that it did not approve of attacks on civilian targets.

"Attacks on civilian targets would not only be morally indefensible but also strategically senseless," the report said.

The ANC said it accepted that attacks were carried out by MK that were not in line with ANC policy but "anger on the ground" was explosive and atrocities committed by the apartheid regime demanded retaliation. Sometimes cadres made wrong decisions.

"Faulty intelligence" resulted in attacks on civilian targets, as was the case with the Magoo's bombing.

The hearing was chaired by Archbishop Desmond Tutu.

● See page 2

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## Finland 'can help reform justice system'

CAPE TOWN — Finland would continue to support SA's transition and was willing to help it reform its justice system, an area in which Finns had expertise, Finnish President Martti Ahtisaari said yesterday.

This support would help step up the fight against crime, he told Parliament.

A development agreement providing a legal and administrative framework for a Finnish aid grant of about R50m to SA was signed by Foreign Minister Alfred Nzo and his Finnish counterpart, Tarja Halonen. Finland also offered to share its experience

in using information technology in education and to help modernise legislation on water resources.

SA was expected to serve as a locomotive of economic growth, not only regionally but also in international contexts. Central to an economic growth culture was reform of the justice system, and Finns understood the importance of justice as a foundation for the life of the community, Ahtisaari said.

The former United Nations special envoy was appointed to oversee the transition to democracy in Namibia.

BD 1416197

# NP 'duty-bound to assist commission'

Reports by  
Stephen Laufer

CAPE TOWN — The National Party (NP) was duty-bound to assist the truth commission in exposing apartheid security management systems as there was a danger that some of them were still actively involved in criminal and violent activity, Deputy President Thabo Mbeki said yesterday.

The African National Congress (ANC) had spoken informally to the NP in an effort to encourage it to participate more fully in the process of reconciliation, he said.

The governing party had told the NP it was in its own interest to stay in government in order to remain a viable force for reconciliation.

At the end of the second day of his party's submission to the commission, Mbeki said the NP was not taking the commission process seriously.

The party should recognise its obligation to the future of SA and to national reconciliation by telling the truth about the past.

The NP was due to make its second appearance before the commission today. Party insiders said last night there was no intention to make a second formal submission, but simply to be available to answer questions from commissioners.

Mbeki said elements of the former security system had been found to be involved in a range of violent activities, including the Shobashobane massacre on Christmas Day 1995. The use of known murderers in collusion with police and justice officials indicated the existence of a network dating back to the 1980s.

So-called black-on-black violence had been perpetrated by security police, members of the Inkatha Freedom Party (IFP) and expelled ANC member Sifiso Nkabinde — who were active for

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them in the 1980s — and who continued to foment violence.

It was important the NP should contribute to dealing with this situation, Mbeki said.

"Somebody somewhere knows about all of this, it was all recorded. Let them come forward with information on the structures and individuals so that we can root them out, rather than protecting and hiding those involved."

Sapa reports Mbeki said the commission should, in particular, question former national intelligence service head Niel Barnard, a critically important role-player at the highest strategic level.

The ANC submission said the post-1990 violence had been the work of the state to strengthen the government's hand at the negotiating table by pushing a progressively weakened ANC into a position where it was forced to make constitutional concessions.

## Confidence

Elaborating on the submission, Mbeki told the hearing that "some of these elements (of the national security management system) are still active in a destructive way". The 1995 Shobashobane massacre was one example. Many of those who were involved in the killings were "assassins" who had escaped being imprisoned for numerous earlier murder charges through the collusion of the police and the judiciary.

Closing the ANC's submission, Mbeki expressed his confidence in the truth commission process. His party was certain the commission would make a significant contribution to reconciliation in SA, and the ANC was would continue to co-operate with it as fully as possible.

Reconciliation was fundamental to the future of the country, Mbeki said.

# IBA confidence vote 'not related' to report

Bonile Ngqiyaza

BD 14/5/97  
THE Independent Broadcasting Authority (IBA) CEO's authoritarian management style, rather than the damning auditor-general's report last week, was the primary reason staff had passed a no-confidence vote in him last month, a spokesman said yesterday.

Speaking on condition of anonymity, the staff representative said the reasons for the no-confidence vote in CEO Harris Gxaweni were not related to the report because it came out on May 7 — seven days after the staff action.

The staff, he said, were irked by Gxaweni's direct interference — particularly in the human resources and finance departments — which undermined the Glenburn agreement reached between staff, management and councillors in December last year.

The agreement required staff to be consulted on all allowance decisions, including car and housing subsidies, before they were approved, he said.

Sapa reports that Gxaweni was one of nine senior managers who voted themselves luxury vehicles in excess of R200 000 in a R2m car scheme last month.

Staff steering committee chairman Mbulelo Gingcana said yesterday IBA staff would address the parliamentary public accounts committee in Cape Town today. He was speaking at a news briefing at IBA headquarters in Khasho House in Rosebank, Johannesburg, called by staff to tell their side of the dispute with the IBA.

IBA staff have also called on their union, the Communication Workers' Union (CWU), to aid them and monitor the situation.

CWU representative Lionel Samuels said three IBA staff representatives would appear before the public accounts committee, which will today hold hearings on the IBA conflict.

The auditor-general's report, tabled in Parliament last Wednesday, listed cases of financial mismanagement in the IBA, including attempted fraud involving R800 000.



LEON MÜLLER

In step: President Mandela with Finnish president Martti Ahtisaari and his wife, Eeva, and Zanile Mbeki, wife of Deputy President Thabo Mbeki

## International role seen for truth probe

ARG 14/5/97

(252)

### POLITICAL CORRESPONDENT

**Finland admires South Africa's courage in the difficult, painful and risky process of truth and reconciliation, Finnish President Martti Ahtisaari has told Parliament.**

His country would support efforts to bring the principles of the Truth Commission to the United Nations and elsewhere if there was a wish to internationalise the project "There would certainly be a demand elsewhere in the world for the commission's experience, for example in Bosnia and Cambodia"

Addressing MPs during his state visit, Mr Ahtisaari said Finland, as a country that had gone through a civil war, knew "how one prefers to forget the dark sides of

the past"

"We also know how long it takes wounds to heal in a society unless active efforts are made to promote national reconciliation"

He paid tribute to South Africa for its commitment to democracy, having not wavered in the past three years, and now during its struggle to eliminate poverty

Political institutions had been brought up to date, and even ahead of their time, by the new constitution Finland wanted to support South Africa This included support for the judicial system, an area in which Finland had strong expertise, which in turn would help fight crime

Finland had also helped to modernise this country's legislation on water resources Contacts between the two coun-

tries at local government level were to be strengthened, with particular emphasis on the role of women

Finland would co-operate with South Africa during its presidency of the Southern African Development Community in projects including studies of the consequences of free trade on a broader scale.

"It is through regional integration that the most solid road to global markets will be opened up."

Regional integration would create a market of 140-million consumers, which would deserve the serious attention of international business "One indication of that is the high-level Finnish business delegation accompanying me on this visit"

See page 10



# THERE'S NO JUSTICE

## A-G Kahn spells out crisis in W Cape

UNSAVY BARRERS  
Crime Desk

In magistrates' courts was 22 and their average experience was only six months, he said.

Deliver the basics to the Western Cape justice system if you are serious about reducing crime, Attorney-General Frank Kahn has told the Government.

To date, too little had been done by the new government to address deep concerns about salaries, accommodation, re-sources, staff, appointments and policy in the system, he said in his annual report tabled in Parliament yesterday.

The problem of inexperienced staff and outdated tools had to be addressed in the short term. The average age of prosecutors

resources were addressed urgently. In the 90-page document, Mr Kahn outlined extensive problems that needed to be dealt with urgently. They included:

■ A shortage of personnel in the attorney-general's office because of lack of funds for expansion - as a result, there was insufficient investigation and preparation of cases related to gangs, organised crime and commercial cases.

■ An unbearable workload on the 24 regional courts while they dealt with the most serious crimes, by the end of 1995 there were 3 000 cases outstanding on their rolls and this rose to 3 500 a year later.

■ A delay in filling vacant posts that

had seriously affected understaffed prosecutors' and magistrates' sections, and relief staff in lower courts were insufficient to cushion the vacancies.

■ Rationalisation in the public service adding to the demotivation of staff.

■ Prosecutors often doing their jobs under difficult and dangerous circumstances - security needed to be addressed.

■ A need for more special courts dealing with rape and child victims.

■ The police child protection unit not functioning in areas where most cases originated - Khayelitsha, Gugulethu, Langa and Nyanga - resulting in investigations not being done properly.

### Two in three escape net

CRIME DESK

Only a third of criminals are believed to be netted by the criminal justice system and the Government should therefore put more effort into socio-economic empowerment and education.

This is the view of Western Cape Attorney General Frank Kahn in his annual report. The province's criminals were a "dishonest, violent group of people caught in the grip of socio-economic disillusionment, which finds expression in social apathy and criminal opportunism." Crime figures for last year showed a general decrease of 2,3 percent on 1995.

Cause for concern was a four percent increase in rape and 3,8 percent increase in fraud.

### 4 000 offenders 'missing'

POLITICAL CORRESPONDENT

The Department of Correctional Services has lost track of more than 4 000 people who are supposed to be doing community service under correctional supervision.

This was disclosed in the National Council of Provinces by Correctional Services Minister Sipo Mzimela in reply to questions by Democratic Party delegate William Minisi.

Dr Mzimela said that the 4 818 people his department could not trace represented just over six percent of those sentenced to community service since the introduction of the system.

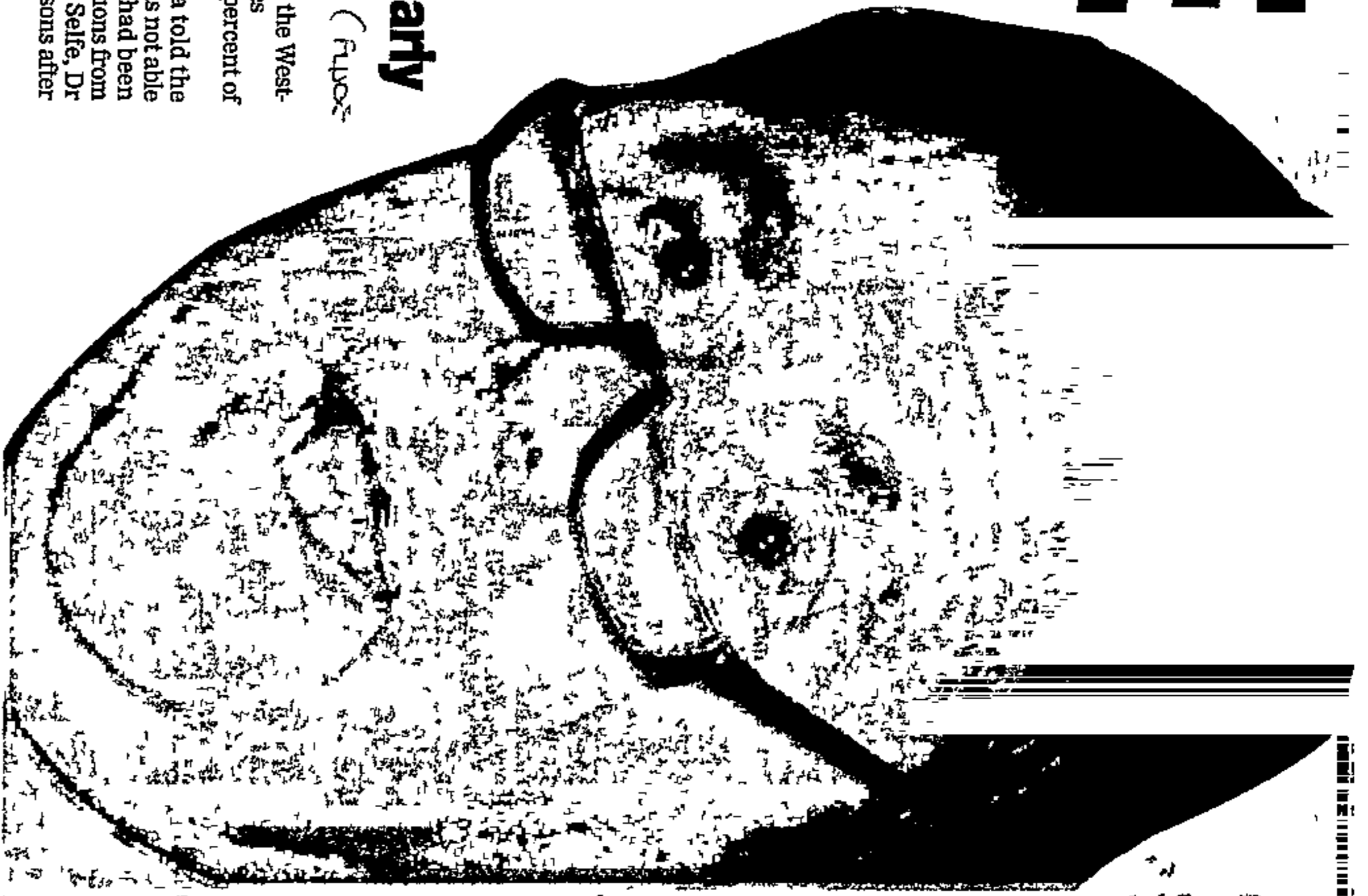
### 8 000 freed from jail early

POLITICAL CORRESPONDENT

More than 8 000 prisoners were released from jail in the Western Cape last year without completing their sentences.

Current statistics show that between 87 and 98 percent of them will commit further crimes on their release.

Correctional Services Minister Sipo Mzimela told the National Council of Provinces yesterday that he was not able to say how many of the prisoners released early had been jailed for crimes of violence. Replying to other questions from Western Cape Democratic Party delegate James Selfe, Dr Mzimela said 568 prisoners were re-admitted to prisons after escaping last year.



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# Children tell tales of revenge, death

↑T 15/5/97

(252)

## POLITICAL STAFF

**DURBAN:** The children's voices echoed through the hall, each with a chilling tale about revenge and death.

One girl, now 13, explained how she had only one mission in life to avenge her father's death. He was murdered when she was seven.

A 15-year-old girl told how she had watched her brother bleed to death before her eyes when she was only eight.

And yet another described how she had found her father's butchered body in her backyard — with insects crawling over him.

The children at yesterday's special "children and youth hearings"

before the TRC here remained faceless because most were under 18.

But for the first time their voices were heard.

And, after the tape recordings of their evidence were played, committee member Mr Ilan Lax said they were the worst stories ever heard by the TRC, "and we have heard some pretty terrible ones."

The pictures they had drawn were also pasted on the walls for everyone to see: pictures showing men with guns, houses burning, yellow police vans and dead people.

A child who was raped when she was six said she knew who did it and could still see them, but could not tell her story without crying.

And a child described how she had been beaten and forced to

watch "attackers" raping her aunt.

A girl from Port Shepstone said her father had been taken "forcibly" by IFP people one Friday night when she was seven. She had gone with her mother and brother to look for him in the forest and found him "with stab wounds all over his body."

"I have carried this with me since then. I have vowed to get revenge. I am only 13 now."

Another described how police had shot her brother in the stomach at their home and refused to allow family members to take him to hospital. They watched for three hours while he bled to death in the yard.

Then another said when she was three, she had seen a police-

man make a child hold a bomb. It exploded in his hands and "tore him to pieces."

The stories were evidence of how "brutalised" people had become, said Lax.

"If we are to rebuild this province we have to put a great deal of resources and energy into healing our future — our children."

At the end of yesterday's session, the children drew up a list of demands and needs — including housing, schooling, places to play, peace and security and the "return of the death penalty" — which will be passed on to the president.

Lax said the commission would take the children's expectations and hopes and turn them into recommendations for "concrete action."

'HANDFUL' COMMITTED CRIMES

# Murders never part of our policy — FW

(252)

CT 15/5/97

**MURDERING** people was never part of his government's policy, F W de Klerk said the TRC yesterday.

**ROGER FRIEDMAN** reports.

FORMER president Mr F W de Klerk has likened the torturers and murderers in his security forces to the occasional lawyer who helps trust funds or a priest who engages in adulterous affairs.

Although his government's security legislation, states of emergency and "implementation of unconventional projects" created circumstances which were conducive to the transgressions of human rights, at no stage were such transgressions government policy, he told the Truth and Reconciliation Commission yesterday after delivering the National Party's second submission.

"Yes, firm action, yes, using and applying extraordinary measures, yes, going underground, yes, spying, yes, putting people in camps without detention. All that, yes, but not murdering people, not assassinations, it was never part of the policy," he said.

Those members of the security forces who acted outside the law should face the consequences of their actions, and the same applied to members of his cabinet. He was not prepared to accept responsibility for the criminal actions of a handful of operatives of the security forces of which the NP was not aware and would never have condoned. A handful out of

## De Klerk's apology to S Africa for apartheid

THE following is the text of the apology to the nation tendered by former president Mr F W de Klerk to the Truth and Reconciliation Commission yesterday.

"A number of commentators as well as my political opponents continue to claim that I have not apologised for apartheid. This is simply not true. Clearly, they have not listened or they don't care to listen to the numerous statements I have made on the subject over the years.

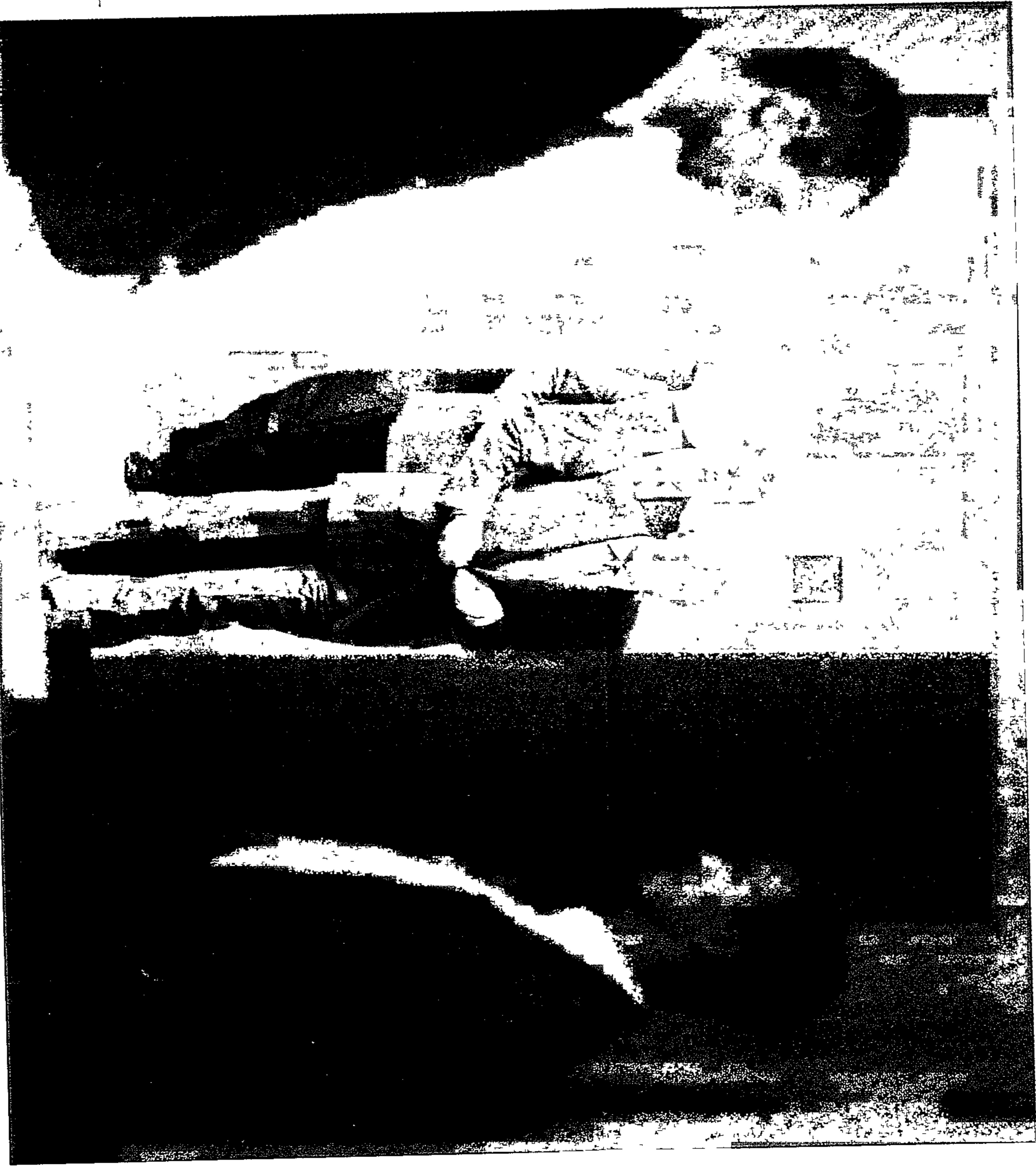
"They fail to take note of my unqualified apology on 30 April 1993. They have studied neither my first nor second submission to the Truth and Reconciliation Commission. They equate the efforts that I made — at the commission's request — to try to explain in context the circumstances which gave rise to apartheid with some or other attempt to defend or justify the policies of the past. The latter has never been my intention.

"Let me place, once and for all, a renewed apology on record.

"Apartheid was wrong. I apologise in my capacity as leader of the National Party to the millions of South Africans who suffered the wrenching disruption of forced removals in respect of their homes, businesses and land; who over the years, suffered the shame of being arrested for pass law offences; who over the decades — and indeed, centuries — suffered the indignities and humiliation of racial discrimination; who for a long time were prevented from exercising their full democratic rights in the land of their birth; who were unable to achieve their full potential because of job reservation; and who in any way suffered as a result of discriminatory legislation and policies.

"This renewed apology is offered in a spirit of true repentance in full knowledge of the tremendous harm that apartheid has done to millions of South Africans."

hony onslaught was normal, but anybody who initiated assassinations, releases, or other



ONS: Former president F W de Klerk about to make the NP's submission to the Truth and Reconciliation Committee in Cape Town yesterday

PICTURE: BENNY GOOL



National Party leader F.W. de Klerk gives his submission to the Truth and Reconciliation Commission in Cape Town yesterday. This was the National Party's second submission.

PIC AP

# I'm sorry, but ... says FW

(252)

Sowetan 15/5/97

By Rafiq Rohan  
Political Correspondent

**A**N ANGRY National Party leader and former state president Mr F.W. de Klerk yesterday apologised "to the millions" who suffered under apartheid but again strongly denied any wrongdoing on the part of the past government.

Leading the National Party's second submission to the Truth and Reconciliation Commission in Cape Town, De Klerk said "Let me place, once and for all, a renewed apology on record

"I apologise in my capacity as leader of the National Party to the millions of South Africans who suffered the wrenching disruption of forced removals in respect of their homes, businesses and land, who over the years suffered the shame of being arrested for pass law offences, who over the decades, and indeed centuries, suffered the indignities and humiliation of racial discrimination, who for a long time were prevented from exercising their full democratic rights in the land of their birth, who were unable to achieve their full potential because of job reservation and, who in any way suffered as a result of discriminatory legislation and policies"

TRC deputy chairman Dr Alex Boraine asked De Klerk about the

17 million pass law convictions, three million forced removals and whether in that light he should not apply for amnesty on the basis of "severe ill-treatment" of people

De Klerk said that as far as he was concerned amnesty application was for those who were "involved in crimes"

He argued he was guilty of nothing criminal

Boraine said cases of severe ill-treatment could be acted against in a criminal or civil court

"The overall legacy of apartheid is such that to try and reach reconciliation in the country every attempt should be made to accept that responsibility," Boraine said

De Klerk also said he was firm in the belief that it was the NP that destroyed apartheid and not anyone else

Also, De Klerk denied his government was responsible for any torture inflicted on victims under apartheid

Commenting on murders – such as those that happened at Vlakplaas – for which perpetrators pointed fingers back at the government, De Klerk insisted that it was common practice for perpetrators to blame others for their actions

De Klerk became increasingly agitated and visibly angry during the tough questioning he was subjected to by the commissioners

This was more noticeable

when he was asked questions by TRC legal questioner Mr Glen Goosen an advocate who was involved in the inquest into the murder of activist Mathew Goniwe

TRC questioning particularly revolved around how it was possible that De Klerk, despite all the revelations and admissions from senior security officials – generals and brigadiers – refused to accept that his government was not directly involved or, at the very least, was aware of the horrendous activities of the police

The Vlakplaas operation, which encompassed the killing and torturing of numerous political opponents, was referred to by questioners time after time

De Klerk blamed these activities on "mavericks" and a "handful of people", mainly those "lower down the ranks"

De Klerk did not seem trusting enough of his colleagues' ability to deal with questions, they merely sat at his side. He said that only he would answer questions

Mpumalanga NP leader Mr David Malatsi sat at his side nodding in agreement with De Klerk whenever points were made

Commissioner Ms Yasmin Sooka noted that commissioners of police had applied for amnesty, so it did not make sense to argue that acts were perpetrated by lower-ranking people

said

The NP had not supported the concept of "cold-blooded murderers" being granted amnesty, but was persuaded to do so by the African National Congress, De Klerk said

Told that the TRC had already heard evidence from more than 1,200 people alleging they were tortured (more than once in 42% of the cases), he said he had reason to believe measures were in place to prevent the problem. These measures were tightened, but torture was a problem throughout the world and the subject of "every fourth" American movie

Asked by commissioner Ms Yasmin Sooka whether he was in control of the government he headed, he said he was. The test was not whether things went wrong in a department, civil service or private company, but whether reasonable guidelines and control mechanisms were in place. Under the NP government such guidelines and mechanisms were in place, transgressions were not covered up, and the law was allowed to take its course

"So, it's a fallacy to say that if things got out of hand there was nobody in control," De Klerk said

"I'm not saying I was perfect. But I, in all friendship, reject the insinuation I was just sitting on my hands," was his response to a question from commissioner Ms Mapule Ramashala

De Klerk said he had carefully

believe you can be found guilty if charged in court. Amnesty is not there to express your sorrow, your acceptance of responsibility and your repentance for things which are not crimes"

The commission's national director of investigations, Mr Glenn Goosen, put a series of crimes allegedly committed by elements of his security forces to De Klerk, and asked him if they were committed by members who were misinterpreting their mandate, who were over-zealous, or who were acting with mala fides (bad intent)

The killing of the Cradock Four in 1985, for which a number of senior police officers have applied for amnesty. De Klerk said the case definitely fell outside the first two categories

While the assassinations were not authorised from "the top" it was possible that some of the operatives, acting on the orders of superiors, possibly fell into the first or second category

Operation Katzen in 1986, which sought to create a Xhosa resistance movement in the Eastern Cape, and involved the freeing of Charles Sebe from prison, the overthrow of Lennox Sebe, the training of a paramilitary force and the elimination of certain key individuals. De Klerk said counter-strategy planning to meet the revolu-

tioning with mala fides. Again, lowly operatives might not have been

Former police commissioner General Johan van der Merwe has stated that he acted under the instructions of then-State President Mr P W Botha and Law and Order Minister Mr Adriaan Vlok in ordering the bombing of Khotso House in 1988. De Klerk said that nobody

was killed, which put the action in a separate category. He added he was not aware that Botha had acknowledged authorising the bombing

Trewits, the counter-revolutionary intelligence task group, was reportedly initiated in 1988 and drew up hit-lists of prominent activists for elimina-

tion, which included the Ribeiros. The TRC has received a number of amnesty applications about such activities. "What they were doing, if they did it, was contrary to policy. I totally distance myself from that," said De Klerk

Former police captain Brian Mitchell who was convicted for his role in the Trust Feeds Massacre claimed in his amnesty application that the NP government used the police to do its dirty work. De Klerk said that to promote black-on-black violence and get people to murder each other was not part of NP policy, and those who gave the instructions were acting with mala fides

Senior members of the police have applied for amnesty for sup-

plying booby-trapped hand-grenades to Cosas activists. At least eight people were killed and nine maimed. The amnesty applicants have implicated senior members of the SADF, a former police commissioner and a Minister of Police. De Klerk said whoever authorised such gruesome and unacceptable actions was acting with mala fides and not in the interests of South Africa

The Pebco Three were abducted from Port Elizabeth airport in 1985, taken to Cradock and killed. The assassinations were apparently authorised by the Eastern Cape's head of the security police and carried out by security police and Vlakplaas operatives. De Klerk said he had spoken to four police generals about Vlakplaas, and all four had assured him they knew nothing about the Vlakplaas activities. Someone, somewhere, had acted with mala fides

Several senior policemen formerly attached to the Natal Security Branch have applied for amnesty in connection with the murder of 12 ANC activists, seven of whom were abducted, tortured and executed

De Klerk said "Whoever did that, within the framework of my whole experience, was not executing government policy and was not implementing a reasonable interpretation of what government policy was. We had a depoliticised defence force, police force and civil service"



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(252)

# NP fury at 'harsh, unfair' TRC questioning of FW

(252) 15/5/97

Sharp contrast to 'comradely manner' in which Thabo Mbeki was treated in ANC submission, says party spokesman

BY DASY JONES

The National Party is upset at what it claims was a harsh cross-examination of its leader FW de Klerk by the Truth and Reconciliation Commission yesterday - to which NP spokesman Sheila Camerer says it amounted to unfair judicial procedure and was further evidence of the TRC's lack of even-handedness.

Camerer said in a statement that De Klerk's cross-examination contrasted with the "comradely manner" in which Deputy President Thabo Mbeki and others in the ANC delegation were questioned during their submission earlier in the week.

She said commissioner and advocate Glen Goosen had "overstepped the mark" and accused him of going out his way to "embarrass" De Klerk.

"His tactics in handing a 58-page bundle of documents to Mr de Klerk and demanding immediate responses clearly ignores accepted judicial process which demand documentation be made available to witnesses well before a hearing where they may be asked to answer questions about it.

"A judge would have reprimanded Advocate Goosen for this unfair procedure and barred the document. To his credit TRC chairperson Archbishop Tutu disallowed further questioning on the documents once the NP objected," she said.

She added that Goosen's actions would "do nothing to counter the growing suspicion among the public at large that the TRC is anything but even-

handed and impartial"

De Klerk told the Truth and Reconciliation Commission yesterday that he did not apply for amnesty because he did not believe it to be the right way to express his sorrow and remorse.

He was presenting the NP's second submission to the TRC.

When TRC deputy chairman Dr Alex Boraine told the former president that he could, by his acceptance of political and moral responsibility for suffering caused by apartheid, open himself to civil and criminal actions against him, De Klerk replied that amnesty was for people who had been involved in crimes.

"Maybe I should have done more. I'm not saying I'm perfect. Many things happened which were not authorised, not intended, and of which we were not aware," De Klerk said.

He said he found recent admissions of "dastardly deeds" by the security forces "as shocking and as abhorrent as anybody else".

It had never been the policy of the NP government that people should be murdered or assassinated, and if he had known the identities of the perpetrators of such crimes, he would have had them arrested and charged.

De Klerk said the NP accepted overall moral and political responsibility "for our part in the conflicts of the past", and that he was "extremely sorry" for the "widespread, extremely shocking state of affairs" that existed under NP rule.

► More reports



PETER ANDREWS / REU

False start ... President Mandela is greeted by Congolese President Pascal Lesuba at Pointe Noire.

## Kabila to meet Mandela in SA after snubbing Congo talk

BY PETER FABRICIUS  
Foreign Editor  
AND SAPA

Cape Town - President Mandela is expected to meet Zairian rebel leader Laurent Kabila in Cape Town today in yet another attempt to secure peace in war-ravaged Zaire.

A second round of face-to-face peace talks between President Mobutu and Kabila nose-dived yesterday when the rebel leader refused to travel to Pointe Noire for the meeting on board the SAS Outeniqua in the Congolese port city.

Kabila travelled as far as the

Angolan enclave of Cabinda from where, citing a lack of security guarantees, he demanded that the Outeniqua put to sea before the meeting could proceed. Mandela refused and the initiative ground to a halt. But Kabila agreed to meet Mandela in Cape Town today.

Deputy President Thabo Mbeki will remain in Pointe Noire to continue talks with Mobutu and his delegation.

Meanwhile, Kabila's troops were 60km from Zaire's capital Kinshasa and were continuing their "inexorable advance", according to the rebel Voice of the People radio station, quoting

Kabila himself.

Frank Chikane, the general in Mbeki's office, yesterday told reporters on Outeniqua that international mediation efforts to secure peace in Zaire would continue.

Chikane said Kabila would leave for Cape Town from Cabinda and would not go to his rebel stronghold Lubumbashi in Zaire.

Mobutu, who is ill, would not be expected to go beyond what he has already done", Chikane said.

► Mobutu's billions  
Page 4

## Protest to be held over proposed casino in fossil-rich area

Kromdraai valley landowners and farmers will hold a protest meeting on Saturday against plans for a multimillion-rand casino development in the area.

Kromdraai, on the north side of Swartkops, the conspicuous "table mountain" between north-west Johannesburg and

the Magaliesberg, is one of South Africa's most famous prehistoric sites.

The casino bid is led by Johannesburg stockbroker Ed Hern. The plan, expected to cost between R600- to R700-million, goes before the Gauteng authorities by June 15.

The protest meeting, at the Management Training Conference Centre at Gwelo in the Kromdraai valley, will decide what action to take to stop the development.

► Report and  
Page 5

By Rafiq Rohan  
Political Correspondent

THE African National Congress report to the Truth and Reconciliation Commission reveals fascinating profiles of the work of agents of apartheid and their work against freedom fighters

On the killing of Zweli Nyanda and Keith MacFadden the report makes the following claims

● Agent Edward Lawrence (alias "Fear", Ralph Mgcina and Cyril Raymonds) was a student at the University of the Western Cape (UWC)

He was recruited by the security police in Durban and spied on the South African Students Organisation and politically active medical students at Natal University

In 1974 the police told him to return to UWC and join students who were leaving the country to join the ANC His handler was a policeman based at Durban's CR Swart Square

In 1983 he became a leading cadre in the Natal Military Machinery and handed information on Umkhonto we Sizwe operations to the police

One bit of information was on Nyanda (Siphwe Nyanda's brother) and MacFadden The information resulted in a raid on a house in which Nyanda and MacFadden were killed

Extracts from the confession of Lawrence provides a horrific insight into the killings

# ANC reveals names, deeds of informers

*Revealed 15/5/97*

**My task was to alert them when the comrades were asleep**

"On that particular evening myself and Keith (MacFadden) were trying to phone Maputo to make sure we were picked up from Lomahasha

"Zweli had left earlier that night to pick up Fikile, whom we were to send to Durban as a courier When we were at home, we had something to eat and some Scotch (liquor)

"Then around 11 30pm Zweli and I left for the house in Fairview to make a last attempt to phone Maputo We failed and he phoned home to wish his mum happy birthday

"When we reached home Keith had gone to bed I lay on the bed with my clothes on I heard cars make their way down the road and then turn to come back This was at 2am or 2 30

I stole out of the house through the back door and went to these vehicles - a Mercedes and two vans I told them in the Mercedes (Boers) that the comrades were asleep I was to move down, break my bedroom window and dash to wait by the cars

"I broke the window and dashed into the bush I remained there until the attackers left and I heard one of

**My task was to alert them when the comrades were asleep**

**asleep**

the neighbours (Marcel) at the house I emerged and went back to the house I saw Zweli lying near the gate Marcel checked his pulse He confirmed he was dead

I then left with Marcel for the police where I found Fikile I reported the attack to the policemen on duty I made my way back to the house with Marcel I saw Keith with a bullet hole in the head crouched in the corner It was clear he was dead'

Lawrence's role in the attack is also detailed "My task was to alert them as to when the comrades were asleep, to unlock the back door, switch off the outside light for the attack and break my bedroom window to 'escape'"

mation through to his handlers He also befriended and allegedly reported on the Pan Africanist Congress office abroad

De Souza worked at the ANC's international department in Lusaka and later transferred, on the suggestion of Chris Hanu, to the ANC office in Harare

He gave information on ANC facilities, personnel and places to stay, including Hanu's His activities led to the attack of some ANC houses in Harare

● Patrick Dlongwana (also known as Harvey Maringa and Patrick Hlongwane) was arrested in 1980 after being involved in a bomb blast He was allegedly recruited in detention and gave evidence against his colleagues

His missions included petrol-bombing the houses of Port Elizabeth Black Civic Organisation secretary-general Siphso Hashe, Pebeo's Thamba Dize, Congress of South African Students' national president Lulu Johnson, Port Elizabeth Youth Congress president Mkhuseh Jack Cosas Vuyani Vena and journalist Mono Badela

He confessed to shooting a member of the Port Elizabeth Students Congress known as Nompumelelo In 1983 he stabbed Mzolis Gxuma who exposed Dlongwana as an informer

He also shot dead Mkhuseh Jack's uncle, Mpumelelo Mpendu, a Mr Mateza and a Mr Lulamile of Peyco

# FW denies orders despite document

BD 15/5/97

(252)

Stephen Laufer

CAPE TOWN — National Party (NP) leader FW de Klerk has denied that pre-1994 governments ordered the murder of anti-apartheid activists, despite being confronted by the truth commission with a state security council document apparently calling for elimination of opponents of the state.

De Klerk said he had attended the May 12 1986 meeting referred to in the document. However, he was unsure of the status of the document — marked "top secret" — which talked of the creation of a mobile "third force with a well-trained capability to effectively eliminate terrorists". "Eliminate" implied neutralising opponents of the

state politically, he said.

The document states that the unit should be feared, while ensuring that the image of the police and defence force, which were to assist in its creation, remained untouched.

Several amnesty applicants have told the truth commission they interpreted the word "eliminate" and the instruction in the document to fight the opposition with their own methods as an exhortation to murder.

Answering questions on his party's second submission to the commission, De Klerk apologised for the hurt caused by forced removals and other aspects of apartheid, but said the security forces had always acted within the law. Any extra-legal actions had

been unauthorised aberrations, and perpetrators with their own agendas had committed them in bad faith. The activities of the Vlakplaas killer units had been the work of lower ranks, and it was now "the most natural thing that someone would attempt to shift the blame" to higher authorities.

Four generals, including the SAP commissioner, had said they were unaware of the truth about Vlakplaas. De Klerk declined to name the generals.

Where evidence had been available, perpetrators of such crimes had been convicted. Once elected president, he had told police and military generals he was taking them out of the political

Continued on Page 2

FW (252)

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Continued from Page 1

arena. His predecessor, PW Botha, would have to answer for himself on the structures he had created.

Commission chairman Archbishop Desmond Tutu said after the hearing he was saddened by De Klerk's approach to the five-hour hearing.

Under pressure from commissioner Glenn Goosen to explain why several generals and former NP ministers had applied for amnesty if security forces had not been instructed to murder, De Klerk challenged the trustworthiness of the statements in many applications. Banging the table in front of him in irritation, he told Tutu he objected to the line of questioning and would reply to certain questions later in writing.

De Klerk said he had opposed amnesties for many criminal acts, but had been "dragged kicking and screaming to accepting them" by the ANC, who wanted amnesty for the Magoos' Bar bombers and perpetrators of

necklacings. There had never been "official tolerance" of torture, but instead efforts to stop it.

It was important that SA "stop casting the spell of collective guilt on 20% of our nation", De Klerk said. "That cannot be the basis of reconciliation."

The ANC said it was profoundly disappointed with De Klerk's submission.

As a Nobel Peace Prize winner he had been expected to confront "the monstrous regime" created by the party he had come to lead, but he claimed not to know the obvious. His denials of the truth had been "disgraceful", as was his abandonment of the foot soldiers forced to apply for amnesty.

The ANC was coming to believe that what had been referred to as the third force had been the first force, rooted within the security establishment.

NP justice spokesman Sheila Camerer attacked the truth commission last night, saying the manner in which Goosen had questioned De Klerk had been further evidence of its "lack of evenhandedness".

Comment: Page 15



# Mxenge murder: Three guilty

MHG16-22/5/97 (252)

Mail & Guardian Reporter

**T**HE three men who blew the whistle on police death squads have been convicted of the murder of Durban lawyer Griffiths Mxenge while their two colleagues, whom they say were also involved, have been acquitted.

Former Vlakplaas commander Dirk Coetzee, and his operatives Almond Nofemela and David Tshikilange, were found guilty but the former chief of the security police in Natal, Johan van der Hoven, and former security policeman Andy Taylor were acquitted. Willem Schoon, who was head of Section C at security branch in Pretoria which oversaw Vlakplaas operations, has applied for amnesty for his role in giving the orders for Mxenge's murder.

Investigators in the Transvaal attorney general's office who had extensively briefed the main witness in this trial, former askari Joe Mamesela, advised KwaZulu-Natal Attor-

ney General Tim McNally he would fail in his prosecution of Van der Hoven and Taylor unless he used Coetzee as a state witness in addition to Mamesela.

McNally, who was tasked by former president FW de Klerk to investigate police hit squads after Coetzee told his story to *Vrye Weekblad*, concluded Coetzee had been lying.

Nofemela had first told of hit squads in 1989 just before he was due to be executed. David Tshikilange, like Coetzee, left South Africa and gave the ANC valuable information. The three convicted men have all repeatedly confessed to their part in Mxenge's assassination. They also named Schoon, van der Hoven and Taylor as co-conspirators.

The three convicted men were the first to apply to the truth commission for amnesty. McNally's prosecuting team in KwaZulu-Natal suffered an even more humiliating defeat last year when all accused in the KwaMakhuta massacre trial were acquitted.

With the passing of the final TRC amnesty deadline, there have been many surprising revelations

# Military 'third force' walks free

**COMMENT: Eddie Koch**

**R**OUND one is over and the scorecard shows that the Truth and Reconciliation Commission's (TRC) game plan — to force human-rights abusers to come clean in exchange for amnesty — failed where it expected to triumph. But, in the process, it became an unexpected victor.

The most telling statistic from the TRC's provisional breakdown of the 7 000-odd amnesty applications it received when the deadline expired on Saturday is that "only a handful" of forms came from members of the former South African Defence Force's covert units, the Inkatha Freedom Party and the National Party.

Yet there is abundant evidence that senior leaders of these three parties were responsible for the single most barbaric development in this country's history to create covert military

units of the type that devastated Angola and Mozambique and let them loose on the civilians of this country.

We are still living with the consequences of this decision lawlessness, an abundance of unaccounted-for weapons and vicious vendettas still being fought in parts of the country.

The TRC has simply failed to flush out the masterminds and perpetrators of what was probably the apartheid government's single biggest crime. To be fair, the odds were stacked against the TRC from the moment that KwaZulu-Natal Attorney General Tim McNally failed to secure a conviction against former defence minister Magnus Malan and the other military men who evidently set up the death squads that still haunt this country.

By far the greatest number of amnesty applications came from behind bars and, in the case of former colonel Eugene de Kock, provide damning evidence which may still be used to ensure some justice is done.

The other major defeat for the TRC was suffered on KwaZulu-Natal's battlefields, where, even though a low-intensity civil war that claimed up to 20 000 lives was fought in the last years of apartheid, not a single warlord has come forward to claim responsibility.

The task of extracting the truth about those terrible years now falls to the criminal justice system. Offices of the attorneys general are inundated with enough evidence to book at least some of the NP, IFP and military men who must be scolding at the TRC's failure.

The De Kock trial showed how vital it is, in a country that has to resist its tattered social fabric with

truth. By far the greatest number of amnesty applications came from behind bars and, in the case of former colonel Eugene de Kock, provide damning evidence which may still be used to ensure some justice is done.

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The De Kock trial showed how vital it is, in a country that has to resist its tattered social fabric with

find the staff, money and courage to ensure that all those men who formed and fomented the Third Force and used it to devastating effect in KwaZulu-Natal are not allowed to walk free and unrepentant. This is all the more important given the need to ensure that such savagery is never again unleashed on this country.

But it is in this regard that the TRC has come up with an unexpected triumph. That is in the form of an almost complete admission from the African National Congress about the abuses committed by its cadres.

The party owned up to and accepted full responsibility for heinous attacks on civilian targets and serious abuse at its detention centres in exile, including unsolicited detail about the rape of women cadres.

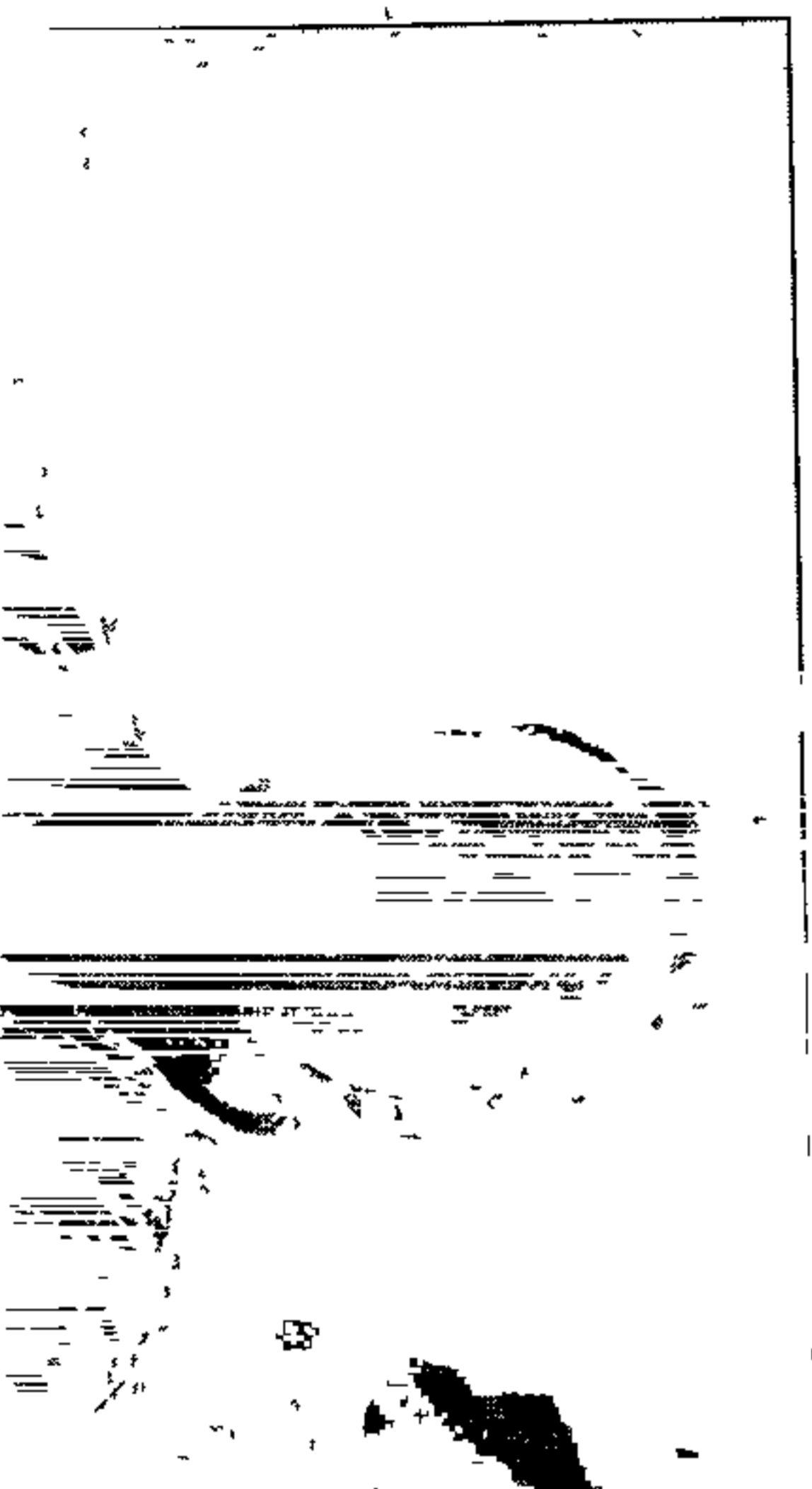
The ANC also admitted to its decision to set up and arm township self-defence units in the early 1990s. Deputy President Thabo Mbeki this

week admitted his organisation had been unable to control many of these bands when they ran wild, terrorising ordinary residents and, in many cases, provoking support for Inkatha's paramilitary counter to them.

It may sound like a quibble now, but had Mbeki and his colleagues read and heeded the warnings published in this and other papers about the renegade self-defence units, they may have acquired that wisdom and saved lives in the process. But the honesty and openness of the ANC can only augur well for the future.

As Tom Lodge, professor of political science at the University of the Witwatersrand, says: "The TRC has told us rather more about the behaviour of the liberation movements than about the government of the day. But as the previous regime is unlikely to be in power again, it is perhaps more important that the current government has given such an account of its past."

# Eugene hangs seniors



# Inkatha turns a blind eye to amnesty

**(252) M+C 16-22/5/97**

been linked to the supply of illegal weapons to his party.

**WAZULU-NATAL'S 14-year civil war is set to remain the single largest gaping hole in the Truth and Reconciliation Commission's (TRC) "big picture" of**

Other alleged gun-runners in the same operation include IFP Gauteng leaders Thembu Khoza and Humphrey Ndlovu, as well as KwaZulu-Natal Public Works MEC Celani Mketwa.

# out to

# dry



PHOTOGRAPH BY NAASHON ZAIK  
**Philip Powell: Vlakplaas operatives allegedly delivered war materials to the IFP leader**

(252) MFG 16-22/5/97

## Jim Day

**T**HE 1 200-page amnesty application compiled by former Vlakplaas commander Eugene de Kock includes details about a plot to assassinate Namibian President Sam Nujoma after his country's independence in 1990.

It talks about security police general Basie Smut's orders to De Kock to break into the Stellenbosch home and Rooi Els holiday cottage belonging to the parents of Henk Grosskopf, after former police minister Adriaan Vlok had publicly accused Grosskopf of bombing the Krugersdorp Magistrate's Court.

De Kock was told to find evidence in support of Vlok's claims. He broke into the houses but found nothing to help Vlok substantiate his allegations.

De Kock's application sets out a list of police informers in the Inkatha Freedom Party. It outlines a plan to assassinate Joe Verstey, "managing director" of the Civil Co-operation Bureau. It gives times and places where Vlakplaas operatives delivered war materials to former KwaZulu police minister Celani Mletwa and IFP leaders Philip Powell, Themba Khoza and Humphrey Ndlovu. It outlines many police and military operations into Botswana, Zimbabwe, Lesotho and Swaziland.

And overall, it implicates more than 100 high-level police officials, military operatives, politicians and assassins, with far greater detail about their activities than emerged during De Kock's sensational trial

which ended late last year.

The document remains under wraps and is supposed to remain that way until De Kock's public amnesty hearings begin, perhaps in July or August.

But his lawyer, Schalk Hugo, offered an enticing glimpse into the document this week when he went through its table of contents point-by-point. Much of the information is already known, but important sections, such as the plan to assassinate Nujoma, fresh information about the murder of Swapo activist Anton Lubowski and in-depth detail about Vlakplaas operations to overthrow the governments of the Transkei and Ciskei, will provide startling revelations.

### Hugo paints a picture of De Kock as the man who has taken the rap for his seniors

Hugo has doubts, however, that prosecutors will use the mass of information to pursue criminal cases against any of those named. Transvaal Attorney General Jan D'Oliviera has possessed much of the information contained in the amnesty application since May 1996 when De Kock, realising he had no chance of escaping prison, began giving prosecutors information that did not pertain to his own ongoing trial.

That information has been used as evidence only once—in the Motherwell trial in the Eastern Cape last year. De Kock's evidence helped con-

vict several policemen for their role in the deaths of five of their colleagues.

Hugo and others speculate that the lack of prosecutions may explain why so few politicians and military operatives applied for amnesty.

Hugo said several of De Kock's former colleagues approached him, particularly in the final days before the May 10 amnesty deadline. They wanted access to De Kock's application, Hugo said he told them to "mess off".

**D**e Kock's application was delivered to the truth commissioner's Johannesburg office 20 minutes before Saturday's deadline.

Hugo paints a picture of De Kock as the man who has taken the rap for his seniors. He says De Kock is bitter that he, a foot soldier, sits in a maximum-security prison while the generals who gave him the orders to kill walk free.

De Kock is aware that the public views him as a murderous abominator, all but a few close friends have abandoned him, a heart attack nearly killed him, his wife divorced him last week, and his most regular visitor, Peter Caselton, died in February.

Hugo says De Kock sees his amnesty application as a desperate bid to get out of jail before he dies. But he also sees it as a chance to explain his actions as a consequence of a warped political environment.

Hugo believes that, even if De Kock does not win any understanding, he hopes to be able to expose the people who hung him out to dry. And if he's lucky, maybe even bring a few down with him.

has spawned many of South Africa's worst, and certainly its most numerous, human rights abuses.

The size of the gap became evident as last Saturday's amnesty deadline passed without significant applications from senior Inkatha Freedom Party leaders or their erstwhile white military allies. A number of IFP supporters applied, but they are low-ranking and many are prisoners.

Apart from these, the only wins the party's paramilitary activities are those opened by the long-expected applications of the IFP's former Caprivi political commissar-turned-state-witness Daluxolo Luthuli and self-confessed Esikhawini hit-squad members Romeo Mbarho, Geina Mkhize and Israel Hlongwane.

The TRC is also understood to have received an application from IFP Port Shepstone leader James Weerstandsbeweiging members for the 1993 Natal Liberation Army attack on a flagstaff police station for which they were convicted in April.

TRC representatives this week blamed the lack of successful prosecutions—and last year's acquittal of former defence minister Magnus Malan and 19 others in the KwaMakhutha massacre trial—for reducing the motivation for perpetrators of violence to apply for amnesty. This is despite a virtual flood of allegations—many of which are included in documentary evidence, court testimony or investigation reports—linking many senior provincial politicians and their security force allies to hit-squads.

Among the most notable people who have not sought amnesty are: ● IFP MPP Philip Powell, a former security policeman who oversaw the 1994 training of 8 000 IFP self-protection unit (SPU) members. Powell escaped prosecution for possession of a Vlakplaas-made shotgun, but has

March 1994 Transitional Executive Committee report, alleged to have been involved in the 1993 Ngqutu massacre of 11 people. The report linked Mletwa to illegal SPU training. He was also KwaZulu's homeland justice minister during the 1986 Operation Marketon paramilitary training of 200 IFP supporters in the Caprivi Strip, and allegedly supplied 25 AK-47s to the IFP Empangeni office. In addition, a Goldstone commission report named him as a former police agent.

● Unchallenged court testimony has named IFP KwaZulu-Natal Social Welfare MEC Prince Gideon Zulu, provincial legislative secretary Robert Mzimela, VIP unit head Leonard Langeni, National MP Lindiwe Mbuyazi, Richards Bay mayor BB Biyela and other IFP leaders and KwaZulu police station commanders as the alleged masterminds behind the Esikhawini hit-squad.

● Perhaps the most significant person to have avoided the amnesty process is former KwaZulu police general Jac Buchner. He was alleged in the Malan trial to have attended at least one secret meeting involving target selection and to have participated in a conspiracy to murder Luthuli.

Buchner features in accounts of "third force" involvement in so-called "black-on-black" violence in the province, having commanded the notorious Pietermaritzburg security branch before taking over the KwaZulu Police. Earlier this year former Vlakplaas operatives allegedly linked Buchner to the supply of truckloads of weapons to the IFP during his tenure.

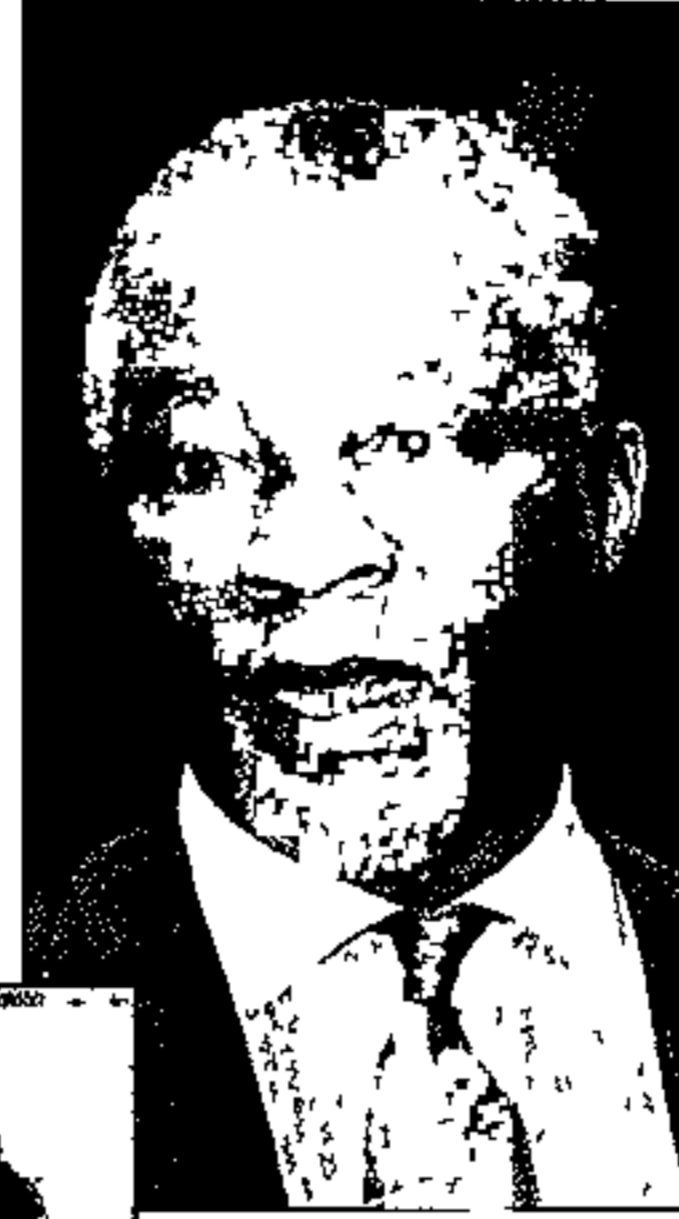
Malan and his co-accused may now face civil action or related charges. Others who have not applied for amnesty are open to possible criminal and/or civil action, though they may benefit from a "special amnesty" proposal under negotiation in KwaZulu-Natal's underground peace talks.



**Jac Buchner: Avoided the amnesty process**

the FM, the ANC reply will rekindle the controversy

Powell, who was wounded in 1991 when an Inkatha convoy of buses returning from a rally in Imbali was ambushed by unknown gunmen,



Thabo Mbeki



Mangosuthu Buthelezi

says the ANC admission vindicates Inkatha's insistence there was "at least one plot to assassinate Buthelezi"

He disputes Mbeki's explanation of why the attempt was halted, saying the real reason was that it was uncovered and the intended victim and those responsible for his safety were alerted

Powell similarly dismisses the ANC's attempt to shift the blame on to military intelligence by accusing it of ignoring the ANC high command's role in tethering the would-be assassins

He talks of "a later plan" to assassinate Buthelezi and implies former communist leader and ANC army chief of staff Joe Slovo was involved

In its submission, the ANC emphatically denies that its military or self-defence units conducted "serial mass murder" against Inkatha officials, a reference to the list of 418 assassinated Inkatha leaders contained in Inkatha's TRC submission

The ANC points a finger at the former security forces, particularly a covert entity known as *stratkom*. It says *stratkom* was behind these killings and describes them as aimed at "whipping up maximum levels of enmity and fear at grass-roots level"

Powell disagrees strongly, accusing members of the ANC guerrilla army, MK, of direct and sustained involvement in violence in the Greater Maritzburg area since 1987. He refers to MK's "significant role" in training ANC self-defence units

Powell charges that MK was directly involved in the supply of weapons to ANC

zealots in the Nineties, referring to the arrest of two MK men in February 1993 at Golela on the SA-Swazi border and the police seizure of arms destined for ANC cadres in KwaZulu-Natal

Powell says the two men admitted under interrogation that they were part of an MK strike force. He alleges that recruits to ANC self-defence units were sent to Transkei, where they were trained jointly by MK and the Transkei Defence Force (TDF)

He substantiates his assertion with details of the arrest of two men at Stafford's Post en route from Transkei with weapons and "TDF identify documents" signed by then military ruler General Bantu Holomisa

The ANC offers a different perspective on self-defence units they were formed in response to "wholesale and arbitrary" attacks on ANC-supporting communities

It charges that unnamed Inkatha officials "distinguished themselves through violence against leaders or communities whom they perceived as a political threat"

These conflicting versions raise the proverbial question of who threw the first stone. It is one that the TRC will have to grapple with

Patrick Laurence

TRUTH COMMISSION

(252)

## ANC admits bid to kill Buthelezi

FM 16/5/97

Inkatha's Powell dismisses explanation of conspiracy

The ANC admission that there was an attempt by its guerrilla units to assassinate Inkatha leader Mangosuthu Buthelezi intensifies rather than resolves the political debate over the past

The explanation offered by Deputy President Thabo Mbeki in the ANC submission to the Truth & Reconciliation Commission is that the assassination bid was unauthorised and the ANC leadership aborted it as soon as they learnt about it

"The ANC has never considered Inkatha members or officials as military targets simply because they aligned themselves to Inkatha," the party says in its second submission to the TRC

But, judging from the reaction of Inkatha's Philip Powell in an interview with

'TO TELL ME HE DID NOT KNOW, I'M SAD ...'

# How F.W. drove Tutu to tears

CT 16/5/97 (252)



**ARCHBISHOP DESMOND TUTU** was left speechless and devastated by National Party leader F.W. de Klerk in his acceptable submission to the TRC.  
**ROGER FRIEDMAN** reports

**A**"DEEPLY distressed" Archbishop Desmond Tutu was unable to deliver his usual closing speech after the National Party's submission to the Truth and Reconciliation Commission on Wednesday because he feared he would burst into tears.

Discussing his profound sadness yesterday at the previous day's approach to the commission, by party leader and former president Mr F.W. de Klerk, the TRC chairperson had to stop himself in mid-sentence as emotion welled again.

Tutu said he found De Klerk's assertion that he did not know about the havoc being wrought by his security forces "difficult to understand", because he had told him about it on a number of occasions, personally. And so had many others.

In the light of all the evidence of torture which has emerged before the commission, and in the reports of human rights organisations throughout the apartheid-era, it was "unacceptable" for De Klerk to have suggested it could have been mere propaganda, said Tutu.

Having buried people from Soweto to Bonteheuwel, and from King William's Town to Durban — and witnessed firsthand the similarities in security misbehaviour throughout the country — Tutu said he found it "extraordinary" for De Klerk to attempt to explain away gross human rights violations as "aberrations".

"I've got to say I sat there and I was close to tears. Mr De Klerk made a very impassioned apology. But I have to say that, coming from the kind of community I come from, to make that apology and then to negate it. I feel sorry for him.

"I told him, I told him things I went to Sebokeng when people had been murdered there. I went and saw people in the hospital. These were not smart, politically-wise people. And this person tells you peo-

ple in balaclavas came. They had blackened hands but they didn't blacken their arms.

"I went and told him (De Klerk). And he said we were vilifying the police.

"After the Boipatong massacre I went to our people there. Again, they were simple people, not educated people and not politicised. What happened? People came escorted by the police. And the people put on searchlights so these people could see what was happening, and people were killed."

"We went and told (De Klerk). To tell me he did not know, I'm sad."

There was no way around the fact that apartheid security forces adopted tactics in which people were deliberately killed. "They have got to accept that that is what their police were saying.

When you say 'wipe them out' and you say it's a 'war situation' it's odd that you should say you didn't in fact intend that they should kill people. "We don't want to put people on the carpet. We are seeking to find the truth so that we can help in the process of healing our land."

Tutu dismissed NP allegations that the commission subjected De Klerk to tougher questioning than it did the ANC delegation earlier in the week. "I am proud of the way in which we handled the two party submissions. If anyone had thought we were going to molly-coddle any one, they would have had a second think."

Tutu said he was "devastated" by De Klerk's response to the commission, and

had not found it possible to make concluding remarks on Wednesday.

"I could not guarantee that I would not cry. It's not a thing that's cerebral, it's that I feel very, very deeply... I am so deeply committed to this country that I hope these people will hear us," the Archbishop broke off.

Tutu said the lists of alleged spies and people executed by the ANC in exile, which the ANC submitted to the commission but asked be kept confidential, would possibly be released to the media. But only if the commission was able to verify the information and inform all the families involved. Commissioner Mr Dumisa Nisebeza said the list of executed cadres included alleged rapists and murderers.

Deputy chairperson Dr Alex Boraine said the commission wouldn't rest "until we have established, one way or another, whether there is any substance to General Magnus Malan's charge" that Swapo lawyer Mr Anton Lubowski was a military intelligence spy.

The Freedom Front will make its second submission to the TRC today. Inkatha Freedom Party leader Dr Mangosuthu Buthelezi said on television last night he had already apologised on behalf of his party for all the ANC members killed in the

KwaZulu-Natal conflict, and did not really know what else the TRC wanted from him. Boraine said a number of questions were sent to Buthelezi some time ago.

• Sapa reported that the NP responded with shock last night to comments made by Tutu and Boraine on De Klerk's submission to the TRC. The party said its advisers were meeting and would study the remarks.

"It is however clear that the whole process of reconciliation is now experiencing its deepest crisis thus far."

The NP said it was not willing to allow the reconciliation process to carry on "in this manner" any longer.

• See Page 8



**DEEPLY DISTRESSED:** TRC chairperson Desmond Tutu



**SAW NO EVIL:** NP leader F.W. de Klerk told the Truth Commission that he had been unaware of atrocities committed by security forces when he was leader of the country.

PICTURE: BENNY GOOL

# Justice Department's plea on Babel tactic

BY MIKE MASIPA  
Crime Reporter

(252) of Nov 16/5/97  
The Department of Justice has urged courts not to throw out cases in haste because of the use of non-regulatory languages in dockets as the protest action by the Police and Prisons Civil Rights Union starts to bite

Popcru members have been defiantly filling out case dockets in languages other than the regulation English or Afrikaans as part of their campaign to have national police commissioner George Fivaz removed from office by next month

Several court proceedings countrywide were reportedly stopped because statements were written in languages prosecutors could not understand

Justice Department spokesman Paul Setsetse said it was unacceptable that suspects were being let off the hook because prosecutors could not understand what was written on the police statements

"There are enough interpreters working in courts coun-

trywide who can easily be used to translate whatever is written in the documents. We are not saying these interpreters can totally alleviate the problem, but their experience can play a role," Setsetse said

He said trials being halted in mid-session had been reported in the Eastern Cape, KwaZulu Natal and to a lesser extent in Gauteng, mainly in Pretoria. He added that it would be the prerogative of concerned attorneys-general to reopen the cases affected by Popcru action

The National Union of Prosecutors has maintained that using interpreters is impractical and will delay the process

Senior Superintendent Strini Govender of the SAPS human resources department said the problem was sporadic and confined only to the three provinces

Meanwhile, Popcru continued its action yesterday with pickets at the SAPS head office in Pretoria and at other major police stations. The protest is set to be stepped up with rallies in every province next week

# ANC 'horror' at NP withdrawal from TRC, urges party to return

BY PRAKASH NAIDOO

The National Party owed all South Africans a full explanation of what happened during the dark days of apartheid, and the only inference to be drawn from its decision to withdraw from the truth and reconciliation process was that it was not interested in the healing of the nation, the ANC said yesterday.

At a media briefing in Johannesburg, ANC acting secretary-general Cheryl Carolus said her party had learnt "with great horror" of the NP's "ill-advised" decision, and urged the NP to steer itself back on to the road of national reconciliation.

Earlier yesterday, the NP said it was suspending its involvement in the Truth and Reconciliation Commission pending possible legal action.

The party's justice spokesman, Sheila Camerer, said TRC chairman Archbishop Desmond Tutu and his deputy Dr Alex Boraine had indicated on Thursday that they had found NP leader F W de Klerk guilty of gross human rights atrocities during the apartheid era.

This "shocking" statement was a travesty of what was



Desmond Tutu

intended by the truth and reconciliation process, and the NP was taking legal advice on it.

In a separate media briefing in Cape Town yesterday, Tutu said the NP's decision did not represent a crisis, but he was still waiting for official notification from the party on the reasons for its stance. So far, the only communication had been through the media.

Boraine denied the commission had made any finding regarding De Klerk, after which Tutu said he was still committed to national reconciliation and would never deliberately do anything to torpedo a process to which he had dedicated his whole life.

"There is nothing that I am looking to gain from being in this process. There are no more kudos that I am looking for. I am a retired archbishop. I am sick."

Tutu said he was committed to South Africa and it was for that reason he had supported De Klerk's joint nomination for the Nobel Peace Prize with President Nelson Mandela. The chairman of the Nobel Peace Prize committee had telephoned him and canvassed his opinion on whether De Klerk and Mandela were suitable candidates.

"I said that would be wonderful for the process of healing in our country," said Tutu, himself a former recipient of the prize.

"I am saying this for the first time in public, because if I had any animosity against the Afrikaners and Mr de Klerk, and knowing the kinds of things I knew, then I would have said, 'not on your life'."

At yesterday's ANC media briefing, which was also addressed by Mpumalanga Premier Mathews Phosa, Carolus said De Klerk was obviously piqued by the close grilling he had received at the TRC.

## TRC storm

He was now "irresponsibly" suggesting that the commission was biased.

"It was to be expected de Klerk would have great difficulty in defending the indefensible policies of the governments led by himself and his predecessor. Rather than addressing the issue, De Klerk chose to be evasive and outright dishonest."

Comparing the NP's submissions with the ANC's, Carolus said De Klerk's conduct was a "disgraceful attempt by a commander to abandon his foot soldiers."

"His submissions were not what individuals did, but rather how he could distance himself from such atrocities."

Carolus said the NP had not yet answered the public's questions about atrocities by third-force elements, security forces, and agents of apartheid who infiltrated the liberation movement. She said the ANC was astonished that De Klerk appeared to be better informed of human rights abuses at the ANC's Quatro camp in Angola, yet claimed he had no knowledge of what was going on at Vlakplaas.

"It is unfortunate that through its recent submission to the TRC, the NP had cut itself a pathetic profile and thus defined itself as outside the process of healing and reconciliation," said Carolus.

Phosa said it was clear that the NP had gone to the TRC to "rubbish" the process and had tried to portray the army and security police as mavericks.

"Judging by some of the amnesty applications that were received, I think De Klerk is heading for many moments of embarrassment," said Phosa.

According to the Democratic Party's TRC spokesman Dene Smuts, Tutu had responded prematurely. "The TRC has played right into the hands of the NP strategy of obscuring its own accountability by throwing up a smokescreen of accusations that the TRC is not impartial," Smuts said yesterday.

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star 17/5/97

# NP threatens court action after TRC outburst

Star 16/5/97 (252)

STAFF REPORTERS

Cape Town — The National Party has threatened to take the Truth and Reconciliation Commission to court to force the body to practise “even handedness”

The party has also decided to distance itself from the TRC’s activities until Archbishop Tutu, chairman of the commission, and his deputy, Alex Boraine, retract their criticism of De Klerk made at a press conference yesterday

The NP outburst against the TRC, the second this week, follows remarks by Tutu and Boraine that they were “devastated” by De Klerk’s refusal to accept full responsibility for illegal actions of security forces during the apartheid era

NP spokesman Sheila Camerer said the TRC had found De Klerk and the NP guilty even before it had completed its investigations.

“The National Party is tak-

ing legal advice on the Tutu and Boraine statements. The National Party believes it has no option but to apply to court to force the commission to comply with the TRC Act,” said Camerer

An emotional Tutu said yesterday that De Klerk’s submission to the TRC had almost made him cry. He said he could not understand how De Klerk could plead ignorance of security force transgression when successive delegations of human rights organisations had given him “an avalanche of information” about this in the 1980s

“I sat there and I was close to tears. Mr de Klerk made a very impassioned apology,” Tutu said, but added that De Klerk’s responses had saddened him because he had “hoped for statesmanship”

Tutu said he struggled to believe that human rights abuses by security forces could be defined as “aberrations” by individuals acting outside the

framework of policy

“It didn’t happen haphazardly, and it was a policy that killed people. Not by accident. It was planned. You may not yourself have said that was how it should be. But you said ‘wissel hulle uit’ (wipe them out),” Tutu said at the briefing.

Boraine said yesterday that De Klerk’s testimony contradicted evidence the TRC had received in amnesty applications. Police generals said they were fulfilling policy, and policemen said they were acting under orders, Boraine said

Turning to the ANC’s submission, Dumisa Ntsebeza, head of the TRC’s investigative unit, said the TRC would investigate the abuse of women in ANC camps across the border. The ANC said in its submission that “gender-specific offences” were committed in its camps, but did not elaborate

► Winnie’s house bombed



THE Human Rights Commission has asked government for R7m in addition to this year's R6,8m budget, because, it claims, it would be unable to fulfil its obligations.

Justice Minister Dullah Omar said his department was "aware of the resource constraints that the commission is going through, especially at this stage of its infancy."

"The challenges that he ahead will require more support from the

## Human Rights Commission calls for bigger budget

government," Omar said.

Commission chairman Barney Pitjana said at a media briefing yesterday that the commission had to set up offices in the provinces where it was needed most.

The commission was looking at joining forces with the Public Protector and Independent Complaints Commission.

Pitjana said his commission had

drawn up a business plan and would "appreciate it if this (funding) would be seen as an investment and not a cost on a balance sheet."

Legislation allowing the commission to be able to raise its own funds was being considered because it had received many offers, but was barred by law from obtaining funds privately.

Pitjana criticised the "wasteful

arrangement" where the finance department determined its budget, then passed the money on to the justice department which then passed it on to the commission. He said the commission had asked to be part of the budgetary process.

A national conference of human rights organisations, to be held next week, would enable these organisations to share experiences, set tar-

gets by which they could be judged and made accountable, and adopt a national plan of action.

A human rights network with a national plan of action, Pitjana said, would "ensure co-ordination and avoid expensive and unnecessary duplication."

To ensure the conference would not become an elitist talk show of academics, Pitjana said the programme had been arranged to accommodate nongovernmental and community-based organisations.

# Tutu 'close to tears' in face of De Klerk's denial of liability

Stephen Lauer

CAPE TOWN — The truth commission and the National Party (NP) headed for their most serious showdown yet yesterday, with the NP again accusing the body of using unfair methods and commission chairman Desmond Tutu saying he was "devastated" at NP leader F.W. de Klerk's failure to accept responsibility for apartheid death squads.

At the same time, the commission's human rights violations committee said it would examine the possibility of a further recall of the NP.

Tutu checked back tears several times during a news conference yesterday.

Commissioner Yasmin Sooka said the committee would discuss the possibility of a hearing in which a number of former NP leaders — possibly including former security ministers — would be asked to explain systems and policies and their interpretations in a manner which added to the commission's overall understanding.

De Klerk was the only party functionary to answer questions from the commission during a five-hour hearing on Wednesday, and often said he could not answer questions through lack of personal information.

Tutu's deputy, Alex Boraine, said that the truth commissioners had been "pained by how De Klerk could apologise for apartheid policies, but not accept their inevitable consequences."

Tutu said he was "proud" of how the commission had handled the African National Congress (ANC) and NP submissions.

BD 16/5/97

There had been "vigorous" questioning of both parties, and he was satisfied that the treatment of the NP had been "even handed." He had met De Klerk before the public hearing and had hoped he would display statesmanship in his approach.

Sapa reports Tutu said he could not understand how De Klerk could still insist that he had been unaware of apartheid atrocities when delegations from lawyers for Human Rights and the Black Sash

among many others had told him of security force involvement in rights abuses.

Tutu said he himself had told De Klerk about allegations of security force involvement in the Boppatong massacre after visiting survivors and hearing their stories.

"There was an avalanche of information. To say I did not know I find that hard to understand. I have to get to say that I sat there (at Wednesday's hearing) and I was close to tears I feel sorry for him I am devastated (for him) to make an impassioned apology and then to negate it."

The NP last night again attacked Glen Goosen, who had led evidence for the commission, for the manner in which he had questioned De Klerk.

There would be "further developments in the next few days as persons whom Goosen involved in his attempts to implicate De Klerk take issue" with the commission, it said.

This appeared to be a reference to a lawyer's letter from former police commissioner Johan van der Merwe objecting to the manner in which Goosen had linked the former top cop to the Vlakplaas killer unit.

Boraine said Goosen had been referring to Van der Merwe's own amnesty submissions. If there was a quarrel between Van der Merwe and De Klerk, they should sort it out themselves.

On the planned enlargement of the amnesty committee, Tutu said he was concerned that Parliament's justice committee had said it would be unable to pass the required amendment before the middle next month. The amnesty committee has a backlog of several thousand cases.

The commission also said it would make public the contents of a set of confidential documents submitted by the ANC.

Included in the file were the names of government agents who had infiltrated the ANC and had been identified before 1981 the names of those executed for murder and rape, and of those suspected government agents killed by ANC security officials.

**MARTIN SCHONTEICH, PARLIAMENTARY ANALYST OF THE SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, WHO HAS JUST COMPLETED AN EXTENSIVE INVESTIGATION INTO THE SUBJECT**

The crime rate in South Africa has been slowly escalating for the past 15 years, over the past five, it has surged to reach epidemic proportions. South Africans quite rightly are demanding that something should be done by the Government not only to stabilise crime levels, but to reduce them to acceptable ones so that society can function normally.

After all, South Africa's transition to democracy would be a hollow victory indeed if most South Africans were scared to venture out of their houses at night, fearful of being hijacked in their vehicles, or raped, murdered and even tortured in their own homes.

In desperation, people are advocating drastic measures: castration of rapists, a state of emergency, "rings of steel" around black townships, curfews and vigilantism. In equal desperation, Minister of Justice Dullah Omar has advocated drastic measures of his own: to pass laws compelling courts to refuse bail to people accused of certain crimes.

A blanket refusal of bail to all people accused of certain crimes would have detrimental consequences for our new democracy based on the rule of law. The independence of the judiciary and the presumption that every accused is innocent until found guilty would be undermined.

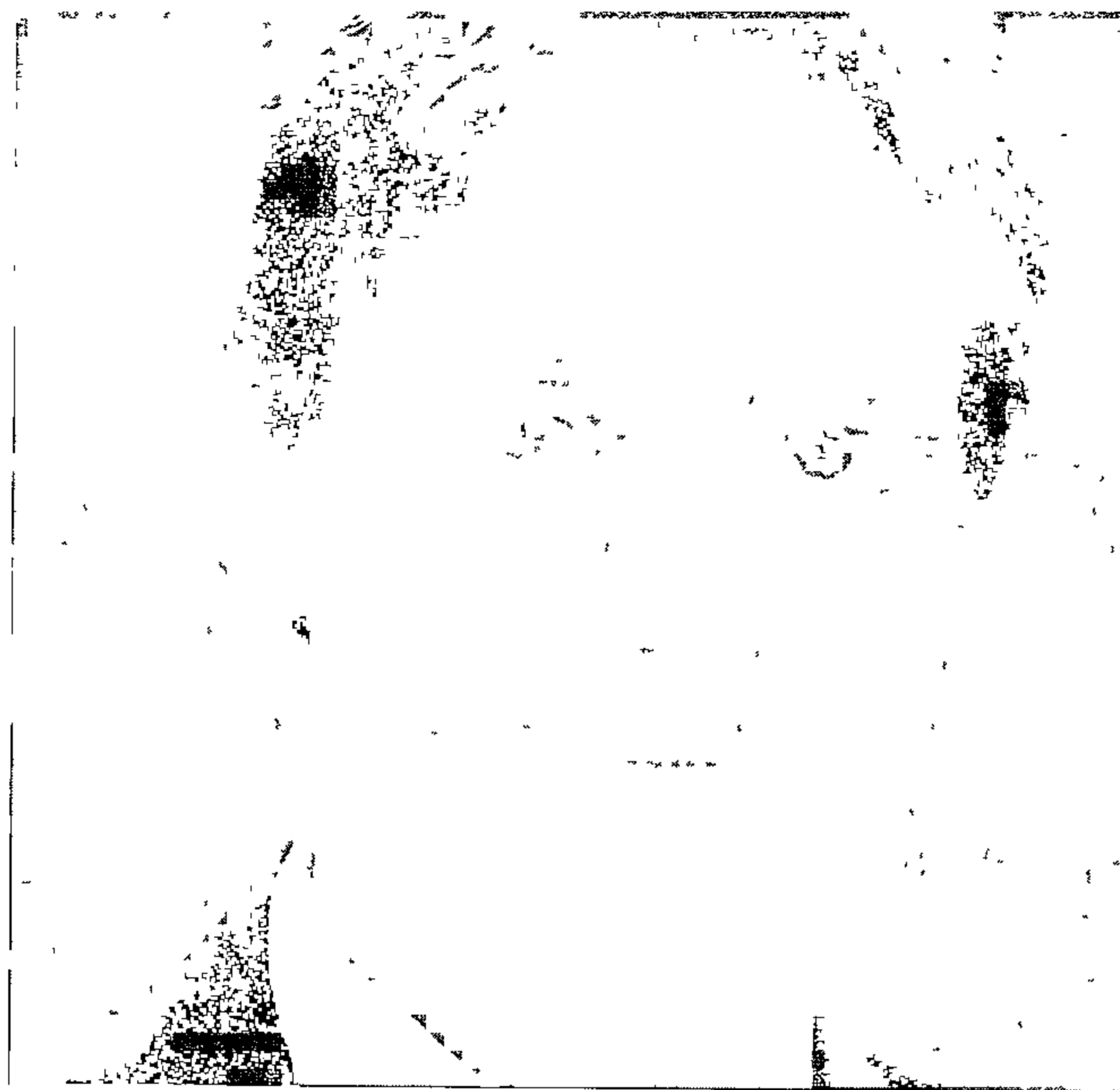
There are some – even those who respect our Bill of Rights and civil liberties – who would argue that this price is worth paying. The South African Institute of Race Relations disagrees. Criminals already do a good enough job of depriving innocent people of their civil liberties, we do not need legislation to further infringe the rights of the people it aims to protect.

Tightening the bail law, like other proposals to curtail civil liberties, would not achieve its intended purpose: beating crime.

South Africa's bail law, implemented in September 1995, contains a number of innovative provisions which have as their aim the protection of the community from awaiting accused who have a propensity to commit crimes while out on bail, or who are suspected of having committed serious – especially violent – crimes.

Since the law came into effect, the number of unsentenced prisoners has risen more or less steadily, showing an increase almost every month, from 23 750 in September 1995 to 36 387 in March this year. While the number of sentenced prisoners also increased during this period, the proportion of unsentenced prisoners has increased from 21,8 percent of all prisoners in September 1995, to 27,9 percent in March.

However, instances abound where accused people are released on bail where this is not in the interests of justice. The defect does not lie with the bail law, but in its application. To correct this and address the real problems affecting the fight against crime we have to look critically at the plummeting performance of the criminal



**Legal system in chaos:** Martin Schonteich, who has done an extensive survey into the judicial system

justice system.

According to "The Nedcor project on crime, violence and investment", released in June last year, South Africa has dangerously low rates of arrest, conviction and imprisonment. On average, of every 1 000 crimes committed, 450 are reported to the police, 230 are solved, resulting in 100 perpetrators being prosecuted, but only 77 (50 for murder and rape) are convicted, of these, 36 will be imprisoned – eight for two years or more – and only one will be rehabilitated.

South Africa's criminal conviction rate fell from 1 611 per 100 000 of the population in 1972 to 1 145 in 1992 – a drop of 29 percent in 20 years. Yet the crime rate over roughly the same period increased substantially. While 4 246 crimes were reported for every 100 000 people in 1975, 5 747 crimes were reported for every 100 000 in 1993 – an increase of 35 percent.

The number of convictions also has decreased in absolute terms, from roughly 393 000 in 1984/ '85 to below 319 000 in 1993/ '94. The fact that statistics have not been kept since then leads one to fear that things have got worse.

Any unscrupulous person who makes a simple cost-benefit analysis will conclude that crime pays in South Africa. The odds of a perpetrator of a serious crime being convicted are about 20 to 1.

Careful analysis of the criminal justice

system reveals that the reasons for these shocking figures are quite banal. They have to do with lack of resources, staffing and training for the two core elements of the criminal justice system: the police and prosecution services.

Primarily because of bad pay, poor working conditions and poor morale, 520 prosecutors, out of a total staff complement of 1 620, resigned between January 1994 and December 1996. Between them, they had the equivalent of 2 141 years of work experience. As the vacancies have to be filled by graduates without any prosecuting experience, the average experience level of prosecutors is now much lower.

In the latest edition of the Hoexter Commission Report, released on March 7, the salaries of prosecutors are described as a "national disgrace". Prosecutors generally do not have access to even

the most basic information technology equipment.

The South African Police Service is under-staffed, with one police officer for every 346 civilians.

Considering South Africa's high crime rate, geographic size, and relatively youthful – and crime-prone – population, these figures are low by international standards.

Most detectives have no specialised training and only a quarter have been on a detective's course. About 45 000 police officers do not have a driver's licence.

***'Most detectives have no specialised training and only a quarter have been on a detective's course'***

release on bail is in the interests of justice, a court may take into account "any disposition to violence on the part of the accused, as is evident from his past conduct".

However, an accused's record of previous convictions can be obtained only by manually comparing his fingerprints, a process which takes six to eight weeks.

Consequently, accused people could have numerous previous convictions for offences involving violence, but the prosecution will be unable to use these in a bail application since they are unavailable.

It is vital that police and prosecution services have an integrated information system providing verified factual information about accused people which would be relevant to a prosecution's decision whether or not to oppose bail.

At a minimum, such a system should have the capacity to compare fingerprints electronically, and to ascertain for whom warrants of arrests are outstanding anywhere in the country.

Specialist bail teams – consisting of an experienced detective, a prosecutor and administrative support staff – should be set up and must have access to the latest information technology.

For similar reasons, specialist bail courts should be created in the larger urban centres. The prosecutor should have technology and support staff.

There are three core shortcomings in our criminal justice system. Firstly, too few criminals get caught, secondly, of those caught, too few get convicted, and thirdly, too few receive effective punishment and too many return to a life of crime.

The odds against criminals ever being found out, convicted and sent to prison for serious crimes must be reduced significantly.

Only this will remove criminals from society and provide a sufficient deterrent. Changing the bail law does not even tangentially address these deficiencies.

Even if every awaiting-trial accused was placed in custody without bail, crime reporting rates, conviction rates, and the recidivism rate would remain the same.

The Government should address these deficiencies as a matter of urgency.

The National Crime Prevention Strategy is a step in the right direction. Latest reports indicate that within two or three months the "first phase" of a computerised fingerprint identification system and national crime database will be in operation.

Thus, the Government is on the right track but is unjustifiably slow in delivery.

It would be regrettable if the country's political leadership, having correctly identified many of the deficiencies in the criminal justice system, were to exploit populist demands for quick-fix solutions.

Crime is too serious an issue to be dealt with in such a short-sighted manner.

■ This is an abridged version of a speech delivered by Martin Schonteich, parliamentary analyst at the South African Institute of Race Relations, to a recent seminar in Parliament on 'Beating crime without curtailing civil liberties', sponsored by the Royal Netherlands Embassy.

# NATS DECLARE WAR ON TRC

## Party pulls out and threatens Tutu with legal action



Before the storm: Archbishop Tutu greets NP Sheila Camerer at the start of the NP's submission

MASH ROBERTSON  
PUNKE EXON

The Truth Commission's work was plunged into crisis today when the National Party suspended participation in its activities.

The Nats have also threatened to ask the High Court to force the commission and its most prominent members - including chairman Archbishop Desmond Tutu - to show impartiality and fairness.

An angry NP statement accused the commission of being "a travesty of what was intended by the TRC process" and of "misrepresenting" evidence this week by F W de Klerk in his second submission.

The NP outburst follows an emotional speech by Archbishop Tutu yesterday in which he said he was brought close to tears by his disappointment with Mr De Klerk's second submission, and statements by TRC deputy chairman Alex Boraine that the NP must accept political accountability for policies that would inevitably lead to atrocities.

"If you look at the legislation during the state of emergency, it was a licence to kill," Dr Boraine said.

In a statement, NP justice spokeswoman Sheila Camerer said the party was seeking legal advice on what the commissioners had said.

She added "The NP believes it has no

How could FW say he didn't know? page 4  
More TRC reports, page 4

option but to apply to court to force the commission to comply with the TRC Act."

She said the Act required all commissioners to be impartial and without political bias and to make findings only after hearing all the evidence.

"Tutu and Boraine are not even attempting to be impartial and are clearly showing their prejudice by making these premature statements, pre-empting any findings by the TRC.

"It is unbelievable that they are still

awaiting certain further evidence and replies from Mr De Klerk."

Mrs Camerer described the criticism of Mr De Klerk's submission as "a travesty of the TRC process" and accused Archbishop Tutu and Dr Boraine of having misrepresented what the NP leader had said.

She said Mr De Klerk had made it clear that he did not, and had never, denied knowledge of apartheid-era atrocities by security forces, but had said such acts were not authorised by the NP and that he had ordered investigations when wrongdoing had been brought to his notice.

"They have, without explanation or

## Nats declare war on the TRC

From page 1 *AKG 16/5/97*

reason, merely rejected Mr De Klerk's earnest apology," she said.

Last night the NP said it was shocked by yesterday's comments by the TRC commissioners and said that "it is clear the whole process of reconciliation is now experiencing its deepest crisis thus far." The party was not willing to allow the reconciliation process to carry on "in this manner".

Yesterday the NP also accused the TRC of "unfair judicial procedure" in its cross-examination of Mr De Klerk and alleged that the harsh treatment given to him contrasted with the "comradely manner" in which Deputy-President Thabo Mbeki and other ANC leaders had been questioned during their second submission this week.

Mrs Camerer accused commissioner Glen Goosen of "overstepping the mark in his rigorous cross-examination" of Mr De Klerk "His tactics in handing a 58-page

(252)

bundle of documents to Mr De Klerk and demanding immediate responses to it does not remotely respect the ethos of our judicial system and clearly ignores accepted judicial process - which demands that documentation be made available to witnesses well before a hearing at which they may be asked questions about it.

"A judge would have reprimanded Advocate Goosen for this unfair procedure and would have barred the document 'To his credit, TRC chairperson Archbishop Tutu disallowed further questioning on the documents once the NP objected."

She said Mr Goosen's actions "will do nothing to counter the growing suspicion amongst the public at large that the TRC is anything but even-handed and impartial".

After Mr De Klerk's evidence this week, Archbishop Tutu said he found it "difficult to understand" the NP leader's assertion that he did not know about the havoc being wrought by the security forces

enough to discover the truth about her brother's murder.

"And we went and told them, and he (Lt Klerk) tells me he didn't know I'm sad."

# Freed - but bungle kept 10 in jail

ARG 16/5/97

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Ten prisoners whose amnesty applications to the Truth Commission were successful languished in jail for three to four weeks after they should have been released because of an "administrative bungle".

This was revealed by TRC chairman Archbishop Tutu yesterday. He said he accepted full responsibility

According to the commission's founding act, once the amnesty committee members have signed their

decision to grant amnesty, this decision must be conveyed to the full commission by its chief executive officer

He must also make arrangements to have the decision gazetted as soon as possible and notify the Department of Correctional Services.

In the case of the 10 prisoners, the gazetted notices had not been placed immediately, Archbishop Tutu said.

"There was a lot of to-ing and fro-ing, but that is not satisfactory. We ought to have found a way," he said

## warehouse sale

price blitz saturday 17 may

hot water cylinders

SABS approved

100L 100KPa

725<sup>00</sup>

150L 100KPa

825<sup>00</sup>

millions of mosaics

from 7<sup>95</sup>sqm

heaps of job lots up to 10 sqm heaps

from 10<sup>95</sup>sqm



## Popcru action leaves courts tongue-tied

(252) AKU 17/5/97

**Port Elizabeth - The Police and Prisons Civil Rights Union's "mother tongue" campaign is striking home in the Port Elizabeth and Uitenhage courts.**

Eastern Cape Attorney-General Les Roberts says a decision has been made in the interests of individual rights "not to take statements and dockets written in Xhosa".

Members at more than 20 out of 250 Eastern Cape police stations have responded to Popcru's call to communicate and correspond with management and the public only in their "mother tongue".

The protest, part of Popcru's broader police transformation campaign, is against

the slow pace of ending the dual English and Afrikaans official language policy of police and the courts

Mr Roberts said dockets returned to investigators would be reprocessed and translated, and the suspects re-arrested. The already pressurised justice system has been forced to seek translators and double up the work load of interpreters.

The move follows three suspects being released - they will be re-arrested after Uitenhage prosecutors were frustrated by Xhosa dockets from the Kwanobuhle police station.

Yesterday 61 dockets were still awaiting translation from Xhosa - Ecna

# Tutu: 'I said yes to De Klerk's Nobel Prize'

## NP's TRC pull-out 'sad'

JOHN YELD  
ON THE TRUTH COMMISSION

Desmond Tutu, the 1984 Nobel Peace Prize laureate, was asked for his opinion before the prize committee decided to hand its prestigious award to Nelson Mandela and FW de Klerk in 1993 – and he gave an unqualified "yes".

Archbishop Tutu revealed this for the first time at a media conference called by the Truth and Reconciliation Commission yesterday.

The TRC was responding to the earlier decision by the National Party to suspend further participation in its activities and possibly seek a Supreme Court interdict forcing it to stick to its mandate.

The NP's move came after Mr De Klerk was subjected to vigorous questioning by commission staffer Glenn Goosen when he led his party's delegation to make their second submission on Wednesday.

Afterwards, both Archbishop Tutu and his deputy, Alex Boraine, made strong comments about the NP.

Archbishop Tutu said Mr De Klerk's second submission had brought him close to tears of disappointment, while Dr Boraine said the NP had to accept full political accountability for its policies, which had inevitably led to atrocities and killing.

An angry NP promptly responded by accusing the commission of being "a travesty of what was intended by the truth and reconciliation process" and of "misrepresenting" evidence given by Mr De Klerk.

NP spokesperson on the commission Sheila Camerer, said the party was seeking legal advice on what the two commissioners had said, and added, "The NP believes it has no option but to apply to court to force the commission to comply with the Truth and Reconciliation Commission Act".

At yesterday's press conference, Archbishop Tutu said he would continue to work with the NP, but that he had not been contacted by it to discuss its pull-out. All he had heard about its decision had been through the media.

Archbishop Tutu said he did not understand why the NP had been offended by his remarks.

"I cannot hide the fact that I am devastated (by the NP's submission) – I am telling them how I feel. I give expression to how I assess what has happened."

"I have not had to wait to know that gross human rights violations happened – that's total nonsense. What we are seeking to find out is how these things happened, and who was responsible."

Archbishop Tutu said he was not a

(252) ~~AGE~~  
"Johnny-come-lately" to the process of reconciliation in South Africa and, as far back as May 1976, he had warned then-prime minister John Vorster that "an explosion" of black anger was imminent.

"And then a few weeks later, June 16 happened. And from that time I have been committed to bringing together the people of this land, and this is the only reason I continue. I am driven by my faith to be an instrument of reconciliation and healing, not for personal glory."

Archbishop Tutu revealed he had been approached by the chairman of the Nobel Peace Prize committee to ask his opinion on their proposal to award the prestigious prize to Mr Mandela and Mr De Klerk.

"If I had had animosity against the Afrikaner and Mr De Klerk, and knowing the things I knew even then, I would have said 'Not on your life!'"

"I said: 'It should be wonderful for the process of healing in our country.'"

Archbishop Tutu said he was "sad" at the NP's decision to pull out, but he did not believe it was a crisis.

Dr Boraine said it was the NP's "absolute right" to take the issue to court, but he rejected some of Mrs Camerer's remarks, including her claim that the commission had found Mr De Klerk guilty of gross human rights atrocities during the apartheid era. "I don't know where she gets that from and I deny emphatically having said that at any stage."

Truth commissioner Wynand Malan, a Broederbond and one-time NP MP before resigning to fight the 1987 election as leader of the National Democratic Movement (which amalgamated with the PFP to form the Democratic Party), yesterday called on Mr De Klerk and his former colleagues to work together to expose the truth of South Africa's past.

In a lengthy and emotional personal statement, Mr Malan said it would not help the NP to reject the Truth Commission as an institution out of fear that the TRC would find against the NP's perspective.

"I have no doubt anymore that the horrors happened on a large scale. I have no doubt that it was planned and executed systematically. In my being I have no doubt that there was collusion to make these practices possible and to let it go on for so long."

"My appeal goes to everyone who was involved to work together to find out how this could have happened and to let go of our innocence and justifications, if only temporarily. This appeal is also directed at Mr De Klerk," said Mr Malan.

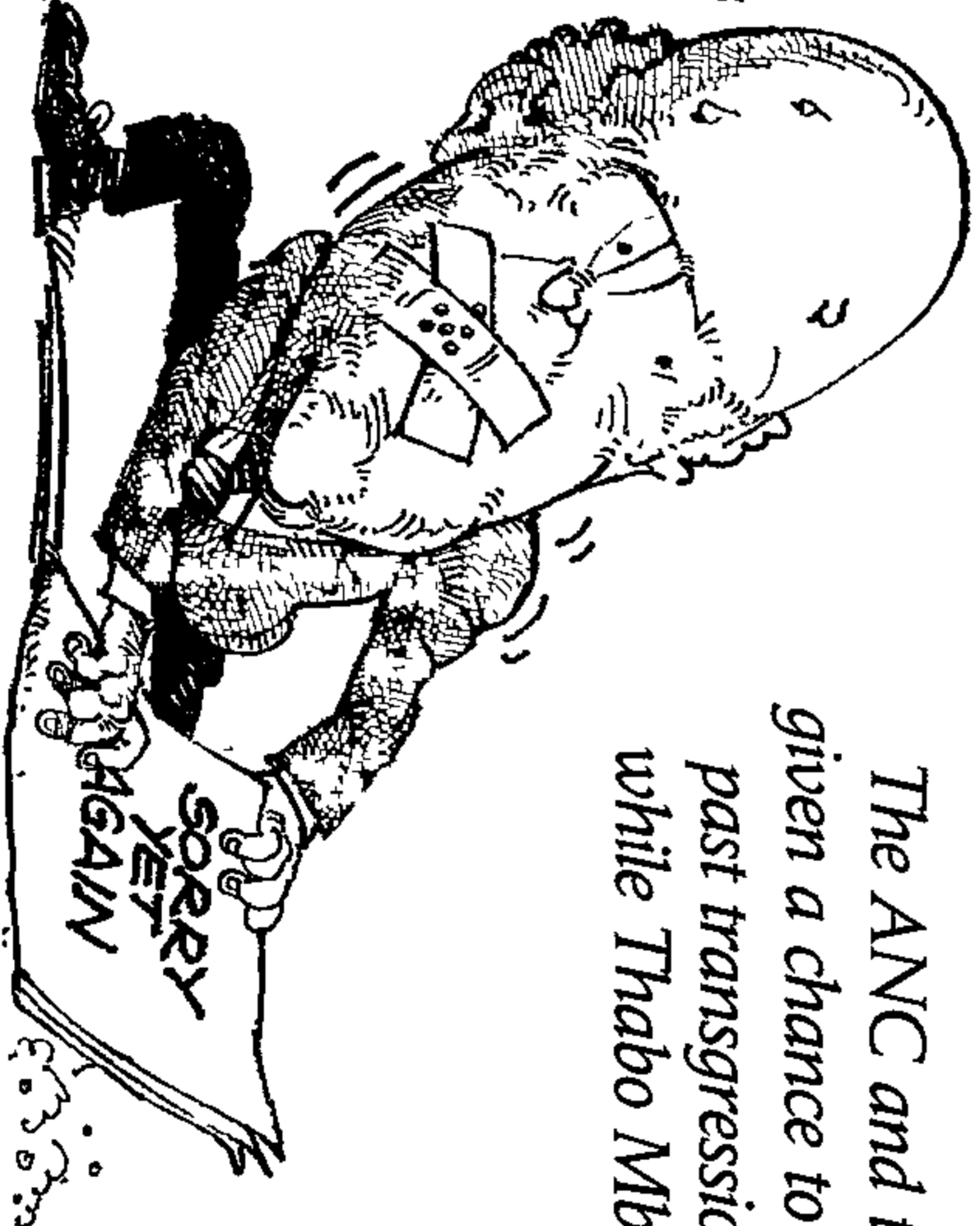
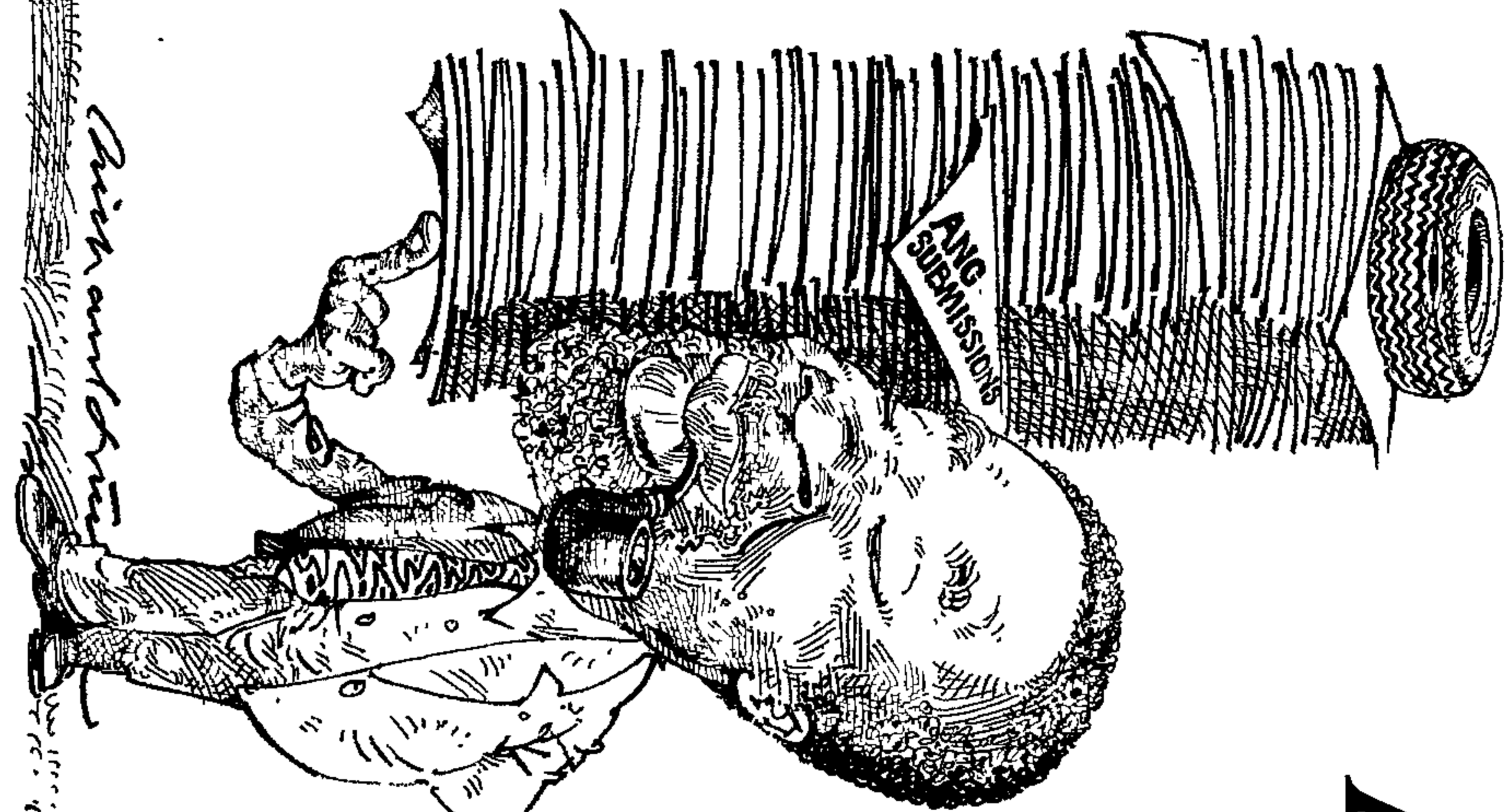
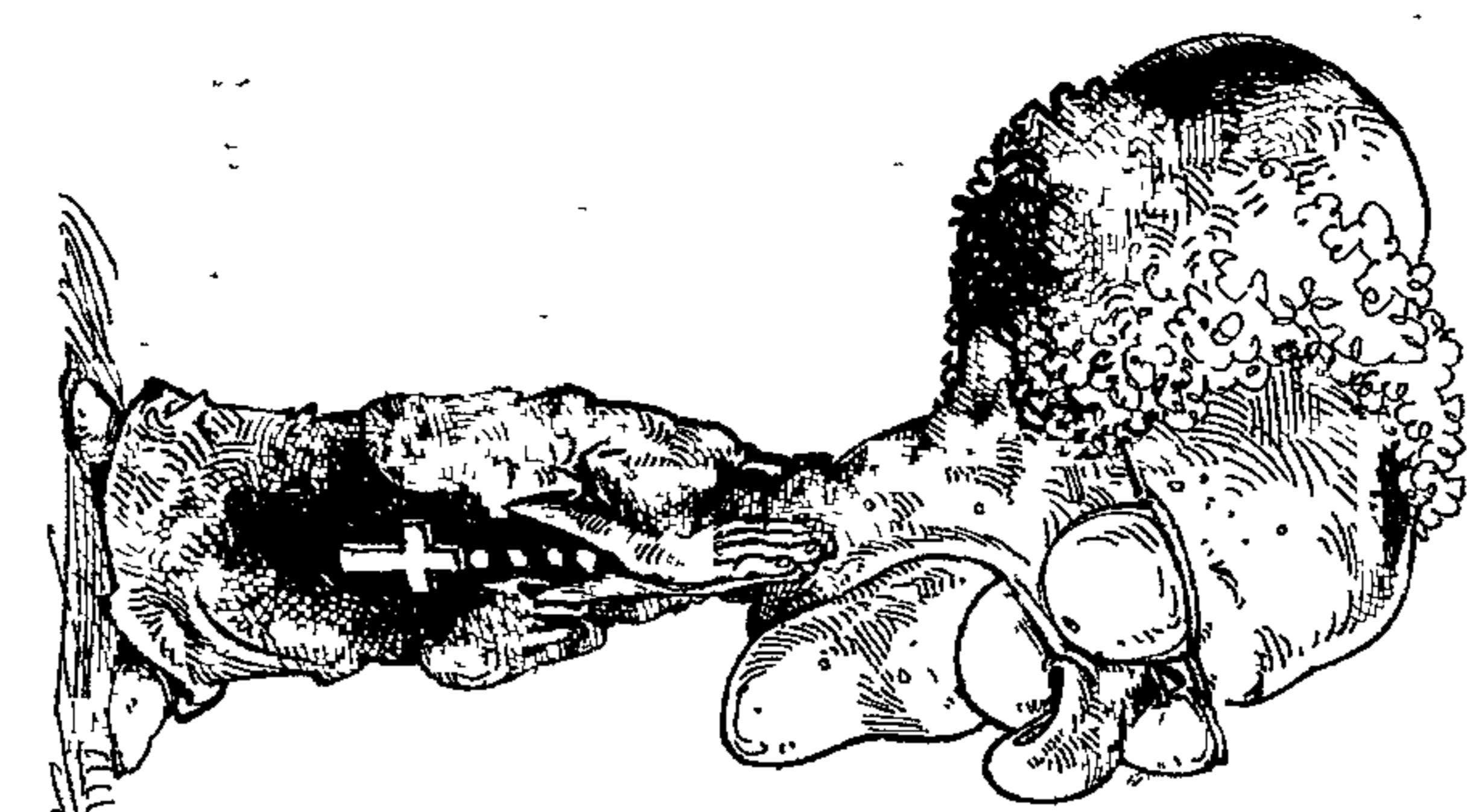
The African National Congress said the NP's decision to withdraw from the Truth Commission was "ill-advised".



I swear: Freedom Front members, from left, Tienie Groenewald, Corné Mulder and Constand Viljoen

# And something other than the truth

*The ANC and the National Party were this week given a chance to add substance to their apologies for past transgressions. CYRIL MADLALA says that while Thabo Mbeki seized the opportunity, F W de Klerk fluffed it*



**T**HE anticipation was palpable on Wednesday as NP leader F W de Klerk strode confidently to take his seat in front of Archbishop Desmond Tutu, the chairman of the Truth and Reconciliation Commission, and his panel.

Strategically positioned next to De Klerk was David Malata, a black man who symbolises the new NP's break with the past.

On De Klerk's right was his erstwhile spin doctor, Dave Steward. MPs Sheila Camerer and Fanus Schoeman were also part of the official delegation. Significantly, only De Klerk took the oath. No one else would speak.

Two days before, ANC Deputy President Thabo Mbeki had already led a delegation to, make a

At the end of it all, Mbeki had triumphantly declared that he felt he had won his round with the truth commissioners. Said Mathews Phosa, a member of the delegation: "We gave them everything, warts and all."

On the other hand, the team that had accompanied a disappointed De Klerk had complained that some of the commission's elements lacked even-handedness.

Camerer, the NP's justice spokesman, said the ANC's hearing had been conducted in a "comradely manner and in quite a jolly atmosphere." Glen Goosen, the director of the commission's investigations and De Klerk's chief inquisitor, had been "aggressive," she said. "Naturally, the NP would have

## ● DID THEY KNOW WHAT WAS HAPPENING?

Neither Mbeki nor De Klerk could possibly have known about all the human-rights violations committed by their organisations — that was not the test before the commission.

What had been expected was that, as leaders, they would have made it their business to find out or haul before the commission those who could provide answers.

When Mbeki did not know about the structures that had linked the internal self-defence units with the ANC's military headquarters in Lusaka and about the mechanisms to control the flow of weapons from the ANC to these units, Umkhonto weSizwe, commander V. Dikane and Ronnie

the apartheid years. The ANC was confronted with inflammatory statements attributed to firebrand leaders such as Chris Han, including ANC supporters to kill those who collaborated with the enemy.

Not only had Mbeki confirmed those statements had been made, but he had even provided the commission with confidential internal documents that listed who had faced the ANC's firing squad for having been an enemy agent.

On the other hand, De Klerk, confronted with the minutes of meetings of the state security council that he himself had attended, could offer little help, other than to protest that they were being sprung on him. He refused to answer questions based on the

legitimate target had not led to the killing of innocent civilians, and whether the organisation condoned such action.

Having apologised, Mbeka and his delegation took collective responsibility for all the bona fide actions of their soldiers. They also pointed out that individuals who had carried out the acts had applied for amnesty and had the support of the party's leadership.

When De Klerk was asked about the actions of security force members who had run death farms and planted bombs in London and Mozambique, he had been clear: these had been aberrations and the work of a "handful of individuals." He had protested strongly when asked

if it would not be more accurate to say that the NP government had presided over systematic, state-sanctioned criminal activity.

De Klerk was adamant that people such as Colonel Eugene de Kock could not legitimately had given them free rein, allowing them to use any methods to fight their political enemies.

Four top police officers, including ex-police commissioner General Johan van der Merwe, had told him that they had also not known or approved of what had transpired at Wlakteplaas. How could he, as state president, have known, he asked. This was Mbeki's round, too. What emerged clearly is that

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De Klerk and Mbeki had approached the task at hand with different mind-sets. Believing in the justness of his cause, Mbeki had come prepared to bare his soul, even when he could have got away with being less than candid.

For instance, when he asked about the conflict with the IFP, he had volunteered the information that certain ANC members had wanted to blow up a Zulu hostel, while others had had similar ideas about the IFP's Ukhundi headquarters.

He also confirmed, for the first time, that an Umkhonto weSizwe unit had plotted to assassinate IFP leader Mangosuthu Buthelezi, but had been prevented by the leadership from carrying out the plan. De Klerk, on the other hand, had come across as desperate to have his credentials accepted, but had ended up with his back to the wall.

Why could the commission not just accept his word when he said that he did not know that police generals and a minister could have been involved in criminal activities in the name of government policy?

Why was it hard for anyone to believe that De Klerk was as shocked as everyone else at the revelations of amnesty applicants? Those would have been his thoughts by Wednesday afternoon. For Tutu, the hearings had allowed Mbeki and De Klerk a forum to give meaning to their apologies for past transgressions with honest answers. The candour of one version of the truth had left him with a hearty smile. The other was so lacking that he had almost been reduced to tears. The hopes that had been raised on Wednesday morning had evaporated.



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mission. In sharp contrast to De Klerk's team, 10 people from the ANC had taken the oath. They had been representative of every possible avenue that the commissioners were expected to explore. The intellectuals whose thinking shaped policy were represented. Commanders of Umkhonto weSizwe, who had dispatched cadres to plant bombs, were there, as were spy chiefs, a representative of women and a writer whose work in liberation-movement publications had inspired many a potential revolutionary performance. But our scorecard shows that, far from having been hard done by, he had done much to undo the good he had sought to achieve. The debate of the morality of fighting or defending apartheid aside, both Mbeki and De Klerk had once again been allowed a platform to add substance to their professed apologies for the transgressions of the past. To the extent that their apologies were profuse, they both scored well, with De Klerk even possibly eclipsing Mbeki. It was De Klerk's round. Kasriis were there to answer. De Klerk had no answers to questions about how security forces had come to arm the IFP, or about what had happened to truck-loads of weapons that had been supplied to it but which remain unaccounted for. He had brought no one to assist the commission, nor could his delegation have helped Mbeki's round.

● **PROVIDING DOCUMENTATION**

The commission relied extensively on documents that reflected policies and the thinking of the ANC and the NP during

had been given an opportunity to study them. When he had been asked for such documents, he had advised the commission to "approach the relevant authorities".

Mbeki's round

● **STANDING BY THEIR OPERATIVES**

Both De Klerk and Mbeki had agreed that their organisations had provided a broad framework within which their members operated, and that misinterpretation of policy had led to the loss of innocent lives. The ANC was asked if confusion about the definition of a

# TRC holds list of ANC cadres executed in exile

THE LIST of people executed and those who died while being punished by the ANC is being kept confidential by the TRC until it has made sure the relatives of those killed have been informed.

Those executed include 23 men who were found to be state agents by the ANC's military tribunal and nine men executed for breach of discipline.

The ANC also gave the TRC a list of the names of nine cadres who died after harsh treatment when they were found to have breached discipline.

According to previous documents those executed during the Pango mutiny (their code names appear in brackets) were:

- Moyi Cekiso (Msomi Ronald);
- Jele Reuben Mandla (Nyembezi Stopper), Mamba Mlamli (Mkambi James), Ondala Irvyn Yusuimuzi (Mashigane Wandile);
- Malope Edward (Mashiani Joseph);
- Tanisi Maxwell (Hobo Walter);
- Maga Eric (Jongwile Mzwandile), Mohlabane Josiah (Dumakude Shaka), Maleka Jeremiah Kagiso (Mdungi Zweni), Hlongwane B Sydney (Mavuso

Dick), and Makubethe Thabo (Moore Ruphus).

Also listed as executed were

- Bosigo Mompoti Godfrey (Sipho Oshokosh);
- Davids Ephraim Ivan Adam (Lejoe Sibusiso);
- Dintsi Samson Isaac (Justice Tshabalala);
- Dlamini George Perm (Muntu Ndebele);
- Duma Gena;
- Dumela David (Dick PD, Khumalo);
- Hlophe Joseph Arsenus (Jabu Zialala),

- Joyce Thoby Steven (Escom Maluleka)
- Lafasi Clifford Ngaba (Raymond Mavurda)
- Leballo Bothlomo Derrick (Mayekiso Vusi)
- Mabaso Daniel Crosby (Tommy Shenge)
- Malebane Pule Moses (Elliot Mzibuko)
- Maleka Nikita John
- Mangena Phillip (Chiloane Drake)
- Mokoena Joseph Moekeisi (Bala Mphila)
- Monamohi Buki France (Simon

- Mabunu)
- Montshioa Matlaku (Mogale Simon)
- Motswane Jackson Jones (Jackson Jones)
- Moshoeu Paki Gabriel (Rogers Mayalo)
- Ngubane Daniel (Peter Morule)
- Pieterse Joseph (Sereledi Michael)
- Radebe Jabu Radebe (Emmanuel Vilakazi), and
- Seremane K Timothy (Mahamba Kenneth)

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# Righting the wrongs of SA's rights

The 1996 Constitution provides for the limitation of rights in order to ensure that competing rights are balanced

(252) *Star* 19/6/97

poor, townships and suburbs, black and white. All are victims. All live in fear of their lives, of violence, of burglary often accompanied by violence, of car hijacking, of rape

The Human Rights Commission comes into this picture, I suppose, because we are viewed as those who defend the rights of criminals and cause the Government to be soft on crime

No amount of statistical evidence showing that the underlying trend in crime in the metropolitan districts like Johannesburg, for example, is downwards, will convince many. None of the strategies unveiled by the Commissioner of Police and the Ministry of Safety & Security, seem to make any difference

In 1996, the commission approached the president for funds to inject a human rights perspective into the country's Crime Prevention Strategy

This will emphasise the fact that human rights are universal, inter-related, interdependent and indivisible. That means that no one may enjoy their rights while they violate the rights of others. Rights are not absolute. Our constitution provides for limitation of rights in order to make sure that competing rights are balanced and rights do not become a vehicle for the violation of the rights of others

In March, the commission launched a public awareness and education campaign, on a shoestring budget, in order to drive this message home

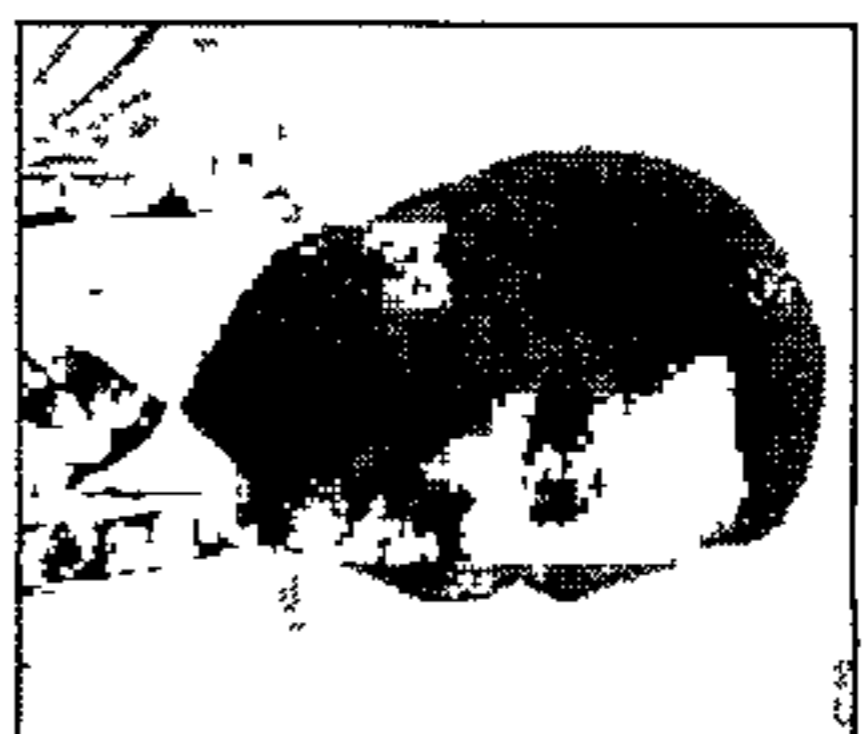
save public education, of the kind beyond the means of the commission, is surely one of the strategies necessary to prevent crime

In the administration of justice, ministries are doing battle with a phenomenal lack of public confidence. The Department of Justice has produced its Justice Vision 2000 which has set goals and standards for the administration of justice based on human rights and equality in a democratic society. Death penalty and corporal punishment have been abolished, the rights of detained persons are being asserted, the Legal Aid

Board has made justice accessible to the needy

The face of the judicial system is now gradually becoming representative of the people of our country

The Department of Correctional Services has to deal with a rapid increase of the prison population in old and dilapidated buildings. And yet the department has to



By Barney Pitjana

make the formidable leap from the detention and containment of prisoners to rehabilitation and correction.

Despite all the Government has done in the uplifting of human rights in the economic and social spheres, South Africans, at mid-term in the life of the present Government, are disillusioned.

Why? In 1994, South Africans were promised a "Better Life for All". Three years later, the RDP, the much heralded flagship of the Government's social reconstruction and economic development policy, has all but bitten the dust. RDP resources are being used for government by government Committees concerned about their own development and upliftment have no sense of participation in the welfare and development of their areas

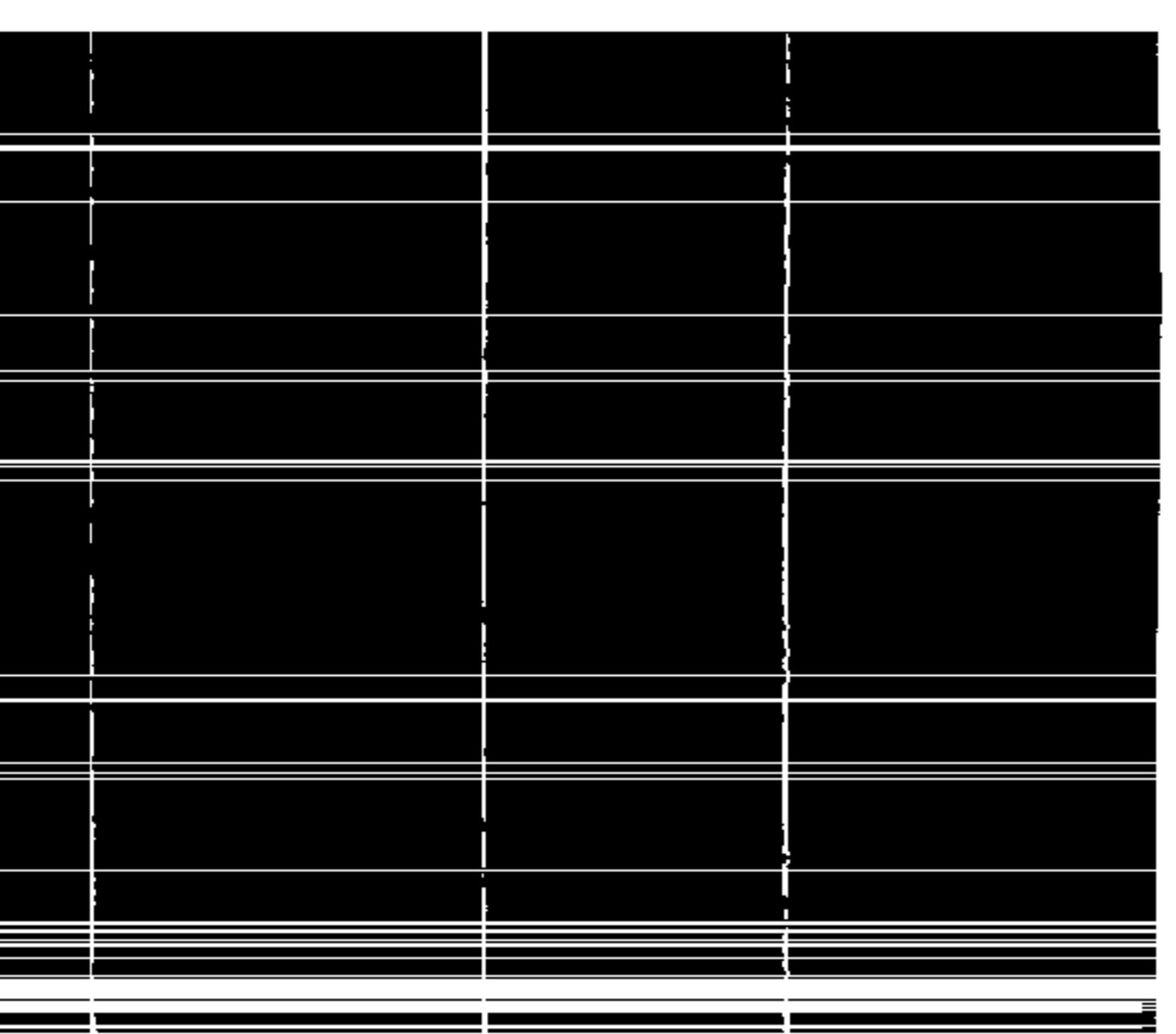
Secondly, there are some ways of behaving towards government which have not been transformed. The culture of

toy-toyi has come to be seen as one way of ensuring that one's demands are met. So, for example, Sandton ratepayers undertake a rates boycott, severely crippling the capacity of local government to provide services

Third, we lack a culture of dialogue. In a democratic society founded on human rights and dignity, freedom of expression, thought and opinion is vital. That freedom, however, is best exercised in an environment of critical dialogue. Dialogue requires that we learn to listen to one another and to communicate effectively.

ment departments accountable. The national conference sponsored by the SAHRC to be held in Midrand from tomorrow to Thursday is a consolidation of the human rights environment in South Africa by building relationships between government, NGOs and state institutions like ourselves. It is also designed to begin the process which will lead to the adoption of a national plan of action for human rights in South Africa around which we can be judged and all of us held accountable.

Barney Pitjana is the chairman of the South African Human Rights Commission



education and the environment  
In undertaking this task, and by making available information which is otherwise beyond the reach of ordinary citizens, and by analysing, interpreting and evaluating that information, the commission will make government departments accountable.

# Police top brass ready to tackle Popcru

(257) Star 19/5/97

Several criminal cases dropped because of ongoing campaign for transformation

By **DEREK RODNEY**  
Crime Reporter

**W**arnings of firm disciplinary steps against protesting Police and Prisons Civil Rights Union members, following their ongoing "mother tongue" policy, have fallen on deaf ears. The union has threatened to intensify its actions.

A showdown between SA Police Service management and the union appears inevitable following weeks of protest action by Popcru members intent on driving home their discontent at the lack of progress in police transformation, management and corruption.

In the latest war of words, the police's management forum, consisting of all the provincial and divisional commissioners in the country, yesterday came out in support of national commissioner George Fivaz, who is under pressure from Popcru to resign.

The forum pledged its support for Fivaz by announcing that those involved could expect firm disciplinary action.

Popcru general secretary Jacob Tsumane said last night the union would not be intimidated by management.

"We are aware of a number of incidents where Popcru members were threatened and even assaulted, and we are taking legal steps against the intimidators," Tsumane said.

Criminal proceedings being hampered as a result of mother-tongue statements have been reported in KwaZulu Natal,

Eastern Cape, Northern Cape and Mpumalanga. Attorneys-general have dropped several cases since the start of the protest because statements were taken in languages other than the official English and Afrikaans.

However, a Star survey of several police stations in and around Johannesburg last week revealed little disruption.

Should management follow through with its tough approach, Popcru members could face internal as well as criminal charges for defeating the ends of justice.

"Such measures are entirely justified because Popcru's campaign, in fact, militates against transforming the SAPS in an orderly and effective manner," an SAPS statement read.

Mass action by police officials is illegal according to the new Police Act.

Tsumane said union members were not at fault as they were exercising their constitutional right to express themselves in their own language.

National police spokesman Superintendent Leah Shibambo said Fivaz had no objection to actions which did not affect the service, but stern measures would be taken where actions were disruptive, such as obstructing complainants making statements.

Popcru has threatened a nationwide strike if Fivaz does not resign by June 6.

A series of rallies to garner support for Fivaz's removal have been organised, with one planned for Pretoria tomorrow.

## Linksfield power cuts

Residents in Linksfield can expect electricity cuts tomorrow between midnight and 6am, the Johannesburg Metro council said in a statement today.

The power cuts are due to

The following serious crimes were reported to The Star in the past 48 hours:

■ Rabie Ridge, Midrand, police are investigating the motive for an attack on a minibus at about 9pm on Saturday when three

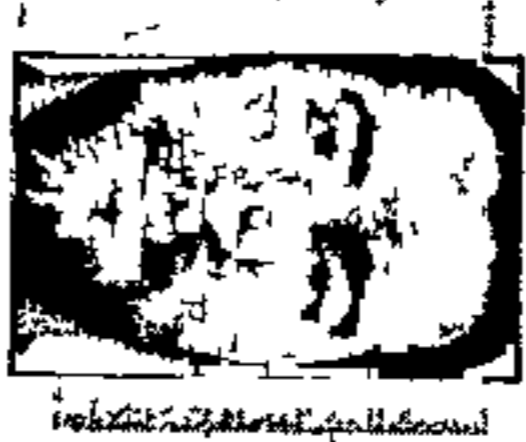
# Riddle of TRC's 'awol'

## amnesty documents

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**SIX BOXES** containing amnesty applications that were to have been delivered to the TRC on Friday spent the weekend in an airport shed — but their seals apparently have not been broken, **ROGER FRIEDMAN** writes



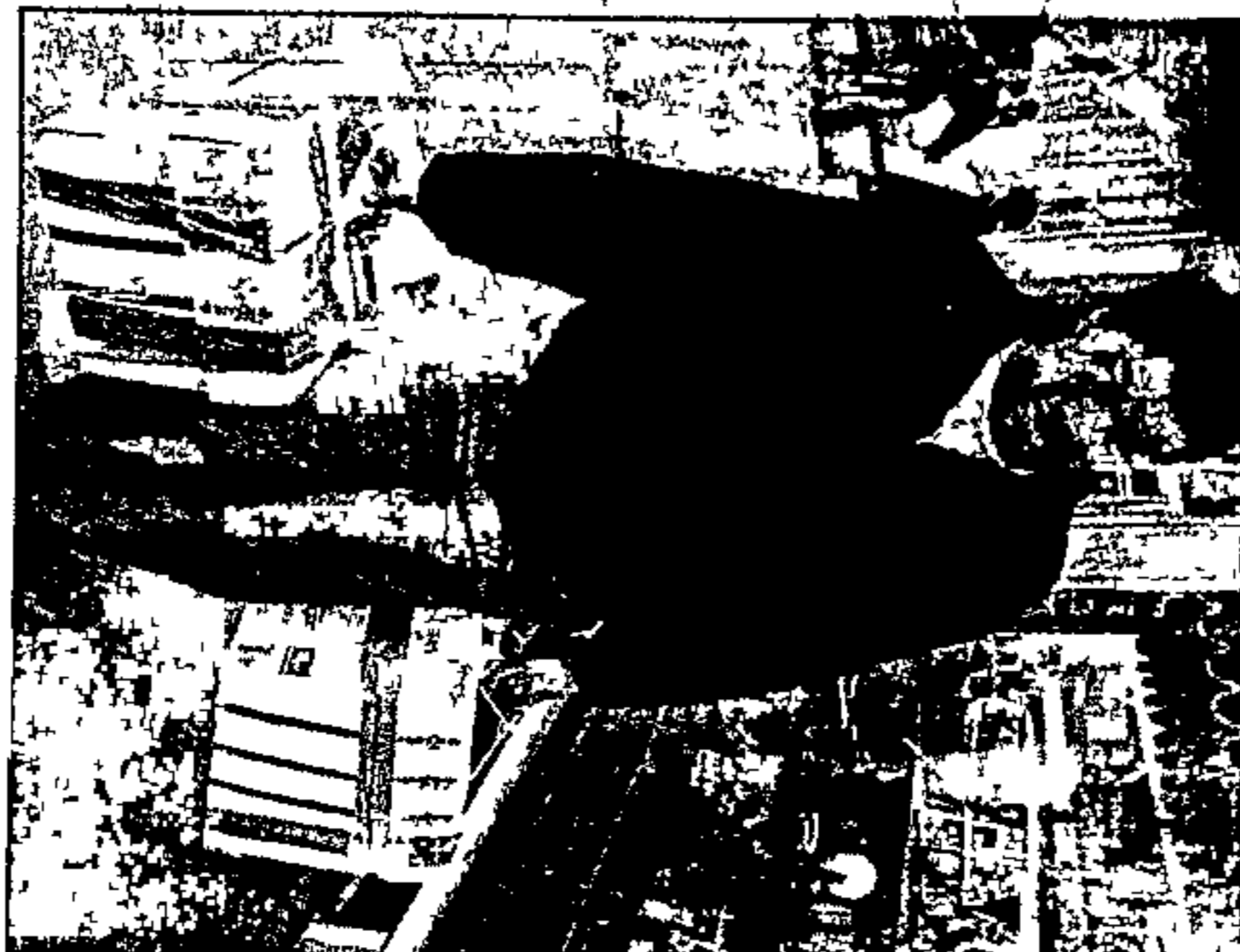
**A**BOUT 800 amnesty applications in six cardboard boxes sealed with sticky tape — and which failed, apparently by mistake, to be delivered to the Truth and Reconciliation Commission headquarters in Cape Town on Friday — are said to have spent the weekend in a shed at Cape Town International Airport.

The TRC says it has been assured by the police that the boxes have not been tampered with. The amnesty applications are deemed secret until they have been dealt with by the TRC's amnesty committee. This enables the families of victims to be informed and people implicated in the applications to be notified at least three weeks before their names enter the public domain.

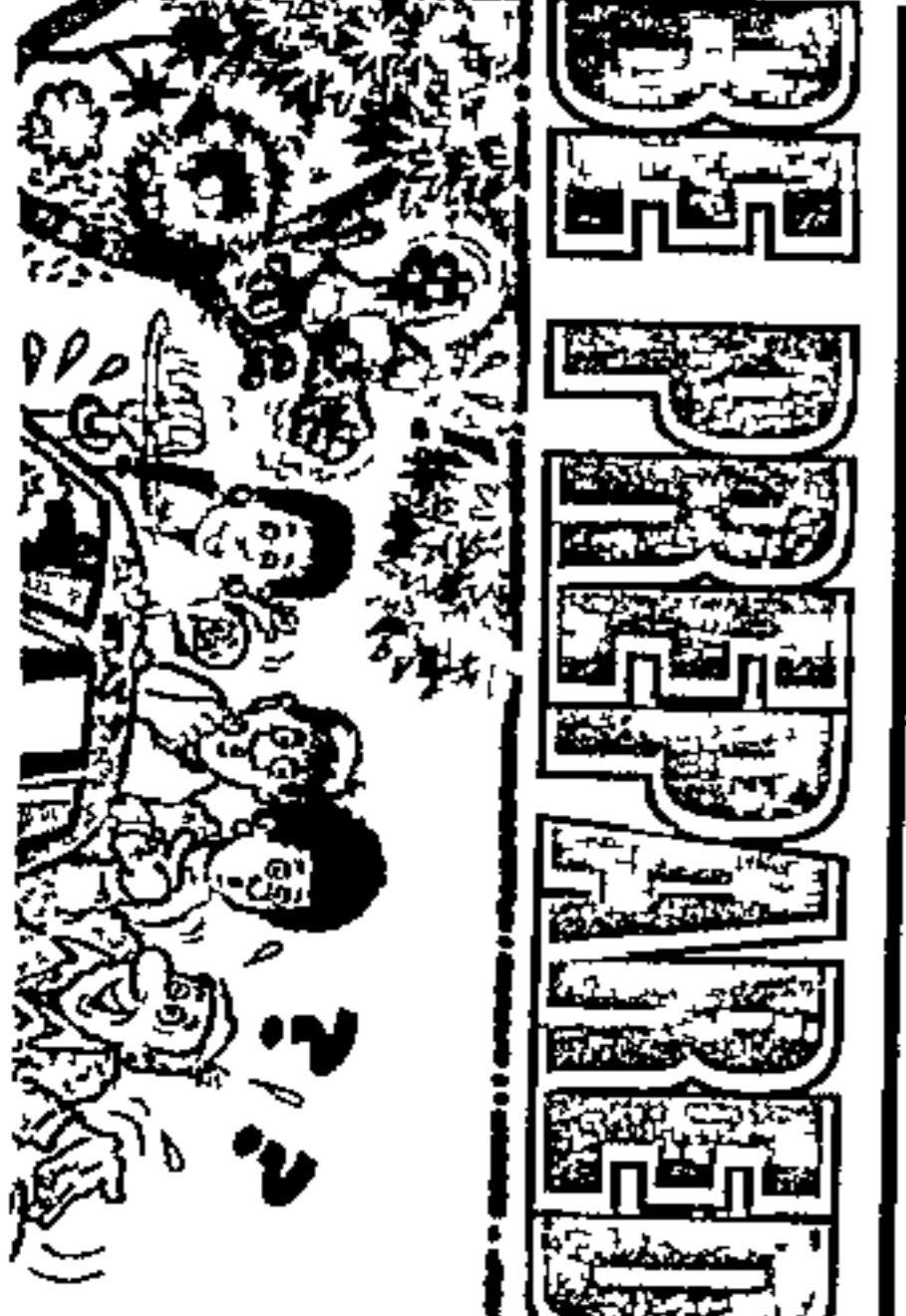
Those implicated could have an interest, such as damage control, in obtaining advance notice of their contents. As the amnesty cut-off date for applications approached 10 days ago, there was apparently some agitation in police, military and intelligence ranks about who was applying and what they might be saying. Last week, Deputy President Thabo Mbeki, alleging that former apartheid networks of members of the security forces, intelligence agen-

cies and criminal justice system were still active, urged the TRC to expose them. Shortly after the boxes had been delivered to Adderley Street late yesterday, Sun Counners spokesman Mr Ken Light said that "in terms of service failure" the delayed delivery was "obviously embarrassing". He was "quite happy" with security arrangements at the South African Airways shed at Cape Town Airport, where the boxes had been stored. After receiving the boxes, the commission called the police to check if they had been tampered with. TRC spokesman Mr John Allen said the police, including members of the bomb squad and Criminal Intelligence Service, were satisfied that the boxes had not been opened. The commission had a register in Johannesburg of the contents of the boxes and this would be checked. The boxes were sent from the TRC's Johannesburg office on Friday morning and should have arrived in Cape Town that afternoon. It was noted yesterday in Cape Town that some applications were missing.

**TRC FOCUS ON TROJAN HORSE SHOOTING — PAGE 3**



**SECRET CONTENTS:** A Sun Counners employee delivers amnesty applications to the TRC. **PICTURE: BENNY GOOL**



From a security perspective the delay was "unacceptable", Allen said. The commission would demand a written explanation from the courier company. This explanation would be referred to the police. Light said the boxes had been transported as a "normal shipment" as the commission had not asked for particular security arrangements. He acknowledged that his company had failed to clear the correct number of packages at the SAA shed. The boxes looked "normal" when they were received by TRC staff yesterday. The brown sticky tape and all the labels appeared to be intact. When the head of the amnesty committee, Mr Justice Hassen Mall, left the building a few minutes later, he said he had not been told that any applications were missing. The TRC has yet to announce a final tally of amnesty applications it has received. The cut-off passed at midnight on May 10. However, applications sent by post and before the May 10 cut-off will be considered. About 8 000 applications have been received. The TRC is trying to extend its amnesty component to deal with the applications. The five members of the committee sit together and are able to hear only one application at a time. Thought is being given to extending the committee to two or three panels who can work simultaneously. The TRC hopes to conclude its amnesty assessments by December.

Sowetan 20/5/97 (252)

# TRC is biased, says Inkatha

IT WAS not surprising the National Party had decided to withdraw from the activities of the Truth and Reconciliation Commission because it had strayed from its mandate and become increasingly partisan in its operations, the Inkatha Freedom Party said yesterday.

"The workings of the commission have turned into media-type trials which are a travesty of justice," the IFP said in a

statement.

"As currently constituted, the TRC is not promoting reconciliation and nation building

## Sympathies

"The African National Congress sympathies of the commission are patent. All other parties are treated in a second-class manner bordering on contempt," the party said.

Justice Minister Mr Dullah

Omar should reprimand commissioners and remind them that their mandate was reconciliation not revenge, instead of defending them, the IFP said.

While the party supported mechanisms for granting amnesty and reparations, it did not believe a politically appointed commission was the right body to perform the task.

"The ANC said when the TRC Bill was being debated in

Parliament the TRC would not be allowed to develop into a Nuremberg-type trial.

"This promise to all the people of South Africa needs to be kept now," the IFP said.

The NP announced on Friday that it was suspending its involvement in the Truth Commission process and was likely to ask a court to order the body to stick to its mandate. — Sapa

# Bill paves way to cope with rush for amnesty

ARG 20/5/97

(252)

Legislation providing for the Truth Commission's amnesty committee to be enlarged so that it can cope with the flood of last-minute amnesty applications has

been tabled in Parliament

The Promotion of National Unity and Reconciliation Amendment Bill gives effect to a TRC recommendation that the maxi-

mum size of the amnesty committee be increased to 11

It provides that the chairman of the amnesty committee may establish sub-committees - Sapa

# Street kid thugs 'untouchable'

LINDSAY BARNES  
CRIME DESK

APR 20/5/97

Cape Town police say they are powerless to act against street children, who are responsible for a third of robberies in the city centre.

The police did not have the solution to the problem of juvenile offenders and it was now up to other government departments to get involved, said central police station commissioner Raymond Dowd.

Children between eight and 17 were responsible for 35 percent of robberies in the centre of Cape Town between April 1 and May 4

If the problem was not tackled quickly, not even draconian police measures would

help, said Director Dowd.

He was speaking at the handing over of SA Law Commission documents on the justice system to Justice Minister Dullah Omar and his deputy, Manto Tshabalala, in Cape Town yesterday.

Director Dowd said the police had exhausted all avenues in trying to deal with the problem of juvenile crime problem but children involved in petty theft knew they were virtually untouchable. Departments responsible for addressing the problem seemed helpless.

In its paper on juvenile justice, the Law Commission says the system of dealing with child offenders was inefficient and that a separate, cohesive juvenile justice system was needed.



FULL HEARINGS NECESSARY

# Tough laws to control bail for serious crimes

ET 21/5/97 (252)  
**PROPOSED MINIMUM** sentences for serious crimes, detailed by Justice Minister Dullah Omar, include 15 years for first offences. Political Writer **CHRIS BATEMAN** reports.

**P**ROPOSED legislation that would make securing bail difficult for people suspected of murder, aggravated rape, aggravated robbery and serious drug offences should also make it "impossible" for them to do so at night or over weekends, says Mr Willie Hofmeyr, ANC MP and a member of the justice committee.

He was speaking during Minister of Justice Mr Dullah Omar's budget vote in Parliament yesterday.

He said that to ensure serious offences were treated "properly" under the justice system, measures designed to protect communities from criminals should make it impossible for suspects to secure bail without a proper hearing of the relevant evidence or at night and at weekends.

Only courts higher than the Magistrate's Courts should be allowed to grant bail in serious cases.

Hofmeyr said he supported Omar's initiatives to make it "difficult, if not impossible", for suspects in serious cases to be granted bail.

While it was essential that there should be safeguards to ensure that the increased powers of police and prosecutors were not abused, the courts should also clamp down in granting bail to repeat offenders.

Omar is proposing legislation that would compel courts in certain circumstances to refuse bail and to impose minimum sentences. Hofmeyr argued that although some critics had claimed the proposed laws would infringe civil liberties, "every measure taken to fight crime infringes on our rights as citizens".

He cited, as measures to combat crime, compulsory minimum sentences, police roadblocks, cordon-

ing off and searching areas, door-to-door searches for illegal firearms, freezing assets used in criminal activities and, to combat money-laundering, obtaining details about private bank accounts.

"The balance should be between our newly-won human rights and the undisputed need to fight crime effectively."

South Africa could not afford to lead the world in protecting human rights, Hofmeyr said.

Omar gave further details about a 12-month programme to engage 100 trainee prosecutors from next month.

The candidates, in batches of 10, were to be supervised by a senior and would be capable of prosecuting at any office where there was a vacancy. There was the possibility of permanent employment.

The candidate prosecutors would receive their initial training at the Justice College and would be given practical training by tutors.

Omar said the project would not only create opportunities for people outside the public service, but also ensure that properly-trained prosecutors were readily available and properly used.

Introducing the debate on his budget vote, Omar said legislation would be tabled in Parliament soon, as a priority, that would empower courts to impose minimum sentences for murder involving the use of firearms, rape where a firearm was used, robbery with aggravating circumstances; hijacking; drugs and drug-trafficking, arms trafficking, indecent assault on a child under 14, assault on a child under 12 years, housebreaking with intent to commit murder, rape and robbery.

First offenders would receive a minimum sentence of 15 years, second offenders at least 20 years and third and subsequent offenders a minimum of 25 years.

Omar said the courts would also be empowered to impose minimum sentences for crimes relating to exchange control, corruption, fraud, forgery and theft involving more than R500 000, where it was proved that the offence had been committed by a syndicate.

For these crimes, a minimum sentence of 10 years would be imposed on first offenders, 15 years for second offences and 20 years for third and subsequent offences.

The proposals would be refined once comments and criticisms had been considered, Omar said.

They had been submitted to the SA Law Commission and other role players.

"These provisions would automatically cease to have effect after a year of their commencement, unless Parliament consents to their extension for one year at a time."

Once the 14 pieces of legislation addressing the high crime rate and criminal justice system had been passed, the government's emphasis this year would be on delivery.

The criminal justice process had been reorganised to ensure that offenders were dealt with effectively, efficiently and fairly while victims received compassionate treatment and, where appropriate, equitable compensation, Omar said.

The Department of Justice's mission this year would also focus on ensuring criminals were apprehended and that bail and sentencing were executed effectively, consistently, expeditiously and in a manner that would deter criminals and promote safety.

The department would also improve the consistency of the prosecutorial system.

# Tough new sentences for criminals

Separate juvenile justice system also on the way, says Dullah Omar (252)

By Rafiq Rohan  
Political Correspondent

**H**ARSHER PRISON SENTENCES are now on the cards after the release yesterday by the Ministry of Justice of plans to get tougher with criminals

A first offender for murder, armed robbery or rape could in future be looking at a minimum sentence of 15 years

In his budget debate yesterday Justice Minister Mr Dullah Omar said that the SA Law Commission was investigating sentencing which would include compensating victims and the involvement of the community in imposing sentences

Omar said "Legislation is under consideration to give proper effect to life sentences - parole should only be considered after a review of the sentence by a court of law"

A Bill could soon be passed that would oblige the courts "to impose compulsory minimum sentences for certain serious offences"

In this serious crime category a proposal is that the courts impose a minimum period of imprisonment of 15 years for a first offence, a minimum period of imprisonment of 20 years for a second offence, and a minimum period of

imprisonment of 25 years for a third or subsequent offence

In addition to murder, rape and armed robbery, the serious crime category includes drug trafficking, robbery with aggravating circumstances and trafficking in firearms and explosives

A Regional Court or Supreme Court will also impose minimum sentences for indecent assault involving a boy under the age of 14 and a girl under 12, housebreaking with intent to commit murder, rape or robbery and fraud and corruption involving more than R500 000

## Domestic violence

In these cases the minimum sentencing could be 10 years for a first offence, 15 years for a second offence and 20 years for a third or subsequent offence

Another area of focus in reviewing the justice system, the minister said, was around curbing the spiral of domestic violence. New laws are in place that make it a crime for a husband to rape his wife, granting inexpensive interdicts regarding family violence and compelling certain persons to report instances of the ill-treatment of children

Omar said creating a separate juvenile justice system was also on the cards

# 'Trojan Horse' tactic used in other ops, ex-cop tells TRC

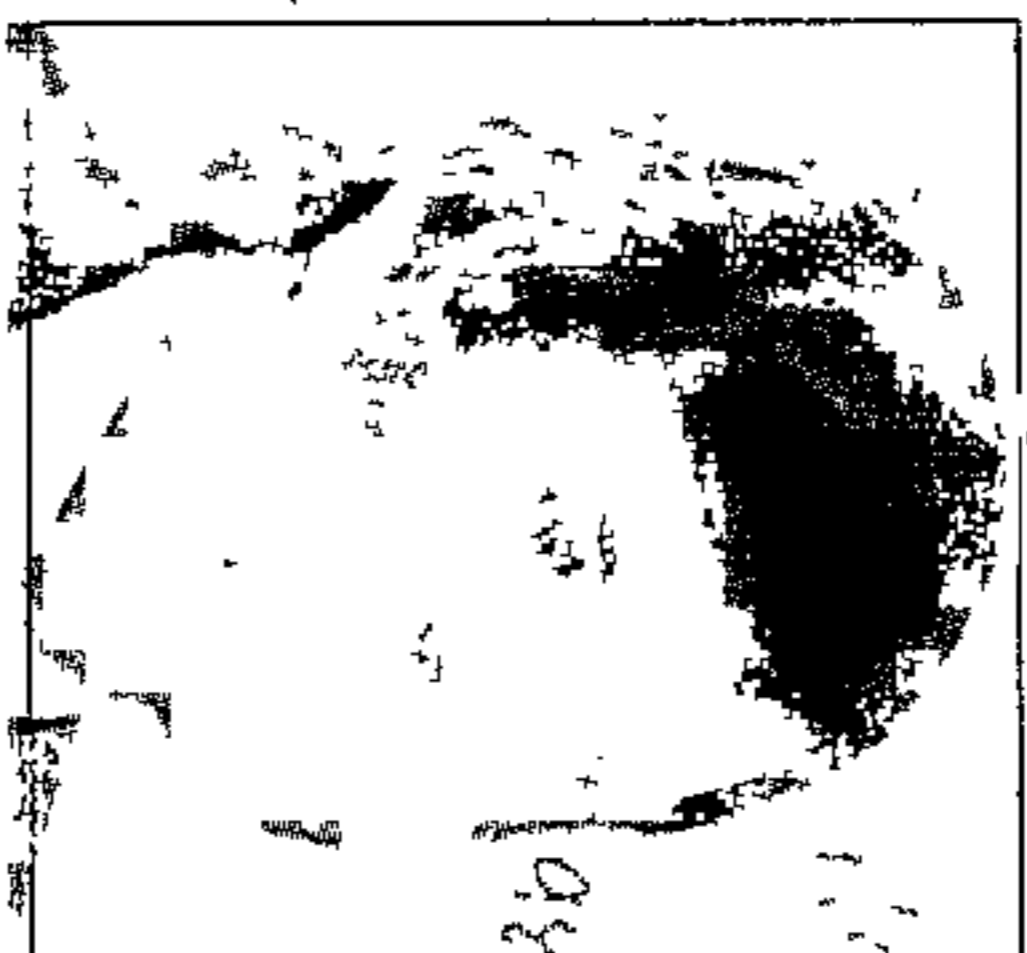
(202) ART 21/5/97

A senior officer in the former railways police who helped plan the 1985 "Trojan Horse" operation in Athlone today confirmed to the Truth Commission that security forces had carried out similar operations previously.

He said people had been killed and injured in these attacks but he insisted the Athlone operation had been aimed at arresting stone-throwers and not killing people.

Christiaan Ludolf, a major at the time and now retired, told the commission's special event hearing into the incident in which three young people died and more than a dozen were injured, that he had been the commanding officer of the SA Railways Police regional task force at the time. This force had been involved in unrest control in the area with the SA Police and the SA Defence Force.

He said he, a Colonel Janse van Rensburg of the police and a Commandant S-Prenaar of the SADF had been in charge of a joint operations centre at Manenberg police station. The three officers had planned the "Trojan



Aim was to arrest Christiaan Ludolf

Horse" operation on the morning of the day on which it had taken place (October 15 1985) and he had briefed the officer in charge, Douw Vermeulen, about 4pm.

Brigadier Ludolf said the operation had been planned as police had not had any success arresting people stoning vehicles in the area.

The only way to arrest them was to send in uniformed police hidden in an unmarked vehicle.

He said his orders to Lieutenant Vermeulen were to arrest the stone-throwers and the men in the operation were to be armed with shotguns with birdshot or AAA shotgun ammunition.

Although this was the smallest type of shot, he agreed it could be lethal if fired at close range.

Brigadier Ludolf strongly denied that the operation had been intended to kill people.

"If that had been the purpose, you could have used much more effective ammunition.

"I have absolutely no doubt, my orders were arrests. That's what we went for, nothing else," he said.



Reliving horror: Wille de Klerk and Mogamat Shafick Magnoed, father of 'Trojan Horse' victim Shaun

LEON MULLER

# TRC cannot lose sight of healing

ET 22/5/97 (252)

**TUTU HAS BEEN** damned for taking reconciliation at face value, but, argues **JAMES AMBROSE BROWN**, the function of the TRC is to heal the nation — at its core a religious exercise

**T**HERE seems to be some confusion in the minds of critics as to what the Truth and Reconciliation Commission is actually doing. Some see it as veering dangerously towards being a kind of quishing commission which has moved into the arena of condemnation more than reconciliation. It may be in deep waters, but it would be incorrect to assume that it has lost its purpose.

It is certainly wrong to take the attitude that the public has been fooled into thinking this is all about healing the nation's wounds when it actually has a hidden agenda. And it is certainly not an exercise calling for the slippery minds of politicians.

No doubt the commission was so called in order to distinguish it from a Nuremberg trial in which there was no question of reconciliation, only retribution.

Tutu has been ridiculed for an apparent inability to distinguish between his roles as priest or politician. And for his caring approach to the problem of human guilt. It seems he has taken the word reconciliation at its face value. He has been naive enough to believe that such a thing is possible.

This is not surprising, for the whole basis of his belief as a Christian theologian is the reconciliation of man with God and his

belief that the man Jesus effected this reconciliation by his death on a Roman cross. It would be difficult for Tutu to see reconciliation in any other terms. And why should he?

But whether we use the word in theological or secular terms, it calls for the same thing in the end: the making of peace after an estrangement. It does not seek revenge or satisfaction of a material kind. And this, amazingly enough, is what has been seen emerging from the pitiful accounts of suffering endured by the victims of apartheid cruelties and the debasing of human value. Hundreds of weeping men and women have declared that they seek nothing other than to know the worst — and

hear the plea for forgiveness from the ones who hurt them. When this action is taken, as we have watched for months on television, there is an amazing transformation in both parties. This can only be described as a spiritual transaction, a form of soul-healing otherwise impossible to achieve.

Anthony Holoday has called this "so much hogwash and dangerous hogwash at that". And he sees religious compassion as no better than clerical hypocrisy. In other words, it has no value.

It may well be that Holoday is a brilliant exponent of philosophy in UW's School of Government, but he seems woefully ignorant of the spiritual dimension of humanity. He quotes Jesus to make the point that Tutu should do better than to mix religion with

politics, but he may not know that the same Jesus said that man could not live by bread alone, but requires the religious dimension to complete his life. He also said that if anyone wanted to be heart-whole he should reconcile with his enemy before going through hypocritical gestures in the temple.

At its core, reconciliation is a religious exercise. Reconciliation without sacrifice is impossible — even in secular terms.

Sacrifice is required from the injured party who must surrender all sense of injury and anger. Sacrifice is called for from the guilty party who has to give up self-righteous hatred and belief in his right to injure. Even in the secular sense, the two parties have to find

*Whether we use the word reconciliation in theological or secular terms, it calls for the making of peace after estrangement.*

a common meeting place where the guilt of the guilty party is assuaged and wounds of the injured party are healed. In either the religious or the secular sense this is a spiritual contract. It is a meeting place of the best in

human impulses.

In the religious sense, it is a contract between man and God, man admitting his sins, against the righteousness of God — and God's retribution being taken away by the act of contrition. In the secular sense, the parties are brought together by a reconciler. In this nation's soul torment the TRC is the instrument of reconciliation. It is surely not an accident that its leaders should happen to be men who understand guilt and forgiveness in its truest terms. Indeed, as divine



**ARCHBISHOP TUTU:** A man who understands guilt and forgiveness

They assume that the final arbiter in the joining of hands is not a human being but a sovereign God. Holoday has seen neither sense nor purpose in any of this. And no doubt he is unmoved by the tears of those forgiving and forgiven. It is, after all, no business of the commission to plead for reconciliation in its deepest sense. No, we want only to know if the deeds were politically motivated or otherwise. The healing of broken hearts and wounded lives is not even a side issue — that is mere clerical meddling.

Yet, in the minds and hearts of many, there is the conviction that what we are watching has to be connected with the healing of the nation. Otherwise it is truly an exercise in hypocrisy. Is it fair to smear as muddlers ignorant of their mandate men

who have given so much of themselves in terms of pain they have suffered in witnessing the tearing open of wounds?

If what was needed here were judicial, cool heads and philosophical detachment, then why were men of deep religious conviction chosen to head up the commission? Surely it was because reconciliation is a spiritual transaction. All this may be meaningless nonsense to the secular-minded who will see the whole existence of the TRC as a futile exercise. Indeed, one that has only roused the sleeping dogs of revenge in some hearts.

But it is not in this spirit that the commission has performed. This is not a little Nuremberg. That the hearts of the South African perpetrators of so much cruelty and evil were no less corrupted than those of the Nazi hierarchy is undoubted. It was only a matter of degree in the outcome.

Can the act of reconciliation be sufficient to blot out, eradicate the injuries inflicted? Christianity does not say that the sinner can escape the consequences of his acts. No, they must be paid for. In the Law of Moses there is no sin without payment — and restitution. Yes, reconciliation can happen between the two parties involved, but this does not permit the guilty to put on their haloes and walk away.

Punishment is due. Tutu and his colleagues are surely alive to this. But they are equally alive to the reality of the healing of the wounded soul. If we forget this aspect of it then it has all been for nothing.

**Allister Sparks's Another Country column will appear next Thursday.**

# Witnesses silenced by fear of reprisal

CP 22/5/97

(252)

PIET RETIEF. Fear and insecurity prevailed at the Truth and Reconciliation Commission's hearing here yesterday as witnesses claimed they had no protection against alleged perpetrators and refused to reveal their names.

They said the situation was very tense in Thandakukhanya township as the alleged perpetrators were still freely walking the streets.

The widows of two slain civic leaders, Mrs Rose Magudulela and Mrs Theresa Malinga, said they would leave South Africa if the commission granted the killer of their husbands amnesty.

The killer, Mr Mdu Msibi, was allegedly hired by then Inkatha Freedom Party mayor, Mr Alpheus Msibi in June 1993 to assassinate four civic leaders, but only killed Mr Mandla Magudulela and Mr Mphikeleli Malinga.

Msibi's amnesty application was heard on May 6 in Nelspruit and the Malinga and Magudulela families said that if he was released, their lives would be in danger.

"We feel insecure because those who hired the killers are still free. We don't know what they think. If Msibi is granted amnesty, we'll leave South Africa," they said.

Another witness, Mr Dingi Ngwenya refused to reveal the names of those hired to kill his son and several other people at a tavern in Thandakukhanya on June 20, 1993.

"I know who these people are but cannot tell you because they may kill me. They are still free and

live among us. The situation here is still very tense."

There would be trouble in the township if the commission granted his 18-year old son's killer, Mr Platoes Kheswa, amnesty, he said.

Mr Andries Ndebele, whose son was also gunned down in the same township by alleged IFP-hired assassins, echoed other witnesses' concerns of fear and insecurity.

He said the Thandakukhanya community was unsafe because those who hired the killers were free and still among them.

Ndebele said the community was opposed to amnesty applications by the killers, more so because they (the killers) had not asked for forgiveness from the victims' families.

Witnesses said 16 people, including five children, died during attacks by alleged IFP-hired assassins there in 1993.

Despite assurances of protection by commissioner Fazel Randera, who chaired the sitting, witnesses refused to divulge the names of those who hired the killers.

Randera said it was displeasing that even in a democratic South Africa, people still lived in fear.

"Please, let us go from here not wanting to turn the clock back. We have heard of intimidation, threats and fear that still exist in the area."

Randera asked the police to ensure the residents were safe and again gave witnesses the assurance that they would be protected by the commission. — Sapa

TROJAN HORSE AIM WAS TO EFFECT ARRESTS

# Shotgun cops deny intent to kill

(252)

CT 22/5/97

**TEN CONCEALED** cops armed with shotguns and sharp point ammunition say they fired indiscriminately not to kill but to arrest, reports **LINDIZ VAN ZILLA**.

**T**HERE would have been a "tragedy" on October 15, 1985 if 10 policemen aboard an unmarked SA Railways truck had been "shooting to kill", one of the policemen involved in the Trojan Horse incident told the Truth and Reconciliation Commission (TRC) in Athlone yesterday.

Retired police brigadier Mr Christiaan Loedolff (a major at the time), one of the masterminds behind the Trojan Horse, was testifying at a special TRC hearing after being subpoenaed.

Loedolff said that many more would have been killed had it been their intention to "shoot to kill".

Michael Miranda, 11, Jonathan Claasen, 21 and Shaun Magmoed, 16, were killed when the security force members, hiding in wooden crates on the back of the truck, opened fire on a group.

Loedolff also disclosed that a similar Trojan Horse method had been used in previous operations, with similar fatal results.

The incident, on the corner of Thornton and St Simmons Roads, caused an outcry. About 39 shots were fired at a crowd of about 150.

Loedolff denied repeated suggestions by the commissioners that the aim of the operation had been to kill, rather than to effect arrests. "We weren't actually firing at the crowd."

The commissioners, however, pointed to the fact that the 10 policemen on the truck had been armed with shotguns loaded with AAA buckshot and number one birdshot — both classified as "sharp point" ammunition, and potentially lethal.

Head of the TRC investigative unit Mr Dumisa Ntsebeza questioned why teargas had not been used in the operation if the primary aim was to arrest people.

Loedolff replied "We had to give the policemen reasonable



**COMMANDER:** Douw Vermeulen, who led the infamous Trojan Horse operation in Athlone in 1985, testifies at the TRC hearing

means to defend themselves should an attack be launched."

He also said teargas did not have the effects that Ntsebeza had described.

Ntsebeza also questioned Loedolff about Section 49 of the Criminal Procedure Act, which he labelled a legal justification and a basis to kill, because if an arrest could not be effected in any way, the police were allowed to kill.

He said "Policemen did not think of withdrawing or running away, because you had Section 49 — you could always kill."

Loedolff, however, denied all allegations that the operation had been primed to kill.

Loedolff was one of six former and serving policemen who were subpoenaed to appear before the hearing, along with prominent Western Cape educationist Mr Salmon Pienaar.

Pienaar was a citizen force commandant (the equivalent of a lieutenant-colonel) in charge of SA Defence Force troops on the Cape Flats at the time of the incident.

The other policemen are

Inspector Andre Smit, Sergeant Alexander Rossell, Sergeant Albertus Smit, Sergeant Frank van Niekerk and Lieutenant Douw Vermeulen.

Under cross-examination by commissioners, Loedolff also said that the October 1985 incident had not been the first time police used the Trojan Horse method.

Previously there were similar fatal consequences, he said "People were injured and one or two were killed. The operations were successful because many arrests were made."

Outlining the need for such operations, he said normal police methods such as intensive police patrols did not result in any significant arrests.

Loedolff further testified the Trojan Horse operation had been conceived by the security force's Joint Operations Centre (Jocs) at the Manenberg police station.

This was after police complained that they were failing to make significant arrests among



**MASTERMIND:** Retired policeman Christiaan Loedolff tells of his involvement in planning the 1985 Trojan Horse operation in Athlone

stone-throwers and trouble-makers in Athlone.

At the time, there had been almost daily reports of vehicles being stoned and set alight in Nyanga and Athlone, he said.

Attempts to arrest those responsible using normal police methods failed because the perpetrators normally fled the scene.

Said Loedolff "We decided that the only way we could succeed in apprehending the culprits would be to use unmarked vehicles to enter the area, with members concealed on the back of a truck."

Both Loedolff and Vermeulen, a former railways policeman who headed the actual operation, testified the intensity of the attack caught them unawares.

Vermeulen said he and his men had been hiding in crates on the back of the truck when people along the road began to pelt it with half-bricks and other objects. "We were under very heavy attack. It was raining stones."

Vermeulen testified that the shooting had been necessary, as they first had to avert the intense attack before making arrests.

An emotional Vermeulen said "There was no doubt in my mind that if we did not react immediately to the attack, we would have been killed or seriously injured. I was afraid I would die that day."

Vermeulen, now with a private security company, fired the first shots, which constituted the signal for his men to also open fire. He fired seven shots.

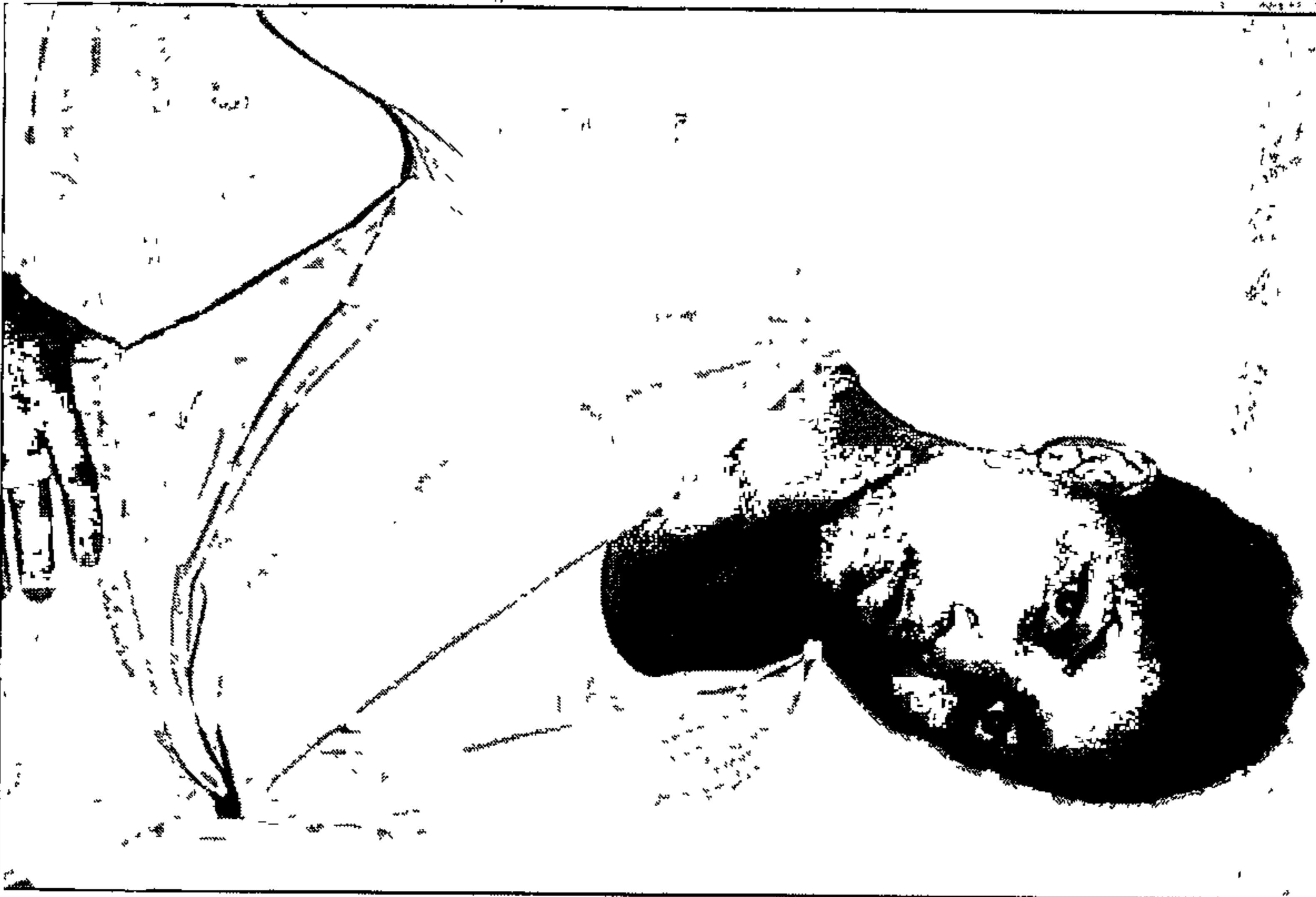
Vermeulen also said that 12 years after the incident, he was still convinced that he had made the correct decision in shooting.

Witnesses to the shootings had testified on Tuesday that police had fired indiscriminately, and the three people killed had not been among the crowd of stone-throwers.

Loedolff said he regarded the operation as a success because 19 people had been arrested that day.

He added that he deeply regretted the unforeseen deaths of Miranda, Claasen and Magmoed.





Nokuthula Simelane two suspended policemen have applied for amnesty relating to her disappearance

# MK agent's death: cops seek amnesty

By Sharon Chetty

TWO suspended policemen have applied for amnesty relating to the disappearance of Umkhonto we Sizwe courier Nokuthula Simelane, providing the first hope that the riddle of her fate may finally be solved.

Former security branch commanders Colonel Willem HJ Coetzee and Anton Pretorius were suspended from duty a year ago.

They were suspected of supervising the arrest, detention and torture of Simelane, a University of Swaziland student who had served in the African National Congress underground.

Sowetan has learnt that Coetzee and Pretorius, together with three other policemen, have applied to the Truth and Reconciliation Commission for amnesty relating to about 20 cases of missing activists.

This week, Nokuthula's father, Mr Matthew Simelane, said he had mixed feelings about the amnesty application.

"We are anxious to know all the details. It won't be any help unless they tell us everything like where Nokuthula was held," he said.

The Simelanes will get a chance to make their views public when they visit the ERG hearing in Leandra.

**‘We are curious to know all the details. It won't help unless they tell us everything’**

(292) Sowetan 22/1/95

Mpumalanga, on June 3

The policemen's application is still being processed and it is not known whether they will appear at a public hearing.

The amnesty statement has also been eagerly awaited by the special investigation unit which have probed Coetzee and Pretorius' involvement in crimes.

## Wide range of crimes

A police source told Sowetan that the two were being investigated for a wide range of crimes and hoped that they would be prosecuted for those for which they have not asked amnesty.

A decision on prosecution still has to be made by the relevant judicial authority. In September 1993 Simelane disappeared after she was sent to Johannesburg from Swaziland on an MK mission. Since then her parents

Matthew and Ernestina, have traversed Southern Africa in search of their daughter.

They drew a blank at every turn, until an article about Nokuthula appeared in Sowetan in January 1995 and she was recognised by a former security branch policeman who had served under Coetzee and Pretorius.

The policeman told Sowetan that Simelane had been held captive by his unit and tortured so badly her body was unrecognisable. He also claimed that Coetzee and Pretorius were responsible for Simelane's death.

The information gathered by Sowetan was made available to senior officers in the Safety and Security Ministry, who then authorised the probe into Coetzee and Pretorius' conduct. That resulted in their suspension.

At the time of their suspension, Coetzee was commander of the firearm investigation unit and Pretorius headed covert investigations in the SAPS National Priority Investigation Unit. According to sources they were among the "untouchables" — security branch policemen who instilled a combination of fear and respect in the communities they

# Commission 'must not be facade'

BD 22/5/97

(252)

Vuyo Mvoko

THE Human Rights Commission should not allow itself to become "window-dressing" like similar bodies in other African states and the rest of the world, United Nations High Commission for Human Rights senior adviser Brian Burdekin said yesterday.

Addressing delegates on the first day of the annual SA conference on human rights, Burdekin said SA had a most impressive human rights charter second to none. Therefore the world was carefully monitoring its success.

The commission also had the most "genuinely independent people" and its success or failure had implications for the rest of the world.

Burdekin applauded SA for the number of institutions and bodies set up to achieve human rights and equality, and for the country's contribution to educating the world on those issues while it had meagre resources at its disposal.

Burdekin, formerly also chief commissioner of the Australian human rights commission, alluded to a host of similar organisations that were set up in other parts of the world for "cynical" and other reasons and which ended up being "window-dressing".

He warned the commission against alienating important allies such as the office of the public protector and the gender and the youth commissions, saying there was a great need for the organisations to work "in greater harmo-



Golden Miles Bhudu at the conference yesterday.

Picture LORI WASELCHUK

ny and co-operation" and not fight among themselves.

Burdekin said his advice stemmed from the experience that the "vigorously independent" role of the commission, although constitutionally entrenched, was "not necessarily guaranteed".

Human rights always affected government policy, he said, and it was necessary for SA to have an "independent monitoring body that would be willing to blow the whistle" when things went terribly wrong.

Given the "vexatious issue" of

the always inadequate funding of human rights, Burdekin said not having an adequate human rights machinery was nearly as good as not having it at all.

While law and order always got more money, it was important for the human rights watchdog to put it across clearly that it was government's responsibility to maintain law and order, but also that there should be a projected balance between human rights and law and order. But the commission should be careful not to become "apologists for wrongdoing".



# Trojan Horse youth shot in back

## Policeman admits firing at victim seven times

ARLT 22/5/97

(252)

The policeman in charge of the "Trojan Horse" shooting has again testified that he fired a shotgun seven times at 16-year-old Shaun Magmoed, who was stoning the railway truck in which 10 policemen were concealed.

But, according to the autopsy report before the commission, some of the wounds in Shaun's body were in his back

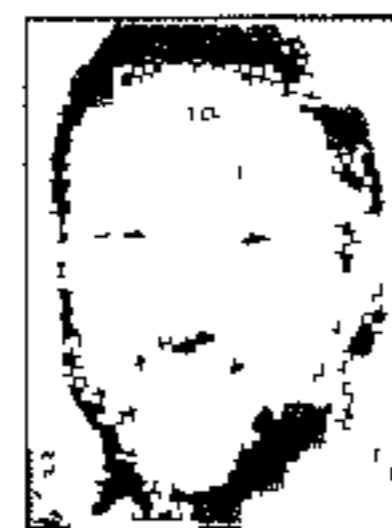
This was heard by the Truth Commission yesterday during a marathon second session of its "special event" hearing into the October 15 1985 shooting in Thornton Road, Athlone, that rocked the world

The session, which began at 9am and lasted until nearly 7pm, heard testimony from four of the seven security force members involved in the planning and execution of the operation

They were former railways police brigadier Christian Loedolf and a former lieutenant colonel in the then South African Defence Force's citizen force, Salmon Pienaar, who were involved in the planning and/or approval of the operation, the commanding officer of the unit that carried out the operation, former railways police lieutenant Douw Vermeulen, and former police riot unit sergeant Frank van Niekerk, who was one of the men who hid in crates on the back of the truck

They all insisted that the operation was planned that day, that

YIELD



### ON THE TRUTH COMMISSION

there was definitely no "shoot-to-kill" policy, that the sole object was to arrest stone-throwers who had been attacking vehicles in the area, that they fired only at the stone-throwers and that their lives were seriously endangered

"I have absolutely no doubts. My order (to the men) was arrests. That's what we went for, nothing else," said Brigadier Loedolf

None of the four said he had been aware of a meeting, held under the auspices of the National Management System of the State Security Council and addressed by the then deputy minister of law and order, Adriaan Vlok, in Cape Town the day before their operation

But some of the commissioners on the panel expressed strong doubts about aspects of the testimony. Among the questions they asked were

■ Why was the operation planned to include residential areas with narrow streets at a time when schoolchildren would have been outside?

■ How had the policemen expected to climb out of the chest-

high crates and make arrests before the stone-throwers ran away?

■ Why had they not used tear gas rather than pistols and shotguns?

According to documents given to the commission, the policemen fired 39 rounds of shotgun shells, mostly AAA ammunition, but also 12 rounds of No1 shot

According to official police classification, both these cartridge types are "sharp point ammunition" and not birdshot

"If AAA (ammunition) is shot directly at a person at a short distance, it can kill them and the same goes for No1," Brigadier Loedolf confirmed. A television news clip of the incident was shown during the hearing and, according to a court record handed in the time lapse from the first stone striking the truck's windscreen to the first shot being fired was just over 2,5 seconds. The shooting lasted nearly 15 seconds.

Commissioner Dumisa Ntsebeza asked Lieutenant Vermeulen why no warning shots were fired. He replied "I saw no purpose in firing warning shots. I wanted to end the attack so I could make arrests."

Panel member Pumla Gobodo-Madikizela said she could not understand how Lieutenant Vermeulen could have assessed the situation so quickly.

Lieutenant Vermeulen said he "bitterly regretted" that children had been killed in the operation.

## Was it a plot? The burning question TRC has to answer

Were the 10 policemen disguised or hidden on the unmarked railways truck driving along Thornton Road, Athlone, on October 15 1985 under direct orders from a higher authority to "shoot to kill"?

Or was there perhaps a conspiracy among the 10 to shoot any stone-throwers they saw, as part of a deliberate strategy to "punish and deter"?

These are questions which the Truth Commission will battle with as it seeks to make a finding on the "Trojan Horse" incident in which three young people died and at least 15 were injured, three seriously

The Supreme Court judge who heard the private prosecution for murder, brought by the parents of

the victims against 13 security force members involved in the operation, believed there were strong indications of a common purpose to act illegally

However, this was not proved with the degree of certainty which criminal law required

In his 1989 judgment, Mr Justice J Williamson said it was clear that "a vicious and murderous attack" was launched on the truck by stone-throwers.

But the "burning question" was whether the sole purpose of the operation was to arrest stone-throwers, and particularly the ringleaders, "or whether there was not an additional and more sinister and indeed illegal purpose, namely that of a punitive expedition"

"There is a substantial body of

evidence which points to the existence of this illegal purpose

"Firstly, there is the fact, shown on video, that there was an almost immediate and concerted response with everyone appearing with their guns and firing

"The response was in our view in its totality clearly excessive, for shots were still being fired when it was clear that the stoning had stopped and all danger had been averted"

But Mr Justice Williamson concluded "There is a reasonable possibility that the operation was planned and contemplated within legal limits, and that what in fact happened was not the result of a common purpose to punish and deter, but was an over-reaction to a manifestly dangerous situation"



Leader of the pack: Douw Vermeulen headed the police team hidden on the railway truck



Learning from the past: pupils from Athlone schools listen to testimony at the TRC hearing

## Torture victim weeps over denouncing his comrade

The trauma of being forced to reveal a comrade's name to police during torture was recalled by former Manenberg pupil Riefaat Hattas during emotional testimony to the Truth Commission in Athlone today.

There was silence in the hall as Mr Hattas, now 29, but only 17 when he was arrested, testified to a special hearing on children's issues that he could never forgive himself for having "broken" during violent interrogation to inform on his friend

At times unable to continue and burying his head in his hands or wip-

ing tears from his eyes, Mr Hattas said he and his comrades from Silverstream Secondary School and elsewhere had not realised the full psychological stress they would be subjected to during the "struggle"

"For those comrades who were sought by the security police it was the beginning of a nightmare that was going to be horrendous, it was going to destroy our lives," he said

"One thing was certain we aged 10 to 15 years in a matter of months. To tell you the truth, many of us ask whether the price we had to pay was worth the freedom we have today."

SPEAKER CENSURES REMARKS

# Inkatha MP kicked out after vicious attack on Tutu

CT 23/5/97

(252)

**REMARKS MADE** in Parliament about TRC chairman Archbishop Desmond Tutu by an Inkatha Freedom Party MP have been labelled "an insult to one of the foremost architects of peace and democracy in South Africa".

**T**HE office of Truth and Reconciliation Commission chairman Archbishop Desmond Tutu has declined to comment on a heated debate in the National Assembly yesterday in which Tutu was described by an Inkatha Freedom Party MP as "a weeping clown" presiding over a "sensationalist circus of horrors"

In a rowdy debate on the National Party's withdrawal of support for the TRC, Speaker Dr Frene Ginwala suspended the house after IFP MP Mr Albert Mncwango called into question the archbishop's credibility as an independent adjudicator of the TRC

When the house resumed after a five-minute break, Ginwala ruled that Mncwango's remarks were unparliamentary and he was ordered to withdraw them

She asked Mncwango to withdraw all his comments, beginning with and subsequent to his reference to Tutu as "a weeping clown"

She highlighted Mncwango's remarks about Tutu being a patron of the United Democratic Front which became "responsible for the killing of thousands of IFP supporters and sympathisers" as having broken the parliamentary rule.

Mncwango "Madam Speaker, I merely

stated the facts, I quoted what the archbishop was saying himself"

Ginwala "I was quoting you — not just anybody"

At this point Mncwango refused to withdraw his comments and Ginwala asked him to leave the House, which he did

The archbishop's spokesman, Mr John Allen, said last night it was not the prelate's custom to comment on remarks of this kind

Mncwango remarks were "The TRC has become a sensationalist circus of horrors presided over by a weeping clown craving for the front stage spotlight"

He said Tutu must be held responsible for the failures of the TRC, and the IFP had given early warning that his appointment was "a mistake"

His history condemned him to an incurable bias with respect to the conflicts of the past, said Mncwango

The IFP MP said Tutu was one of the patrons of the UDF, "which became responsible for the killing of thousands of IFP supporters and sympathisers"

African National Congress chief whip Mr Max Sisulu said in a statement last night that the IFP should "repudiate" the remarks made



**INDEPENDENCE QUESTIONED:** TRC chairman Archbishop Desmond Tutu

by Mncwango

Sisulu said Mncwango's suggestion that the archbishop condoned violence was "an insult to one of the foremost architects of peace and democracy in South Africa" — Political Staff

# Black Cat 'comtsotsis' accused of atrocities

CT 23/5/97 (252)

ERMELO: The Inkatha Freedom Party in the early 1990s sent a vigilante group known as the Black Cats to the then Eastern Transvaal to kill women and claim their private parts for muti, it was claimed yesterday at a Truth Commission hearing in the town.

Mpumalanga province's director of housing, local government and development, Mr Steve Ngwenya, said police sent Black Cat members to Ulundi after the group conducted a reign of terror in the Eastern Transvaal.

Ngwenya said the police sent the Black Cats away because they feared their close relations with the group would be exposed.

But the IFP found the Black Cat members to be weak and sent them back to Ermelo, "to kill women, bring their private parts for muti to make them strong", said Ngwenya.

Describing events leading to the formation of the Black Cats and subsequent violence in the area, Ngwenya said African National Congress-supporting residents in Ermelo established an anti-crime unit to combat escalating crime, but some of the unit's members themselves resorted to crime.

Ngwenya said the suspects were reprimanded, but they rebelled and formed a group known as the comrade tsotsis or "comtsotsis", which later became the Black Cats. Numerous criminal cases against them were withdrawn without notice. In other cases dockets disappeared or the suspects were never taken to court, but cases against (ANC) comrades would always be brought before the courts immediately.

Witnesses earlier testified that residents lived under constant fear of attack and were tortured and murdered by the Black Cats, assisted by the police — Sapa

TRUTH COMMISSION

(252)  
FM 23/5/97

## Slanging match shibboleths

NP accuses TRC of bias and Tutu of a premature and prejudiced outburst

The TRC is again the focus of controversy, with the National Party accusing TRC chairman Desmond Tutu and deputy chairman Alex Boraine of indulging in "premature and prejudiced" outbursts against its leader, F W de Klerk

It charges that the TRC is ignoring the rules, which require it to act impartially and to make findings after it has heard all the evidence

"The NP believes it has no option but to apply to the court to force the commission to comply with the TRC Act," says NP justice spokesman Sheila Camerer

Her statement relates in part to expressions of dismay by Tutu and Boraine at De Klerk's description at a TRC hearing of security force atrocities, including assassinations, as "aberrations committed by mavericks" rather than official policy

Camerer labels the questioning of Deputy President Thabo Mbeki as "comradely" and



the atmosphere at the hearing as "jolly". She contrasts it with the "aggressive" questioning of De Klerk, citing the demand by TRC national investigation director Glenn Goosen for immediate answers to a 58-page document handed to De Klerk minutes before his appearance

Part of the complaint concerns the apparent sympathy of TRC commissioners for Mbeki's explanation of the controversial slogan "Kill the boer! Kill the farmer!"

According to Mbeki, the shibboleth is a chant, not a slogan, and emphatically not an exhortation to murder

Mbeki's interpretation drew a sympathetic response from Commissioner Wynand Malan. He agreed that the words should not be taken literally

A former NP verligte, Malan compared the murderous chant with *Rock-a-bye-Baby* and *Siembamba*, in which babies are lulled to sleep to the accompaniment of aggressive words. In the first lullaby, the baby falls out of the tree, in the second talk of ringing the baby's neck ends with the words "Step on his head and then he is dead"

Mbeki's and Malan's view does not concur with that of three amnesty applicants. They have cited Mokaba's chant as political justification for their attacks on boers

The document handed to De Klerk contains the minutes of a State security council meeting, held on May 12 1986, where the option of a Third Force with the capacity to "wipe out terrorists" was mooted. The minutes give another reason for establishing a

Third Force — "so that the underminers can be countered with their own methods"

Where Mbeki's explanation was seemingly understood and acceptable, De Klerk's was not. De Klerk, who was present at the meeting, argued that the words "wipe out terrorists" meant political rather than physical elimination

Judging from his questioning of De Klerk, Goosen believes the offending phrase should be taken literally and that, read in the context of the minutes, it is tantamount to a "licence to kill". Later comments by Tutu and Boraine suggest — on face value — that they agree with Goosen

Argument that amnesty applications from former security force men, including generals, support a strict interpretation of the phrase "wipe out terrorists," has to be balanced against three amnesty applications which cite Mokaba's exhortations to "Kill the boer!" as a political motivation for their crimes

TRC liaison officer John Allen urges prudence before making hard and fast deductions. There is a big difference between a "spontaneous judgment" and a final finding, not due for nine months, he says

Malan, in an interview with the FM offers another perspective. While he does not think that chanting of "Kill the boer!" was meant to be construed as incitement to murder farmers, he adopts the same approach to the phrase "wipe out terrorists". It is "far-fetched" to believe that these words were meant literally, he states. Patrick Laurence

made some significant strides in and various groups, the law

# Govt firm on death penalty

(252)

*Sowetan 23/5/97*

**By Rafiq Rohan**  
Political Correspondent

ALTHOUGH there are numerous petitions circulating throughout the country to get the death penalty reinstated, Minister of Justice Dullah Omar said in Parliament yesterday he had no intention of doing so.

Omar said "Neither myself nor the Government is considering amending the Constitution in order to make the death penalty a legal form of punishment"

The main reason for this, he said, was that nowhere in the world had it been proved that the death penalty was an effective deterrent to crime

"The death penalty was a legal form of punishment in South Africa and yet crime continued to increase"

However, although this form of punishment had been abolished there were people who technically had the death penalty hanging over their heads still languishing in prison

He said the Criminal Law Amendment Bill, which he intended

introducing in Parliament, would demonstrate the unconstitutional nature of the death penalty

"The Bill provides for a mechanism by which the sentences of all persons under sentence of death are to be substituted," he said

He pointed out that dropping the death penalty did not mean that the Government was soft on crime

He reminded observers of the reforms he announced earlier this week that ensured the imposing of minimum sentences for certain types of crimes

However, there were other areas of South African society that needed tackling to discourage crime, like the poor socio-economic circumstances in which many in the country found themselves. This, he said, led to a "breeding ground for crime"

"The Government in cooperation with other role players must therefore try to change these circumstances by creating job opportunities and uplift the less fortunate communities," Omar said

# Manuel under fire on all sides for his 'arbitrary' defence cuts

BD 23/5/97

Wyndham Hartley

CAPE TOWN — Finance Minister Trevor Manuel yesterday came under fire from political parties across the spectrum, including his own party the African National Congress (ANC), for arbitrarily cutting the defence budget to "make himself look good".

Defence Minister Joe Modise told the National Assembly, when introducing his budget vote, that military support for the police in anti-crime operations, patrol of the seas to protect fishing rights, control and patrol of borders and the fulfilling of regional responsibilities were in jeopardy because of inadequate funding.

He said he had warned the National Assembly a year ago of obsolescence in the defence force and the massive cost this would represent if it was not addressed now.

Deputy Defence Minister Ronnie Kasrils said the SANDF had played its role in transformation, and that the defence force was not the "same old ravenous wolf plun-

dering state coffers at the expense of the poor and needy". He said the budget had been slashed by 59% since 1989. He said the defence ministry would not ask for a single rand more than was needed, but South Africans could not be asked to defend their nation using inferior weapons.

He also said that future aggression could be ignored only at the nation's peril. There was an essential minimum that had to be spent on defence, he said.

Chairman of the joint standing committee on defence, the ANC's Tony Yengeni, warned that the long-term planning of the defence force was being undermined by budget cuts. He called for urgent talks with Manuel so that budgetary certainty could be achieved for defence.

The National Assembly defence committee chairman Pieter Groenewald charged that Manuel had unilaterally cut the budget by R700m without reference to anyone in the defence community.

National Party MP Johan Mar-

ais echoed this, saying that Manuel "decides with an arrogant top-down approach that he wants to cut the defence budget to make himself look efficient, creating chaos in the defence department". He said it would be a joke if it was not happening in SA.

He and others, including Modise, said that defence funding was way below the norm of 2% of gross domestic product in developing countries worldwide. He suggested that 1,85 or 1,95% was acceptable. Modise said defence spending was down to 1,6% from a high of 4,5% in 1989. This would be extremely low anywhere in the world, he said.

Democratic Party MP Douglas Gibson urged the finance and defence ministries to collaborate to resolve the matter.

Parliament was told that vitally needed programmes, such as the purchase of corvettes, submarines and Rooivalk helicopters, were being threatened as no place could be found for them within the amount allocated in the budget

# National Party 'acts against truth body because of fear'

BD 23/5/95 (262)

Stephen Laufer

CAPE TOWN — The National Party (NP) feared the continuing exposure of its complicity in the human rights violations of the past and was therefore determined to discredit the truth commission, Justice Minister Dullah Omar and Democratic Party (DP) justice spokesman Dene Smuts said yesterday.

Speaking in a snap parliamentary debate, Omar, Smuts and the representatives of all parties except the NP and the Inkatha Freedom Party (IFP) praised the commission for its even-handed contribution to the exposure of the truth about the past and to reconciliation. Omar said the commission had rightly guarded its independence jealously.

Smuts said commission chairman Archbishop Desmond Tutu had "astutely defended the law, and equality before the law", by refusing to accept the African National Congress (ANC) strategy to create a category of acts of war

against apartheid for which amnesty was not required. In threatening to resign, Tutu had been "magnificent".

Speaking on the former ruling party's threat to withdraw support for the truth commission, leader of the house Steve Tshwete accused the NP of lacking the will to accept that apartheid had been a crime. But the party's decision to withdraw co-operation with the commission was an admission "which speaks louder than words".

After a tumultuous exchange, Speaker Frene Ginwala ordered IFP member MA Mncwango to leave the chamber as he had refused to withdraw remarks referring to Tutu as "a weeping clown craving the front stage spotlight".

NP justice spokesman Sheila Camerer said preliminary legal advice had indicated that remarks by Tutu and his deputy Alex Boraine after the NP's submission to the commission last week were in conflict with the legal requirements of impartiality contained in the act governing the commission.

# Harare prisoner applies for amnesty

Stephen Laufer and Michael Hartnack

CAPE TOWN — One of five South Africans jailed in Zimbabwe 10 years ago for attacks on African National Congress (ANC) members, in which at least one person died, has asked the truth commission for amnesty.

The others had decided not to apply, it was learned yesterday. Kevin Woods — who is applying for amnesty — and the other Zimbabweans who were given SA citizenship after their arrest, Philip Conjwayo, Michael Smith, Barry Bawden, and Dennis Beahan, are serving life sentences in Harare's Chikurubi prison.

Foreign Minister Alfred Nzo said President Nelson Mandela had requested President Robert Mugabe to release the five men.

Truth commission deputy chairman Alex Boraine last year met Zimbabwean Justice Minister Emmerson Mnangagwa and came away hopeful of co-operation in gaining access to the men.

See Page 5

# Secret document hints at 'atrocities' operations

Truth Commission investigators seize papers from police security branch safe and ponder an altered word

(252)  
Star 24/5/97

By JOHN YELD

A top-secret document seized by Truth and Reconciliation Commission investigators from a police security branch safe could possibly indicate that apartheid security forces officially conducted "atrocities"-type operations against their liberation movement opponents in the 1980s

But the word in the telex document which suggests this interpretation - the Afrikaans word "gruoperasie", meaning an atrocious, gruesome or heinous operation - has been changed by hand to read "gryoperasie". This is not a formal Afrikaans word

A possible explanation for the change is that the encoded message was incorrectly decoded, and that the corrected version was intended to mean a "gryp operasie" - seize operation - and referred to action to detain leaders of the struggle against apartheid. At the time, police were known to refer to special "snatch squads"

## Close range

The secret document was seized by investigators from the safe of the Oudtshoorn security police last year during their inquiries into gross human rights violations in the southern Cape. It was released by the commission this week during its special event hearing into the so-called Trojan Horse shootings in Athlone in October 1985

In this incident, three young people died and at least 15 were injured, three seriously, when policemen hidden in crates on

the back of a railways delivery truck jumped from their hiding places and fired their shotguns at a crowd at close range when the vehicle was stoned as it was driven down Thornton Road

During the hearing, four of the security force members who had taken part in the Trojan Horse operation or who had been involved in its planning and approval were closely questioned about whether it had been an isolated incident, planned on the day, or whether it had been part of a deliberate national strategy by the security forces to "punish and deter" stone-throwers

Truth commissioner Denzil Potgieter, who is deputy head of the TRC's investigative unit, confirmed that the secret document had led to further investigations, but he was guarded in his response to its significance. "It is definitely a matter that is being investigated and we are trying to pull together a number of trends that we've picked up in our investigations," he said

The document, "Joint security staff commands and guidelines in respect of planning and actions to contain the unrest situation in the Republic of South Africa", is dated June 5 1986, and it gives a fascinating glimpse of the efforts by the security forces to restrict political opposition

Written entirely in Afrikaans and stamped "Top Secret -

Encoded" ("Kriptoberug"), it was sent from "Kompol" - the office of the police commissioner, specifically General M A H Wandrag, who was head of the police's riot unit - and to all assistant police commissioners, regional commissioners, top army generals, the director-general of the National Intelligence Service, the commissioner of the Railways Police, and the secretariat of the State Security Council

It states "The current unrest situation and the expected escalation around 16th June and immediately thereafter is a matter of concern multidimensional attacks against the RSA cannot be permitted to continue" The document refers to "problems" being encountered in obtaining the necessary amendments to the legal authority of the security forces, which have to be promulgated by Parliament

"The expectation is that the security forces will be given the necessary legal powers, more details of which, when available, will be provided separately"

Under the heading "14 Approach with reference to operations", the document states "1 Prior to the acquisition of the required powers Special efforts must be launched by the security forces (especially the SAP) to remove ringleaders and known agitators, within the confines of the existing law (Article 50 of the Internal Security Act) from

society without delay The necessary sworn statements must, as required, be available as soon as possible but in any event within 48 hours, for the opposing of possible interdicts 2 After acquisition of additional powers. Plan countrywide, joint, large-scale 'gru/gry' ('atrocities') operations to achieve the same goal as stated in 14 (1) "

The document states that security force action must be tough (*kragdadig*) and that existing instructions relating to funerals, illegal gatherings, combating intimidation, marches, and attacks on members of the security forces and officials must be "strictly implemented and enforced"

## Rebel

Under the subheading of "Counter-mobilisation", it states that efforts must be made to motivate the residents of black communities "to rebel against the revolutionaries" (and) "communities must be encouraged to protect themselves and act, clandestinely where necessary"

Under the headings "Questioning and further arrests" and "Security", it notes "Questioning must be intensive and focused in order to facilitate further arrests/detentions (which) should continue unabated based on people's behaviour, regardless of whether their names appear on the lists

"Planning should be on an absolute 'need-to-know' basis and under no circumstances should the date and the times of the countrywide 'gru/gry' ('atrocities') operations be made known or speculated on"

*Possible explanation for the change is that message was wrongly decoded and meant to read 'gryp operasie'*

# Truth Commission grants amnesty to four W Capemen

Cape Town - The Truth and Reconciliation Commission has granted amnesty to four Western Cape men.

Maxim Phakamisa, Two-Boy Jack, Patrick Mzingisi Ndlumbini and Thami Robert Ntshobani were yesterday granted amnesty by the commission's amnesty committee for crimes committed during the apartheid era.

Phakamisa and Jack were indemnified for ten counts of attempted murder and two counts of illegal possession of firearms and bullets.

The attempted murder charges arose from a clash between a self-defence unit and the police internal stability unit in Khayelitsha in July 1992. Ndlumbini had sought amnesty for two charges of attempted murder. He had been

convicted on one count and the trial on the second count was proceeding.

Ndlumbini was a member and cell commander of Umkhonto weSizwe. Ntshobani had been convicted for possession of an unlicensed Z88 pistol and bullets in 1992.

He was sentenced to six lashes, 12 months' correctional supervision and two-and-a-half-years' imprisonment, sus-

ended for five years, and had subsequently committed a breach of the conditions of his correctional supervision order.

The amnesty committee said Ntshobani had been supplied the weapon by MK for self-defence unit duties, and the breach of the conditions of his supervision order was brought about as a result of instructions he received from the African National Congress to attend a training course - Sapa

(252)

ARG

24/5/97

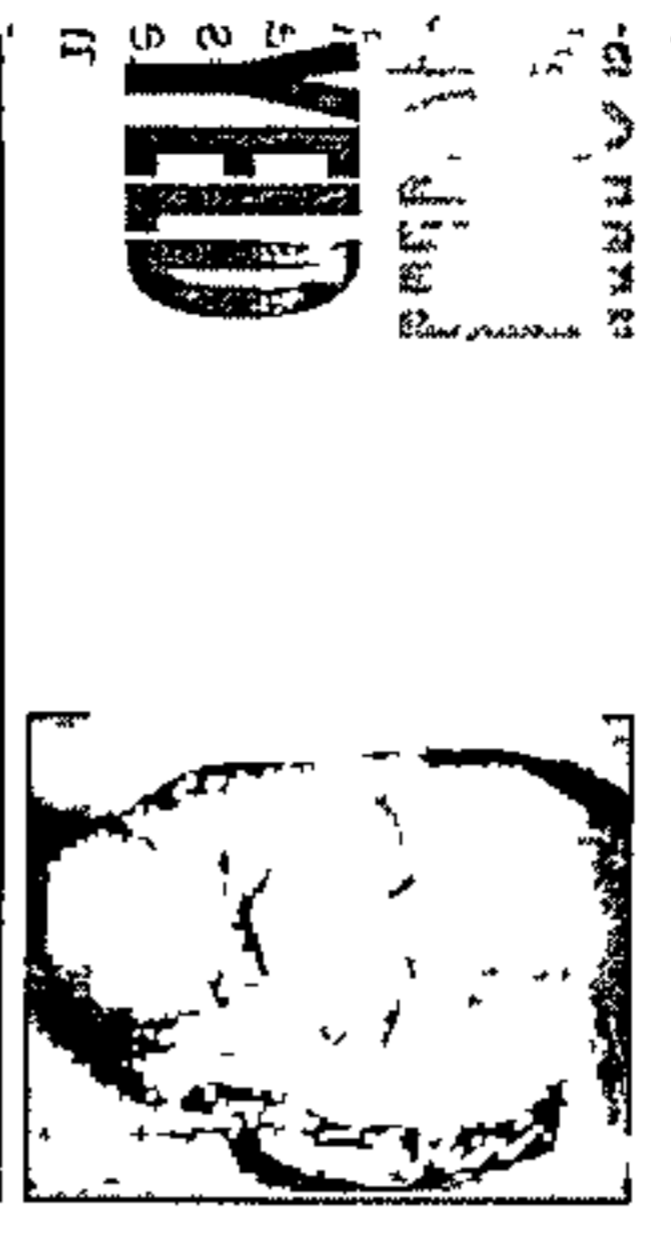


# 'Atrocity' operations could have been on official command

## Top-secret police document released by TRC

ARC 24/5/97

(252)



ON THE TRUTH COMMISSION

A top-secret document seized by the Truth Commission investigators from a police security branch safe could indicate that apartheid security forces officially conducted "atrocity"-type operations against the liberation movement in the 1980s.

But the word in the telex document which suggests this interpretation - the Afrikaans word "gruoperasie", meaning an atrocious, gruesome or heinous operation - has been changed by hand to read "gryoperasie".

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week during its special event hearing into the "Trojan Horse" shootings in Athlone in October 1985.

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Truth Commissioner Denzil Potgieter, deputy head of the commission's investigative unit, confirmed that the secret document had led to further investigations, but he was guarded in his judgment of its significance.

"It is definitely a matter that is being investigated and we are trying to pull together a number of trends that we've picked up in our investigations," he told Saturday Argus.

"We are alive to the possibility that we're dealing with an orchestrated campaign, not only in the Western Cape but in other parts of the country as well," he said.

The document, "Joint Security Staff Commands and Guidelines in respect of planning and actions to contain the unrest situation in the Republic of South Africa", is dated June 5 1986, and it gives a fascinating glimpse of the

efforts by the security forces to restrict political opposition to the apartheid government.

Written in Afrikaans and stamped "Top Secret - Encoded" ("Kriptoberig"), it was sent from "Kompol" - the office of the police commissioner, specifically General M A H Wandrag, who was head of the police's riot unit - to all assistant police commissioners.

Copies were sent to all police head office divisions and regional commissioners, the chief of the army and all his "command chiefs", the chief of the South African Defence Force, the director-general of the National Intelligence Service, the commissioner of the SA Railways Police, and the secretary of the State Security Council.

It states: "The current unrest situation and the expected escalation around 16th June and immediately thereafter is a matter of concern. The continuing unrest situation cannot be permitted to continue. The multi-dimensional attacks against the RSA cannot be permitted to continue". The document refers to "problems" being encountered in obtaining the necessary amendments to the legal authority of the security forces, which had to be promulgated by Parliament.

"The expectation is that the security forces will be given the necessary legal powers, more details of which, when available, will be provided separately."

Under the heading "14. Approach with reference to operations", the document states:

"1. Prior to the acquisition of the required powers Special efforts must be launched by the security forces (especially the SAP) to remove ringleaders and known agitators,

within the confines of the existing law (Article 50 of the Internal Security Act) from society without delay. The necessary sworn statements must, as required, be available as soon as possible but in any event within 48 hours, for the opposing of possible incidents.

"II. After acquisition of additional powers Plan countrywide, joint, large-scale 'gru/gry' ('atrocity') operations to achieve the same goal as stated in 14 (I) "

The document states that security force action must be tough ("Kragdadig"), and that existing instructions relating to funerals, illegal gatherings, combating intimidation, gatherings, marches, and attacks on members of the security forces and officials must be "strictly implemented and enforced".

Under a sub-heading "Counter-mobilisation", it states that residents of black communities should be motivated "to rebel against the revolutionaries".

"Communities must be encouraged to protect themselves and act. Where necessary this must be done clandestinely."

Under the headings "Questioning and further arrests" and "Security", it notes "Questioning must be intensive and focused in order to facilitate further arrests/detentions. Detentions should continue unabated based on people's behaviour, regardless of whether their names appear on the lists.

"Planning should be on an absolute 'need-to-know' basis. Under no circumstances should the date and times of the countrywide 'gru/gry' ('atrocity') operations be made known or be speculated on."

# Much truth, but very little reconciliation . . .

# A

YEAR INTO its work, the Truth and Reconciliation Commission is charting a path through troubled waters, buffeted by emotions and political manoeuvring as it uncovers a good deal of the truth — but reconciliation is not visible on the horizon

Different histories and perceptions as well as political strategies underlie on the one hand the NP's threatened withdrawal from the TRC and vitriolic attacks on the commission by the IFP, and on the other strong backing for the TRC from the ANC and PAC

A heated debate in parliament this week showed the extent to which the country is not reconciled, and the danger that the TRC is fast becoming a political football

Ahead lies another acid test: the appearance of Chris Ham's killers before the amnesty committee

The commission weathered several storms last year: families of several victims unsuccessfully challeng-

**THE Truth and Reconciliation Commission hearings can only bring about reconciliation if all parties involved face up to the truths revealed. But not all are prepared to, writes CHIARA CARTER.**

ed the amnesty provisions, security police won the right to be given advance warning if their names were mentioned

As the TRC heard the tales of scores of victims, it demanded more information from political parties and staved off an attempt to exclude deeds committed during the liberation struggle

The slow trickle of amnesty applications turned into a flood as members of the former security forces in the face of abandonment by the NP sought to save themselves from the fate of former Vlakplaas com-

mander Eugene de Kock

This brought a new round of revelations, most visibly represented when the TRC exhumed the bodies of cadres murdered and buried in KwaZulu-Natal

Enter politics

The TRC's revelations are less in the interests of the NP, striving to achieve a new look, than any other party. The NP's strategy is to emphasise the role its leader, FW de Klerk, played as a reformer and to place as much distance between itself and the party's past as possible

The steady stream of mostly white former security policemen confessing to grisly deeds which the previous government denied had occurred provoked accusations of a witch-hunt

But as ANC MP Johnny de Lange pointed out, the reason for this complexion to amnesty applicants is that members of the previous security forces did not take advantage of the indemnity process between 1990 and 1993

Nevertheless, the NP cannot afford to associate itself with Vlakplaas murderers, special forces assassinations and other grisly horrors which enter the nation's living rooms on prime-time television

However much this line laid the NP open to incredulity and accusations of lacking statesmanship, the party had the right to say whatever it chose to the TRC

Enter the human factor

The Act says the commission should act without bias, commissioners should serve impartially and not make statements which harm the credibility, impartiality or integrity of the commission

Archbishop Desmond Tutu's outburst last week certainly did stray from this line. When he said to De Klerk "but I told you so at the time", he spoke as a human being who had lived through the history the commission is charged with unravelling not as an observer

It's a dilemma most who have sat through commission hearings ex-

perience a human error which unfortunately fed into the NP strategy

The NP claims the TRC has displayed bias and prejudged the party and that it is straying from the Act

The ANC and PAC accuse the NP of being unable to stomach its own past and creating a smoke-screen

But much of the sound and fury from the ranks of the NP is a smoke-screen of a different kind. It is difficult to see how the NP can follow through on its threat to withdraw

Its former security forces are applying for amnesty, the NP needs to be seen as part of the new South Africa

Even if it did pull out of the process, the commission's work would continue. Doubtless the TRC's end report will be the subject of bitter controversy

What is important is that political parties' posturing does not damage ordinary people's faith in the process to heal the wounds that are being laid bare

252) CP-25/5/97

# The Police vs The Police



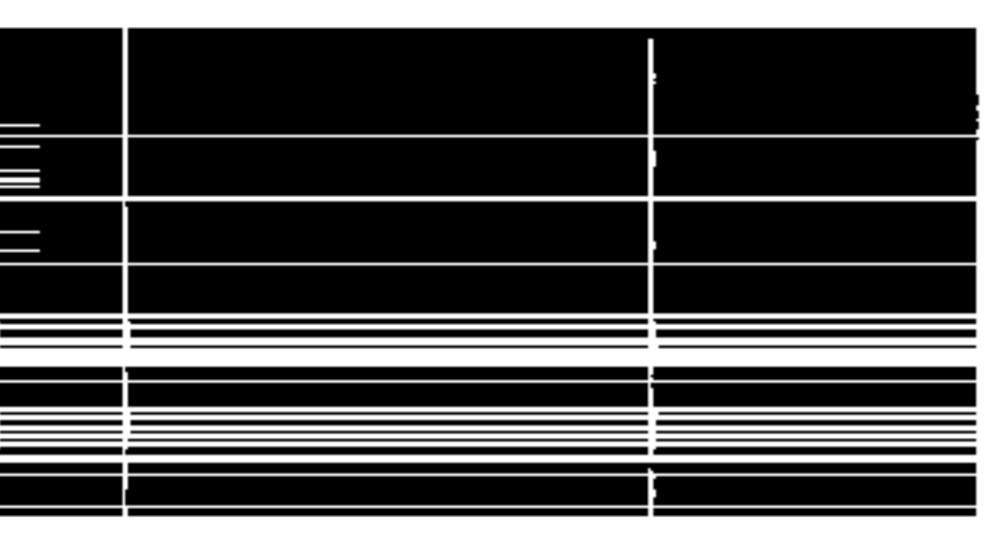
THERE HAS BEEN NO CHANGE IN THE SAPS' . Popcru provincial secretary James Makapan



**CLAIMING** racism is still rife in the police force, Popcru has started a go-slow campaign - vowing to oust the national police chief. But he's not fazed, writes **CHARLES MOGALE.**



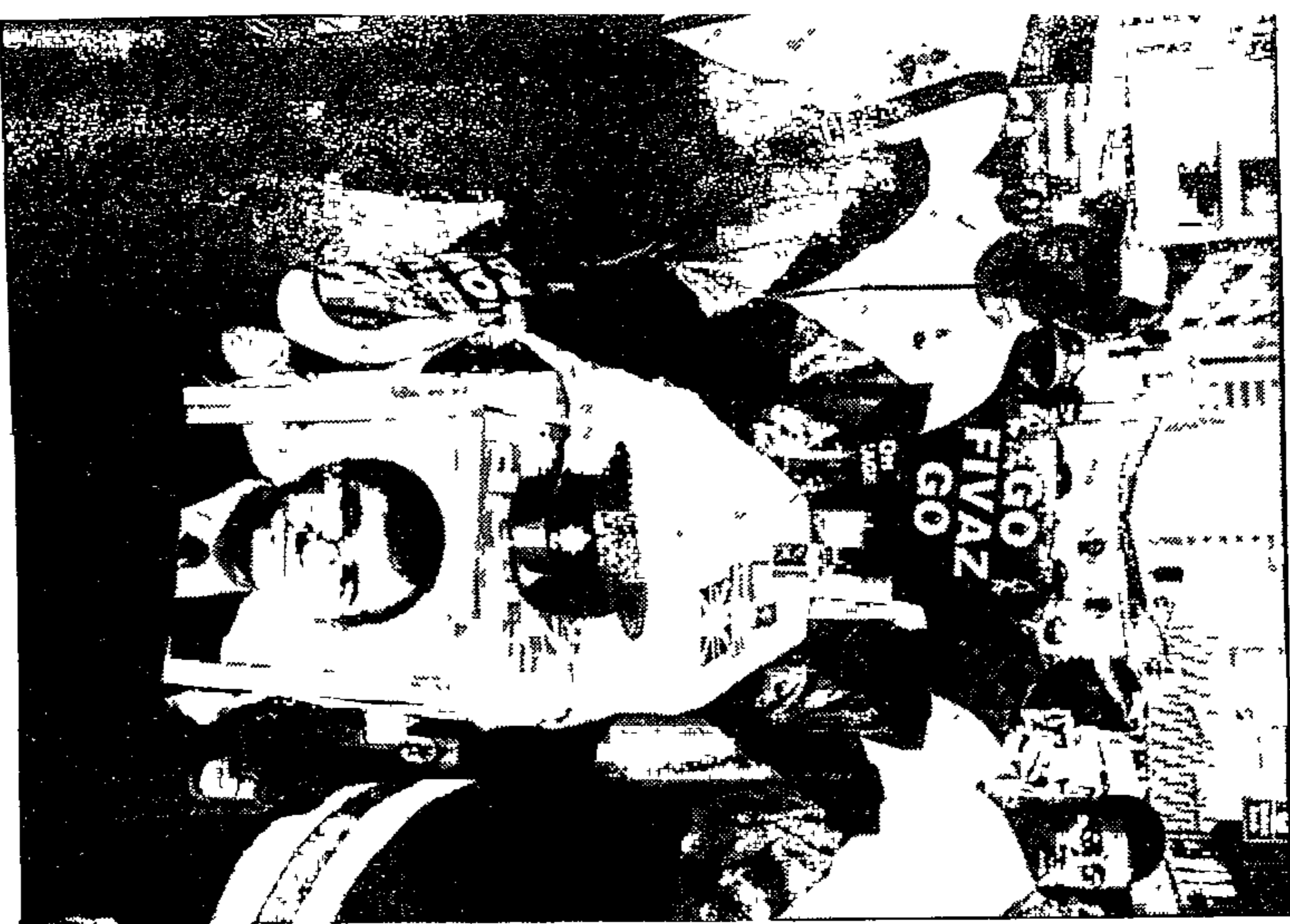
'POPCRU IS PLAYING DANGEROUS GAMES' Commissioner George Fivaz  
■ Pigi Mike Mzileni



# Fivaz keeps cool as Popcru slowly puts on the heat . . .

(251)

CP 25/5/97



GO, FIVAZ, GO! Popcru members demanding National Police Commissioner George Fivaz's resignation carry his 'coffin' in a mock burial in Pretoria this week

**N**ATIONAL Police Commissioner George Fivaz does not spend sleepless nights - even though the Police and Prisons Civil Rights Union (Popcru) "buried" him this week in a mock daylight ceremony in the streets of Pretoria.

"They are playing dangerous games I am not worried," Fivaz says in a post-"burial" interview with City Press.

The union, which claims to control 45 percent of the SAPS, has embarked on a go-slow-cum-sabotage campaign in which statements are taken down in the mother tongues of complainants. While their action is legal, it presents a mammoth problem for the justice department and drastically slows down the processing of cases through the courts.

By June 6, Popcru says, Fivaz must have quit his post - or the union will hold a national march in Johannesburg on that day and announce the next step in its efforts to give him the heave-ho.

Popcru accuses him of failing to:

- Effect change within the SAPS.
- Popcru claims apartheid is still rife in the SAPS. Whites are still preferred over blacks when it comes to promotions, and in some cases whites refusing to serve under black superiors ask for and get transfers.
- Implement affirmative action.
- There is no visible effort to upgrade black members who were previously disadvantaged.
- Boost the waning morale of members.

Members execute their duties under extreme difficulties. For example, says Popcru, state cars are allocated on a racial basis with blacks struggling to get vehicles to work, while white members often get new cars and sometimes even drive them home.

- Give the police service a "vision" to combat crime.

Individual Popcru members complain that the Community Police Forums are doomed to failure because the police management has not equipped members with the skills to implement the new form of policing. As a result, communities are working with ill-prepared members in the CPFs.

Popcru provincial general secretary James Makapan says if Fivaz refuses to go voluntarily, or if his political boss, Sydney Mufamadi, does not fire him by June 6, more "serious" means will be used to speed up his departure.

"Nothing has changed within the SAPS. We still have racism sanctioned by police management. There are white members who ask to be transferred rather than work under black seniors, and their transfers are approved. When blacks embark on any form of protest, they face disciplinary measures. We believe that the disciplinary structures in that force were made just for blacks," Makapan says.

He accuses the police management, headed by Fivaz, of failing to take the union seriously.

"Do you know how painful it is to sit and waste time discussing things and discovering in the end that nothing is done? It is as if we are selling out our members - for they see negotiations, but nothing happens to improve their situation."

He predicts that Popcru will soon "overtake" the South African Police Union which, he says, has the majority membership within the police.

"If you look at Sapu's record, they are in the habit of coming out against every action that we take. They are always with management. In fact, Sapu was formed just before the ANC took over. It was formed because white members felt uncomfortable with the new government that was coming," Makapan says.

In the wake of Popcru's problems with Fivaz, Sapu has come out in support of the commissioner in his plans to motivate the police.

Makapan insists that Fivaz "knows about the problems. They were brought to his attention."

"We want to fight crime, not Fivaz. He must go," says Makapan.

Ironically, Popcru started its Fivaz-must-go campaign at a time when the commissioner and Mufamadi engaged in a messy public spat, apparently resolved by President Nelson Mandela's behind-the-scenes diplomacy.

Fivaz threatened to resign, and Popcru appeared to be taking up the cudgels for the minister.

This week though, the two men

## 'Minister Mufamadi and I? That was just a minor misunderstanding.'

appeared together publicly to announce the lifting of the moratorium on recruitment of new members to the SAPS.

□ Back in his office at Wachthuis in Pretoria, Fivaz is cucumber cool as he dismisses Popcru's threat to turn on the heat if he is still around by June 6.

"I have the support of the president, his deputy (Thabo Mbeki) and my minister. They are men of vision, and they understand that crime prevention is not solely a police matter," Fivaz says.

"There is no deadlock between Popcru and myself. They did not even approach me to tell me of any problems they had."

It is not true, he says, that he has failed to implement affirmative action and has stalled on promotions. On the contrary, more black officers than whites have been promoted since he took over the reins in 1995.

The SAPS is still screening members who were by-passed for promotion in the pre-democracy era. (See table on this page.)

"The minister and I get recommendations from the bottom, through the MECs' offices, and in 99,9 percent of these cases all we do is ratify the recommendations once we have satisfied ourselves that the incumbents have satisfied the requirements," says Fivaz.

Responding to a question, he concedes that there was an attempt by some low-level managers in the SAPS to sabotage the new order.

"These are people who are not certain about their future in the SAPS. They are largely responsible for not passing on information to the bottom."

The problem will be resolved with the restructuring of the service which is in process and will take a long time", says Fivaz.

"I have been accused of a whole lot of things, even of being a racist. Popcru's latest attack on me came out of the blue. I invited them, and other police unions, to a meeting with me last month, to discuss how we could improve the morale in the SAPS and the service we offer."

## Police promotions

Blacks members: . . . . .

1995	1996
33 179	15 819
20 559	9 209
4 077	2 945

Whites members: . . . . .

CA (257)

25/5/97

ately to discuss some matters which they could not discuss in the presence of other unions. The next thing I heard was that they were calling for my dismissal."

Fivaz waves an iron fist at Popcru, saying his management will clamp down hard on members guilty of disruptions.

"The sort of things they are involved in cannot be tolerated in the SAPS," Fivaz says.

He disclosed that due to "Popcru's disruptive actions" in the Eastern Cape only, suspects were released in 13 cases involving robbery, assault, assault with intent to do grievous bodily harm, arson, stock theft and malicious injury to property.

At least 176 dockets were opened in Xhosa, and 24 stations were involved.

"We will investigate whether any members involved need to be charged with defeating the ends of justice," says Fivaz.

He laughs off press claims that relations between Mufamadi and him are at an all-time low. Even at the height of the claims, he and the minister, whose office is a few doors from his, had a "big laugh" about the reports, he says.

"It was all a minor misunderstanding," he says, excusing himself to answer a call from the minister's office. They speak for a few minutes, apparently about their joint press conference a few minutes ago.

"It went mnca (fine). Oh, you're going to Jo'burg? Be careful. They hijack people there... Luckily you have people who can shoot!" he chuckles into the receiver.

# Taking the Bill of Rights to the people

Sanetam 26/5/97

(252)

By Khangale Makhado

**L**AST WEEK'S CONFERENCE ON human rights in Midrand, near Johannesburg, not only paved the way for a coordinated approach by national institutions, government and non-governmental organisations, but also created a new intercontinental relationship

The conference, the first of its kind in South Africa since the beginning of the new political dispensation in 1994, was organised by the South African Human Rights Commission (SAHRC)

Apart from attracting local support from NGO's and government structures, it also enabled the SAHRC to develop a working relationship with the Canadian Human Rights Commission (CHRC)

Talks are under way between the SAHRC and its Canadian counterpart to establish a close working relationship which will allow the two groups to exchange ideas and expertise "in a way that will benefit the human rights community in both countries"

Michel Paré CHRC director of the executive secretariat, confirmed over the weekend that his organisation was engaged in talks with their South African counterparts

These included discussions on mechanisms dealing with investigations, recording of complaints and managing these complaints

Paré, whose organisation has been in existence for over 20 years, was impressed by the conference "From what I observed, South Africans have a great deal of respect for human rights," he said

"I am convinced that despite the hard road ahead, I think the SAHRC will discharge themselves well. They have a high level of dedication to making people's lives better"

Paré emphasised the need for coalition-building between government, NGO's and community-based organisations, saying this may be the answer to translating the Bill of Rights into reality for the man in the street

According to Paré, the South African government is still very young, with a new Constitution. But he added that there was a lot of goodwill, especially from Canada, that things will work out in South Africa

Paré said that as far as last week's conference was concerned, he thought that the groups in the workshops worked very hard to come up with solutions

The main purpose of the conference was to ensure that at the end of the day, the contents of the Constitution, especially the Bill of Rights, filtered through to the ordinary person

During workshops, groups discussed issues such as equality, civil and political rights, socio-economic rights, cultural and children's rights as well as freedom of expression and the administration of justice

The SAHRC felt strongly that it needed the support of other human rights organisations to ensure that the Bill of

SAHRC is confident it will meet UN mandate to devise a human rights plan



Michel Paré, director of the Canadian Human Rights Commission executive secretariat, is engaged in talks with the South African Human Rights Commission about strengthening their relationship. PIC LEN KUMALO

## NGOs to play role

THE SAHRC's three-day conference came up with several recommendations. These include:

- the need to strengthen its relationship with non-governmental organisations and other institutions concerned with human rights by holding a conference to review the work of these organisations. This would avoid a situation where there may be duplication.

- in addition to its annual report to Parliament, the SAHRC should compile another report which will incorporate the work of the Gender

Commission, the Public Protector and the Commission on Linguistic, Cultural and Religious Affairs.

This report will be targeted at the non-governmental sector and will give a holistic view of what is done in the sector of human rights.

- strengthening the capacities of those institutions that are responsible for the promotion and protection of a human rights culture in South Africa.

- the need to look into holding public hearings that relate to specific issues raised in various workshops during the conference.

Rights, as enshrined in the Constitution was respected and carried out to the letter

This it hoped to achieve with the help of its newly found partners on the one hand, and by vigorously campaigning through radio and television talk shows and other media on the other hand

SAHRC chief executive officer Louisa Zondo said that after having brought people together at the conference, its task now was to popularise the Bill of Rights

Part of the SAHRC's plan of action, Zondo said, will include circulating the final conference report to various stakeholders for discussion

"We had set out to get together representatives from Government, NGOs and other state institutions responsible for the Bill of Rights"

"The intention was for us to sit together and assess what needs to be done, by whom and when. We are satisfied that the

conference went well. There was an overwhelming spirit of wanting to work"

Zondo said the SAHRC was confident it had laid the basis to meet the mandate by the United Nations to develop national governmental committees, with representation from NGO's and other important stakeholders, to devise and implement a plan for human rights education

SAHRC chairperson Dr Barney Pitso Rabe said the most important thing that emerged from the conference was the commitment from individual organisations

"All we have to do," Pitso Rabe said, "was to make the NGO's understand that they and community-based organisations have a very critical role to play in human rights education"

"We now have a formidable new agenda and will go away and try to construct a document that will make every role-player happy," said Pitso Rabe

# Growing numbers see noose as the answer

(252) / Star 27/5/97

Cape Town – There has been a dramatic increase over the past three years in the number of people of all races who believe rapists deserve more severe punishment

Nearly 90% of white men and 73% of black men believed the punishment for rape was inadequate, according to Research Surveys

Their survey was undertaken in major metropolitan areas in February

Respondents had to be 18 or older and the findings were then scientifically weighted, making them fully representative of the population in terms of age and income, Research Surveys said

"The overall figure in 1997 shows that 77% of all South African men feel that the punishment meted out to rapists is inadequate," it said

On the question of what type of punishment would be suitable for a rapist, the death penalty proved to be a more popular option in 1997 than in 1994, with 54% of white and 33% of black men choosing this option

The results of the 1994 survey showed only 35% of white and 20% of black men to be in favour of this option

Overall in 1997, 37% of South African men wanted the death penalty to be reinstated for rapists

On whether life imprisonment was a suitable punishment, in 1994, 17% of black men found this to be a suitable form of punishment and this

## All agree on severe punishment

increased to 28% in 1997. However, white men decreased this option from 21% in 1994 to 14% in 1997

Research Surveys said castration maintained its position as a fairly low option with 14% of white men and 8% of black men choosing it as a suitable form of punishment in 1997, compared with 17% and 9% respectively in 1994 – Sapa

## 21 000 POLITICAL DEATHS; 80 000 DETENTIONS

# Counting apartheid's costs

**JOHANNESBURG:** The Human Rights Committee yesterday supplied the TRC with information it had collected over the past 15 years on apartheid atrocities and casualties.

**ABOUT** 14 000 lives were lost in political conflict from 1990 to 1994 — double the number who died in the preceding 40 years — the Human Rights Committee (HRC) told the Truth and Reconciliation Commission yesterday.

Submitting evidence by its forerunner, the Detainees Parents Support Committee, HRC head Dr Max Coleman urged the TRC to use the information it had collected to prosecute those responsible for atrocities committed under apartheid.

He said the HRC supported the amnesty process, but felt prosecutions were necessary to ensure that justice is restored to its rightful pre-eminence.

"The Bill of Rights should be used to guard against the possibility of the repression of the past happening again," Coleman said.

The HRC had collated data over the past 15 years in a book entitled *A Crime Against Humanity: Under*

*standing Apartheid Repression*, which detailed the repressive manoeuvres used by the former government.

Handing a copy to TRC chairman Archbishop Desmond Tutu, Coleman said the HRC believed the contents had direct relevance to the TRC's investigations.

Among its statistics the manuscript mentions

- 80 000 detentions with out-trials for periods of up to three years, including the detention of about 10 000 women and at least 15 000 children under the age of 18

- 73 deaths in detention recorded by the HRC as deaths while in the hands of the security police

- 37 names of those who died while in custody of the unformed police under politically-related circumstances
- 3000 people served banning or restriction orders in terms of security legislation
- 15 000 people charged under security legislation since 1950, in political trials and the names of 49 people who were executed
- 7 000 political deaths between 1948 and 1989 and 46 massacres in that time, as well as 14 000 lives lost and 22 000 injuries in the period 1990 to the elections in 1994



- 30 abductions, 38 disappearances and 150 internal assassinations

Hr-squad and vigilante group activities in covert repression are also documented.

Asked whether, in light of complaints about the perceived one-sidedness of the commission, the manuscript gave both sides of the story, Coleman said the document

focused on the activities of the apartheid state.

However, the interaction between the liberation movements and the apartheid state also needed investigation, he said.

Tutu said the commission would have to determine how much the political leadership of the time had known about the atrocities. He said it appeared that repression had been a deliberate policy.

"The victims will say it is difficult to categorise (acts of violation) as something that was spontaneous and something that was done by a few bad eggs," he said.

He paid tribute to the Detainees Parents' Support Committee and what it had done in the "bad old days".

The TRC would not be able to achieve its objectives without the aid and support of non-government organisations, he said, adding that the statistics contained in the manuscript would assist the commission in corroborating its work — Own Correspondent, Sapa

ET 28/6/97

(262)



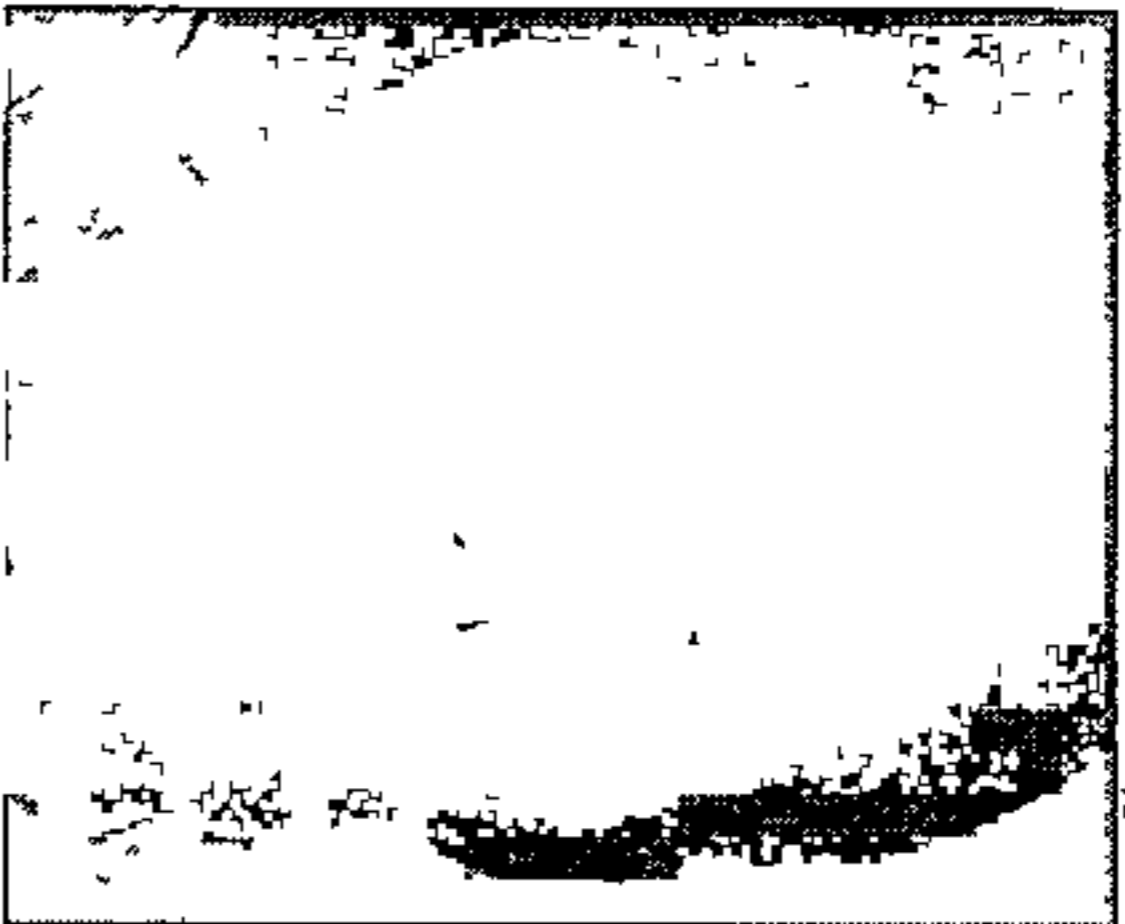
# Eight subpoenaed on Flats violence in '80s

(262) #CT 28/5/97

THE Western Cape Investigative Unit has served Section 29 notices on four community leaders and four former members of state or security force structures to appear at a three-day Special Event Hearing next month on violence in the informal settlements (squatter camps) near Cape Town during the '80s.

The community leaders are Mr Melford Yamile, retired UDF leader, Mr Sam Ndima, former Witdoeke leader, Mr Gladstone Ntamo, former community leader in KTC, and Mr Johnson Ngxobongwana, former community leader and now National Party member of the provincial legislature.

The former security and state personnel are Mr Ulrich Schellhase, a member of the former Black Local Authority, retired Detective Sergeant Phillipus du Toit (then a



**FORMER UDF LEADER:** Melford Yamile



**NATIONAL PARTY MP:** Johnson Ngxobongwana

warrant officer in the SAP Special Branch), retired Colonel Trevor Vermeulen (then secretary of the Joint Management Council in the area), and retired Colonel Dolf Odendal (of the former SAP Inter-

national Stability Unit). The eight are required to testify on events in Cape Flats squatter camps during 1985/86. They are entitled to have legal representatives. If they cannot afford them

the commission may appoint a lawyer for them.

The hearing will be from Monday, June 9, to Wednesday, June 11, at St Gabriel's Catholic Church on NV5 in Guguletu.

About 11 victims of violence in KTC, Nyanga and Crossroads will testify during the first day, about gross human rights violations, including killings and necklacings.

On Tuesday the four community leaders will have the opportunity to express their view of events. On Wednesday, the last day, the former state and security men will testify.

Between 1975 and 1983 these informal settlements were the scenes of police raids, demolitions by bulldozers and arson. Community leadership struggles also led to deaths and assault, in a conflict between conservative and pro-liberation forces.

In the mid '80s violence increased dramatically, causing many deaths and leaving thousands homeless and wounded. Security forces, local authorities, community leaders and the so-called Witdoeke are all alleged to have played a role in the conflict.

The hearings will focus on the period between 1985 and 1986 and give special attention to the sufferings of women during these events.

On the Sunday before the start of the hearings, a special church service will be held at the Anglican Church in Nyanga East at 2.30 in the afternoon. Both the service and the hearings will be open to the public.

Media can call Ms Christelle Terrebianche for more information on 021-245161 (during office hours) or on 082-4588461 (cellular) or Sapa.

# Medics submit report to TRC on Biko and other violations

STW 28/5/97

STAFF REPORTER

The Medical Association of South Africa (Masa) ignored calls from its own members to act on human rights violations and was pacified by the State for years, the organisation said in a preliminary report submitted to the Truth and Reconciliation Commission

The report was submitted in preparation for TRC hearings involving the health care sector scheduled for June 17 and 18.

According to the report, Masa ignored calls from members to investigate the role of doctors in Steve Biko's death in detention on September 12 1977, a subject which takes up almost a quarter of the lengthy submission

(252) (98)

In the June edition of the South African Medical Journal (SAMJ), Masa plans to publish all letters written to SAMJ in protest at the time but refused publication, spokesman Marileen van Wyk said today

According to the submission, Masa again drew back from political confrontation after the 1982 death in detention of Dr Neil Aggett, although it conceded at the time that discussions with authorities were urgently needed.

The report also identifies Masa's failure to act on the discriminatory salary structures of black and Indian doctors, and also tackles the issues of children in detention, the death sentence, hunger strikers and district surgeons.

Chairman of Masa's federal council, Dr Bernard Mandell, said Masa had supported the objectives of the TRC from the outset and repeatedly urged doctors who might have been involved in human rights violations to give evidence.

The Masa submission would seek to assist the TRC in gaining an understanding of past human rights violations, and to make recommendations for the future promotion of human rights within the health care sector.

The submission is being circulated for further input from national Masa structures, and will be released during the hearings

► More reports



NON-ALIGNED: Wendy Orr has resigned from the federal council of Masa.

# 'Impartial?' Orr quits Masa council

TRUTH and Reconciliation Commission member Dr Wendy Orr has resigned from the federal council of the Medical Association of South Africa (Masa) ahead of the commissioner's health sector hearing next month — to avert any suggestion of partiality.

Orr is deputy chairman of the TRC's reparations and rehabilitation committee

She is facilitating the health sector's submission, intended to clarify the role of the medical profession in the abuse of human rights during the apartheid era

In a statement yesterday, the TRC said Orr believed her membership of Masa could create an impression which she wanted to avoid — of alignment with an interest group

Orr, widely respected for her role in uncovering the brutal treatment of detainees during the state of emergency in the 1980s, was involved in controversy late last year over the appointment of her husband to the staff of the human rights violations committee.

Dr Bernard Mandell, chairman

(292) ~~292~~ ET 28/5/97

of Masa's federal council, said Masa fully supported the TRC's objectives and understood the need for the health hearings to be above question

"Masa looks forward to a continued healthy relationship with Dr Orr," he said.

The hearing is to take place on June 17 and 18 in Cape Town

Submissions have been received from more than 20 significant role-players, including institutions and individuals

International health organisations, such as the American Association for the Advancement of Science, Physicians for Human Rights, ICRCT in Denmark and the British Medical Association, have expressed interest in attending the hearings

Mandell said Masa had submitted a preliminary report to the TRC

It had urged those of its members who might have been involved in human rights violations or knew about such incidents to give evidence to the commis-

# TRC commissioner Orr quits medical body

Star 20/5/97 (252) (252)  
BY ROBERT BRAND

Truth and Reconciliation Commission member Dr Wendy Orr has resigned from the federal council of the Medical Association of SA (Masa) to avoid any suggestion of partiality ahead of the commission's health sector hearing next month, the commission has announced.

Orr, the deputy chairman of the TRC's reparations and rehabilitation committee, is facilitating the health sector submission, intended to clarify the role of the medical profession in the abuse of human rights during the apartheid era.

In a statement issued yesterday, the TRC said Orr felt her membership of Masa could create an impression of alignment with one particular interest group.

Orr, widely respected for her role in uncovering the brutal treatment of detainees during the

state of emergency in the 1980s, was involved in controversy late last year over the appointment of her husband to the staff of the TRC's human rights violations committee.

Dr Bernard Mandell, chairman of Masa's federal council, said Masa had fully supported the objectives of the TRC, and understood the necessity to keep the health-hearing process above question.

"Masa looks forward to a continued healthy relationship with Dr Orr in the future," he said.

The hearing will take place in Cape Town on June 17 and 18. Submissions have been received from more than 20 significant role-players.

International health organisations, such as the American Association for the Advancement of Science, Physicians for Human Rights and the British Medical Association, have expressed interest in attending

## Hearing to focus on violence in Cape Flats settlements in 80s

(252) Star 28/5/97  
BY ROBERT BRAND

The Truth and Reconciliation Commission has subpoenaed National Party Western Cape MPL Johnson Ngxobongwana to testify at a hearing next month on violence in squatter camps near Cape Town during the 1980s.

Ngxobongwana, accused in evidence before the commission last year of collaboration with the police and the "witdoeke" vigilante group in attacks on squatter settlements, was one of four community leaders and four former government officials subpoenaed to appear at the inquiry.

Retired United Democratic Front leader Melford Yamile, former "witdoeke" leader Sam Ndima and KTC squatter camp leader Gladstone Ntamo have also been subpoenaed, the TRC said in a statement.

Others summoned to the inquiry are Ulrich Schelhase, a member of

the former Black Local Authority, retired Detective Sergeant Phillipus du Toit, retired Colonel Trevor Vermeulen and retired Colonel Dolf Odendaal.

The eight will be required to answer questions during the hearings relating to events in the Cape Flats informal settlements during 1985-86. They will be entitled to legal representation.

The hearing starts on Monday June 9 at St Gabriel's Catholic Church in Guguletu. Victims of the violence in KTC, Nyanga and Crossroads are expected to give evidence about human rights violations, including murder and necklacing.

Between 1975 and 1983, these informal settlements were subjected to police raids, demolition of shacks, vigilante attacks and arson. It was, however, during the mid-1980s that conflict escalated dramatically, leading to many deaths and leaving thousands homeless and injured.

# Truth commission urged to support prosecution cases

BD 28/5/97

(252)

THE Human Rights Commission (HRC) has urged the truth commission to support prosecutions to bring to account those responsible for undeclared human rights violations.

Submitting evidence collected by it and its forerunner, the Detainees' Parents' Support Committee, over the past 15 years, HRC head Max Coleman said the committee understood and subscribed to the concept of granting amnesty as a means of achieving reconciliation and making as peaceful a transition to democracy as possible.

"We recognise that it has been necessary for justice to play second fiddle to truth up to this point. However, now that the period of grace for the lodging of amnesty applications has expired, the HRC urges the Truth and Reconciliation Commission to throw its weight behind the prosecuting authorities in bringing to account those responsible for undeclared human rights violations," he said.

Handing in *A Crime Against Humanity: Understanding Apartheid Repression* to commission chairman Archbishop Desmond Tutu, Coleman said: "It is our belief the contents of this book have direct relevance to the investigations and mandate of the Truth and Reconciliation Commission and we therefore respectfully submit that the manuscript be written unaltered into the record of the TRC's investigations."

Coleman said the book's subject matter was arranged in four parts:

□ The period 1948 to 1989, during which "total strategy" was conceived, born and nurtured as the classical form of apartheid repression;

□ The incipient collapse of apartheid power that became evident from 1988 to 1990, and opened the way to a negotiated transfer of power;

□ Tracing the destabilisation strategy which emerged as the successor to the total strategy, and which accompanied negotiations during the period 1990 up to the elections in April, 1994; and

□ The remnants of apartheid repression and destabilisation which persist in the post-election period from May 1994 to December 1996.

Among statistics mentioned are:

□ 80 000 detentions without trial for periods of up to three years, including

about 10 000 women and at least 15 000 children under the age of 18;

□ 73 deaths in detention recorded by the HRC as deaths while in the hands of the security police;

□ 37 names of those who died while in custody of the uniformed police under politically related circumstances,

□ 3 000 people served banning or restriction orders;

□ 15 000 people charged under security legislation since 1950 in political trials, and 49 names of those who paid the ultimate price of political execution;

□ 7 000 political deaths between 1948 and 1989 and 46 massacres in that period, as well as 14 000 lives lost and 22 000 injuries in the period 1990 to the elections in 1994; and

□ Abductions (30), disappearances (38) and internal assassinations (150).

Hit squad and vigilante activities in covert repression are also documented.

Most deaths happened in the four years preceding the April 27 1994 election. During the 46-month period starting in 1990 there were 14 000 deaths and 22 000 injuries. For three years, about 260 victims died every month on average and, in the 10 months prior to elections the monthly average jumped to 460 deaths.

"Responsibility for its (the carnage) perpetration lies with those who were the beneficiaries of apartheid and who had a stake in defending and perpetuating the power which they enjoyed through, or inherited from, the system of apartheid." While some had passed on into history, others lingered on in a less organised and more opportunistic mould and had a potential for continuing destabilisation, the HRC said. It was referring to political violence in KwaZulu-Natal, economic sabotage, the taxi wars, hostel clashes and crime syndicates, among others.

The announcement of the election date in July 1993 produced an instantaneous reaction. In that month more than 600 deaths were recorded, with the epicentre of the explosion in the East Rand and its hostels. Another 4 000 lives were lost before April 27.

Within weeks of the election, levels of political violence dropped to a third of those before the vote and gradually to 10% in 1996. — Sapa.

man and head of the finance  
tees' taxation subcommittee  
Revenue service deputy director of  
VAT Martine Botes conceded VAT pro-  
adopted by the committee.

# ANC spies furore just a storm in a teacup, says TRC

*No top members named* <sup>(252)</sup>

ARL 29/5/97

**JOHN YELD**  
ON THE TRUTH COMMISSION

Media hype over the confidential documents naming "spies and agents" found to have infiltrated the African National Congress in the 1980s has been described by the head of the Truth Commission's investigative unit as "a storm in a teacup".

No "high-profile" ANC members are named in these documents as spies

Also, the commission has not been able to gain access to an alleged list of high-profile ANC members - including cabinet members - who worked as agents for the former South African Police

Former Vlakplaas operative and self-confessed murderer Joe Mamasela and former security policeman Jacques Hechter, now applying for amnesty from the commission, have both claimed police have such a list

The commission also does not have names of alleged police informers who worked in the media during the apartheid era

This was revealed by Dumisa Ntsebeza, head of the commission's investigative unit, during a media conference today at which most of the confidential documents submit-

ted by the ANC during its second submission a fortnight ago, were released

Some of the names in these documents have been deleted by the commission, and a few of the documents have not been released

Those documents withheld contain the names of Umkhonto weSizwe (MK) soldiers who died as a result of excessively harsh treatment after committing breaches of discipline, the real names of the last 32 prisoners released by the ANC, and the names of those who died during the so-called Pango mutiny in Angola or who were executed by the ANC after the mutiny

Commission chairman Desmond Tutu said this was because the commission had not yet been able to confirm that the families of all the deceased had been told

Also, it was to enable the commission to comply with a recent Appeal Court ruling that those implicated in submissions to the commission should be given reasonable notice to respond after being informed that they had been named, interpreted by the commission as being 21 days

Offering to show the original documents to journalists to prove that the commission was not attempting to hide anything, Archbishop Tutu said "We are publishing as much as the law allows"

# Medics to face music

(982) (252)

MTG 30/5-5/6/97

Marion Edmunds

**T**HE government is to be urged to set up a special inquiry into district surgeons and health professionals who betrayed their ethical codes in complicity with apartheid authorities

The call will be made at health hearings at the Truth and Reconciliation Commission next month and will come from among the 30 organisations making submissions, which include the Medical Association of South Africa (Masa) and the Interim Medical and Dental Council of South Africa

While Masa has submitted a lengthy document to the truth commission, it has failed to call for further inquiries into the past. It says it is satisfied with an apology made in 1995, in which all health professionals were implicated for not doing enough to challenge the government of the day, but none were singled out for unethical behaviour.

According to Masa's president, Professor Bernard Mandell, the organisation does not have the resources to conduct a deeper investigation. He said that Masa had encouraged doctors to apply for amnesty if they were guilty of violating human rights, and Masa's archives were offered to the TRC.

"I don't know how doctors are going to react to these hearings," he said this week. "At the moment we are working on unity within the profession and those doctors outside Masa, they don't bring up the past. It's a question of clearing the air as far as they are concerned and they will not be working against the association."

However, a number of prominent health workers believe the blanket apology is not sufficient to unlock the past, nor bring about reconciliation within the medical profession.

Dr Lesley London of the University of Cape Town said he expected Masa would have to be pushed.

"It's going to come from outside, from health professionals who knew what it was like to work in an environment where Masa was siding with the oppressors," he said.

"There is an extraordinary inertia to grapple with these issues. I don't think they are frightened by the truth commission, they certainly do care, but their reasons for caring are not entirely disinterested."

"South Africa holds the presidency of the World Medical Association and there is a lot invested in the profession being seen to be clean."

Mandell can feel the animosity felt towards Masa. "We need to build on what happened in the past and make sure that nothing of the sort happens in the future," he said.

"There are certainly those who want to destroy Masa for what happened in the past but that apology was genuine, it was a first step, although some people claimed it was only lip-service."

Possibly the single most divisive instance for which Masa has apologised was its abject role in regard to the doctors who did nothing to save Steve Biko from death after a severe beating by the security police.

A chief director of the Health Department, Dr Tim Wilson, resigned from Masa because of its failure to challenge the way Biko was handled.

Speaking in his personal capacity, he said there is need to probe deeper than is comfortable. "It is important to reveal what happened during those years. If we bury our mistakes, they will come back to haunt us."

"These hearings are not about retribution, or about blame, they are about acknowledging what happened."

"It's not good enough to say we are so sorry about what happened so let us not go into this messy debate. Perhaps there should be a cut-off date, but let us get this stuff out."

Wilson's stance on the increasingly touchy debate is backed by Tom Winslow of the Trauma Centre for Victims of Violence and Torture in Cape Town.

With foreign funds, his organisation is to research cases of complicity within the ranks of the health profession.



# Torture not reserved solely for activists

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The practice could become a routine method of investigating crime, say Amnesty International researchers



By Robert Brand

Whether the National Party government authorised, condoned or even knew about the torture of political activists by the police makes no difference to the fundamental fact that torture occurred on a large scale during the apartheid years.

The Truth and Reconciliation Commission has heard ample evidence of this from perpetrators and victims alike.

In its submission to the truth commission this week, the Human Rights Committee of South Africa claimed that at least 20 000 political detainees were subjected to torture between 1960 and 1990.

Detention without trial, with its inevitable by-product of torture, was "undoubtedly the most powerful and extensively-used weapon in the formal armoury of repression", the committee said.

South Africa's Bill of Rights expressly prohibits torture, civil society, still reeling from the dreadful descriptions of ill-treatment heard by the truth commission, abhors it; and our legal system, in theory at least, does not tolerate it.

But two researchers from the human rights watchdog Amnesty International have warned that the automatic assumption that torture occurs only in politically-related cases could lead governments, such as South Africa's post-apar-

theid government, to disregard the dangers of torture in non-political cases.

In the journal *Torture*, published by the Danish-based International Rehabilitation Council for Torture Victims earlier this year, James Welsh and Mary Rayner attempt to pinpoint the reasons for torture, the circumstances that encourage it, and how to prevent it.

The United Nations Convention against Torture defines the practice of torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating him or a third person".

Welsh and Rayner reflect that the definition makes no distinction between pain and suffering inflicted for political or non-political reasons.

"While torture is widely perceived in the popular imagination as a tool of political repression, there is ample evidence that torture is inflicted on a wide variety of victims for a wide variety of purposes."

This creates the danger that government members who have personally experienced torture during their political struggle may not recognise severe ill-treatment in non-political cases—for instance, fighting crime or illegal immigration—as torture, Welsh and Rayner argue.

Torture is condoned, and even encouraged, in societies without effective control over their law enforcement agencies with South Africa, both pre-



Never again ... revelations before the Truth and Reconciliation Commission have raised public awareness about the extent of torture of political activists by police during the apartheid years. But now Amnesty International warns that 'non-political' torture is almost as pervasive in countries like SA and often passes by unnoticed.

and post-apartheid, as a case in point.

"In some police and security forces, for example, the presence of ill-treatment in non-political cases—for instance, fighting crime or illegal immigration—as torture, Welsh and Rayner argue.

Torture is condoned, and even encouraged, in societies without effective control over their law enforcement agencies with South Africa, both pre-

and post-apartheid, as a case in point.

"In some police and security forces, for example, the presence of ill-treatment in non-political cases—for instance, fighting crime or illegal immigration—as torture, Welsh and Rayner argue.

Torture is condoned, and even encouraged, in societies without effective control over their law enforcement agencies with South Africa, both pre-

of torture by electric shock and near-suffocation practised by members of the specialised units of the South African Police Service.

"In South Africa, where politically-motivated torture was an endemic problem in the past, human rights monitors have nonetheless continued to document a disturbing pattern

South Africa's crime wave and the extreme pressure on police to combat it could cause public attitudes to harden and officials to turn a blind eye towards practices they would have found unacceptable during the apartheid struggle.

South Africa is not the only country scrutinised in Welsh and Rayner's paper. Albania, Turkey, Kenya,

Brazil, Greece, even France and Germany are all named as countries in which torture is inflicted on marginalised people in non-political situations.

What makes the problem particularly acute, Welsh and Rayner argue, is that non-political torture victims do not have the same access to organisational support structures as political victims, or the same in-

formal ways of coping with it. Political activists are often aware of the risks they run and are therefore better able to interpret, understand and "process" their suffering than individuals who have no idea why they are being persecuted.

"Those who are arrested in error, or for no apparent reason, may have less ability to understand their fate and therefore find it much harder to come to terms with the experience."

Institutions which work with torture victims are often exclusively aimed at helping victims of political persecution, leaving those persecuted for other reasons without recourse.

As long as torture victims are representatives of a political movement, then torture provokes opposition and concern from at least certain sectors of society, Welsh and Rayner state. When they are criminal suspects or street children, that opposition is not so easily mobilised.

"When the victim is widely seen as deserving his or her fate, the police may feel less public opposition to their activities and, indeed, may feel support for their behaviour in certain circumstances."

"This is particularly the case when the police are engaged in a 'war against crime', the paper concludes—a warning note that could have been sounded specifically for South Africa.

## Keeping you informed

Every Friday The Star will produce a new feature to help you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist reporters, will provide all the latest news and the information you need to keep you informed on the dramatic unfolding

# Masa admits being silent on violations

STAFF REPORTER

On the eve of a special hearing on the role of the health sector during apartheid, the Medical Association of South Africa (Masa) has made a submission to the Truth and Reconciliation Commission admitting that it had often been silent on human rights violations.

Much of the submission deals with Masa's handling of the Steve Biko issue. The association admits that it should have heeded calls from within its own ranks to investigate the conduct of the doctors who treated Biko.

No steps were initially taken against Dr Ivor Lang, and Dr Benjamin Tucker, the two doctors who examined Biko before his death. It took until 1985, eight years after Biko's death, for the Medical and Dental Council to conduct a disciplinary hearing. Lang was cautioned and Tucker's name was removed from the roll, a decision which was lifted in 1991.

Masa admits that it had ignored criticism from some of its own members about the handling of the Biko case, and that it had not acted decisively

against the two doctors. Dr Bernard Mandell, chairman of Masa's federal council, said the submission would seek to assist the TRC in gaining an understanding of past human rights violations, and to make recommendations to safeguard the protection of human rights within the health sector.

He said the association had also urged doctors who may

have been involved in human rights violations or who had knowledge of them to give evidence to the commission. The submission is divided into three parts, dealing with the period up to 1981, the period from 1982 to 1988, and 1989 to the present. It also includes a section with recommendations on preventing past abuses from occurring again. Masa admits that it was

"relatively silent" on human rights issues until 1977. It also concedes it had functioned within the apartheid system. "There was very little focus, both internationally and locally, on human rights issues within the medical profession," Masa says in a summary of the submission. After 1981, the submission says, Masa began to address its human rights role. While

## Wits will put accent on ethics

By James Sison

Few doctors prepared for the futuristic dilemmas on which rest the challenge of preserving human and patient right and taking an ethical stance in the great medical debates of allocating scarce resources and using life-prolonging technology.

It is the province of students for this that Wits University's faculty of health sciences will include formal training in medical ethics in its curriculum, possibly as early as next year. The faculty whose submits

into the TRC also suggests ways to train health workers to be more sensitive to human rights. It already offers one compulsory and one optional course on ethics in the six-year medical degree.

But these are lecture-based, run jointly with the department of philosophy, and do not have the required emphasis, says dean Professor Max Price.

The new course will be teaching medical ethics and human rights using cases from South African history. A faculty task team has already drawn up a draft un-

dergraduate curriculum and some donor funding has been obtained, though more will be necessary to develop the envisaged small department. A job description has been drawn up and sent to the Gauteng health department for advertising.

The aim, says Price, is to create a culture of challenging authority.

The faculty will have a full-time ethicist accompany students on ward rounds when they have to make decisions such as who gets dialysis and which baby gets an incubator.

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still justifying and defending "apartheid medicine", the association began to respond to opposition from within its own ranks and from without. "Masa began a series of human rights initiatives surrounding children in detention and the care of prisoners and detainees, but these were not notably successful."

Two distinct camps began to develop within Masa: one defending the status quo, the other opposing it. The opposing camp eventually gained the upper hand, Masa says.

In 1989, Masa finally declared its unqualified opposition to apartheid itself and the practice of medicine within apartheid structures.

Masa began to develop a human rights initiative which led, eventually, to the establishment of a credo, a code of conduct and a charter of rights for doctors and patients, the submission states.

The recommendations section includes proposals for human rights training in medical ethics education, and the establishment of a coordinating body to promote human rights and investigate possible violations in the health sector.



# Commission asks for funds

Linda Ensor

CAPE TOWN — Truth commission chairman Desmond Tutu has appealed to Finance Minister Trevor Manuel to add an extra R9m to the commission's budget to provide severance packages for staff and committee members.

By December 14, when the commission's lifespan formally ends, about 90% of its 300-strong staff complement would have left, with only a skeleton staff remaining until March 14 to finalise the commission's report.

Although employed on contracts which excluded benefits such as pension, medical aid or severance packages, staff have expressed their unhappiness both over the fact that many of their contracts expire on December 14, which would mean being deprived

of half a month's salary, as well as the lack of severance payments.

Last week commission staff in East London walked off the job after expressing their dissatisfaction with the situation.

Tutu said yesterday that he was concerned about their position and that he was involved in negotiations with Manuel on their behalf, but had not yet received a reply to his letter requesting funds for severance packages.

He said the commission was also prepared to try to find funds from other sources for the severance packages.

The difficulty for government was that it would create a precedent by giving severance packages to employees working on fixed term contracts.

In terms of the commission's founding legislation, its existence

ends on December 14 and it was therefore not legally possible to pay staff beyond that date.

The commission's Biki Minyuku said that staff salaries had been inflated by 19,5% above market-related rates to compensate for the lack of benefits.

The commission yesterday released further, previously confidential documents attached to the submission by the African National Congress (ANC).

No new material facts emerged, however.

Commissioner Dumisa Ntsebeza emphasised that the ANC's undisclosed list of informers did not include any "big fish" such as cabinet ministers, as some had suggested.

"The whole thing has turned out to be a storm in a teacup," Ntsebeza said.

# AIDA

# 'Kill, bribe and torture' part of plot to ruin ANC 'Bid to replace leaders with spies'

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The apartheid government used blackmail, torture, early release of serious criminals, protection from prosecution, bribery and other methods to recruit agents to spy on the African National Congress, according to an assessment by the ANC when it was banned and in exile.

The former government also plotted to assassinate top ANC leaders in exile to pave the way for a new leadership dominated by police agents, who would be more ready to agree to the National Party's strict preconditions for negotiations

The ANC's secret "Shishita" report - "Report on the subversive activities of police agents in our movement" of July 1981 - was presented to the Truth Commission as part of a confidential package of documents during the organisation's second submission to the TRC a fortnight ago

Most of these documents were released by the commission yesterday, although it deleted some names because those people had not been given a reasonable opportunity to respond, or because it was not satisfied that the families of those named as having been executed by the ANC had been told of these deaths

According to the authors, the Shishita report was written after a determined programme by the "racist regime" to infiltrate police agents into the ANC and wipe it out



## ON THE TRUTH COMMISSION

They said the large-scale infiltration of spies into the ANC coincided with the apartheid government's announcement of strict preconditions for negotiations

The infiltration was part of a plot to remove the "hard-core" ANC leadership through assassination and by discrediting them as being corrupt and inefficient

"The new leadership, dominated by police agents (would then) accept these strict preconditions to enter into negotiations with the racist regime"

Agents whose names have not been deleted from the report are Vusi Mayekiso and Kenneth Mahamba. The report states they and at least two others stole weapons from the ANC and took these to Luanda, where they were hidden in the home of one of the men's girlfriends

Certain agents (names deleted by the TRC) were accused of plotting to ambush

and assassinate Umkhonto weSizwe chief of staff Joe Modise and Keith Mokoape in 1981

Methods of recruitment of police agents included arresting and torturing people before recruiting them. Others included

■ "People with serious criminal offences bail themselves out by agreeing to work for the South African police"

■ "The mentality of owning big cars, beautiful houses and expensive clothes is exploited by recruiters, who always have a lot of money, taking people to expensive drinking places and holiday resorts"

■ "Recruiters make use of blackmail, eg adultery, shebeen 'queens' or 'kings' are given protection (not being raided by police) for eavesdropping on anti-government conversations on their premises"

■ "Artists, tourists and 'visitors' wishing to go abroad - a condition for fixing their passports/travel documents"

One of the agents named in the report, Bhekimp1, told his interrogators that the "anti-leadership campaign" at the time had suited him "very well"

"He admits that he never had any political conviction. He never believed in the Freedom Charter, nor in the victory of the revolutionary forces over fascist rule in South Africa. According to him, his purpose in life was 'money, nice-times and girls,'" the report said

## Tutu seeks R4-m severance pay for TRC staff

Truth Commission chairman Desmond Tutu says the "unhappiness" of his 300 staff at the expiry of their contracts in December is understandable and he is asking the Government for R4-million to pay for severance packages.

Archbishop Tutu disclosed this at a media conference yesterday, after a work stoppage by about 50 commission staff in East London last week

Provision for severance packages, to which the staff are not legally entitled in terms of their two-year contracts, was made in the commission's draft budget last year, but rejected by the Government

Archbishop Tutu said the 17 commissioners had been concerned about this

issue from the outset of their work in 1995, and their approach to the Government had been motivated by genuine concern for the staff, not protests

"One is not surprised there is agitation and unhappiness," Archbishop Tutu said "It would be very odd if you were not apprehensive when your contract is about to expire, even if you knew you had signed this contract saying the job is going to end at a particular point."

"That was a concern we had long before anyone (on the staff) raised it"

Archbishop Tutu acknowledged that the commissioners were entitled to special allowances of about four months' salary each over the two-year period and costing a

total of about R2-million. But these were specified in the commission's founding Act and could not be equated with severance packages for the staff, who were paid as state employees on fixed contracts without formal benefits

"I didn't choose it - it was something written into the Act," Archbishop Tutu said

Truth Commission chief executive Biki Minyuku confirmed about 90 percent of the staff would leave on December 14, when the commission's mandate formally expires

The remaining staff will help commissioners complete their final report, which has to be ready for presentation to President Mandela by mid-March next year