

**AC/2001/128**

**TRUTH AND RECONCILIATION COMMISSION**

**AMNESTY COMMITTEE**

**APPLICATION IN TERMS OF SECTION 18 OF THE PROMOTION OF  
NATIONAL UNITY AND RECONCILIATION ACT NO. 34 OF 1995.**

**ABOOBAKER ISMAIL 1ST APPLICANT**

**(AM7109/97)**

**ERNEST LEKOTA PULE 2ND APPLICANT**

**(AM7139/97)**

**LESTER DUMAKUDE 3RD APPLICANT**

**(AM7679/97)**

**JOHANNES MOLEFE (MNISI) 4TH APPLICANT**

**(AM7096/97)**

**ROBERT JOHN McBRIDE 5TH APPLICANT**

**(AM7032/97)**

**ZAHRAH NARKEDIAN 6TH APPLICANT**

**(AM4028/96)**

**EDWARD ALLAN PIERCE 7TH APPLICANT**

**(AM4008/96)**

**MARCELL TREVOR ANDREWS 8TH APPLICANT**

**(AM7696/97)**

**MATTHEW LECORDIER 9TH APPLICANT**

**(AM4026/97)**

## DECISION

These applications relate to incidents which occurred in Durban and surrounding areas involving members of the Special Operations Unit (SOU) of uMkhonto weSizwe (MK), the military arm of the African National Congress (ANC). The Applicants make application for amnesty in terms of the Promotion of National Unity and Reconciliation Act 34 of 1995 as amended (the Act) and in respect of delicts and offences which arise

from the various incidents dealt with below.

The advent of the system of apartheid met with resistance from those who were the victims thereof. The ANC was the largest grouping amongst those opposing the apartheid system. With the passage of time, the effect of apartheid became harsher and was met with increased resistance. Eventually the ANC took the drastic step of employing armed options as one of the strategies to resist apartheid. MK was consequently established and thereafter armed attacks on South African governmental institutions followed and later the policy of avoiding civilians was relaxed. The upholders of apartheid retaliated. The battles which ensued became more regular and intensified with time. Technological improvements to weapons and the need for the ANC to obtain foreign assistance resulted in semi-war procedures being resorted to by all.

The National Executive Committee of the ANC established an SOU in 1979. It was known as the Solomon Mhlangu Unit and eventually based in the neighbouring states. It was a military unit falling broadly under MK but was a specialised unit tasked with very special and specific objectives. These objectives nonetheless fell within the confines of the broad strategy of MK and the armed struggle. It was established to conduct attacks on strategically placed military and economic targets which supported the apartheid regime. This would serve to improve the morale of those who were oppressed by apartheid and at the same time adversely affect the economic viability of apartheid.

At first, "Special Operations" focused on government related installations which would have the effect of lowering the morale of those who supported apartheid and a converse effect on those who suffered from apartheid. However, because the retaliatory actions of the security forces of the State resulted also in civilian casualties, Special Operations decided to include Government Security Forces personnel as targets.

Special Operations consisted of a few specially trained members when it was first constituted. This developed over a period of time to membership of approximately sixty members all made up of different sub-units consisting of two members to six members. At times these units would be assisted in their operations by local activists. It seems also that the identity of the members of each sub-unit were known only to the unit members and to those in control of Special Operations.

Special Operations at first reported to the President of the ANC, Mr O.R. Tambo at the time. It had a command structure which was independent of MK (insofar command was concerned). Information about attacks and the manner in which these were planned was known only to Special Operations Command which initially consisted of O.R. Tambo, Joe Slovo as Chief of Staff of MK and applicant Aboobaker Ismail (1st Applicant) as immediate commander of Special Operations. Later, Special Operations Command reported directly to

the headquarters of MK through Joe Slovo. While the initial policy of the ANC was to avoid civilian casualties, the intensity of the conflict and the violence resulting from it, led to a decision to relax such policy at the Kabwe Conference in 1985.

One of the Special Operations Units, active in Natal, was initially under the command of Gordon Webster.

Later the unit was split into two, one under the command of Gordon Webster and the other, Robert McBride (5th Applicant). Later, after Webster was indisposed, 5th Applicant became the commander of both.

One of the most publicised and focal incidents dealt with in this hearing was what became known as the "Magoo's Bar Bombing".

Prior to his arrest, Gordon Webster conducted a reconnaissance exercise of the Natal Command with a view of planting a device commonly known as a car bomb outside the said command. By the time 5th Applicant became commander, he indicated to Aboobaker Ismail (1st Applicant) that security around that command had been increased and that planting the said car-bomb near it would be almost impossible.

McBride, (5th Applicant) was then instructed to reconnoitre other targets where personnel of the "enemy security forces" upholding and protecting the institution of apartheid gathered, whether as part of their duties or for social reasons. During such planning, it became quite evident that the issue of civilian casualties was of concern. In terms of the "new" policy, it was clear that the modus operandi was to endeavour to minimize civilian casualties but that it should not be regarded as a preventative factor. This was in accordance with the aforementioned decision taken at the Kabwe Conference of 1985.

The discussions between McBride (5th Applicant) and Ismail (1st Applicant) related to policy and the broad target range of the apartheid institutions, human or otherwise. The actual identity of these targets was left within the discretion of McBride's autonomy, especially because of his impressive and trustworthy record at the time. A number of the incidents for which amnesty is applied for, were committed prior to the Kabwe Conference. Some of these attacks were on installations while others were on targets regarded as economically important.

In terms of the Act, a number of fundamental issues are to be considered when dealing with amnesty applications. It is important that the offence for which amnesty is sought must have been committed within the conflict of the political spectrum of the time and that full disclosure of facts relating to the commission of the offence(s) must have been made. Moreover, a number of formalities have to be complied with before amnesty in respect of a specific application can be considered.

Firstly, applications were to be lodged on a specified form whereon certain information had to be recorded as part of the application. Secondly, the application had to have been lodged by 30 September 1997 and the act(s) for which amnesty is sought had to have been committed before 10 May 1994. Thirdly, the act(s) for which amnesty is sought had to be (at least in some way) identifiable and contained in the written application.

It may be well to mention that in the event of an Applicant seeking amnesty for more than one offence arising from separate incidents, a particular incident would have to have been clearly described in the application as the basis for seeking amnesty in respect of offences arising out of any particular incident. These had to have been included in an application submitted before the aforementioned cut-off date.

The positions of second, third, fourth and in particular first Applicant need special attention. Second third and fourth Applicants were all stationed outside the South African borders and tasked with training these unit combatants and also providing them with equipment to commit the offences as part of their duties as members of the unit. They, in various instances, knew that their actions would lead to either death, injury and/or damage to property. While none of them knew beforehand the identity of the targets of the combatants, they were training and to whom they provided the necessary equipment, it is clear that they were aware of the consequences that would result. They only found out after the commission of the offences what the actual results of the various attacks were. Therefore, where each of them helped prepare for an attack, either by training or providing equipment, criminal and civil liability in respect of offences arising out of an incident(s) would follow.

Similarly, first Applicant carried criminal and civil liability for all offences committed under the banner of Special Operations by any of the members of the units under his command. Whilst he did not have detailed knowledge of the plans in respect of most of these attacks, he was aware of the likely consequences thereof. The very nature of the operations with which he was involved fortifies this.

However, in the cases of First, Second, Third and Fourth Applicants, it is apparent that they were unaware of the commission of certain offences to which they contributed. They became aware of these only when their colleagues who actually committed the offences in question made application for amnesty in respect of these.

It seems that there is a contention that if any Applicant does not refer to a specific incident identifiable in the application, then the application for amnesty in respect of that incident cannot be considered.

Section 19(1) of the Act clearly makes provision for the Committee to request further particulars of certain issues mentioned in the application.

Such request lies within the discretion of the Committee. It may be added that a failure by the Committee to request further particulars which might have cleared the air and brought certain incidents beyond technical question is not an issue for which the Applicant should be penalised.

1st Applicant, in completing his application and with which 2nd, 3rd and 4th Applicants associated themselves stated:

"that the information contained within the application is correct insofar as my memory serves me given the time period of 22 years covered by this document. I wish to apply for amnesty for all acts carried out by me or those under my command and which fall within the ambit of the Truth and Reconciliation Act. Many of the operations are not listed as I cannot recall all those which were carried out under my command by various units over the years. In addition to this, many of the commands, order and instructions were verbal, given the

extremely tight security situation within which we operated. Under these circumstances, it was not always possible or desirable to keep written records. I wish here to reiterate that I am applying for the acts including those which may not appear in this application which were committed by me and those under my command and which fell under the political authority, direction and leadership of the African National Congress and its armed wing uMkhonto weSizwe."

By inserting this qualified description, 1st Applicant and consequently 2nd, 3rd and 4th Applicants have not made application for so-called "Blanket Amnesty". They have sought amnesty for incidents or offences in which they were involved, either directly or indirectly but which are clearly identifiable from the evidence as a whole though these have not been noted in a particular list of offences (identified incidents) for reasons as explained in his application and evidence by 1st Applicant. Clearly this is not a case where there was an omission or lack of desire to incorporate any specific incident from a list of offences for which amnesty is sought. Such acts, the details of which the Applicants were unable to provide at the time of completing the application were referred to. In the circumstances the Committee is of the view that it is just to include any act which may fall in this category in the applications when considering the matter of amnesty.

By the very nature of the strategy with which the Applicants were involved in, it is clear that they were aware of the risk to life, limb and property. Therefore, where damage to primary targets was directly intended, the Committee is of the view that some of the perpetrators would be liable for consequential deaths and injury in appropriate cases. All the Applicants have fulfilled the formalities of the Act in their applications and consequently there are no technical shortcomings therein. In that respect the applications are in order.

A. Incidents:

1. Rocket Attack on the Mobil Oil Refinery in Durban, 14 May 1984;
2. Attack on transformer at Musgrave Road, Durban, 21 June 1984;
3. Explosion of sub-station at Queen Mary's Avenue, Durban, 7 August 1984;
4. Explosion at sub-station at Gale Street, Durban on 14 September 1984;
5. Explosion of sub-station at Woodlands, Durban, 21 June 1985;
6. Umlazi Police Station - 10 February 1986;
7. Explosion of sub-station at Springfield, Durban, 12 February 1986;
8. Explosion of sub-station at Assagay, Hammersdale on 12 March 1986.

APPLICANT : A. ISMAIL (1ST APPLICANT)

All these incidents occurred under the authority of 1st Applicant. With the establishment of the Special Operations Unit system he had established a number of these units which remained under his command. With the passage of time, 1st Applicant testified and because

there were a number of units as well as the lapse of time, he is unable to recall specifically which unit was actually responsible for the various offences.

1st Applicant testified that from the information he was able to obtain he understands that in the attack on the Mobil Oil Refinery in Durban on the 14th May 1984 six persons were killed and one injured. Four of those were combatants killed during a police skirmish at the time. The injured person was a policeman. He is unable to provide any details as to identity of the deceased persons nor the injured person. It is clear that all of the abovementioned incidents, as the 1st Applicant testified, were planned and committed within the political framework of the time and in accordance with the ANC and MK strategy at the time. As far as he is able to, he has also disclosed all the relevant facts related to these incidents.

The Committee is therefore satisfied that he should be amnesty in respect of all the offences and delicts flowing from the incidents mentioned in this paragraph.

**B. INCIDENT : ATTACK ON THE FAIRVALE SENIOR SECONDARY SCHOOL, 3 SEPTEMBER 1985.**

**APPLICANTS : ROBERT McBRIDE (5TH APPLICANT), ALLAN PEARCE (7TH APPLICANT) MATHHEW LECORDIER (9TH APPLICANT)**

Fifth Applicant had structured an anti-apartheid unit in Wentworth by September 1985. Whilst it was not formally linked to MK, it was aligned to it and drew strength from what it did and its philosophy.

Having in the past attended the Fairvale Senior Secondary School, he was aware of the condition of the school buildings and the inferior quality of education that was being delivered there. To him this was a product of the apartheid system and was an integral cog therein. The three Applicants then discussed the issue and decided to burn the school. They obtained petrol in a container and on the night of 3rd September 1985 went to the school. Two of them kept watch while 5th Applicant poured petrol onto the building and set it alight. In the result the building was damaged. 5th Applicant's version was corroborated by the other two Applicants.

The Committee is satisfied that the Applicants committed these offence(s) for political reasons and have disclosed the relevant facts pertain to the commission thereof. In the circumstances they should all be amnesty in respect of the offences and delicts flowing from this incident.

**C. INCIDENT : ATTEMPTED ATTACK ON THE SUB-STATION AT CATO MANOR ON 6 JANUARY 1986.**

**APPLICANTS: A ISMAIL (1ST APPLICANT) R McBRIDE (5TH APPLICANT)**

By the 6th January 1986, 5th Applicant had been recruited into MK by Gordon Webster who was head of a unit under the authority of the 1st Applicant and who ensured that the unit was provided with the necessary equipment to complete their operations.

5th Applicant was not involved in the initial planning of this operation. His role in the operation was to drive Webster and another to the targeted sub-station when the person

originally chosen to drive them became unavailable. When a hole was cut into the fence to facilitate entry, the alarm was activated and they then aborted the operation and drove away.

This incident was clearly one that was committed for political reasons and the Applicants have indeed made a full disclosure of the relevant facts attendant hereto.

The Committee is also satisfied that the operation was based on political consideration and that all the relevant facts pertaining to the commission thereof have been disclosed. In the result the Applicants should be amnesty for offences and delicts flowing from this incident.

#### D. INCIDENT: EXPLOSION OF THE SUB-STATION AT CHAMBERLAIN ROAD, JACOBS, DURBAN ON 9 JANUARY 1986.

APPLICANTS: A ISMAIL (1ST APPLICANT) R McBRIDE 5TH APPLICANT)

After the aborted attempt to damage the Cato Manor Sub-Station, it was suggested that the sub-station at Chamberlain Road, Jacobs be targeted.

On the 9th January 1986, while 5th Applicant was working on false compartment in a certain motor vehicle (on instructions of Webster), Webster approached him at the workshop and asked him to accompany him to the Chamberlain Road sub-station. 5th Applicant indicated that if he did that, he would not be able to finish the false compartment in the specified time. Upon request to do so, he took Webster to Webster's brothers house.

At the same time, Webster collected the limpet mines which he intended to use at the sub-station from 5th Applicant. 5th Applicant knew that Webster was then on his way to complete this attack. He assisted him in doing so by taking him to his brother's home where he could arrange for further transport to the relevant sub-station. A little later 5th Applicant heard the explosion and knew that Webster had blown up that substation. He found out later that one person, Colonel Bobby Welman was killed as a result and that Mervyn Dunn, P. Zimmerman, R. van der Merwe and D.A. Booyens were injured in the blast. It seems that two charges were set to go off at different times. According to 5th Applicant, the first blast was to attract the police and the second to injure them when they were investigating the first. The blast was committed on that day to highlight the annual ANC statement delivered the previous day.

The Committee is satisfied that the Applicants have made a full disclosure of the facts relating to this incident which was committed within the framework of the political strategy of MK at the time.

It seems that this was the first operation which deliberately incorporated the new strategy of targeting of security personnel.

Consequently, the Applicants should be amnesty in respect of the offences and delicts flowing from this incident.

#### E. INCIDENT: EXPLOSION OF SUBSTATION AT HUNTLEY HILL, WESTVILLE, DURBAN, 18 JANUARY 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT)

Webster and 5th Applicant prepared two mines and planted them at the Huntley Hill substation. They were placed and timed to explode later. This is exactly what happened. Extensive damage was caused to the substation as was intended. This operation was also motivated by the need to cause economic sabotage, to demonstrate the power of the MK and for propaganda purposes.

It is clear that this incident was committed with a political motive and that the Applicants have disclosed all the relevant facts related to the commission thereof.

The Committee is satisfied that the requirements of the Act have been complied with in this instance. In the result the Applicants ought to be amnesty in respect of all delicts and offences which flow therefrom.

F. INCIDENT: EXPLOSION OF THE CARRINGTON HEIGHTS PYLON, ROSSBURGH, DURBAN ON 20 JANUARY 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT)

Similarly, as in the cases of the explosions at the Cato Manor and Huntley Hill incidents, Webster and 5th Applicant prepared limpet mines for use at the aforementioned pylon. Having done so, the two of them went to Rossburgh and placed a limpet mine at the foot of each of the four legs of the said pylon.

In line with the policy of attacking security personnel, they placed a fifth one which was timed to explode a while later. It was intended to explode when security personnel were on the scene after the initial explosions. Presumably this was intended to injure or kill any of the members of the security forces likely to have been in attendance at the damaged pylon.

It is not known if anyone was injured or killed as a result of this operation. Clearly the offences were committed for political reasons and the Applicants have made a full disclosure of the facts related to the commission of the offences.

The Committee is satisfied in this case also that the requirements of the Act have been complied with and that amnesty should be to the Applicants for all offences and delicts flowing from this incident.

G. INCIDENT: EXPLOSION OF A WATER PIPE NEAR PIETERMARITZBURG, FEBRUARY 1986.

APPLICANTS : A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT)

Prior to February 1986, 1st Applicant, as commander of Special Operations, instructed 5th Applicant to reconnoitre the area between Durban and Pietermaritzburg for oil pipes. Upon finding these, the 5th Applicant was to sabotage them by bombing. The exercise was in terms of the policy to commit economic sabotage and demonstrate the MK military power. Fifth Applicant did this and came across a pipe which he thought to be an oil

pipe. He damaged it as planned. However, it turned out to be a water pipe which lead water to Pietermaritzburg along the area the 5th Applicant was surveying. The explosion caused extensive damage to the pipe. There were no known injuries or deaths which resulted from it. Clearly, the offences were committed with a political motive. Furthermore, the Applicant have indeed made full disclosure of the relevant facts related to the commission of the offence(s).

The Committee is satisfied that the Applicants have complied with the requirements of the Act and that amnesty in respect of delicts and offences flowing from this incident ought to be .

#### H. INCIDENT: EXPLOSION AT THE SUB-STATION NEAR CHAMBERLAIN ROAD, JACOBS, 21 MARCH 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT)

On the 21st March 1986, Gordon Webster, Themba Khumalo, who was also an MK operative, and 5th Applicant endeavoured to bomb the sub-station situated at Chamberlain Road, Jacobs. Their first attempt to do so was abandoned due to the sounding of an alarm. They later made a second attempt. Four land mines were strategically placed at the sub-station. These exploded and caused extensive damage to the sub-station. Aside from the general reasons of economic sabotage and armed propaganda for committing this act, it was also committed to commemorate what has become known as the Sharpeville Massacre.

The Applicants have made full disclosure of the relevant facts attendant hereto and the incident was motivated by political considerations.

The Committee is satisfied that the Applicants have complied with the requirements of the Act and that in the circumstances amnesty in respect of delicts and offences flowing from this incident should be .

#### I. INCIDENT: GRENADE ATTACK ON THE HOME OF MR LEAF - 8 APRIL 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT), M. ANDREWS (8TH APPLICANT)

Mr Leaf was a principal of a school during April 1986. He was also a senior member of the Labour Party which participated in the then Tricameral system in operation at the time. He was suspected of being a police reservist.

The Applicants referred to a few incidents related to Mr Leaf's involvement with police operations. These allegations were never disputed nor was his affiliation to the Labour Party.

One vincent James was given training in use of handgrenades by the fifth Applicant. The latter also provided two (2) handgrenades for the purposes of attacking a member of the opposition though he did not have knowledge of the intended victim(s). James then went to Mr Leaf's home together with Kevin Curtis and the 8th Applicant. The handgrenades were enabled and thrown at the home of Mr Leaf. Neither of them were thrown accurately enough to penetrate through the glass panes and hit the outside walls of the house.

The exercise was designed to highlight objections to collaborating with the upkeep and the sustaining of the apartheid system and was committed for purely political reasons. There were no injuries or deaths that resulted from the incident. There was slight damage to the house.

The Committee is satisfied that the requirements of the Act have been complied with and that amnesty should be to these Applicants fro all offences and delicts flowing from this incident.

J. INCIDENT: GRENADE ATTACK ON THE HOME OF MR KLEIN, 1 MAY 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R McBRIDE 5TH APPLICANT), MATTHEW LECORDIER (9TH APPLICANT)

On or about the 1st May 1986, 5th and 9th Applicants embarked on an attack of the then home of Mr Peter Klein in pursuance of the policy of attacking apartheid machinery. Mr Klein was regarded as a police reservist and very closely associated with the Labour party. The latter allegation was not denied while it was suggested to the Applicants that Mr Klein was not a police reservist. At any rate, he was viewed as such by the 9th Applicant and his colleagues. 9th Applicant obtained a handgrenade from the 5th Applicant. He was with one Antonio Du Preez at the time. Both of them received instructions in detonating and throwing the handgrenade from 5th Applicant. It is not clear whether 5th Applicant was aware of the identity of the intended victim but he knew that it was intended for an attack on a person who was collaborating with the apartheid machinery.

9th Applicant and Du Preez proceeded to the home of Mr Klein that night when it was already dark. 9th Applicant then pulled the pin of the handgrenade and threw it through the window of the home of Mr Klein.

It landed in the main bedroom and exploded. Both Mr and Mrs Klein were injured as a result.

It was argued and indeed put to the 9th Applicant that Mrs Klein could not have been a target and therefore amnesty in regard the offences committed against her should not be granted. It is common cause that she was in the bedroom at the time and was likely to have been there. In all probability this was foreseen or at least ought to have been foreseen. She was consequently at risk of at least being injured when the offence was committed. The offence was committed despite this possibility. She was caught in the crossfire in an incident in which such a possibility was regarded as less important than the actual commission of the principle crime of attacking a collaborator of apartheid. This was indeed the response to the proposition that she was a target.

It is clear that the commission of this deed was motivated by the political considerations of the time and that the relevant full disclosure in respect thereof has been made.

The Committee is satisfied that the Applicants have complied with the requirements of the Act and amnesty should be to these Applicants in respect of all offences and delicts flowing from this incident.

K. INCIDENT: ESCAPE OF GORDON WEBSTER FROM THE EDENVALE HOSPITAL, PIETERMARITZBURG, 4 MAY 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R McBRIDE (5TH APPLICANT), ZARAH NARKEDIEN (NEE GRETA APELGREN) (6TH APPLICANT) AND MATTHEW LECORDIER (9TH APPLICANT)

During the latter part of April 1986, Gordon Webster was arrested by the South African Police. He was shot at and injured during the process of being arrested. As a result he was hospitalised at Edenvale Hospital and kept there in police custody under police guard. It was at this stage that the 5th Applicant assumed command of Webster's unit as well. The 5th Applicant then put into operation a plan to assist Webster to escape from police custody at the Edenvale Hospital, Pietermaritzburg. he regarded this as an obligation and stated that he believed that resisting captivity in any way was the tradition of soldiers, formal or otherwise. In any event, he and Webster had entered into a pact to assist one another in this way in the event of either being captured.

The plan was put into operation after the 5th Applicant called upon certain operatives from the units in the area. Mr Derrick McBride, the father of 5th Applicant, offered his assistance in the operation. In planning the operation, the approval of the high command in Botswana was obtained through the 1st Applicant and reconnaissance of the area of the hospital was conducted on a daily basis over a period of about ten days prior to the execution of the operation.

The operation was planned to occur after visiting hours to minimize the possibility of injury to ordinary civilians who were visiting the hospital. Furthermore, it would be easier to effect the operation with less people there.

In terms of the plan, a motor vehicle would be parked at the back of the hospital where a hole would be made in the boundary fence. It would be made to seem as if this motor vehicle had broken down. It was to be used as a get-away vehicle. Thereafter, Webster would be assisted to escape from the second floor after the police guards were subdued. Upon getting Webster into the get-away vehicle, he would be driven to another motor vehicle into which Webster would be put and driven by 6th Applicant to a designated spot.

The weapons used was to be handed to Themba Khumalo who would have buried these in a prepared hole after having detonated two handgrenades near a police station in order to draw the police away from the hospital so as to facilitate the get away.

Eventually, the hospital was penetrated as planned by 5th Applicant and Derrick McBride who went ahead to check for possible problems. The armed police guards were discovered and 5th Applicant who was armed with an assault rifle under his long coat was confronted by one of them. 5th Applicant was disguised in a white coat so as to look like a doctor. It seems that Derrick McBride was disguised as a priest.

5th Applicant fired at the policemen. All the persons present then dived for cover and acted as trained policemen, instinctively taking up positions to counter the attack. 5th Applicant discharged a second burst of fire directing this at this group of persons so positioned. It seems that it was during the second burst of fire that Mlungize Buthelezi was killed. Simpiwe Shage and Nkosinathi Nkabini were also injured as a result thereof.

As the 5th Applicant entered Webster's ward, he was fired at by policeman Visagie. 5th Applicant shot at him, injuring him in the hand and as a result Visagie retreated to a room in the intensive care unit. There were other patients in the ward at the time as well as nurses. Webster was then wheeled out of the ward on a laundry trolley while carrying the firearm used by the 5th Applicant. According to 5th Applicant, Webster might have discharged it during the process of being wheeled out. They escaped from the hospital as planned. They drove to the centre of Pietermaritzburg but could not find the second motor vehicle at the predetermined place. They still had the weapons as Khumalo had, for some unknown reason, not prepared the hole and it seemed that he told 6th Applicant to leave the agreed place of meeting. They then proceeded to Wentworth in Durban. A few days thereafter, Webster was taken out of the country through the Ramatlaban border post in a caravan and in which the occupants posed as tourists. Webster was attended to by a qualified nurse able to administer medical assistance. Webster was then handed to the ANC in Botswana and thereafter he was taken to Russia where he received further treatment and recovered fully. While 6th Applicant did not contribute to the actual execution of this operation, she was part of the plan and had full knowledge of what was going to happen and associated herself therewith.

In this instance also, the Committee is satisfied that the Applicants have complied with the requirements of the Act and amnesty should be to all the Applicants involved in this incident in respect of all offences and delicts arising therefrom.

#### I. INCIDENT: PLACEMENT OF A FALSE BOMB AT THE PINE STREET PARKADE, DURBAN, 23 MAY 1986.

APPLICANT: R. McBRIDE (5TH APPLICANT)

During the period of the latter part of May 1986, a group of foreign persons were visiting South Africa. They came to be referred to as the "EMINENT PERSONS GROUP". Their aim was to broker a settlement in South Africa. At the same time the South African Forces attacked ANC structures in the neighbouring states in an attempt to exclude the ANC from such efforts to attain a peace agreement.

In order to demonstrate the folly of excluding the ANC, 5th Applicant planned to put a false bomb in the parkade. This was to show that the ANC was an important party to any talks with regard to an intended settlement in South Africa and it was able to penetrate any defence mechanism of the security forces and to destabilise South Africa. 5th Applicant was assisted in planting this false bomb by one Jeanette Apelgren. No injuries, death or damages resulted from this incident. It is clear that this operation was completed for political reasons and that the 5th Applicant has complied with the requirements of the Act. Therefore, amnesty should be to the 5th Applicant in respect of all offences and delicts which flow from this incident.

#### M. INCIDENT: THE EXPLOSION AT THE WHY NOT RESTAURANT AND MAGOO'S BAR, 14 JUNE 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), EARNEST LEKOTA PULE (2ND APPLICANT), LESTER DUMAKUDE (3RD APPLICANT), JOHANNES MOLEFE (4TH APPLICANT), R McBRIDE (5TH APPLICANT), ZARAH NACHARDIEN (NEE GRETA APELGREN) (6TH APPLICANT), M LECORDIER (9TH APPLICANT)

Prior to 14 June 1986, the policy of armed struggle was still being adopted by the ANC and in particular, MK, its armed wing.

As has been more fully referred to above, Webster was tasked by the high command of MK Special Operations to investigate the possibility of carrying out what is commonly known as a car bomb attack directed at the Natal Military Command. At some stage the 5th Applicant assisted in such reconnaissance. It was eventually recommended that such operation be aborted because of the tight security around the building where the Natal Military Command was located.

At the time there was a general bona fide belief that members of the security forces frequented the "Why Not" Restaurant which was situated along the beach road in Durban immediately next to what was known as "Magoo's" Bar. In addition, further confirmatory information in this regard was obtained by Webster who told the 5th Applicant thereof. With the passage of time, further reconnaissance was conducted in the area of the "Why Not Bar" as it was noticed that known members of the Security Police stationed at the nearby CR Swart Square (Police Station) gathered there very often. On at least one occasion one of two groups of policemen left CR Swart Square and went to the said establishment.

A second instance of reconnaissance was the surveillance of a block of residential flats in the suburb of Berea, Durban. many apartments of this block of flats were occupied by members of the South African Police. 5th Applicant considered bombing this building but abandoned the idea because of the possibility of killing little children. On one of these occasions, he followed a group of these policemen to the "Why Not Bar". this further strengthened his belief that the "Why Not Bar" was frequented by members of the police who were legitimate targets.

It was reasoned that all of these factors made the "Why Not Bar" a legitimate target for MK. By this time, it must be remembered, the policy of avoiding civilian casualties had been somewhat relaxed and the targeting of a civilian establishment did not strain the ANC policy related to the armed struggle to the extent that it would previously have done. Webster was arrested and was eventually out of circulation prior to the execution of the attack. It was at this stage that 5th Applicant assumed command of both units. He was instructed by his superiors that the operation should continue despite the absence of Webster.

5th Applicant consequently went to Botswana in order to consult the leadership of Special Operations. While he was there, 2nd, 3rd and 4th Applicants trained him in the construction and use of the car bomb. This was done on the instruction of the 1st Applicant. All of them knew that the car bomb was going to be used in such a manner so as to risk life and limb of not only security force personnel but also that of civilians. He received political instruction relating to the morality of the plan when he raised the matter of civilian risk. it was again explained to him that civilian risk was secondary and that the primary focus should be directed at the security personnel who could no longer hide behind civilians when they themselves ignore such a risk as had been demonstrated previously in incidents carried out by them in protecting the apartheid machinery. He was instructed further to execute the operation on the 14 June 1986 bearing in mind the significance of 16 June 1976. 5th Applicant was provided with the necessary equipment and he smuggled these into South Africa. He thereupon set up the plan and was assisted by 6th and 9th Applicants. After preparing the bomb, he was accompanied by 10th Applicant in the motor vehicle carrying the bomb. It was parked in West Street, Durban. Initially, 9th Applicant did not have any

knowledge of what was in progress. However, en route to West Street, 5th Applicant informed the 9th Applicant not to drive so fast over bumps as the motor vehicle contained 60 kg of explosives.

5th Applicant then went to do further reconnaissance and in terms of the plan, managed to obtain a parking bay with another motor vehicle as near as possible to the "Why Not Bar". It was on the curb of the road also near the neighbouring Magoo's Bar. He parked this ordinary motor vehicle there and asked 6th Applicant to sit in the vehicle and to pull out of the parking bay when he returned. 5th Applicant then returned to the motor vehicle carrying the explosives and proceeded to the parking bay which he managed to secure outside the aforementioned target for the purpose of the operation.

While 6th Applicant was not informed of what was in progress, she suspected what was about to occur from the events in progress. 9th Applicant knew a little more than 6th Applicant at that stage. However, both knew the nature of the political activities in which they involved themselves. They both testified that they knew that there was a risk to life and limb but nonetheless continued in the activities which lead to the eventual blast resulting in death, injuries and damage.

The motor vehicle carrying the explosives was then parked into the parking bay created by 6th Applicant vacating it when 5th and 9th Applicants arrived. 6th Applicant drove the other motor vehicle to a nearby pre-arranged spot.

After the motor vehicle was parked, 5th Applicant enabled the bomb and set the attached timing device. 9th Applicant was at that time keeping a lookout. Both then left the scene and met 6th Applicant as arranged. They then drove away from the area and parked near a mobile police station in mid Durban to see if the police would later rush towards the scene of the explosion. This is exactly what occurred.

Later the bomb did explode as planned causing extensive damage to the building outside to which the motor vehicle was parked. The explosion also caused the deaths of a few people and injuries to many people all of whose names are listed hereunder. 5th, 6th and 9th Applicants were later arrested on various charges related to this incident and others.

It seems that not many, if any, of the victims in this incident were members of the South African Police. Furthermore, the criticisms directed at the quality of reconnaissance of the "Why Not Bar" might very well be valid. It may be, as was argued, that he ought to have ensured at the relevant time that the primary targets of the attack were present and therefore the concept of the proportionality of the attack and its results must be considered. The Committee has not been provided with the job descriptions of most of the seventy four victims of this incident. Many of them may have been members of the police services at the time but may not have been identified as such for security and political reasons. However, all of this is speculative.

The fact of the matter is that the 5th Applicant had developed a bona fide belief that members of the South African Police frequented the "Why Not Bar". Such persons were regarded as legitimate targets. This belief was based on the information at his disposal, both reported and personal observation. Because of this bona fide belief at the time and his instructions as a member of Special Operations and coupled with the ANC policy of relaxing

the policy of avoiding civilian casualties, his actions in the circumstances cannot be regarded as disproportionate.

The events related to this incident was clearly motivated by political consideration and the Applicants have made a full disclosure of all relevant facts attendant hereto.

The Committee is satisfied that these Applicants have complied with the requirements of the Act and the amnesty should be to all of them in respect of offences and delicts arising from this incident.

N. INCIDENT: EXPLOSIONS OF THE MOBIL OIL PIPELINE AT UMLAAS; EXPLOSION OF THE VEGETABLE OIL TANK AT C/O LAWLEY AND CHAMBERLAIN ROAD, JACOBS; EXPLOSION OUTSIDE THE "COPPER SHOP", BRICKHILL ROAD, DURBAN, ALL ON THE 21 JUNE 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R McBRIDE (5TH APPLICANT), M LECORDIER (9TH APPLICANT)

In terms of the policy of armed and socio-economic confrontation, 5th Applicant planned to blow up the oil pipe at Umlaas. 5th and 9th Applicants armed themselves with two limpet mines and two charges. They then proceeded to the said oil pipe where they were dropped off by Antonio du Preez. They posed as fishermen as the oil pipe was located near the sea and therefore minimized any suspicion of what they were doing.

The two of them managed to get to the oil pipe and placed the said explosives on the pipeline. The timing device was set and they left the scene and were collected by Du Preez. Later the explosives were detonated and extensive damage and loss was caused at an estimated amount of one million rand.

From the Mobil Oil pipeline, 5th and 9th Applicants were driven by Du Preez to the Vegetable Oil tank at the corner of Lawley and Chamberlain Roads, at Jacobs, Durban. While it was known as a Vegetable Oil tank, it seems that at some stage a type of corrosive chemical was being stored in it. In this instance also, 5th and 9th Applicants managed to get to the tanker. It was chosen as a target because it was in the centre of Durban industrial area. The reasoning was that industry would be affected and therefore actual production and the faith in the government of the day would wane. Limpet mines were placed on the tank and the two of them left and collected by Du Preez. Later the mines exploded. The extent of the resultant damage is unknown. It is also not known whether anyone was killed or injured in the blast. There were no reports thereof in any event.

Thereafter, 5th and 9th Applicants were driven to South Street, Durban. It was their intention to blow up a police vehicle normally stationed at the corner of South Street and Point Road.

9th Applicant was given the order of placing a limpet mine under or in the said vehicle. As he was proceeding to the target, he thought that he was spotted by the police and went into Brickhill road, a side street, where he put the mine in a trash can outside the establishment known at the time as the "Copper Shop". He then left the area and joined his colleagues whereafter they went home. The mine later exploded causing damage to the

building outside which the mine was placed. There were no fatalities or injuries caused in these three incidents.

These incidents occurred in terms of the general instruction given to Special Operations units and designed to cause economic hardship on the apartheid machinery.

They were clearly committed for political reasons and the Applicants made a full disclosure of all the relevant facts pertaining thereto.

The Committee is satisfied the Applicants have complied with the requirements of the Act and that amnesty should be to them in respect of all offences and delicts flowing from these incidents.

O. INCIDENT: EXPLOSION OF THE WATER PIPE AT NEW GERMANY - 29 JUNE 1986.

APPLICANTS: A. ISMAIL (1ST APPLICANT), R. McBRIDE (5TH APPLICANT), A. PEARCE (7TH APPLICANT) AND M LECORDIER (9TH APPLICANT)

5th Applicant trained 7th Applicant in the use of explosives since this was 7th Applicant's first operation. (He had previously trained 9th Applicant in the use of similar explosives).

As planned, 5th Applicant thereafter dropped 7th and 9th Applicants near the water pipe lines which routed water to the industrial area of New Germany outside Durban. They placed the explosives on the pipes and left the area with 5th Applicant. Later the explosive detonated and caused extensive damage to the water supply to the area. It resulted in the disruption of industry for a few days. There were no resultant fatalities or injuries. This pipeline was targeted because industry was served by this water line would be adversely affected. The operation was motivated by considerations related to economic sabotage and also for the purpose of propaganda.

This deed was motivated by political considerations and the Applicants have made a full disclosure of the relevant facts attendant thereto.

The Committee is satisfied that the Applicants have complied with the requirements of the Act and that amnesty in respect of all offences and delicts flowing from this incident should be .

P. INCIDENT(S): CONTRAVENTION OF (I) ARMS, AMMUNITION ACT NO. 75 OF 1969, (II) EXPLOSIVES ACT NO. 26 OF 1986, SEPTEMBER 1985 TO APPROXIMATELY APRIL 1994 AND THE TERRORISM ACT.

APPLICANT: R. McBRIDE (5TH APPLICANT)

Through the period September 1985 to approximately April 1994, 5th Applicant was trained in the use and construction of various types of firearms and explosives respectively. As will be apparent from the foregoing, he trained others in the use of firearms and explosives. he also transported these when smuggling them into South Africa. He also supplied the same to others within the structure of MK whether such "membership" was formal or otherwise. He was also in a position to provide weapons and ammunition to

members of the Self-Defence Units when these were established in the 1990's. His activities in this regard do not strain the imagination when one has regard to the nature of the activities he involved himself with. In fact these particular transgressions fall squarely within the ambit of the activities related to the policy of MK. Some of these instances included training members of a unit just outside Pietermaritzburg, the training of 7th and 9th Applicants and receiving training in those disciplines himself. He freely admits that he cannot remember all these instances because of the lapse of time and the frequency of such events.

The Committee is satisfied that he has disclosed fully what his memory allows him to in the circumstances and all such activities were related to the political landscape of the relevant times.

The Committee is further satisfied that 5th Applicant has complied with the requirements of the Act in this regard and that amnesty should be to him in respect of all offences of the type referred to in this paragraph committed during the aforementioned period.

Therefore, in the result, the Applicants are GRANTED amnesty in respect of all the offences and delicts arising out of the respective incidents referred to in paragraphs:

1. Aboobaker Ismail           A, C, D, E, F, G, H, I, J, K,     M, N, O.
2. Ernest Lekota Pule        M
3. Lester Dumakude          M
4. Johannes Molefe (Mnisi) M
5. Robert John McBride      B, C, D, E, F, G,  
H,                                I, J, K, L, M, N, O, P
6. Zahrah Narkedien         K, M
7. Edward Allan Pierce      B, O
8. Marcell Trevor Andrews I
9. Matthew Lecordier        B, J, K, M, N, O

The Committee is furthermore of the opinion that the undermentioned are victims as envisaged by the Act and are referred to the Committee on Reparation and Rehabilitation for its consideration in terms of the Act:

1. Attack on the Mobil Oil Refinery, Durban, 14 May 1984
  - (a) Six (6) unidentified persons who died as a result;
  - (b) One (1) person injured in the attack.
2. The Explosion of the sub-station at Chamberlain Road, Jacobs, Durban, January 1986

(a) Col. Bobby Welman who was killed in the blast;

(b) Mervyn Dunn, P. Zimmerman, R. van der Merwe, D.A. Booyens, who were all injured in the blast.

3. The attack on the home of Mr Klein

Mr and Mrs Klein into whose bedroom a handgrenade was thrown injuring both.

4. The escape of Gordon Webster

(a) Mlungize who was killed;

(b) Simphiwe Shage, Nkosinathi Nkabini and policeman Visagie who were all injured.

5. The blast of the "Why Not" Restaurant

(a) Angelique Pattenden, Julie van der Linde and Marchelle Gerand who were all killed in the blast.

(b) Victims injured:

1. Helen Kearney

2. Lorraine de la Rosa

3. Jonathan Jeffers

4. Rajesh Durlcharan

5. Paula Harvey

6. Kevin Byrne

7. B. Giddy

8. G Tonetti

9. A van Wyk

10. T Vilonel

11. L. Valentine

12. L. Waterworth

13. I. Walton

14. A. De Chalain

15. M. Plaatjies
16. L. Mitchell
17. Victor Mchunu
18. S. Mintz
19. E. Maker
20. Gavin Maxwell
21. B. Newby-Fraser
22. L. Oliver
23. C. Olds
24. D. Pavillon
25. W. Puttock
26. M. Rathbone
27. M. Roe
28. F. Robits
29. K. Robert
30. P. Swart
31. J. Saich
32. R. Ferreira
33. L. Friar
34. Carl Hadden
35. T. Hempstead
36. Keith Hulse
37. R. Ferreira
38. S. Jeffries
39. J. Kerlen

40. I. Joao
41. C. Kenning
42. L. Koenig
43. E. Langridge
44. L. Livingstone
45. H. Merval
46. John McKenna
47. P. Mulholland
48. Mr Fiddler
49. Mrs Fiddler
50. A. Strydom
51. D. Arnold
52. P. Byrom
53. E. Booth
54. D. Bret
55. Michael Blair
56. J. Blair
57. Christopher Clarkson
58. M Coeks
59. Jenny Cubbit
60. A. Duncan
61. F. Drummel
62. L. Donaghue
63. C. Edgar
64. K. English

- 65. Dennis Eaby
- 66. E. Ethell
- 67. B. Erasmus
- 68. James Ferguson
- 69. David Fletcher
- 70. Roger Shillaw
- 71. M. Cymnow

SIGNED AT CAPE TOWN THIS THE      DAY OF      2001

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JUDGE S MILLER

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JUDGE R PILLAY

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ADV. S SIGODI